

CHAPTER 267

AN ACT concerning certain county and municipal water supply facilities, and amending N.J.S.40A:31-23.

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

1. N.J.S.40A:31-23 is amended to read as follows:

Nonimpairment of obligations for provision of water supply services, facilities; BPU jurisdiction.

40A:31-23. a. Nothing contained in this act shall in any way impair the obligations previously assumed by any other public or private agency for the provision of water supply services and facilities to the citizens and industries of this State, or for any other purpose authorized by any law repealed by N.J.S.40A:31-24.

b. In the event a municipal utilities authority has been established in a local unit pursuant to the provisions of the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.), no local unit or units shall establish any facility within the territory of that local unit which is competitive with any water supply facility operated by that authority.

c. No water supply services shall be provided in accordance with this act to users in another local unit without the prior approval of the governing body of that other local unit.

d. (1) Except as may otherwise be provided by subsection e. of this section and subject to the terms of any agreement entered into by participating local units or between a supplying and receiving local unit or units and the provisions of this act, a local unit or local units owning and operating water supply facilities in accordance with the provisions of N.J.S.40A:31-4, which supply water to more than 1,000 billed customers within another local unit, shall be subject to the jurisdiction, regulation and control of the Board of Public Utilities in accordance with the provisions of Title 48 of the Revised Statutes. The provisions of this subsection shall not apply whenever water is supplied to customers in another local unit at bulk rates.

(2) Notwithstanding any provision of this subsection to the contrary, whenever the governing body of a city of the first class enters into a contract with a duly incorporated nonprofit association for the provision of water supply services as defined in subsection (16) of section 15 of P.L.1971, c.198 (C.40A:11-15), or the designing, financing, construction, operation, or maintenance, or any combination thereof, of a water supply facility as defined in subsection (16) of section 15 of P.L.1971, c.198 (C.40A:11-15), and that governing body operates water supply facilities as authorized pursuant to the provisions of N.J.S.40A:31-4, which supply water to customers within another local unit, the nonprofit association or governing body shall be subject to the jurisdiction, rate regulation and control of the Board of Public Utilities to the extent the nonprofit association or governing body supplies water to customers within that other local unit. The provisions of this paragraph shall apply whenever water is supplied to customers in another local unit at bulk rates.

e. Notwithstanding any law, rule, order or regulation to the contrary, whenever any supplying local unit or units charge the same rates or rentals to the billed customers outside of the supplying local unit or units as are charged to customers within the supplying local unit or units, the local unit or units owning and operating water supply facilities in accordance with the provisions of N.J.S.40A:31-4, shall, with respect to the rates or rentals to be charged to users of water supply services, be exempt from the jurisdiction, regulation and control of the Board of Public Utilities. Any increase in rates or rentals to be charged to users of water supply services shall be authorized by ordinance, in the case of a municipality, or ordinance or resolution, as appropriate, in the case of a county or parallel ordinances or resolutions of the governing body of each supplying local unit or units, as appropriate. Prior to adopting a resolution increasing the rates or rentals to be charged to users of water supply services, the governing body of a county shall hold a public hearing. Customers outside of the supplying local unit or units shall have an opportunity to be heard at the public hearing.

f. Nothing in subsection e. of this section shall be construed to exempt any supplying local unit or units supplying billed customers outside of the supplying local unit or units, from the jurisdiction, regulation and control of the Board of Public Utilities, with respect to service and reliability.

g. Supplying local units shall continue to pay an assessment to the Board of Public Utilities in accordance with the provisions of this section for those billed customers outside of the

supplying local units.(cf: P.L.2002, c.47, s.11)

2. This act shall take effect immediately.

Approved January 5, 2006.