

CHAPTER 110

AN ACT authorizing the expenditure of funds by the New Jersey Environmental Infrastructure Trust for the purpose of making loans to eligible project sponsors to finance a portion of the cost of construction of environmental infrastructure projects, supplementing P.L.1985, c.334 (C.58:11B-1 et seq.), and making an appropriation.

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

1. a. The New Jersey Environmental Infrastructure Trust, established pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.), as amended and supplemented by P.L.1997, c.224, is authorized to expend the aggregate sum of up to \$350,000,000, and any unexpended balance of the aggregate expenditures authorized pursuant to section 1 of P.L.2000, c.93, section 1 of P.L.2001, c.224 and section 1 of P.L.2002, c.71 for the purpose of making loans, to the extent sufficient funds are available, to or on behalf of local government units or public water utilities (hereinafter referred to as "project sponsors") to finance a portion of the cost of construction of environmental infrastructure projects listed in sections 2 and 4 of this act.

b. The trust is authorized to increase the aggregate sums specified in subsection a. of this section by:

(1) the amounts of capitalized interest and the bond issuance expenses as provided in subsection b. of section 7 of this act;

(2) the amounts of reserve capacity expenses and debt service reserve fund requirements as provided in subsection c. of section 7 of this act;

(3) the interest earned on amounts deposited for project costs pending their distribution to project sponsors as provided in subsection d. of section 7 of this act; and

(4) the amounts of the loan origination fee as provided in subsection e. of section 7 of this act.

c. (1) Of the sums appropriated to the trust from the "Wastewater Treatment Trust Fund" established pursuant to section 15 of the "Wastewater Treatment Bond Act of 1985," (P.L.1985, c.329) pursuant to P.L.1987, c.198, the trust is authorized to transfer such amounts as needed to the Clean Water Fund - State Revolving Fund Accounts (hereinafter referred to as the "Clean Water State Revolving Fund Accounts") for the purposes of issuing loans or providing the State match as required for the award of the capitalization grants made available to the State for clean water projects pursuant to the "Water Quality Act of 1987" (33 U.S.C.s.1251 et seq.), and any amendatory and supplementary acts thereto (hereinafter referred to as the "Federal Clean Water Act").

(2) Of the sums appropriated to the trust from the "1992 Wastewater Treatment Trust Fund" established pursuant to section 27 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," (P.L.1992, c.88) pursuant to P.L.1996, c.86, the trust is authorized to transfer such amounts as needed to the Clean Water State Revolving Fund Accounts for the purpose of providing the State match as required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(3) Of the sums appropriated to the trust from the "Stormwater Management and Combined Sewer Overflow Abatement Fund" created pursuant to section 14 of the "Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989," (P.L.1989, c.181) pursuant to P.L.1998, c.87, the trust is authorized to transfer such amounts as needed to the Clean Water State Revolving Fund Accounts for the purpose of providing the State match as required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(4) Of the sums appropriated to the trust from the "2003 Water Resources and Wastewater Treatment Trust Fund" established pursuant to subsection b. of section 19 of the "Dam, Lake, Stream, Flood Control, Water Resources, and Wastewater Treatment Project Bond Act of 2003," (P.L.2003, c.162) pursuant to P.L.2004, c.110, the trust is authorized to transfer such amounts as needed to the Clean Water State Revolving Fund Accounts for the purpose of providing the State match as required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

d. For the purposes of this act:

(1) "capitalized interest" means the amount equal to interest paid on trust bonds which is

funded with trust bond proceeds and the earnings thereon;

(2) "issuance expenses" means and includes, but need not be limited to, the costs of financial document printing, bond insurance premiums or other credit enhancement, underwriters' discount, verification of financial calculations, the services of bond rating agencies and trustees, the employment of accountants, attorneys, financial advisors, loan servicing agents, registrars, and paying agents, and any other costs related to the issuance of trust bonds;

(3) "reserve capacity expenses" means those project costs for reserve capacity not eligible for loans under rules and regulations governing zero interest loans adopted by the Commissioner of Environmental Protection pursuant to section 4 of P.L.1985, c.329 but which are eligible for loans from the trust in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27);

(4) "debt service reserve fund expenses" means the debt service reserve fund costs associated with reserve capacity expenses, water supply projects for which the project sponsors are public water utilities as provided in section 9 of P.L.1985, c.334 (C.58:11B-9), and other drinking water projects not eligible for, or interested in, State or federal debt service reserve funds pursuant to the "Water Supply Bond Act of 1981," P.L.1981, c.261, as amended and supplemented by P.L.1997, c.223; and

(5) "loan origination fee" means the fee charged by the Department of Environmental Protection and financed under the trust loan to pay a portion of the costs incurred by the department in the implementation of the New Jersey Environmental Infrastructure Financing Program.

e. The trust is authorized to increase the loan amount in the future to compensate for a refunding of the issue, provided adequate savings are achieved, for the loans issued pursuant to P.L.1995, c.218, P.L.1996, c.87, P.L.1997, c.222, P.L.1998, c.85, P.L.1999, c.173, P.L.2000, c.93, P.L.2001, c.224, P.L.2002, c.71, P.L.2003, c.159 and P.L.2004, c.110.

2. a. (1) The New Jersey Environmental Infrastructure Trust is authorized to expend funds for the purpose of making supplemental loans to or on behalf of the project sponsors listed below for the following clean water environmental infrastructure projects:

Project Number	Project Sponsor	Estimated Allowable Loan Amount
340385-02-1	Berkeley Heights Township	\$340,000
340641-02-1	Camden City	\$1,237,000
340536-05-1	Mercer County Improvement Authority	\$150,000
340321-01-1	Montclair State University	\$822,000
340750-05-1	Ocean Township SA	\$1,815,000
340547-07/09-1	Rahway Valley SA	\$1,890,000
343046-01-1	Middle Township	\$66,000
343043-01-1	Old Bridge Township	<u>\$2,061,000</u>
TOTAL		<u>\$8,081,000</u>

(2) The loans authorized in this subsection shall be made for the difference between the allowable loan amounts required by these projects based upon final building costs pursuant to subsection a. of section 7 of this act and the loan amounts certified by the chairman of the trust in State fiscal years 2002, 2003 and 2004, and for increased allowable costs as defined and determined in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27). The loans authorized in this subsection shall be made to or on behalf of the project sponsors listed, up to the individual amounts indicated and in the priority stated, to the extent sufficient funds are available, except as a project fails to meet the requirements of section 6 of this act.

(3) The loans authorized in this subsection shall have priority over the environmental infrastructure projects listed in subsection a. of section 4 of this act.

b. (1) The trust is authorized to expend funds for the purpose of making supplemental loans

to or on behalf of the project sponsors listed below for the following drinking water environmental infrastructure projects:

Project Number	Project Sponsor	Estimated Allowable Loan Amount
0408001-012-1	Camden City	\$453,000
0720001-002-1	Verona Township	\$1,200,000
0818004-001-1	Washington Township MUA	<u>\$1,751,000</u>
TOTAL		<u>\$3,404,000</u>

(2) The loans authorized in this subsection shall be made for the difference between the allowable loan amounts required by these projects based upon final building costs pursuant to subsection a. of section 7 of this act and the loan amounts certified by the chairman of the trust in State fiscal years 2002 and 2003, and for increased allowable costs as defined and determined in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27). The loans authorized in this subsection shall be made to or on behalf of the project sponsors listed, up to the individual amounts indicated and in the priority stated, to the extent sufficient funds are available, except as a project fails to meet the requirements of section 6 of this act.

(3) The loans authorized in this subsection shall have priority over the environmental infrastructure projects listed in subsection b. of section 4 of this act.

3. a. The New Jersey Environmental Infrastructure Trust is authorized to make loans to or on behalf of the project sponsors for the clean water projects listed in subsection a. of section 2 and subsection a. of section 4 of this act up to the individual amounts indicated and in the priority stated, except as any such amount may be reduced by the trust pursuant to subsection a. of section 7 of this act, or if a project fails to meet the requirements of section 6 of this act. The trust is authorized to increase any such amount pursuant to subsection b., c., d. or e. of section 7 or section 8 of this act.

b. The trust is authorized to make loans to project sponsors for the drinking water projects listed in subsection b. of section 2 and subsection b. of section 4 of this act up to the individual amounts indicated and in the priority stated, except as any such amount may be reduced by the trust pursuant to subsection a. of section 7 of this act, or if a project fails to meet the requirements of section 6 of this act. The trust is authorized to increase any such amount pursuant to subsection b., c., d. or e. of section 7 or section 8 of this act.

4. a. The following environmental infrastructure projects shall be known and may be cited as the "State Fiscal Year 2005 Clean Water Project Priority List":

Project Number	Project Sponsor	Estimated Allowable Loan Amount
340815-05	Newark City	\$3,799,000
340259-02	Kearny Town	\$3,324,000
340952-03	North Hudson SA	\$4,000,000
340547-10	Rahway Valley SA	\$69,340,000
340928-04	Jersey City MUA	\$587,000
340926-02	Paterson City	\$1,757,000
340848-01	East Newark Borough	\$125,000
340381-06	Roxbury Township	\$973,000
340416-13	Trenton City	\$372,000
343045-01	Cape May City	\$1,273,000
343037-01	Burlington County BCF	\$1,055,000
340815-07	Newark City	\$3,468,000

P.L. 2004, CHAPTER 110

340815-08	Newark City	\$564,000
340809-05	Atlantic County UA	\$1,342,000
343051-01	Hamilton Township	\$385,000
340366-07	Camden City	\$1,607,000
343058-01	Voorhees Township	\$1,733,000
343010-02	Brick Township	\$529,000
343021-02	Middletown Township	\$986,000
343055-01	New Jersey Water Supply Authority - Manasquan Basin	\$275,000
343055-01A	New Jersey Water Supply Authority/Howell Township	\$982,000
343023-02	Evesham Township	\$165,000
342005-01/ 340679-01	Linden City	\$5,686,000
343054-01	New Jersey Water Supply Authority - Raritan Basin	\$560,000
343054-01A	New Jersey Water Supply Authority/Clinton Township/ Lebanon Township/Bethlehem Township/Readington Township	\$4,306,000
343056-01	Ridgewood Village	\$990,000
340029-02	Secaucus Township	\$1,188,000
343034-03	Readington Township	\$191,000
340620-05	Barneget Township	\$1,320,000
343012-01	Clinton Township	\$2,625,000
343047-01	Byram Township	\$461,000
343052-01	Milltown Borough	\$1,117,000
343053-01	Mine Hill Township	\$330,000
343057-01	Stockton Borough	\$71,000
340366-05	Camden City	\$976,000
340103-01	South Orange Village	\$825,000
340372-25	Ocean County UA	\$6,385,000
340801-05	Somerset Raritan Valley SA	\$5,357,000
340364-03	Gloucester Township MUA	\$2,277,000
340377-02	South Monmouth Regional SA	\$3,460,000
340969-04	Berkeley Township SA	\$1,493,000
340837-01	Montclair Township	\$479,000
340888-01	North Brunswick Township	\$639,000
340858-02	Cranford Township	\$1,135,000
340858-03	Cranford Township	\$2,920,000
340947-02	West Deptford Township	\$5,435,000
340881-03	Hawthorne Borough	\$992,000
340170-02	Cinnaminson SA	\$1,108,000
340698-01	Middlesex Borough	\$930,000
340873-01	Clinton Township SA	\$296,000
340778-05	West Paterson Borough	\$544,000
340569-03	Byram Township	\$150,000
340110-01	Bergen County Improvement Authority	\$100,000,000
340108-01	Edgewater Park SA	\$250,000
340391-07	Ewing Lawrence SA	\$4,671,000
340109-01	Pohatcong Township	<u>\$315,000</u>
	TOTAL	<u>\$258,123,000</u>

b. The following environmental infrastructure projects shall be known and may be cited as

the "State Fiscal Year 2005 Drinking Water Project Priority List":

Project Number	Project Sponsor	Estimated Allowable Loan Amount
2119001-005	Aqua New Jersey Inc.	\$1,437,000
1613001-013	North Jersey District Water Supply Commission	\$16,667,000
1011001-004	New Jersey American Water Company - Frenchtown	\$487,000
0613001-001	Seabrook Water Corporation	\$318,000
1505004-001	Berkeley Township MUA	\$4,402,000
0408001-014	Camden City	\$236,000
0408001-013	Camden City	\$4,098,000
1518001-001/002	Cedar Glen Homes Inc.	\$452,000
0604001-004	Bayview Water Company/ Middlesex Water Company	\$339,000
0324001-005	Mount Laurel Township MUA	\$8,893,000
0319001-003	Maple Shade Township	\$1,923,000
1111001-003	Trenton City	\$6,237,000
1339001-002	Shorelands Water Company, Inc.	\$3,025,000
1216001-004	Perth Amboy City	\$596,000
0221001-001/002	Garfield City	\$3,355,000
0820001-001	West Deptford Township	\$1,063,000
1225001-008	Middlesex Water Company	\$3,575,000
1225001-017	Middlesex Water Company	\$5,079,000
0808001-002	South Jersey Water Supply Company	\$195,000
2101001-002	Allamuchy Township	\$500,000
1616001-002/003	West Paterson Borough	\$650,000
1415001-003	Fayson Lake Water Company	\$237,000
0103001-007	Brigantine City	\$2,512,000
0424001-002	Merchantville-Pennsauken Water Commission	\$1,636,000
1530004-001	Stafford Township	\$5,868,000
1504001-002	Beachwood Borough	\$304,000
0324001-003	Mount Laurel Township MUA	\$776,000
0713001-008	Montclair Township	\$556,000
1415001-007	Fayson Lake Water Company	<u>\$160,000</u>
	TOTAL	<u>\$81,431,000</u>

5. In accordance with and subject to the provisions of sections 5, 6 and 23 of P.L.1985, c.334 (C.58:11B-5, 58:11B-6, and 58:11B-23) and as set forth in the financial plan required pursuant to section 21 of P.L.1985, c.334 (C.58:11B-21), or the financial plan required pursuant to section 25 of P.L.1997, c.224 (C.58:11B-21.1), any proceeds from bonds issued by the trust to make loans for priority environmental infrastructure projects listed in sections 2 and 4 of this act which are not expended for that purpose may be applied for the payment of all or any part of the principal of and interest and premium on the trust bonds whether due at stated maturity, the interest payment dates or earlier upon redemption. A portion of the proceeds from bonds issued by the trust to make loans for priority environmental infrastructure projects pursuant to this act may be applied for the payment of capitalized interest and for the payment of any issuance expenses; for the payment of reserve capacity expenses; for the payment of debt service reserve fund expenses; and for the payment of increased costs as defined and determined in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27).

6. Any loan made by the New Jersey Environmental Infrastructure Trust pursuant to this act shall be subject to the following requirements:

a. The chairman of the trust has certified that the project is in compliance with the provisions of P.L.1977, c.224, P.L.1985, c.334, P.L.1992, c.88, P.L.1997, c.223, P.L.1997, c.224, P.L.1997, c.225 or P.L.1999, c.175, and any rules and regulations adopted pursuant thereto. In making this certification, the chairman may conclusively rely on the project review conducted by the Department of Environmental Protection without any independent review thereof by the trust;

b. The loan shall be conditioned upon approval of a zero interest loan from the Department of Environmental Protection from the "Water Supply Fund" established pursuant to section 14 of the "Water Supply Bond Act of 1981," (P.L.1981, c.261), as amended by P.L.1983, c.355 and amended and supplemented by P.L.1997, c.223, the "Wastewater Treatment Fund" established pursuant to section 15 of the "Wastewater Treatment Bond Act of 1985" (P.L.1985, c.329), the "1992 Wastewater Treatment Fund" established pursuant to section 27 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992" (P.L.1992, c.88), the "2003 Water Resources and Wastewater Treatment Fund" established pursuant to section 19 of the "Dam, Lake, Stream, Flood Control, Water Resources, and Wastewater Treatment Project Bond Act of 2003" (P.L.2003, c.162), or the Drinking Water State Revolving Fund established pursuant to section 1 of P.L.1998, c.84;

c. The loan shall be repaid within a period not to exceed 20 years of the making of the loan;

d. The loan shall not exceed the allowable project cost of the environmental infrastructure facility, exclusive of capitalized interest and issuance expenses as provided in subsection b. of section 7 of this act, reserve capacity expenses and the debt service reserve fund expenses as provided in subsection c. of section 7 of this act, interest earned on project costs as provided in subsection d. of section 7 of this act, the amounts of the loan origination fee as provided in subsection e. of section 7 of this act, refunding increases as provided in section 8 of this act and increased costs as defined and determined in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27);

e. The loan shall bear interest, exclusive of any late charges or administrative fees payable to the trust pursuant to subsection o. of section 5 of P.L.1985, c.334 (C.58:11B-5) by the project sponsors receiving trust loans, at or below the interest rate paid by the trust on the bonds issued to make or refund the loans authorized by this act, adjusted for underwriting discount and original issue discount or premium, in accordance with the terms and conditions set forth in the financial plan required pursuant to section 21 of P.L.1985, c.334 (C.58:11B-21) or the financial plan required pursuant to section 25 of P.L.1997, c.224 (C.58:11B-21.1); and

f. The loan shall be subject to all other terms and conditions as the trust shall determine to be consistent with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) and any rules and regulations adopted pursuant thereto, and with the financial plan required by section 21 of P.L.1985, c.334 (C.58:11B-21) or the financial plan required pursuant to section 25 of P.L.1997, c.224 (C.58:11B-21.1).

The priority lists and authorization for the making of loans pursuant to this act shall expire on July 1, 2005, and any project sponsor which has not executed and delivered a loan agreement with the trust for a loan authorized in this act shall no longer be entitled to that loan.

7. a. The New Jersey Environmental Infrastructure Trust is authorized to reduce the individual amount of loan funds made available to or on behalf of project sponsors pursuant to sections 2 and 4 of this act based upon final building costs defined in and determined in accordance with rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27) or rules and regulations adopted by the Commissioner of Environmental Protection pursuant to section 4 of P.L.1985, c.329, section 11 of P.L.1977, c.224 (C.58:12A-11) or section 5 of P.L.1981, c.261. The trust is authorized to use any such reduction in the loan amount made available to a project sponsor to cover that project sponsor's increased costs due to differing site conditions or other allowable expenses as defined and determined in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27).

b. The trust is authorized to increase each loan amount authorized in sections 2 and 4 of this act by the amount of capitalized interest and issuance expenses allocable to each loan made by the trust pursuant to this act; provided that the increase for issuance expenses, excluding underwriters' discount, original issue discount or premiums, municipal bond insurance premiums and bond rating agency fees, shall not exceed 0.4% of the principal amount of trust bonds issued to make loans authorized by this act.

c. The trust is authorized to increase each loan amount authorized in sections 2 and 4 of this act by the amount of reserve capacity expenses, and by the debt service reserve fund expenses associated with such reserve capacity expenses or associated with loans issued to owners of public water utilities, as may be allowed for the project by the trust in accordance with rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27).

d. The trust is authorized to increase each loan amount authorized in sections 2 and 4 of this act by the interest earned on amounts deposited for project costs pending their distribution to project sponsors.

e. The trust is authorized to increase each loan amount authorized in sections 2 and 4 of this act by the loan origination fee.

8. The New Jersey Environmental Infrastructure Trust is authorized to increase the individual amount of loan funds made available to project sponsors by the trust pursuant to P.L.1989, c.190, P.L.1990, c.97, P.L.1991, c.324, P.L.1992, c.37, P.L.1993, c.192, P.L.1994, c.105, P.L.1995, c.218, P.L.1996, c.87, P.L.1997, c.222, P.L.1998, c.85, P.L.1999, c.173, P.L.2000, c.93, P.L.2001, c.224, P.L.2002, c.71, P.L.2003, c.159 or P.L.2004, c.110, provided that adequate savings are achieved, to compensate for a refunding of trust bonds issued to make loans authorized by the aforementioned acts.

9. The expenditure of funds authorized pursuant to this act is subject to the provisions of P.L.1977, c.224 (C.58:12A-1 et seq.), P.L.1985, c.329, P.L.1985, c.334 (C.58:11B-1 et seq.), as amended and supplemented by P.L.1997, c.224, P.L.1992, c.88, P.L.1997, c.223, P.L.1997, c.225 or P.L.1999, c.175, and the rules and regulations adopted pursuant thereto, and the provisions of the Federal Clean Water Act or the Federal Safe Drinking Water Act, as appropriate.

10. a. There is appropriated to the New Jersey Environmental Infrastructure Trust from the "2003 Water Resources and Wastewater Treatment Trust Fund" established pursuant to subsection b. of section 19 of the "Dam, Lake, Stream, Flood Control, Water Resources, and Wastewater Treatment Project Bond Act of 2003," (P.L.2003, c.162) the sum of \$5,000,000 and any net earnings received from the investment or deposit of moneys in the "2003 Water Resources and Wastewater Treatment Trust Fund."

b. The New Jersey Environmental Infrastructure Trust shall utilize the moneys appropriated under this section to establish a reserve fund as required pursuant to paragraph (3) of subsection a. of section 20 of P.L.2003, c.162 and section 11 of P.L.1985, c.334 (C.58:11B-11).

c. The expenditure of the sums appropriated under this section is subject to the provisions of P.L.2003, c.162, P.L.1985, c.334 (C.58:11B-1 et seq.) and P.L.1997, c.224, and any rules and regulations adopted pursuant thereto.

11. This act shall take effect immediately.

Approved July 23, 2004.