

CHAPTER 278

AN ACT prohibiting the imposition by water utilities of standby fees or charges for certain fire protection systems, and amending various parts of the statutory law.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 21 of P.L.1957, c.183 (C.40:14B-21) is amended to read as follows:

C.40:14B-21 Water service charges.

21. a. Every municipal authority is hereby authorized to charge and collect rents, rates, fees or other charges (in this act sometimes referred to as "water service charges") for direct or indirect connection with, or the use, products or services of, the water system, or for sale of water or water services, facilities or products. Such water service charges may be charged to and collected from any person contracting for such connection or use, products or services or for such sale or from the owner or occupant, or both of them, of any real property which directly or indirectly is or has been connected with the water system or to which directly or indirectly has been supplied or furnished such use, products or services of the water system or water or water supply services, water supply facilities or products, and the owner of any such real property shall be liable for and shall pay such water service charges to the municipal authority at the time when and place where such water service charges are due and payable. Such rents, rates, fees and charges shall as nearly as the municipal authority shall deem practicable and equitable be uniform throughout the district for the same type, class and amount of use, products or services of the water system, except as permitted by section 1 of P.L.1992, c.215 (C.40:14B-22.2), and may be based or computed either on the consumption of water on or in connection with the real property, or on the number and kind of water outlets on or in connection with the real property, or on the number and kind of plumbing fixtures or facilities on or in connection with the real property, or on the number of persons residing or working on or otherwise connected or identified with the real property, or on the capacity of the improvements on or connected with the real property, or on any other factors determining the type, class and amount of use, products or services of the water system supplied or furnished, or on any combination of such factors, and may give weight to the characteristics of the water or water services, facilities or products and, as to service outside the district, any other matter affecting the cost of supplying or furnishing the same, including the cost of installation of necessary physical properties.

Every municipal authority that furnishes water supply services or operates water supply facilities shall establish a rate structure that provides for uniform water service charges for water supply service and fire protection systems.

No municipal authority may impose standby fees or charges for any fire protection system to a residential customer served by a water service line of two inches or less in diameter.

Nothing in this section shall preclude a municipal authority from requiring separate dedicated service lines for fire protection. A municipal authority may require that fire service lines be metered. Nothing in this section shall alter the liability for maintenance and repair of service lines which exists on the effective date of P.L.2003, c.278.

b. In addition to any such water service charges, a separate charge in the nature of a connection fee or tapping fee, in respect of each connection of any property with the water system, may be imposed upon the owner or occupant of the property so connected. Such connection charges shall be uniform within each class of users and the amount thereof shall not exceed the actual cost of the physical connection, if made by the authority, plus an amount computed in the following manner to represent a fair payment toward the cost of the system:

(1) The amount representing all debt service, including but not limited to sinking funds, reserve funds, the principal and interest on bonds, and the amount of any loans and interest thereon, paid by a municipal authority to defray the capital cost of developing the system as of the end of the immediately preceding fiscal year of the authority shall be added to all capital expenditures made by the authority not funded by a bond ordinance or debt for the development of the system as of the end of the immediately preceding fiscal year of the authority.

(2) Any gifts, contributions or subsidies to the authority received from, and not reimbursed or reimbursable to any federal, State, county or municipal government or agency or any private person, and that portion of amounts paid to the authority by a public entity under a service agreement or service contract which is not repaid to the public entity by the authority, shall then

be subtracted.

(3) The remainder shall be divided by the total number of service units served by the authority at the end of the immediately preceding fiscal year of the authority, and the results shall then be apportioned to each new connector according to the number of service units attributed to that connector, to produce the connector's contribution to the cost of the system. In attributing service units to each connector, the estimated average daily flow of water for the connector shall be divided by the average daily flow of water to the average single family residence in the authority's district, to produce the number of service units to be attributed.

c. The connection fee shall be recomputed at the end of each fiscal year of the authority, after a public hearing is held in the manner prescribed in section 23 of P.L.1957, c.183 (C.40:14B-23). The revised connection fee may be imposed upon those who subsequently connect in that fiscal year to the system. The combination of such connection fee or tapping fee and the aforesaid water service charges all meet the requirements of section 23 of P.L.1957, c.183 (C.40:14B-23).

d. The foregoing notwithstanding, no municipal authority shall impose any charges or fees in excess of the cost of water actually used for any sprinkler system required to be installed in any residential health care facility pursuant to the "Health Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.) and regulations promulgated thereunder or in any rooming or boarding house pursuant to the "Rooming and Boarding House Act of 1979," P.L.1979, c.496 (C.55:13B-1 et al.) and regulations promulgated thereunder. Nothing herein shall preclude any municipal authority from charging for the actual cost of water main connection.

2. R.S.40:62-104 is amended to read as follows:

Supervision, operation and maintenance; collection of charge; contracts.

40:62-104. Any contract entered into pursuant to sections 40:62-96 to 40:62-105 of this title may provide for supervision, operation and maintenance of the water system and the distribution, public or private, by either party to the contract, and may further provide for the collection by either party of rates, rental or other service charges for the supplying of water to the users thereof.

The governing body of a municipality that has established a water district and which operates a water system shall establish a rate structure that provides for uniform rates, rentals, or other service charges for water supply service and fire protection systems.

No municipality wherein a water district is situated may impose standby fees or charges for any fire protection system to a residential customer served by a water service line of two inches or less in diameter.

Nothing in this section shall preclude a municipality wherein a water district is situated from requiring separate dedicated service lines for fire protection. A municipality wherein a water district is situated may require that fire service lines be metered. Nothing in this section shall alter the liability for maintenance and repair of service lines which exists on the effective date of P.L.2003, c.278.

3. R.S.40:62-107.6 is amended to read as follows:

Operation of system; rates, rents, etc.

40:62-107.6. a. After any municipality shall have purchased a water distribution system pursuant to sections 40:62-107.4 and 40:62-107.5 of this title, the governing body of the municipality shall be authorized to operate the water distribution system as nearly as may be as a part of its own system, and any schedule of rates, rents, charges and penalties which the governing body shall thereafter fix shall be applicable to water users within both municipalities, and in the collection of all rates, rents, charges and penalties the municipality shall have all the rights and remedies that may apply to private water companies supplying water to municipalities of this State.

b. The governing body of a municipality that has purchased a water distribution system shall establish a rate structure that provides for uniform rates, rentals, or other service charges for

water supply service and fire protection systems.

The governing body shall not impose standby fees or charges for any fire protection system to a residential customer served by a water service line of two inches or less in diameter.

Nothing in this section shall preclude the governing body of a municipality that has purchased a water distribution system from requiring separate dedicated service lines for fire protection. The governing body of a municipality that has purchased a water distribution system may require that fire service lines be metered. Nothing in this section shall alter the liability for maintenance and repair of service lines which exists on the effective date of P.L.2003, c.278.

4. R.S.40:62-127 is amended to read as follows:

Water rates and regulations.

40:62-127. a. The water commission may prescribe and change from time to time rates to be charged for water supplied by the waterworks so acquired, and by any extension or enlargement thereof, but rates for the same kind or class of service shall be uniform in all the municipalities supplied by the waterworks.

The water commission shall establish a rate structure that provides for uniform water service charges for municipal water supply service and fire protection systems.

No rates shall include the imposition of standby fees or charges for any fire protection system to a residential customer served by a water service line of two inches or less in diameter.

Nothing in this section shall preclude a water commission from requiring separate dedicated service lines for fire protection. The water commission may require that fire service lines be metered. Nothing in this section shall alter the liability for maintenance and repair of service lines which exists on the effective date of P.L.2003, c.278.

No rates shall include the imposition of any fees in excess of the cost of water actually used for any sprinkler system required to be installed in any residential health care facility pursuant to the "Health Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.) and regulations promulgated thereunder or in any rooming or boarding house pursuant to the "Rooming and Boarding House Act of 1979," P.L.1979, c.496 (C.55:13B-1 et al.) and regulations promulgated thereunder.

Nothing herein shall preclude any commission from charging for the actual cost of water main connection.

b. The supplying of water to locations beyond the boundaries of the municipalities owning the waterworks shall be basis for separate classification of service to permit reasonable differentiation of rates. As soon as practicable after acquiring the waterworks, rates shall be prescribed, and shall be revised from time to time whenever necessary, so that the waterworks shall be self-supporting, the earnings to be sufficient to provide for all expenses of operation and maintenance and such charges as interest, sinking fund and amortization, so as to prevent any deficit to be paid by taxation from accruing. The interest, sinking fund and amortization shall be construed to include:

(1) All service on debt heretofore or hereafter incurred by the commission or by any municipality represented by the commission in connection with the acquisition of such privately-owned waterworks, and any extensions thereto and enlargements thereof, heretofore or hereafter formally assumed by the commission or its successors, and

(2) All service on debt heretofore or hereafter incurred by the commission or by a municipality represented by the commission, or its successors, and heretofore or hereafter formally assumed by the commission, or its successors, as part of any agreement with the municipality relative to the acquisition, by the commission, or its successors, of the ownership of or the management and control of or the right to use any water supply or part thereof or interest therein or any distribution system of water mains and connections, or any part thereof, which any such municipality may own or control.

c. The provisions of this section shall be deemed a contract with the holders of all obligations which shall be or may have been issued for the purpose of financing such acquisitions or which heretofore have been or may hereafter be issued to refund temporary bonds or obligations issued for such purposes, the payment of any of which obligations, and interest thereon, the commission, or its successors, has heretofore or may hereafter formally assume as

aforesaid.

d. The commission and any succeeding commission may prescribe, and alter and enforce all reasonable rules and regulations for the maintenance and operation of the waterworks and the collection of rates.

5. R.S.40:62-139 is amended to read as follows:

Furnishing water for special purposes.

40:62-139. a. The water commission may enter into a contract with any person to supply the person with water for fire protection; manufacturing and irrigation and other special purposes, at rates or charges and upon conditions to be designated by the commission. No rates or charges shall include the imposition of standby fees or charges for any fire protection system to a residential customer served by a water service line of two inches or less in diameter. Thereupon the person shall pay to the commission the rate and all other charges stipulated therein, instead of the usual rates charged to other customers of the commission.

b. No rates or charges shall include the imposition of any fees in excess of the cost of water actually used for any sprinkler system required to be installed in any residential health care facility pursuant to the "Health Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.) and regulations promulgated thereunder or in any rooming or boarding house pursuant to the "Rooming and Boarding House Act of 1979," P.L.1979, c.496 (C.55:13B-1 et al.) and regulations promulgated thereunder.

c. Nothing herein contained shall preclude the water commission from charging for the actual cost of water main connection.

d. Nothing herein contained shall alter or affect the lien hereinafter imposed for unpaid water rents or rates, nor change the rights of the commission to collect unpaid water rates or rents in accordance with the provisions hereof.

e. Nothing in this section shall preclude a water commission from requiring separate dedicated service lines for fire protection. The water commission may require that fire service lines be metered. Nothing in this section shall alter the liability for maintenance and repair of service lines which exists on the effective date of P.L.2003, c.278.

6. Section 1 of P.L.1949, c.194 (C.40:62-151) is amended to read as follows:

C.40:62-151 Annual standby or ready-to-serve charge upon unoccupied lots.

1. The governing body of any municipality or any water commission representing two or more municipalities may fix an annual standby or ready-to-serve service charge upon any unoccupied lot abutting upon a street wherein a water main has been laid and to which the lot may connect.

No service charge shall be made for any lot fronting on a water main which has heretofore been assessed as a local improvement or for which the owners of the lot paid under a contract with the municipality.

No service charge shall include the imposition of standby fees or charges for any fire protection system to a residential customer served by a water service line of two inches or less in diameter.

The service charge shall be rendered and collected in the same manner as other bills for water service are rendered and collected.

Nothing in this section shall preclude the governing body of a municipality or a water commission representing two or more municipalities from requiring separate dedicated service lines for fire protection. The municipal governing body or water commission may require that fire service lines be metered. Nothing in this section shall alter the liability for maintenance and repair of service lines which exists on the effective date of P.L.2003, c.278.

7. N.J.S.40A:31-10 is amended to read as follows:

Rates, rentals, and other charges of water supply services.

40A:31-10. a. After the commencement of operation of water supply facilities, the local unit

or units may prescribe and, from time to time, alter rates or rentals to be charged to users of water supply services. Rates or rentals being in the nature of use or service charges or annual rental charges, shall be uniform and equitable for the same type and class of use or service of the facilities, except as permitted by section 7 of P.L.1994, c.78 (C.40A:31-10.1). Rates or rentals and types and classes of use and service may be based on any factors which the governing body or bodies of that local unit or units shall deem proper and equitable within the region served.

b. Every local unit operating a municipal water supply facility shall establish a rate structure that provides for uniform rates, rentals, or other charges for water supply service and fire protection systems.

No local unit may impose standby fees or charges for any fire protection system to a residential customer served by a water service line of two inches or less in diameter.

c. In fixing rates, rental and other charges for supplying water services, the local unit or units shall establish a rate structure that allows, within the limits of any lawful covenants made with bondholders, the local unit to:

(1) Recover all costs of acquisition, construction or operation, including the costs of raw materials, administration, real or personal property, maintenance, taxes, debt service charges, fees and an amount equal to any operating budget deficit occurring in the immediately preceding fiscal year;

(2) Establish a surplus in an amount sufficient to provide for the reasonable anticipation of any contingency that may affect the operation of the utility, and, at the discretion of the local unit or units, allow for the transfer of moneys from the budget for the water supply facilities to the local budget in accordance with section 5 of P.L.1983, c.111 (C.40A:4-35.1).

d. No local unit or units shall impose any rates or rentals in excess of the cost of water actually used for any sprinkler system required to be installed in any residential health care facility pursuant to the "Health Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.) and regulations promulgated thereunder or in any rooming or boarding house pursuant to the "Rooming and Boarding House Act of 1979," P.L.1979, c.496 (C.55:13B-1 et al.) and regulations promulgated thereunder.

e. Nothing in this section shall preclude a local unit operating a municipal water supply facility from requiring separate dedicated service lines for fire protection. The local unit may require that fire service lines be metered. Nothing in this section shall alter the liability for maintenance and repair of service lines which exists on the effective date of P.L.2003, c.278.

8. R.S.48:19-18 is amended to read as follows:

Sale of water, rates.

48:19-18. Each water company organized under the laws of this State may sell and dispose of the water issuing from its reservoirs, aqueducts or pipes for such rates and pursuant to such terms and conditions as are in accordance with its approved tariffs on file with the Board of Public Utilities, provided, however, as follows:

No tariff shall be approved that provides for or allows the imposition of any standby fees or charges for any fire protection system to a residential customer served by a water service line of two inches or less in diameter. No tariff shall be approved that provides for or allows the imposition of any fees in excess of the cost of water actually used for any sprinkler system required to be installed in any residential health care facility pursuant to the "Health Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.) and regulations promulgated thereunder or in any rooming or boarding house pursuant to the "Rooming and Boarding House Act of 1979," P.L.1979, c.496 (C.55:13B-1 et al.) and regulations promulgated thereunder. Nothing herein shall preclude any water company from charging for the actual cost of water main connection.

Nothing in this section shall preclude a water company from requiring separate dedicated service lines for fire protection. The water company may require that fire service lines be metered. Nothing in this section shall alter the liability for maintenance and repair of service lines which exists on the effective date of P.L.2003, c.278.

9. This act shall take effect immediately.

Approved January 14, 2004.