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New Jersey Legislature Passes Bill Modifying Sewer and Water Connection Fee Calculations

On January 8, the New Jersey Legislature passed bill S3499/A5250 (the bill), which amends the sewer and water connection fee law in several ways to address existing inequities regarding connection (or tapping) fees. The bill establishes certain credits for and reductions in sewer and water connection fees, including those for all affordable housing.

New Jersey sewer and water laws have frustrated developers for many years because they are outdated and charge connection fees based on math that is not very transparent. Sewer and water connection fees are typically an important line item in a developer's pro forma. Both residential and commercial developers will welcome this bill if it is signed into law.

Most notably, under the existing statute, public housing authorities and nonprofit organizations (but not for-profit developers) building affordable housing projects were entitled to a 50 percent reduction in sewer and water connection fees for connecting new units to the sewer and water system. The bill amends this section of the statute to expand to all affordable housing (including that built by for-profit developers) the 50 percent reduction in new connection fees and the credit against the connection fee for affordable units previously connected to the sewer and water system that were demolished or refurbished.

Additionally, the bill generally allows credits to be applied to connection fees for reconnection of certain disconnected properties that were previously connected to the sewer or water system for at least 20 years and have not been disconnected for more than five years. The credit is calculated based on several factors, including but not limited to whether the reconnection does not require any new physical connection, increase the nature or size of service, or expand the use of the system or whether a connection fee was previously paid for the existing use.

For properties already connected to the sewer and water system, the bill allows local or regional authorities to charge a new connection fee for an addition, alteration or change in use that "materially increases" (as defined in the bill) the level of use and imposes a greater demand on the utility system but does not involve a new physical connection of the property to the system. The connection fees for any new or additional connections are still imposed.

This bill, if signed into law, would be a first step in addressing some of the shortcomings of the existing sewer and water laws. This alert only summarizes the bill. For more information or questions as to the status of the bill, please contact Craig M. Gianetti, Nicole M. Magdziak or any member of the Day Pitney real estate team.

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