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SYNOPSIS
Authorizes municipalities to finance water conservation, storm shelter construction, and flood and hurricane resistance projects.

CURRENT VERSION OF TEXT
As reported by the Assembly Appropriations Committee on November 18, 2013, with amendments.

(Sponsorship Updated As Of: 1/7/2014)

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

1. Section 1 of P.L.2011, c.187 (C.40:56-1.4) is amended to read as follows:

   1. Upon application to and approval by the Director of the Division of Local Government Services in the Department of Community Affairs, the governing body of a municipality, or a qualified private or non-profit entity serving as its administrator, may undertake the financing of the purchase and installation of water conservation projects, flood resistant construction projects, hurricane resistant construction projects, storm shelter projects, safe room projects, renewable energy systems, and energy efficiency improvements by property owners as a local improvement and may provide by ordinance for a "clean energy and storm resistance special assessment" to be imposed on properties within the municipality, if the owner of a property requests the assessment in order to install such systems or improvements. Each improvement on an individual property shall constitute a separate local improvement and shall be assessed separately to the property owner benefitted thereby. The terms of the clean energy and storm resistance special assessment shall be in accordance with the terms of the financing provided by the municipality pursuant to section 2 of P.L.2011, c.187 (C.40:56-13.1).

2. Section 2 of P.L.2011, c.187 (C.40:56-13.1) is amended to read as follows:

   2. a. Upon application to and approval by the Director of the Division of Local Government Services in the Department of Community Affairs, a qualified private or non-profit entity may establish a program to finance the purchase and installation of water conservation projects, flood resistant construction projects, hurricane resistant construction projects, storm shelter projects, safe room projects, renewable energy systems, and energy efficiency improvements by property owners within municipalities contracting with the non-profit entity that have

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
1Assembly AEN committee amendments adopted June 10, 2013.
2Assembly AAP committee amendments adopted November 18, 2013.
also obtained the director’s approval. Repayment shall be completed through the clean energy and storm resistance special assessment. Upon application approval, the non-profit entity may administer: lending agreements between the non-profit entity itself and property owners; lending agreements between municipalities and property owners pursuant to section 3 of P.L.2011, c.187 (C.40:56-13.2); lending agreements involving county improvement authorities pursuant to paragraph (2) of subsection (j) of section 12 of P.L.1960, c.183 (C.40:37A-55); lending agreements involving other private entities that participate in the program; the sale of solar renewable energy certificates from participating property owners; and any other appropriate responsibilities. Any contract between the non-profit entity and a municipality or county improvement authority shall be subject to the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.). Upon application to and approval by the Director of the Division of Local Government Services in the Department of Community Affairs, a municipality may adopt an ordinance to establish a program to finance the purchase and installation of water conservation projects, flood resistant construction projects, hurricane resistant construction projects, storm shelter projects, safe room projects, renewable energy systems, and energy efficiency improvements by property owners. Pursuant to this section, the establishment of this program may merely involve contracting with a qualified private or non-profit entity, subject to the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), upon the director’s approval, to administer the program on the municipality’s behalf. The governing body may apply to a county improvement authority that issues bonds pursuant to paragraph (2) of subsection (j) of section 12 of P.L.1960, c.183 (C.40:37A-55), or may issue bonds to finance the program pursuant to section 3 of P.L.2011, c.187 (C.40:56-13.2).

In addition, the governing body, or the non-profit entity serving as its administrator, may use funding through private entities to finance the program. Funds for the purchase and installation of water conservation projects, flood resistant construction projects, hurricane resistant construction projects, storm shelter projects, safe room projects, renewable energy systems, and energy efficiency improvements shall be loaned to property owners in exchange for a clean energy and storm resistance special assessment on the property pursuant to section 1 of P.L.2011, c.187 (C.40:56-1.4) to be paid quarterly. In the case of financing provided by bonds issued by a county improvement authority, or by the municipality through the issuance of municipal bonds, the clean energy and storm resistance special...
assessment shall be used to repay the bonds. [In the case of financing provided by the municipality through the issuance of municipal bonds, the clean energy special assessment shall be used to repay the bonds.] In the case of financing through private entities, repayment shall also be completed through the clean energy and storm resistance special assessment.

A property owner who purchases and installs a renewable energy system under the program may also assign any solar renewable energy certificates or other renewable energy credits that accrue to the property owner from the operation of the system to the municipality [or] the county improvement authority, or the private entity to repay the loan for the system. The Director of the Division of Local Government Services in the Department of Community Affairs shall coordinate efforts with the Board of Public Utilities to ensure that the amount of financing made available by local programs authorized pursuant to [this act] P.L.2011, c.187 (C.40:56-1.4 et al.), is in accordance with limits set from time to time by the Board of Public Utilities in order to ensure that local programs to fund projects categorized as renewable energy systems and energy efficiency improvements further the goals of the Office of Clean Energy in the Board of Public Utilities.

b. As used in [this section,] P.L.2011, c.187 (C.40:56-1.4 et al.):

"Director" means the Director of the Division of Local Government Services in the Department of Community Affairs.

"Flood resistant construction project" means a project that mitigates the likelihood of substantial flood damage, including but not limited to the installation of break-away walls and building elevation alterations, following standards that the director deems appropriate.

"Hurricane resistant construction project" means an improvement that brings a component of a residence into compliance with the standards for a “wind-borne debris region” under the State Uniform Construction Code, or another standard that the director deems appropriate.

"Safe room project" or "residential storm shelter project" means an improvement that creates a hardened structure specifically designed to meet criteria set forth by the Federal Emergency Management Agency and provide “near-absolute protection” in extreme weather events, including tornadoes and hurricanes, or another standard that the director deems appropriate.

"Solar renewable energy certificate" shall have the same meaning as set forth in section 3 of P.L.1999, c.23 (C.48:3-51).
“Water conservation project” means an alteration or upgrade of a facility or equipment that reduces water consumption, maximizes the efficiency of water use, or reduces water loss, following standards that the director deems appropriate.

2c. The Director of the Division of Local Government Services in the Department of Community Affairs, in consultation with the Director of the Division of Codes and Standards in the Department of Community Affairs shall establish standards for flood resistant construction projects, hurricane resistant construction projects, safe room projects, storm shelter projects, and water conservation projects.

(cf: P.L.2011, c.187, s.2)

3. Section 3 of P.L.2011, c.187 (C.40:56-13.2) is amended to read as follows:

3. a. Upon application to and approval by the Director of the Division of Local Government Services in the Department of Community Affairs, the governing body of a municipality may establish the amounts of money to be expended by the municipality for the improvements authorized in sections 1 and 2 of P.L.2011, c.187 (C.40:56-1.4 and C.40:56-13.1). Any amount so appropriated may be raised by the issuance of clean energy and storm resistance special assessment bonds by the municipality. In making the appropriation, the governing body may designate the particular projects to be financed to which the moneys shall be applied.

b. Clean energy and storm resistance special assessments and bonds issued to finance them shall be issued and shall be generally subject to R.S.40:56-21 et seq., as the director shall determine to be applicable.

c. The director is authorized and empowered to take such action as deemed necessary and consistent with the intent of [this act], [P.L.2011, c.187 (C.40:56-1.4 et al.)] to implement its provisions.

(cf: P.L.2011, c.187, s.3)

4. Section 12 of P.L.1960, c.183 (C.40:37A-55) is amended to read as follows:

12. Every 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 convenience, benefit and welfare and shall have perpetual succession and, for the effectuation of its purposes, have the following additional powers:

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

(b) To sue and be sued;

(c) To acquire, hold, use and dispose of its facility charges and other revenues and other moneys;
(d) To acquire, rent, hold, use and dispose of other personal property for the purposes of the authority;

(e) Subject to the provisions of section 26 of [this act] P.L.1960, c.183 (C.40:37A-69), to acquire by purchase, gift, condemnation or otherwise, or lease as lessee, real property and easements or interests therein necessary or useful and convenient for the purposes of the authority, whether 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 authority; provided that the authority may dispose of such property at any time to any governmental unit or person if the authority shall receive a leasehold interest in the property for such term as the authority deems appropriate to fulfill its purposes;

(f) Subject to the provisions of section 13 of [this act] P.L.1960, c.183 (C.40:37A-56), to lease to any governmental unit or person, all or any part of any public facility for such consideration and for such period or periods of time and upon such other terms and conditions as it may fix and agree upon;

(g) To enter into agreements to lease, as lessee, public facilities for such term and under such conditions as the authority may deem necessary and desirable to fulfill its purposes, and to agree, pursuant thereto, to be unconditionally obligated to make payments for the term of the lease, without set-off or counterclaim, whether or not the public facility is completed, operating or operable, and notwithstanding the destruction of, damage to, or suspension, interruption, interference, reduction or curtailment of the availability or output of the public facility to which the agreement applies;

(h) To extend credit or make loans to any governmental unit or person for the planning, design, acquisition, construction, equipping and furnishing of a public facility, upon the terms and conditions that the loans be secured by loan and security agreements, mortgages, leases and other instruments, the payments on which shall be sufficient to pay the principal of and interest on any bonds issued for the purpose by the authority, and upon such other terms and conditions as the authority shall deem reasonable;

(i) Subject to the provisions of section 13 of [this act] P.L.1960, c.183 (C.40:37A-56), to make agreements of any kind with any governmental unit or person for the use or operation of all or any part of any public facility for such consideration and for such period or periods of time and upon such other terms and conditions as it may fix and agree upon;

(j) (1) To borrow money and issue negotiable bonds or notes or other obligations and 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;
(2) To issue bonds, notes or other obligations to provide funding to a municipality or to a non-profit entity serving as the municipality’s administrator that finances the purchase and installation of water conservation projects, flood resistant construction projects, hurricane resistant construction projects, renewable energy systems and energy efficiency improvements by property owners as provided in section 2 of P.L.2011, c.187 (C.40:56-13.1);

(k) To apply for and to accept gifts or grants of real or personal property, money, material, labor or supplies for the purposes of the authority from any governmental unit or person, and to make and perform agreements and contracts and to do any and all things necessary or useful and convenient in connection with the procuring, acceptance or disposition of such gifts or grants;

(l) To determine the location, type and character of any public facility and all other matters in connection with all or any part of any public facility which it is authorized to own, construct, establish, effectuate or control;

(m) 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 any public facility, and to amend the same;

(n) 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 contract with any governmental unit or person;

(o) To acquire, purchase, construct, lease, operate, maintain and undertake any project and to fix and collect facility charges for the use thereof;

(p) To mortgage, pledge or assign or otherwise encumber all or any portion of its revenues and other income, real and personal property, projects and facilities for the purpose of securing its bonds, notes and other obligations or otherwise in furtherance of the purpose of this act;

(q) To extend credit or make loans to redevelopers for the planning, designing, acquiring, constructing, reconstructing, improving, equipping and furnishing any redevelopment project or redevelopment work;

(r) To conduct examinations and investigations, hear testimony and take proof, under oath at public or private hearings of any material matter, require the attendance of witnesses and the production of books and papers and issue commissions for the examination of witnesses who are out of the State, unable to attend, or excused from attendance;

(s) To authorize a committee designated by it consisting of one or more members, or counsel, or any officer or employee to conduct any such investigation or examination, in which case such committee, counsel, officer or employee shall have power to
administer oaths, take affidavits and issue subpenas or commissions;
(t) To enter into any and all agreements or 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 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.); and
(u) To pool loans for any local governmental units within the county or any beneficiary county that are refunding bonds and do and perform any and all acts or things necessary, convenient or desirable for the purpose of the authority to achieve more favorable interest rates and terms for those local governmental units.
(cf: P.L.2011, c.187, s.4)

5. This act shall take effect on the first day of the fourth month next following enactment, but the Director of the Division of Local Government Services in the Department of Community Affairs may take such anticipatory action in advance thereof as shall be necessary for the implementation of this act.