

P U B L I C H E A R I N G

before

SENATE ENERGY AND ENVIRONMENT COMMITTEE

and

ASSEMBLY ENERGY AND NATURAL RESOURCES COMMITTEE

on

S-1610 through S-1614
(Water Supply Legislation)

Held:
January 28, 1981
Council Chambers
Town Hall
Lyndhurst, New Jersey

MEMBERS OF SENATE COMMITTEE PRESENT:

Senator Frank J. Dodd, Chairman
Senator John P. Caufield
Senator Barry T. Parker

MEMBERS OF ASSEMBLY COMMITTEE PRESENT:

Assemblyman Robert P. Hollenbeck, Chairman
Assemblyman Thomas F. Cowan
Assemblyman Robert D. Franks
Assemblyman Elliott F. Smith

ALSO:

Algis P. Matioska, Research Associate
Office of Legislative Services
Aide, Assembly Energy and Natural Resources Committee

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SENATE, No. 1610

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 24, 1980

By Senator DODD

Referred to Committee on Energy and Environment

AN ACT authorizing the creation of a debt of the State of New Jersey by the issuance of bonds of the State in the aggregate principal amount of \$345,000,000.00 for the purposes of State or local projects to rehabilitate, repair or consolidate antiquated, damaged or inadequately operating water supply systems; and to plan, design, acquire and construct various State water supply facilities; providing the ways and means to pay the interest of such debt and also to pay and discharge the principal thereof; and providing for the submission of this act to the people at a general election; and providing an appropriation therefor.

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

1 1. This act shall be known and may be cited as the "Water Supply
2 Bond Act of 1981."

1 2. The Legislature finds and determines that:

2 a. The health, safety, welfare, commerce and prosperity of the
3 people of the State depend on the availability of a safe, adequate
4 and reliable supply of water.

5 b. The New Jersey Statewide Water Supply Plan has identified
6 certain projects which are needed to provide additional supplies
7 of water, new transmission and distribution capabilities for existing
8 supplies, increased reserve and emergency response capabilities,
9 and increased water quality benefits which may reduce or eliminate
10 the need for advanced wastewater treatment levels in certain
11 areas.

12 c. The rehabilitation and repair of antiquated or damaged water
13 supply systems will help to conserve our vital water resources
14 through leakage reduction and will lend increased support to
15 New Jersey's revitalization and economic development.

16 d. Funds are needed to assist in the consolidation of deficiently
17 operating systems to provide more adequate services to the com-
18 munities they serve and to improve the quality of drinking water.

19 e. The construction of a multiple exchange facility at Great
20 Notch will allow for additional flexibility for water transfers
21 and will provide for improved response to variable stress and
22 emergency conditions, such as those experienced during times of
23 drought.

24 f. The overuse of available water supplies in the Passaic River
25 Basin necessitates the acquisition of new sources of water, which
26 can be obtained by diverting water from the Spruce Run and Round
27 Valley Reservoirs to areas of need in the Passaic River Basin.

28 g. The demand for an additional 18,000,000 gallons per day
29 of water by 1990 in Monmouth and Ocean counties, and the danger
30 to their supply posed by demand-induced regional declines in
31 groundwater levels and salt water intrusion, can best be met by
32 constructing the Manasquan Reservoir project.

33 h. The storage of augmented flow from the Raritan river to
34 Round Valley Reservoir for release into the Raritan river during
35 low flow or drought periods is necessary to meet downstream
36 requirements and water needs under emergency conditions.

37 i. The design and construction of the Hackettstown reservoir
38 and the Delanco surface water intake is needed to reverse the
39 deteriorating water quality of the Delaware River Basin caused
40 by the increasing depletive uses of water.

1 3. As used in this act:

2 a. "Bonds" means the bonds authorized to be issued, or issued
3 under this act;

4 b. "Commission" means the New Jersey Commission on Capital
5 Budgeting and Planning;

6 c. "Commissioner" means the Commissioner of Environmental
7 Protection;

8 d. "Construct" and "construction" mean, in addition to the
9 usual meaning thereof, acts of construction, reconstruction, replace-
10 ment, extension, improvement and betterment;

11 e. "Cost" means the cost of acquisition or construction of all
12 or any part of a project and of all or any real or personal property,
13 agreements and franchises deemed by the department to be neces-
14 sary or useful and convenient therefor or in connection therewith,
15 including interest or discount on bonds, costs of issuance of bonds,
16 cost of geological and hydrological services, administrative cost,
17 interconnection testing, engineering and inspection costs and legal
18 expenses, costs of financial, professional and other estimates and
19 advice, organization, operating and other expenses prior to and
20 during such acquisition or construction, and all such other expenses
21 as may be necessary or incident to the financing, acquisition, con-

22 struction and completion of such project or part thereof and the
 23 placing of the same in operation, and also such provision for a
 24 reserve fund, or reserves for working capital, operating, mainten-
 25 ance or replacement expenses and for payment or security or
 26 principal of or interest on bonds during or after such acquisition
 27 or construction as the State Comptroller may determine;

28 f. "Department" means the Department of Environmental Pro-
 29 tection;

30 g. "Project" means any work relating to water supply facilities;

31 h. "Real property" means lands, within or without the State,
 32 and improvements thereof or thereon, any and all rights-of-way,
 33 water, riparian and other rights, and any and all easement, and
 34 privileges in real property, and any right or interest of any kind
 35 or description in, relating to or connected with real property;

36 i. "Water supply facilities" means and refers to the real prop-
 37 erty and the plants, structures, interconnections between existing
 38 water supply facilities, machinery and equipment and other prop-
 39 erty, real, personal and mixed, acquired, constructed or operated,
 40 or to be acquired, constructed or operated, in whole or in part by
 41 or on behalf of the State, or of a political subdivision of the State
 42 or any agency thereof, for the purpose of augmenting the natural
 43 water resources of the State and making available an increased
 44 supply of water for all uses, and any and all appurtenances neces-
 45 sary, useful or convenient for the collecting, impounding, storing,
 46 improving, treating, filtering or transmitting of water, and for the
 47 preservation and protection of these resources and facilities and
 48 providing for the conservation and development of future water
 49 supply resources, and facilitating incidental recreational uses
 50 thereof.

1 4. Bonds of the State of New Jersey are authorized to be issued
 2 in the aggregate principal amount of \$345,000,000.00 to meet the
 3 cost of providing State or local projects to rehabilitate, repair or
 4 consolidate antiquated, damaged or inadequately operating water
 5 supply systems; and to plan, design, acquire and construct the
 6 Great Notch multiple exchange facility, the Raritan — Passaic
 7 water supply interconnections, the Manasquan reservoir project,
 8 the Raritan confluence reservoir, pumping station and force main,
 9 and the Hackettstown reservoir and Delanco surface water intake.

10 a. Of the total moneys available under this act, \$65,000,000.00 is
 11 allocated for grants or loans to public or private water purveyors
 12 for the rehabilitation or repairs of antiquated or damaged water
 13 supply systems and to assist in regionalizing troubled or in-
 14 adequately operating systems.

15 b. Of the total moneys available under this act, \$10,000,000.00
16 is allocated for the construction of a multiple exchange facility at
17 Great Notch.

18 c. Of the total moneys available under this act, \$85,000,000.00
19 is allocated for the alignment analysis, design and construction of
20 a pipeline to transfer water stored in the Spruce Run and Round
21 Valley Reservoirs to areas of need in the Passaic valley.

22 d. Of the total moneys available under this act, \$40,000,000.00
23 is allocated for the construction of the Manasquan Reservoir
24 project.

25 e. Of the total moneys available under this act, \$55,000,000.00
26 is allocated for the design and construction of a reservoir at the
27 confluence of the North and South branches of the Raritan river
28 and a force main and pumping station at White House Station.

29 f. Of the total moneys available under this act, \$90,000,000.00
30 is allocated for the design and construction of the Hackettstown
31 reservoir and the Delanco surface water intake.

1 5. The commissioner shall issue and promulgate such rules and
2 regulations as are necessary and appropriate to carry out the
3 provisions of this act. The commissioner shall review and consider
4 the findings and recommendations of the commission in the admin-
5 istration of the provisions of this act.

1 6. The bonds shall be serial bonds and known as "Water Supply
2 Bonds" and as to each series, the last annual installment thereof
3 (subject to redemption prior to maturity) shall mature and be paid
4 not later than 35 years from the date of its issuance but may be
5 issued in whole or in part for a shorter term. Said bonds shall be
6 issued from time to time as the issuing officials herein named shall
7 determine.

1 7. The Governor, State Treasurer and Comptroller of the Trea-
2 sury or any two of such officials (hereinafter referred to as "the
3 issuing officials") are hereby authorized to carry out the provisions
4 of this act relating to the issuance of said bonds, and shall determine
5 all matters in connection therewith subject to provisions hereof.
6 In case any of said officials shall be absent from the State or
7 incapable of acting for any reason, his powers and duties shall be
8 exercised and performed by such person as shall be authorized by
9 law to act in his place as a State official.

1 8. Bonds issued in accordance with the provisions of this act shall
2 be a direct obligation of the State of New Jersey and the faith and
3 credit of the State are pledged for the payment of the interest
4 thereon as same shall become due and the payment of the principal

5 at maturity. The principal and interest of such bonds shall be
6 exempt from taxation by the State or by any county, municipality
7 or other taxing district of the State.

1 9. The bonds shall be signed in the name of the State by the
2 Governor or by his facsimile signature, under the Great Seal of the
3 State, and attested by the Secretary of State, or an assistant
4 Secretary of State, and shall be countersigned by the facsimile
5 signature of the Comptroller of the Treasury. Interest coupons
6 attached to said bonds shall be signed by the facsimile signature
7 of the Comptroller of the Treasury. Such bonds may be issued
8 notwithstanding that any of the officials signing them or whose
9 facsimile signature appear on the bonds or coupons shall cease to
10 hold office at the time of such issue or at the time of the delivery
11 of such bonds to the purchaser.

1 10. a. The bonds shall recite that they are issued for the purposes
2 set forth in section 4 of this act and that they are issued in
3 pursuance of this act and that this act was submitted to the people
4 of the State at the general election held in the month of November,
5 1981, and that it received the approval of the majority of votes cast
6 for and against it at such election. Such recital in said bonds
7 shall be conclusive evidence of the authority of the State to issue
8 said bonds and of their validity. Any bonds containing such
9 recital shall in any suit, action or proceeding involving their
10 validity be conclusively deemed to be fully authorized by this act
11 and to have been issued, sold, executed and delivered in conformity
12 therewith and with all other provisions of statutes applicable
13 thereto, and shall be incontestable for any cause.

14 b. Such bonds shall be issued in such denominations and in such
15 form or forms, whether coupon or registered as to both principal
16 and interest, and with or without such provisions for interchange-
17 ability thereof, as may be determined by the issuing officials.

1 11. When the bonds are issued from time to time the bonds of
2 each issue shall constitute a separate series to be designated by
3 the issuing officials. Each series of bonds shall bear such rate or
4 rates of interest as may be determined by the issuing officials,
5 which interest shall be payable semiannually; provided that the
6 first and last periods may be longer or shorter, in order that
7 intervening semiannual payments may be at convenient dates.

1 12. The bonds shall be issued and sold at such price not less than
2 the par value thereof and accrued interest thereon, and under such
3 terms, conditions and regulations as the issuing officials may
4 prescribe, after notice of said sale, published at least once in at least
5 three newspapers published in the State of New Jersey, and at

13 pledged for the payment of the principal thereof and the interest
14 thereon. The proceeds received from the sale of refunding bonds
15 shall be held in trust and applied to the payment of the bonds
16 refunded thereby. Refunding bonds shall be entitled to all the bene-
17 fits of this act and subject to all its limitations except as to the
18 maturities thereof and to the extent herein otherwise expressly
19 provided.

1 20. To provide funds to meet the interest and principal payment
2 requirements for the bonds issued under this act and outstanding,
3 there is hereby appropriated in the order following:

4 a. Net revenues, if any, with respect to water supply facilities
5 funded in whole or in part by the bonds.

6 b. Revenue derived from the collection of taxes as provided by
7 the "Sales and Use Tax Act", P. L. 1966, c. 30 (C. 54:32B-1 et seq.)
8 as amended and supplemented, or so much thereof as may be re-
9 quired; and

10 c. If in any year or at any time funds, as hereinabove appro-
11 priated, necessary to meet interest and principal payments upon
12 outstanding bonds issued under this act, be insufficient or not avail-
13 able then and in that case there shall be assessed, levied and
14 collected annually in each of the municipalities of the counties of
15 this State a tax on real and personal property upon which municipal
16 taxes are or shall be assessed, levied and collected, sufficient to meet
17 the interest on all outstanding bonds issued hereunder and on such
18 bonds as it is proposed to issue under this act in the calendar year
19 in which such tax is to be raised and for the payment of bonds
20 falling due in the year following the year for which the tax is levied.
21 The tax thus imposed shall be assessed, levied and collected in the
22 same manner and at the same time as other taxes upon real and
23 personal property are assessed, levied and collected. The governing
24 body of each municipality shall cause to be paid to the county
25 treasurer of the county in which such municipality is located, on or
26 before December 15 in each year, the amount of tax herein directed
27 to be assessed and levied, and the county treasurer shall pay the
28 amount of said tax to the State Treasurer on or before December
29 20 in each year.

30 If on or before December 31 in any year the issuing officials shall
31 determine that there are moneys in the General State Fund beyond
32 the needs of the State, sufficient to meet the principal of bonds
33 falling due and all interest payable in the ensuing calendar year,
34 then and in the event such issuing officials shall by resolution so
35 find and shall file the same in the office of the State Treasurer,

36 whereupon the State Treasurer shall transfer such moneys to a
 37 separate fund to be designated by him, and shall pay the principal
 38 and interest out of said fund as the same shall become due and pay-
 39 able, and the other sources of payment of said principal and interest
 40 provided for in this section shall not then be available, and the
 41 receipts for said year from the tax specified in subsection a. of this
 42 section shall thereon be considered and treated as part of the
 43 General State Fund, available for general purposes.

1 21. Should the State Treasurer, by December 31 of any year,
 2 deem it necessary, because of insufficiency of funds to be collected
 3 from the sources of revenues as hereinabove provided, to meet the
 4 interest and principal payments for the year after the ensuing year,
 5 then the treasurer shall certify to the Comptroller of the Treasury
 6 the amount necessary to be raised by taxation for such purposes,
 7 the same to be assessed, levied and collected for and in the ensuing
 8 calendar year. In such case the Comptroller of the Treasury shall,
 9 on or before March 1 following, calculate the amount in dollars to
 10 be assessed, levied and collected as herein set forth in each county.
 11 Such calculation shall be based upon the corrected assessed valua-
 12 tion of such county for the year preceding the year in which such
 13 tax is to be assessed, but such tax shall be assessed, levied and
 14 collected upon the assessed valuation of the year in which the tax is
 15 assessed and levied. The Comptroller of the Treasury shall certify
 16 said amount to the county board of taxation and the county
 17 treasurer of each county. The said county board of taxation shall
 18 include the proper amount in the current tax levy of the several
 19 taxing districts of the county in proportion to the ratables as
 20 ascertained for the current year.

1 22. For the purpose of complying with the provisions of the State
 2 Constitution this act shall, at the general election to be held in the
 3 month of November, 1981 be submitted to the people. In order to
 4 inform the people of the contents of this act it shall be the duty of
 5 the Secretary of State, after this section shall take effect, and at
 6 least 15 days prior to the said election, to cause this act to be
 7 published in at least 10 newspapers published in the State and to
 8 notify the clerk of each county of this State of the passage of this
 9 act, and the said clerks respectively, in accordance with the instruc-
 10 tions of the Secretary of State, shall cause to be printed on each
 11 of the said ballots, the following:

12 If you approve the act entitled below, make a cross (X), plus
 13 (+), or check (✓) mark in the square opposite the word "Yes."
 14 If you disapprove the act entitled below, make a cross (X), plus
 15 (+), or check (✓) mark in the square opposite the word "No."

- 16 If voting machines are used, a vote of "Yes" or "No" shall be
 17 equivalent to such markings respectively.

	Yes.	<p style="text-align: center;">WATER SUPPLY BOND ISSUE</p> <p>Should the "Water Supply Bond Act of 1981" which authorizes the State to issue bonds in the amount of \$345,000,000.00 for the purposes of rehabilitating, repairing or consolidating antiquated, damaged or inadequately operating water supply systems; and to plan, design, acquire and construct certain specified water supply facilities; providing the ways and means to pay the interest of such debt and also to pay and discharge the principal thereof, be approved?</p>
	No.	<p style="text-align: center;">INTERPRETIVE STATEMENT</p> <p>Approval of this act would authorize the sale of \$345,000,000.00 in bonds to be used for the planning, design, acquisition and construction of certain specified water supply facilities identified in this bond act and recommended by the New Jersey Statewide Water Supply Plan to solve water supply problems in different areas of New Jersey and to assure the availability of safe, adequate and reliable water supplies to the people of the State.</p>

- 18 The fact and date of the approval or passage of this act, as the
 19 case may be, may be inserted in the appropriate place after the
 20 title in said ballot. No other requirements of law of any kind or
 21 character as to notice or procedure except as herein provided need
 22 be adhered to.

- 23 The said votes so cast for and against the approval of this act, by
 24 ballot or voting machine, shall be counted and the result thereof
 25 returned by the election officer, and a canvass of such election had
 26 in the same manner as is provided for by law in the case of the
 27 election of a Governor, and the approval or disapproval of this act
 28 so determined shall be declared in the same manner as the result
 29 of an election for a Governor, and if there shall be a majority of all
 30 the votes cast for and against it at such election in favor of the
 31 approval of this act, then all the provisions of this act not made
 32 effective theretofore shall take effect forthwith.

- 1 23. There is appropriated the sum of \$5,000.00 to the Department
 2 of State for expenses in connection with the publication of notice
 3 pursuant to section 22.

- 1 24. The commissioner shall submit to the State Treasurer and the
 2 commission with the department's annual budget request a plan for

3 the expenditure of funds from the "Water Supply Fund" for the
4 upcoming fiscal year. This plan shall include the following informa-
5 tion: a performance evaluation of the expenditures made from the
6 fund to date; a description of programs planned during the up-
7 coming fiscal year; a copy of the regulations in force governing the
8 operation of programs that are financed, in part or whole, by funds
9 from the "Water Supply Fund"; and an estimate of expenditures
10 for the upcoming fiscal year.

1 25. Immediately following the submission to the Legislature of
2 the Governor's Annual Budget Message the commissioner shall
3 submit to the relevant standing committees of the Legislature, as
4 designated by the President of the Senate and the Speaker of the
5 General Assembly, and to the special joint legislative committee
6 created pursuant to Assembly Concurrent Resolution No. 66 of the
7 1968 Legislature, as reconstituted and continued by the Legislature
8 from time to time, a copy of the plan called for under section 24 of
9 this act, together with such changes therein as may have been re-
10 quired by the Governor's budget message.

1 26. Not less than 30 days prior to the commissioner entering into
2 any contract, lease, obligation, or agreement to effectuate the
3 purposes of this act, the commissioner shall report to and consult
4 with the special joint legislative committee created pursuant to
5 Assembly Concurrent Resolution No. 66 of the 1968 Legislature as
6 reconstituted and continued from time to time by the Legislature.

1 27. This section and sections 22 and 23 shall take effect im-
2 mediately and the remainder of the act shall take effect as and when
3 provided in section 22.

STATEMENT

This bill authorizes the creation of a debt of the State of New Jersey of \$345,000,000.00, of which \$65,000,000.00 is allocated for grants or loans to local governments to rehabilitate, repair or consolidate antiquated, damaged or inadequately-operating water supply systems, \$10,000,000.00 to construct a multiple water exchange facility at Great Notch; \$85 million to construct a pipeline to transfer water from the Round Valley and Spruce Run Reservoirs to the Passaic River Basin; \$40 million to construct the Manasquan River Reservoir project; \$55 million to construct a reservoir at the confluence of the north and south branches of the Raritan river and a force main and pumping station at White House Station; and \$90 million for the design and construction of the Hackettstown reservoir and the Delanco surface water intake.

SENATE, No. 1611

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 24, 1980

By Senator DODD

Referred to Committee on Energy and Environment

AN ACT concerning the management of water and the diversion of
any surface or ground water anywhere in the State, and revising
and repealing parts of the statutory law relating thereto.

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

1 1. This act shall be known and may be cited as the "Water Sup-
2 ply Management Act."

1 2. The Legislature finds and declares that the water resources
2 of the State are public assets of the State held in trust for its citi-
3 zens and are essential to the health, safety, economic welfare,
4 recreational and aesthetic enjoyment, and general welfare, of the
5 people of New Jersey; that ownership of these assets is in the State
6 as trustee of the people; that because some areas within the State
7 do not have enough water to meet their current needs and provide
8 an adequate margin of safety the water resources of the State and
9 any water brought into the State must be planned for and managed
10 as a common resource from which the requirements of the several
11 regions and localities in the State shall be met; that the present
12 regulatory system for these water resources is ineffective and
13 counter-productive; that each basin from which water is presently
14 diverted to another basin be provided with adequate water supplies
15 when needed in the future; that to ensure an adequate supply and
16 quality of water for citizens of the State, both present and future,
17 and to protect the natural environment of the waterways of the
18 State it is necessary that the State, through its Department of
19 Environmental Protection, have the power to manage the water
20 supply by adopting a uniform water diversion permit system and
21 fee schedule, a monitoring, inspection and enforcement program,
22 a program to study and manage the State's water resources and
23 plan for emergencies and future water needs, and regulations to

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

24 manage the waters of the State during water supply and water
25 quality emergencies.

1 3. As used in this act:

2 a. "Commissioner" means the Commissioner of the Department
3 of Environmental Protection or his designated representative;

4 b. "Consumptive use" means any use of water diverted from
5 surface or ground waters other than a nonconsumptive use as
6 defined in this act;

7 c. "Department" means the Department of Environmental Pro-
8 tection;

9 d. "Diversion" means the taking or impoundment of water from
10 a river, stream, lake, pond, aquifer, well, other underground source,
11 or other waterbody, whether or not the water is returned thereto,
12 consumed, made to flow into another stream or basin, or discharged
13 elsewhere;

14 e. "Nonconsumptive use" means the use of water diverted from
15 surface or ground waters in such a manner that it is returned to
16 the surface or ground water at or near the point from which it was
17 taken without substantial diminution in quantity or substantial
18 impairment of quality;

19 f. "Person" means any individual, corporation, company, part-
20 nership, firm, association, owner or operator of a water supply
21 facility, political subdivision of the State and any state, or inter-
22 state agency or Federal agency;

23 g. "Waters" or "waters of the State" means all surface waters
24 and ground waters in the State.

1 4. The commissioner shall have the power to adopt, enforce,
2 amend or repeal, pursuant to the "Administrative Procedure Act,"
3 P. L. 1965, c. 410 (C. 52:14B-1 et seq.) rules and regulations to
4 control, conserve, and manage the water supply of the State and
5 the diversions of that water supply to assure the citizens of the
6 State an adequate supply of water under a variety of conditions and
7 to carry out the intent of this act. These rules and regulations may
8 apply throughout the State or in any region thereof and shall
9 provide for the allocation or the reallocation of the waters of the
10 State in such a manner as to provide an adequate quantity and
11 quality of water for the needs of the citizens of the State in the
12 present and in the future and may include, but shall not be limited
13 to:

14 a. A permit system to allocate or reallocate any or all of the
15 waters of the State, which system shall provide for the issuance of
16 permits to diverters of the waters of the State, containing at a
17 minimum the conditions required by this act;

18 b. Standards and procedures, incorporating the minimum re-
19 quirements of section 7 of this act, to determine the extent and use
20 of previously granted water privileges and to bring the possessors
21 of these privileges within any permit system which may be estab-
22 lished under this act;

23 c. Standards and procedures to be followed by diverters to
24 ensure that:

25 (1) Proper methods are used to divert water;

26 (2) Only the permitted quantity of water is diverted and that
27 the water is only used for its permitted purpose;

28 (3) The water quality of the water source is maintained and the
29 water standards for the use of the water are met;

30 (4) The department is provided with adequate and accurate
31 reports regarding the diversion and use of water;

32 d. Inspection, monitoring, reporting and enforcement procedures
33 necessary to implement and enforce the provisions of this act;

34 e. Standards and procedures to be followed to determine the
35 location, extent and quality of the water resources of the State
36 and plan for their future use to meet the needs of the citizens of
37 the State;

38 f. Standards and procedures to be followed to maintain the
39 minimum water levels and flow necessary to provide adequate
40 water quantity and quality;

41 g. Standards and procedures to determine and define a water
42 supply emergency in the State or any region thereof and the pro-
43 cedures and requirements to be followed to alleviate that
44 emergency;

45 h. Standards and procedures governing the maintenance of
46 adequate capacity by, and withdrawal limits for, water purveyors.

1 5. a. The department in developing the permit system established
2 by this act shall:

3 (1) Permit privileges previously allowed pursuant to lawful
4 legislative or administrative action, except that the department
5 may impose limits and conditions thereon as may be deemed neces-
6 sary to carry out the purposes of this act in a manner and to the
7 extent consistent with applicable provisions of law. All diversion
8 permits issued by the Water Policy and Supply Council prior to the
9 effective date of this act shall remain in effect until modified by the
10 department pursuant to this act. Persons having or claiming a
11 diversion privilege allowed by legislative action including persons
12 previously exempted from the requirement to obtain a permit, shall
13 apply for a permit pursuant to this act within 1 year of the
14 effective date of this act. All permits issued or modified pursuant to

15 this paragraph shall thereafter be deemed the sole and definitive
16 evidence of such previously allowed privileges.

17 (2) Not require any person diverting 1,000 or fewer gallons of
18 water per day or any person engaged in the business of growing
19 agricultural crops or raising livestock who diverts 100,000 or fewer
20 gallons of water per day to obtain a diversion permit.

21 b. Nothing in this act shall prevent the department from includ-
22 ing, or require the department to include, the presently non-utilized
23 existing privileges in the new or any future diversion permits
24 issued to the present possessors of these privileges.

1 6. Except as provided by section 5 of this act, no person may
2 divert any waters of the State or construct any building or
3 structure which may require a diversion of water unless he obtains
4 a diversion permit.

1 7. Every permit issued pursuant to this act shall include
2 provisions:

3 a. Fixing the term of the permit;

4 b. Fixing the maximum allowable diversion, expressed both in
5 terms of a daily and monthly diversion;

6 c. Identifying and limiting the use or uses to which the water
7 may be put;

8 d. Requiring the diverter to meter the water being diverted and
9 report the amount and quality of the water being diverted, except
10 that commercial growers of agricultural crops and livestock may be
11 granted the option of keeping a log or other appropriate records
12 on the amount of water diverted;

13 e. Allowing the department to enter the diverter's facilities or
14 property to inspect and monitor the diversion;

15 f. Allowing the department to modify the permit during water
16 supply or water quality emergencies;

17 g. Requiring that all water diverted for a nonconsumptive use
18 be returned to the water body designated by the department;

19 h. Allowing the transfer of a permit with the consent of the
20 department, but only for the identical use of the waters by the
21 transferee;

22 i. Governing the operations and maintenance of the specific
23 facilities, equipment or premises not otherwise established in
24 regulations because of the unique nature of the facilities, equip-
25 ment or premises;

26 j. Permitting the department to modify, suspend or terminate
27 the permit when it deems it necessary for the public interest, or for
28 violations of its conditions, this act, regulations adopted or orders
29 issued by the department.

1 8. The Board of Public Utilities shall fix just and reasonable rates
2 for any public water supply system subject to its jurisdiction,
3 necessary for that system to comply with an order issued by the
4 department or the terms and conditions of a permit issued pursuant
5 to this act.

1 9. Any expenditures necessary to comply with an order or permit
2 issued by the department for construction, improvement, repair or
3 rehabilitation of public water supply systems shall, for the pur-
4 poses of P. L. 1976, c. 68 (C. 40A:4-45.1 et seq.) be considered as
5 expenditures mandated by State law.

1 10. The department shall, in accordance with a fee schedule
2 adopted by regulation, establish and charge reasonable administra-
3 tive fees, which fees shall be based upon, and not exceed, the
4 estimated cost of processing, monitoring, administering and en-
5 forcing the diversion permits. The department shall deposit the
6 fees in the "Environmental Services Fund" created by P. L. 1975,
7 c. 232 (C. 13:1D-30 et seq.). There shall be annually appropriated
8 an amount equivalent to the amount anticipated to be collected as
9 fees by the department for the administration of the water supply
10 management program.

1 11. No person supplying or proposing to supply water to any
2 other person shall have the power to condemn lands, water or
3 water privileges for any new or additional source of ground or
4 surface water until that person has first submitted an application
5 diverting the source of the water to the department and the
6 department has approved the application subject to such condi-
7 tions as it may determine to be necessary to protect the public
8 health and welfare.

1 12. a. The department is authorized and directed to maintain
2 current, a Statewide water supply master plan which will accurately
3 reflect the quantity and quality of the waters of the State, the
4 quantity and quality of the waters being used, the measures needed
5 to protect the water supply and insure an efficient distribution of
6 the water supply, and the State's future water needs and the
7 measures needed to meet those needs.

8 b. The department shall implement the Statewide water supply
9 master plan by incorporating its recommendations into its water
10 supply management program policies and regulations.

1 13. a. The department shall promulgate and keep current a plan
2 for the conservation and allocation of the water resources of the
3 State under emergency circumstances. These emergency circum-
4 stances shall include, but are not limited to: a determination that
5 the water resources, either throughout the State or in certain areas

6 of the State, are insufficient to meet the needs of the people in the
7 State or in those particular areas affected by the shortages; and a
8 determination that the quality of waters, either throughout the
9 State or in certain areas of the State, is unsatisfactory.

10 b. In emergency circumstances, either throughout the State or in
11 certain areas of the State, the department is authorized to monitor
12 diversions, impose conditions on existing permits, refrain from
13 granting any new permits, mandate the interconnections of water
14 supplies and water supply systems and order the transfer of water
15 from system to system, whether in public or private ownership,
16 without notice or hearing, notwithstanding the provisions of sec-
17 tion 15 of this act, issue orders, and take other action which it
18 deems necessary to protect the public health and welfare. Orders of
19 the department implementing this section shall be upon fair com-
20 pensation, reasonable rates and just and equitable terms to be
21 prescribed by the Board of Public Utilities upon notice and hearing
22 which may take place subsequent to the order and compliance with
23 the order.

24 c. The department is authorized to require water purveyors, and
25 said surveyors are authorized and required, to impose and collect
26 surcharges and penalties designed to reduce the use of water during
27 emergencies, which surcharges and penalties may be established
28 by the department. Disposition of revenues collected pursuant to
29 this subsection shall be subject to the direction of the Board of
30 Public Utilities.

1 14. When the department determines that the developed water
2 supply available to a water purveyor is inadequate to service its
3 users with an adequate supply of water under a variety of condi-
4 tions, the department may order the water purveyor to develop or
5 acquire, within a reasonable period of time, additional water sup-
6 plies sufficient to provide that service.

1 15. The department is authorized to:

2 a. Perform any and all acts and issue such orders as are neces-
3 sary to carry out the purposes and requirements of this act;

4 b. Administer and enforce the provisions of this act and rules,
5 regulations and orders promulgated, issued or effective hereunder;

6 c. Present proper identification and then enter upon any land or
7 water for the purpose of making any investigation, examination or
8 survey contemplated by this act;

9 d. Subpena and require the attendance of witnesses and the
10 production by them of books and papers pertinent to the investiga-
11 tions and inquiries the department is authorized to make under
12 this act, and examine them and such public records as shall be
13 required in relation thereto;

14 e. Order the interconnection of public water supply systems,
15 whether in public or private ownership, whenever the department
16 determines that the public interest requires that such interconnec-
17 tion be made, and require the furnishing of water by means of that
18 system to another system, but no order shall be issued before
19 comments have been solicited at a public hearing, notice of which
20 has been published at least 1 week before the hearing, in one
21 newspaper circulating generally in the area served by each involved
22 public water supply system, called for the purpose of soliciting
23 comments on the proposed action;

24 f. Order any person diverting water to improve or repair its
25 water supply facilities so that water loss is eliminated so far as
26 practicable, safe yield is maintained and the drinking water quality
27 standards adopted pursuant to the "Safe Drinking Water Act,"
28 P. L. 1977, c. 224 (C. 58:12A-1 et seq.) are met;

29 g. Enter into agreements, contracts, or cooperative arrangements
30 under such terms and conditions as the department deems appro-
31 priate with other states, other State agencies, Federal agencies,
32 municipalities, counties, educational institutions, investor owned
33 water companies, municipal utilities authorities, or other organiza-
34 tions or persons;

35 h. Receive financial and technical assistance from the Federal
36 Government and other public or private agencies;

37 i. Participate in related programs of the Federal Government,
38 other states, interstate agencies, or other public or private agencies
39 or organizations;

40 j. Establish adequate fiscal controls and accounting procedures to
41 assure proper disbursement of and accounting for funds appro-
42 priated or otherwise provided for the purpose of carrying out the
43 provisions of this act;

44 k. Delegate those responsibilities and duties to personnel of the
45 department as deemed appropriate for the purpose of administer-
46 ing the requirements of this act;

47 l. Combine permits issued pursuant to this act with permits
48 issued pursuant to any other act whenever that action would
49 improve the administration of both acts;

50 m. Evaluate and determine the adequacy of ground and surface
51 water supplies and develop methods to protect aquifer recharge
52 areas.

1 16. Rules, regulations and orders issued pursuant to this act
2 have the force and effect of law. If any person violates any of the
3 provisions of this act or any rule, regulation or order promulgated
4 or issued pursuant to the provisions of this act, the department may

5 institute a civil action in a court of competent jurisdiction for in-
 6 junctive relief to enforce said provisions and to prohibit and pre-
 7 vent that violation and the court may proceed in the action in a
 8 summary manner. Any person who violates the provisions of this
 9 act or any rule, regulation or order promulgated pursuant to this
 10 act shall be liable to a civil administrative penalty of not more than
 11 \$5,000.00 for each offense to be imposed by the department pursuant
 12 to standards adopted in regulations; or a civil penalty of not more
 13 than \$5,000.00 for each offense, to be collected in a civil action by a
 14 summary proceeding under "the penalty enforcement law" (N. J. S.
 15 2A:58-1 et seq.) or in any case before a court of competent jurisdic-
 16 tion wherein injunctive relief has been requested. The Superior
 17 Court and county district court shall have jurisdiction to enforce
 18 the penalty enforcement law. If the violation is of a continuing
 19 nature, each day during which it continues shall constitute an addi-
 20 tional, separate and distinct offense. The department is authorized
 21 to compromise and settle any claim for a penalty under this section
 22 in such amount in the discretion of the department as may appear
 23 appropriate and equitable under all of the circumstances.

1 17. All of the powers, duties and functions of the Water Policy
 2 and Supply Council are transferred to the Department of Environ-
 3 mental Protection. Whenever the term "Water Policy and Supply
 4 Council" occurs or any reference is made thereto in any law, con-
 5 tract or document, administrative or judicial determination, or
 6 otherwise, it shall be deemed to mean or refer to the Department of
 7 Environmental Protection.

1 18. R. S. 58:2-2 is amended to read as follows:

2 58:2-2. Payment for water diverted as provided in [section]
 3 R. S. 58:2-1 [of this title] shall be deemed to be a license and its
 4 amount shall be fixed by the [State Water Policy Commission]
 5 department at a rate of not less than \$1.00 nor more than \$10.00 per
 6 million gallons. If at all times an amount equal to the average daily
 7 flow for the driest month, as shown by the existing records, or in
 8 lieu thereof 175,000 gallons daily for each square mile of unappro-
 9 priated watershed above the point of diversion, shall be allowed to
 10 flow down the stream. The [commission] department shall fix the
 11 minimum rate and may increase the rate proportionally as a less
 12 amount is allowed to flow down the stream below the point of
 13 diversion, due account being taken in fixing said increase both of the
 14 duration and amount of the deficiency. The aforesaid 125,000
 15 gallons daily for each square mile of unappropriated watershed
 16 shall be additional to the dry-season flow or any part thereof which
 17 may be allowed to flow down from any appropriated watershed or
 18 watersheds above the point of diversion.

19 Water diverted within the corporate limits of a municipality for
 20 manufacturing and fire purposes only and returned without pollu-
 21 tion to the stream from which it was taken within said corporate
 22 limits shall not be reckoned in making up the aggregate amount
 23 diverted.

24 Any party aggrieved by the action of the [commission] depart-
 25 ment upon filing written complaint on or before March twentieth,
 26 shall be heard and permitted to give evidence of the facts, and the
 27 sum fixed may be changed, reduced, or cancelled, as the facts may
 28 warrant.

1 19. R. S. 58:2-3 is amended to read as follows:

2 58:2-3. The [State Water Policy Commission] department shall
 3 annually certify to the State Comptroller, as soon as practicable
 4 after January first, and not later than February fifteenth, the
 5 names of all municipalities, corporations or private persons owing
 6 money to the State for the diversion of water during the preceding
 7 year, with the amounts so due.

8 The State Comptroller shall promptly notify said municipalities,
 9 water companies or persons of their indebtedness to the State, and
 10 if said amounts are not paid to the State Treasurer on or before
 11 July first of the same year, the State Comptroller shall certify to
 12 the Attorney-General for collection the names of the delinquents
 13 and the amounts due from each, and the Attorney-General shall take
 14 immediate steps to collect the same in the name of the State.

15 All sums received as herein provided shall be [paid into the
 16 General State Fund and the expenses of the administration of this
 17 chapter shall be included in the annual appropriations bill]
 18 deposited to the credit of the State and deemed as part of the
 19 Environmental Services Fund. The Legislature shall annually
 20 appropriate an amount equivalent to the amount anticipated to be
 21 collected as sums charged under this section in support of the water
 22 management programs.

1 20. R. S. 58:2-4 is amended to read as follows:

2 58:2-4. In the case of the condemnation of subsurface, well or
 3 percolating water supplies, there shall be charged by the State a
 4 fee of \$1.00 per million gallons from that portion of the supply for
 5 the acquisition of which the State's right of eminent domain is
 6 exercised for all water diverted, which charge shall be certified to
 7 the State Comptroller by the [State Water Policy Commission]
 8 department and its collection shall be enforced in the same manner
 9 as hereinbefore in this chapter provided in the case of excess
 10 diversion of surface water supplies.

- 1 21. R. S. 58:2-5 is amended to read as follows:
 2 58:2-5. Nothing in this chapter shall be construed to confer upon
 3 any municipality, corporation or person, any franchise not already
 4 possessed by said municipality, corporation or person, but the
 5 approval of the [commission] *department* contained in its decision
 6 as provided in this chapter, shall constitute the assent of the State
 7 to the diversion of water as against the State in accordance with
 8 the terms of said decision.
- 1 22. Any rules and regulations promulgated pursuant to any
 2 statutes repealed by this act shall remain in effect until superseded
 3 by rules and regulations promulgated pursuant to this act. How-
 4 ever, all such rules and regulations shall be reviewed and revised
 5 where necessary by the department within 2 years of the enact-
 6 ment of this act.
- 1 23. The following are repealed:
 2 R. S. 58:1-2 through R. S. 58:1-25;
 3 R. S. 58:1-28 through R. S. 58:1-34;
 4 R. S. 58:3-1;
 5 R. S. 58:6-1 through R. S. 58:6-5;
 6 P. L. 1942, c. 24 (C. 58:1-25.1 through 58:1-25.25);
 7 P. L. 1963, c. 181 § 1-14, 16, 17 (C. 58:1-35 through 58:1-50);
 8 P. L. 1947, c. 375 (C. 58:4A-1 through 58:4A-4);
 9 P. L. 1945, c. 22, § 9 (C. 13:1A-9);
 10 P. L. 1948, c. 448, § 49, 50 (C. 13:1B-49 to 50).
- 1 24. This act shall take effect immediately.

STATEMENT

Citizens of New Jersey face enormous problems in regard to the waters of the State. Existing potable water shortages in critical areas, compounded by ever-increasing discoveries of contamination of surface waters and ground waters, mandate the enactment of a comprehensive water supply management act. Lack of adequate emergency powers to alleviate periods of drought, additionally point out the need for revision of existing ineffective and archaic laws.

For these reasons, this bill authorizes the Department of Environmental Protection to establish a comprehensive water supply program which will ensure an adequate quantity and quality of water for the present and future citizens of the State. This program will include a uniform permit and fee system, procedures whereby holders or claimants of water diversion privileges are brought within the permit system, provisions to monitor the water

supply of the State to gather information for planning for the future and enforcing the present program, power to order diverters and water suppliers to take the actions necessary to provide an adequate quantity and quality of water, and the power to plan for emergencies and implement those plans when emergencies arise.

SENATE, No. 1612

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 24, 1980

By Senator DODD

Referred to Committee on Energy and Environment

AN ACT creating a State Water Supply Utility empowered to acquire, finance, construct and operate water systems under certain circumstances upon the directive of the Department of Environmental Protection, authorizing the issuance of bonds of the utility, providing for the terms and security thereof, and making an appropriation therefor.

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

1 1. This act shall be known as and may be cited as the "State
2 Water Supply Utility Act."

1 2. The Legislature finds that a State utility should be established
2 to acquire, finance, construct and operate water systems pursuant
3 to the provisions of this act.

1 3. As used in this act:

2 a. "Utility" means the State Water Supply Utility created by
3 this act.

4 b. "Bonds" means bonds, notes, or other obligations issued or
5 authorized pursuant to this act.

6 c. "Compensating reservoir" means the structures, facilities
7 and appurtenances for the impounding, transportation and release
8 of water for the replenishment in periods of drought or at other
9 necessary times of all or a part of waters in or bordering the State
10 diverted into a project.

11 d. "Cost" as applied to a project means the cost of acquisition
12 and construction thereof, the cost of acquisition of lands, rights-
13 of-way, property rights, easements, and interests required by the
14 utility for acquisition and construction, the cost of demolishing or
15 removing any buildings or structures on land so acquired, including
16 the cost of acquiring any lands to which buildings or structures
17 may be moved, the cost of acquiring or constructing and equipping
18 an office of the utility, the cost of machinery, furnishings, and
19 equipment, financing expenses, reserves, interest prior to and dur-

20 ing construction and for no more than 6 months after completion
21 of construction, engineering, expenses of research and development
22 with respect to any project, legal expenses, plans, specifications,
23 surveys, estimates of cost and revenues, working capital, other
24 expenses necessary or incident to determining the feasibility or
25 practicability of acquiring or constructing a project, administra-
26 tive expense, and such other expense as may be necessary or inci-
27 dent to the acquisition or construction of the project.

28 e. "Construct" and "construction" means and includes acts of
29 construction, reconstruction, replacement, extension, improvement
30 and betterment of a project.

31 f. "Department" means the Department of Environmental Pro-
32 tection.

33 g. "Governmental agency" means any municipality, county, or
34 any agency thereof, the State Government and any instrumentality
35 or subdivision thereof.

36 h. "Person" means and includes corporations, companies, associ-
37 ations, societies, firms, partnerships, and joint stock companies,
38 as well as individuals, and political subdivisions of this State or
39 any agencies or instrumentalities thereof.

40 i. "Project" means a water system or any part thereof.

41 j. "Real property" means lands both within or without the State,
42 and improvements thereof or thereon, or any rights or interests
43 therein.

44 k. "Revenue" means all rents, fees and charges for water sold
45 from, or for the use and services of any project of the utility and
46 payments in respect of any loans or advances made to governmental
47 agencies pursuant to this act.

48 l. "Service charges" means water service charges established
49 or collected by the utility pursuant to this act.

50 m. "Water system" means the plants, structures and other real
51 and personal property financed, acquired, constructed or operated
52 or to be financed, acquired, constructed or operated by the utility
53 under this act or additions and improvements thereto, including
54 reservoirs, basins, dams, canals, aqueducts, standpipes, conduits,
55 pipelines, mains, pumping stations, water distribution systems,
56 compensating reservoirs, waterworks or sources of water supply,
57 wells, purification of filtration plants or other plants, equipment
58 and works, connections, rights of flowage or diversion, and other
59 plants, structures, boats, conveyances, and other real and personal
60 property and rights therein, and appurtenances necessary or use-
61 ful and convenient for the accumulation, supply, treatment or
62 distribution of water.

1 4. a. There is established in but not of the Department of
2 Environmental Protection a public body corporate and politic, with
3 corporate succession, to be known as the "State Water Supply
4 Utility." The utility is constituted as an instrumentality of the
5 State exercising public and essential governmental functions.

6 b. The utility shall consist of the Commissioner of Environmental
7 Protection, the State Treasurer, and the Commissioner of Labor
8 and Industry who shall be members ex officio, with full voting
9 power, and two members appointed by the Governor to represent
10 the public with the advice and consent of the Senate for terms of
11 2 years, provided that the members of the utility, other than the
12 ex officio members, first appointed by the Governor shall serve
13 for terms of 1 year and 2 years, respectively. Each member shall
14 hold office for the term of his appointment and until his successor
15 shall have been appointed and qualified. A member shall be
16 eligible for reappointment. Any vacancy in the membership oc-
17 curring other than by expiration of term shall be filled in the
18 same manner as the original appointment but for the unexpired
19 term only.

20 c. Each appointed member may be removed from office by the
21 Governor, for cause, after a public hearing, and may be suspended
22 by the Governor pending the completion of the hearing. Each
23 member before entering upon his duties shall take and subscribe
24 an oath to perform the duties of his office faithfully, impartially
25 and justly to the best of his ability. A record of these oaths shall
26 be filed in the office of the Secretary of State.

27 d. The chairman, who shall be chief executive officer of the
28 utility shall be the Commissioner of Environmental Protection, and
29 the members of the utility shall elect one of their number as vice
30 chairman thereof. The utility shall elect a secretary and a treasurer,
31 and the same person may be elected to serve both as secretary and
32 treasurer. The powers of the utility shall be vested in the members
33 thereof in office from time to time and four members of the utility
34 shall constitute a quorum at any meeting thereof. Action may be
35 taken and motions and resolutions adopted by the utility at any
36 meeting thereof by the affirmative vote of at least four members
37 of the utility one of which shall be the vote of the Commissioner of
38 Environmental Protection. No vacancy in the membership of the
39 utility shall impair the right of a quorum of the members to
40 exercise all the powers and perform all the duties of the utility.

41 e. Each member and the treasurer of the utility shall execute
42 a bond to be conditioned upon the faithful performance of the
43 duties of the member or treasurer, as the case may be, in such form

44 and amount as may be prescribed by the Comptroller of the
45 Treasury. The bonds shall be filed in the office of the Secretary
46 of State. At all times thereafter the members and treasurer of the
47 utility shall maintain these bonds in full force. The costs of the
48 bonds shall be borne by the utility.

49 f. The members of the utility shall serve without compensation,
50 but the utility shall reimburse its members for actual expenses
51 necessarily incurred in the discharge of their duties. No officer
52 or employee of the State shall be deemed to have forfeited or shall
53 forfeit his office or employment or any benefits or emoluments
54 thereof by reason of his acceptance of the office of ex officio member
55 of the utility.

56 g. Each ex officio member of the utility may designate an officer
57 or employee of his department to represent him at meetings of
58 the utility, and each designee may lawfully vote and otherwise act
59 on behalf of the member for whom he constitutes the designee. The
60 designation shall be in writing delivered to the utility and shall
61 continue in effect until revoked or amended by writing delivered
62 to the utility.

63 h. The utility may be dissolved by act of the Legislature on
64 condition that the utility has no debts or obligations outstanding
65 or that provision has been made for the payment or retirement of
66 debts or obligations. Upon a dissolution of the utility all property,
67 funds and assets thereof shall be vested in the State.

1 5. a. If the department has issued an order to a water supply
2 entity to construct or upgrade a water system and the recipient of
3 the order has not taken the action required by the order within
4 the time specified, the department may hold a public hearing in
5 the area affected to elicit testimony as to the proper future course
6 of action.

7 b. After a hearing has been held, the department shall review
8 the testimony presented and other relevant materials. Thereafter,
9 the department may extend the period of compliance with its order,
10 seek such relief as may be afforded by any statute, or issue a direc-
11 tive to the utility to undertake the necessary action required by
12 the order and such other additional action as may be required to
13 effectuate the purposes of the order. The utility shall proceed
14 in accordance with directive through the exercise of the powers
15 granted by this act.

1 6. a. The utility is authorized upon and only in accordance with
2 a and approval of the department to plan, initiate, acquire, con-
3 struct, maintain, repair and operate projects or cause the same to
4 be operated pursuant to a lease, sublease, or agreement with any

5 person or governmental agency, and to issue bonds of the utility
6 to finance these projects, payable from the revenues and other
7 funds of the utility.

8 b. The utility shall be subject to compliance with all State health
9 and environmental protection statutes and regulations and any
10 other statutes and regulations not inconsistent herewith.

11 c. The utility may, upon the request of a governmental agency,
12 enter into a contract to provide services for any project. The
13 contract shall be subject to the review and approval of the depart-
14 ment.

1 7. All water supply facilities, owned or operated by the State,
2 either now or hereafter, are transferred to the utility for purposes
3 of operation. The utility shall operate these facilities pursuant to
4 the statutory authorizations enabling the State to operate and
5 manage the facilities. The Delaware and Raritan Canal Transmis-
6 sion Complex, the Spruce Run-Round Valley Reservoir Complex
7 and all other facilities now or hereafter authorized to be designed,
8 constructed and operated pursuant to any past or future bond
9 issue are specifically included as State water supply facilities.

1 8. Except as otherwise limited by the act, the utility shall have
2 power:

3 a. To sue and be sued.

4 b. To have an official seal and alter the same at pleasure.

5 c. To make and alter bylaws for its organization and internal
6 management and for the conduct of its affairs and business.

7 d. To maintain an office at such place or places within the State
8 as it may determine.

9 e. To acquire, lease as lessee or lessor, rent, hold, use and dis-
10 pose of real or personal property for its purposes.

11 f. To borrow money and to issue its negotiable bonds and to
12 secure the same by a mortgage on its property or any part thereof
13 and otherwise to provide for and secure the payment thereof and to
14 provide for the rights of the holders thereof.

15 g. To fix and revise from time to time and charge and collect
16 rents, fees and charges for any of the services rendered by the
17 authority, which shall be equitably assessed.

18 h. To procure insurance against any losses in connection with
19 its property, operations or assets in such amounts and from such
20 insurers as it deems desirable.

21 i. Subject to any agreement with bondholders and the approval
22 of the department to invest moneys of the utility not required for
23 immediate use, including proceeds from the sale of any bonds, in
24 such obligations, securities and other investments as the utility
25 shall deem prudent.

26 j. To appoint and employ an executive director and such addi-
27 tional officers who need not be members of the utility and account-
28 ants, financial advisors or experts and such other or different offi-
29 cers, agents and employees as it may require and determine their
30 qualifications, terms of office, duties and compensation, all without
31 regard to the provisions of Title 11, Civil Service, of the Revised
32 Statutes.

33 k. To contract for and to accept any gifts or grants or loans of
34 funds or property or financial or other aid in any form from the
35 United States of America or any agency or instrumentality thereof,
36 or from the State or any agency, instrumentality or political sub-
37 division thereof, or from any other source and to comply, subject
38 to the provisions of this act, with the terms and conditions thereof.

39 l. Subject to the approval of the department, to acquire, hold,
40 rent, lease, use and dispose of real or personal property in the
41 exercise of its powers and the performance of its duties under
42 this act.

43 m. To acquire, subject to the provisions of any other statute and
44 the approval of the department, in the name of the utility by
45 purchase or otherwise, on such terms and conditions and in such
46 manner as it may deem proper, except with respect to property
47 owned by the State, by the exercise of the power of eminent domain,
48 any land and other property, which it may determine is reasonably
49 necessary for any of its projects and any and all rights, title and
50 interest in that land and other property, including, providing there
51 is no prudent and feasible alternative, public lands, reservations,
52 highways or parkways, owned by or in which the State or any
53 county, municipality, public corporation, or other political sub-
54 division of the State has any right, title or interest, or parts thereof
55 or rights therein and any fee simple absolute or any lesser interest
56 in private property, and any fee simple absolute in, easements upon
57 or the benefit of restrictions upon, abutting property to preserve
58 and protect the project.

59 n. To do and perform any acts and things authorized by the act
60 under, through, or by means of its officers, agents or employees or
61 by contracts with any person.

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

65 p. To do any and all things necessary or convenient to carry out
66 its purposes in accordance with the powers given and granted in
67 the act.

1 9. Upon the exercise of the power of eminent domain, the com-
2 pensation to be paid thereunder shall be ascertained and paid in the
3 manner provided in P. L. 1971, c. 361 (C. 20:3-1 et seq.).

1 10. a. The utility authorized from time to time to issue its bonds
2 in such principal amounts as in the opinion of the utility shall be
3 necessary to provide sufficient funds for any of its corporate pur-
4 poses, including the payment, funding or refunding of the principal
5 of, or interest or redemption premiums on, any bonds issued by it
6 whether the bonds or interest to be funded or refunded have or have
7 not become due the establishment or increase of such reserves to
8 secure or to pay such bonds or interest thereon and all other costs
9 or expenses of the agency incident to and necessary to carry out its
10 corporate purposes and powers.

11 b. Except as may be otherwise expressly provided in the act or
12 by the utility, every issue of bonds shall be general obligations
13 payable out of and secured by any revenues or funds of the utility,
14 subject only to any agreements with holders of particular bonds
15 pledging any particular revenues or funds. The utility may issue
16 such types of bonds as it may determine, including, without limiting
17 the generality of the foregoing bonds as to which the principal
18 and interest are payable (1) exclusively from the revenues and
19 funds derived from or relating to the project or part thereof
20 financed with the proceeds of the bonds; (2) exclusively from
21 the revenues and funds derived from or relating to certain desig-
22 nated projects or parts thereof, whether or not the same are
23 financed in whole or in part from the proceeds of bonds; (3)
24 exclusively from certain designated funds of the utility; or (4)
25 from the revenues and funds of the utility generally. The bonds
26 may be additionally secured by a pledge of any grant, subsidy
27 or contribution from the United States of America or any agency
28 or instrumentality thereof or the State of New Jersey or any
29 agency, instrumentality or political subdivision thereof, or any
30 person, or a pledge of any income or revenues, funds or moneys
31 of the authority from any source whatsoever.

32 c. Whether or not the bonds are of such form and character as
33 to be negotiable instruments under the terms of Title 12A, Com-
34 mercial Transactions, New Jersey Statutes, the bonds are hereby
35 made negotiable instruments within the meaning of and for all the
36 purposes of said Title 12A, subject only to the provisions of the
37 bonds for registration.

38 d. Bonds of the utility shall be authorized by a resolution or
39 resolutions of the utility and may be issued in one or more series
40 and shall bear such date, or dates, mature at such time or times,

41 bear interest at such rate or rates of interest per annum, be in such
42 denomination or denominations, be in such form, either coupon or
43 registered, carry such conversion or registration privileges, have
44 such rank or priority, be executed in such manner, be payable from
45 such sources in such medium of payment at such place or places
46 within or without the State, and be subject to such terms of redemp-
47 tion, with or without premium, as such resolution or resolutions
48 may provide.

49 e. Bonds of the utility may be sold at public or private sale
50 at such price or prices and in such manner as the authority shall
51 determine. Every bond shall mature and be paid not later than 40
52 years from the date thereof.

53 f. Bonds may be issued under the provisions of the act without
54 obtaining the consent of any department, division, commission,
55 board, bureau or agency of the State, and without any other pro-
56 ceeding or the happening of any other conditions or other things
57 than those proceedings, conditions or things which are specifically
58 required by this act.

59 g. Bonds of the utility issued under the provisions of this act
60 shall not be in any way a debt or liability of the State or of any
61 political subdivision thereof other than the utility and shall not
62 create or constitute any indebtedness, liability or obligation of the
63 State or of the political subdivision or be or constitute a pledge
64 of the faith and credit of the State or of the political subdivision
65 but all such bonds, unless funded or refunded by bonds of the utility,
66 shall be payable solely from revenues or funds pledged or available
67 for their payment as authorized in the act. Each bond shall contain
68 on its face a statement to the effect that the utility is obligated to
69 pay the principal thereof or the interest thereon only from revenues
70 or funds of the utility and that neither the State nor any political
71 subdivision thereof is obligated to pay the principal or interest and
72 that neither the faith and credit nor the taxing power of the State
73 or any political subdivision thereof is pledged to the payment of the
74 principal of or the interest on the bonds.

75 h. All expenses incurred in carrying out the provisions of the act
76 shall be payable solely from revenues or funds provided or to be
77 provided under the provisions of the act and nothing in this act shall
78 be construed to authorize the utility to incur any indebtedness or
79 liability on behalf of or payable by the State or any political sub-
80 division thereof.

1 11. In any resolution of the utility authorizing or relating to
2 the issuance of any bonds the utility, in order to secure the pay-
3 ment of such bonds and in addition to its other powers, shall have

4 power, by provisions therein which shall constitute covenants by the
5 utility and contracts with the holders of the bonds:

6 a. To pledge all or any part of its rents, fees, tolls, revenues or
7 receipts to which its right then exists or may thereafter come into
8 existence, and the moneys derived therefrom, and the proceeds of
9 any bonds.

10 b. To pledge any lease or other agreement or the rents or other
11 revenues thereunder and the proceeds thereof.

12 c. To mortgage all or any part of its property, real or personal,
13 then owned or thereafter to be acquired.

14 d. To covenant against pledging all or any part of its rents, fees,
15 tolls, revenues or receipts or its leases or agreements or rents or
16 other revenues thereunder or the proceeds thereof, or against
17 mortgaging all or any part of its real or personal property then
18 owned or thereafter acquired, or against permitting or suffering
19 any lien on any of the foregoing.

20 e. To covenant with respect to limitations on any right to sell,
21 lease or otherwise dispose of any project or any part thereof or any
22 property of any kind.

23 f. To covenant as to any bonds to be issued and the limitations
24 thereon and the terms and conditions thereof and as to the custody,
25 application, investment, and disposition of the proceeds thereof.

26 g. To covenant as to the issuance of additional bonds or as to
27 limitations on the issuance of additional bonds and on the incurring
28 of other debts by it.

29 h. To covenant as to the payment of the principal of or interest
30 on the bonds, or any other obligations, as to the sources and meth-
31 ods of payment, as to the rank on priority of the bonds with respect
32 to any lien or security or as to the acceleration of the maturity of
33 the bonds.

34 i. To provide for the replacement of lost, stolen, destroyed or
35 mutilated bonds.

36 j. To covenant against extending the time for the payment of
37 bonds or interest thereon.

38 k. To covenant as to the redemption of bonds and privileges of
39 exchange thereof for other bonds of the utility.

40 l. To covenant as to the rates of toll and other charges to be
41 established and charged, the amount to be raised each year or other
42 period of time by tolls or other revenues and as to the use and
43 disposition to be made thereof.

44 m. To covenant to create or authorize the creation of special
45 funds or moneys to be held in pledge or otherwise for construction,
46 operating expenses, payment or redemption of bonds, reserves or

47 other purposes and as to the use, investment, and disposition of
48 the moneys held in those funds.

49 n. To establish the procedure, if any, by which the terms of any
50 contract or covenant with or for the benefit of the holders of bonds
51 may be amended or abrogated, the amount of bonds the holders of
52 which must consent thereto, and the manner in which the consent
53 may be given.

54 o. To covenant as to the construction, improvement, or maintenance of its real and personal property, the replacement thereof,
55 the insurance to be carried thereon, and the use and disposition of
56 insurance moneys.

57 p. To provide for the release of property, leases or other agreements, or revenues and receipts from any pledge or mortgage and
58 to reserve rights and powers in, or the right to dispose of, property
59 which is subject to a pledge or mortgage.

60 q. To provide for the rights and liabilities, powers and duties arising upon the breach of any covenant, condition or obligation
61 and to prescribe the events of default and the terms and conditions
62 upon which any or all of the bonds of the utility shall become or
63 may be declared due and payable before maturity and the terms and
64 conditions upon which any such declaration and its consequences
65 may be waived.

66 r. To vest in a trustee or trustees within or without the State
67 such property, rights, powers and duties in trust as the utility may
68 determine, including the right to foreclose any mortgage, and to
69 limit the rights, duties and powers of the trustee.

70 s. To execute all mortgages, bills of sale, conveyances, deeds of
71 trust and other instruments necessary or convenient in the exercise
72 of its powers or in the performance of its covenants or duties.

73 t. To pay the costs or expenses incident to the enforcement of
74 such bonds or of the provisions of the resolution or of any covenant
75 or agreement of the utility with the holders of its bonds; and

76 u. To limit the rights of the holders of any bonds to enforce any
77 pledge or covenant securing bonds.

78 12. Any pledge of revenues, moneys, funds or other property
79 made by the utility shall be valid and binding from the time when
80 the pledge is made. The revenues, moneys, funds or other property
1 so pledged and thereafter received by the utility, unless otherwise
2 agreed, shall immediately be subject to the lien of the pledge
3 without any physical delivery thereof or further act, and the lien
4 of the pledge shall be valid and binding as against all parties
5 having claims of any kind in tort, contract or otherwise against the
6 utility, irrespective of whether the parties have notice thereof.

10 Neither the resolution nor any other instrument by which a pledge
11 of revenues, moneys or funds is created need be filed or recorded
12 except in the records of the authority and of the department.

1 13. Neither the members of the utility nor any person executing
2 bonds issued pursuant to this act shall be liable personally on
3 the bonds by reason of the issuance thereof.

1 14. The utility may establish such reserves, funds or accounts
2 as may be, in its discretion, necessary or desirable to further the
3 accomplishment of the purposes of the utility or to comply with
4 the provisions of any agreement made by or any resolution of the
5 utility.

1 15. The State of New Jersey pledges to and covenants and agrees
2 with the holders of any bonds issued pursuant to authority of the
3 act that the State will not limit or alter the rights or powers vested
4 in the utility to acquire, construct, maintain, improve, and repair
5 any project in any way that would jeopardize the interest of such
6 holders, or to perform and fulfill the terms of any agreement made
7 with the holders of the bonds, or to fix, establish, charge and collect
8 such rents, fees, rates or other charges as may be convenient or
9 necessary to produce sufficient revenues to meet all expenses of the
10 utility and fulfill the terms of any agreement made with the holders
11 of the bonds, together with interest thereon, with interest on any
12 unpaid installments of interest, and all costs and expenses in con-
13 nection with any action or proceedings by or on behalf of such
14 holders, until the bonds, together with interest thereon, are fully
15 met and discharged or provided for.

1 16. The State and all public officers, governmental units and
2 agencies thereof, all banks, trust companies, savings banks and
3 institutions, building and loan associations, savings and loan asso-
4 ciations, investment companies, and other persons carrying on a
5 banking business, all insurance companies, insurance associations
6 and other persons carrying on an insurance business, and all
7 executors, administrators, guardians, trustee and other fiduciaries,
8 may legally invest any sinking funds, moneys or other funds belong-
9 ing to them or within their control in any bonds issued pursuant to
10 the act, and such bonds shall be authorized security for any and all
11 public deposits.

1 17. Any governmental entity, notwithstanding any contrary pro-
2 vision of law, except any requiring notice or public hearing, and
3 subject to the approval of the department, is authorized to lease,
4 lend, grant or convey to the utility at its request upon such terms
5 and conditions as the governing body or other proper utility of such
6 governmental entity may deem reasonable and fair and without the

7 necessity for any advertisement, order of court or other action or
8 formality, other than the ordinance, resolution or regular action
9 thereof, any real property or interest therein which may be
10 necessary or convenient to the effectuation of the purposes of the
11 utility. No property of the State, other than meadowlands, riparian
12 lands or lands underwater and similar lands or interests therein re-
13 ferred to and whose disposition is controlled by the provisions in
14 Title 12, Commerce and Navigation, and Title 13, Conservation and
15 Development, of the Revised Statutes, shall be so granted, leased or
16 conveyed to the authority except upon the approval of the State
17 House Commission and the department and payment to the State of
18 such price therefor as may be fixed by the State House Commission.

1 18. Every project, when constructed and placed in operation,
2 shall be maintained and kept in good condition and repaired by the
3 utility and shall be subject to all orders and applicable acts, rules
4 and regulations of the department. Every project shall be operated
5 by such operating employees as the utility may in its discretion
6 employ or pursuant to a contract or lease with a governmental
7 agency or person.

1 19. The utility may establish and alter rates and charges, and
2 collect rents, fees and charges for water sold from, and for the use
3 of services of any water system project and contract in the manner
4 provided in this section with one or more persons, one or more
5 governmental entities, or any combination thereof, receiving the
6 use or services of any project, and fix the terms, conditions, rents,
7 rates, fees and charges for such use or services. These rents, rates,
8 fees and charges shall be subject to supervision and regulation by
9 the Board of Public Utilities. The contract may provide for acquisi-
10 tion by such person or governmental agency of all or any part of the
11 project for such consideration payable over the period of the
12 contract or otherwise as the utility in its discretion determines to
13 be appropriate, but subject to the provisions of any resolution of
14 the utility authorizing the issuance of bonds or any trust agreement
15 securing the same. Any water supply entity which has the power to
16 construct, operate and maintain water management facilities may
17 enter into a contract or lease with the utility, subject to the approval
18 of the department, whereby the use or services of any project of the
19 utility will be made available to the entity and pay for the use or
20 services such rents, rates, fees and charges as may be agreed to by
21 the utility and the entity.

22 Any one or more public or private may cooperate with the utility
23 in the acquisition or construction of a project and shall enter into
24 such agreements with the utility as are necessary, with a view to

25 effective cooperative action and safeguarding of the respective
26 interests of the parties thereto, which agreements shall provide for
27 such contributions by the parties thereto in such proportion as may
28 be agreed upon and such other terms as may be mutually satis-
29 factory to the parties including without limitation the authorization
30 of the construction of the project by one of the parties acting as
31 agent for all of the parties and the ownership and control of the
32 project by the utility to the extent necessary or appropriate for
33 purposes of the issuance of bonds by the utility. Any governmental
34 agency may provide such contribution as is required under such
35 agreements by the appropriation of money or, if otherwise au-
36 thorized by law to issue bonds or levy taxes or assessments and
37 issue bonds in anticipation of the collection thereof, by the issuance
38 of bonds or by the levying of taxes or assessments and the issuance
39 of bonds in anticipation of the collection thereof, and by the pay-
40 ment of such appropriated money or the proceeds of the bonds to
41 the utility pursuant to such agreements.

1 20. On or before the last day of February in each year the utility
2 shall make an annual report of its activities for the preceding
3 calendar year to the Governor and to the Legislature. The report
4 shall set forth a complete operating and financial statement cover-
5 ing its operations during the year. The utility shall cause an audit
6 of its books and accounts to be made at least once in each year by
7 certified public accountants and the cost thereof shall be considered
8 an expense of the authority and a copy thereof shall be filed with the
9 Comptroller of the Treasury.

1 21. All officers, departments, boards, agencies, divisions and com-
2 missions of the State are authorized to render such services to the
3 utility as may be within the area of their respective governmental
4 functions as fixed by law, and as may be requested by the utility.
5 The cost and expense of the services shall be met and provided for
6 by the utility. The Attorney General shall serve as counsel to the
7 utility.

1 22. The utility is authorized to make and enter into contracts and
2 agreements necessary or incidental to the performance of its duties
3 and the execution of its powers. No contract on behalf of the utility
4 shall be entered into for the doing of any work, or for the hiring of
5 equipment or vehicles, where the sum to be expended exceeds the
6 sum of \$2,500.00 unless the utility shall first publicly advertise for
7 bids therefor, and shall award the contract to the lowest responsible
8 bidder; but advertising shall not be required where the contract to
9 be entered into is one for the furnishing or performing services of a
10 professional nature or for the supplying of any product or the
11 rendering of any service by a public utility subject to the jurisdic-

tion of the Public Utilities Commission and tariffs and schedules of the charges, made, charged, or exacted by the public utility for any such products to be supplied or services to be rendered are filed with the commission. This section shall not prevent the utility from having any work done by its own employees, nor shall it apply to repairs, or to the furnishing of materials, supplies or labor, or the hiring of equipment or vehicles, when the safety or protection of its or other public property or the public convenience require, or the exigency of the utility service will not admit of such advertisement. In such case the utility shall, by resolution, passed by the affirmative vote of a majority of its members, declare the exigency or emergency to exist, and set forth in the resolution the nature thereof and the approximate amount to be expended.

23. a. All projects and other property of the utility is declared to be public property devoted to an essential public and governmental function and purpose and shall be exempt from all taxes and special assessments of the State or any political subdivision thereof; provided, however, that when any part of the project site not occupied or to be occupied by facilities of the project is leased by the utility to another whose property is not exempt and the leasing of which does not make the real estate taxable, the estate created by the lease and the appurtenances thereto shall be listed as the property of the lessee thereof and be assessed and taxed as real estate. All bonds issued pursuant to this act are declared to be issued by a body corporate and public of the State and for an essential public and governmental purpose and these bonds, and the interest thereon and the income therefrom, and all funds, revenues, income and other moneys received or to be received by the utility and pledged or available to pay or secure the payment of the bonds, or interest thereon, shall be exempt from taxation except for transfer, inheritance and estate taxes.

b. Any project constructed, maintained or operated by the utility shall be exempt from compliance with local zoning regulations, but the utility shall wherever practicable adhere to the regulations.

24. There is appropriated to the utility from the General State Fund the sum of \$100,000.00, or so much thereof as may be necessary, for the purposes of carrying out its function and duties pursuant to this act. This appropriation shall be repaid to the General State Fund as soon as practicable out of the proceeds of the first bonds issued by the authority or other available funds.

25. This act shall take effect immediately.

STATEMENT

This "State Water Supply Utility Act" establishes a State Utility empowered to plan, finance, acquire, construct, and operate water systems where the responsible public or private entity has failed to take action required by orders issued by the Department of Environmental Protection or where the Legislature has authorized any construction and operation of any water supply facility. The Delaware and Raritan Canal Transmission Complex, the Spruce Run-Round Valley Reservoir Complex and any water supply project authorized by any past or future bond issue shall be operated by this utility.

SENATE, No. 1613

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 24, 1980

By Senator DODD

Referred to Committee on Energy and Environment

AN ACT subjecting the State, municipalities and counties and any agency formed by any one or more thereof owning or operating water supplies, to the jurisdiction, regulation and control of the Board of Public Utilities with respect to rates in certain cases, supplementing Title 48 of the Revised Statutes and repealing P. L. 1975, c. 184.

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

1 1. Whenever the State, any county or municipality, or any agency
2 thereof, formed by any one or more thereof owns or operates a
3 water supply, that entity shall, with respect to that service be
4 subject to the jurisdiction, regulation and control of the Board
5 of Public Utilities.

1 2. Nothing in this act shall be construed as declaring or defining
2 the State, or any county or municipality, or any agency thereof,
3 to be a public utility or subjecting it to the provisions of Title 48
4 of the Revised Statutes.

1 3. The board may require the State, any county or municipality,
2 or any agency thereof, to file with it complete schedules of every
3 classification employed and of every individual or joint rate or
4 charge made, charged or exacted by it for water or facilities or
5 extension of facilities supplied or service rendered within this
6 State.

1 4. The board may after hearing, upon notice, by order in writing
2 fix just and reasonable individual rates, joint rates or charges or
3 special rates which shall be imposed, observed and followed there-
4 after by the State, any county or municipality, or agency thereof,
5 whenever the board shall determine any existing individual rate,
6 joint rate or charge or schedule thereof or other special rate to be
7 unjust, unreasonable, insufficient or unjustly discriminatory or
8 preferential.

1 5. When the State, any municipality, county, or any agency
2 thereof shall increase any existing individual rates, joint rates,
3 charges or schedules thereof, or special rates, or change or alter
4 any existing classification, the board, either upon written complaint
5 or upon its own initiative, shall have power after hearing, upon
6 notice, by order in writing to determine whether the increase,
7 change or alteration is just and reasonable. The burden of proof
8 to show that the increase, change or alteration is just and reason-
9 able shall be upon the entity making the same. The board, pending
10 the hearing and determination, may order the suspension of the
11 increase, change or alteration until the board shall have approved
12 the same, not exceeding 4 months. If the hearing and determination
13 shall not have been concluded within the 4 months the board may
14 during the hearing and determination order a further suspension
15 for an additional period not exceeding 4 months. The board shall
16 approve the increase, change or alteration upon being satisfied
17 that the same is just and reasonable.

1 6. The board may either during the pendency of any rate pro-
2 ceeding, whether instituted by the board or any other party, or at
3 any time, even though no such proceeding is pending or proposed,
4 negotiate and agree with the State, any county or municipality
5 or agency thereof for the adjustment or fixing of individual rates,
6 joint rates, special rates, charges or schedules thereof. The adjust-
7 ment may be without limit of time or for a temporary period
8 specified by the board. No adjustment or fixing of rates under
9 this section shall be considered as contractual. The rates adjusted
10 or fixed pursuant to this section may be subject to change or elimi-
11 nation through proceedings provided for in this act or through
12 negotiation and agreement under this section. The board as a part
13 of any negotiation and agreement shall provide for the continuance,
14 suspension or other disposition of any hearing or proceeding then
15 pending.

1 7. The State, any county or municipality or any agency thereof,
2 may file with the board a written stipulation subject to the board's
3 approval at any time, extending the suspension periods provided
4 for in this act or waiving the effective date of any tariff or rate.

1 8. P. L. 1975, c. 184, § 1 (C. 40:62-85.2) is repealed.

1 9. This act shall take effect immediately.

STATEMENT

This bill authorizes the Board of Public Utilities to manage all State and local government water suppliers as self-sustaining utilities over the long run. This bill will provide self-sufficient, businesslike utility operations by State and local government water purveyors, as is now provided by investor-owned water purveyors, who are currently regulated by the Board of Public Utilities.

SENATE, No. 1614

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 24, 1980

By Senator DODD

Referred to Committee on Energy and Environment

AN ACT concerning improvements to the facilities and services of
small water companies and supplementing Title 58 of the Revised
Statutes.

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

1 1. Whenever any small water company fails to comply with an
2 order of the Department of Environmental Protection to comply,
3 within a specified time period, with any law, rule or regulation
4 concerning the availability of water, the potability of water and the
5 provision of water at adequate volume and pressure, which the
6 department is authorized to enforce pursuant to Title 58 of the
7 Revised Statutes, the department, after consultation with the Board
8 of Public Utilities as to the financial implications of the order, and
9 after holding a public hearing, may order a capable proximate
10 public or private water company, or a municipal utilities authority
11 formed pursuant to P. L. 1957, c. 183 (C. 40:14B-1 et seq.) or the
12 municipality or any other suitable governmental entity within
13 which the small water company provides service, to acquire the
14 small water company and to make all improvements necessary to
15 assure the availability of water, the potability of the water and the
16 provision thereof at adequate volume and pressure. As used in this
17 act, "small water company" means any company, purveyor or
18 entity, other than a governmental agency, that provides water for
19 human consumption and which regularly serves less than 1,000
20 customer connections.

1 2. Compensation for this acquisition shall be determined: a. by
2 agreement between the parties subject the approval of the Board
3 of Public Utilities; b. if the parties refuse, or fail, to agree, by the
4 Board of Public Utilities in consultation with the Department of
5 Environmental Protection and after holding a public hearing, by
6 considering, among other factors, the original cost of the physical
7 property and the cost of contributed property of the small water

8 company less depreciation and without considering the good will or
9 franchise value of the small water company; and c. through use of
10 the power of eminent domain. Any entity which receives such an
11 order is authorized and directed to acquire the small water company
12 with or without the power of eminent domain.

1 3. Any water company, municipal utilities authority, municipality
2 or other suitable governmental entity which receives an order of the
3 Department of Environmental Protection pursuant to section 1 of
4 this act shall acquire the small water company and shall make the
5 necessary improvements to assure the availability of water, the
6 potability of the water and the provision of water at adequate
7 volume and pressure. The small water company shall immediately
8 comply with the order and shall facilitate its sale to the water
9 company, municipal utilities authority, municipality or other suit-
10 able governmental entity ordered to acquire the small water
11 company.

1 4. This act shall take effect immediately.

STATEMENT

This bill authorizes the Department of Environmental Protection to order water companies, municipal utilities authorities, municipalities or other suitable governmental entity to acquire and upgrade the facilities and services of small water companies providing inadequate service and serving less than 1,000 customers connections, in certain circumstances. It provides that compensation for such an acquisition shall be determined by one of several procedures, including a determination by the Board of Public Utilities considering certain capital expenditures, among other factors.

SENATOR FRANK J. DODD (Chairman): Ladies and gentlemen, we will get started now.

This is a Joint Committee: the Senate Energy and Environment Committee and the Assembly Energy and Natural Resources Committee. The hearings are on a package of bills, the centerpiece being the \$345 million bond issue. What we are looking for is some input as to what the future package should be. Simultaneously, we are also looking for suggestions for immediate solutions on how we can get by what we are all afraid of, and that is an imminent problem this coming summer. It is my understanding - and we will go into this in some detail - that we are worse off now in January than we were at the height of the 1960 drought at the end of the summer.

Let me ask Chairman Bob Hollenbeck to make some remarks and introductions.

ASSEMBLYMAN ROBERT P. HOLLENBECK: Good morning. This is a rarity to have two committees meeting jointly on common goals. Identical bills have been introduced in both the Senate by Senator Dodd and in the Assembly by me. The reason is the nature of the problem and the emergency aspect of the problem. We don't want to give anyone the false impression that legislation is going to cure the water supply problem for this summer. The legislation we have introduced is much longer range, with the hope that in the future we won't have these problems recurring. That is what we are trying to address.

Senator, we do have some local officials of Lyndhurst who would like to say something to us. Commissioner Pezzolla of Lyndhurst.

COMMISSIONER EVELYN PEZZOLLA: I would like, as the Commissioner of the Water Department of Lyndhurst, to welcome the Joint Committee here today. We are happy that you chose Lyndhurst to have your hearing. Welcome, Senator Dodd, Assemblyman Hollenbeck, and other honored guests. We are looking forward to the productivity of this hearing. Thank you for coming.

ASSEMBLYMAN HOLLENBECK: Commissioner Russo, also has something to say.

COMMISSIONER PETER J. RUSSO: Assemblyman Hollenbeck, Senator Dodd and Senator Caufield, I think it is a wonderful thing that you have picked the Town of Lyndhurst in which to discuss these bills. I think they are very, very important bills and I feel we owe you a vote of thanks for coming up here and talking about water. Over a period of years, in Lyndhurst and in our area, we have talked about cleaning up the Passaic River and cleaning up the rivers here, but people have never really taken us seriously. I think now is the time to take this seriously and to talk about cleaning up this river right down here. The water in the river could be used for drinking. As I said to a few people here, in 1930, the people of Lyndhurst used to swim in this river. There was a time when the river was clean. And, now, we find out we need water.

So, it is significant that this Committee is here today to conduct a hearing on bills that are so important to the Township of Lyndhurst and the entire State.

On behalf of the Township of Lyndhurst, Senator, we welcome you here and wish you lots of good luck; and thank you very much for coming here.

ASSEMBLYMAN HOLLENBECK: Needless to say, the Senator and myself, and members of our staffs appreciate the offer from the Township of Lyndhurst for the use of your facilities. Commissioners, we thank you.

SENATOR DODD: Thank you, Commissioners, for the use of the hall. It was

very gracious of you to have us.

All right, folks, let's get right into this. I would to call on Arnold Schiffman, the Director of Water Resources for the Department of Environmental Protection. These people are our front-line troops in what we will be facing both long term and short term.

A R N O L D S C H I F F M A N: The State of New Jersey is seriously ill. It suffers from the disease called woefully inadequate water supply. Let me show you some of the symptoms of that disease. First, inadequate rainfall. On this chart or graph, the black line represents the long-term normal rainfall. It is cumulative. Each month you take the rain and you add it up until you get to the long-term average of close to 45 inches. The green line represents the worst year of the drought of the mid '60's - the worst year, '64-'65 - the worst period of time.

The red lines shows where we are now. We are worse than the worst year of the drought of record. We are setting new records for lack of rainfall.

The situation affects everything. We have demand in addition to the lack of rainfall. The green line represents demand during the period of the '60's. The red line represents our current demand situation throughout the year. This is where we are now (indicating), where the demand is a little over 330 million gallons per day for the Northeast where our problems are the most serious.

The situation is statewide, however. Here is the Delaware River (indicating). We don't have a situation where one part of the State is separate from the other in its suffering from the water supply situation. There is a relationship, believe it or not, between the City of Camden, New Jersey, and the City of New York. The water in the Delaware River right now is mostly supplied by reservoirs of New York City up in the mountains. The City of Camden is supplied by wells. Those wells take water from an aquifer that is connected to the Delaware River. We have the Delaware Bay with salt water. The only thing that keeps the salt water back is the flow of the river downstream. If the flow decreases, the salt water comes up and destroys the well field.

So the New York City situation---and this is a pictorial representation of what proper reservoir levels should look like. Reservoirs normally decline and then increase. The red line shows what is happening now. It is a serious drought condition. If you follow this line across (indicating), the storage is below 30 percent in the New York City reservoirs. Therefore, the whole issue is keeping water in the river to keep the salt front back. There is a relationship between what happens in the northern part of the State - New York City and that area - and northern New Jersey and the Delaware River.

We also take other water from the Delaware River through our canal. As we cut back on the withdrawals from the river, it affects central New Jersey also because that is where our water supply comes from.

Here is where the situation is the worst. This represents total reservoir storage in the northeast. This is it - the major reservoirs. This is the total story. The green line shows what happened during the drought of the '60's, a precipitous decline. Then it recovered a little bit, but not all the way. The red line shows where we are now, at the record low levels of reservoir storage. Some of our reservoirs right now are below 20 percent, a record-breaking level. The amount of supply left can be measured in weeks - maybe a couple of months at the most - decreasing every day without rainfall.

These are not the only symptoms of the disease. We have many small water companies in the State. We have more water companies than we have towns and municipalities - over 600. I am in a position of having to issue boiled water orders. That is medieval in this day and age to issue boiled water orders to water systems that are so small as to be inadequate. Yet we have people complaining. They complain because it takes years to fix. They are outraged, and justifiably so. They cannot comprehend why it takes so long to fix the situation.

As with any serious disease, you get periods of remission. But that doesn't mean it goes away. The periods of remission are additional rainfall. We may have the rains this spring, but they are not going to solve the problem because the systems are basically inadequate. Even if we do have rainfall, the best we can hope to do is get to full reservoir levels as we were last year. We started off last year with full levels, right here on the red line. Look what has happened. Even if we do get back - and it will take 60 percent or more rainfall than the average to get back to full for most of our reservoir systems, not all of them, but most of them --- and even if we get back to full, we can have the same situation occur again.

So like any disease that goes through a remission, when it comes back, it can come back with even deadlier force than it had before.

The package of legislation that you have before you is an attempt to cure this problem - to deal with it. I will tell you right now the cure is going to be painful and it is going to be expensive. But I don't think there are many options left open. I wouldn't presume to say that whatever legislation comes out will be exactly as proposed. It has to go through a very complicated process. All I would say to you is that these bills or some form of the legislation represents the tools that we need to pierce the veil of the thousands of excuses that seem to continuously frustrate our efforts to improve the State's water supply. Thank you.

SENATOR DODD: Mr. Schiffman, can you break down for us the water supply into Newark by days?

MR. SCHIFFMAN: The remaining supply levels?

SENATOR DODD: Yes.

MR. SCHIFFMAN: If you look at the total storage, there is less than 60 days' supply at our current demand level. That is assuming no rainfall. Some systems are in greater peril than others. The Newark situation may be a little more serious than some of the others. Even our biggest reservoir in the northeast, the Wanaque, has had substantial increased demands on it. I think what we have is a situation of compounding problems. We have all this machinery that is breaking. It is like an old car. One thing goes and then another thing goes. The Passaic River is a good example. Most of the water in the Passaic River now is treated sewage effluents. It is getting so strong that it is becoming difficult to treat. Therefore, the water treatment plant, which is a fine one, a first-class facility, cannot take all the sewage effluents that are in the river to treat. Because of the cold weather, the treatment plants are not functioning as well as they can. Plus, there is little fresh water in the river. So we actually have lost supply from the Passaic River. That loss is made up from the Wanaque Reservoir. So the draft is increasing on that reservoir. Our reservoir levels are going down three tenths of a percent, sometimes a half percent a day. We

only have, as that chart showed you, less than 30 percent. It doesn't take very great mathematical ability to figure that out. If you have 30 percent and it is decreasing at about half a percent a day, in 60 days it is gone. And if the rate of decrease continues like it is, every day that goes by there is that much less. I don't want to sound doom's day. But that graph I showed you has doom's day on it, if you want to look at it that way, with no rain. But, again, even if it rains, the problems will not go away.

SENATOR DODD: We are talking worst case scenerios, but it is here. It is not like something that if we don't do anything about this year, next year it will be corrected.

Would we look to close industry down - water-intense use industries - to keep water pressure in the pipes to people's homes?

MR. SCHIFFMAN: In the worst case situation that we are talking about now ---

SENATOR DODD: --- which is no rain.

MR. SCHIFFMAN: --- which is no rain, there is no alternative. I would hope everyone realizes that. We need water for other things besides drinking. You have the industrial uses that may have to be curtailed. But we must keep the systems viable for fire protection and sanitary facilities. It is a very basic issue. There would be no alternative except to dramatically reduce the demand. It would make our current situation seem like a picnic by comparison. And, yes, industry would have to be shut down.

SENATOR DODD: And your department now has identified water-intense industries within the State? I believe you have compiled a list.

MR. SCHIFFMAN: We are compiling that type of list.

SENATOR DODD: We have asked and are forming a group of businessmen in the water-intense industries to work with our committee, along with a group of utilities. This is a very unusual package with the three entities here: the Senate, the Assembly, and the department, working in conjunction on a common problem. And I don't think we have to underline the severity of the problem. Conservation, as I understand, even if we cut our use in half, which is virtually impossible, doesn't get us 120 days. It doesn't work like that.

MR. SCHIFFMAN: It doesn't quite work like that; and it would take a conservation effort of unparalleled proportions to get it down that low.

SENATOR DODD: How about recreational lakes, such as Lake Hopatcong?

MR. SCHIFFMAN: All of that.

SENATOR DODD: Work with New York on tapping Greenwood Lake?

MR. SCHIFFMAN: All of that would have to be done.

SENATOR DODD: What kind of interconnectors do we now have for Round Valley and Spruce Run that could be put to use? Those are our two reservoirs with some degree of capacity.

MR. SCHIFFMAN: The State reservoirs have substantial surplus capacity. That water would have to be moved into the area of need, which is the northeast. And it is not a simple proposition. Pipelines would have to be built and decisions would have to be made as to exactly where the water should go. Keep in mind that one of the problems that we face is that we have water distribution systems. They start out with big pipes and then they go down to the little pipes into your house. When we take the water available, we have to get it into the head of the

distribution system. And that is not in the cities; that is where the reservoirs are. That is where the rivers are. That is where the heads of the distribution systems are. That would not be a simple task. I would not want to kid anyone in terms of the timeframes involved. Some things could be done rapidly - the lakes, for example.

SENATOR DODD: Those are one-shot deals. After it is done, it is done.

MR. SCHIFFMAN: Yes, that is correct. You are absolutely correct.

SENATOR DODD: Mr. Schiffman, could you give us briefly an explanation of the package of bills, other than the bond issue, the \$345 million?

MR. SCHIFFMAN: Sure. I will take them in a sequence. I will identify the numbers. I won't take them in numerical order.

Let me discuss the first bill which is Senate 1611, the Water Supply Management Act. What we have is a system of allocation. Some of our laws - some of these water things - go back over a hundred years in terms of what we are dealing with. But they are fairly ancient. There are some specific provisions that are interesting. One will transfer the powers and duties of the permitting itself from an ancient entity presently called the Water Policy Supply Council to the Department of Environmental Protection. The Council has done yeoman's work in the past, but it is over 70 years old and it is really an appointed lay board. It is time that we put more resources into that area. It will replace several existing permit systems with a single system. We are going to modify old grandfather rights. In a program where you have to allocate what is a scarce resource - and I hope everybody realizes that by now - we have some peculiar situations, very strange. For example, with surface water, there is something called legislative grants, some of which date back 150 years, where we have literally given away the flow of some streams, in some cases, to private entities. The underground water, which is equally important - half of our water supply is from groundwater - we have something called grandfather rights, old grandfather rights, based on pump capacity. We had a case where somebody had a pump cable delivering a million gallons a day and they were only using 100 thousand. They have a grandfather right for 100 thousand and something called an unallocated grandfather right for the remainder, the 900 thousand. In some cases, these rights may exceed the available supply. You can't have such an old outmoded system to meet our modern needs.

There are other requirements: some clear authority to require public water supply systems to have adequate service, require interconnections on an emergency and non-emergency basis, require improvements and repairs to water systems, clear authority to deal with emergencies, etc., in other words, to adopt a real modern, up-to-date regulatory management law that we don't have now. I am not saying that we have nothing in existence now. New Jersey's law is quite old, which is somewhat unusual for an eastern state.

The next bill I will discuss is Senate 1613, and that is the utility concept of water. It would basically place the public and private water companies under the jurisdiction of the Board of Public Utilities, to have everyone act as a utility, so the systems would be continually operated and improved on a reasonably businesslike basis with adequate capital and adequate planning, so we don't have future problems.

The next bill is Senate 1614. It deals with the problem I mentioned

of small inadequate companies. It presents a method of dealing with that, to have the ability to have a larger company, well operated and well run - and we do have those in New Jersey - take over a failing system - to order that to occur, so we don't have all these water companies that we have. Of the approximate 618 water companies, over 60 percent of them serve less than a thousand people. That is a big problem.

The next bill is 1612. That would create a New Jersey State Water Supply Utility, having the ability to actually go and do things: to sell bonds and to construct. There is so much you can do with a reformed regulatory program. This really isn't enough. It can't guarantee that adequate water supply facilities will be constructed. We need a mechanism to act when existing water supply systems cannot or will not construct and finance needed facilities - kind of the court of last resort, if you want to look at it that way, to be able to do things when all else fails.

That is basically the package. The last bill provides a program for a \$345 million bond act which deals with several facets. One of the facets is grants and loans to local governments to rehabilitate, repair, or consolidate antiquated, damaged or inadequately-operating water supply systems. In terms of the underground water systems, a lot of them leak, they are inadequate and they are old. We had one estimate that it would take \$330 million for the State. I can tell you right now that it is higher than that. We have inflation and that number is going to be higher. We are asking for a portion of that in that bond issue, to fix up the old leaking systems. The rest of it - and I will not bother to discuss the details - deals with some specific projects to handle what I would call some short-, medium-term problems, things that could be done within the next five years.

That is a very brief description of the legislation you have before you.

ASSEMBLYMAN HOLLENBECK: Mr. Schiffman, could you explain to us --- or do you have any information dealing with the reservoir reserve capacity and what normally should be expected as far as reserve capacity for a drought situation? How are we right now as far as that is concerned?

MR. SCHIFFMAN: Generally, you should have storage in reservoirs sufficient to take care of the times when it doesn't rain. The northeastern part of the State is short at least 63 million gallons a day of supply. So our storage is woefully inadequate. You can debate about what the number should be. If you want, you can multiply that figure by the number of days and find out what the storage deficit is when you don't have any rain. It is a substantial deficit, maybe in the billions of gallons, if you want to look at our reservoir systems now. For one thing, they are not very big in total number. Everyone should realize that there is a difference between the New York City reservoirs and ours. New York's are much bigger. Thirty percent of a big number is a lot more than 30 percent of a little number; and, in New Jersey, we have a little number. They are woefully inadequate.

There are proposals - and there have been for many years - to deal with the situation. One of those projects is not even in your package because it is a private-public project called Wanaque South. It was also known as the Two Bridges project. That would take water when it is available in the river and bank it in the existing storage. So when the reservoir levels are dropping, you still have water

you can put in the reservoirs from the river before it is gone. That is the type of thing that has to be done.

In addition, there are other projects to move water into the area. But there is no question about it, the situation now is that we need two things. We need conservation and conservation alone will not do the job; and we need to bring additional water supplies into the area. We need those two things. Without those two things, we are in serious trouble, even if it rains.

ASSEMBLYMAN HOLLENBECK: Thank you, Mr. Schiffman.

We have been joined by Assemblyman Cowan.

SENATOR CAUFIELD: I have a couple of quick questions. I would like a little clarification on something. I think I heard you say that we have over 600 water companies.

MR. SCHIFFMAN: That is right - water purveyors. Some of them are just distribution systems. Some of them wholesale water. Some of them represent maybe a single subdivision with a well or two, serving a few hundred people.

SENATOR CAUFIELD: You did say that the reservoir supply is about 60 days and in some cases ---

MR. SCHIFFMAN: --- Even less.

SENATOR CAUFIELD: And in the case of Newark ---

MR. SCHIFFMAN: Even less.

SENATOR CAUFIELD: I recognize that Newark is a 40 percent partner in Wanaque. But you are not talking about that.

MR. SCHIFFMAN: I am talking about Wanaque too.

SENATOR CAUFIELD: But one of your concerns is that that does supply, even though it is totally owned by Newark, some other communities. What is the supply there?

MR. SCHIFFMAN: It is desperately low too. It is at the 20 percent level. It is at record lows. I believe it is at record lows right now. You have to understand that the draft on that is substantial. It has been increased because of the problem I described in the Passaic River. It is much higher than it should be. All that does is aggravate the situation.

SENATOR CAUFIELD: And you did mention about some legislative giveaways, I guess you might call them, over the years, some grandfather clauses and so forth. Apparently, that contributed to our being in the strait we are in. If we are really - and I think we all agree that we are - practically in a survival condition at this time, wouldn't the philosophy - and I hate to use the word - of eminent domain actually come into play and something would have to be done to perhaps take away some of those rights? Or are you going to tell me they can't be taken away?

MR. SCHIFFMAN: I think the best way to look at this is to say that what made sense 150 years ago - and it probably did make sense then - doesn't make any sense now.

As far as the other issue of eminent domain, I hate to say this but you are assuming there is something to take and our flows are very low. There is not much there. The situation has to be corrected from a management standpoint to allocate the resources and the legislation is desperately needed. But I could not in all truth say --- Well, there was a minor problem in some of those old rights dealing with the river. We have gone to court to get over some of those problems because we are in a situation. We have not just stood idly by. But it has to

be corrected once and for all.

SENATOR CAUFIELD: Once again, if we are in a survival condition - and it sounds like that is what we are in - it would seem that we are going to have to reach out for everything.

MR. SCHIFFMAN: We are doing that.

SENATOR CAUFIELD: You mentioned that conservation certainly isn't enough. We all know that. But we also know that we do waste a heck of a lot of water. I can think of a condition in Newark alone - and it goes on in some other cities - where we waste hundreds of millions of water every year with open fire hydrants.

MR. SCHIFFMAN: There is no question about that.

SENATOR CAUFIELD: We are going to have to do something very drastic - and we are planning to do something very drastic about that.

MR. SCHIFFMAN: You are absolutely correct. We take water for granted in the Northeast maybe because we normally have a lot of rain. And water is under priced and under appreciated.

SENATOR CAUFIELD: Don't you think that people still don't believe the water shortage? As long as they can turn the spigot and water comes out, I don't think people are all that concerned yet.

MR. SCHIFFMAN: I think you hit the nail right on the head. People will not believe there is a problem until they turn on the tap and nothing comes out. At that time, it is not a problem; it is a catastrophe.

SENATOR CAUFIELD: I have just one other question as to the effect of the whole drought situation on the lakes. Of course, we have the big lakes like Lake Hopatcong, etc. There are also the county lakes like Weequahic Park, Branch Brook Park. Can we take water from those lakes? Can we at least take it for fire-fighting to fill up our 500 gallon tanks and other vehicles?

MR. SCHIFFMAN: I believe it is not a question of whether you can because you may not have any other alternative.

SENATOR CAUFIELD: Will it replenish itself?

MR. SCHIFFMAN: Not without rain in the stream flow. It is that simple. You are correct.

SENATOR CAUFIELD: Thank you.

ASSEMBLYMAN SMITH: Could you describe for us in the short term some of the existing distribution systems and the interconnections we have, plus whatever else we might be able to do in the short term to move this water around. For instance, with regard to Spruce Run-Round Valley, we have already taken some action to permit the Commissioner under emergency conditions to curtail the flow from those reservoirs. So we do have a bank. Could you answer this: Are the existing interconnections you have for those supplies, and also other short-term projects --- You know we are down to a point now where instead of talking five years, maybe we can't wait five years.

MR. SCHIFFMAN: I am not saying that you can. I am saying that the package you have before you in terms of projects is designed to be accomplished in five years. Some of it could be done much sooner.

ASSEMBLYMAN SMITH: You talk about conservation. I still think there are some short-term thing that maybe you could give us some light on.

MR. SCHIFFMAN: I can give you some general ideas. You must understand that a lot of the major systems are such that we are going to have to have money to design a lot of things. We are going to need resources to do that. So we do

have some existing facilities - you are correct - mainly through the Elizabethtown Water Company which receives water from our canal, and State reservoirs directly and indirectly. But I make the point - remember where the water from the D & R Canal comes from. It comes from the Delaware River. So the whole State is linked: middle, north, south. It is all linked together. But there are connections from Elizabethtown. We have water that goes into Newark and to Commonwealth. But there are limited amounts that can be transmitted. We are doing about all we can. There could be some improvements, especially in the Newark system. I wouldn't want to get into any details because we have not designed it and we don't have any exact figures for it. But, yes, those things are being considered. Those are examples.

You do have a project before you that involves taking water from the reservoirs into the northeast and that is a controversial issue. We just want to make the point that we don't have any routes or anything for any of this. If we have to do things, we will do them in the quickest and most direct manner. We will do what has to be done. I can tell you right now it is not going to be inexpensive. I would wish that we didn't have to do things in this fashion in a crisis-type situation. But from what I can see now, that is exactly what is going to happen.

SENATOR DODD: You are balancing that against what the economic impact would be on closing down industry in the State of New Jersey.

MR. SCHIFFMAN: Oh, yes. If you want to look at that comparatively, there is no comparison. What is tens of millions against billions? There is no comparison.

SENATOR DODD: Mr. Schiffman, would you explain what happens when we lose pressure in pipelines, aside from the obvious fire hazard problem?

MR. SCHIFFMAN: If we have to go to a system of pressure reduction or, God forbid, system failure, then when you get the system back, you can't drink the water. Remember we have old systems that leak. The safety in the water system is that it is under pressure. So, if it leaks, the clean water flows out. You lose the pressure when you turn the system down. The dirty stuff comes into the line and you can't drink the water without boiling it, which is a nightmare situation.

SENATOR CAUFIELD: I have one brief question. Can DEP identify for the Committee who the people are or the companies are who hold all those rights you spoke about before and how they distribute the water and to whom they distribute it?

MR. SCHIFFMAN: Some of the old legislative rights are owned by private entities. Some of them are now public entities. The City of Trenton, for example, has old legislative rights to the Delaware. There is something called the Society of Useful Manufacturers which was basically Paterson that has rights to the river.

SENATOR CAUFIELD: Can they be identified to the Committee?

MR. SCHIFFMAN: Yes, we can identify some. Keep in mind that some of these rights are not utilized at the present time and we are doing research now that has to go back 150 to 200 years.

SENATOR CAUFIELD: These may very well be the ones we want to know about if they are not utilized.

MR. SCHIFFMAN: The legislation - the Water Supply Management Act - does have provisions that we are going to have to do this. It will be a fairly lengthy process. We know the big ones. A large number of grandfather rights are wells and I only know of a handful of the old surface legislative grants off the tip of my tongue. A lot of them are going to have to be researched. It is a tedious job to go back. New Jersey was one of the original 13 Colonies. We are going to have to go back literally that far.

ASSEMBLYMAN HOLLENBECK: When you talk about the northeast, you are probably talking about 40 percent of the population and about 55 percent of all the employment where this drought is occurring. And this is where so many problems are. Are we really addressing these immediate problems?

MR. SCHIFFMAN: We are attempting to. It is not a simple situation. As I said, we have only two arrows in our quiver. They are the conservation program and bringing additional supplies in on an emergency basis.

MR. SCHIFFMAN: That 60-day figure you gave, is that an average of all or are there some that are less?

MR. SCHIFFMAN: It is an average of all.

MR. SCHIFFMAN: The Senator and I visited some reservoirs last week and we saw some very low, such as Lake Tappan, which is a supply for the Hackensack Water Company.

MR. SCHIFFMAN: There is hardly anything in it.

MR. SCHIFFMAN: The Oradell Reservoir was very low.

MR. SCHIFFMAN: Very low.

ASSEMBLYMAN HOLLENBECK: Woodcliff Lake.

MR. SCHIFFMAN: Very low.

ASSEMBLYMAN HOLLENBECK: Oak Ridge.

MR. SCHIFFMAN: They are all very low.

ASSEMBLYMAN HOLLENBECK: When you state an average, you include some of the larger reservoirs.

MR. SCHIFFMAN: That is right.

ASSEMBLYMAN HOLLENBECK: Is Spruce Run included in that average?

MR. SCHIFFMAN: No.

ASSEMBLYMAN HOLLENBECK: Or Round Valley?

MR. SCHIFFMAN: No. Your point is well taken. Believe it or not, in a sense I have been somewhat optimistic in my statements.

SENATOR DODD: Could you explain the other impacts down river in the southern part of the State on salt water intrusion and how that impacts again on the water table, the underground water supplies, in the south?

MR. SCHIFFMAN: I went through that rapidly. But we do have in the Camden metropolitan area a reliance on groundwater and the aquifer is connected with the Delaware River. As a matter of fact, the water they pump out of the ground, the Geological Survey estimates that over half comes from the river itself. It is only the flow in the river that holds back the salt in the Delaware Bay. If you get the salt up there, it will soon go right into the aquifer and the wells will have to be taken out of service. And that represents a loss of supply. More projects will be needed and we will have to do additional things. In reality, we have been grossly overpumping that aquifer. We are pumping it too much - and we have been doing it for years. I guess, since you brought the point

out, it is not unsimilar to the northeast. So I guess I can use the term inadequate water supply there too. Even though they are pumping lots of water, the actual pumping puts the system under too much strain.

SENATOR DODD: It all goes down proportionately.

MR. SCHIFFMAN: That's right.

SENATOR DODD: And when it hits a certain point, then salt water intrusion can occur through the streams, tributaries and rivers coming in from the Atlantic Ocean.

MR. SCHIFFMAN: I hate to say this, but there is a reasonable probability of that happening. That is why there are constraints on the Delaware. To protect that, people had to cut back on the amount of water they are taking out of the Delaware River; and that's New Jersey and New York, who are taking that out. We have had to cut back. That then affects the rest of the State.

SENATOR DODD: When we first started this process, we received telephone calls saying that we have had just a shade under the average rainfall for this year. But, you explained - and maybe you could go into that a little bit - I believe, that all that rainfall occurred in the spring and none since.

MR. SCHIFFMAN: That's right. We had full reservoir levels in the spring. Right now, if you want the gory details, if we have average rainfall until June, the reservoirs may be 25 or 30 percent full. That is average. I would not want to contemplate below average. But we need substantially more than average. Keep in mind I don't know what is going to happen in the summer. Maybe we will have rain then. But that is not the way to run a state.

ASSEMBLYMAN HOLLENBECK: We have a salt water intrusion problem also down in the Manasquan area, don't we?

MR. SCHIFFMAN: Oh, sure.

ASSEMBLYMAN HOLLENBECK: So it is not just all the areas around the Delaware. We have it in the Manasquan area also.

MR. SCHIFFMAN: The only difference is one of relative seriousness and I can't frankly help but emphasize the northeast, but the other ones are just as serious. I think it is just a relative issue. It is bad all over. It is just worse in some areas than others. That's all.

ASSEMBLYMAN SMITH: I would just like to comment for the edification of the public. New Jersey averages about 45 inches of rainfall per year. In 1979, we had well over 53 inches and things were in pretty good shape. But, as you well know, the very dry hot summer and the lack of rainfall brought the crop production in the State and throughout the whole country down very much. I know I have contacts in the midwest and also in the far west. They are experiencing the same type of thing that we are here in various areas. It is not just New Jersey, but the country as a whole. We have to look at our food supply for the United States so that we can feed our people in the overall picture. So it is a very serious problem. If you watched the average rainfall for the month of December and January, you saw it was way, way below the average for those months. Without snowfall and runoff when the snow melts, we are not recharging the groundwater nor are we recharging the reservoirs.

SENATOR DODD: It takes 8 to 12 inches of snow to make 1 inch of water.

MR. SCHIFFMAN: That's right.

SENATOR DODD: Thanks for the good new, Arnold.

I would like to call our first witness Darryl Caputo, Executive Director

of the Upper Raritan Watershed Association.

MR. DARRYL CAPUTO: If I may, I would like to reserve comments until a future public hearing. I understand that you are going to be holding a hearing in Chester Township on February 17th.

SENATOR DODD: Yes.

MR. CAPUTO: If I may, could I give testimony at that time?

SENATOR DODD: We need all the help we can get. You can testify whenever you want. Assemblyman Hollenbeck and myself and the committees have agreed on a series of meetings. It is open-ended. We will move throughout the State. February 10, we will be meeting in the Assembly Chamber of the State House; February 17, in West Morris Central High School, in Chester; February 23, Vineland City Council Chamber.

MR. CAPUTO: I will see you on the 17th. Thank you.

SENATOR DODD: I will call on Katie Porter, Chairperson, Citizens Pipeline Committee.

KATHERINE PORTER: Thank you, Senator Dodd and Assemblyman Hollenbeck, for the opportunity to speak at this hearing.

My name is Katherine Porter and I live in Mendham. I am Chairman of the Citizens Pipeline Committee. This committee is composed of residents from Bedminster, Far Hills, Peapack, Gladstone, Mendham and Mendham Township, Morris Township, Chester and Chester Township.

The Citizens Pipeline Committee was formed to voice concern over a portion of Senate Bill 1610, the Water Supply Bond Act of 1981, specifically the allocation of \$85 million for the construction of a pipeline to transfer Spruce Run-Round Valley Reservoir waters to the Passaic River system.

We do not oppose the concept of water transfer, rather we strongly object to the routes put forth by the Department of Environmental Protection, the preferred alternative of utilizing local roads through Bedminster, Far Hills, Peapack-Gladstone and the Mendhams or along the North Branch River in those communities. It is our contention that the Department of Environmental Protection has not adequately documented the need for the transfer nor evaluated alternative routes.

Are there alignments which are less destructive to the environment? Are there solutions which are less costly? To both questions, yes, we believe there are.

Addressing New Jersey's immediate water shortages must be DEP's primary thrust at this time. As already mentioned, one solution is to upgrade Elizabethtown Water Company's existing pipeline system to Newark, which within a year's time, I understand, could increase the flow into the Passaic River by 35 to 40 million gallons daily. Another solution: it is conceivable that a pipeline be constructed from the confluence of the Lamington and North Branch Rivers into the Dead River. This could be completed within 30 to 60 days and help to alleviate shortages.

We must address the current crisis while designing for the future. Last year, DEP received 4.2 million for planning and designing the Great Notch Interchange. This year, DEP seeks construction funds for the project. We commend this process. A similar system should be followed for the Raritan-Passaic transfer. Allocate funds in the Water Supply Bond Act of 1981 for planning and design. After all the studies have been completed and sufficient hearings held, construction funds could be approved in 1982.

This morning on the nine o'clock news on WVNJ, they spoke of DEP's plan for a pipeline from Round Valley - Spruce Run, stating that \$85 million was in the bond issue for this project. They further went on to say that it would go to the Boonton Reservoir, a distance of 13 miles. The route we have heard mentioned is 22 miles. There are so many different alternatives. There are so many different ways of putting it. We hear many different things. We don't feel that the studies have been adequately completed.

We are delighted to hear that you are having a hearing on February 17th and we guarantee you a large audience of well informed citizens.

Also, as a citizens' group, I believe that the Citizens Pipeline Committee is more than willing to cooperate with DEP to spearhead a major campaign for citizen water conservation. This is one area I know that we can help.

Finally, I would like to help you visualize the impact of an 108-inch or 9-foot pipe, which is the size designated by the Department of Environmental Protection for the pipeline. This represents a 9-foot pipe (indicating). Thank you.

SENATOR DODD: Mrs. Porter, I am sure you will be at the Chester hearing. Now we have one rule in the joint committees, that anyone is entitled to be against anything, but they have to give us an alternative. That is the basic rule. If it takes a 9-foot pipeline or 29-foot pipeline to keep jobs in New Jersey going and if it has to go above ground on a temporary basis, do you oppose that?

MS. PORTER: I'm sorry.

SENATOR DODD: Would your organization oppose that after hearing the testimony that we have all heard this morning?

MS. PORTER: As a citizen, in what I have read, I have offered two solutions at this time. There are alternatives that I have heard about that I think the DEP should document and look into. That is what we are asking. We do not feel that it is appropriate to ask for funds to study a route and at the same time designate a specific amount of money, \$85 million, for a project that has perhaps not been documented.

SENATOR DODD: Let me ask Mr. Schiffman or a member of his staff.

MR. SCHIFFMAN: I will tell you, frankly, that we don't have any specific design picked out. We have an approximation. We are forced to come up with those approximations in order to have things go through the process of capital planning and budget and the bond process. We are forced to do that. We have full intentions of evaluating and designing alternatives. I cannot guarantee - as a matter of fact, I can almost guarantee that the rough lines that you see will likely not be the lines that will be constructed.

I would agree with you that there is a difficulty here, but our options are very limited. What finally comes out of the process could be some of the things that you mentioned, in addition to everything else, because we are talking about what I consider short-term needs. We will need to improve the transfer of water from the State reservoirs into the northeast. I am not saying where the route would be. Any route you pick would give you problems. You mentioned the Dead River. I mentioned the same thing. There are lots of people that oppose that. There may be some technical issues involved. All of these have to be more thoroughly evaluated.

The only difficulty we have now is that we are in a situation and answers

have to be provided soon. I will grant you some of them may be temporary. There may be some above-ground lines necessary. There may be some large pipes sitting on the ground. I am not sure yet. We haven't designed it - we are doing it now. I think it is very likely that what eventually comes out if the lack of rainfall continues will be some things that people have talked about and some other things that perhaps nobody has talked about yet.

ASSEMBLYMAN SMITH: Mrs. Porter, I want to assure you, being a representative of that area, that my position at this point in time - and I don't know whether I can speak for the committee as a whole, but I think this came out in the preliminary hearings we had in Trenton last week - is that we are out to find the best possible solutions to these problems. We are not about - at least, I am not about - to support the legislation we have before us until we have heard all of the alternatives and we can say to ourselves and say to the people, "This is what we have. This seems to be the best. Can we come to some agreeable solution to it?"

MS. PORTER: Thank you, Assemblyman Smith. This is exactly what we are seeking. We are seeking further study. We are seeking adequate documentation of alternative routes at this time before any plans are defined.

ASSEMBLYMAN SMITH: Those routes, as you have heard, are not set in stone.

SENATOR DODD: I would like to welcome Senator Barry Parker, representing the southern half of New Jersey.

The Committee will now call Roger Schwartz, Hackensack Water Company.

ROGER M. SCHWARZ: Good morning. My name is Roger Schwarz. I am an attorney with the law firm of Riker, Danzig, Scherer, and Hyland. I am here representing the Hackensack Water Company.

The Hackensack Water Company is pleased that the Seante Energy and Environment Committee and the Assembly Energy and Natural Resources Committee have selected Bergen County as the site for their first public hearing. Northeastern New Jersey was, of course, the first area of the State to feel the effect of the water shortage we are experiencing and was the first area of the State to be subject to the mandatory water conservation measures of the Governor's Executive Order. Your presence today reemphasizes the seriousness of the situation and serves as a reminder to the public of the urgent need to continue the water conservation measures which are necessary to see us through the drought.

The legislation which is before your committees would dramatically change the manner in which water supply is regulated by State agencies. Many of the changes are long overdue and, if enacted, would greatly improve the ability of State Government and the State's water suppliers to respond to water shortages in the future. But it must be stressed, as Senator Dodd stated when your committees met last week, that the bills before you today will not put one drop of water in our reservoirs for this summer. We urge you to keep this fact before the public and the press so as not to create the impression that the enactment of this or any other package of legislation will solve the crisis for this summer. For that we need continuing conservation and a heavy rainfall this spring.

I would now like to comment on the various proposals before you. For the sake of convenience, I will refer to the bills sponsored by Senator Dodd by their Senate numbers, but the comments apply equally to the legislation sponsored by Assemblyman Hollenbeck.

Although it is true that none of the bills will put water in the state's reservoirs for this summer, there is, of course, one bill which will increase the State's water supply capacity over the next several years. Senate Bill 1610, the Water Supply Bond Act of 1981, would authorize the financing of a variety of much needed water storage and pipeline projects. The Hackensack Water Company is not, however, directly affected by S-1610. None of the projects involved the company or the Hackensack River Basin. Hackensack, of course, is proceeding with the North Jersey District Water Supply Commission on the Two Bridges-Ramapo Project, which will provide an average of 80 million gallons per day of additional water for our customers. The Board of Public Utilities held hearings Monday and yesterday on the question of Hackensack's needs for financing its share of the project.

The projects which are to be financed through Senate Bill 1610 all appear to be generally consistent with the recommendations of the State's water supply master plan. Assuming that the public and private water systems which are directly served by those projects are satisfied, Hackensack supports S-1610 and the bond issue and urges your Committees to report the bills favorably.

Senate Bill 1611, the Water Supply Management Act, is the most significant bill in the package, as far as private water companies such as Hackensack are concerned. By doing away with the Water Policy and Supply Council and

the statutes under which that agency operated, S-1611 would nullify the body of case law and statutory interpretations which have developed over years of experience with that agency. In its place, the bill authorizes the Department of Environmental Protection to establish a new uniform permit and fee system for the allocation and reallocation of all existing water diversion rights. The grant of legislative authority is very broad, and gives little guidance to either the Department or the companies it will regulate.

Of particular concern to Hackensack is the authority for the Department to reallocate existing water rights. This is a very practical concern with the Two Bridges-Ramapo Project. Under a diversion permit for that project, which was authorized by the Water Policy and Supply Council, and which was upheld by the State Supreme Court this fall, Hackensack has designed its portion of the project to accommodate an average of 40 million gallons of water per day. The entire 40 million gallons and any above-average flows will not be needed, however, during the first years of operation of the project. Hackensack has planned for the future - for 1990 to 2000 and beyond - and designed the project accordingly. This is, of course, the most efficient way to design a water supply project and operate a water company. Storage capacity, pumping stations and pipelines are designed and built to meet not only immediate needs, but are designed and built in accordance with the full extent of diversion rights and the expectation for the future use of those rights. Water companies thus plan to meet their customers' needs on the basis of those diversion rights they have, and may exercise in the future. Under S-1611, however, the future of those water diversion rights is uncertain. Under the bill, the Department of Environmental Protection could reallocate the unused portion of the Two Bridges diversion. For example, during the first years of operation of the project, as I say, the company will not need to use the full amount of diversion allowed to it. But, the bill provides no standards by which the Department is to make a decision with regard to the allocation. As the bill is now written, therefore, diversion rights cannot secure the future needs of the water company's customers, faced with uncertainty and the possibility of reallocation. No prudent water company would design or build greater capacity than that which will be needed on the first day the valve of a new project is opened.

In fact, given the speculative nature of diversion permits under S-1611, it is unlikely that a water company could secure financing to build a project which has a capacity greater than that required to meet short term needs. We urge you, therefore, to elicit from the Department, its plans for the reallocation of water diversion rights, rather than issuing the Department a blank check, we suggest that the wiser course may be to develop some standards within the legislation. Whereby diversion rights which have been prudently acquired and considered in corporate planning are protected from reallocation.

Senate Bill 1612, the Water Supply Utility Act, would establish an agency to operate those water supply facilities which are now owned by the State - the Delaware and Raritan Canal, and the Spruce Run-Round Valley Reservoir complex - and require that the agency be regulated much like a private water company. Commissioner English stated last week that one of the purposes of the legislation was to insure that all water supply facilities in New Jersey would be operated according to the same rules. The Hackensack Water Company

supports this concept. Senate Bill 1612 also authorizes the State Water Supply Utility to acquire or construct other water supply facilities in addition to the ones mentioned. These facilities include, not only the reservoir and pipeline projects, which are often publicly financed, and which, given their increase in cost, may one day be solely the province of government. But, the facilities which the agency may operate also include water distribution systems. This is a very broad grant of authority, but the question for the legislature is, do you clearly intend for State Government to get into the business of distributing water to homes and industry? Is that a responsibility you wish the State to assume?

We are suggesting that you will have to confront that question as a part of the theory that government should only do that which it does best, in your consideration of this legislation.

The intent of Senate Bill 1613, that municipal water systems be operated as self-sufficient, businesslike utilities - is laudatory, and Hackensack fully supports the legislation. The customers of the municipal systems will benefit in the long run if those systems are provided with the rates necessary to allow the systems to improve and upgrade their physical plants. There is one potential problem with the legislation about which you should be aware.

As Commissioner English noted last week, only half of the water distribution systems in the State are now subject to regulation by the Board of Public Utilities. Enactment of S-1613 will therefore double that number and consequently increase the workload, not just of the BPU, but of the Public Advocate and the Office of Administrative Law as well. Although the increase in cost will ultimately be passed on to the customers of the utilities, you must consider initially increasing the staffs and budgets of those affected agencies.

Finally, Senate Bill 1614 would authorize the Department of Environmental Protection to order a Water Company A to acquire and operate a smaller Water Company B which has been unable to provide proper service to its customers. One problem with this bill is the cost of acquisition. Under the standard which is given in the bill - and that is, original cost of the property and the cost of contributive property - the Water Company A's of this State, that is, the acquiring companies, could get some real bargains. You will undoubtedly hear, however, from some of the Water Company B's who will tell you that under both our Federal and State Constitutions, they are entitled to just compensation which, at fair market value, is usually something much greater than original cost.

The Water Company A's have their own problem with the bill. They can be directed to acquire a neighboring water company and "to make all improvements necessary to assure the availability of water, the potability of the water and the provision thereof at adequate volume and pressures" - that is, they can be directed to spend money - without any assurance that the Board of Public Utilities will recognize those expenses or authorize a commensurate increase in franchise territory. Even if relief from the Board were provided, the legislation still raises the basic question of whether Company A can be ordered to spend money to save Company B. We certainly cannot support S-1614 in its present form and urge you to take a very close look at it.

I do hope that these comments will be of value to you in your consideration of this legislation. Hackensack Water Company is ready to work with you during the course of your deliberations and ready to respond to any questions you have.

ASSEMBLYMAN HOLLENBECK: Thank you very much, Mr. Schwarz. Our next witness will be Jeffrey Stone, Executive Vice President of the Paterson Regional Development Corporation.

J E F F R E Y L. S T O N E: Senator Dodd, Assemblyman Hollenbeck and members of the Committee, my name is Jeffrey Stone. I am Executive Vice President of the Paterson Regional Development Corporation. On behalf of the Board of Trustees of Paterson Regional Development Corporation, I want to thank you for scheduling these hearings here today, so that we could have the opportunity to transmit our views on the proposed "Water Crisis Legislation" to you. We are very pleased that you will be holding additional meetings, which are to be scheduled, and to know that you agree with us that those most affected by this water shortage, the people, would have the chance to review, question and respond to these proposals. After all, the question of water supply is basic to human survival and the economic viability of the State. The effects of any legislation enacted or Executive actions taken will impact every individual, every community and every industry for generations to come.

The Paterson Regional Development Corporation is a non-profit, tax exempt, public issues, research corporation founded in 1973 by business and community leaders of the Paterson Region to conduct impartial analyses of major issues facing the people of the Region and develop and implement solutions in partnership with government, business and the community.

The Paterson Region, as we define it, consists of twenty-two municipalities surrounding Paterson in Bergen, Morris and Passaic Counties.

To the best of our ability, we have reviewed and analyzed the bills, and I will refer to the Senate bills, S-1610, 1611, 1612, 1613, 1614, and their impacts upon the people of our Region. I would first like to convey our general reaction and then address each bill specifically.

In general, these bills appear to do only one thing, consolidate all water management and regulation power in the Department of Environmental Protection. Only one item in the entire package, the Spruce Run-Round Valley pipeline would actually increase water supplies available to northern New Jersey in the near future, and even that is several years away. All the rest will plan and build to increase future supplies and manage them better.

S-1610 - Water Supply Bond Act - the \$65 million for grants or loans to private as well as public water companies, to our knowledge this is the first time funds would be given to private water companies. The background material furnished to us by the DEP mentioned only local governments as being recipients. In any case, \$65 million seems like a lot of money to "reduce leakage." On first blush, this would appear to be a plum to be granted for supporting the bond issue. However, if strict guidelines were developed and a reduced dollar amount agreed upon it could be a helpful program.

The Great Notch Multiple Exchange Facility for \$10 million while not well defined in either the legislation or the background materials we received from DEP, this is a project that should be undertaken as soon as

possible. While it will not increase the total amount of water available, it will streamline its utilization and the ability to transfer surplus water to deficit areas.

Spruce Run - Round Valley Pipeline, \$85 million, this project must have the number one priority among all projects. We all know this should have been done fourteen years ago. No additional delay could be tolerated. This project must start as soon as possible, if not, wait until November. Northern New Jersey cannot afford to wait ten more months to start. What happens if the bond issue is rejected? If we start today, we are a year and a half away from seeing water at the end of the tunnel, and almost an additional year is unacceptable to us. You must take the responsibility for starting the project immediately. To say that if this project were operational now there would be no water supply problem in this area is probably an overstatement, but it certainly would be the most helpful. The daily surplus of these two reservoirs - according to some figures we received yesterday, and I must admit that the figures that I saw this morning would challenge what I am about to say - is near or about the draw of the Hackensack Water Company.

Manasquan Reservoir Project - we are not as familiar and we don't have as much information on this project as others, but there appears to be a need to provide additional future supplies to this fast growing area. However, we are concerned with recently publicized environmental questions regarding certain species of fish and an apparent pollution question that is unresolved. It is difficult to support a project that proposes spending \$40 million but is not sure of meeting environmental challenges. We would like to see more analysis done and if these problems could be overcome, we could support that project.

Raritan Reservoir, Force Main and Pumping Station - \$55 million, it is our feeling that this project is a good investment in the future.

Hackettstown Reservoir and Delanco Intake - \$90 million, from a cost effectiveness standpoint, the project would appear to be very questionable. It appears to propose doing, on a much reduced scale, what the Tocks Island Project was supposed to do. The question is, of course, will it work? According to some sources, this project will not augment water flow in the Delaware enough to allow New Jersey to continue to take water from the basin. Questions of cost, questions of effectiveness, questions even of need all are unanswered. It would be prudent for everyone concerned to carefully review all sides of this question, regardless of what positions were assumed years ago. It is 1981, and time, needs, positions, and people change. Let us not forget that the proposers of these projects will not be their implementers. New Jersey cannot afford to be locked into positions of the past, if they are not the positions needed to assure the future.

In summary, on S-1610, we would prefer to see the funds allocated to local governments for the repair and rehabilitation of water systems or have them reduced or eliminated. The Great Notch Exchange and Spruce Run- Round Valley Pipeline projects should begin tomorrow, not wait for a bond issue. Raritan is a fine long term project while Manasquan and Hackettstown are dubious and certainly require additional study.

S-1611, Water Supply Management Act, there is no question of the need for closer monitoring and better management of our water resources statewide. Two questions arise concerning this bill, who should do the managing and how?

It is our opinion that the management powers proposed in this bill be vested not in the Department of Environmental Protection, but in the State Water

Utility proposed in S-1612. This would allow for the most professional management, dispense with the question of politics and decisions and provide a continuity of policy unavailable in an Executive Department.

The question of how is answered: not by a huge bureaucracy which this bill would create. For example, it reduces from 100,000 gallons or more to 1,000 gallons daily the amount of water diverted that would require a diversion permit. That is a 100 time decrease in the amount, which means that every farmer and every well user will require a diversion permit. By reducing this amount 100 times, the bureaucracy needed to enforce it to grow by who know what, not to mention the amount of fees. Streamlining the permit system and reationalizing the diversions are necessary but need not cause lines at the permit window.

S-1612 State Water Supply Utility Act, New Jersey needs a State Water Utility empowered to develop and manage the water supply and water storage facilities. It should have many of the management powers outlined in S-1611, but it should not operate as a provider of water to consumers. It should guide the development and enforce the management and distribution of water but not act as the operator. The utility should be able to force local suppliers to upgrade their operations and if they are not capable, the State Utility itself should do it and have another more capable local supplier assume the management. In effect, this combines S-1612 and S-1614, making S-1614 unnecessary.

Two additional related concerns are the composition of the board and a proposed grant of veto power. The composition of the governing board must be carefully constituted. At present, this bill would have three members of the Governor's Cabinet and two public members appointed by the Governor. This composition would surely create a board completely lacking independence in policy formulation and execution. The bill further guarantees this rubber stamp approach by granting veto power to the Commissioner of Environmental Protection. This is unacceptable. A more broadly based board, able to assure continuity of purpose beyond political terms of office, is absolutely necessary with no veto granted to anyone.

There are numerous ways to approach the board's composition. For example, the curenly proposed five member board could drop the Commissioner of Labor and Industry and seat the Public Advocate. Or, the Board could be expanded to seven members including a consumer representative, a water provider, a business (water user) representative, a representative from the New Jersey Legislature and Cabinet members.

PRDC recommends that consideration be given to combining elements of S-1611, S-1612 and S-1614 in one bill creating a State Water Utility as we have outlined.

S-1613, this bill would give the Board of Public Utilities the power to set rates for municipally owned companies which have, in general, been extremely responsive to their customers. Having the BPU set rates would require additional costs to the companies and ultimately the consumer would require redundant bookkeeping and provide an insulator between the consumer and the company, actually making rate increases easier. We urge its demise.

S-1614, if a law such as this is needed, and in certain unusual cases it might be, its power should be vested in the State Water Utility not DEP. The utility should have the power to direct a local company to assume the small water company, but the Utility should assist with the costs and financing, much as the bank regulating institutions do.

The water crisis in northern New Jersey has reached a stage where the only help can come from someone more powerful than nature herself. In the short term, all we can do is pray; there are no quick solutions. There is nothing in this "Water Crisis Legislation" that will augment existing supplies in the next few months, when it appears some water source could completely dry up.

The two projects that have short term value, the Great Notch Exchange and the Round Valley - Spruce Run pipeline, must not be delayed by waiting for a bond issue. One is already delayed 14 years.

The lesson I hope we learned is that we must conserve, manage and better utilize our water resources as we develop new supplies to assure that we are never again faced with drinking treated sewage. But we must not rush to approve hastily, ill-conceived legislation that will create more problems than it solves in the name of responding to a crisis. New Jersey has earned a reputation of management by crisis; now is not the time to live up to it but to analyze our problems clearly and develop a responsible system that will allow our children and grandchildren to focus on other areas of concern, never again to be without a proper water quality in the proper amounts. Thank you, Senators and Assemblymen.

SENATOR DODD: Mr. Stone, there is one implication that you made in the beginning of your presentation, that private water companies would benefit by the use of public monies, and I would like to call on our water resource people to address that, because this will come up again and again, so let's address it now.

MR. HOFFMAN: That is a good question, and quite frankly the way the bill is now written, it says quite clearly, and I will quote for the benefit of those who don't have a copy in front of them, "Total monies available, which would be \$5 million, is allocated for grants or loans to private and public water facilities."

I think the purpose of putting that in the statute in that fashion was to allow us the flexibility in making loans or grants to the public water supply facility. It is the intent of the State at this point in time or at least the intent of the Department, that we would not be making grants to private water companies, quite frankly we even think there is a constitutional problem in doing that. We had no intentions of doing that. What we were proposing to do in those cases would be to provide monies for low interest loans to those private entities that needed that kind of money in order to upgrade their systems, and they would be on a pay back basis. The same goes true for the sale of water. We might handle that issue right off the bat at the same time. When the State builds a project such as the Spruce Run - Round Valley project, which is already on line, the State sells the water from that project, and that money that is collected as a revenue from the sale of that water is divided into two pots - it is actually collected on the basis of two pots. One is the operation and maintenance costs, so that the facility operates as a utility in the sense that the operation and maintenance of that facility are covered by the sales of the water.

The other component of the water charge, that we call our bonded indebtedness component, wherein through the sale of water we are paying the State and the taxpayers back for the bonds that are written and issued for the construction of that facility, I would say that the vast majority of the money that is asked for in this particular bond issue would be handled in the same fashion. Because of the uniqueness, however, of some of these projects, the pay back would be for a much longer period of time. For instance, the Raritan-Passaic pipeline project, which is mainly being supported

as a drought emergency provision, you would not be collecting revenue on a daily basis on the sale of water. We would only be collecting revenue on the basis of handling the drought situation, so that the pay back would be for a much longer period of time. The bottom line and intent is to have the users pay, and the State to front-end the money in order to build the facilities. The same goes for the money for the rehabilitation.

MR. STONE: I thank you for the clarification, but I do have to point out that the bill says grants or loans to public or private water companies. It doesn't say what the intent is. And, that is why we are concerned about it. As I said, if strict guidelines were put forth or incorporated in the bill, that kind of thing would be much more acceptable.

SENATOR DODD: Jeffrey, that is why we are having these hearings.

MR. STONE: Thank you.

SENATOR CAUFIELD: Mr. Stone, you were referring to the \$65 million for reducing leakage, and in the bill it says, "For the rehabilitation or repair of antiquated or damaged water supply systems." I think you made a kind of serious implication. That might be kind of a plum.

MR. STONE: Yes, sir.

SENATOR CAUFIELD: Do you think it is?

MR. STONE: I think it could be.

SENATOR CAUFIELD: Okay, you are aware that the water systems have been one of the most afflicted of our capital improvements to the State of New Jersey.

MR. STONE: Maybe next to the sewers---

SENATOR CAUFIELD: And, mainly for the same reason as the sewage, because they are out of site. You can see a park, but you can't see those water mains that need replacing or cleaning or realignment and so forth. I thought it was one of the very important parts of the bill. Certainly, I am not going to speak for the sponsor, but I am sure it was not intended as a plum. I think it is quite the opposite.

MR. STONE: Senator, I agree that it could be. The only problem I have is in its vagueness, and that with strict guidelines as to its use and how it would be used and where it could be used, it could be very beneficial.

SENATOR DODD: These bills, again, are not written in stone, as Assemblyman Hollenbeck has said. We are here to improve them, to change them, to come up with better ways, and that is why we are here. We are listening. This is the key.

MR. STONE: And we appreciate that effort very much.

SENATOR DODD: Assemblyman Bob Franks of Union County has joined us.

ASSEMBLYMAN HOLLENBECK: Yes, and we have also been joined by Mayor Carucci, sitting on the end of the table.

SENATOR DODD: Thank you for the use of the hall, Mr. Mayor.
Guy Calcerano, Water Supply Coalition.

G U Y C A L C E R A N O: Thank you for the opportunity to be here today. Good morning, my name is Guy Calcerano. I am Research Director for the New Jersey Public Interest Research Groups Water Project. I am here today representing the New Jersey Water Supply Coalition. The Water Supply Coalition was formed in early December to review the five bills that are before us today, to help consolidate support for the adoption of a Comprehensive Water Supply Master Plan in the State and to provide an objective body for oversight, the water supply facility construction projects funded by the 1980 bond issue.

The member organizations of the coalition are listed in the printed copy of my testimony. The process that was used to draft these bills was fatally flawed. The bills themselves, therefore, are fatally flawed.

Senate Bills 1610 through 1614 are being presented in answer to New Jersey's water supply problems. This is not the case. There are only a few provisions of any of these bills that will address the immediate effects of the current drought. Naturally, those few parts, which I will detail later, should be passed immediately by the relevant Committees and the Legislature as a whole. Unfortunately, the bulk of the provisions of these bills will not affect the immediate and dangerous water supply shortage New Jersey is facing right now and will face through the summer. These bills provide for long-term construction projects and long-term management plans. These bills were drafted and presented to the Legislature now because it is a politically expedient time to get them passed, and to assure the Department of Environmental Protection has certain powers which it feels that it needs.

Unfortunately, hastily conceived plans will not assure that the effects of the drought New Jersey is facing now are mitigated, and it will not assure that New Jersey's water resources are managed in such a way that we will not in 1990 or 2020 be facing yet another drought.

The current water supply crisis has been caused as much by poor and short-sighted management of water resources of this State as it has been by low rainfall. There has never been a carefully thought-out, long range plan to manage all of this State's water resources. New Jersey has historically blundered from a drought condition to flood conditions and has neglected water resources development in the interim. This pattern was supposed to change the drafting of the water supply master plan for the State. That process, which has consumed a fantastic amount of money so far, after three years is close to conclusion, but had not been concluded. Contrary to the impression created by the Department of Environmental Protection's Commissioner, Gerry English, when she appeared before the Capital Planning and Budget Committee, and contrary to the impression created by some of the language in Senate Bill 1611, there is no water supply master plan for this State. Until there is such a plan, New Jersey will not have taken the very first important step toward assuring that the water supply crises in this State are not repeated every decade or two decades.

The most important part of Senate Bill 1611, and Assemblyman Hollenbeck, I am using the Senate Bill numbers only for convenience here---

SENATOR DODD: For clarification, the bills that have been introduced are identical by Assemblyman Hollenbeck and the Assembly and myself in the Senate, and hopefully with the full support and sponsorship of both committees, so for all intents and purposes, they are the same bills.

MR. CALCERANO: The most important part of Senate Bill 1611 is Section 12, which requires the Department of Environmental Protection to complete and maintain water supply master plans for this State. This section should also mandate a time frame for completion of this task, a date at which the Water Supply Master Plan will be completed and will go into effect.

This section should also provide for an adequate public participation process, so that all the plans which could possibly help the State avoid another drought would be brought to light.

In addition, the Water Supply Coalition urges the passage of Section 13 of Senate Bill 1611. It is clear the Department does need emergency powers to deal with the current drought and its effect on the State. Necessary emergency powers are all contained in Section 13. The section, however, could stand some improvement.

First, clear criteria must be established for the declaration of a drought emergency in terms of reserve water capacity, reservoir levels, or some such numerical measure.

Second, there must be provision for public notice before the Department takes any remedial actions. It would be allowed under this section.

Third, such a declaration must be enforced for a limited period of time.

Section 16 is, of course, necessary to make sure that the actions of the Department under emergency circumstances have the force and effect of law; but, these are the only sections of S-1611 which both meet the immediate needs of the State, and which can logically be passed in the absence of a water supply master plan.

As Jim Gaffney, the Chairman of the Water Supply Coalition has detailed in a letter to you, Assemblyman Hollenbeck and Senator Dodd, we also support certain provisions of S-1610. These are the provisions, which, again, can be taken in the absence of a finalized master plan. There is an immediate and pressing need for the rehabilitation and repair of the aging and delapidated water supply systems, certain public purveyors in the State of New Jersey. These are the provisions, which, again, can be taken in the absence of a finalized master plan. There is an immediate and pressing need for the rehabilitation and repair of the aging and delapidated water supply systems of certain public purveyors in the State of New Jersey. It is shocking that some of the older systems in this State through leaks and ruptures lose up to 50% of the water that is pumped into the system. We can ill afford this kind of waste.

We strongly support Section 4a of Senate Bill 1610 which provides for monies to finance these repairs. We also support Section 4b of 1610, which would finance the design, acquisition and construction of a multiple exchange facility at Great Notch.

With the exception of these few projects and provisions, the bills that are before this Committee, again, will not have an immediate effect on the drought situation that New Jersey is currently facing, and will face at least through this summer. There is a compelling reason not to act on the rest of the measures at this time. New Jersey is facing this drought because it has not implemented a logical long-term water resource management problem to act now. Once again, the absence of such a plan will perpetuate the short-sighted piecemeal process which got us into the situation in the first place. By reacting to the pressures of the moment, we may both pass certain bills which will in fact worsen the problems that New Jersey faces in regard to water supply, and we may ignore certain measures which are absolutely vital. Our supply coalition feels that if we are to deal with New Jersey's long-term water supply problems - we point to both watershed protection which actually provides the water which fills up reservoirs and pumped through pipelines, and we point to permanent structural conservation measures, not behavioral conservation.

The New Jersey Water Supply Coalition urges the Legislature not to act hastily in this matter. We urge you to pass those parts of these bills, Sections 4a and 4b of Senate Bill 1610, and Sections 12, 13 and 16 of Senate Bill 1611, which will alleviate part of the immediate problem. We urge you to table consideration of the non-emergency portions of these bills until the State has finalized the water supply master plan. New Jersey cannot afford anything less than a comprehensive long-range solution to the water supply crisis.

ASSEMBLYMAN HOLLENBECK: If the New Jersey master plan was completed, and had time for the review, then the other areas of this particular legislation could be supported.

MR. CALCERANO: Absolutely. Some of these we feel are important and should in fact be passed. However, the current process puts the cart before the horse, and New Jersey is headed for an accident that way.

ASSEMBLYMAN HOLLENBECK: Does any member of the Committee have a question?

SENATOR CAUFIELD: Yes, I have a couple of observations or questions. First of all, I am surprised that there is not a State master plan. I asked that question specifically in Trenton last week, and I was told there was such a plan.

MR. CALCERANO: There are a series of consultant documents and it has been repeatedly pointed out that they are about that tall. But those consultant documents have not gone through a public review process which would point out both the positive parts in the consultant documents, and would point out the deficiencies in those documents.

SENATOR CAUFIELD: I note in your statement that it is shocking that some of the older systems of this State lose through leaks and ruptures at least 50% of the water that is pumped into the system. That is why I raised that question with a previous speaker about the \$65 million to repair mains and so forth, so we wouldn't waste that water. But, in addition to the leakage, isn't there also another benefit that we get in that tuberculation takes place in water mains, let's say a ten-inch main becomes radial over the many years because of not being cleaned, and relined, and it becomes maybe a four or five-inch main. It makes all kinds of problems, including fire fighting problems, which are very serious ones. That is another reason why I think that is an important process, and I think the gentleman had answered by saying he would be prepared to support that if it had the proper kind of constraints and regulations.

The last comment is about something you said earlier on. You said the bills are drafted and presented to the Legislature now because it is a politically expedient time to get them passed.

MR. CALCERANO: That is not necessarily a negative comment.

SENATOR CAUFIELD: No, that is exactly my point. I think the fact that we do have a drought and we do have a very serious condition may have been the catalyst for making some of these things happen. Perhaps I am being oversensitive. The word political, unfortunately, is usually given that kind of a connotation, something negative.

MR. CALCERANO: I was a Political Science major and Plato uses it in a very positive sense.

SENATOR CAUFIELD: Well, good. I am glad somebody does. I have not heard much on that. If it is a catalyst for doing that, certainly, it has been brought forth, and you did say we should not act hastily. I made the same comment

on the fire study commission bill the other day. It is true we don't want to act hastily. We don't want to take it piecemeal, hodge-podge and just throw it all in, but what we do want is a very well coordinated, concrete answer, well-reasoned, intelligent plan and approach to the whole subject.

MR. CALCERANO: Again, the Water Supply Coalition feels that an intelligent process is first to finalize the master plan and then to proceed with consideration of a long-term construction and management plans that are contained in S-1610 to S-1615.

SENATOR CAUFIELD: It sounds like everyone pretty much agreed, that of course it is a long-range problem, but we have to immediately deal with staying alive right now at this point.

SENATOR PARKER: You indicated that there were only two aspects you would support. What about the construction of the project for Two Bridges on the Passaic River?

MR. CALCERANO: I believe the Water Supply Coalition will have for you at a later hearing a more detailed analysis of S-1610 which at this point we are prepared to say only that we support the infrastructure repair and the Great Notch interconnection.

SENATOR PARKER: I thought your comment was based on the fact that there was going to be no immediate relief anywhere in any of these, and my recollection was - and the staff was just trying to bring me up to date on the construction time - that that could go into effect immediately and start to have an impact as soon as it could be constructed. Now, there may be a construction line, but that would definitely help provide additional waters, would it not?

MR. CALCERANO: As I said, I am not prepared to comment on that particular project at this time.

ASSEMBLYMAN HOLLENBECK: Actually, Senator, Two Bridges is not part of S-1610, though. It is not considered as part of the bond issue. That is being done by private, and a group of municipalities which have joined together their portion of it. It is not part of the issue.

Assemblyman Franks who has joined the Committee has a question.

ASSEMBLYMAN FRANKS: I share some of this gentleman's concerns, quite frankly, and also Senator Caufield's concerns about just what it is. It is a status of this master plan. The consultant document that the Commissioner brought to us at our last hearing and waved in front of us, I, clearly by implication, got the impression that was indeed the master plan. If it is not, I would like to hear just what status it is in, and where we are going here.

I think some of these questions are very legitimate. Are we putting the cart before the horse? I would like to hear from the Department.

ASSEMBLYMAN HOLLENBECK: I think we can very easily find the answer to that question. Mr. Hoffman.

MR. HOFFMAN: Well, just a little brief review of the master plan. The State hired a consortium of five firms to develop a statewide water plan, basically to develop consultant's recommendations to the State towards the implementation and development of the statewide water supply master plan. That project lasted for three and a half years, and the consortium of five firms worked looking at not only the engineering aspects of water supply, but also the institution and financial problems associated with water supply in the State.

The consultant's recommendations have been completed, and the report is in the process of being printed. It is at the printer now, and we would anticipate that report being delivered to the State in large quantities for distribution within the next two to three weeks. When that occurs, we will have them distributed, and following the distribution of those reports, there will be a series of public hearings, where people can come and comment on the report, and as a result of the comments that are made on the consultant's recommendations, a statewide program would be developed for implementation for a so-called master plan for a short period of time. The consultant's work is completed, and it is just a matter of being printed. It is at the printer now. It should be back to us in three weeks.

ASSEMBLYMAN HOLLENBECK: You have seen the proposed plan; are any of the projects being proposed a violation to that state proposed master plan?

MR. HOFFMAN: Any violation to it? No. Let's reiterate again that the work that the consultant's recommendations to the Department -- The consultants in reviewing the water supply situation in the State, as far as projects were concerned, divided the State into six regions, the area of the Passaic Basin and the Raritan Basin, considered Region I, the area in which we are in the most critical situation now. They strongly recommended three projects to proceed as quickly as possible, one, the implementation of the Two Bridges project which we have already heard is a project being funded by a joint venture of the Hackensack Water Company and North Jersey District Water Supply Commission.

However, it strongly recommended that an interconnection be developed between the Raritan Basin and the Passaic Basin, and that is one of the projects proposed in the bond issue.

Thirdly, it recommended that the improvements be made to the Delaware and Raritan Canal to allow the canal to adequately transport the full 100 million gallons a day which we are entitled to as a result of the Supreme Court decree on the Delaware River Basin. That project is already underway. We received funding. And, as a matter of fact, I think you also have an appropriation bill before the Assembly and the Senate at this time to appropriate the last portion of money available in previous bond issues to undertake the improvements in the Delaware-Raritan.

In going on down the State, in Region II, we recommend the Manasquan project. Over in Region V, which is the tri-county area, we have recommended the Delanco intake, and in order to implement the Delanco intake it recognized the need for the Hackettstown project in order to accomplish that.

ASSEMBLYMAN FRANKS: I just have a question regarding how the consultants were defined, and what their jurisdiction was. Did they all look at the same parts of the puzzle, or were they assigned different aspects of the problem, and did each firm address the different portions?

MR. HOFFMAN: We did not hire five individuals. We hired a consortium. You have to recognize that when the State put together the request for a proposal from the consultants, we probably had, at least in some people's minds - people that have a national perspective and an international perspective for the water supply - termed our request for a consultant's work to be probably one of the most complex, comprehensive works by a master planner ever undertaken. This was brought to bear when you looked at the consultants that submitted their proposals. There wasn't one firm who felt they had the expertise to properly address all of the issues we raised in our request for a proposal.

We had anywhere from a minimum of two firms to a maximum of six firms go together and submit a proposal as a joint proposal to undertake the work. In the consortium that we ultimately selected, we had five firms. We had two that were basically general engineering firms. We had one firm that had an expertise and computer adaptation of water resource data. We had another firm whose expertise was in groundwater analysis. And, the fifth firm's expertise was in the institutional and legal aspects. So, we have put them altogether and they work as a team in the development of the work.

ASSEMBLYMAN FRANKS: Were there ever any divergent findings of these consultants? Were they making competing recommendations, or was it totally unanimity throughout this?

MR. HOFFMAN: Obviously, in the process of doing the work, there was a number of sessions where there were conflicts that were resolved, but they were resolved through the consultant's efforts before the report was submitted to us.

In addition to the consortium of five firms, they had an expert advisory council that was made up of experts as far away as England to bring into New Jersey the perspective of the droughts that we faced in England. So, we had people from there and people from Washington and other areas. In addition to that, we also had Dr. Abel Waltman, who is probably one of the most world renowned experts on water supply consulting, advising the State in the review and working with the consultants on this.

ASSEMBLYMAN FRANKS: Will the master plan in the end be simply a compilation of the consultant's findings, or will it be the DEP's reactions to the consultant's findings.

MR. HOFFMAN: It will not be just DEP's reaction to the consultant findings. In the process of developing this, we had five public participation regions throughout the State, so the plan, as it was developing by the consultants, had the advantage of public input throughout the process.

MR. CALCERANO: Excuse me, those were public information meetings. They were not specifically designed, as I understand it, to solicit public input on the document itself.

MR. HOFFMAN: That is not correct. They were designed as public meetings. They were not hearings. There is no question that they were not hearings, but the public who participated in those meetings had a definite bearing and a definite impact on the development and the finalization of those recommendations by the consultants. They were not hearings. There is no question that they were not hearings, but they were what we call public meetings to provide the public an opportunity to influence the consultants in the preparation of their subsequent drafts and ultimately their final recommendation.

What we have proposed at the Department level is that when we get the document credit, we would then go out with formal public hearings, and then as a result of those formal public hearings, we would take the information and the comments that have been raised by the public as well as the comments from the Department and put that together into a five-year or ten-year work plan, short-term plan.

SENATOR PARKER: On that point, those hearings could take as long as two years before the plan is finalized before you go through the administrative procedures and follow all the public hearing process.

What we wanted, and what I think we ought to have, is at least the findings, or a synopsis of the findings that were made for the purpose of this Committee

reviewing the bills at hand, because we realize what takes place with these administrative hearings before the plan can be adopted, as "the plan for the State of New Jersey." I think we should have the advantage of any expertise that has been made available to your department in reviewing this whole program.

MR. HOFFMAN: Hopefully before your next hearing, you will have copies of the summary and findings. That is what is in the process of being printed. As a matter of fact, you had copies given to you at the last hearing.

SENATOR PARKER: Is that what the Commissioner handed to us?

MR. HOFFMAN: Yes, I believe she handed out copies of that. I had hoped that by now I could have given you the printed document. But, you did receive copies of the summary of findings. I would suggest that if you have an opportunity to look that over we would be glad to sit down with you individually or jointly and go over that in more detail.

MR. CALCERANO: I would like to make one quick comment. The concern of the Water Supply Coalition started with the fact that we have not received a detailed rationale for why some of the consultants' findings are in fact included in these bills and others are not. If in fact the consultants put in as much effort and had as much expertise as Mr. Hoffman says - we do not dispute that - they hired some top notch people, and so much more for the justification for going ahead and finalizing that process before the State starts to make a long-range water supply decision.

SENATOR DODD: Thank you, Mr. Calcerano. Jack Desch.

J O H N D E S C H: My name is John Desch. I am representing Charles Moeller, who is the Superintendent of Water for the Township of Wayne. Unfortunately, Mr. Moeller was not able to attend this morning, due to other drought-related problems. But he gave me some comments that he would like to have entered into the record this morning. If I might, I will paraphrase his comments.

With reference to Senate 1610,, the \$65 million allocation for grants or loans for repairs and assistance should have a more definitive description as to eligibility of purveyors and scope of work. Properly administered, this is a good proposal.

The "Great Notch Proposal" should state more clearly the scope of work and location of the interconnections to be constructed. The interconnection is needed.

The pipeline from the Spruce Run and Round Valley Reservoirs should be built now. This project must go forward immediately, based on the prediction of continuing drought for the next several years. This pipeline should have been in operation long before the current crisis arose.

I would question the immediate need for the Manasquan Reservoir Project.

The Raritan River Project will be needed in the future.

The Hackettstown Reservoir Project does not adequately address the Delaware River flow problem. Other projects with greater flow augmentation and safe yields have been proposed, namely, Tocks Island.

Some of the aforementioned projects are of immediate need, while I feel some others should be further reviewed.

Adequate future water supply is important, but it must be carefully considered from the viewpoint of determining the projects most beneficial to the areas of the State most severely impacted by the present water crisis.

Senate 1611: This proposed legislation appears to attempt to consolidate a more comprehensive program for water supply than presently exists; however, several questions arise.

Paragraphs 4 and 5, in dealing with diversion privileges, seem to allow for the revocation of some privileges now held, possibly for future use, but not presently used. These sections apparently will also require diversions of more than 1,000 gallons per day to re-apply for their privileges.

Paragraph 7a would indicate that permits would be renewable after some time period. What will this time period be?

Paragraph 10 notes a fee schedule, without any estimate of the costs that the purveyor will be required to bear.

Paragraph 15 appears to give the department broad powers especially in the area of interconnection of systems and system improvements and repairs.

Paragraph 18 appears to propose payment for all diversions in the future. Present payments are limited to excess diversions. Is this still the intent of this section, or does it propose to cover both groundwater and surface water in the payment schedule?

If properly implemented, there are some good proposals in this bill. However, there are many areas that require better definition of intent and more indications of the costs to the purveyor. This plan must be streamlined and not complicate the procedures.

Senate 1612: Is the creation of another level of government necessary in the water supply field?

This legislation would allow for the acquisition of any, or all, existing water systems by the proposed State Utility. This would jeopardize home rule.

The N.J.D.E.P. is already engaged in the storage and release of raw water to water systems. This should be the direction taken in the future, specifically the construction and operation of storage and transmission facilities to deliver raw water to the existing water purveyors.

The board acquisition powers which this State Utility would have should not be allowed.

N.J.D.E.P. under S 1611 would have more than adequate power over water supply. Another level of control and authority is not necessary.

If created solely to develop raw water storage and transmission facilities, I would support this proposal.

Senate 1613: To subject all agencies who own and operate water systems to BPU jurisdiction will do nothing but increase the cost of operation of those water systems.

The municipal utilities are now and always have been in a responsible position regarding rates. The municipal process of rate setting passes through utility managers to mayor and council, to the consumer. We must be responsive to their review.

The additional costs to each water purveyor and the time consumed to file and hear a rate request is simply not justified.

Budgets are strained to the breaking point now. No additional burdens are needed, especially one that just does not make sense.

Senate 1614: The small failing water system is certainly a problem to all parties - State, county, municipal and consumer. This proposal on the surface would seem a simple solution to a complex problem. It is not. To force an existing efficient utility to acquire, assume liability for, and then upgrade a failing system will place undue burden on the efficient utility.

I present the typical example. In the early '70's Wayne Township assumed liability for a small system of 30 service connections when their well supply became polluted. After living with the problem for several years, the system was upgraded to present standards, at a cost to the utility of \$300,000. This cost was, of course, reflected in operating costs which are paid by all consumers. This is a real case and I can foresee many similar cases occurring.

This proposal would also encourage the deterioration of marginal systems, knowing that there is a way out, with compensation, for anyone who wants to get out of the water supply business. I would register my opposition to this bill.

On behalf of Mr. Moeller, I thank you.

SENATOR DODD: Thank you. We realize you are testifying on behalf of someone.

MR. DESCH: Yes. It would be a little difficult for me to answer questions.

SENATOR DODD: Ladies and gentlemen, we will take a five-minute in-place break, to give the stenographers a rest.

We will continue right on through. There are a few more speakers. Then we can wrap this up. Again, anyone wishing to testify, please talk to Al, who is at the end of our table.

(Short Recess)

ASSEMBLYMAN HOLLENBECK: Ladies and gentlemen, we would like to proceed with the hearing. We have two more people who have asked to testify. Rather than break for lunch, we are going to take their testimony and complete the hearing.

Senator Dodd had to leave. He should be back in about 45 minutes; possibly, we will have completed the testimony at that time.

The next person who has expressed a desire to testify is Wendell Inhoffer, Passaic Valley Water Commission, a real pro on the subject.

W E N D E L L I N H O F F E R: Thank you, Mr. Chairman. I am not sure there are too many pros on this subject today.

Artie Schiffman paints a pretty dreary picture in terms of where we are. I think Artie's only problem is that he doesn't speak loud enough. I think we have to speak a lot louder on this subject. I would like to speak to the initial problem that we have because I think, if we react to that now, we won't have to worry about five years from now.

Frankly, if we are short of water, it is because it is not in the right place. We all know Round Valley-Spruce Run has plenty of water, as was mentioned here today. We all know that as of this moment I guess 90 million gallons a day of that is rushing out to sea. There is a bill before you to reduce that, or releases could be reduced automatically without legislation. It has to be done. Also in the Passaic River at this very day 50 million gallons are running right on past Lyndhurst out to the ocean. So, effectively, we have had 140 million gallons a day running out of this State in the area of need; and that is intolerable. Therefore, what has to be done as soon as possible is that Round Valley water has to be brought into this area. There are three ways of doing it: the big pipeline which should be done immediately - and we concur in that; also the interconnection with Newark, which should be reinforced. Newark is going to need some help in that. But all they need is a pumping station and we can build pumping stations pretty quickly on a temporary basis. The Commonwealth Water Company has interconnections with Round Valley and that should be maximized so we can get new water in here. And, finally, we can't afford to have all of this water running out of the Passaic River basin.

Now, you have read and heard and seen on television the difficulties of treating the water. The water, in effect, virtually meets all of the stream-water quality standards, except for bacteria, which is still low. It is a literal trout stream, believe it or not. Right now, if you hold up a bottle of water, it is not 1965 repeated when the river was septic and black and dirty. The water today is clean. It has one chemical parameter in it right now called ammonia, which is a problem, a problem to the water treatment plant. It is not a problem to fish. And that is the problem we are facing. We are doing everything we can - Dirkin and I and all of us - in terms of maximizing our treatment capabilities.

If we are going to talk about getting water into this area, we have to do it now. We cannot wait. I agree with the 60-day suggestion. I don't want to be in front of anybody 60 days from now and have to say, "Well, we should have done it. We have been talking about this for a long time." Strangely enough, it probably gives us a chance to again review, just review, the implications of the

Tocks Island decision. Let's review that, because if you add up all the reservoirs in North Jersey, you have 113 billion gallons of capacity; and Tocks Island had 145 billion in one reservoir just for water supply. It is an important number and I think we have to take a look at it.

What we probably need also is a similar force to the strike force we had for toxic and hazardous waste where, if a guy spills a drum of chemicals, people come out in white suits and gas masks and everybody responds. Let's get a strike force to go up in that watershed and work on the sewer plants all up and down the Passaic, above our intake and below our intake, to make that water that much more useable. It is pretty good water. It meets stream standards. According to our regulations, it should be available for water supply all the way down to the Dundee Dam. I think we can't overlook that point.

I am sorry Senator Caufield isn't here because he made some comments with respect to fire hydrants in the summer. And I can tell you that is going to be a problem. Fire hydrants will be opened next summer, irrespective of the level of reservoirs. I don't think there is anything the Legislature can do, any acts it can pass or any rules or regulations that are going to close those hydrants in the way we would like to see them closed. It is a very, very involved problem and I suggest you might want a committee just to study that issue. It is much more involved than having a local ordinance or having a police force go out and close them. Let me tell you it is a much bigger problem than that.

With respect to the water systems and water supply systems in New Jersey in general, I think we are getting a false impression. It appears that our water supply systems are just old, antiquated, leaky, obsolete, etc., etc. I think that is overdone. Our water supply systems in terms of supplying water are in pretty good shape. They do need rehabilitation. But they are not the leaky old systems that are pictured. I kind of back up when I hear all of these statements because they are not facts. There are certain exceptions obviously.

Very briefly on the bills, we will be providing a paper after we hear all the testimony because, frankly, I have learned a lot this morning. We have learned a lot every day recently. I would just like to give you my comments briefly on the bills as I see them at this moment. And I reserve the right to change my opinion because I think that the water systems really haven't had a chance to sit down collectively to hammer out some of the issues that are here. I think we have to do that.

1610, the Bond Act, obviously has to be supported. Sixty-five million is not nearly enough, but it will have to be allocated. I shudder to think that initially private corporations, investor-owned systems, would get grant money. But perhaps there is some reason for it. I think there are reasons and there are exceptions, but those exceptions have to be spelled out. We are not going to solve the small private water company's problems with this kind of money, no way. Sixty-five million, fine. Ten million for the Great Notch interconnection - as of last Friday, we didn't even know what it was. We couldn't imagine how we could spend ten million dollars in Great Notch. Now, we know. It is really not the Great Notch interconnection. It is just called that. It is a series of interconnections that stretch over miles, which are important, which require pumping stations, metering, and what have you; and probably more than ten million will be needed. But we have to have it. It is very good. It is not going to help the drought one iota because we are going from one empty bathtub into the other

and it doesn't make any sense.

Eighty-five million for Round Valley - it should have been done fifteen years ago. But, of course, it was the institutional problems in those days that created that particular problem. We are trying to solve the institutional problems obviously with some of your other bills here. It has to be done. We should put it rather than directly into the Passaic River directly into the water supply system, so that we don't lose a lot of it to Newark Bay, because right now, frankly, if you put Round Valley water into the Passaic River, it is going right out into Newark Bay. There is no way we can capture it, with the Two Bridges project and with the Wanaque South project being off in the future. We need Round Valley water now.

SENATOR PARKER: Without pumping it out and letting it run down, how are we going to do that? As I understand it, the pipes are just not physically big enough to deliver it from there around through Elizabethtown and Commonwealth up into the Newark system.

MR. INHOFFER: In terms of the Raritan Valley pipeline, the 85 million, I don't have design details available to me. It is in general discussion in terms of what we are trying to do. Initially, I think it was to put water into the Passaic River and let it run down the river. My thought of it is to put a pumping station into a reservoir system directly, without allowing it to run out to sea, because that is what is going to happen right now.

Forty million for the Manasquan area - I know of certain water treatment plants down there that were turned off and abandoned temporarily because their reservoirs were empty. There is no question but that area in New Jersey needs help. We would certainly support that.

Fifty-five million for the continuation of the Raritan project - we should develop the Raritan to its maximum capability. Nobody can argue the point.

Ninety million with respect to Hackettstown, I don't know. I have grave reservations about Hackettstown for a number of reasons. The main one is that I think what it does is take some of the limelight off Tocks Island. I think that it could be the death knell of Tocks Island if it is to be built, number one. I am not saying that we should start building Tocks Island. But I am saying we should look at it very, very carefully and also look at the alternatives to the Hackettstown system. I hear a lot about salt water intrusion. I don't know how that relates to the Hackettstown Reservoir. I really don't have enough information on the Hackettstown system to make a definite commitment. At this point, I can't support it and I don't think anyone in our Commission will support it, in spite of the fact that we recognize it is really a State problem. I don't think we can look at the Passaic Valley Water Commission interests or the Hackensack Water Company interests at this point. I heard it said earlier this morning that Hackensack had no interest in one of the Delaware projects. Well, I think they do because those projects ultimately are going to help us. They are enmeshed with Round Valley. Round Valley is going to be enmeshed with us. And Hackensack is with us right now on the Wanaque Reservoir. So we are all in the same boat. There are no separate entities here.

As far as the Water Supply Management Act is concerned, we have some reservations. Again, obviously, there has to be good management. And we are getting management now. We are getting responses. We have some good managers

running around right now trying to solve some problems. We are making progress. The only thing is that I think this question of reallocation of diversion permits, diversion rights and grandfather rights is overdone. I don't know in the Passaic River basin where there is a need for this, or whether in the Hackensack River basin there is a need for it, or whether in the Raritan basin there is a need for it. Maybe there is a need for it in South Jersey groundwater. If that is where there is a need for review and study, then do it. But to set up this level of bureaucracy with all of its pertinent red tape and all of the fees and all of the law cases, I don't know if you really need it at this point. I think we would like to know more about it. I know I would. I just don't see any need for the diversion problem to be reviewed. Obviously, the statewide master water supply plan, which by the way is that thick (indicating) and well done, has to be updated. And whoever is in charge of the Management Act provisions obviously is going to have to do that.

I guess perhaps what we are all afraid of - and I guess this has been our history - is that when we give a regulatory agency the right to act and to regulate, much as Congress gave to the EPA under the Safe Drinking Water Act, we find ourselves overregulated. I am afraid that there is a tinge of over-regulation built into this. Again, as far as I am concerned, it is open for discussion. It is very easy to abolish the Water Policy and Supply Council. We all have some good friends down there. We know how it works. But we do get disturbed on occasion. It is very easy to abolish that. Yet, there is no consideration given to abolishing the North Jersey District Water Supply Commission. I am not saying that it should be abolished. There is just no word about that. If you are going to set up a strong State agency, why do you need North Jersey as an institution? Obviously, you are not going to blow up the reservoirs. But do you really need that institution there, as such, as it is? I think that has to be considered.

As far as the State Water Supply Utility Act, 1612, it is an absolute must. There has to be a State agency that is going to take over and enable someone to build these projects we are talking about. Passaic Valley can't build anything anymore. We don't have the resources. Neither does Newark or Jersey City. It has to be a State project and that has to be the function of a very strong State agency which, by the way, should do the management. When you go through the words in terms of the Act, I am a little concerned about the make-up of the Utility membership. I don't know if that is strong enough or maybe it is too strong. I don't know. When you give veto power to the Commissioner, then I am just wondering how strong that entity becomes in terms of the decision-making power. It has to be able to act. It has got to be able to manage. It should do the management and it is going to have to build the projects. But if you think that these projects are going to receive revenues and be self-supporting, you can forget it, because it isn't going to happen. It would be nice if it would happen. But the State has to provide those facilities for these times. There is nobody can afford today, at today's economy, that kind of facility. We have a facility like that known as Point View Reservoir. It sat up here for 15 years and didn't do anything but propagate fish. Today it is being used to great advantage. We could never build Point View Reservoir today. We could never build it. Yet it is there. We need the Point View Reservoir statewide, so that the State with its power could back up the water supply industry when it is needed. Round Valley-Spruce Run

now is costing the state what? - 2 million a year in terms of revenues that it doesn't have. But look at the power of having it there. And I agree with Mayor Cochran's suggestion that sooner or later it is going to pay for itself. The minute Round Valley water gets up here, it has paid for itself already, if we can get it up here as soon as possible.

In terms of the last two bills - well, obviously 1613 would never get our support as far as the Commission is concerned because we are not subject to BPU. I don't think our management is so bad. It is one of the only systems around with really excess water, if you can call it that now. Our rates are the lowest in the area. It really is not a bad system. Why should we have to go down to BPU and have them tell us how to manage our system and what we should charge our customers? No way. I think there are some legal and constitutional issues involved in terms of our statute because we operate under a State statute which tells us how to operate. And we operate under it. It works fine. Maybe we should all be commissions, I don't know. So I don't see any real validity in dragging everybody down to BPU to set rates, because in many cases it is not just a question of rates. BPU should set rates, not manage. DEP has had the power to manage. And, by the way, there are some very good small water companies. I don't want to say they are all bad. But to bring all the towns down there, all of the cities that have their own water systems, to 1100 Raymond Boulevard, you would have to add five stories to that building in order to do this. It is just unmanageable; and, as far as I am concerned, totally unnecessary.

The small water company acquisition could be in my opinion a bonanza for those guys who are trying to bail out because now all they have to do is say, "I'm going to let it go. At least, I am going to get my book value out," which is in most cases overstated anyway for the small systems. "I'll get that out and give it to the town." I think we have to take a good hard look at this last bill because I have some real reservations about it.

That is about it for now.

SENATOR PARKER: I want to ask for the people who are not attorneys here, Wendall, can you tell them how the rates are set by a municipal utility and why they don't need to go before the PUC?

MR. INHOFFER: First of all, we haven't had to go before the PUC because under our Commission forms, I have to go before three mayors and councils. That is much worse than going before the PUC. I have to convince them that the rates are needed, reasonable, etc., etc. Usually, we have a consultant's report to back us up. When the three towns say okay, we will bond 20 million. These are our expenditures. We are going to raise the rates to cover this. When they say, we agree, we raise them. And if they don't agree, we have a problem.

SENATOR PARKER: What it does say is that rates have to be fair and reasonable and you have to go through the public hearing process anyway. Now you would go through the PUC in order to get your rates established by your own commission or your own authority.

MR. INHOFFER: On the contrary, if we want to raise rates just for day to day expenses, we could raise them at a Commission meeting. No public hearing is required. Our Commissioners are mandated by the State law to raise the required rates so that they don't get charged with malfeasance. It is very simple. If I need capital money, then I have to go to the cities. That is where the convincing takes place. But, believe me, that system has resulted in a strong

water supply at a low water rate. I don't know if we would gain anything other than changing our bookkeeping system, changing our computer system, and probably hiring another bank of lawyers in order to spend time down there at BPU and still try to run water supply system.

ASSEMBLYMAN HOLLENBECK: I have one question with reference to that. What do you do when you have a small water supply, a small municipal utility, that is using ad valorem taxes to pay for the operation of it and who is very reluctant to put moneys into a sound sinking fund for capital improvement - capital maintenance - and very unwilling to borrow moneys for these necessary improvements and lets the system deteriorate? What is the answer for that then?

MR. INHOFFER: Let's take City A which is not too far away that has lots of financial problems. They are going to go down there and BPU is going to say or DEP I assume is going to say, "Well, you have to build this and build that and these are going to be the rates." When do the people get their time to speak in terms of what those rates are? I am not sure. The intent of the Act is to get the big cities to spend money on water supply facilities. Okay? That is the intent of the Act.

ASSEMBLYMAN HOLLENBECK: Not only that, but there are many local small systems that are not as mobile. You have sinking funds, etc., all built within your rate. They do no more, possibly, than carry in their rate enough for operation.

MR. INHOFFER: They are under BPU right now in terms of a bond issue.

ASSEMBLYMAN HOLLENBECK: I am speaking of the small municipal systems, the small 40-homeowner municipal systems.

MR. INHOFFER: I am not too sure that is a real problem.

But to drag everybody in the State before BPU to get at the few systems that have problems is not reasonable. I don't think it is the prudent thing to do. I think we have to look at whether we really have a problem here and is that the way to solve it? Because you are not solving anything dragging Passaic Valley Water Commission down there. If you solve anything, our rate will go up.

ASSEMBLYMAN HOLLENBECK: I don't think so either. The question really comes up with the number of small companies, the small municipal ones, the small subdivision of 40 homes, where there is virtually no operation, no operation whatsoever.

MR. INHOFFER: Those municipally run?

ASSEMBLYMAN HOLLENBECK: No, there are a lot of private ones.

SENATOR PARKER: The private ones have to go before the PUC now. They have to get a franchise from the town to build it, plus they have to go to the PUC once they get the franchise from the town to set their rates. The ones I am concerned about mainly - Wendell's system may be a little different for the Passaic Valley --- but most of our utilities are either municipal utility authorities or municipally-owned water companies. They are exempted from PUC rates now. Each of them has a public hearing before they can raise the rates. They have to publish them. And they only take into consideration, for instance, the capital recovery cost, the maintenance cost and the administration cost. They flat-line them out on their budgets and the engineer or the auditor runs out what it is going to cost them. That is all the PUC does and you already have a system built in with local control. That is why I wanted him to get into the local areas, to explain what happens when the local authority gets ready to raise the rates or make a change or build something.

One other thing they have too - maybe Passaic has it also - is, if you want to put in a line or do something to improve it, you can then assess the property owners, those who get the benefit from it. Do you have that authority?

MR. INHOFFER: We have that provision.

SENATOR PARKER: So there is no reason why the small municipally-owned can say, "Okay, we can't fix the line that is down," because if it is servicing people, they can put the line in and there is an assessment that will go on their tax bill.

MR. INHOFFER: I don't see that as being a major issue at this point.

ASSEMBLYMAN HOLLENBECK: I don't know if it is either. Of course, it is a part of the package and these are the questions that have to be raised. That is why we are asking for input.

Thank you very much, Mr. Inhoffer. I hope you are reserving your right to come back and make further comment.

The next to testify will be David Bell representing Automatic Car Wash.

D A V I D B E L L: Assemblyman Hollenbeck, members of the Committee, I thank you for this opportunity to talk to you. Originally, I was going to come down here representing the industry, but I backed off on that. I am here to represent myself.

My family has been in this business since 1947. We have seen water shortages come and go, as we have seen politicians come and go. One of the reasons I stand before you is, I implore you to eliminate this problem now, and in the future. I am not talking about drinking water. I am talking about the water that I need to make a living, so that I can pay for the water that I drink. My five children at home every day question me, asking what is going to happen. This has become a great concern to me personally. I am not standing here talking about my livelihood, whether it will go up or down. I am not wondering whether the water company's bottom line is on an increase or a decrease. I am wondering whether I am going to have a bottom line at all.

No one in this room is as concerned personally as I am. My welfare is at stake, whether I will be able to cloth my children this summer is at stake. I have been in business myself since the sixties, and I have, as a small businessman, made every attempt to conserve water as a good business policy. My average water bill is \$100 a month. Now, commercially, from what I understand, I am not a major water consumer. But, the fact is, whenever the cry of water shortage comes out, my industry is pointed out as the fall guy.

This situation must stop now and in the future. I as a taxpayer have the right to use natural resources of the State as any other industry, and I have made every effort over the years in business to conserve those resources as the Hackensack Water Company, my purveyor, can provide. The background of my water bills over the past fifteen years, I have never consumed great amounts of water in order to provide the service that I do for the general public. I have been questioned by my customers, "Why are you open? You are not really a priority." Well, priorities are something that is in each individual's mind, and people that spend \$8,000, \$10,000 and \$15,000 for an automobile and concerned about its value, a car wash becomes a priority. To someone who doesn't own a car, yes, it is not a priority.

Again, I implore you, gentlemen, this water shortage will some day disappear, but there will be others in the future. I as an individual and resident of this State will do my every bit best to see to it that this issue is not dropped because it starts to rain. I don't ever want to be put in the position again of having to be a bad guy in the eyes of the public, because I have a right just like everyone else in this room to make a living. Thank you.

ASSEMBLYMAN HOLLENBECK: Thank you very much, Mr. Bell. Obviously, Mr. Bell's concern, gentlemen is one that we all have to share, because there is a great deal of water intensive industries within this area. We begin to talk about a lot of people being employed, and Mr. Bell is one of those people expressing his concern about it. This is the reason why we must consider addressing the problem.

We have completed our list of people scheduled to testify today. We do have another hearing scheduled for the 10th of February in the Assembly Chamber, at 10 A. M. We will then have further discussion on these bills and get further input from the public. Thank you very much for your concern and your attendance.

(Hearing Concluded)



N. DAVID FAGERLUND
Superintendent

BOROUGH OF OAKLAND, NEW JERSEY

Public Works Department
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February 4, 1981.

The Honorable Frank Dodd
New Jersey State Senate
Energy & Environmental Committee
c/o Legal Services Staff
State House
Trenton, N. J. 08625

Att.: Committee Aide Michael Catania

Dear Senator Dodd:

The purpose of this letter is to bring to your attention Bills Nos. S1610 - S1614 and A2345 - A2349, and my comments on each.

First, however, I want to express my indignation regarding the manner in which the Public Hearing on January 28, 1981, was held. No notice of the Hearing was sent to the people who are most affected and, more important, the people who know the subject (water) better than anyone, i.e., the water suppliers and the local governing bodies who will have to face the cost of over-regulation and the new fees proposed but never mentioned. The Hearing itself was conducted as if it was a report on the present emergency with the Bills a secondary item.

At the start, we should establish that none of these Bills will solve our present drought and only one of them, be of assistance in future supplies.

S1610-A2349 BOND ISSUE

This is the one Bill which will help in the future. However, I would question the \$65,000,000 for rehabilitation of old systems. If the grants were removed, I can see lending money; however, the people who have paid to keep their systems in good repair, should not have to pay for systems which were not properly maintained. Perhaps the Great Notch section should be refined.



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S1611-A2346

The State has always had the power to control the water in the State. They just finished but have not yet accepted a Master Plan which cost millions of dollars. Let's wait for proper acceptance and study of its recommendations. This Bill allows the Department of Environmental Protection to modify, suspend or terminate diversions permits. I believe this would halt all planning and building of facilities for the future and bonding would cease since the first question asked by bonding companies is in regard to diversion rights. A fee schedule is also included by which all water users would be assessed to keep the D.E.P. empire growing. No discussion on this has been forthcoming so far.

S1612-A2347 STATE WATER UTILITY

The D.E.P. has a vehicle to manage its present reservoirs and could continue the same practice with future sites. However, in this Bill, they set up a utility responsible to no one but the Department, with the right to take over existing water departments and companies and distribute water. The State's function should be to plan and build water supplies for the future. (They have failed in the past as our present drought indicates.)

S1613-A2347

All water systems subject to Board of Public Utilities. This Bill will take away the last vestige of home rule. It will raise the rates in most small municipal systems 25% just to appear before the Board, with no return except to the attorneys, accountants and engineers. It will slow the ability to keep up with inflation and assure the systems falling behind in maintenance.

My system is already under the B.P.U. so I speak with knowledge of the subject. This Bill will ruin the average well run small municipal department in ten years time. Then the State Water Utility can take over.

S1614-A2346

The State has allowed these small water companies to be formed for years. Now they would force municipal and private companies to take them over, pay for them and improve them and then charge their regular consumers for something they did not want.

I am not against progress in the State but most of this legislation is a power grab using the present emergency as an excuse. Let's go forward one step at a time: thinking each step out before we take it.



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Right now, let's start building reservoirs for the future. We might even admit the Governor was wrong in killing the Tocks Island Project!

Very truly yours,

N. David Fagerlund
Superintendent

NDF:mtb

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