

ASSEMBLY, No. 935

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman KRAMER

1 AN ACT concerning the dissolution of an authority by a local unit and  
2 amending P.L.1983, c.313.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 20 of P.L.1983, c.313 (C.40A:5A-20) is amended to  
8 read as follows:

9 20. Notwithstanding the provisions of any other law to the  
10 contrary, the governing body of a local unit which has established an  
11 authority shall have the power and is authorized by ordinance in the  
12 case of a municipality, and ordinance or resolution, as appropriate, in  
13 the case of a county, to dissolve the authority, except that the  
14 ordinance or resolution, as the case may be, shall be approved by the  
15 Local Finance Board prior to adoption. Any authority established by  
16 more than one municipality or county may be dissolved by the  
17 adoption of parallel ordinances or resolutions, as appropriate. The  
18 Local Finance Board shall approve the dissolution if it finds that the  
19 ordinance or resolution makes adequate provision in accordance with  
20 a bond resolution or otherwise for the payment of all creditors or  
21 obligees of the authority and that adequate provision is made for the  
22 assumption of those services provided by the authority which are  
23 necessary for the health, safety and welfare of the recipients of those  
24 services. The ordinance or resolution shall be introduced and adopted  
25 in the manner provided by law, shall take effect immediately after final  
26 adoption, and shall not be subject to referendum. A copy of the  
27 ordinance or resolution as adopted shall be filed immediately with the  
28 Local Finance Board and with the Secretary of State. In the event that  
29 an authority has obligations outstanding at the time of the taking effect  
30 of the ordinance or resolution to dissolve the authority, the local unit  
31 or units dissolving the authority are authorized to either issue  
32 obligations in furtherance of the dissolution[, and the obligations] or

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

**Matter underlined thus is new matter.**

1 assume the responsibility and payment of the obligations of the  
2 authority being dissolved. Any obligations issued in furtherance of  
3 dissolution shall have a period of usefulness not exceeding 40 years  
4 from the date of issuance. The assumption by the local unit of the  
5 obligations of the authority sought to be dissolved for which the local  
6 unit is not the guarantor or any bonds to be issued in furtherance of a  
7 dissolution shall be authorized by a bond ordinance to be introduced  
8 and adopted in accordance with the provisions of the "Local Bond  
9 Law," N.J.S.40A:2-1 et seq., except for the provisions of sections  
10 40A:2-11, 40A:2-26, 40A:2-27 and 40A:2-31 of the New Jersey  
11 Statutes, and except that the bond ordinance shall take effect  
12 immediately after final adoption and shall not be subject to  
13 referendum. The bonds or other indebtedness for which the  
14 responsibility and payment is assumed may be deducted from the gross  
15 debt of the local unit by action of the Local Finance Board in  
16 accordance with subsection d. of N.J.S.40A:2-7. [Bonds]  
17 Notwithstanding any of the provisions of the "Local Bond Law"  
18 regarding the sale of bonds, bonds issued for this purpose shall be sold  
19 under the direction and supervision of the Local Finance Board on  
20 terms prescribed by the Local Finance Board, and may be sold at either  
21 public or private sale as the board shall prescribe.

22 Notwithstanding the provisions of any other law, rule or regulation  
23 to the contrary, if in order to make adequate provision for the payment  
24 of outstanding obligations of an authority being dissolved, the local  
25 unit determines, with the approval of the Local Finance Board, to  
26 assume the responsibility and payment of the obligations of such  
27 authority, the local unit is hereby authorized, for so long as any bonds  
28 issued by the authority being dissolved remain outstanding, to exercise  
29 directly all of the powers of such authority, as if it had not been  
30 dissolved including the power and authority to assume the  
31 responsibility and payment of such outstanding obligations on the same  
32 terms and conditions as the outstanding authority obligations and to  
33 exercise all rights under any law, including the right to create pledges  
34 of revenue or create liens on property or grant security interests as  
35 appropriate and necessary to comply with the terms of the bond  
36 indenture or to assure that the security of the holders of such authority  
37 obligations shall not be adversely affected by the assumption of such  
38 obligations by the local unit.

39 Nothing contained in this section or in this act shall limit the powers  
40 accorded under any other law to any county or municipality to dissolve  
41 any authority which it has created or of which it has joined in the  
42 creation, nor limit any general reorganization powers accorded under  
43 law to any county or municipality to alter or abolish its agencies, but  
44 the provisions of this section and this act shall be supplementary to the  
45 powers accorded under any other law.

46 (cf: P.L.1987, c.319, s.9)

- 1       2. N.J.S.40A:2-12 is amended to read as follows:  
2       40A:2-12. A bond ordinance shall contain in substance the  
3 following:  
4       a. (1) an authorization for the issuance of obligations, stating in  
5 brief and general terms sufficient for reasonable identification the  
6 purpose or purposes for which the obligations are to be issued, a  
7 statement of the estimated maximum amount of bonds or notes to be  
8 issued, and the estimated cost of such purpose or purposes, but related  
9 improvements or properties may be treated as 1 improvement or  
10 property; or,  
11       (2) an authorization for the assumption by the local unit of the  
12 obligations of the authority sought to be dissolved pursuant to section  
13 20 of P.L.1983, c.313 (C.40A:5A-20) for which the local unit is not  
14 a guarantor;  
15       b. a determination of the period of usefulness of the purpose within  
16 the limitations of this chapter or, if issued for several purposes, a  
17 determination of the average period of usefulness, taking into  
18 consideration the respective amounts of obligations authorized for the  
19 said several purposes;  
20       c. a determination that (1) the supplemental debt statement has  
21 been filed in the office of the clerk, (2) such statement shows that the  
22 gross debt as defined in this chapter is increased by authorization of  
23 such obligations by \$ or is not increased, and (3) the obligations  
24 authorized by the bond ordinance will be within debt limitations  
25 prescribed by this chapter, or the issuance thereof is permitted by an  
26 exception to said limitations naming the particular section, paragraph  
27 or law providing such exception;  
28       d. a statement of the aggregate amount for items of expense  
29 permitted under 40A:2-20.  
30 (cf: N.J.S.40A:2-12)

31

32       3. This act shall take effect immediately.

33

34

35

## STATEMENT

36

37       This bill amends the "Local Authorities Fiscal Control Law" to  
38 make it clear that a local unit of government seeking to dissolve an  
39 authority that it created has the option of assuming the responsibility  
40 of payments for outstanding debt issued by that authority rather than  
41 having to incur the costs and market risks of issuing new bonds to  
42 refinance that outstanding debt.

43       A number of local governmental units seeking to dissolve  
44 authorities have found that in making provisions for the payment of  
45 outstanding authority bonds or other debts, they must issue their own  
46 bonds which often results in an increase in costs because of increased

1 interest rates or because the new bonds have to be issued as taxable  
2 bonds. Rather than require the local unit to issue bonds at all, this bill  
3 is intended to clarify the power of a local governmental unit to assume  
4 the outstanding bonds or other debt of an authority and to authorize  
5 the local unit to assume payments on that debt until such debt is  
6 retired in order to avoid any adverse impact of the dissolution on the  
7 holders of outstanding bonds or other debt. This will simplify the  
8 process of dissolution and significantly reduce the cost.

9 The bill also amends the "Local Bond Law," N.J.S.40A:2-1 et seq.,  
10 to authorize the assumption of obligations of an authority to be  
11 dissolved pursuant to the "Local Authorities Fiscal Control Law" for  
12 which the local unit is not a guarantor. Further, the bill allows  
13 payments assumed on bonds or other indebtedness of dissolved  
14 authorities to be deducted from the gross debt of the local unit by  
15 action of the Local Finance Board and to authorize the local unit to  
16 comply with the terms of the bond indenture when exercising the  
17 powers of a dissolved authority as if the authority had not been  
18 dissolved.

19

20

21

22

23 \_\_\_\_\_  
Permits local unit to assume outstanding debt of dissolved authority.