



Legislation Details (With Text)

File #: 20-1584 **Version:** 1 **Name:** Ordinance: COVID19 Special Emergency Appropriation/Issuance of Special Emergency Notes Water Utility

Type: Ordinance **Status:** Adopted

File created: 12/2/2020 **In control:** Finance

On agenda: 1/21/2021 **Final action:** 2/3/2021

Title: AN ORDINANCE OF THE CITY OF NEWARK, IN THE COUNTY OF ESSEX, STATE OF NEW JERSEY AUTHORIZING A SPECIAL EMERGENCY APPROPRIATION PURSUANT TO THE PROVISIONS OF N.J.S.A. 40A:4-53(m) AND 55 AND THE ISSUANCE OF SPECIAL EMERGENCY NOTES TO FUND AN OPERATIONAL DEFICIT IN REVENUES IN THE WATER UTILITY FUND, AS A RESULT OF A DECLARED PUBLIC HEALTH EMERGENCY.

Sponsors: Council of the Whole

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
2/3/2021	1	Municipal Council	Close on Public Hearing and Adopt	Pass
1/21/2021	1	Municipal Council	Advance and Adopt on First Reading as 6F-	Pass

AN ORDINANCE OF THE CITY OF NEWARK, IN THE COUNTY OF ESSEX, STATE OF NEW JERSEY AUTHORIZING A SPECIAL EMERGENCY APPROPRIATION PURSUANT TO THE PROVISIONS OF N.J.S.A. 40A:4-53(m) AND 55 AND THE ISSUANCE OF SPECIAL EMERGENCY NOTES TO FUND AN OPERATIONAL DEFICIT IN REVENUES IN THE WATER UTILITY FUND, AS A RESULT OF A DECLARED PUBLIC HEALTH EMERGENCY.

WHEREAS, a Public Health Emergency has been declared by the Governor of the State of New Jersey pursuant to Emergency Health Powers Act (N.J.S.A. 26:13-1 et seq.) in response to the COVID-19 pandemic (the “Public Health Emergency”); and

WHEREAS, as a result of the Public Health Emergency, the City of Newark, in the County of Essex, New Jersey (the “City”) has experienced a deficit balance in the City’s Water Utility Fund Results of Operations in the 2020 budget year in the amount of \$8,571,607.59 (the “Water Utility Operational Deficit”); and

WHEREAS, the City’s Chief Financial Officer has prepared a certification with respect to the Water Utility Operational Deficit being directly attributable to the Public Health Emergency (the “Certification”), which the Certification has been approved by a majority of the members of the Municipal Council; and

WHEREAS, concurrently herewith, the City has submitted an Application, including the Certification, which Application has been approved by the Municipal Council prior to its submission, to the Director of the Division of Local Government Services (“DLGS”) to obtain approval of the Water Utility Operational Deficit and the Special Emergency Appropriation related thereto; and

WHEREAS, if approved by the Director of the DLGS, N.J.S.A. 40A:4-53(m) permits a municipality to finally adopt an ordinance authorizing a Special Emergency Appropriation in order to fund the Water Utility Operational Deficit of the City; and

WHEREAS, the City is desirous of funding the Water Utility Operational Deficit through the adoption of this Special Emergency Appropriation Ordinance; and

WHEREAS, the City has determined that the Application for Certification of the Special Emergency demonstrates that the full appropriation of the Public Health Special Emergency appropriation by the last day of the sixth (6th) year will cause significant fiscal distress; and

WHEREAS, pursuant to N.J.S.A. 40A:4-55(c), the City has submitted application (the "LFB Application") to the Local Finance Board, in the Division of Local Government Services, Department of Community Affairs (the "LFB") to extend the repayment period of the Special Emergency Appropriation for a period up to ten (10) years as determined by the LFB; and

WHEREAS, Municipal Council introduced the within ordinance authorizing the Special Emergency Appropriation to fund the Water Utility Operational Deficit; and

WHEREAS, the City is desirous of finally adopting the within ordinance authorizing a Special Emergency Appropriation and Special Emergency Notes to fund the Water Utility Operational Deficit and the repayment thereof for a period of up to ten (10) years as determined by the LFB.

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

SECTION 1. To fund the Water Utility Operational Deficit resulting from the Public Health Emergency, a Special Emergency Appropriation in the amount of \$8,571,607.59 is hereby authorized and approved by the City of Newark pursuant to N.J.S.A. 40A:4-53(m).

SECTION 2. For the purpose of financing the Special Emergency Appropriation referred to in Section 1 above, Special Emergency Notes of the City are hereby authorized to be issued in the principal amount of \$8,571,607.59 pursuant to N.J.S.A. 40A:4-55. Subject to the provisions of Section 3 herein below, the City shall appropriate and pay one fifth (1/5) of the portion of the Special Emergency Notes directly attributable to Water Utility Operational Deficit caused by the Public Health Emergency in each year beginning in the year after the year in which the resulting deferred charge appears in the City's unaudited financial statements with the final one fifth (1/5) portion of the Special Emergency Notes payable, no later than the last day of the sixth (6th) year following the end of the fiscal year that is the subject of the Application to the Division of Local Government Services ("DLGS"), unless extended.

SECTION 3. In the alternative and subject to: a) determination by the LFB that repayment of the Special Emergency Appropriation in accordance with Section 2 hereof will cause significant fiscal distress as described in N.J.S.A. 40A:4-55(c); and b) approval by the LFB of an extended repayment schedule not to exceed a total of ten (10) years, the \$8,571,607.59 Special Emergency Notes shall be repaid in accordance with the repayment schedule approved by the LFB.

SECTION 4. All Special Emergency Notes issued hereunder shall mature at such times as

may be determined by the Chief Financial Officer as set forth above in either Section 2 or Section 3 as applicable; provided that no note shall mature later than one (1) year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer shall determine all matters in connection with notes issued pursuant to this ordinance, and the Chief Financial Officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of N.J.S.A. 40A:4-55(b)(2) and approvals granted.

SECTION 5. The Chief Financial Officer is hereby authorized to sell part or all of the Notes from time to time, at not less than par and accrued interest, if any, at public or private sale, and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest, if any, from their dates to the date of delivery thereof. The Chief Financial Officer is directed to report in writing to the Governing Body at the meeting next succeeding the date when any sale or delivery of Special Emergency Notes pursuant to this ordinance is made. Such report shall include the amount, the description, the interest rate and the maturity schedule of the notes sold, the price obtained and the name of the purchaser.

SECTION 6. All Special Emergency Notes issued pursuant to this ordinance shall be executed by the Chief Financial Officer and the Mayor and shall be under the seal of the City and attested by the City Clerk. Such officers are hereby authorized and directed to execute and deliver all documents necessary or convenient in connection with the issuance, sale and delivery of the Special Emergency Notes.

SECTION 7. In accordance with the provisions of N.J.S.A. 40A:4-53, the City Clerk is hereby authorized and directed to file a copy of this Special Emergency Ordinance as adopted with the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey and the Executive Secretary of the LFB.

SECTION 8. This ordinance shall take effect twenty (20) days after the first publication thereof after final adoption as provided by N.J.S.A. 40:49-27.

STATEMENT

Ordinance authorizing a Special Emergency Appropriation pursuant to the provisions of N.J.S.A. 40A:4-53(m) and 55 and the issuance of Special Emergency Notes to fund an operational deficit in revenues in the Water Utility Fund as a result of a declared Public Health Emergency.