

CHAPTER 91

AN ACT concerning certain billing practices of public providers of utility services and amending and supplementing various parts of the statutory law.

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

1. Section 7 of P.L.1946, c.138 (C.40:14A-7) is amended to read as follows:

C.40:14A-7 Sewerage authority a public body corporate; powers.

7. Every sewerage authority shall be a public body politic and corporate constituting a political subdivision of the State established as an instrumentality exercising public and essential governmental functions to provide for the public health and welfare and shall have perpetual succession and have the following powers:

- (1) To adopt and have a common seal and to alter the same at pleasure;
- (2) To sue and to be sued;
- (3) In the name of the sewerage authority and on its behalf, to acquire, hold, use and dispose of its service charges and other revenues and other moneys;
- (4) In the name of the sewerage authority but for the local unit or units, to acquire, hold, use and dispose of other personal property for the purposes of the sewerage authority;
- (5) In the name of the sewerage authority but for the local unit or units, to acquire by purchase, gift, condemnation or otherwise, real property and easements therein, necessary or useful and convenient for the purposes of the sewerage authority, and subject to mortgages, deeds of trust or other liens, or otherwise, and to hold and to use the same, and to dispose of property so acquired no longer necessary for the purposes of the sewerage authority;
- (6) To provide for and secure the payment of any bonds and the rights of the holders thereof, and to purchase, hold and dispose of any bonds;
- (7) To accept gifts or grants of real or personal property, money, material, labor or supplies for the purposes of the sewerage authority, and to make and perform such agreements and contracts as may be necessary or convenient in connection with the procuring, acceptance or disposition of such gifts or grants;
- (8) To enter on any lands, waters or premises for the purpose of making surveys, borings, soundings and examinations for the purposes of the sewerage authority, and whenever the operation of a septic tank or other component of an on-site wastewater system shall result in the creation of pollution or contamination source on private property such that under the provisions of R.S.26:3-49, a local board of health would have the authority to notify the owner and require said owner to abate the same, representatives of an authority shall have the power to enter, at all reasonable times, any premises on which such pollution or contamination source shall exist, for the purpose of inspecting, rehabilitating, securing samples of any discharges, improving, repairing, replacing, or upgrading such septic tank or other component of an on-site wastewater system;
- (9) To establish an inspection program to be performed at least once every 3 years on all on-site wastewater systems installed within its district which inspection program shall contain the following minimum notice provisions: (i) not less than 30 days prior to the date of the inspection of an on-site wastewater system as described herein, the authority shall notify the owner and resident of the property that the inspection will occur; and (ii) not less than 60 days prior to the date of the performance of any work other than an inspection, the sewerage authority shall provide notice to the owner and resident of the property on which the work will be performed. The notice to be provided to such owner and resident under this subsection shall include a description of the deficiency which necessitates the work and the

proposed remedial action, and the proposed date for beginning and duration of the contemplated remedial action;

(10) To prepare and file in the office of the sewerage authority records of all inspections, rehabilitation, maintenance, and work, performed with respect to on-site wastewater disposal systems;

(11) To make and enforce bylaws or rules and regulations for the management and regulation of its business and affairs and for the use, maintenance and operation of the sewerage system and any other of its properties, and to amend the same;

(12) To do and perform any acts and things authorized by this act under, through or by means of its own officers, agents and employees, or by contracts with any persons;

(13) To enter into any and all contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient or desirable for the purposes of the sewerage authority or to carry out any power expressly given in this act subject to the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.);

(14) To enter into any and all lease agreements with sewerage authorities, and municipalities, and counties operating sewerage systems, for the rental of equipment owned by authority and municipality and/or county, together with the personnel to operate said equipment; and

(15) Upon the request of a customer: (i) to offer the customer the ability to receive or access, in electronic format, any periodic bill for service sent by the sewerage authority to its customers and any additional information sent by the sewerage authority to its customers as required by law, provided that any notice of disconnection, discontinuance or termination of sewerage service shall be sent to a customer in written form at the customer's legal mailing address in addition to being sent or being made available in electronic format; and (ii) to provide the customer the option of paying any such periodic bill via electronic means.

2. Section 20 of P.L.1957, c.183 (C.40:14B-20) is amended to read as follows:

C.40:14B-20 Powers.

20. Every municipal authority shall be a public body politic and corporate constituting a political subdivision of the State established as an instrumentality exercising public and essential governmental functions to provide for the public health and welfare and shall have perpetual succession and have the following powers:

(1) To adopt and have a common seal and to alter the same at pleasure;

(2) To sue and be sued;

(3) In the name of the municipal authority and on its behalf, to acquire, hold, use and dispose of its service charges and other revenues and other moneys;

(4) In the name of the municipal authority but for the local unit or units, to acquire, rent, hold, lease as lessor, use and dispose of other personal property for the purposes of the municipal authority;

(5) In the name of the municipal authority but for the local unit or units and subject to the limitations of this act, to acquire by purchase, gift, condemnation or otherwise, or lease as lessee, real property and easements therein, necessary or useful and convenient for the purposes of the municipal authority, and subject to mortgages, deeds of trust or other liens, or otherwise, and to hold, lease as lessor, and to use the same, and to dispose of property so acquired no longer necessary for the purposes of the municipal authority;

(6) To produce, develop, purchase, accumulate, distribute and sell water and water services, facilities and products within or without the district, provided that no water shall be

sold at retail in any municipality without the district unless the governing body of such municipality shall have adopted a resolution requesting the municipal authority to sell water at retail in such municipality, and the board of public utility commissioners shall have approved such resolution as necessary and proper for the public convenience;

(7) To provide for and secure the payment of any bonds and the rights of the holders thereof, and to purchase, hold and dispose of any bonds;

(8) To accept gifts or grants of real or personal property, money, material, labor or supplies for the purposes of the municipal authority, and to make and perform such agreements and contracts as may be necessary or convenient in connection with the procuring, acceptance or disposition of such gifts or grants;

(9) To enter on any lands, waters or premises for the purpose of making surveys, borings, soundings and examinations for the purposes of the municipal authority, and whenever the operation of a septic tank or other component of an on-site wastewater system shall result in the creation of pollution or contamination source on private property such that under the provisions of R.S.26:3-49, a local board of health would have the authority to notify the owner and require said owner to abate the same, representatives of an authority shall have the power to enter, at all reasonable times, any premises on which such pollution or contamination source shall exist, for the purpose of inspecting, rehabilitating, securing samples of any discharges, improving, repairing, replacing, or upgrading such septic tank or other component of an on-site wastewater system;

(10) To establish an inspection program to be performed at least once every three years on all on-site wastewater systems installed within the district which inspection program shall contain the following minimum notice provisions: (i) not less than 30 days prior to the date of the inspection of any on-site wastewater system as described herein, the authority shall notify the owner and resident of the property that the inspection will occur; and (ii) not less than 60 days prior to the date of the performance of any work other than an inspection, the municipal authority shall provide notice to the owner and resident of the property in which the work will be performed. The notice to be provided to such owner and resident under this subsection shall include a description of the deficiency which necessitates the work and the proposed remedial action, and the proposed date for beginning and duration of the contemplated remedial action;

(11) To prepare and file in the office of the municipal authority records of all inspections, rehabilitation, maintenance, and work, performed with respect to on-site wastewater disposal systems;

(12) To make and enforce bylaws or rules and regulations for the management and regulation of its business and affairs and for the use, maintenance and operation of the utility system and any other of its properties, and to amend the same;

(13) To do and perform any acts and things authorized by this act under, through or by means of its own officers, agents and employees, or by contracts with any person;

(14) To enter into any and all contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient or desirable for the purposes of the municipal authority or to carry out any power expressly given in this act subject to the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.);

(15) To extend credit or make loans to any person for the planning, designing, acquiring, constructing, reconstructing, improving, equipping, furnishing, and operating by that person of any part of a solid waste system, sewage treatment system, wastewater treatment or collection system for the provision of services and facilities within or without the district, which in the case of a solid waste system shall be in a manner consistent with the "Solid

Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) and in conformance with the solid waste management plans adopted by the solid waste management districts created therein. The credits or loans may be secured by loan and security agreements, mortgages, leases and any other instruments, upon such terms as the authority shall deem reasonable, including provision for the establishment and maintenance of reserve and insurance funds, and to require the inclusion in any mortgage, lease, contract, loan and security agreement or other instrument, provisions for the construction, use, operation and maintenance and financing of that part of the aforementioned systems as the authority may deem necessary or desirable; and

(16) Upon the request of a customer: (i) to offer the customer the ability to receive or access, in electronic format, any periodic bill for service sent by the municipal authority to its customers and any additional information sent by the municipal authority to its customers as required by law, provided that any notice of disconnection, discontinuance or termination of service shall be sent to a customer in written form at the customer's legal mailing address in addition to being sent or being made available in electronic format; and (ii) to provide the customer the option of paying any such periodic bill via electronic means.

C.40:62-25.6 Municipality providing heat, light or power, electronic billing, payment, permitted.

3. Upon the request of a customer, a municipality providing heat, light or power may:

a. offer the customer the ability to receive or access, in electronic format, any periodic bill for service sent by such municipality to its customers and any additional information sent by the municipality to its customers as required by law, provided that any notice of disconnection, discontinuance or termination of service shall be sent to a customer in written form at the customer's legal mailing address in addition to being sent or being made available in electronic format; and

b. provide the customer of such municipality the option of paying any such periodic bill via electronic means.

C.40:62-107.7 Customers of municipal water district, electronic billing, payment permitted.

4. Upon the request of a customer, a municipality that has established a water district and which operates a water system may:

a. offer the customer the ability to receive or access, in electronic format, any periodic bill for service sent by such municipality to its customers and any additional information sent by the municipality to its customers as required by law, provided that any notice of disconnection, discontinuance or termination of water service shall be sent to a customer in written form at the customer's legal mailing address in addition to being sent or being made available in electronic format; and

b. provide the customer of such municipality the option of paying any such periodic bill via electronic means.

C.40:62-148.1 Water commission customers, option for electronic billing, payment.

5. Upon the request of a customer, a water commission may:

a. offer the customer the ability to receive or access, in electronic format, any periodic bill for service sent by such water commission to its customers and any additional information sent by the water commission to its customers as required by law, provided that any notice of disconnection, discontinuance or termination of water service shall be sent to a customer in written form at the customer's legal mailing address in addition to being sent or

being made available in electronic format; and

b. provide the customer of such water commission the option of paying any such periodic bill via electronic means.

6. N.J.S.40A:26A-5 is amended to read as follows:

Powers.

40A:26A-5. One or more local units adopting an ordinance or resolution in accordance with N.J.S.40A:26A-4 are authorized and empowered:

a. To acquire, construct, improve, extend, enlarge or reconstruct and finance sewerage facilities, and to operate, manage and control all or part of these facilities and all properties relating thereto;

b. To issue bonds of the local unit or units to pay all or part of the cost of the purchase, construction, improvement, extension, enlargement or reconstruction of sewerage facilities;

c. To receive and accept from the federal or State government, or any agency or instrumentality thereof, grants or loans for, or in aid of, the planning, purchase, construction, improvement, extension, enlargement or reconstruction, or financing of sewerage facilities, and to receive and accept from any source, contributions or money, property, labor or other things of value to be held, used and applied only for the purposes for which the grants or loans and contributions are made;

d. To acquire in the name of the local unit or units by gift, purchase, or by the exercise of the right of eminent domain, lands and rights and interests therein, including lands under water and riparian rights, and personal property as may be deemed necessary for acquisition, construction, improvement, extension, enlargement or reconstruction, or for the efficient operation of any facilities acquired or constructed under the provisions of N.J.S.40A:26A-1 et seq. and to hold and dispose of all real and personal property so acquired;

e. To make and enter into all contracts and agreements necessary or incidental to the performance of the local unit's or units' duties and the execution of powers authorized under N.J.S.40A:26A-1 et seq., and to employ engineers, superintendents, managers, attorneys, financial or other consultants or experts, and other employees and agents as may be deemed necessary, and to fix their compensation;

f. Subject to the provisions and restrictions set forth in the ordinance or resolution authorizing or securing any bonds issued under the provisions of N.J.S.40A:26A-1 et seq., to enter into contracts with the federal or State Government, or any agency or instrumentality thereof, or with any other local unit, private corporation, copartnership, association or individual providing for, or relating to, sewerage services which contracts may provide for the furnishing of sewerage facility services either by or to the local unit or units, or the joint construction or operation of sewerage facilities;

g. To fix and collect rates, fees, rents and other charges in accordance with N.J.S.40A:26A-1 et seq.;

h. To prevent toxic pollutants from entering the sewerage system;

i. Upon the request of a customer: (1) to offer the customer the ability to receive or access, in electronic format, any periodic bill for service sent by the local unit or units to its customers and any additional information sent by the local unit or units to its customers as required by law, provided that any notice of disconnection, discontinuance or termination of sewerage service shall be sent to a customer in written form at the customer's legal mailing address in addition to being sent or being made available in electronic format; and (2) to provide the customer the option of paying any such periodic bill via electronic means; and

j. To exercise any other powers necessary or incidental to the effectuation of the general purpose of N.J.S.40A:26A-1 et seq.

7. N.J.S.40A:31-5 is amended to read as follows:

Powers.

40A:31-5. One or more local units adopting an ordinance or resolution in accordance with N.J.S.40A:31-4 are authorized and empowered:

a. Alone or in combination with a private water company or the State, to acquire, construct, improve, extend, enlarge or reconstruct and finance water supply facilities, and to operate, manage and control all or part of these facilities and all properties relating thereto;

b. To issue bonds of the local unit or units to pay all or part of the cost of the water supply facilities;

c. To receive and accept from the federal or State government, or any agency or instrumentality thereof, grants or loans for, or in aid of, the planning, purchase, construction, improvement, extension, enlargement or reconstruction, or financing of water supply facilities, and to receive and accept from any source, contributions or money, property, labor or other things of value to be held, used and applied only for the purposes for which the grants or loans and contributions are made;

d. To acquire in the name of the local unit or units by gift, purchase, or by the exercise of the right of eminent domain, such lands and rights and interests therein, including lands under water and riparian rights, and such personal property as may be deemed necessary for acquisition, construction, improvement, extension, enlargement or reconstruction, or for the efficient operation of any facilities acquired or constructed under the provisions of N.J.S.40A:31-1 et seq. and to hold and dispose of all real and personal property so acquired;

e. To make and enter into all contracts and agreements necessary or incidental to the performance of the local unit's or units' duties and the execution of powers authorized under N.J.S.40A:31-1 et seq., and to employ consulting and other engineers, superintendents, managers, attorneys, financial or other consultants or experts, and such other employees and agents as may be deemed necessary, and to fix their compensation;

f. Subject to the provisions and restrictions set forth in the ordinance or resolution authorizing or securing any bonds issued under the provisions of N.J.S.40A:31-1 et seq., to enter into contracts with the federal or State government, or any agency or instrumentality thereof, or with any other local unit, private corporation, copartnership, association or individual providing for, or relating to, water supply, which contracts may provide for the furnishing of water supply services either by or to the local unit or units, or the joint construction or operation of water supply facilities;

g. To fix and collect rates, fees, rents and other charges in accordance with N.J.S.40A:31-1 et seq.;

h. Upon the request of a customer: (1) to offer the customer the ability to receive or access, in electronic format, any periodic bill for service sent by the local unit or units to its customers and any additional information sent by the local unit or units to its customers as required by law, provided that any notice of disconnection, discontinuance or termination of water service shall be sent to a customer in written form at the customer's legal mailing address in addition to being sent or being made available in electronic format; and (2) to provide the customer the option of paying any such periodic bill via electronic means; and

i. To exercise any other powers necessary or incidental to the effectuation of the general purposes of N.J.S.40A:31-1 et seq.

8. Section 7 of P.L.1981, c.293 (C.58:1B-7) is amended to read as follows:

C.58:1B-7 Powers.

7. Except as otherwise limited by P.L.1981, c.293 (C.58:1B-1 et seq.), the authority shall have power:

- a. To sue and be sued.
- b. To have an official seal and alter the same at pleasure.
- c. To make and alter bylaws for its organization and internal management and for the conduct of its affairs and business.
- d. To maintain an office at such place or places within the State as it may determine.
- e. To acquire, lease as lessee or lessor, rent, hold, use and dispose of real or personal property for its purposes.
- f. To borrow money and to issue its negotiable bonds and to secure the same by a mortgage on its property or any part thereof and otherwise to provide for and secure the payment thereof and to provide for the rights of the holders thereof.
- g. To fix and revise from time to time and charge and collect rents, fees and charges for any of the services rendered by the authority, which shall be equitably assessed.
- h. To procure insurance against any losses in connection with its property, operations or assets in such amounts and from such insurers as it deems desirable.
- i. Subject to any agreement with bondholders to invest moneys of the authority not required for immediate use, including proceeds from the sale of any bonds, in such obligations, securities and other investments as the authority shall deem prudent.
- j. To appoint and employ an executive director and such additional officers who need not be members of the authority and accountants, financial advisors or experts and such other or different officers, agents and employees as it may require and determine their qualifications, terms of office, duties and compensation, all without regard to the provisions of Title 11A, Civil Service, of the New Jersey Statutes, except with respect to those officers and employees of the Water Supply Facilities Element who are transferred to the authority pursuant to section 24 of P.L.1981, c.293 (C.58:1B-24), and these officers and employees shall remain subject to the provisions of that Title.
- k. To contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the United States of America or any agency or instrumentality thereof, or from the State or any agency, instrumentality or political subdivision thereof, or from any other source and to comply, subject to the provisions of P.L.1981, c.293 (C.58:1B-1 et seq.), with the terms and conditions thereof.
- l. To acquire, hold, rent, lease, use and dispose of real or personal property in the exercise of its powers and the performance of its duties under P.L.1981, c.293 (C.58:1B-1 et seq.).
- m. To acquire, subject to the provisions of any other statute, in the name of the authority by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, except with respect to property owned by the State, by the exercise of the power of eminent domain, any land and other property, which it may determine is reasonably necessary for any of its projects and any and all rights, title and interest in that land and other property, including, providing there is no prudent and feasible alternative, public lands, reservations, highways or parkways, owned by or in which the State or any county, municipality, public corporation, or other political subdivision of the State has any right, title or interest, or parts thereof or rights therein and any fee simple absolute or any lesser interest

in private property, and any fee simple absolute in, easements upon or the benefit of restrictions upon, abutting property to preserve and protect the project.

n. To do and perform any acts and things authorized by P.L.1981, c.293 (C.58:1B-1 et seq.) under, through, or by means of its officers, agents or employees or by contract with any person.

o. To establish and enforce rules and regulations for the use and operation of its projects and the conduct of its activities, and provide for the policing and the security of its projects.

p. Upon the request of a customer: (1) to offer the customer the ability to receive or access, in electronic format, any periodic bill for service sent by the local unit or units to its customers and any additional information sent by the local unit or units to its customers as required by law, provided that any notice of disconnection, discontinuance or termination of sewerage service shall be sent to a customer in written form at the customer's legal mailing address in addition to being sent or being made available in electronic format; and (2) to provide the customer the option of paying any such periodic bill via electronic means.

q. To do any and all things necessary or convenient to carry out its purposes in accordance with the powers given and granted in P.L.1981, c.293 (C.58:1B-1 et seq.).

C.58:5-26.1 Customers of district water supply commission, electronic billing, payment permitted.

9. Upon the request of a customer, a district water supply commission may:

a. offer the customer the ability to receive or access, in electronic format, any periodic bill for service sent by such district water supply commission to its customers and any additional information sent by the water commission to its customers as required by law, provided that any notice of disconnection, discontinuance or termination of water service shall be sent to a customer in written form at the customer's legal mailing address in addition to being sent or being made available in electronic format; and

b. provide the customer of such district water supply commission the option of paying any such periodic bill via electronic means.

C.58:14-37 Customers of Passaic Valley Sewerage Commissioners, electronic billing, payment permitted.

10. Upon the request of a customer, the Passaic Valley Sewerage Commissioners may:

a. offer the customer the ability to receive or access, in electronic format, any periodic bill for service sent by such commissioners to their customers and any additional information sent by the commissioners to their customers as required by law, provided that any notice of disconnection, discontinuance or termination of water service shall be sent to a customer in written form at the customer's legal mailing address in addition to being sent or being made available in electronic format; and

b. provide the customer the option of paying any such periodic bill of the commissioners via electronic means.

C.48:2-13.1a Customers of rural electric cooperative, electronic billing, payment permitted.

11. Upon the request of a customer, a rural electric cooperative may:

a. offer the customer the ability to receive or access, in electronic format, any periodic bill for service sent by such cooperative to its customers and any additional information sent by the cooperative to its customers as required by law, provided that any notice of disconnection, discontinuance or termination of service shall be sent to a customer in written

form at the customer's legal mailing address in addition to being sent or being made available in electronic format; and

b. provide the customer of such cooperative the option of paying any such periodic bill via electronic means.

12. This act shall take effect on the 180th day after the date of enactment, but such public provider of services affected by this act may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved November 30, 2010.