

N.J. Stat. § 40:62-108

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§ 40:62-108. “Waterworks” defined

The term “waterworks” as used in sections [40:62-109](#) to 43:62-150 of this title means and includes one or more systems of waterworks, whether or not such waterworks extend into or supply water in other municipalities than those proposing to acquire or owning the same, and waterworks, rights and franchises owned by one or more persons and shall include rights and franchises to obtain an additional supply of water, and any or all other appurtenant property of such owner or owners.

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§ 40:62-109. Commission to acquire water system; appointment; notice to other municipalities

The governing body of two or more municipalities in which water is supplied for domestic and public use by privately owned waterworks, whether such waterworks are owned by one or more persons, may make application to the Superior Court for the appointment of a commission to acquire by purchase or condemnation such waterworks with all rights and franchises relating thereto, and the rights and franchises to obtain an additional supply of water, and any or all other property of the owner of such waterworks as may be necessary to maintain, operate, enlarge or extend the waterworks so acquired, and to enlarge, extend, maintain and operate the same to supply water in the municipalities acquiring such waterworks as aforesaid and all other municipalities theretofore supplied with water by said waterworks.

All of the municipalities so supplied with water shall be notified in writing of such application at least sixty days before it is made, and may join therein.

History

Amended by L. 1953, c. 37, p. 715, 214, eff. March 19, 1953.

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[N.J. Stat. § 40:62-110](#)

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§ 40:62-110. Commission; composition; organization and compensation; treasurer's bond

Every commission appointed in pursuance of section [40:62-109](#) of this Title shall consist of not more than five persons, residents of the municipalities making the application for their appointment and joining therein. The commission shall organize as soon as practicable by electing one of its number as president, shall appoint a secretary and a treasurer, who need not be members of the commission, and adopt a seal and a name whereby it may sue and be sued.

The secretary shall keep correct minutes of the meetings and transactions of the commission, and perform such other duties as may be required of him. The treasurer shall give bond for the faithful performance of his duties in such amount as the commission shall prescribe. The offices of secretary and treasurer may be held by the same person. The members of the commission shall receive for their services compensation to be fixed by agreement with municipalities having at least two-thirds of the population of all of the municipalities making the application for their appointment and joining therein, or, in case of failure to agree, by the Superior Court. The secretary and the treasurer shall each receive such compensation as the commission may determine.

History

Amended by L. 1953, c. 37, p. 716, 215, eff. March 19, 1953.

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N.J. Stat. § 40:62-110.1

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§ 40:62-110.1. Waterworks or water commission, membership, salaries

In any county of the second class with a population of at least 440,000, but not more than 450,000, according to the 1980 federal decennial census, in which at least three municipalities, two of which each have populations of 50,000 or more, but less than 100,000, and one of which has a population of 100,000 or more according to the 1980 federal decennial census, have joined together to create, under [R.S. 40:62-109](#), or elect or appoint under [R.S. 40:62-129](#), a waterworks or water commission, the provisions of this section shall control the number and method of appointment of the waterworks or water commission members, their terms of office and their salaries, notwithstanding the provisions of [R.S. 40:62-108](#) et seq. to the contrary. Any agreements entered into pursuant to [R.S. 40:62-129](#) shall be amended to conform with the provisions of this section.

- a.** The commission shall consist of seven members. A municipality with a population of 100,000 or more shall have three members on the commission and a municipality with a population of 50,000 or more, but less than 100,000, shall have two members on the commission. Members shall be appointed by the mayor in any municipality organized under P.L.1950, c.210 ([C.40:69A-1](#) et seq.) and by the governing body, by a majority vote, in any municipality organized under [R.S. 40:79-1](#) et seq. A member of the commission shall be required to reside in the appointing municipality at the time of appointment; however, if the commission member moves outside the appointing municipality during the member's term of office, the member may continue to serve on the commission to the end of the member's term. A mayor, a manager or a member of the governing body of the appointing municipality may serve as a member of the commission unless this service is prohibited by the conflict of interest laws of this State.
- b.** Each commission member shall be appointed for a four-year term. All additional members who may be appointed to a commission under this section shall be appointed before January 1, 1989, and their first term shall expire not later than December 31, 1992. All terms of office of commission members already appointed and serving on the effective date of this amendatory and supplementary act shall not be affected by the provisions of this act.
- c.** The salaries of the president and the members of the commission shall be as follows: The president shall receive a salary at the rate of \$8,500.00 annually as compensation for service on the commission; and any other member of the commission shall receive a salary at the rate of \$7,500.00 annually as compensation for service on the commission.

History

§ 40:62-110.1. Waterworks or water commission, membership, salaries

L. [1989, c. 145](#), § 1.

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N.J. Stat. § 40:62-111

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§ 40:62-111. Vacancies

Any vacancy in the commission shall be filled by appointment as hereinbefore provided, and upon such notice as the Superior Court shall direct, and inability of any member of the commission to serve shall be treated as a vacancy. The application to appoint the commission or to fill any vacancy may be continued from time to time by the Superior Court to whom the same is made.

History

Amended by L. 1953, c. 37, p. 716, 216, eff. March 19, 1953.

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N.J. Stat. § 40:62-112

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§ 40:62-112. Joining after commission named

At any time after the appointment of the commission any municipality in which water is supplied by the waterworks which it is proposed to acquire, or which may have been acquired as provided in sections [40:62-108](#) to [40:62-150](#) of this title may be permitted to join with the municipalities making or joining in the application for the appointment of the commission, or owning the waterworks, on such terms and conditions as may be agreed on, provided that municipalities containing at least two-thirds of the population of all the municipalities seeking to acquire or owning such waterworks shall agree to permit such other municipality to join.

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§ 40:62-113. Negotiations; contract served on each municipality

Immediately after organization the commission shall proceed to negotiate for the purchase of the entire waterworks supplying water in the municipalities making the application for its appointment, and in the other municipalities, if any, supplied with water by said waterworks and may enter into a contract to purchase said waterworks for compensation to be agreed upon or fixed by condemnation proceedings as hereinafter provided. A copy of every contract to purchase said waterworks shall forthwith be served by the commission on each of the municipalities that made and joined in the application for the appointment of the commission and the contract shall become binding only as to such two or more of the municipalities that made the application for the appointment of the commission, and joined therein, as shall by resolution of their governing bodies file with the commission their assent thereto. Such assents shall be so filed within three months after the copies of the contract have been served on the municipalities by the commission, as hereinbefore provided.

In all applications, orders, reports and proceedings a general description of the property to be condemned shall be sufficient.

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§ 40:62-113.1. Nonapplicability to Passaic Valley Water Commission

Notwithstanding any provision of [P.L.1995, c.101](#) ([C.58:26-19](#) et al.) or [R.S. 40:62-110](#) et seq., to the contrary, the Passaic Valley Water Commission shall not enter into a contract with a private firm for the provision of water supply services pursuant to [P.L.1995, c.101](#) ([C.58:26-19](#) et al.) unless the governing bodies of each of the member municipalities comprising the Passaic Valley Water Commission shall have first approved the contract.

History

L. [1995, c. 101](#), § 14.

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N.J. Stat. § 40:62-114

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§ 40:62-114. Condemnation; two or more plants; procedure if in different counties

If the commission and the owner of the waterworks cannot agree on terms for the sale thereof, or if such proposed contract shall not become binding as herein provided, the commission may bring an action to condemn the waterworks pursuant to chapter one of Title 20 of the Revised Statutes. The commission may also invoke and exercise in the manner prescribed in said chapter for the purpose aforesaid, either in its own name, or in the name of any or all of the municipalities so supplied with water, all of the powers of such municipalities, or any of them, to acquire property for public use.

History

Amended by L. 1953, c. 37, p. 717, 217, eff. March 19, 1953.

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[N.J. Stat. § 40:62-115](#)

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§ 40:62-115. Municipality may withdraw; expenses apportioned; no withdrawals after bonds issued

Any municipality, by the adoption of an ordinance in the manner provided by law and upon giving the water commission and said owner or owners five days' notice in writing of the adoption of the ordinance, may, if the water commission shall not have taken possession of the waterworks, withdraw from the condemnation proceedings at any time within forty days after the entry of the judgment of the court in the action. Any municipality so withdrawing shall be liable for its proportion of the expenses paid or debts incurred by or on behalf of the municipalities in the proceedings to acquire such waterworks up to the date of withdrawal. After the withdrawal of one or more municipalities, the water commission shall continue the action on behalf of such two or more municipalities as shall not have so withdrawn. If all the municipalities joining in such condemnation shall withdraw from the same, the action for condemnation shall be abandoned by the commission within eighty days after the entry of such judgment, upon payment to the owners and other parties who have appeared before the commissioners or the jury, of their reasonable costs, expenses and counsel fees to be determined by the Superior Court and upon filing a discharge of the notice of lis pendens. In the event of such abandonment such costs, expenses and counsel fees shall be the joint and several obligations of all of the municipalities in behalf of which the condemnation action was instituted, but the municipalities shall be liable as among themselves for the payment of such sum in the proportion set forth in section [40:62-121](#) of this Title.

If the water commission, pursuant to chapter one of Title 20 of the Revised Statutes, and after the passage and taking effect in each municipality in the manner provided by law, of ordinances authorizing the issuance of bonds as provided in section [40:62-121](#) of this Title, shall enter upon and take possession of said waterworks, no one or more of said municipalities shall thereafter have the right to withdraw from the condemnation action, nor shall the condemnation action thereafter be abandoned by the water commission.

History

Amended by L. 1953, c. 37, p. 717, 218, eff. March 19, 1953.

§ 40:62-115. Municipality may withdraw; expenses apportioned; no withdrawals after bonds issued

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§ 40:62-116. Joint ownership

The waterworks acquired by the commission appointed in pursuance of section [40:62-109](#) of this title, whether by a single purchaser or two or more purchasers or by one, or more than one, condemnation proceeding, shall be the property of the municipalities making the application or applications for the appointment of such commission, excepting any municipality or municipalities which may have withdrawn as hereinbefore provided, and authorizing the issuance of bonds, and the municipalities joining therein, as if they constituted a single municipality.

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N.J. Stat. § 40:62-117

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§ 40:62-117. Expenses prior and subsequent to acquisition of plant

All expenses incurred prior to the acquisition of the waterworks shall be considered as part of the cost thereof. All expenses subsequently incurred for operating the waterworks and all other expenses and charges not properly chargeable to capital account shall be paid or set aside out of earnings.

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§ 40:62-118. Property acquired by owner pending proceedings; acquisition; contract

Upon taking possession of the waterworks, rights and franchises of any such public utility which may be condemned pursuant to the provisions of section [40:62-114](#) of this title, the commission acquiring the same shall also at the same time take possession of all the property, including all betterments, additions and extensions made on or to the property so condemned, and all rights and franchises which during the pendency of the condemnation proceedings have been acquired by the owner through construction, purchase, contract or otherwise for the purpose of rendering adequate service.

At any time after the commencement of the original condemnation proceedings the commission may enter into an agreement with the owner fixing the price to be paid for the after acquired property, rights and franchises, which agreement when made shall be severally binding upon each of the municipalities which are to own the waterworks and such after acquired property in the proportions that they are respectively liable under the provisions of section [40:62-121](#) of this title for the bonds therein authorized to be issued.

N.J. Stat. § 40:62-119

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§ 40:62-119. After acquired property; condemnation

If the commission and the owner cannot agree upon the price to be paid for all the additional property, rights and franchises, including betterments, additions and extensions as aforesaid, prior to taking possession thereof, then within thirty days after taking possession, the fair value thereof as part of the waterworks condemned at the time possession thereof is taken by the commission shall upon the application of either the owner or the commission be determined pursuant to the provisions of chapter one of Title 20 of the Revised Statutes, except that the supplemental condemnation covering the after acquired property shall not be abandoned without the written consent thereto of the owner. The amount so determined as the price to be paid by the commission for the additional property, rights and franchises shall be a lien upon all the waterworks, rights and franchises so acquired by the commission until paid.

History

Amended by L. 1953, c. 37, p. 718, 219, eff. March. 19, 1953.

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N.J. Stat. § 40:62-120

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§ 40:62-120. Removal of encumbrances; ascertainment of value of debt

Whenever, pursuant to sections [40:62-108](#) to [40:62-150](#) of this Title, the commission shall condemn any waterworks free and clear of the lien of any mortgage or mortgages thereon, then upon the taking of possession by the commission of the waterworks and the payment of the award therefor into the court no further interest shall accrue upon such mortgage or mortgages.

Upon the application of either the owner of the waterworks condemned or of the holder of any such mortgage or mortgages or of any debt secured thereby, the Superior Court shall determine the value of the debt secured by each such mortgage as of the date of such payment into court. In making its determination the court shall give due regard to the date of maturity of any such debt, the rate of interest provided to be paid thereon and such other factors as shall properly determine the value of such debt as of the date of such payment into the court. The sum or sums so determined shall upon such determination be paid out of the moneys so paid into the Superior Court to the persons found by the court to be entitled thereto.

History

Amended by L. 1953, c. 37, p. 719, § 220, eff. March 19, 1953.

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§ 40:62-121. Acquisition subject to encumbrances; bond issues; apportionment of indebtedness

Any such waterworks may be acquired subject to the lien of any mortgage or mortgages thereon; and for the purpose of raising money to pay the cost of acquiring the waterworks so acquired or to be acquired, whether by purchase or condemnation, and to pay the cost, or part of the cost, of enlarging, extending and improving the same, the municipalities which are to own the waterworks or the enlargements, extensions and improvements to the same may issue at one time or from time to time permanent serial bonds and in anticipation of the issuance of such permanent serial bonds, temporary bonds, and pay such temporary bonds from the proceeds of sale of the permanent serial bonds.

Such municipalities may issue such bonds jointly in the names of all such municipalities, in the same manner and pursuant to the same provisions of law that apply to the issuance of other municipal bonds, and each municipality shall adopt such ordinances and resolutions and cause such bonds to be sold, executed and delivered as if such bonds were its own separate obligations; or each municipality may issue and sell its own bonds separately for its proportion of said costs, as hereinafter provided.

The proceeds of sale of said bonds shall be received by the treasurers of the municipalities and except in the case of funding bonds issued to pay temporary bonds immediately be transferred to the commission or any succeeding commission then in office.

The power to issue bonds and their validity shall not be dependent on or affected by the validity or regularity of the proceedings to establish the commission or to acquire the waterworks or to make the enlargements, extensions or improvements thereof, and said bonds shall be direct obligations of the municipalities issuing the same and if not otherwise paid, shall be paid by general tax.

The bonds so issued, if jointly and severally issued, shall be the joint and several obligations of the municipalities in whose names they are issued, but the municipalities shall be liable as among themselves for the payment of the principal and interest thereon in the proportion that the assessed value for taxation of all the real estate in each of the municipalities for the year preceding the time when such waterworks shall be acquired bears to the total assessed value for said year of all the real estate in all of the municipalities joining in the issuance of said bonds.

If the municipalities shall decide to issue separate bonds, the bonds so issued shall be the obligations of such municipalities respectively, and the amount thereof shall be fixed in the same proportion as hereinbefore provided in the case of joint and several bonds.

§ 40:62-121. Acquisition subject to encumbrances; bond issues; apportionment of indebtedness

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§ 40:62-122. Commission as fiscal agent; duties

The commission appointed pursuant to section [40:62-109](#) of this title and any succeeding commission, however appointed or elected, shall be the fiscal agent of all municipalities represented by the commission for direct payment to the holders of the principal of and interest on all obligations of such municipalities, the payment of which the commission or its successors has or shall have hereafter formally assumed as provided in sections [40:62-108](#) to [40:62-150](#) of this title.

The chief financial officer of each such municipality shall furnish the commission or its successors with the names and addresses of the registered holders of such obligations as they may appear in his records, and shall promptly provide the commission with such other information from his records pertaining to such obligations and the payment of the principal thereof and interest thereon which the commission or its successors may request.

The commission or its successors shall have power to do all acts and things necessary or advisable to carry out its functions and perform its duties as such fiscal agent for the purpose hereof expressed.

Nothing herein contained, nor any act or thing done or to be done by the commission or its successors pursuant to this section, shall be construed as the assumption by the commission or its successors of the payment of any obligations or interest thereon not otherwise formally assumed as provided in said sections [40:62-108](#) to [40:62-150](#).

Nothing herein contained shall be construed to relieve any municipality issuing such obligations from its liability to pay the same from an unlimited ad valorem tax levied on all the taxable property in such municipality. Nothing herein contained shall be construed to confer upon the commission power to issue any bonds or other obligations in the name of any municipality where the power to issue such obligations is vested solely in the municipality.

N.J. Stat. § 40:62-122.1

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§ 40:62-122.1. Issuance of notes in anticipation of water rents

L.1936, c. 38, p. 99, entitled "An act to supplement an act entitled "An act to authorize two or more municipalities in this state by means of a commission to acquire, either by purchase or condemnation, and operate privately owned waterworks now or hereafter supplying water therein, and in other municipalities, if any, in which water is supplied by the same waterworks, together with the franchises, rights, and any or all other appurtenant property of the owner or owners, of such works, and to enlarge and extend the same," passed March twenty-third, one thousand nine hundred and twenty-three, constituting chapter one hundred and ninety-five of the Pamphlet Laws of one thousand nine hundred and twenty-three," approved March twenty-seventh, one thousand nine hundred and thirty-six, saved from repeal. [This supplement authorizes the issuance of negotiable notes, by any commission appointed pursuant to the original act, in anticipation of its receipts on account of fees, rentals and charges for the sale of water. The amount and maturity of these notes are limited, and by section 2 the act is declared inoperative on January 1, 1942.]

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§ 40:62-123. Apportionment of water rents; collection of prior arrearages

As soon as convenient after taking possession the commission shall cause to be read all meters of consumers supplied from such waterworks. At least two days' notice shall be given to the owner in advance of the meter reading and the owner may have a representative present at the reading. The total sum due as shown by the meter readings shall be divided in the ratio in which the period of time that has elapsed between the last preceding meter reading and the date the commission takes possession bears to the period of time that has elapsed between such date and the date of meter reading taken by the commission. The owner shall be entitled to the proportion of the total sum due that shall correspond to the period during which it had possession of the waterworks between its last previous meter reading and such date. All sums shown to be due by the meter reading by the commission shall be collected by it and the owner shall assign to it for the purpose of making such collections its proportionate interest therein as hereinbefore defined. The commission shall use all legal methods for the collection of all sums shown to be due by its meter reading and shall pay over to the owner promptly such parts of the sums of money so collected as may be due to the owner.

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§ 40:62-124. Collection of prior arrearages; water shut off

If at the time possession is taken by the commission of any such waterworks any person shall be indebted to the owner thereof for water supplied or furnished therefrom, and shall neglect, fail or refuse for a period of sixty days after the indebtedness becomes due to pay the amount thereof to such owner, the commission upon the filing with it of an affidavit by the owner showing the amount due shall upon ten days' notice to the delinquent debtor shut off all water then being supplied or furnished to the delinquent debtor from the waterworks, and shall keep the supply shut off until the delinquent debtor shall pay the owner the amount of the indebtedness.

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N.J. Stat. § 40:62-125

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§ 40:62-125. Supply of water to old customers; rates

After the commission shall have acquired possession of the waterworks of any such owner it shall carry out any obligation to supply water to any person which the owner would have been required by law to carry out if its waterworks had not been so acquired.

Nothing in this section shall operate to affect the power of the commission to fix rates.

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§ 40:62-126. Enlargement and extension of works; contracts for operation

Enlargement and extension of works; contracts for operation; financing improvements. The commission appointed pursuant to section [40:62-109](#) of this Title and any succeeding commission, however appointed or elected, may enlarge and extend the waterworks and operate the same, or may make a contract for a period not exceeding ten years, or a succession of contracts each not exceeding said period, with any person, to operate such waterworks on such terms as may be agreed upon. If pursuant to this section [40:62-126](#) or section [40:62-144](#) or any other provision of sections [40:62-108](#) to [40:62-150](#) of this Title, enlargements, extensions or improvements to or in connection with the waterworks have been made and paid for prior to July first, one thousand nine hundred and forty, with funds other than proceeds of bonds or other obligations of the municipalities owning the waterworks, then upon request by resolution of the commission created pursuant to section [40:62-129](#) of this Title to maintain, operate and extend the waterworks, the municipalities represented by it may incur indebtedness, borrow money and issue their negotiable bonds in amounts sufficient to realize in the aggregate an amount specified in such request not exceeding the amount of funds other than such proceeds theretofore expended by the commission and any predecessor commissions for such enlargements, extensions or improvements. A certificate of the treasurer of the commission delivered to the governing bodies of such municipalities shall for all purposes constitute conclusive evidence as to the description of such enlargements, extensions and improvements and as to the amount, nature, description, source, receipt and disbursement of funds expended for such enlargements, extensions and improvements. The respective amounts to be raised and realized by each municipality represented by the commission shall be fixed in the same proportion as provided in section [40:62-121](#) in the case of joint and several bonds issued to raise money to pay the cost of the waterworks. Said bonds shall be deemed to be issued for the purpose of financing such enlargements, extensions or improvements and shall be authorized and issued in the method or mode of procedure, prescribed by article one of chapter one of this Title (section [40:1-1](#) et seq.), except that the bonds shall be conclusively presumed to be authorized and issued for a purpose defined in said article as self-liquidating and shall mature within forty years after the making of such enlargements, extensions or improvements, the ordinance authorizing the bonds may be finally passed notwithstanding the provisions of section 40:1-12 of said article, and the sale of said bonds shall be made simultaneous with or contingent upon the sale by other municipalities of bonds authorized pursuant to said request of the commission. All such bonds shall be subject to call for redemption by the commission, upon three months' notice at any time after five years of issuance. Said bonds shall not be sold except with the consent of the commission and with its approval of the maturities of and rates of interest payable on said bonds. Such consent and approval may be given by resolution of the commission and shall be and constitute a formal

§ 40:62-126. Enlargement and extension of works; contracts for operation

assumption by the commission of said bonds, and the interest thereon. The amount realized from the sale of said bonds, after deducting therefrom the cost of issuance of said bonds, shall be paid over to the commission. For all the purposes of sections [40:62-122](#) and [40:62-127](#) of this Title, said bonds so issued shall be deemed to be and shall constitute debt incurred by a municipality represented by the commission in connection with the waterworks and extensions thereto and enlargements thereof, formally assumed by the commission appointed pursuant to section [40:62-109](#) of this Title and its successors.

History

Amended by L. 1940, c. 179, p. 543, 1, eff. July 8, 1940.

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§ 40:62-127. Water rates and regulations

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

§ 40:62-127. Water rates and regulations

(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.

History

Amended 1960, c. 172; 1981, c. 514, § 3; [1991, c. 162](#), § 2; 2003, c. 278, § 4, eff. Jan. 14, 2004.

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§ 40:62-128. Sale of property and distributing system; sale of water to purchaser

The commission appointed in pursuance of section [40:62-109](#) of this title or by virtue of an agreement as provided for in section [40:62-129](#) of this title, may sell any part of the property in its charge not needed for public use, and may also sell to any municipality the distributing system of mains therein and enter into a contract to supply water in quantity to the municipality purchasing such distributing system, but no distributing system shall be sold to any municipality without the consent of the governing bodies of the municipalities owning the same having at least two-thirds of the population of all such municipalities. The proceeds of any sale of any part of the property or of any distributing system or part thereof, shall be used and applied only in payment of the principal of the unpaid bonds, if any, theretofore issued for the acquisition or enlargement or extension of the waterworks.

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§ 40:62-129. Commission to operate works and manage supply; agreement for

At any time after waterworks shall have been acquired in pursuance of sections [40:62-108](#) to [40:62-150](#) of this title, the governing bodies of the municipalities owning the same may enter into an agreement prescribing a method of electing or appointing a commission to succeed the commission appointed as provided in section [40:62-109](#) of this title. The agreement so made shall specify the number of persons to constitute the commission, their term or terms of office, method of organization, and powers, duties and compensation, but the members of the commission may agree to serve without, or at a nominal compensation. Such agreement shall also provide for the appointment or election of a secretary, treasurer, and such other officers as may be necessary, and prescribe their duties and compensation, and contain such other provisions as may be necessary for the maintenance and efficient operation of such waterworks, the extension and enlargement thereof, and the proper management of its financial affairs; and may be amended from time to time.

The governing bodies of all municipalities owning the waterworks shall have an opportunity to approve or disapprove any proposed agreement or amendment thereof, and any such agreement or amendment thereof shall be valid when assented to by the governing bodies of the municipalities containing at least two-thirds of the population of all municipalities owning such waterworks.

N.J. Stat. § 40:62-130

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§ 40:62-130. Organization; commission for acquisition of works dissolved

The commission elected or appointed in pursuance of such agreement shall organize as soon as practicable, adopt a seal and a name by which it may sue or be sued, and enter upon the discharge of its duties, whereupon the terms of office of the members of the commission appointed in pursuance of section [40:62-109](#) of this title shall cease.

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§ 40:62-131. Consent of state

In all cases in which the owner of waterworks purchased or condemned in pursuance of sections [40:62-108](#) to [40:62-150](#) of this title has at the time of such purchase or condemnation the consent of the state to take and divert water from any source for domestic and public use, the rights obtained by such consent shall pass to and vest in the municipalities acquiring the waterworks as provided in said sections [40:62-108](#) to [40:62-150](#), and no further or other consent of any state board or commission shall be necessary. The municipalities shall be bound by all the terms and conditions attached to such consent and accepted by the owner of the waterworks purchased or condemned.

Nothing in said sections [40:62-108](#) to [40:62-150](#) shall be interpreted to affect the power and authority of the state water policy commission over the sources of water supply in this state.

N.J. Stat. § 40:62-132

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§ 40:62-132. Commission cannot incur debts for municipality; appropriations for expenses

The commission shall have no power to incur any liability on behalf of the municipalities and none of its debts, expenses or liabilities shall bind the municipalities except with their consent expressed by resolution of their respective governing bodies. The municipalities may from time to time make appropriations for the commission upon such terms and conditions as may be determined.

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§ 40:62-133. Acquisition of additional property, water rights and waterworks; bonds; proceeds

The commission created pursuant to section [40:62-129](#) of this title to maintain, operate and extend the waterworks, may in addition to its other powers, acquire by condemnation, purchase, lease or agreement any property, or any interest therein, or any right to divert water therefrom, or any additional source of water supply, necessary or convenient for the operation, maintenance or enlargement of the waterworks purchased pursuant to sections [40:62-108](#) to [40:62-132](#) of this title, or to prevent or settle litigation growing out of diversion of water by such commission, and utilize the same in connection with such waterworks. The commission may acquire by agreement with any municipality represented by it, or any other municipality, the ownership 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, and utilize the same in connection with the waterworks condemned under said sections [40:62-108](#) to [40:62-132](#). The agreement may contain such provisions as to payment for the property acquired as may be agreed upon between the commission and the municipality for which the property is acquired. If any such agreement contains or shall contain provisions as to payment by the commission to the municipality of sums of money not exceeding the principal of and interest accrued on amounts theretofore raised by taxation in the municipality and applied to the payment either of the cost of acquiring or constructing the property acquired or of the principal of or interest on bonds, notes, or other debt incurred to finance such cost, such municipality may incur indebtedness, borrow money, and issue its negotiable bonds in amount sufficient to realize an amount equal to any unpaid portion of such sums of money. Said bonds shall be deemed to be issued and shall recite that they are issued for the purpose of financing the acquisition or construction by the municipality of the property acquired, and shall be authorized and issued in the method or mode of procedure prescribed by article 1 of chapter 1 of this title (§ [40:1-1](#) et seq.). Said bonds shall not be sold except with the consent of the commission and with its approval of the maturities of and rate of interest payable on said bonds. Such consent and approval may be given by resolution and shall be and constitute a formal assumption by the commission of said bonds, and the interest thereon. The amount realized from the sale of said bonds, up to an amount not exceeding the unpaid portion of such sums of money, shall be retained by the municipality in satisfaction and payment of a like amount of such unpaid portion, and shall be applied only to such purpose or purposes as may be financed under any other law by the issuance of bonds, other than funding or refunding bonds, or shall be paid into the sinking fund. The balance thereof, if any, after deducting therefrom the cost of issuance of such bonds shall be paid over to the commission. For all the purposes of sections [40:62-126](#) and [40:62-127](#) of this title, said bonds so issued shall be deemed to be and shall constitute debt incurred by a

§ 40:62-133. Acquisition of additional property, water rights and waterworks; bonds; proceeds

municipality represented by said commission, or its successors, and formally assumed by said commission, or its successors, as part of an agreement with such municipality relative to the acquisition by the said 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 such municipality may own or control.

History

L. 1931, c. 304, § 1; amended by L. 1935, c. 153, § 1.

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§ 40:62-133.1. Findings, declarations

The Legislature finds and declares that there is a need to authorize and empower commissions appointed pursuant to [R.S. 40:62-109](#) to issue bonds and other obligations to finance water projects as an alternative to the existing method of financing these projects, whereby municipalities that created these commissions issue their own general obligation bonds and provide the proceeds thereof to the commissions.

History

L. [1991, c. 162](#), § 1.

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§ 40:62-133.2. Commission empowered to issue bonds

For the purpose of raising funds to pay the cost of any part of its waterworks, including the cost of enlarging, extending or improving the same, or for the purpose of funding or refunding any bonds including bonds or other obligations issued by any municipality represented by the commission in connection with the acquisition of waterworks, and any extensions thereto and enlargements thereof, a commission shall have power to authorize or provide for the issuance of bonds pursuant to this amendatory and supplementary act. In order to approve an action concerning bonds, the commission shall, by five members voting in the affirmative, adopt a resolution, sometimes referred to in this amendatory and supplementary act as a “bond resolution;” provided, however, that all of the municipalities which constitute the commission shall be represented among the members voting in the affirmative. The bond resolution shall:

- a.** Describe in brief and general terms sufficient for reasonable identification the waterworks or part thereof, sometimes referred to in this amendatory and supplementary act as a “project,” to be constructed, acquired, enlarged, extended, or improved or describe the bonds which are to be funded or refunded, if any;
- b.** State the cost or estimated cost of the project, if any; and
- c.** Provide for the issuance of the bonds in accordance with section 4 of this amendatory and supplementary act.

History

L. [1991, c. 162](#), § 3.

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N.J. Stat. § 40:62-133.3

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§ 40:62-133.3. Issuance of bonds by the commission

Upon adoption of a bond resolution, the commission shall have power to incur indebtedness, borrow money and issue its bonds and bond anticipation notes, collectively referred to in this amendatory and supplementary act as “bonds,” for the purpose of financing the project or of funding or refunding the bonds described therein. The bonds shall be authorized by the bond resolution and may be issued in one or more series and shall bear such date or dates, mature at such time or times not exceeding 40 years from the date thereof, bear interest at a rate or rates within such maximum rate established therein, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable from such sources in such medium of payment at such place or places within or without the State, and be subject to such terms of redemption with or without premium, as the bond resolution may provide.

History

L. [1991, c. 162](#), § 4.

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§ 40:62-133.4. Sale of bonds, price

Bonds of the commission may be sold by the commission at public or private sale at such price or prices as the commission shall determine.

History

L. [1991, c. 162](#), § 5.

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§ 40:62-133.5. Bond resolution, publication

The commission may cause a copy of any bond resolution adopted by it to be filed for public inspection in its office and in the office of clerk of the governing body of the municipalities represented in the commission and may thereupon cause to be published in a newspaper published or circulating in the municipalities represented in the commission a notice stating the fact and date of this adoption and the places where the bond resolution has been filed for public inspection and also the date of the first publication of the notice and also that any action or proceeding of any kind or nature in any court questioning the validity or proper authorization of bonds provided for by the bond resolution, or the validity of any covenants, agreements or contract provided for by the bond resolution shall be commenced within 20 days after the first publication of the notice. If no action or proceeding questioning the validity of the creation and establishment of the commission, or the validity or proper authorization of bonds provided for by the bond resolution referred to in the notice, or the validity of any covenants, agreements or contracts provided for by the bond resolution is commenced or instituted within 20 days after the first publication of the notice, all residents and taxpayers and owners of property in the municipalities and users of the waterworks system and all other persons whatsoever shall be forever barred and foreclosed from instituting or commencing any action or proceeding in any court, or from pleading any defense to any action or proceedings, questioning the validity of the creation and establishment of the commission, or the validity or proper authorization of the bonds, or the validity of the covenants, agreements or contracts, and the commission conclusively is deemed to be validly created and established and is authorized to transact business and exercise powers as a commission under this amendatory and supplementary act, and the bonds, covenants, agreements and contracts conclusively are deemed to be valid and binding obligations in accordance with their terms and tenor.

History

L. [1991, c. 162](#), § 6.

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§ 40:62-133.6. Negotiability of bonds

Any provision of law, rule or regulation to the contrary notwithstanding, any bond or other obligation issued pursuant to this amendatory and supplementary act shall be fully negotiable within the meaning and for all purposes of the State laws concerning negotiable instruments, and each holder or owner of the bond or other obligation, or of any coupon appurtenant thereto, by accepting the bond or coupon, conclusively is deemed to have agreed that the bond, obligation or coupon is fully negotiable within the meaning and for all purposes of the State laws concerning negotiable instruments.

History

L. [1991, c. 162](#), § 7.

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§ 40:62-133.7. Provisions permitted in bond resolution

Any bond resolution of the commission providing for or authorizing the issuance of any bonds may contain provisions, and the commission, in order to secure the payment of these bonds and in addition to its other powers, shall have the power, by provision in the bond resolution, to covenant and agree with the several holders of these bonds, as to:

- a.** The custody, security, use, expenditure or application of the proceeds of the bonds;
- b.** The construction and completion, acquisition, enlargement, extension or improvement of all or any part of the waterworks;
- c.** The use, regulation, operation, maintenance, insurance or disposition of all or any part of the waterworks, or restrictions on the exercise of the powers of the commission to dispose, or to limit or regulate the use, of all or any part of the waterworks;
- d.** Payment of the principal of or interest on the bonds, or any other obligations, and the sources and methods thereof, the rank or priority of the bonds or obligations as to any lien or security, or the acceleration of the maturity of the bonds or obligations;
- e.** The use and disposition of any moneys of the commission, including revenues, sometimes referred to in this amendatory and supplementary act as “water revenues,” derived or to be derived from the operation of all or any part of the waterworks, including any parts thereof previously constructed or acquired and any parts, enlargements, extensions, replacements or improvements thereof subsequently constructed or acquired;
- f.** Pledging, setting aside, depositing or trusteeing all or any part of the water revenues or other moneys of the commission to secure the payment of the principal of or interest on the bonds or any other obligations or the payment of expenses of operation or maintenance of the waterworks, and the powers and duties of any trustee with regard thereto;
- g.** The setting aside out of the water revenues or other moneys of the commission of reserves and sinking funds, and the source, custody, security, regulation, application and disposition thereof;
- h.** Determination or definition of the water revenues or of the expenses of operation and maintenance of the waterworks;
- i.** The rents, rates or the use, products or services of the waterworks, including any parts thereof previously constructed or acquired and any parts, enlargements, extensions, replacements or improvements thereof subsequently constructed or acquired, and the fixing, establishment, collection and enforcement of the same, the amount or amounts of water

§ 40:62-133.7. Provisions permitted in bond resolution

revenues to be produced thereby, and the disposition and application of the amounts charged or collected;

j. The assumption or payment or discharge of any indebtedness, liens or other claims relating to any part of the waterworks, or any obligations having or which may have a lien on any part of the water revenues;

k. Limitations on the issuance of additional bonds or any other obligations or on the incurrence of indebtedness of the commission;

l. Vesting in a trustee or trustees within or without the State the property, rights, powers and duties in trust as the commission may determine which may include any or all rights, powers and duties of the trustee appointed by the holders of bonds pursuant to section 9 of this amendatory and supplementary act, and limiting or abrogating the right of the holders to appoint a trustee pursuant to section 9 of this amendatory and supplementary act or limiting the rights, duties and powers of the trustee;

m. Payment of costs or expenses incident to the enforcement of the bonds or of the provisions of the bond resolution or of any covenant or contract with the holders of the bonds;

n. The procedure, if any, by which the terms of any covenant or contract with, or duty to, the holders of bonds may be amended or abrogated, the amount of bonds the holders of which shall consent thereto, and the manner in which the consent may be given or evidenced; or

o. Any other matter or course of conduct which, by recital in the bond resolution, is declared to further secure the payment of the principal of or interest on the bonds.

The provisions of the bond resolution and the covenants and agreements constitute valid and legally binding contracts between the commission and the several holders of the bonds, regardless of the time of issuance of the bonds, and are enforceable by the holder or holders of the bonds by appropriate action, suit or proceeding in any court of competent jurisdiction, or by proceeding in lieu of prerogative writ.

History

L. [1991, c. 162](#), § 8.

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N.J. Stat. § 40:62-133.8

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§ 40:62-133.8. Appointment of trustee in event of default

a. If a default occurs in the payment of the principal of or interest on any bonds of the series after the bonds are due, whether at maturity or upon call for redemption, and this default continues for a period of 30 days, or if the commission fails or refuses to comply with the provisions of this amendatory and supplementary act or fails or refuses to carry out and perform the terms of any contract with the holders of the bonds, and this failure or refusal continues for a period of 30 days after written notice to the commission of its existence and nature, the holders of 25% in the aggregate principal amount of the bonds and the series then outstanding by instrument or instruments filed in the office of the Secretary of State and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of the bonds of the series for the purposes provided in this section. This section shall be applicable only if the bond resolution of the commission authorizing the issuance of a series of its bonds provides that the holders of the bonds of the series are entitled to the benefits of this section.

b. The trustee may, and upon written request of the holders of 25% in aggregate principal amount of the bonds of the series then outstanding shall, in his or its own name:

(1) By any action, writ, proceeding in lieu of prerogative writ, or other proceeding, enforce all rights of the holders of the bonds, including the right to require the commission to charge and collect water rents adequate to carry out any contract as to, or pledge of, water revenues, and to require the commission to carry out and perform the terms of any contract with the holders of the bonds or its duties under this amendatory and supplementary act;

(2) Bring an action upon all or any part of the bonds or interest coupons or claims appurtenant thereto;

(3) By action, require the commission to account as if it were the trustee of an express trust for the holders of the bonds;

(4) By action, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of the bonds; or

(5) Declare the bonds due and payable, whether or not in advance of maturity, upon 30 days' prior notice in writing to the commission and, if all defaults are satisfied, with the consent of the holders of 25% of the principal amount of the bonds then outstanding, annul the declaration and its consequences.

c. The trustee shall have and possess all of the powers necessary or appropriate for the exercise of the functions specifically set forth herein or incident to the general representation of the holders of the bonds of the series in the enforcement and protection of their rights.

§ 40:62-133.8. Appointment of trustee in event of default

d. In any action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, appointed pursuant to this amendatory and supplementary act, shall constitute taxable costs and disbursements, and all costs and disbursements, allowed by the court, shall be a first charge upon any water rents and water revenues of the commission pledged for the payment or security of bonds of the series.

History

L. [1991, c. 162](#), § 9.

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N.J. Stat. § 40:62-133.9

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§ 40:62-133.9. Appointment of receiver

If the bond resolution of a commission authorizing for the issuance of a series of its bonds provides that the holders of the bonds of the series are entitled to the benefits of section 9 of this amendatory and supplementary act and further provides that any trustee appointed pursuant to that section, or having the powers of the trustee, has the powers provided by this section, the trustee, whether or not all of the bonds of the series are declared due and payable, is entitled as of right to the appointment of a receiver of the waterworks, and the receiver may enter upon and take possession of the waterworks and, subject to any pledge or contract with the holders of the bonds, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance or reconstruction of the waterworks and proceed with the acquisition, construction, operation, maintenance or reconstruction which the commission is under any obligation to do, and operate, maintain and reconstruct the waterworks and fix, charge, collect, enforce and receive the water rents and all water revenues thereafter arising subject to any pledge thereof or contract with the holders of the bonds relating thereto and perform the public duties and carry out the contracts and obligations of the commission in the same manner as the commission itself might do and under the direction of the court.

History

L. [1991, c. 162](#), § 10.

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N.J. Stat. § 40:62-133.10

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§ 40:62-133.10. Commission members, State, county or local units not liable on bonds

Neither the members of the commission nor any person executing the bonds issued pursuant to this amendatory and supplementary act shall be liable personally on the bonds by reason of the issuance thereof. Bonds or other obligations issued by the commission pursuant to this amendatory and supplementary act shall not be in any way a debt or liability of the State or of any local unit or of any county or municipality and shall not create or constitute any indebtedness, liability or obligation of the State or of any local unit, county or municipality, either legal, moral or otherwise, and nothing contained in this amendatory and supplementary act shall be construed to authorize the commission to incur any indebtedness on behalf of or in any way to obligate the State or any county or municipality.

History

L. [1991, c. 162](#), § 11.

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N.J. Stat. § 40:62-133.11

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§ 40:62-133.11. Commission property exempt from levy, sale

All property of a commission shall be exempt from levy and sale by virtue of an execution and no execution or other judicial process shall issue against the same nor shall any judgment against a commission be a charge or lien upon its property; except that nothing herein contained shall apply to or limit the rights of the holder of any bonds to pursue any remedy for the enforcement of any pledge or lien given by a commission on its waterworks, water revenues or other moneys.

History

L. [1991, c. 162](#), § 13.

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N.J. Stat. § 40:62-133.12

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§ 40:62-133.12. Investment of sinking funds, other moneys, funds

Notwithstanding any restriction contained in any other law, rule or regulation, the State and all public officers, municipalities, counties, political subdivisions and public bodies, and agencies thereof, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries, may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds of the commission, and the bonds shall be authorized security for any and all public deposits.

History

L. [1991, c. 162](#), § 14.

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N.J. Stat. § 40:62-133.13

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§ 40:62-133.13. Waterworks public property, bonds exempt from taxation

Every waterworks and all other property of a commission are declared to be public property of a political subdivision of the State and devoted to an essential public and governmental function and purpose and, other than lands subject to assessment and taxation pursuant to [R.S. 54:4-3.3](#), shall be exempt from all taxes and special assessments of the State or any subdivision thereof. All bonds are declared to be issued by a political subdivision of this State and for an essential public and governmental purpose and to be a public instrumentality and the bonds, and the interest thereon and the income therefrom, and all service charges, funds, revenues and other moneys pledged or available to pay or secure the payment of the bonds, or interest thereon, shall at all times be exempt from taxation except for transfer, inheritance and estate taxes and taxes on transfers by or in contemplation of death.

History

L. [1991, c. 162](#), § 15.

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§ 40:62-133.14. State shall not alter commission's, bond holders' rights

The State of New Jersey hereby pledges to and covenants and agrees with the holders of any bonds issued pursuant to a bond resolution of the commission that the State shall not limit or alter the rights vested in the commission to fix, establish, charge and collect its water rates and to fulfill the terms of any agreement made with the holders of the bonds or other obligations, and shall not in any way impair the rights or remedies of the holders, and shall not modify in any way the exemptions from taxation provided for in this amendatory and supplementary act, until the bonds, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders are fully met and discharged.

History

L. [1991, c. 162](#), § 16.

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N.J. Stat. § 40:62-133.15

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§ 40:62-133.15. Agreements between commission and bank or banking institution

All banks, bankers, trust companies, savings banks, investment companies and other persons carrying on a banking business are authorized to give to any commission a good and sufficient undertaking with such sureties as shall be approved by the commission to the effect that the bank or banking institution as described herein shall faithfully keep and pay over to the order of or upon the warrant of the commission or its authorized agent all such funds as may be deposited with it by the commission and agreed interest thereon, at such times or upon these demands as may be agreed with the commission or in lieu of these sureties, deposit with the commission or its authorized agent or any trustee therefor or for the holders of any bonds, as collateral, these securities as the commission may approve. The deposits of the commission may be evidenced by a depository collateral agreement in the form and upon such terms and conditions as may be agreed upon by the commission and the bank or banking institution.

History

L. [1991, c. 162](#), § 17.

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N.J. Stat. § 40:62-133.16

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§ 40:62-133.16. Filing of copy of bond resolution

The commission shall file a copy of each bond resolution adopted by it with the Director of the Division of Local Government Services in the Department of Community Affairs, together with a summary of the dates, amounts, maturities and interest rates of all bonds issued pursuant thereto.

History

L. [1991, c. 162](#), § 18.

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N.J. Stat. § 40:62-134

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§ 40:62-134. Sale of surplus water; laying of pipes; consent required

The commission or its successor may sell any surplus water not needed to supply the municipalities represented by it to any consumer or to any private water company in this State supplying water to consumers, or any municipality outside of the municipalities represented by the commission, as provided by contracts with the water company which the commission took over as part of the property condemned, and outside of any territory supplied in whole or in part by the water company at the time of taking over the water works. It may also lay, construct and maintain such pipe lines and mains as may be necessary for such purpose in any public highway or place, or acquire by purchase or condemnation any private lands or rights in lands for that purpose. The consent of the public body charged with the repair and maintenance of any public highway or place shall first be obtained, or if such board or body shall refuse such consent, then in such place and in such manner as the Board of Public Utility Commissioners after hearing may fix and determine. The consent also of the governing body of the municipality in which such customers are to be supplied with water shall be first obtained.

History

Amended by L. 1949, c. 160, p. 543, 1, eff. May 19, 1949.

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N.J. Stat. § 40:62-135

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§ 40:62-135. Contracts; engineers and assistants

The commission may make all necessary and proper contracts, in the manner hereinafter provided and elect or appoint any and all engineers, surveyors, officers, agents and employees that it may deem necessary or convenient for accomplishing the purposes of providing and supplying with water any municipality and its inhabitants which it is authorized to supply, and to define their duties, regulate their compensation and provide for their removal.

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N.J. Stat. § 40:62-135.1

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§ 40:62-135.1. Residency requirements for employees of commission operating certain water system

Any ordinance, resolution, rule, regulation, order, or directive establishing, as may be permitted by law, a residency requirement for employees of a commission operating a water system that serves more than one municipality shall provide that any person employed or to be hired by the commission may reside within any municipality served by the water system, and shall further provide that a non-resident of the municipalities served by the water system may be hired if the commission is unable to hire a qualified resident. Any provision of an ordinance, resolution, rule, regulation, order, or directive to the contrary shall be void and have no force or effect.

Nothing in this section shall be construed as prohibiting a commission from employing or hiring a non-resident of the municipalities served by its water system if no residency requirement is established.

History

L. [2019, c. 231](#), § 3, effective August 9, 2019.

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N.J. Stat. § 40:62-136

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§ 40:62-136. Contracts in excess of \$2,500; advertisement for bids; exceptions

Whenever any work to be performed or materials to be furnished may involve an expenditure of a sum exceeding \$2,500.00, the commission shall designate the time when it will meet at its usual place of meeting to receive proposals in writing for doing such work or furnishing such materials, as the case may be, and shall thereupon order that notice shall be given by advertisement in 1 or more newspapers circulating in 1 or more of the municipalities represented by the commission, at least 10 days before the time of the meeting. The advertisement shall specify the dimensions and quality of the work to be done or materials to be furnished. All the proposals shall be publicly opened in the presence of those who choose to attend, and the commission may reject any or all proposals, and advertise for new proposals, and the contract for the work and materials, when awarded, shall be awarded to the lowest responsible bidder.

This section shall not be construed to apply to the compensation of specially retained advisers, and when the exigency of the service of an emergency threatening the continuity of the water supply shall be declared by resolution passed by the unanimous vote of the members of the commission, which resolution shall set forth the nature of the exigency or emergency, and shall state the approximate cost of the work in excess of \$2,500.00 necessary to be done to meet the exigency or emergency, the necessity for advertising and receiving proposals provided for in this section shall not apply.

History

Amended by L. 1960, c. 94, p. 580, 1, eff. July 7, 1960.

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N.J. Stat. § 40:62-137

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§ 40:62-137. Execution of contract

All such contracts shall be in writing, and shall be executed by the president and secretary of the commission, on behalf of and in the name of the commission, and under its seal. No party shall be allowed to enter upon any work or furnish any material until the contract shall have been so executed. Every person entering into any such contract with the commission shall give satisfactory security for the faithful performance thereof according to its terms, with surety to be approved by the commission.

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N.J. Stat. § 40:62-138

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§ 40:62-138. Control, regulation and protection of water supply system

The commission may make, enforce, amend and repeal all such resolutions and regulations as it may deem necessary and proper for the distribution, supply, use and protection of the water supplies, and the protection of the buildings, machinery, canals, aqueducts, reservoirs and other works and appurtenances thereto; for the installation and protection of meters, and for fixing and collecting the water rents or prices for water, and for imposing penalties in addition to cutting off the water for nonpayment thereof.

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[N.J. Stat. § 40:62-139](#)

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§ 40:62-139. Furnishing water for special purposes

- 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](#).

History

Amended 1981, c. 514, § 4; [2003, c. 278](#), § 5, eff. Jan. 14, 2004.

N.J. Stat. § 40:62-140

Current through New Jersey 221st Second Annual Session, L. 2025, c. 271 and J.R. 17

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§ 40:62-140. Right of entry for inspection; penalty for obstructing inspectors

All engineers, surveyors, officers, agents, employees or committeemen appointed for the purposes provided in sections [40:62-133](#) to [40:62-150](#) of this title may enter upon any land or water for the purpose of making any and all surveys and examinations necessary, and at all reasonable hours enter any dwelling or other place where the water so furnished is taken or used, and where unnecessary waste thereof is known or suspected, and examine and inquire into the cause thereof, and may examine all service pipes, stopcocks and other apparatus connected with the water supply or drainage works, for the purpose of ascertaining whether the same are of the character and dimensions, and fixed in the manner by the rules of the commission regulating the same.

If any person shall refuse to permit the examination, or oppose or obstruct an engineer, surveyor, officer, agent, employee or committeeman in the performance of such duties, the person so offending shall have the supply of water shut off until the required examination is made and such alteration and repairs as may be necessary shall be completed.

N.J. Stat. § 40:62-141

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§ 40:62-141. Liability for water rent; payment in advance

The owner of any house, tenement, building or lot shall be liable for the payment of the price or rent as fixed by the commission for the use of water by such owner or by the occupier, and for the installation, purchase price, repair and testing of any water meter or water meters, water service, water services, connections, appliances or parts, and renewals thereof furnished or made by the commission, in, upon or connecting with such house, tenement, building or lot and the interest and penalties charged.

The price or rent so fixed, and the other costs, expenses, interest and penalties shall be a lien upon such house, tenement, building or lot until the same shall be paid and satisfied, and shall be enforceable by an action at law in any competent court.

The commission shall notify the officers or board having charge of the collection of taxes in each municipality in which the commission shall supply water to any of the inhabitants of such municipality, that the commission is supplying water to such inhabitants, and requesting said officials or board to notify all persons applying for a certificate showing municipal or other liens against property in such municipality, that the applicant must apply to the commission to ascertain the amount of water rents or other charges due to the commission, which are by law made a lien upon the premises covered by the certificate.

The commission may require payment in advance for the use or rent of water furnished by it and for any work to be done or materials to be furnished.

N.J. Stat. § 40:62-142

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§ 40:62-142. Water shut off for nonpayment of charges

In case prompt payment of any water rent or rents, or for work done or materials furnished, is not made when due, the water may be shut off from such real estate, and shall not be again supplied thereto until the arrears with interest and penalties shall be fully paid.

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§ 40:62-143. Rebate for prompt payment; amount

The commission may grant to consumers a rebate or discount for the prompt payment of water rent or rates within a specified time after such water rent or rates shall become due. Such rebate or discount shall not exceed the sum of ten cents on each one dollar or fraction thereof due for water rent or rates, and no rebate or discount shall be granted unless such rents or rates be paid within thirty days after the same shall become due. The sum so granted as a rebate or discount shall be fixed and determined by resolution of the commission.

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N.J. Stat. § 40:62-144

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§ 40:62-144. Increase of capacity of plant; additional pipe lines

The commission may increase the capacity of any waterworks, plant or plants owned by it, either by the construction and erection of new and additional buildings or otherwise, and the purchase of other or larger pumps, machinery and apparatus; extend any system of water distribution either within or without any municipality authorized to be supplied by it, by laying additional mains or lateral connections, or by relaying or enlarging existing mains and pipes, as the commission shall deem necessary; and cause to be constructed additional pipe lines or mains to connect any reservoir or water supply in its control, located outside the limits of the municipalities represented by the commission, with any reservoir or supply pipes or mains within such municipalities.

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N.J. Stat. § 40:62-145

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§ 40:62-145. Contracts for additional supply of water

The commission may enter into contracts from time to time, for a period not exceeding fifteen years, with any other municipality having waterworks, or with any private corporation owning or controlling waterworks, to obtain any additional supply of water for public and private uses of the inhabitants of the municipalities represented or supplied by the commission.

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[N.J. Stat. § 40:62-146](#)

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§ 40:62-146. Supplying water to other municipalities; consent required

The commission may contract with any municipality or municipalities to furnish a supply of water for such other municipalities and their inhabitants, for public and private uses, for the term of a year or years. There shall first be obtained the approval of the State board or department having jurisdiction of such matters, which approval and consent such commission or other board or departments may withhold or grant upon such terms as it may deem proper, but in case approval and consent are withheld, the reason for such withholding shall be furnished by the department or board to the commission applying therefor. The contract may provide for the payment to the commission by the municipality annually or otherwise of the sum or sums of money, computed at fixed amounts or by a formula based on any factors or other matters described in [R.S. 40:62-127](#) or in any other manner, as the contract or contracts may provide, and may provide that the sum or sums so payable to the commission shall be in lieu of all or any part of the water rents which would otherwise be charged and collected by the commission with regard to the dwellers within the municipality. The contract may be made with or without consideration and for a specified or an unlimited time and on any terms and conditions which may be approved by the municipality and which may be agreed to by the commission in conformity with its contract with the holders of any bonds, and shall be valid whether or not an appropriation with respect thereto is made by the municipality prior to authorization or execution thereof. The municipality is authorized to perform any acts necessary, convenient or desirable to carry out the contract and to provide for the payment or discharge of any obligation thereunder in the same manner as are other obligations of the municipality. Subject to these contracts with the holders of bonds, the commission is authorized to perform any acts necessary, convenient or desirable to carry out the contract and, to provide for the payment or discharge of any obligation thereunder in the same manner as are other obligations of the municipality. Subject to these contracts with the holders of bonds, the commission is authorized to perform any acts necessary, convenient or desirable to carry out the contract and, in accordance with the contract, to waive, modify, suspend or reduce the water rents which would otherwise be charged and collected by the commission with regard to the dwellers within the municipality, but nothing in this section or the contract shall prevent the commission from charging and collecting, as if the contract had not been made, water rents with regard to the dwellings sufficient to meet any default or deficiency in any payments agreed in the contract to be made by the municipality.

History

Amended [1991, c. 162](#), s. 12.

§ 40:62-146. Supplying water to other municipalities; consent required

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§ 40:62-147. Supplying water to dwellers along line; rates; consent required

The commission may supply with water, dwellers in municipalities, other than those represented by the commission, through which its mains may pass, and for that purpose may lay mains and pipes in or under any street, road, avenue, alley or public place in such other municipality. Such water shall be supplied to dwellers in other municipalities upon the same or as favorable terms and conditions as water shall be furnished to other similar customers of the commission. The consent of the municipal authorities of such other municipality to the supplying of its dwellers with water shall be first obtained.

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§ 40:62-148. General powers to carry out objective

Subject to any contracts with the holders of bonds, the commission may adopt all ordinances and resolutions, enter into all agreements and contracts, and do any and all other acts and things necessary to provide water for the public and private uses of its customers in accordance with the provisions of [R.S. 40:62-133](#) to [R.S. 40:62-150](#).

History

Amended [1991, c. 162](#), s. 19.

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[N.J. Stat. § 40:62-148.1](#)

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

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.

History

L. [2010, c. 91](#), § 5, eff. May 29, 2011.

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§ 40:62-149. Powers of condemnation

If the commission and the owner of any property, or interest therein which the commission is authorized to acquire, cannot agree on terms for the sale or lease thereof, the commission may acquire it by condemnation in the manner prescribed in sections [40:62-114](#) to [40:62-116](#) of this title.

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§ 40:62-150. Certain boards and commissions unaffected

Nothing in sections [40:62-133](#) to [40:62-150](#) of this title shall be construed to affect the power or authority of the North Jersey district water supply commission or the South Jersey district water supply commission, or the state water policy commission.

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§ 40:62-150.1. Names of employees of water commissions established by two or more municipalities in second class counties between 300,000 and 325,000

Any water commission, established pursuant to sections [40:62-108](#) to [40:62-150](#) of the Revised Statutes, by two or more municipalities in counties of the second class now having a population between three hundred thousand and three hundred and twenty-five thousand shall, upon written petition regulating the same, signed by a majority of the employees of said water commission employed by it on the effective date of this act, certify to the Civil Service Commission the names of all those employees, including the secretary-treasurer, employed by the said commission on the effective date of this act.

History

L. 1949, c. 289, p. 886, 1, eff. May 28, 1949.

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N.J. Stat. § 40:62-150.2

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§ 40:62-150.2. Classification, without examination in classified service

When the names of such employees, including the secretary-treasurer, have been certified the Civil Service Commission shall classify, without examination, the employees so certified in the classified service and such employees shall thereafter be subject to all the provisions of subtitle three of Title 11 of the Revised Statutes, with respect to tenure, classification and compensation.

History

L. 1949, c. 289, p. 886, 2, eff. May 28, 1949.

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§ 40:62-151. Annual stand-by or ready-to-serve charge upon unoccupied lots

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](#).

History

L. 1949, c. 194, § 1; amended [2003, c. 278](#), § 6, eff. Jan. 14, 2004.