

THE BOND BUYER

New Jersey stormwater law may spur resiliency bonds

By

Andrew Coen

Published

March 27 2019, 3:28pm EDT

A New Jersey law enabling municipalities to create utilities to manage stormwater runoff may spur increased borrowing for resiliency projects throughout the state, according to analysts.

The Clean Stormwater and Flood Reduction Act signed by Gov. Phil Murphy last week was created to tackle flooding risks facing much of the state. Moody's analyst Douglas Goldmacher noted in report that while the legislation does not alter the credit conditions of any locality, the measure may create new strategies for creating dedicating revenue streams dedicated to stormwater capital projects. "With proper execution, the new infrastructure would be materially credit positive for many local governments," Goldmacher wrote in the report, released Friday. "For geographic and geologic reasons, large parts of the state are at risk of flooding and although floods rarely reach catastrophic proportions, they are endemic and routinely cause damage."

The law authorizes issuing debt for stormwater management purposes that Goldmacher said could be backed by new fees while also allowing for incentives to encourage the use of green technology. He stressed however that not all parts of New Jersey are equally prone to flooding and there are risks that some localities will incur "unnecessary debt" or expenditures by establishing an unneeded utility. Municipalities who fail to set fees appropriately or add too much

debt will also face increased leverage without experiencing “significant” material benefits, he said.

Resilience expert Alan Rubin, a partner with Blank Rome LLP, expects the New Jersey law to prompt increasing borrowing for some of the stormwater projects, including green bonds, and expects other states to follow suit with similar legislation in the near future. Rubin said fees alone are typically not enough to fully support bonds for stormwater projects, but stressed that supporters of socially conscious investing will drive plenty of financial support.

“Everybody takes a haircut because of the resilience factor,” said Rubin. “The fees are de minimis, but they are typically made up for by volume.”

Bill sponsors noted that New Jersey has lacked a dedicated funding source for rainwater-runoff compared to the state’s drinking supply and wastewater systems. They also stressed that New Jersey is expected to face even more future flooding due to a projected sea level rise and more frequent severe storms. The Department of Environmental Protection will be required under the new law to provide rate structure guidance for the stormwater utilities.

"Excessive flooding is a problem in many areas of the state," Assemblywoman Cleopatra Tucker, D-Newark, said in a statement. "It has become costly for municipalities to maintain roadways and communities prone to flooding when it rains."

The stormwater utilities will be expected under the Garden State’s new law to abide by industry best practices from other states that have created them. The state will also be publishing a new guide for the utilities to adhere to.

“While this does not guarantee successful implementation, it suggests that local governments will be operating with guidance that improves the probability of credit-positive actions,” said Goldmacher.

