

## CHAPTER 173

**AN ACT** requiring municipal and county sewerage authorities and utilities authorities to credit connection fees for certain catastrophic events under certain circumstances, and amending and supplementing P.L.1946, c.138 (C.40:14A-1 et seq.) and P.L.1957, c.183 (C.40:14B-1 et seq.).

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

1. Section 8 of P.L.1946, c.138 (C.40:14A-8) is amended to read as follows:

C.40:14A-8 Service charges authorized.

8. (a) Every sewerage authority is hereby authorized to charge and collect rents, rates, fees or other charges (in this act sometimes referred to as "service charges") for direct or indirect connection with, or the use or services of, the sewerage system. Such service charges may be charged to and collected from any person contracting for such connection or use or services 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 system or from or on which originates or has originated sewage or other wastes which directly or indirectly have entered or may enter the sewerage system, and the owner of any such real property shall be liable for and shall pay such service charges to the sewerage authority at the time when and the place where such service charges are due and payable.

(b) Rents, rates, fees and charges, which may be payable periodically, being in the nature of use or service charges, shall as nearly as the sewerage authority shall deem practicable and equitable be uniform throughout the district for the same type, class and amount of use or service of the sewerage system, except as permitted by section 1 of P.L.1994, c.78 (C.40:14A-8.2), and may be based or computed either on the consumption of water on or in connection with the real property, making due allowance for commercial use of water, 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 or sewerage 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 or service of the sewerage system, or on any combination of any such factors, and may give weight to the characteristics of the sewage and other wastes and any other special matter affecting the cost of treatment and disposal thereof, including chlorine demand, biochemical oxygen demand, concentration of solids and chemical composition. In addition to any such periodic 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 sewerage 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, except as provided by section 2 of P.L.2005, c.29 (C.40:14A-8.3) and except as provided by section 2 of P.L.2005, c.173 (C.40:14A-8.4), 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 the sewerage 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 sewage for the connector shall be divided by the average daily flow of sewage for the average single family residence in the authority's district to produce the number of service units to be attributed.

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 subsection (c) of this section. 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 periodic service charges shall meet the requirements of subsection (c) hereof.

(c) The sewerage authority shall prescribe and from time to time when necessary revise a schedule of service charges, which shall comply with the terms of any contract of the sewerage authority and in any event shall be such that the revenues of the sewerage authority will at all times be adequate to pay all expenses of operation and maintenance of the sewerage system, including reserves, insurance, extensions, and replacements, and to pay punctually the principal of and interest on any bonds and to maintain such reserves or sinking funds therefor as may be required by the terms of any contract of the sewerage authority or as may be deemed necessary or desirable by the sewerage authority. Said schedule shall thus be prescribed and from time to time revised by the sewerage authority after public hearing thereon which shall be held by the sewerage authority at least 20 days after notice of the proposed adjustment is mailed to the clerk of each municipality serviced by the authority and publication of notice of the proposed adjustment of the service charges and of the time and place of the public hearing in at least two newspapers of general circulation in the area serviced by the authority. The sewerage authority shall provide evidence at the hearing showing that the proposed adjustment of the service charges is necessary and reasonable, and shall provide the opportunity for cross-examination of persons offering such evidence, and a transcript of the hearing shall be made and a copy thereof shall be available upon request to any interested party at a reasonable fee. The sewerage authority shall likewise fix and determine the time or times when and the place or places where such service charges shall be due and payable and may require that such service charges shall be paid in advance for periods of not more than one year. A copy of such schedule of service charges in effect shall at all times be kept on file at the principal office of the sewerage authority and shall at all reasonable times be open to public inspection.

(d) Any county sewerage authority may establish sewerage regions in portions of the district. Rents, rates, fees and charges which may be payable periodically, being in the nature of use or service charges, shall as nearly as the sewerage authority shall deem practicable and equitable, be uniform throughout the district for the same type, class and amount of use or service of the sewerage systems, except as permitted by section 1 of P.L.1994, c.78 (C.40:14A-8.2), and shall meet all other requirements of subsection (b) hereof.

C.40:14A-8.4 Credit for damage caused by catastrophic event provided by sewerage authority.

2. a. For a unit damaged by a catastrophic event, a county, regional or municipal sewerage authority shall provide, within two years after the date of the catastrophic event, a credit for the connection fee or tapping fee assessed pursuant to section 8 of P.L.1946, c.138 (C.40:14A-8) for connection to the sewerage system, provided that:

(1) the unit was damaged by a catastrophic event during construction or refurbishing of the unit;

(2) the connection fee or tapping fee has been paid; and

(3) the damaged unit is refurbished or replaced with another unit and connected to the sewerage system within two years after the date of the catastrophic event.

If the refurbishing of the damaged unit or the construction of the unit replacing the damaged unit expands the sewerage system use, the property owner of the refurbished unit or the newly constructed unit, as applicable, shall be credited for any connection fee or tapping fee previously paid for the unit and shall be assessed the difference between the credit and the connection fee or tapping fee, as applicable, for the new class of use.

b. For the purposes of this section, "catastrophic event" means a fire or any declared national, State or municipal emergency or a flood or other natural disaster or event which substantially affects or damages a building or structure; and "unit" means any publicly or

privately owned real property that is a building or part of a building that is connected to, or, after construction or refurbishing, is to be connected to, a sewerage system, and shall include, but shall not be limited to, any building or part of a building leased, operated, or owned by a municipality or a school district.

3. 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 supply services, water supply 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, except as provided by section 5 of P.L.2005, c.29 (C.40:14B-22.3) and except as provided by section 5 of P.L.2005, c.173 (C.40:14B-22.4), 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 connections, except as provided by section 5 of P.L.2005, c.29 (C.40:14B-22.3) and except as provided by section 5 of P.L.2005, c.173 (C.40:14B-22.4).

4. Section 22 of P.L.1957, c.183 (C.40:14B-22) is amended to read as follows:

C.40:14B-22 Sewerage service charges.

22. Every municipal authority is hereby authorized to charge and collect rents, rates, fees or other charges (in this act sometimes referred to as "sewerage service charges") for direct or indirect connection with, or the use or services of, the sewerage system. Such sewerage service charges may be charged to and collected from any person contracting for such connection or use or services 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 sewerage system or from or on which originates or has originated sewage or other wastes which directly or indirectly have entered or may enter the sewerage system, and the owner of any such real property shall be liable for and shall pay such sewerage service charges to the municipal authority at the time when and place where such sewerage service charges are due and payable. Such rents, rates, fees and charges, being in the nature of use or service 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 or service of the sewerage 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, making due allowance for commercial use of water, 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 or sewerage 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 or service of the sewerage system, or on any combination of any such factors, and may give weight to the characteristics of the sewage and other wastes and any other special matter affecting the cost of treatment and disposal of the same, including chlorine demand, biochemical oxygen demand, concentration of

solids and chemical composition, and, as to service outside the district, the cost of installation of necessary physical properties.

In addition to any such sewerage 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 sewerage 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, except as provided by section 5 of P.L.2005, c.29 (C.40:14B-22.3) and except as provided by section 5 of P.L.2005, c.173 (C.40:14B-22.4), 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 towards the cost of the system:

a. 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 the interest thereon, paid by the 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 a municipal 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.

b. 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.

c. 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. In attributing service units to each connector, the estimated average daily flow of sewage for the connector shall be divided by the average daily flow of sewage from the average single family residence in the authority's district, to produce the number of service units to be attributed.

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 sewerage service charges shall meet the requirements of section 23.

C.40:14B-22.4 Credit for damage caused by catastrophic event provided by utilities authority.

5. a. For a unit damaged by a catastrophic event, a county, regional or municipal utilities authority shall provide, within two years after the date of the catastrophic event, a credit for the connection fee or tapping fee assessed pursuant to section 21 of P.L.1957, c.183 (C.40:14B-21) for connection to the water system, or a credit for the connection fee or tapping fee assessed pursuant to section 22 of P.L.1957, c.183 (C.40:14B-22) for connection to the sewerage system, or both, as the case may be, provided that:

(1) the unit was damaged by a catastrophic event during construction or refurbishing of the unit;

(2) the connection fee or tapping fee has been paid; and

(3) the damaged unit is refurbished or replaced with another unit and connected to the water system or the sewerage system, or both, as the case may be, within two years after the date of the catastrophic event.

If the refurbishing of the damaged unit or the construction of the unit replacing the damaged unit expands the water system use or the sewerage system use, or both, as the case may be, the property owner of the refurbished unit or the newly constructed unit, as applicable, shall be credited for any connection fee or tapping fee previously paid for the unit and shall be assessed the difference between the credit and the connection fee or tapping fee, as applicable, for the new class of use.

b. For the purposes of this section, "catastrophic event" means a fire or any declared

national, State or municipal emergency or a flood or other natural disaster or event which substantially affects or damages a building or structure; and "unit" means any publicly or privately owned real property that is a building or part of a building that is connected to, or, after construction or refurbishing, is to be connected to, a water system or a sewerage system, or both, as the case may be, and shall include, but shall not be limited to, any building or part of a building leased, operated, or owned by a municipality or a school district

6. This act shall take effect immediately.

Approved August 5, 2005.