

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
ASSEMBLY, No. 1713

STATE OF NEW JERSEY

ADOPTED JUNE 17, 1996

Sponsored by Assemblyman SULIGA

1 AN ACT concerning landfill reclamation improvement districts,  
2 amending and supplementing P.L.1995, c.173, amending  
3 N.J.S.40A:4-39, and repealing section 6 of P.L.1995, c.173  
4 (C.40A:12A-55).

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

8  
9 1. (New section) P.L.1995, c.173 (C.40A:12A-50 et seq.) as  
10 amended and supplemented shall be known and may be cited as the  
11 "Large Site Landfill Reclamation and Improvement Law."

12  
13 2. Section 1 of P.L.1995, c.173 (C.40:12A-50) is amended to read  
14 as follows:

15 1. a. The Legislature finds and declares that it is a public purpose  
16 and compelling State interest and is consistent with Article VIII,  
17 Section 3, paragraph 1 of the Constitution of this State to facilitate the  
18 redevelopment of large landfill [reclamation] sites in areas in need of  
19 redevelopment within municipalities that are attempting to create  
20 economic growth and thereby to promote job creation and economic  
21 development. Environmentally sound landfill reclamation is essentially  
22 a "capping" process, and the development potential of a capped landfill  
23 is limited. The extensive [closed] landfill areas in some of the State's  
24 [urban areas, the prior commercial retail development experience and  
25 the excellent transportation potential of those areas makes it vital that  
26 the commercial reuse of those sites be encouraged by providing  
27 municipal governments with the appropriate financing tools.] areas in  
28 need of redevelopment present major obstacles, both environmentally  
29 and financially, for the proper redevelopment of the economic  
30 potential of these areas, which makes it necessary to provide special  
31 financial and redevelopment tools for municipalities to address these  
32 obstacles.

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

**Matter underlined thus is new matter.**

1        b. The Legislature, therefore, determines that it is appropriate to  
2 enable [certain] municipalities to establish landfill reclamation  
3 improvement districts in areas in need of redevelopment comprising  
4 [reclaimed] landfills of sufficient size [in existing urban enterprise  
5 zones] to foster meaningful economic development and to provide  
6 [those] municipalities with the appropriate [economic] tools for the  
7 reclamation and redevelopment of those districts. [To provide those  
8 tools, it is appropriate to allow a municipality to fund beneficial  
9 improvements through the use of revenue bonds, and to allow a  
10 municipality to act as a conduit through which the commercial tenants  
11 of a development district may finance their own futures by franchise  
12 assessments on businesses within the district, with the proceeds of the  
13 assessment to be used for land reclamation and infrastructure  
14 improvements made directly by a municipality within the district or  
15 indirectly through redevelopers.]

16        c. The Legislature further determines that the proper remediation  
17 of extensive landfills and the redevelopment of large landfill sites are  
18 necessary to halt the decline in economic activity and the  
19 underemployment of economic resources in these areas, to reverse the  
20 deterioration of the value of previous investments in areas in need of  
21 redevelopment and of public revenue collections on those investments,  
22 and to eliminate the disincentive to new investment; and that the  
23 improvement of these large sites is vital to the safety, health and  
24 welfare of the residents of the municipalities in which they are located  
25 and to the State, and constitutes an important opportunity for  
26 enhancing the economic condition of the municipalities in which large  
27 site landfills are located and that of the State, by augmenting the fiscal  
28 resources of government and by stimulating private and public efforts  
29 to enhance the attractiveness and desirability of the State as a place to  
30 live and work.

31        d. Therefore, to foster this redevelopment, the Legislature further  
32 determines, in accordance with the New Jersey Constitution, including  
33 without limitation, Article VIII, Section 3, paragraph 1, that a  
34 municipality that has created a landfill reclamation improvement  
35 district may: (1) provide for a tax abatement within that district and  
36 for a payments in lieu of taxes agreement, in accordance with  
37 P.L.1991, c.431 (C.40A:20-1 et seq.) and P.L.1995, c.173  
38 (C.40A:12A-50 et seq.) and this amendatory and supplementary act,  
39 P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (now pending before the Legislature as  
40 this bill); (2) levy special assessments on real property within that  
41 district in accordance with chapter 56 of Title 40 of the Revised  
42 Statutes, R.S.40:56-1 et seq., and with P.L.1995, c.173 and this  
43 amendatory and supplementary act, P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_);  
44 and (3) secure revenue bonds, notes or other obligations with those  
45 payments in lieu of taxes and special assessments, and utilize these  
46 means to secure funds to effect landfill closures, remediation,

1 redevelopment, and construction of infrastructure improvements which  
2 will benefit the public at large and which constitute an important  
3 public purpose.

4 e. The Legislature, further, determines that special financing  
5 problems exist with respect to the size or nature and extent of  
6 remediation and infrastructure improvements where the reclamation  
7 improvement district consists of a tract of land of at least 150 acres of  
8 which not less than 100 acres were formerly used as a landfill, and  
9 determines that the municipality, may, by ordinance, levy a franchise  
10 assessment for the privilege of transacting business within the district,  
11 which franchise assessment shall be used to compensate the  
12 municipality for loss of tax revenues arising from assignment of  
13 payments in lieu of taxes or special assessments, or both, as security  
14 for bonds.

15 f. The Legislature, further, determines that it is appropriate to  
16 authorize the New Jersey Economic Development Authority  
17 established pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.) or other  
18 instrumentality created by law with the power to incur debt and issue  
19 bonds and other obligations, as a conduit for municipalities, to issue  
20 and secure revenue bonds, notes or other obligations issued in  
21 accordance with P.L.1995, c.173 (C.40A:12A-50 et seq.) and this  
22 amendatory and supplementary act, P.L. \_\_\_\_\_ c. (C. \_\_\_\_\_)  
23 (now pending before the Legislature as this bill) with respect to  
24 financing or refinancing, without limitation, the site work,  
25 construction, reconstruction, repair, alteration, improvement, and  
26 development of any infrastructure or parking or transportation  
27 facilities or work that abates, prevents or reduces environmental  
28 pollution or other improvements that provide a public benefit within  
29 or appurtenant to a landfill reclamation improvement district.

30 (cf: P.L.1995, c.173, s.1)

31

32 3. Section 2 of P.L.1995, c.173 (C.40A:12A-51) is amended to  
33 read as follows:

34 2. As used in [sections 1 through 6 of this] P.L.1995, c.173  
35 (C.40A:12A-50 et seq.) and this amendatory and supplementary act,  
36 P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (now pending before the Legislature  
37 as this bill):

38 "Authority" means the New Jersey Economic Development  
39 Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.)  
40 or other instrumentality created by law with the power to incur debt  
41 and issue bonds and other obligations.

42 "Bonds" mean bonds, notes or other obligations issued to finance  
43 projects by the authority pursuant to P.L.1995, c.173 (C.40A:12A-50  
44 et seq.) and this amendatory and supplementary act, P.L. \_\_\_\_\_,  
45 c. \_\_\_\_\_ (C. \_\_\_\_\_) (now pending before the Legislature as this bill).

46 "Municipality" means the municipal governing body or, if a

1 redevelopment agency or redevelopment entity is established in the  
2 municipality pursuant to P.L.1992, c.79 (C.40A:12A-1 et seq.) and the  
3 municipality so provides, the redevelopment agency or entity so  
4 established.

5 "Redeveloper" means any person that enters or proposes to enter,  
6 pursuant to P.L.1995, c.173 (C.40A:12A-50 et seq.) and this  
7 amendatory and supplementary act, P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_ )  
8 (now pending before the Legislature as this bill) and the "Local  
9 Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et  
10 seq.), into a redevelopment agreement with a municipality that has  
11 established a landfill reclamation improvement district.

12 "Redevelopment agreement" means a contract between a  
13 municipality and a redeveloper for any work or undertaking for the  
14 clearance, development and redevelopment, and the construction or  
15 rehabilitation of any [structure or improvement of] commercial,  
16 industrial or public structures or improvements, landfill closure,  
17 remediation, or redevelopment, including, but not limited to, on-site  
18 and off-site infrastructure improvements, or rehabilitation of an area  
19 in need of redevelopment, or part thereof, under the provisions of  
20 P.L.1995, c.173 (C.40A:12A-50 et seq.) and this amendatory and  
21 supplementary act, P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_ ) (now pending before  
22 the Legislature as this bill) and the "Local Redevelopment and  
23 Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.), that provide a  
24 public benefit within a district undertaken pursuant to an ordinance  
25 creating a landfill reclamation improvement district pursuant to section  
26 3 of P.L.1995, c.173 (C.40A:12A-52).

27 "Financial agreement" means an agreement that meets the  
28 requirements of a financial agreement under P.L.1991, c.431  
29 (C.40A:20-1 et seq.).

30 "Franchise assessment" means: (1) [an] a gross receipts assessment  
31 on the amount of the sale price of all tangible property sold by a  
32 business in a district, valued in money, whether received in money or  
33 otherwise, excluding the cost of transportation if such cost is  
34 separately stated in the written contract and excluding any tax imposed  
35 pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1  
36 et seq.); (2) [an] or a gross receipts assessment on all rental receipts  
37 from the rental of commercial property in a district; or (3) both (1) and  
38 (2), as imposed pursuant to section 4 of P.L.1995, c.173 (C.40A:12A-  
39 53), and this amendatory and supplementary act, P.L. \_\_\_\_\_, c. \_\_\_\_\_  
40 (C. \_\_\_\_\_ ) (now pending before the Legislature as this bill).

41 "Landfill reclamation improvement district" or "district" means a  
42 [contiguous] tract of land of at least 150 acres in size, which may  
43 consist of one or more tax lots, of which not less than 100 acres were  
44 formerly or are presently used as a landfill, [located in a municipality  
45 having a population of more than 12,000 according to the latest  
46 federal decennial census and in an area designated as an urban

1 enterprise zone in which the receipts of certain sales are exempt to the  
 2 extent of 50% of the tax imposed under the "Sales and Use Tax Act,"  
 3 P.L.1966, c.30 (C.54:32B-1 et seq.), pursuant to section 21 of  
 4 P.L.1983, c.303 (C.52:27H-80),] which has been delineated a  
 5 "redevelopment area" or "area in need of redevelopment" pursuant to  
 6 the "Local Redevelopment and Housing Law" P.L.1992, c.79  
 7 (C.40A:12A-1 et seq.), and is an area which has been designated a  
 8 landfill reclamation improvement district by a municipality pursuant to  
 9 section 3 of P.L.1995, c.173 (C.40A:12A-52).

10 "Special assessment" means an assessment upon the lands or  
 11 improvements on such lands, or both, in the landfill reclamation  
 12 improvement district benefitted by improvements undertaken pursuant  
 13 to P.L.1995, c.173 (C.40A:12A-50 et seq.) and this amendatory and  
 14 supplementary act, P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (now pending  
 15 before the Legislature as this bill), assessed pursuant to chapter 56 of  
 16 Title 40 of the Revised Statutes, R.S.40:56-1 et seq. except as  
 17 otherwise provided in subsection b. of section 8 of this amendatory  
 18 and supplementary act, P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_).  
 19 (cf: P.L.1995, c.173, s.2)

20  
 21 4. Section 3 of P.L.1995, c.173 (C.40A:12A-52) is amended to  
 22 read as follows:

23 3. A municipality [having a population of more than 12,000  
 24 according to the most recent federal decennial census in which there  
 25 is an area designated as an urban enterprise zone in which the receipts  
 26 of certain sales are exempt to the extent of 50% of the tax imposed  
 27 under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et  
 28 seq.), pursuant to section 21 of P.L.1983, c.303 (C.52:27H-80)]in  
 29 which there is a tract of land of at least 150 acres in size which may  
 30 consist of one or more tax lots, of which not less than 100 acres were  
 31 formerly or are presently used as a landfill which has been delineated  
 32 a "redevelopment area" or "area in need of redevelopment" pursuant  
 33 to the "Local Redevelopment and Housing Law" P.L.1992, c.79  
 34 (C.40A:12A-1 et seq.), may adopt an ordinance creating a landfill  
 35 reclamation improvement district whenever the municipality  
 36 determines that the closure and remediation of the landfill within the  
 37 district and the proposed development of the property within the  
 38 district will promote [ job creation and economic development] the  
 39 health and general welfare of the residents of the municipality and the  
 40 district. A municipality may create, by separate ordinances, more than  
 41 one district. Any municipal redevelopment plan adopted by the  
 42 municipality shall provide for the development of the property within  
 43 the district in compliance with P.L.1995, c.173 (C.40A:12A-50 et  
 44 seq.) and this amendatory and supplementary act, P.L. \_\_\_\_\_, c. \_\_\_\_\_

1 (C. \_\_\_\_\_) (now pending before the Legislature as this bill).  
2 (cf: P.L.1995, c.173, s.3)

3  
4 5. Section 4 of P.L.1995, c.173 (C.40A:12A-53) is amended to  
5 read as follows:

6 4. a. A municipality that has created a district pursuant to section  
7 3 of P.L.1995, c.173 (C.40A:12A-52), in which there is an area  
8 designated as an urban enterprise zone in which the receipts of certain  
9 sales are exempt to the extent of 50% of the tax imposed under the  
10 "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.),  
11 pursuant to section 21 of P.L.1983, c.303 (C.52:27H-80), may for the  
12 purpose of increasing public revenue adopt an ordinance to levy and  
13 collect, within the district, a franchise assessment not to exceed three  
14 percent of gross receipts and to devote the proceeds from those  
15 assessments to municipal purposes as provided in this section.

16 b. The rate of the franchise assessment shall be uniform  
17 throughout the district. [Notwithstanding any other law to the  
18 contrary, agreements for the payment of a franchise assessment  
19 authorized by ordinance pursuant to this section shall remain in full  
20 force and effect regardless of whether such ordinance is altered or  
21 repealed]. The franchise assessment shall apply only within the  
22 territorial limits of the district and shall be in addition to any other  
23 assessments, taxes and excises.

24 c. The ordinance shall be a valid and binding ordinance of the  
25 municipality. The ordinance shall continue in force and effect until  
26 repealed by the governing body. The municipality may also provide  
27 and covenant by ordinance that the ordinance authorizing the franchise  
28 assessment will not be amended so as to repeal or reduce the franchise  
29 assessment while bonds issued pursuant to P.L.1995, c.173  
30 (C.40A:12A-50 et seq.) and this amendatory and supplementary act,  
31 P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (now pending before the Legislature  
32 as this bill) are outstanding, unless the resolution authorizing the  
33 bonds shall provide otherwise. Such covenant shall constitute a valid  
34 and legally binding contract between the municipality and bondholders.

35 d. No franchise assessment shall be imposed on gross receipts  
36 which the municipality or the State is prohibited from taxing under  
37 New Jersey law, or the Constitution and laws of the United States of  
38 America.

39 [A copy of an ordinance adopted pursuant to this section shall be  
40 transmitted upon adoption to the State Treasurer.]

41 e. Upon adoption, the municipal clerk shall immediately transmit  
42 a copy of the ordinance to the Director of the Division of Local  
43 Government Services in the Department of Community Affairs and to  
44 the Director of the Division of Taxation in the Department of the  
45 Treasury. Every ordinance levying a franchise assessment pursuant to  
46 this section shall provide for reporting assessments due and for the

1 collection thereof, and all franchise assessments pursuant to such an  
2 ordinance shall be remitted to the chief financial officer of the  
3 municipality. An ordinance levying a franchise assessment shall take  
4 effect only on the first day of any month in any year. [For the  
5 purposes of the effective administration of the franchise assessment,  
6 the municipality shall have all of the rights and responsibilities  
7 established pursuant to sections 35 through 39 of P.L.1970, c.326  
8 (C.40:48C-35 through 40:48C-39) and the franchise assessment shall  
9 be administered pursuant to those sections.] The ordinance shall  
10 provide for the allocation and distribution of the proceeds of the  
11 franchise assessments collected; provided, however, that only such  
12 sums as are retained by the municipality pursuant to the ordinance  
13 shall be included in the general funds of the municipality and all other  
14 franchise assessment proceeds shall be held in trust for the payment or  
15 reimbursement of costs or obligations incurred for the purposes of the  
16 district.

17 f. The ordinance shall set forth the person or persons subject to  
18 the franchise assessment payment and collection procedures, and any  
19 other matters deemed relevant by the municipality with the  
20 municipality having discretion as to the mechanism to be utilized. The  
21 ordinance shall also contain findings that the imposition of the  
22 franchise assessment is necessary because of the substantial risks  
23 undertaken to develop a landfill reclamation improvement district, and  
24 to offset loss of revenues by the municipality because of its assignment  
25 of payments in lieu of taxes.

26 g. The ordinance shall provide for the collection of the franchise  
27 assessment by an officer of the municipality who shall be designated  
28 in the ordinance; shall provide methods for enforcement; and may  
29 provide penalties for the violation of any of the provisions of the  
30 ordinance.

31 h. All revenues collected under the ordinance and retained by the  
32 municipality pursuant to this section shall be deposited in the general  
33 fund of the municipality and may be used for general municipal  
34 purposes, including the payment of salaries, construction,  
35 reconstruction, maintenance and repair of municipal buildings,  
36 installations and properties and for such other purposes as may be  
37 provided by existing ordinances or ordinances hereafter enacted for  
38 general municipal purposes.

39 (cf: P.L.1995, c.173, s.4)

40

41 6. (New section) For the purposes of the effective administration  
42 of the franchise assessment, a municipality adopting a franchise  
43 assessment ordinance shall have the power to:

44 a. Collect the franchise assessment, interest and penalties imposed  
45 by an ordinance adopted pursuant to section 4 of P.L.1995, c.173  
46 (C.40A:12A-53) which shall from the time due be a debt of the person

1 by whom payable to the municipality, recoverable in a court of  
2 competent jurisdiction in a civil action in the name of the municipality  
3 to be instituted within three years of the date due.

4 b. Authorize, as an additional remedy, the chief financial officer of  
5 the municipality to issue a certificate to the clerk of the Superior Court  
6 that any person is indebted under the ordinance in an amount stated in  
7 the certificate. Thereupon, the clerk to whom the certificate is issued  
8 shall immediately enter upon the record of documented judgments the  
9 name of the person, the address of the place of business where the  
10 franchise assessment liability was incurred, the amount of the debt so  
11 certified and the date of making of the entry. The making of the entry  
12 shall have the same force and effect as the entry of a documented  
13 judgment in the office of the clerk, and the chief financial officer of the  
14 municipality shall have all the remedies and may take all the  
15 proceedings for the collection of the debt which may be had or taken  
16 upon the recovery of a judgment in an action, but without prejudice to  
17 the person's right of appeal.

18 c. Provide that, if for any reason the franchise assessment is not  
19 paid when due, interest at the rate of 12% per annum on the amount  
20 of the franchise assessment due, and an additional penalty of one-half  
21 of 1% of the amount of the unpaid assessment for each month or  
22 fraction thereof during which the franchise assessment remains unpaid,  
23 shall be added and collected. When action is brought for the recovery  
24 of any franchise assessment, the person liable therefor shall, in  
25 addition, be liable for the costs of collection and the interest and  
26 penalties imposed.

27 Any aggrieved person may, within 90 days of the entry of the  
28 decision, order, finding, assessment or action of the chief financial  
29 officer of the municipality under this section, file an appeal in the  
30 Superior Court, upon payment of the amount stated by the chief  
31 financial officer to be due. The appeal provided by this section shall  
32 be the exclusive remedy available to any person for review of a  
33 determination of the chief financial officer with respect to a liability for  
34 the franchise assessment imposed.

35

36 7. Section 5 of P.L.1995, c.173 (C.40A:12A-54) is amended to  
37 read as follows:

38 5. [Notwithstanding any law to the contrary, all franchise  
39 assessments that are payable to a municipality from businesses located  
40 within a landfill reclamation improvement district and that are subject  
41 to a redevelopment agreement shall be appropriated by the  
42 municipality for payment as provided for in the redevelopment  
43 agreement.] Any portion of the aggregate franchise assessment  
44 collected annually by the municipality [and retained pursuant to a  
45 redevelopment agreement] which is not appropriated or expended by  
46 the municipality for purposes of the district as such purposes are

1 provided in the "Local Redevelopment and Housing Law," P.L.1992,  
2 c.79 (C.40A:12A-1 et seq.), but is retained by the municipality, shall  
3 be apportioned between the municipality and the county in which the  
4 landfill reclamation improvement district is located, such that 90  
5 percent of the [aggregate] retained franchise assessment collected in  
6 that year shall be [paid to] retained by the municipality and 10 percent  
7 shall be [paid] transferred by the municipality to the county for use in  
8 economic development[, unless the county waives its interest or any  
9 part thereof. Franchise assessments shall be made by the municipality  
10 until such time as the redeveloper has been paid in full, as defined in  
11 the redevelopment agreement, notwithstanding the fact that a  
12 municipality may no longer qualify to designate a district or that the  
13 district designation may have expired prior to the full satisfaction of  
14 the payments due the redeveloper under a redevelopment agreement].  
15 (cf: P.L.1995, c.173, s.5)

16

17 8. (New section) a. A municipality that has created a landfill  
18 reclamation improvement district pursuant to section 3 of P.L.1995,  
19 c.173 (C.40A:12A-52) may provide for tax abatement within that  
20 district and for payments in lieu of taxes in accordance with the  
21 provisions of P.L.1991, c.431 (C.40A:20-1 et seq.); provided,  
22 however, that the provisions of section 12 of P.L.1991, c.431  
23 (C.40A:20-12) establishing a minimum or maximum annual service  
24 charge and requiring staged increases in annual service charges over  
25 the term of the exemption period, and of section 13 of P.L.1991,  
26 c.431 (C.40A:20-13) permitting the relinquishment of status under that  
27 act, shall not apply to landfill reclamation improvement district  
28 projects.

29 b. In addition to, or in lieu of, the tax abatement provided for in  
30 subsection a. of this section, the municipality may provide by  
31 ordinance for one or more special assessments within the landfill  
32 reclamation improvement district in accordance with chapter 56 of title  
33 40 of the Revised Statutes, R.S.40:56-1 et seq., provided, however,  
34 that the provisions of R.S.40:56-35 shall be applied so that if any  
35 installment of a special assessment shall remain unpaid for 30 days  
36 after the time at which it shall become due, the municipality may  
37 provide, by ordinance, either that: (1) the whole assessment or  
38 balance due thereon shall become and be immediately due; or, (2) any  
39 subsequent installments which would not yet have become due except  
40 for the default shall be considered as not in default and that the lien for  
41 the installments not yet due shall continue; and provided, further, that  
42 the ordinance may require that the assessments be payable in yearly  
43 installments, with legal interest thereon, over a period of years up to  
44 but in no event exceeding the period of years for which the bonds were  
45 issued, or for 30 years, whichever shall be less. In levying a special  
46 assessment on the lands or improvements, or both, located in the

1 district, the municipality may provide that the amount of the special  
2 assessment shall be a specific amount, not to exceed the cost of the  
3 improvements, paid with respect to property located in the district.  
4 That specific amount shall, to the extent accepted by the owner of the  
5 property benefitted, be deemed the conferred benefit, in lieu of the  
6 amount being determined by the procedures otherwise applicable to  
7 determining the actual benefit conferred on the property. Special  
8 assessments levied pursuant to an ordinance adopted under this  
9 subsection shall constitute a municipal lien upon confirmation by the  
10 municipal governing body or by the court, under R.S.40:56-33.

11 c. Upon adoption, a copy of the ordinance shall be filed for public  
12 inspection in the office of the municipal clerk, and there shall be  
13 published in a newspaper, published or circulating in the municipality,  
14 a notice stating the fact and the date of adoption and the place where  
15 the ordinance is filed and a summary of the contents of the ordinance.  
16 The notice shall state that any action or proceeding of any kind or  
17 nature in any court questioning the validity or proper authorization of  
18 the ordinance or the actions authorized to be taken as set forth in the  
19 ordinance shall be commenced within 20 days after the publication of  
20 the notice. If no action or proceeding questioning the validity of the  
21 ordinance providing for tax abatement, special assessments or other  
22 actions authorized by the ordinance shall be commenced or instituted  
23 within 20 days after the publication of the notice, the county and the  
24 school district and all other municipalities within the county and all  
25 residents and taxpayers and owners of property therein shall be forever  
26 barred and foreclosed from instituting or commencing any action or  
27 proceeding in any court questioning the validity or enforceability of  
28 the ordinance or the validity or enforceability of acts authorized under  
29 the ordinance, and the ordinance and acts authorized by the ordinance  
30 shall be conclusively deemed to be valid and enforceable in accordance  
31 with their terms and tenor.

32  
33 9. (New section) a. The municipality may, by resolution of the  
34 governing body, authorize the municipality to apply to the authority  
35 for the authority to issue negotiable bonds or other obligations secured  
36 by payments in lieu of taxes and special assessments. Bonds so issued  
37 shall be for the purpose of financing or refinancing the construction,  
38 reconstruction, repair, alteration, improvement, and development of  
39 any on-site or off-site infrastructure improvements, or parking or  
40 transportation facilities, or work that reduces, abates or prevents  
41 environmental pollution, or other improvements that provide a public  
42 benefit within or to a landfill reclamation improvement district.

43 b. A municipality that has created a landfill reclamation  
44 improvement district pursuant to section 3 of P.L.1995, c.173  
45 (C.40A:12A-52) may, by resolution of its governing body, enter into  
46 contracts with the authority relating to any project or projects for the

1 purpose of financing or refinancing the construction, reconstruction,  
2 repair, alteration, improvement, and development of any on-site or off-  
3 site infrastructure improvements, or parking or transportation  
4 facilities, or work that reduces, abates or prevents environmental  
5 pollution, or other improvements that provide a public benefit within  
6 or to a landfill reclamation improvement district. A resolution so  
7 adopted shall contain findings and determinations of the governing  
8 body: (1) that the project will result in the closure and remediation  
9 of a landfill and create employment opportunities in the municipality;  
10 and, (2) that the contract with the authority is a necessary inducement  
11 to the undertaking of the project in that the contract makes the  
12 financing thereof feasible. The contract or contracts may provide for  
13 the assignment, for the benefit of bondholders, of all or any portion of  
14 payments in lieu of taxes and special assessments. A contract may be  
15 made and entered into for a term beginning currently or at some future  
16 or contingent date, and with or without consideration, and for a  
17 specified or unlimited time, and on any terms and conditions which  
18 may be requested by the municipality and as may be agreed to by the  
19 authority in conformity with its contracts with the holders of bonds,  
20 and shall be valid and binding on the municipality. The municipality  
21 is hereby authorized and directed to do and perform any contract so  
22 entered into by it and to provide for the discharge of any obligation  
23 thereunder in the same manner as other obligations of the municipality.

24 Any contract, and any instrument making or evidencing the same,  
25 may be pledged or assigned by the authority, with the consent of the  
26 municipality executing the contract, to secure its bonds and thereafter  
27 may not be modified except as provided by the terms of the instrument  
28 or by the terms of the pledge or assignment.

29 c. The payments in lieu of taxes and special assessments may be  
30 assigned directly to the authority or the trustee for the bonds as  
31 payment or security for the bonds. Notwithstanding any law to the  
32 contrary, the assignment shall be an absolute assignment of all the  
33 municipality's right, title, and interest in the payment in lieu of taxes  
34 and special assessments, or portion thereof, along with the rights and  
35 remedies provided to the municipality under the agreement including,  
36 but not limited to, the right of collection of payments due. Payments  
37 in lieu of taxes and special assessments shall not be included in the  
38 general funds of the municipality, nor shall they be subject to any laws  
39 regarding the receipt, deposit, investment or appropriation of public  
40 funds and shall retain such status notwithstanding enforcement of the  
41 payment or assessment by the municipality or assignee as provided  
42 herein. The municipality shall be a "person" within the meaning of that  
43 term as defined in section 3 of P.L.1974, c.80 (C.34:1B-3); and the  
44 purpose described in this section shall be a "project" within the  
45 meaning of that term as defined in section 3 of P.L.1974, c.80  
46 (C.34:1B-3).

1 d. Notwithstanding the provisions of subsection g. of section 37  
2 of P.L.1992, c.79 (C.40A:12A-37), the bonds and notes issued  
3 pursuant to this section shall be non-recourse obligations, and shall not  
4 be direct and general obligations of the municipality, and the  
5 municipality shall not be obligated to levy and collect a tax sufficient  
6 in an amount to pay the principal and interest on the bonds and notes  
7 when the same become due and payable. The provisions of the "Local  
8 Government Supervision Act (1947)," P.L.1947, c 151 (C.52:27BB-1  
9 et seq.) shall not apply to any bonds or other obligations issued or  
10 authorized pursuant to this section and those bonds or other  
11 obligations shall not be considered gross debt of the municipality on  
12 any debt statement filed in accordance with the "Local Bond Law,"  
13 N.J.S.40A:2-1, and the provisions of chapter 27 of Title 52 of the  
14 Revised Statutes shall not apply to such bonds.

15 e. The proceeds from the sale of the bonds and any funds provided  
16 by any department of the State, authority created by the State or bi-  
17 state authority, shall not require compliance with public bidding laws,  
18 including the "Local Public Contracts Law," P.L.1971, c.198  
19 (C.40A:11-1 et seq.), or any other statute where the redeveloper shall  
20 undertake the landfill closure, remediation, redevelopment and  
21 construction of the infrastructure improvements. The use of these  
22 funds shall be subject to public accountability and oversight by the  
23 municipality or agency providing the funds.

24

25 10. (New section) a. Payments required to be made in  
26 accordance with an agreement for payments in lieu of taxes entered  
27 into under section 8 of this amendatory and supplementary act,  
28 P.L. , c. (C. ) (now pending before the Legislature as this  
29 bill) shall be a continuous lien on the land against which the ordinance  
30 is recorded on and after the date of recordation of both the ordinance  
31 and the agreement, whether simultaneously or not, all subsequent  
32 payments in lieu of taxes thereunder, interest, penalties and costs of  
33 collection which thereafter fall due or accrue shall be added and relate  
34 back to and be a part of initial lien. Upon recordation of the ordinance  
35 and agreement, payments in lieu of taxes shall constitute a municipal  
36 lien within the meaning, and for all purposes, of law.

37 b. If revenue bonds or other obligations are issued by the authority  
38 in order to finance or refinance the construction, reconstruction,  
39 repair, alteration, improvement, and development of any infrastructure,  
40 or parking or transportation facilities, or work that reduces, abates or  
41 prevents environmental pollution, or other improvements that provide  
42 a public benefit within or to a landfill reclamation improvement  
43 district in accordance with section 9 of P.L. , c. (C. ) (now  
44 before the Legislature as this bill), the municipality or the redeveloper  
45 may record, either simultaneously or at different times, any ordinance  
46 enacted by the municipality relating to the payment in lieu of taxes

1 agreement or special assessments and, either simultaneously with the  
2 ordinance or at different times, a copy of the agreement or agreements.  
3 The ordinance, when recorded, shall contain a legend at the top of the  
4 front page substantially as follows:

5 "THIS ORDINANCE SECURES BONDS OR OTHER  
6 OBLIGATIONS ISSUED IN ACCORDANCE WITH THE  
7 PROVISIONS OF THE "LARGE SITE LANDFILL RECLAMATION  
8 AND IMPROVEMENT LAW" AND THE LIEN HEREOF IN  
9 FAVOR OF THE OWNERS OF SUCH BONDS OR OTHER  
10 OBLIGATIONS IS A MUNICIPAL LIEN SUPERIOR TO ALL  
11 OTHER NON-MUNICIPAL LIENS HEREAFTER RECORDED."

12 c. Notwithstanding any law to the contrary, upon recordation of  
13 both the ordinance and any accompanying agreement and upon the  
14 issuance of bonds or other obligations, the lien thereof shall be  
15 perfected for all purposes in accordance with law and the lien shall  
16 thereafter be superior to all non-municipal liens thereafter recorded or  
17 otherwise arising, without any additional notice, recording, filing,  
18 continuation filing or action, until the payment in full of the bonds or  
19 other obligations. The lien thereby established shall apply not only to  
20 the bonds and other obligations initially issued, but also to any  
21 refinancing or refunding thereof, as well as to any additional bonds and  
22 other obligations thereafter issued on a parity therewith in accordance  
23 with the provisions of the original documents securing the initial bonds  
24 and other obligations; provided, however, that in the event any  
25 ordinance or agreement is amended or supplemented in a way which  
26 increases the amount of payment in lieu of taxes or special  
27 assessments, the lien as to that increase shall be perfected and apply  
28 upon the recordation of the amended or supplemented ordinance and  
29 agreement (including the above-recited legend). Except as set forth  
30 in this section, no amendment or supplement to the ordinance or  
31 agreement thereafter recorded shall affect the perfection or priority of  
32 the lien established upon original recordation thereof.

33 d. Upon the final payment in full of any bonds or other obligations  
34 secured as provided in this section and section 9 of this amendatory  
35 and supplementary act, P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (now  
36 pending before the Legislature as this bill), the lien established hereby  
37 shall terminate, and the municipality shall record a notice to that  
38 effect.

39  
40 11. (New section) In lieu of the provisions of section 10 of  
41 P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (now pending before the Legislature as this  
42 bill), the municipality may provide in the agreement that the payment  
43 in lieu of taxes, if any, is to be secured by a mortgage. In that event  
44 the mortgage may also be assigned and pledged to the repayment of  
45 the bonds authorized herein.

46 The assignment of any mortgage that secures a payment in lieu of

1 taxes, if any, may also be an absolute assignment of all or part of the  
2 municipality's right, title, and interest in the mortgage and, to the  
3 extent assigned, any moneys realized from the foreclosure of the  
4 mortgaged property shall not be included in the general funds of the  
5 municipality.

6 After the bonds or other obligations are paid and no longer deemed  
7 to be outstanding, the assignment of the mortgage shall terminate.

8  
9 12. (New section) All bonds issued pursuant to this act are hereby  
10 declared to be issued by a political subdivision of this State and for an  
11 essential public and governmental purpose and the bonds, and the  
12 interest thereon and the income therefrom, and all facility charges,  
13 funds revenues and other moneys pledged or available to pay or secure  
14 the payment of the bonds, or interest thereon, shall at all times be  
15 exempt from taxation except for transfer inheritance and estate taxes.

16  
17 13. (New section) The State of New Jersey does hereby pledge  
18 to and covenant and agree with the holders of any bonds issued  
19 pursuant to this act that the State will not limit or alter the terms of  
20 any agreement, ordinance or resolution made in connection with the  
21 security for and the issuance and sale of any bonds, so as to in any way  
22 impair the rights or remedies of such holders, and will not modify in  
23 any way the exemption from taxation provided for in this act, until the  
24 bonds, together with interest thereon, with interest on any unpaid  
25 installments of interest, and all costs and expenses in connection with  
26 any action or proceeding by or on behalf of such holders, are fully met  
27 and discharged or provided for.

28  
29 14. (New section) If any section, subsection, clause or provision  
30 of this act shall be adjudged to be unconstitutional or ineffective in  
31 whole or in part, to the extent that it is not adjudged unconstitutional  
32 or is not ineffective, it shall be valid and effective and no other section,  
33 subsection, clause or provision of this act shall on account thereof be  
34 deemed invalid or ineffective, and the inapplicability or invalidity of  
35 any section, subsection, clause or provision of this act in any one or  
36 more instances or under any one or more circumstances shall not be  
37 taken to affect or prejudice in any way its applicability or validity in  
38 any other instance or under any other circumstance.

39  
40 15. (New section) After issuance, pursuant to this act, all bonds,  
41 notes or other obligations shall be conclusively presumed to be fully  
42 authorized and issued by all courts and officers of this State, and any  
43 person shall be estopped from questioning their sale, execution or  
44 delivery.

45  
46 16. N.J.S.40A:4-39 is amended to read as follows:

1       40A:4-39. a. In the budget of any local unit, dedicated revenues  
2 anticipated during the fiscal year from any dog tax, dog license,  
3 revenues collected pursuant to N.J.S.18A:39-1.2, solid fuel license,  
4 sinking fund for term bonds, bequest, escheat, federal grant, motor  
5 vehicle fine dedicated to road repairs, relocation costs deposited into  
6 a revolving relocation assistance fund established pursuant to section  
7 2 of P.L.1987, c.98 (C.20:4-4.1a), receipts from franchise assessments  
8 levied pursuant to section 4 of P.L.1995, c.173 (C.40A:12A-53) to be  
9 retained by the municipality and, subject to the prior written consent  
10 of the director, other items of like character when the revenue is not  
11 subject to reasonably accurate estimate in advance, may be included in  
12 said budget by annexing to said budget a statement in substantially the  
13 following form:

14       "The dedicated revenues anticipated during the year ..... from  
15 ..... (here insert one or more of the sources above, as the case may  
16 be) are hereby anticipated as revenue and are hereby appropriated for  
17 the purposes to which said revenue is dedicated by statute or other  
18 legal requirement."

19       b. Dedicated revenues included in accordance with this section  
20 shall be available for expenditure by the local unit as and when  
21 received in cash during the fiscal year. The inclusion of such dedicated  
22 revenues shall be subject to the approval of the director, who may  
23 require such explanatory statements or data in connection therewith as  
24 the director deems advisable for the information and protection of the  
25 public.

26 (cf: P.L.1995, c.271, s.2)

27

28       17. Section 6 of P.L.1995, c.173 (C.40A:12A-55) is repealed.

29

30       18. This act shall take effect immediately.

31

32

33

34

35       "Large Site Landfill Reclamation and Improvement Law."