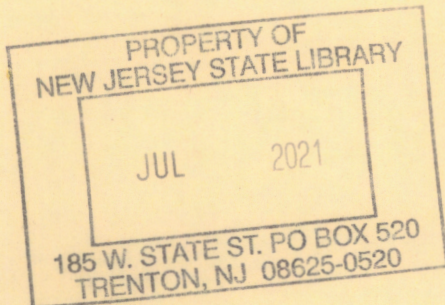


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PUBLIC HEARING
before
ASSEMBLY STATE GOVERNMENT, CIVIL SERVICE, ELECTIONS,
PENSION, AND VETERANS AFFAIRS COMMITTEE
on
ASSEMBLY COMMITTEE SUBSTITUTE
FOR A-2143 and A-2061
"New Jersey Infrastructure Bank Act"



Held:
March 3, 1983
Room 425
State House Annex
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblywoman Barbara F. Kalik (Chairwoman)
Assemblyman Joseph L. Bocchini, Jr. (Vice Chairman)
Assemblyman Robert D. Franks
Assemblyman Richard A. Zimmer
Assemblyman Joseph Charles, Jr.

ALSO:

Donald S. Margeson, Research Associate
Office of Legislative Services
Aide, Assembly State Government, Civil Service, Elections,
Pensions, and Veterans Affairs Committee

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ASSEMBLYWOMAN BARBARA F. KALIK (Chairwoman): I would like to call the meeting to order. May we have the roll call please?

(Donald S. Margeson calls roll.)

MR. MARGESON: Mr. Bocchini?

ASSEMBLYMAN BOCCHINI: Here.

MR. MARGESON: Mr. Charles?

ASSEMBLYMAN CHARLES: Here.

MR. MARGESON: Mr. Franks?

ASSEMBLYMAN FRANKS: Here.

MR. MARGESON: Mr. Zimmer?

ASSEMBLYMAN ZIMMER: Here.

MR. MARGESON: Assemblywoman Kalik?

ASSEMBLYWOMAN KALIK: Here.

At the last meeting of this Committee, we did, in fact, put the Committee substitute for A-2143 and A-2061, with approval, and voted it out of the Committee. Time was of the essence at that particular meeting, and so I did not have a public portion, although we had the meeting recorded.

I think for the record, and for the purposes of this bill, and for the general public's welfare, we certainly ought to have public comments on something as important as infrastructure, so we are going to have the public hearing this morning.

I would ask anyone who wishes to speak, if you would just, by a show of hands, show me how many of you are going to be speaking on infrastructure? Besides Mr. Haines, is there anybody else here for infrastructure?

Okay, anybody else? Thank you, Mr. Haines.

FRANK HAINES, JR.: Madam Chairwoman, members of the Committee, I am Frank Haines, Executive Director of the New Jersey Taxpayers' Association. I want to express my personal appreciation, and also that of the Association that I am representing, for your scheduling of this hearing on this important bill. Even though the timing may seem to be a little bit irregular, I think it is extremely important, and I want to commend you for giving those who have an interest in this legislation a chance to make some comments on it.

I must preface my remarks by saying that we have had this legislation under study since it was proposed last September, but the Association has not yet arrived at a firm policy decision on the legislation itself. I expect that position is going to take place within the next two weeks. We have had the Treasurer address our Board of Directors. We have a meeting of two of our Policy Advisory Committees next week, at which a representative of the Treasurer will be speaking, and I feel confident that a positive position of some type will be coming forth from the Association.

I think you are well aware that we are concerned about the indebtedness position of State government, and of the extent of the future debt to which the State is already committed as a result of voter approval. We recognize the infrastructure bank proposal as being possibly the only alternative to continued build-up of general obligation debt and the interrelated increase in debt-service cost, which as a first claim on any State revenue growth, could have an adverse impact on the State's ability to finance its other spending needs.

We have, basically, two major questions, which we want to call to your attention, and suggest consideration, if at any point it is feasible at this stage of your consideration of the legislation.

In section 6.d., there is a provision for a maximum authorized life of infrastructure bank bonds of fifty years -- either bonds or notes. I understand, as a result of talking to representatives of the administration, the rationale that was given for this -- that of trying to extend, or at least give the authority, to extend the life of bonds out as far as possible, so the impact on users and local units will be as little as possible, if that maximum life is utilized in terms of repayment of debt. But, I think there is a very basic question of fiscal policy here involved.

Article 8, section 2, paragraph 3, the State Constitution, as you know, fixes the life of State's general obligation bonds at thirty-five years. This is the State's policy as it relates to its general obligation bonds. In the local bond law, which governs the life of bonds sold by municipal and county units, in NJS 48:2-22, you will find varying life of bonds are authorized for different types of projects, and these vary from five to forty years, depending on the various projects. But, those projects which were assigned the maximum life of forty years includes certain types of buildings, harbor improvements, sewer systems and water supply distribution systems. In other words, for some time the State has had a policy in limiting the life of local general obligation bonds to forty years for those purposes. That is the maximum life of any bond that a general obligation unit can issue.

Accordingly, our view is that the Legislature should not grant an independent agency of government, such as the infrastructure bank, greater powers than it gives to its general units of government, particularly, when at this stage of legislation, you have no provisions for legislative oversight. I think even if you did have such provisions, we would take exception to the fifty years.

As a matter of recent history, the State building authority legislation, which goes back to 1980 and 1981, had a similar fifty-year provision, which we called to your attention. That bill was amended to reduce the bond life of that authority to thirty-five years. Particularly, I think, because it had a very close relationship to projects that might otherwise have been general-obligation bond projects. Enough of that aspect.

Point two is on the subject of legislative oversight, and again, I go back to the building authority legislation. I'm sure you will recall that the Legislative Branch went to great lengths to amend the building authority bill to provide numerous oversight techniques. Even though several of them were the subject of controversy and compromise with the Executive Branch, a number of those provisions remain in Chapter 120 of the laws of 1981.

It seems inconceivable to us that the Legislature would provide such a broad grant of power to the bank without a single provision for some sort of special legislative review of the bank's actions. Such considerations, whatever they may be under a variety of alternatives, which might be considered, and I will not take time to review them this morning -- those considerations of that oversight might also seek to clarify what may be an unclear role of the Capital Budget and Planning Commission, and also of the Legislature in their view of what

might be called "second-use" funds, and that is the reutilization of debt which has been repaid to the bank. These aspects, I think, need capital consideration -- whether the bank is going to be given authority to act independent of existing State plans or commitments made in general legislation, recognizing, of course, that the members of the bank include both Executive and Legislative appointees. But, those appointees, particularly from the Legislature, are of a minority, contrasted with the views of the entire Legislature.

One other point, which is, again, a little bit -- a final point that I'll make, which is a little bit hazy, and I really haven't had an opportunity to examine it indepth with the proper officials. That is the accounting by local units of any debt financed by the infrastructure bank, and this, I think, is covered, in part, in section 9.a. It would appear right now that it may be an unclarity, and of course, a draft of the legislation certainly can answer this better than I -- concerning the impact of the debt financed by the bank for local units on the measurement of debt limits for those local units. Certainly, it would appear that certain aspects of the local bond law should govern, but if there is any question on it, I think it should be clarified.

There are provisions in the local bond law for emergencies, emergent-type situations for construction, which is beyond the limits. Several of those which the bank would be financing could conceivably be outside of the normal borrowing limits. There is some reference to the local bond law for exceptions as to the sale of bonds, but I think, certainly, the drafters should be queried as to whether the interrelationship of limits to debt issued by the bank for local units has been considered and whether it is deemed unnecessary to have anything in the legislation concerning that. Certainly, I would hope that someone at some point would look at this aspect of local debt control and reporting of local debt as it relates to bonds issued for local units by the bank.

That covers, I think, the three major points that I wanted to bring to your attention, and again, I am very appreciative of this opportunity. As you know, I was a little concerned that you didn't have time the other day to do this. Hopefully, out of this will come some constructive criticism from others who have had an interest and watched this very carefully. This is not to be construed, at this point, as opposition, but merely some concerned views that we think should be considered, and certainly, if they were addressed, it would certainly reduce any opposition that some organizations might have to the overall aspects of the role of the bank in important financing of needed local projects in New Jersey.

ASSEMBLYWOMAN KALIK: Mr. Haines, I thank you, as usual. Your presentation is enlightening, and I want you to know that the reason I am holding this hearing is because this bill, of course, will have its day in the Senate, and because we still have opportunity to make the adjustments in it.

The point about fifty years, to me, is something that I am going to bring to the attention of the sponsors immediately, because that is an adjustable, an easily adjustable item within the bill itself at the moment, and maybe that can be done, even before the bill gets heard on the 14th -- it is scheduled for the 14th.

MR. HAINES: I recognize the rationale, but I also question, as I said, the fiscal policy of doing that.

ASSEMBLYWOMAN KALIK: I had questioned legislative oversight myself, as we all did, and the impact of debt on local government. I don't know if there was an exception made in the bill that would permit that to happen.

MR. HAINES: I'm not quite clear, because there are some references to provisions that would not govern, and so, I think it is important.

ASSEMBLYWOMAN KALIK: Would anybody from the Committee -- Joe, did you want to make any comments on Mr. Haines' statement?

ASSEMBLYMAN BOCCHINI: Nothing other than that I found it enlightening to a great degree. Your comments are always well-taken, because they come from a strictly nonpartisan viewpoint, with the best interests of what you consider the taxpayers, and so, I am always interested in hearing what you have to say, Mr. Haines.

ASSEMBLYWOMAN KALIK: Thank you. Mr. Zimmer?

ASSEMBLYMAN ZIMMER: No.

ASSEMBLYWOMAN KALIK: Mr. Franks?

ASSEMBLYMAN FRANKS: Madam Chairwoman, I would like to thank Mr. Haines again. His testimony is indeed enlightening. I would like to take an issue that was with -- at least warn the Legislature before it makes any substantial revisions in this bill for two reasons.

Number one, focusing on the fifty-year repayment issue where the bonds must be paid off during that period of time -- I have always supported as short a period to pay off those bonds as possible. In almost every public function, I think the shorter we can make that period, we should. It is a wise fiscal policy, and by doing so, I think we have helped to maintain our triple "A" bond rating in the State of New Jersey.

I do think that we have to recognize that this infrastructure bank is an extremely unique mechanism, but one thing we have, I think, remember is that infrastructure improvements are among the most capital intensive projects that a municipality undertakes.

There are very few things more expensive than building a new waste water treatment facility, for example. In the past, we have relied on the Federal government for grant money for much of the capital needed to construct these new facilities; sometimes as high as 70% and 80% of the money comes with no strings attached from the Federal government.

As those resources have dried up, this bank is trying to establish a mechanism where we will ultimately be able to comply with some of the Federal pollution-control standards, which we must meet, and with which the Federal government has not seen fit to give New Jersey adequate money to reach those goals. Recognizing that under this bank, as the speaker said when he testified in front of us, there is no free lunch, and this bank does not represent one. We are going to have to repay these loans.

A municipality that takes a loan from these banks -- there is going to have to be a repayment mechanism, and that repayment mechanism is going to be in the form of either higher user fees or a higher local property tax base in order to ease the burden of a dramatically higher user fee schedule. I think to extend that repayment period from thirty-five years to fifty years is an arguably effective means by which to keep user fees down in an area of activity, which prior to this,

has been the subject of tremendous amounts of Federal grant money. We are going to now have to repay the loans from this infrastructure bank, and to extend to fifty years in this one instance, in order to recognize that even with a fifty-year payback period, we would be talking about a substantial increase in user fees. To extend it to fifty, we will be able to keep the rate of increase a little bit lower. I am not yet prepared to say which way we are going to go on the issue, but I think it is important to recognize that extending this to fifty years will not allow those user fees to escalate to an unacceptable level.

The second point is on the issue of legislative oversight. I think the Federal government has, on any number of occasions, looked at the issue of control over the Federal Reserve. The role of the Federal Reserve has been questioned. There has been an introduction by Representative Kemp about putting guidelines on the Federal government and making certain that -- there are sometimes, I think, when elected officials feel that in order to meet the public will, or at least wave with the public wind, they will support various changes in fiscal or monetary policy.

We have constructed here a bank, which I think, is going to have to compete in the capital markets. It is going to have to be run in a professional manner, and for one, I am not a banker, and I think one of the worst things that we might do is to construct this innovative mechanism, and then tell them how to conduct their business. I think the speaker very effectively pointed out that through the appropriations process, ultimately the Legislature will be the final arbiter in determining how this bank ought to operate. But, the worst thing we could do is to establish this bank, and then tell them at every instance what ought to be the criteria for their decisions. They are going to be the ones who are responsible for operating this bank and being able to compete effectively in the capital markets.

Mr. Haines, I think you flagged some very valuable issues, but I think there are, indeed, a couple of perspectives that are important to look at before we make a decision.

MR. HAINES: May I respond?

ASSEMBLYWOMAN KALIK: Certainly. I would if you hadn't, sir.

MR. HAINES: The point of "hands off," I think we have to bear in mind that the growth of what I would call "authority government" in New Jersey, most of which is beyond legislative review, at least in terms of built into the legislation, has exceeded in the debt of those authorities. It now exceeds extensively the general obligation debt of the State.

Although the language of the legislation absolves the State of any responsibility, with a couple of exceptions, if they get into financial trouble, I think that we may be building here a level of government, which may be escaping attention -- sufficient attention by the Legislature, although, in recent years, the Executive Branch has begun to pay more and more attention to it, because of the fact that it is building up an extensive debt.

I look at this, even though you say that you compare it to a Federal institution, as another authority. The concern, again -- there needs to be some responsibility, continuing responsibility for the Legislative Branch over its creatures. The extent of it, I leave for you to decide -- whether it is nothing,

or whether it is some sort of reporting review. I am very concerned, from what I understand in reading it, whether there is going to be any control over appropriations of what I call "second use" monies. I don't think there is any question that the first-use money is where you are transferring the authority which already exists for bond funds -- then that must generally comply with what has been approved.

In terms of second use, I have heard some things which tend to disturb me a little bit about that the bank will get things done that the Legislature itself has been unable to do. That concerns me a little bit. So, that is the basis for my concern in that area.

But, what you say about stretching out to fifty years -- because a local unit may avail itself of the bank situation doesn't necessarily mean that all local units will, and I would point out that there are historically a number of units that try to go their own way with general obligation bonds to finance things in some of their own facilities. To date, we have municipalities and some authorities, which are a little bit different, again, in terms of that relationship in using these Federal monies, who have financed sewerage and water plants with their own general obligation bonds, a utility which a revenue-type bond with general obligation backing in some cases. But, they have been limited to the law under the general bond law to forty years.

In essence, it would appear that you would now be setting up again the possibility of two different classes of financing users. One of the big problems, of course, is we don't really know how much the stick is going to impact in terms of the water and sewerage treatment and maybe other recycling facilities in the future, but there may well be some local units that would prefer to go their own way. For that reason, I say that you are sort of putting them possibly at the mercy of the bank in the financing arrangements, or you may be even tempting an amendment to liberalizing the local bond law, which is even now, under study by a group, I understand, of top-flight people who are reviewing the bond law through the views of whether it needs strengthening and so on.

So, that again, not to draw out the debate, but to point out and reinforce my argument on those sides.

Thank you very much.

ASSEMBLYWOMAN KALIK: Mr. Bocchini?

ASSEMBLYMAN BOCCHINI: In reference to your comments, again, Mr. Haines, we are, in effect, what I call the "monster makers." The State historically, in the Legislature, creates commissions, administrative agencies, and -- it seems I was reading it in the last day or so -- where you put together an agency, give it the ability to promulgate its own rules and regulations to a certain extent -- the agency is created, and then it just sort of flounders. Historically, I think that has been proven to be the case.

You know, subjects, and sort of a little offbeat -- off the beaten track here, Mr. Haines, as far as sunset type of legislations that Dick is a large advocate of, and most of us -- I am a growing advocate of that, after having been here for fourteen months. We have to be concerned about -- the infrastructure bank looks great on paper, and it sounds great. I'll be the first to acknowledge that.

In reading the bill and trying to understand the bill, I have certain problems. It is an indepth type of piece of legislation that I see coming through here at a fairly rapid pace, which scares me. I certainly hope it is scrutinized; as much constructive or destructive criticism that comes out about it, let it be. I certainly hope, Mr. Haines, that we continue in this fashion, and open the fifty-year or forty-year difference. In my mind immediately, I say, "What does that do in reference to bonding? Does that force municipalities, at this point, to have to look at the fifty? Is it an unfair advantage that we are giving to the State over general bond-raising measures in other areas?" That worries me.

That is about all I have to say, but the creation of our agencies -- you get in there, and they run rampant sometimes. They just run rampant.

MR. HAINES: There is one other point that I would like to call to your attention, and I think there are a lot of people who are anxious to see it. That is, what I understand will be the referendum question, which is part of this plan. I wish that we had this to consider at the same time, so that we are seeing the package again, but I understand the problem of timing, etc.

I would urge, that wherever the responsibility lies, that the implementation, as it relates to public participation in shifting the direction of the bonds, which appear to be extremely important in getting this structure off the ground. Hopefully that will come forth soon, so again, that can be examined and we can talk about it in a package.

ASSEMBLYWOMAN KALIK: Thank you. Anybody else? I am going to pass that the comments made at this hearing this morning be, in fact, submitted to the Senate Committee and made part of the bill, because I think there is enough to do so.

I would also like to ask the staff aide if he would make a statement to those comments and send them to those sponsors of the bill, even prior to it coming up on the 14th, because I think it is important enough.

Mrs. Callahan?

CHARLOTTE CALLAHAN: I am Charlotte Callahan. I am Vice President of the League of Women Voters of New Jersey, and I would like to thank Assemblywoman Kalik and Committee members for the opportunity to be here.

We really don't have a formal statement to make. We, in general, tend to favor the bill. We do have some questions, and our questions were, perhaps, expressed very pointedly by the last speaker. They line the area of oversight on the second-generation funds.

We are concerned about the lack of delineation in the bill, of the role of the Legislature in determining appropriations for the second generation of funds, and also about the role of the Capital Planning and Budgeting Commission or some other agency in coordinating this. Who is going to determine the priorities on capital spending? Does this essentially then by default go to this bank to determine the priorities of capital spending? This is a role that we are really concerned about. Does this make them the State's planning agency?

Of course, we are always concerned about the role of the public in it. When we look down the road, we see some of these things going to the public at the beginning, but not anywhere else, and we think that there should be some opportunity for public input down the road. Fifty years is a long time.

Basically, I think that is all we really wanted to do was insert those two questions, and I think that Mr. Haines very ably covered them in his testimony.

ASSEMBLYWOMAN KALIK: Thank you. Are there any further comments? Is there anybody else who wishes to be heard on this infrastructure bill before we close the public hearing? Thank you.

ASSEMBLYMAN ZIMMER: Madam Chairwoman?

ASSEMBLYWOMAN KALIK: Yes.

ASSEMBLYMAN ZIMMER: I just have one point. It is a minor point, and it is probably a typographical error. The bill that we reported out of Committee was captioned "A-2061 and A-2143," Assemblymen D. Gallo and Karcher. The copy we have in front of us is captioned "A-2143 and A-2061," Assemblymen Karcher and D. Gallo. I'm sure that is a typographical error. I haven't spoken to either of the sponsors about it. They are both men of humility who wouldn't really care to grasp for the top billing, but we did report it out in the other form.

ASSEMBLYWOMAN KALIK: Your comment is well taken. I've got the bill in front of me, and I would imagine that this is an official reprint of the bill, so --

ASSEMBLYMAN ZIMMER: The bill that was received from the bill room by our staff was captioned this way, and I believe that is what we reviewed and approved.

ASSEMBLYWOMAN KALIK: I guess you are going to have to deal with the sponsors on that one.

I am going to ask again that the five points that were made, and I think that they are very important points, be transmitted immediately to both sponsors of the bill, and that the public hearing be attached to the bill, since it is a short enough one to be attached to the bill itself.

I close the public hearing at this point.

(Hearing concluded)

