

ASSEMBLY, No. 2177

STATE OF NEW JERSEY

INTRODUCED JUNE 20, 1996

By Assemblyman KRAMER

1 AN ACT concerning solid waste management, and amending,
2 supplementing and repealing parts of the statutory law.

3

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

6

7 1. (New section) This act shall be known and may be cited as the
8 "Solid Waste Management System Cost Recovery Act."

9

10 2. (New section) The Legislature finds and declares that in
11 response to the need to protect and enhance the quality of the natural
12 environment, to reduce, abate and prevent pollution or environmental
13 degradation, and to establish quality standards necessitating the
14 employment of devices, equipment and facilities for the collection,
15 recycling or disposal of solid waste, the Legislature made a
16 determination that these goals would be best achieved through the
17 development of solid waste management systems.

18 The Legislature further finds and declares that in furtherance of
19 these environmental needs, goals and policies, and to provide for an
20 overall regulatory framework for the implementation thereof on a
21 Statewide basis, the Legislature enacted the "Solid Waste Management
22 Act," P.L.1970, c.39 (C.13:1E-1 et seq.), which designated every
23 county and the Hackensack Meadowlands District as a solid waste
24 management district for planning and implementation purposes and
25 required each county, or a public authority designated by the
26 governing body of the county, to develop, adopt and implement a
27 district solid waste management plan for the collection, recycling or
28 disposal of solid waste generated within its geographic boundaries.

29 The Legislature further finds and declares that in furtherance of this
30 State mandate, each county or designated public authority has entered
31 into contracts, acquired real and personal property, incurred
32 administrative and other operating expenses, and issued debt
33 obligations, all in the service of district solid waste management plan
34 implementation.

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 The Legislature further finds and declares that the ability of each
2 county or designated public authority to fulfill its lawful
3 responsibilities with respect to district solid waste management plan
4 implementation, including the ability to raise revenues sufficient to
5 provide funds for payment of the costs of developing solid waste
6 management systems, has been predicated on its legal authority to
7 control the flow of solid waste generated within the geographic
8 boundaries of the county to State-designated solid waste facilities,
9 thereby ensuring the economic viability of these facilities; and that
10 waste flow control by counties and public authorities has been
11 supported by statute, rules and regulations adopted by the Department
12 of Environmental Protection, and franchises awarded by the Board of
13 Public Utilities.

14 The Legislature further finds and declares that counties and public
15 authorities must be able, under all circumstances, to collect revenues
16 sufficient to pay for the costs incurred in developing solid waste
17 management systems, through the acquisition, construction and
18 operation of solid waste facilities or through execution of contracts
19 and implementation of solid waste collection, disposal or recycling
20 programs, regardless of whether these solid waste facilities were
21 actually acquired, constructed or operated in the manner intended
22 when such costs were incurred, facilities constructed, contracts
23 executed or property acquired.

24 The Legislature therefore determines that in furtherance of this
25 public policy it is necessary to authorize and empower every county
26 and public authority that has previously developed and implemented
27 a solid waste management system, through the acquisition,
28 construction or operation of solid waste facilities or through execution
29 of contracts and implementation of solid waste collection, disposal or
30 recycling programs, to (1) establish and implement a system for the
31 collection of fees or charges to provide funds for payment of the costs
32 incurred with respect to a solid waste management system that may
33 not have been acquired, constructed or operated in the manner
34 intended; (2) establish and implement a system for the collection of
35 fees or charges from all public and private users of the solid waste
36 management system as the system may be restructured or
37 reconfigured; and (3) exercise sole jurisdiction to undertake
38 enforcement programs or activities to assure compliance with the solid
39 waste management system so as to collect revenues sufficient to pay
40 for the costs previously incurred in developing or implementing its
41 State-mandated solid waste management system, including debt
42 service on bonds or other indebtedness, or payment for contract
43 services under previously executed contracts.

44

45 3. (New section) As used in this act:

46 "Bonds" means bonds, notes or other obligations issued by a

1 public authority for, or with respect to, a solid waste management
2 system.

3 "Construct" and "construction" means acts of clearance, demolition,
4 construction, development or redevelopment, reconstruction,
5 replacement, extension, improvement and betterment.

6 "Cost" means, in addition to the usual connotations thereof, the
7 cost of planning, acquisition or construction of all or any part of any
8 solid waste management system by, or on behalf of, a public authority
9 or a county and of all or any property, rights, easements, privileges,
10 agreements and franchises deemed by the public authority or county
11 to be necessary or useful and convenient therefor or in connection
12 therewith, including interest or discount on bonds, cost of issuance of
13 bonds, architectural, engineering and inspection costs and legal
14 expenses, cost of financial, professional and other estimates and
15 advice, organization, administrative, operating and other expenses of
16 the public authority or county prior to and during such acquisition or
17 construction, and all such other expenses as may be necessary or
18 incident to the financing, acquisition, construction and completion of
19 such solid waste facility or facilities or part thereof and the placing of
20 the same fully in operation or the disposition of the same, and also
21 such provision or reserves for working capital, operating, maintenance
22 or replacement expenses or for payment or security of principal of or
23 interest on bonds during or after such acquisition or construction as
24 the public authority or county may determine, and also reimbursements
25 to the public authority, county or any governmental unit or person of
26 any moneys theretofore expended by the public authority or county
27 for, or with respect to, the solid waste management system.

28 "Public authority" means a municipal or county utilities authority
29 created pursuant to the "municipal and county utilities authorities
30 law," P.L.1957, c.183 (C.40:14B-1 et seq.); a county improvement
31 authority created pursuant to the "county improvement authorities
32 law," P.L.1960, c.183 (C.40:37A-44 et seq.); a pollution control
33 financing authority created pursuant to the "New Jersey Pollution
34 Control Financing Law," P.L.1973, c.376 (C.40:37C-1 et seq.); or any
35 other public body corporate and politic created for solid waste
36 management purposes in any county, pursuant to the provisions of any
37 law.

38 "Real property" means lands within or without the State, above or
39 below water, and improvements thereof or thereon, or any riparian or
40 other rights or interests therein.

41 "Solid waste" means garbage, refuse and other discarded materials
42 resulting from industrial, commercial and agricultural operations, and
43 from domestic and community activities, and shall include all other
44 waste materials including liquids, except for solid animal and vegetable
45 wastes collected by swine producers licensed by the State Department
46 of Agriculture to collect, prepare and feed such wastes to swine on

1 their own farms.

2 "Solid waste management system" means the plants, structures and
3 other real and personal property acquired, constructed or operated or
4 to be acquired, constructed or operated by a public authority or county
5 for the benefit or use by any governmental unit or person, including
6 transfer stations, incinerators, resource recovery facilities, sanitary
7 landfill facilities or other plants for the disposal of solid waste and all
8 other real and personal property and rights therein and appurtenances
9 necessary or useful and convenient for the collection, recycling or
10 disposal of solid waste in a sanitary manner. "Solid waste management
11 system" also means any contracts executed or to be executed by a
12 public authority or county in order to provide for the collection,
13 recycling, or disposal of solid waste in a sanitary manner.

14 "Stranded investments" means any: (1) facilities, equipment or
15 materials utilized or consumed by a public authority or county for, or
16 with respect to, the implementation of a solid waste management
17 system; (2) contracts executed by a public authority or county for, or
18 with respect to, the provision of services relating to the collection,
19 disposal or recycling of solid waste; or (3) programs undertaken and
20 implemented by a public authority or county for, or with respect to,
21 the provision of services relating to the collection, disposal or
22 recycling of solid waste, if the facilities, equipment or materials
23 utilized or consumed, contracts executed or programs undertaken and
24 implemented were: (i) commenced prior to May 1994; (ii) the
25 obligations of the public authority or county relating thereto,
26 including, without limitation, the obligation to make payments with
27 respect thereto, continue beyond the date that the facilities, equipment
28 or materials, contracts or programs are no longer utilized by, or on
29 behalf of, the public authority or county in the manner contemplated
30 at the time the facilities, equipment or materials were acquired or
31 constructed, the contracts were executed or the programs were
32 implemented; and (iii) a determination has been made by the public
33 authority or county, by an ordinance or resolution adopted therefor,
34 that the facilities, equipment or materials, contracts or programs will
35 no longer be utilized by, or on behalf of, the public authority or county
36 in the manner contemplated at the time the facilities, equipment or
37 materials were acquired or constructed, the contracts were executed
38 or the programs were implemented.

39 "Stranded investment costs" means any cost incurred by a public
40 authority or county for, or with respect to, stranded investments,
41 regardless of whether the costs have actually been paid by the public
42 authority or county prior to the date the public authority or county
43 makes the determination, by an ordinance or resolution adopted
44 therefor, that the facilities, equipment or materials, contracts or
45 programs will no longer be utilized by, or on behalf of, the public
46 authority or county in the manner contemplated at the time the

1 facilities, equipment or materials were acquired or constructed, the
2 contracts were executed or the programs were implemented.

3
4 4. (New section) a. The provisions of any other law to the
5 contrary notwithstanding, the purposes of every public authority shall
6 include the acquisition, construction, maintenance and operation of a
7 solid waste management system for the purpose of collecting,
8 disposing or recycling of solid waste, whether owned or operated by
9 any person, the public authority, county or any other governmental
10 unit, within or without the county, including the establishment and
11 implementation of a system to calculate, charge and collect moneys for
12 payment of stranded investment costs and establishment and
13 implementation of a program for the inspection of solid waste and a
14 program to enforce or prosecute violations or violators for the
15 purposes described in section 5 of P.L. , c. (C.)(pending in
16 the Legislature as this bill).

17 b. The provisions of any other law to the contrary notwithstanding,
18 the purposes of every county shall include the acquisition,
19 construction, maintenance and operation of a solid waste management
20 system for the purpose of collecting, disposing or recycling of solid
21 waste, whether owned or operated by any person, the county, public
22 authority or any other governmental unit, within or without the
23 county, including the establishment and implementation of a system to
24 calculate, charge and collect moneys for payment of stranded
25 investment costs and establishment and implementation of a program
26 for the inspection of solid waste and a program to enforce or
27 prosecute violations or violators for the purposes described in section
28 5 of P.L. , c. (C.)(pending in the Legislature as this bill).

29
30 5. (New section) a. The provisions of any other law to the
31 contrary notwithstanding, every public authority shall have the
32 following additional powers for the effectuation of its purposes:

33 (1) To establish and implement a system to calculate, charge and
34 collect moneys for payment of stranded investment costs; and

35 (2) To establish and implement a program for the inspection of
36 solid waste and a program to enforce or prosecute violations or
37 violators of the system established pursuant to subsection (1)
38 hereinabove for payment of stranded investment costs, or the
39 provisions of any agreements, contracts or instruments executed in
40 connection with the implementation of a solid waste management
41 system or use of any solid waste facility acquired, constructed or
42 contracted for by a public authority or county for such purpose.

43 b. The provisions of any other law to the contrary notwithstanding,
44 every county shall have the following additional powers for the
45 effectuation of its purposes:

46 (1) To establish and implement a system to calculate, charge and

1 collect moneys for payment of stranded investment costs; and

2 (2) To establish and implement a program for the inspection of
3 solid waste and a program to enforce or prosecute violations or
4 violators of the system established pursuant to subsection (1)
5 hereinabove for payment of stranded investment costs, or the
6 provisions of any agreements, contracts or instruments executed in
7 connection with the implementation of a solid waste management
8 system or use of any solid waste facility acquired, constructed or
9 contracted for by a county or public authority for such purpose.

10

11 6. (New section) a. Every public authority and county is hereby
12 authorized to charge and collect rates, fees or other charges
13 (hereinafter referred to as "solid waste charges") in connection with,
14 or for the use or services of, or otherwise relating to, a solid waste
15 management system owned, leased or controlled by the public
16 authority or county, including, but not limited to, any materials
17 recovery facility, recycling center, resource recovery facility, transfer
18 station or sanitary landfill facility. A public authority or county may
19 charge and collect solid waste charges from any governmental unit
20 included within the jurisdiction of the public authority or county, or
21 any governmental unit which contracts for service with the public
22 authority or county, or from any person utilizing the solid waste
23 management system, or from any owner or occupant of any real
24 property situated in a constituent municipality or in a municipality or
25 county which contracts for service with the public authority or county.
26 The solid waste charges may be charged to and collected from any
27 governmental unit or person and the governmental unit or person shall
28 be liable for and shall pay the solid waste charges to the public
29 authority or county at the time when and place where the solid waste
30 charges are due and payable.

31 b. In the event that the solid waste charges of a public authority or
32 county with regard to any parcel of real property owned by any
33 person, other than the State or an agency or subdivision thereof, shall
34 not be paid as and when due, the unpaid balance thereof, and all
35 interest accruing thereon, shall be a lien on the parcel. The lien shall
36 be superior and paramount to the interest in the parcel of any owner,
37 lessee, tenant, mortgagee or other person except the lien of municipal
38 taxes and shall be on a parity with and deemed equal to the lien on the
39 parcel of the municipality wherein the parcel is situated for taxes
40 thereon due in the same year and not paid as and when due. Whenever
41 the solid waste charges, and any interest accrued thereon, shall have
42 been fully paid to the public authority or county, the lien shall be
43 promptly withdrawn or canceled by the public authority or county.

44 The collector or other officer of every municipality charged by law
45 with the duty of enforcing municipal liens on real property shall
46 enforce, in the same manner as with any other municipal lien on real

1 property in the municipality, all solid waste charges and the lien
2 thereof shown in any statement filed with the collector or officer by a
3 public authority or county pursuant to the provisions of this
4 subsection, and shall pay over to the public authority or county the
5 sums or a pro rata share of the sums realized upon the enforcement or
6 liquidation of any property acquired by the municipality by virtue of
7 the enforcement action.

8 In the event that the solid waste charges of a public authority or
9 county shall not be paid as and when due, notwithstanding any other
10 remedies available to the public authority or county, the unpaid
11 balance thereof, and any interest accrued thereon, together with
12 attorney's fees and costs, may be recovered by the public authority or
13 county in a civil action, and any lien on real property for the solid
14 waste charges, and any interest accrued thereon, may be foreclosed or
15 otherwise enforced by the public authority or county by action or suit
16 in equity as for the foreclosure of a mortgage on the real property.

17 All rights and remedies provided in this subsection for the collection
18 and enforcement of solid waste charges shall be cumulative and
19 concurrent.

20 c. Notwithstanding the provisions of any other law to the contrary
21 and in addition to the powers provided in subsection b. of this section,
22 every public authority and county is hereby authorized to establish and
23 implement a system to calculate, charge and collect rates, fees or other
24 charges for payment of stranded investment costs.

25 These rates, fees or other charges shall constitute "solid waste
26 charges" as defined in subsection a. of this section and may be
27 collected by a public authority or county in any manner reasonably
28 established by the public authority or county, including without
29 limitation, the collection of solid waste charges from:

30 (1) every solid waste generator included within the jurisdiction of
31 the public authority or county, regardless of whether the solid waste
32 is to be delivered to the solid waste management system owned, leased
33 or controlled by the public authority or county for disposal or
34 recycling, through the implementation of a unit charge based upon the
35 amount of solid waste generated;

36 (2) every constituent municipality which has previously utilized the
37 solid waste management system owned, leased or controlled by the
38 public authority or county and has thereby received the benefit of the
39 stranded investments, through the implementation of an assessment
40 against the municipality based upon the aggregate amount of solid
41 waste generated within the boundaries of the municipality from all
42 sources of generation; or

43 (3) the county wherein the solid waste management system is
44 located or from any other governmental unit which has contracted with
45 the public authority or county for the utilization of the solid waste
46 management system, through the implementation of an assessment

1 against the county based upon the aggregate amount of solid waste
2 generated within the boundaries of the county from all sources of
3 generation.

4 Upon the establishment of a system to calculate, charge and collect
5 solid waste charges for payment of stranded investment costs, but
6 prior to the implementation thereof, the public authority or county
7 shall hold a public hearing thereon at least 20 days after notice of the
8 proposed implementation has been mailed to the clerk of each
9 municipality located within the boundaries of the county wherein the
10 solid waste management system is located, and after publication of the
11 notice of the proposed implementation and the time and place of the
12 public hearing in at least 2 newspapers of general circulation within the
13 county.

14

15 7. (New section) a. Every solid waste management system owned,
16 leased or controlled by a public authority or county shall be subject to
17 the provisions of the "Solid Waste Management Act," P.L.1970, c.39
18 (C.13:1E-1 et seq.), and to any rules and regulations adopted pursuant
19 thereto by the Department of Environmental Protection, in connection
20 with the environmental aspects of all solid waste collection, disposal
21 or recycling activities or operations of the solid waste management
22 system.

23 b. Notwithstanding the provisions of P.L.1970, c.39 (C.13:1E-1 et
24 seq.), as amended and supplemented by P.L.1975, c.326, or P.L.1977,
25 c.443 (C.26:3A2-21 et seq.) to the contrary, any public authority or
26 county is authorized to establish and implement a program for the
27 inspection of solid waste and a program to enforce or prosecute
28 violations or violators of (1) any system established pursuant to
29 section 5 of P.L. , c. (C.) (pending in the Legislature as this
30 bill) for payment of stranded investment costs; or (2) the provisions of
31 any agreements, contracts or instruments executed in connection with
32 the implementation of a solid waste management system or use of any
33 solid waste facility acquired, constructed or contracted for by a public
34 authority or county for that purpose.

35 c. In furtherance of the provisions of this section, any public
36 authority or county is authorized to exercise the enforcement powers
37 conferred on local boards of health or county health departments
38 pursuant to the provisions of the "County Environmental Health Act,"
39 P.L.1977, c.443 (C.26:3A2-21 et seq.) and section 9 of P.L.1970, c.39
40 (C.13:1E-9), and may exercise these powers directly in the manner
41 provided by the aforementioned acts to local boards of health or
42 county health departments.

43

44 8. Section 3 of P.L.1957, c.183 (C.40:14B-3) is amended to read
45 as follows:

46 3. As used in this act[, unless a different meaning clearly appears

1 from the context]:

2 (1) "Municipality" shall mean any city of any class, any borough,
3 village, town, township, or any other municipality other than a county
4 or a school district, and except when used in section 4, 5, 6, 11, 12,
5 13, 42 or 45 of [this act] P.L.1957, c.183 (C.40:14B-4 through
6 40:14B-6, 40:14B-11 through 40:14B-13, 40:14B-42 or 40:14B-45),
7 any agency thereof or any two or more thereof acting jointly or any
8 joint meeting or other agency of any two or more thereof;

9 (2) "County" shall mean any county of any class;

10 (3) "Governing body" shall mean, in the case of a county, the
11 board of chosen freeholders, or in the case of those counties organized
12 pursuant to the provisions of the "Optional County Charter Law"
13 (P.L.1972, c.154; C.40:41A-1 et seq.), the board of chosen
14 freeholders and the county executive, the county supervisor or the
15 county manager, as appropriate, and, in the case of a municipality, the
16 commission, council, board or body, by whatever name it may be
17 known, having charge of the finances of the municipality;

18 (4) "Person" shall mean any person, association, corporation,
19 nation, state or any agency or subdivision thereof, other than a county
20 or municipality of the State or a municipal authority;

21 (5) "Municipal authority" shall mean a public body created or
22 organized pursuant to section 4, 5 or 6 of [this act] P.L.1957, c.183
23 (C.40:14B-4, 40:14B-5 or 40:14B-6) and shall include a municipal
24 utilities authority created by one or more municipalities and a county
25 utilities authority created by a county;

26 (6) Subject to the exceptions provided in section 10, 11 or 12 of
27 [this act] P.L.1957, c.183 (C.40:14B-10, 40:14B-11 or 40:14B-12),
28 "district" shall mean the area within the territorial boundaries of the
29 county, or of the municipality or municipalities, which created or
30 joined in or caused the creation or organization of a municipal
31 authority;

32 (7) "Local unit" shall mean the county, or any municipality, which
33 created or joined in or caused the creation or organization of a
34 municipal authority;

35 (8) "Water system" shall mean the plants, structures and other real
36 and personal property acquired, constructed or operated or to be
37 acquired, constructed or operated by a municipal authority or by any
38 person to whom a municipal authority has extended credit for this
39 purpose for the purposes of the municipal authority, including
40 reservoirs, basins, dams, canals, aqueducts, standpipes, conduits,
41 pipelines, mains, pumping stations, water distribution systems,
42 compensating reservoirs, waterworks or sources of water supply,
43 wells, purification or filtration plants or other plants and works,
44 connections, rights of flowage or division, and other plants,
45 structures, boats, conveyances, and other real and personal property,
46 and rights therein, and appurtenances necessary or useful and

1 convenient for the accumulation, supply or distribution of water;

2 (9) "Sewerage system" shall mean the plants, structures, on-site
3 wastewater systems and other real and personal property acquired,
4 constructed or operated or to be acquired, constructed, maintained or
5 operated by a municipal authority or by any person to whom a
6 municipal authority has extended credit for this purpose for the
7 purposes of the municipal authority, including sewers, conduits,
8 pipelines, mains, pumping and ventilating stations, sewage treatment
9 or disposal systems, plants and works, connections, outfalls,
10 compensating reservoirs, and other plants, structures, boats,
11 conveyances, and other real and personal property, and rights therein,
12 and appurtenances necessary or useful and convenient for [the
13 collection, treatment, purification or disposal in a sanitary manner of
14 any sewage, liquid or solid wastes, night soil or industrial wastes]
15 their use or operation;

16 (10) "Utility system" shall mean a water system, solid waste
17 management system, sewerage system, or a hydroelectric system or
18 any combination of such systems, acquired, constructed or operated
19 or to be acquired, constructed or operated by a municipal authority
20 or by any person to whom a municipal authority has extended credit
21 for this purpose;

22 (11) "Cost" shall mean, in addition to the usual connotations
23 thereof, the cost of planning, acquisition or construction of all or any
24 part of a utility system by or on behalf of a municipal authority and of
25 all or any property, rights, easements, privileges, agreements and
26 franchises deemed by the municipal authority to be necessary or useful
27 and convenient therefor or in connection therewith, including interest
28 or discount on bonds, cost of issuance of bonds, architectural,
29 engineering and inspection costs and legal expenses, cost of financial,
30 professional and other estimates and advice, organization,
31 administrative, operating and other expenses of the municipal
32 authority prior to and during such acquisition or construction, and all
33 such other expenses as may be necessary or incident to the financing,
34 acquisition, construction and completion of [said] the utility system
35 or part thereof and the placing of the same in operation or the
36 disposition of the same, and also such provision or reserves for
37 working capital, operating, maintenance or replacement expenses or
38 for payment or security of principal of or interest on bonds during or
39 after such acquisition or construction as the municipal authority may
40 determine, and also reimbursements to the municipal authority or any
41 county, municipality or other person of any moneys theretofore
42 expended for the purposes of the municipal authority or to any county
43 or municipality of any moneys theretofore expended for or in
44 connection with a utility system, including water supply, solid waste
45 facilities, water distribution, sanitation or hydroelectric facilities;

46 (12) "Real property" shall mean lands both within or without the

1 State, and improvements thereof or thereon, or any rights or interests
2 therein;

3 (13) "Construct" and "construction" shall connote and include
4 acts of construction, reconstruction, replacement, extension,
5 improvement and betterment of a utility system;

6 (14) "Industrial wastes" shall mean liquid or other wastes resulting
7 from any processes of industry, manufacture, trade or business or
8 from the development of any natural resource, and shall include any
9 chemical wastes or hazardous wastes;

10 (15) "Sewage" shall mean the water-carried wastes created in and
11 carried, or to be carried, away from, or to be processed by on-site
12 wastewater systems, residences, hotels, apartments, schools,
13 hospitals, industrial establishments, or any other public or private
14 building, together with such surface or ground water and industrial
15 wastes and leachate as may be present;

16 (16) "On-site wastewater system" means any of several facilities,
17 septic tanks or other devices, used to collect, treat, reclaim, or dispose
18 of wastewater or sewage on or adjacent to the property on which the
19 wastewater or sewage is produced, or to convey such wastewater or
20 sewage from said property to such facilities as the authority may
21 establish for its disposal;

22 (17) "Pollution" means the condition of water resulting from the
23 introduction therein of substances of a kind and in quantities rendering
24 it detrimental or immediately or potentially dangerous to the public
25 health, or unfit for public or commercial use;

26 (18) "Bonds" shall mean bonds or other obligations issued pursuant
27 to [this act] the provisions of P.L.1957, c.183 (C.40:14B-1 et seq.);

28 (19) "Service charges" shall mean water service charges, solid
29 waste [service] charges, sewer service charges, hydroelectric service
30 charges or any combination of such charges, as said terms are defined
31 in section 21 or 22 of [this act] P.L.1957, c.183 (C.40:14B-21 or
32 40:14B-22) or in section 7 of [this amendatory and supplementary act]
33 P.L.1980, c.34 (C.40:14B-21.1);

34 (20) "Compensating reservoir" shall mean the structures, facilities
35 and appurtenances for the impounding, transportation and release of
36 water for the replenishment in periods of drought or at other necessary
37 times of all or a part of waters in or bordering the State diverted into
38 a utility system operated by a municipal authority;

39 (21) "Sewage authority" shall mean a public body created pursuant
40 to the Sewerage Authorities Law (P.L.1946, c.138) or the acts
41 amendatory thereof or supplemental thereto;

42 (22) "County sewer authority" shall mean a sanitary sewer district
43 authority created pursuant to the act entitled "An act relating to the
44 establishment of sewerage districts in first- and second-class counties,
45 the creation of Sanitary Sewer District Authorities by the establishing
46 of such districts, prescribing the powers and duties of any such

1 authority and of other public bodies in connection with the
2 construction of sewers and sewage disposal facilities in any such
3 district, and providing the ways and means for paying the costs of
4 construction and operation thereof," approved April 23, 1946
5 (P.L.1946, c.123), or the acts amendatory thereof or supplemental
6 thereto;

7 (23) "Chemical waste" shall mean a material normally generated by
8 or used in chemical, petrochemical, plastic, pharmaceutical,
9 biochemical or microbiological manufacturing processes or petroleum
10 refining processes, which has been selected for waste disposal and
11 which is known to hydrolize, ionize or decompose, which is soluble,
12 burns or oxidizes, or which may react with any of the waste materials
13 which are introduced into the landfill, or which is buoyant on water,
14 or which has a viscosity less than that of water or which produces a
15 foul odor. Chemical waste may be either hazardous or nonhazardous;

16 (24) "Effluent" shall mean liquids which are treated in and
17 discharged by sewage treatment plants;

18 (25) "Hazardous wastes" shall mean any waste or combination of
19 waste which poses a present or potential threat to human health, living
20 organisms or the environment. "Hazardous waste" shall include, but
21 not be limited to, waste material that is toxic, corrosive, irritating,
22 sensitizing, radioactive, biologically infectious, explosive or
23 flammable;

24 (26) "Leachate" shall mean a liquid that has been in contact with
25 solid waste and contains dissolved or suspended materials from that
26 solid waste;

27 (27) ["Recycling"] "Resource recovery" shall mean the
28 [separation,] collection, [processing or] separation, recycling and
29 recovery of metals, glass, paper[, solid waste] and other materials for
30 reuse; or the incineration of solid waste for energy production and
31 [shall include resource recovery] the recovery of metals and other
32 materials for reuse;

33 (28) "Sludge" shall mean any solid, semisolid, or liquid waste
34 generated from a municipal, industrial or other sewage treatment plant,
35 water supply treatment plant, or air pollution control facility, or any
36 other such waste having similar characteristics and effects; "sludge"
37 shall not include effluent;

38 (29) "Solid waste" shall mean garbage, refuse, and other discarded
39 materials resulting from industrial, commercial and agricultural
40 operations, and from domestic and community activities, and shall
41 include all other waste materials including [sludge, chemical waste,
42 hazardous wastes and] liquids, except for [liquids which are treated in
43 public sewage treatment plants and except for] solid animal and
44 vegetable wastes collected by swine producers licensed by the State
45 Department of Agriculture to collect, prepare and feed such wastes to
46 swine on their own farms;

1 (30) "Solid waste management system" shall mean and include the
2 plants, structures and other real and personal property acquired,
3 constructed or operated or to be acquired, constructed or operated by
4 [an] a municipal authority or by any person to whom a municipal
5 authority has extended credit for this purpose pursuant to the
6 provisions of [this act] P.L.1984, c.178, including transfer stations,
7 incinerators, [recycling] resource recovery facilities, [including
8 facilities for the generation, transmission and distribution of energy
9 derived from the processing of solid waste,] sanitary landfill facilities
10 or other property or plants for the collection, recycling or disposal of
11 solid waste and all vehicles, equipment and other real and personal
12 property and rights thereon and appurtenances necessary or useful and
13 convenient for the collection, recycling, or disposal of solid waste in
14 a sanitary manner; "solid waste management system" shall also include
15 any contracts executed or to be executed by a municipal authority in
16 order to provide for the collection, recycling, or disposal of solid
17 waste in a sanitary manner;

18 (31) "Hydroelectric system" shall mean the plants, structures and
19 other real and personal property acquired, constructed or operated or
20 to be acquired, constructed or operated by an authority pursuant to
21 the provisions of [this act] P.L.1980, c.34, including all that which is
22 necessary or useful and convenient for the generation, transmission
23 and sale of hydroelectric power at wholesale;

24 (32) "Hydroelectric power" shall mean the production of electric
25 current by the energy of moving water;

26 (33) "Sale of hydroelectric power at wholesale" shall mean any sale
27 of hydroelectric power to any person for purposes of resale of such
28 power;

29 (34) "Recycling" shall mean any process by which materials which
30 would otherwise become solid waste are collected, separated or
31 processed and returned to the economic mainstream in the form of raw
32 materials or products;

33 (35) "Stranded investments" means any: (1) facilities, equipment
34 or materials utilized or consumed by a municipal authority for, or with
35 respect to, the implementation of a solid waste management system;
36 (2) contracts executed by a municipal authority for, or with respect to,
37 the provision of services relating to the collection, disposal or
38 recycling of solid waste; or (3) programs undertaken and implemented
39 by a municipal authority for, or with respect to, the provision of
40 services relating to the collection, disposal or recycling of solid waste,
41 if the facilities, equipment or materials utilized or consumed, contracts
42 executed or programs undertaken and implemented were: (i)
43 commenced prior to May 1994; (ii) the obligations of the municipal
44 authority relating thereto, including, without limitation, the obligation
45 to make payments with respect thereto, continue beyond the date that
46 the facilities, equipment or materials, contracts or programs are no

1 longer utilized by, or on behalf of, the municipal authority in the
2 manner contemplated at the time the facilities, equipment or materials
3 were acquired or constructed, the contracts were executed or the
4 programs were implemented; and (iii) a determination has been made
5 by the municipal authority, by a resolution adopted therefor, that the
6 facilities, equipment or materials, contracts or programs will no longer
7 be utilized by, or on behalf of, the municipal authority in the manner
8 contemplated at the time the facilities, equipment or materials were
9 acquired or constructed, the contracts were executed or the programs
10 were implemented;

11 (36) "Stranded investment costs" means any cost incurred by a
12 municipal authority for, or with respect to, stranded investments,
13 regardless of whether the costs have actually been paid by the
14 municipal authority prior to the date the municipal authority makes the
15 determination, by a resolution adopted therefor, that the facilities,
16 equipment or materials, contracts or programs will no longer be
17 utilized by, or on behalf of, the municipal authority in the manner
18 contemplated at the time the facilities, equipment or materials were
19 acquired or constructed, the contracts were executed or the programs
20 were implemented.

21 (cf: P.L.1984, c.178, s.1)

22

23 9. Section 19 of P.L.1957, c.183 (C.40:14B-19) is amended to
24 read as follows:

25 19. [(a)] a. The purposes of every municipal authority shall be (1)
26 the provision and distribution of an adequate supply of water for the
27 public and private uses of the local units, and their inhabitants, within
28 the district, [and] (2) the relief of waters in or bordering the State
29 from pollution arising from causes within the district and the relief of
30 waters in, bordering or entering the district from pollution or
31 threatened pollution, and the consequent improvement of conditions
32 affecting the public health, (3) the provision of sewage collection and
33 disposal service within or without the district, [and] (4) the provision
34 of water supply and distribution service in such areas without the
35 district as are permitted by the provisions of this act, [and] (5) the
36 provision of solid waste services [and] or solid waste facilities within
37 or without the district in a manner consistent with the "Solid Waste
38 Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) and in
39 conformance with the district solid waste management plans adopted
40 by the solid waste management districts created therein, [and]
41 including the development and implementation of solid waste
42 management systems, through the acquisition, construction and
43 operation of solid waste facilities or through execution of contracts
44 and implementation of solid waste collection, disposal or recycling
45 programs. (6) the generation, transmission and sale of hydroelectric
46 power at wholesale, and (7) the operation and maintenance of utility

1 systems owned by other governments located within the district
2 through contracts with [said] those governments.

3 b. Every solid waste management system owned, leased or
4 controlled by a municipal authority shall be subject to the provisions
5 of the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et
6 seq.), and to any rules and regulations adopted pursuant thereto by the
7 Department of Environmental Protection, in connection with the
8 environmental aspects of all solid waste collection, disposal or
9 recycling activities or operations of the solid waste management
10 system.

11 Notwithstanding the provisions of P.L.1970, c.39 (C.13:1E-1 et
12 seq.), as amended and supplemented by P.L.1975, c.326, or P.L.1977,
13 c.443 (C.26:3A2-21 et seq.) to the contrary, any municipal authority
14 is authorized to establish and implement a program for the inspection
15 of solid waste and a program to enforce or prosecute violations or
16 violators of (1) any system established pursuant to subsection e. of
17 this section for payment of stranded investment costs; or (2) the
18 provisions of any agreements, contracts or instruments executed in
19 connection with the implementation of a solid waste management
20 system or use of any solid waste facility acquired, constructed or
21 contracted for by a municipal authority for that purpose.

22 In furtherance of the provisions of this subsection, any municipal
23 authority is authorized to exercise the enforcement powers conferred
24 on local boards of health or county health departments pursuant to the
25 provisions of the "County Environmental Health Act," P.L.1977, c.443
26 (C.26:3A2-21 et seq.) and section 9 of P.L.1970, c.39 (C.13:1E-9),
27 and may exercise these powers directly in the manner provided by the
28 mentioned acts to local boards of health or county health
29 departments.

30 [(b)] c. Every municipal authority is hereby authorized, subject to
31 the limitations of [this act] P.L.1957, c.183 (C.40:14B-1 et seq.), to
32 acquire, in its own name but for the local unit or units, by purchase,
33 gift, condemnation or otherwise, lease as lessee, and, notwithstanding
34 the provisions of any charter, ordinance or resolution of any county or
35 municipality to the contrary, to construct, maintain, operate and use
36 such reservoirs, basins, dams, canals, aqueducts, standpipes, conduits,
37 pipelines, mains, pumping and ventilating stations, treatment,
38 purification and filtration plants or works, trunk, intercepting and
39 outlet sewers, water distribution systems, waterworks, sources of
40 water supply and wells at such places within or without the district,
41 such compensating reservoirs within a county in which any part of the
42 district lies, and such other plants, structures, boats and conveyances,
43 as in the judgment of the municipal authority will provide an effective
44 and satisfactory method for promoting purposes of the municipal
45 authority.

46 [(c)] d. Every municipal authority is hereby authorized and

1 directed, when in its judgment its sewerage system or any part thereof
2 will permit, to collect from any and all public systems within the
3 district all sewage and treat and dispose of the same in such manner as
4 to promote purposes of the municipal authority.

5 e. Every municipal authority is hereby authorized to: (1) establish
6 and implement a system to calculate, charge and collect moneys for
7 payment of stranded investment costs; and

8 (2) establish and implement a program for the inspection of solid
9 waste and a program to enforce or prosecute violations or violators of
10 the system established pursuant to (1) hereinabove for payment of
11 stranded investment costs, or the provisions of any agreements,
12 contracts or instruments executed in connection with the
13 implementation of a solid waste management system or use of any
14 solid waste facility acquired, constructed or contracted for by a
15 municipal authority for such purpose.

16 (cf: P.L.1980, c.34, s.6)

17

18 10. Section 20 of P.L.1957, c.183 (C.40:14B-20) is amended to
19 read as follows:

20 20. Every municipal authority shall be a public body politic and
21 corporate constituting a political subdivision of the State established
22 as an instrumentality exercising public and essential governmental
23 functions to provide for the public health and welfare and shall have
24 perpetual succession and have the following powers:

25 (1) To adopt and have a common seal and to alter the same at
26 pleasure;

27 (2) To sue and be sued;

28 (3) In the name of the municipal authority and on its behalf, to
29 acquire, hold, use and dispose of its service charges and other
30 revenues and other moneys;

31 (4) In the name of the municipal authority but for the local unit or
32 units, to acquire, rent, hold, lease as lessor, use and dispose of other
33 personal property for the purposes of the municipal authority;

34 (5) In the name of the municipal authority but for the local unit or
35 units and subject to the limitations of this act, to acquire by purchase,
36 gift, condemnation or otherwise, or lease as lessee, real property and
37 easements therein, necessary or useful and convenient for the purposes
38 of the municipal authority, and subject to mortgages, deeds of trust or
39 other liens, or otherwise, and to hold, lease as lessor, and to use the
40 same, and to dispose of property so acquired no longer necessary for
41 the purposes of the municipal authority;

42 (6) To produce, develop, purchase, accumulate, distribute and sell
43 water and water services, facilities and products within or without the
44 district, provided that no water shall be sold at retail in any
45 municipality without the district unless the governing body of [such]
46 the municipality shall have adopted a resolution requesting the

1 municipal authority to sell water at retail in [such] the municipality,
2 and the [board of public utility commissioners] Board of Public
3 Utilities shall have approved [such] the resolution as necessary and
4 proper for the public convenience;

5 (7) To provide for and secure the payment of any bonds and the
6 rights of the holders thereof, and to purchase, hold and dispose of any
7 bonds;

8 (8) To accept gifts or grants of real or personal property, money,
9 material, labor or supplies for the purposes of the municipal authority,
10 and to make and perform such agreements and contracts as may be
11 necessary or convenient in connection with the procuring, acceptance
12 or disposition of such gifts or grants;

13 (9) To enter on any lands, waters or premises for the purpose of
14 making surveys, borings, soundings and examinations for the purposes
15 of the municipal authority, and whenever the operation of a septic tank
16 or other component of an on-site wastewater system shall result in the
17 creation of pollution or contamination source on private property such
18 that under the provisions of R.S.26:3-49, a local board of health would
19 have the authority to notify the owner and require said owner to abate
20 the same, representatives of an authority shall have the power to enter,
21 at all reasonable times, any premises on which [such] the pollution or
22 contamination source shall exist, for the purpose of inspecting,
23 rehabilitating, securing samples of any discharges, improving,
24 repairing, replacing, or upgrading [such] the septic tank or other
25 component of an on-site wastewater system;

26 (10) To establish an inspection program to be performed at least
27 once every three years on all on-site wastewater systems installed
28 within the district which inspection program shall contain the
29 following minimum notice provisions: (i) not less than 30 days prior
30 to the date of the inspection of any on-site wastewater system as
31 described herein, the authority shall notify the owner and resident of
32 the property that the inspection will occur; and (ii) not less than 60
33 days prior to the date of the performance of any work other than an
34 inspection, the municipal authority shall provide notice to the owner
35 and resident of the property in which the work will be performed.
36 The notice to be provided to such owner and resident under this
37 subsection shall include a description of the deficiency which
38 necessitates the work and the proposed remedial action, and the
39 proposed date for beginning and duration of the contemplated remedial
40 action;

41 (11) To prepare and file in the office of the municipal authority
42 records of all inspections, rehabilitation, maintenance, and work,
43 performed with respect to on-site wastewater disposal systems;

44 (12) To make and enforce bylaws or rules and regulations for the
45 management and regulation of its business and affairs and for the use,
46 maintenance and operation of the utility system and any other of its

1 properties, and to amend the same;

2 (13) To do and perform any acts and things authorized by [this act]
3 the provisions of P.L.1957, c.183 (C.40:14B-1 et seq.) under, through
4 or by means of its own officers, agents and employees, or by contracts
5 with any person;

6 (14) To enter into any and all contracts, execute any and all
7 instruments, and do and perform any and all acts or things necessary,
8 convenient or desirable for the purposes of the municipal authority or
9 to carry out any power expressly given in [this act] the provisions of
10 P.L.1957, c.183 (C.40:14B-1 et seq.) subject to "Local Public
11 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.); [and]

12 (15) To extend credit or make loans to any person for the planning,
13 designing, acquiring, constructing, reconstructing, improving,
14 equipping, furnishing, and operating by that person of any part of a
15 solid waste management system, sewage treatment system, wastewater
16 treatment or collection system for the provision of services and
17 facilities within or without the district, which in the case of a solid
18 waste management system shall be in a manner consistent with the
19 "Solid Waste Management Act," P.L.1970, c. 39 (C.13:1E-1 et seq.)
20 and in conformance with the district solid waste management plans
21 adopted by the solid waste management districts created therein. The
22 credits or loans may be secured by loan and security agreements,
23 mortgages, leases and any other instruments, upon [such] the terms as
24 the authority shall deem reasonable, including provision for the
25 establishment and maintenance of reserve and insurance funds, and to
26 require the inclusion in any mortgage, lease, contract, loan and
27 security agreement or other instrument, provisions for the
28 construction, use, operation and maintenance and financing of that
29 part of the aforementioned systems as the municipal authority may
30 deem necessary or desirable;

31 (16) To establish and implement a system to calculate, charge and
32 collect moneys for payment of stranded investment costs; and

33 (17) To establish and implement a program for the inspection of
34 solid waste and a program to enforce or prosecute violations or
35 violators of (1) the system established pursuant to (16) hereinabove
36 for payment of stranded investment costs; or (2) the provisions of any
37 agreements, contracts or instruments executed in connection with the
38 implementation of a solid waste management system or use of any
39 public facility acquired, constructed or contracted for by an authority
40 for such purpose.

41 (cf: P.L.1984, c.178, s.2)

42

43 11. Section 15 of P.L.1977, c.384 (C.40:14B-22.1) is amended to
44 read as follows:

45 15. a. Every municipal authority is hereby authorized to charge and
46 collect rents, rates, fees or other charges (in this act sometimes

1 referred to as "solid waste [service] charges") for the use or services
2 of the solid waste management system. [Such] The solid waste
3 [service] charges may be charged to and collected from any
4 municipality or any person contracting for such use or services or from
5 the owner or occupant, or both of them, of any real property from or
6 on which originates or has originated any solid waste to be [treated]
7 collected, disposed or recycled by the solid waste management system
8 of the municipal authority, and the owner of any such real property
9 shall be liable for and shall pay [such] the solid waste [service]
10 charges to the municipal authority at the time when and place where
11 [such] the solid waste [service] charges are due and payable.

12 In the event that the solid waste charges of a municipal authority
13 with regard to any parcel of real property owned by any person, other
14 than the State or an agency or subdivision thereof, shall not be paid as
15 and when due, the unpaid balance thereof, and all interest accruing
16 thereon, shall be a lien on the parcel. The lien shall be superior and
17 paramount to the interest in the parcel of any owner, lessee, tenant,
18 mortgagee or other person except the lien of municipal taxes and shall
19 be on a parity with and deemed equal to the lien on the parcel of the
20 municipality wherein the parcel is situated for taxes thereon due in the
21 same year and not paid as and when due. Whenever the solid waste
22 charges, and any interest accrued thereon, shall have been fully paid to
23 the municipal authority, the lien shall be promptly withdrawn or
24 canceled by the municipal authority.

25 The collector or other officer of every municipality charged by law
26 with the duty of enforcing municipal liens on real property shall
27 enforce, in the same manner as with any other municipal lien on real
28 property in the municipality, all solid waste charges and the lien
29 thereof shown in any statement filed with the collector or officer by
30 a municipal authority pursuant to the provisions of this subsection, and
31 shall pay over to the municipal authority the sums or a pro rata share
32 of the sums realized upon the enforcement or liquidation of any
33 property acquired by the municipality by virtue of the enforcement
34 action.

35 In the event that the solid waste charges of a municipal authority
36 shall not be paid as and when due, notwithstanding any other remedies
37 available to the municipal authority, the unpaid balance thereof, and
38 any interest accrued thereon, together with attorney's fees and costs,
39 may be recovered by the municipal authority in a civil action, and any
40 lien on real property for the facility charges, and any interest accrued
41 thereon, may be foreclosed or otherwise enforced by the municipal
42 authority by action or suit in equity as for the foreclosure of a
43 mortgage on the real property.

44 All rights and remedies provided in this subsection for the collection
45 and enforcement of solid waste charges shall be cumulative and
46 concurrent.

1 b. Notwithstanding the provisions of any other law to the contrary
2 and in addition to the powers provided in subsection a. of this section,
3 every municipal authority is hereby authorized to establish and
4 implement a system to calculate, charge and collect rates, fees or other
5 charges for payment of stranded investment costs.

6 These rates, fees or other charges shall constitute "solid waste
7 charges" as defined in subsection a. of this section and may be
8 collected by a municipal authority in any manner reasonably
9 established by the municipal authority, including without limitation, the
10 collection of solid waste charges from:

11 (1) every solid waste generator included within the jurisdiction of
12 the municipal authority, regardless of whether the solid waste is to be
13 delivered to the solid waste management system owned, leased or
14 controlled by the municipal authority for disposal or recycling, through
15 the implementation of a unit charge based upon the amount of solid
16 waste generated;

17 (2) every constituent municipality which has previously utilized the
18 municipal authority's solid waste management system and has thereby
19 received the benefit of the stranded investments, through the
20 implementation of an assessment against the municipality based upon
21 the aggregate amount of solid waste generated within the boundaries
22 of the municipality from all sources of generation; or

23 (3) the county wherein the solid waste management system is
24 located or from any other governmental unit which has contracted with
25 the municipal authority for the utilization of the solid waste
26 management system, through the implementation of an assessment
27 against the county based upon the aggregate amount of solid waste
28 generated within the boundaries of the county from all sources of
29 generation.

30 Upon the establishment of a system to calculate, charge and collect
31 rates, fees or other charges for payment of stranded investment costs,
32 but prior to the implementation thereof, the municipal authority shall
33 hold a public hearing thereon at least 20 days after notice of the
34 proposed implementation has been mailed to the clerk of each
35 municipality located within the boundaries of the county wherein the
36 solid waste management system is located, and after publication of the
37 notice of the proposed implementation and the time and place of the
38 public hearing in at least 2 newspapers of general circulation within the
39 county. [Such rents, rates, fees and]

40 c. The solid waste charges, being in the nature of use or service
41 charges, shall as nearly as the municipal authority shall deem
42 practicable and equitable be uniform throughout the county for the
43 same type, class and amount of use or service of the solid waste
44 management system, except as permitted by section 1 of P.L.1992,
45 c.215 (C.40:14B-22.2), and may be based or computed on any factors
46 determining the type, class and amount of use or service of the solid

1 waste management system, and may give weight to the characteristics
2 of the solid waste and any other special matter affecting the cost of
3 [treatment and disposal of the same] solid waste collection, disposal
4 or recycling.

5 (cf: P.L.1992, c.215, s.3)

6

7 12. Section 23 of P.L.1957, c.183 (C.40:14B-23) is amended to
8 read as follows:

9 12. a. Every municipal authority shall prescribe and from time to
10 time when necessary revise a schedule of all its service charges, which
11 may provide a single rent, rate, fee or charge for any of its utility
12 charges and which shall comply with the terms of any contract of the
13 municipal authority and may be such that the revenues of the municipal
14 authority will at all times be adequate to pay the expenses of operation
15 and maintenance of the utility system, including reserves, insurance,
16 extensions, and replacements, and to pay the principal of and interest
17 on any bonds and to maintain such reserves or sinking funds therefor
18 as may be required by the terms of any contract of the municipal
19 authority or as may be deemed necessary or desirable by the municipal
20 authority.

21 [Said] b. The schedule shall thus be prescribed and from time to
22 time revised by the municipal authority after public hearing thereon
23 which shall be held by the municipal authority at least 20 days after
24 notice of the proposed adjustment is mailed to the clerk of each
25 municipality serviced by the authority and publication of notice of the
26 proposed adjustment of the service charges and of the time and place
27 of the public hearing in at least two newspapers of general circulation
28 in the area serviced by the authority. The municipal authority shall
29 provide evidence at the hearing showing that the proposed adjustment
30 of the service charges is necessary and reasonable, and shall provide
31 the opportunity for cross-examination of persons offering such
32 evidence, and a transcript of the hearing shall be made and a copy
33 thereof shall be available upon request to any interested party at a
34 reasonable fee. The municipal authority shall likewise fix and
35 determine the time or times when and the place or places where such
36 service charges shall be due and payable and may require that such
37 service charges shall be paid in advance for periods of not more than
38 one year. A copy of such schedule of service charges in effect shall at
39 all times be kept on file at the principal office of the municipal
40 authority and shall at all reasonable times be open to public inspection.

41 c. Notwithstanding the foregoing, the provisions of this section
42 shall not apply to the solid waste charges established and collected
43 pursuant to subsection b. of section 15 of P.L.1977, c.384
44 (C.40:14B-22.1). The solid waste charges established and collected
45 pursuant to subsection b. of section 15 of P.L.1977, c.384 (C.40:14B-
46 22.1) shall, to the extent applicable, comply with the terms and

1 conditions of any agreement, contract or instrument executed by the
2 municipal authority with any county, municipality, other governmental
3 unit or person responsible for the payment of stranded investment
4 costs, as determined by the municipal authority pursuant to subsection
5 b. of section 15 of P.L.1977, c.183 (C.40:14B-22.1).

6 (cf: P.L.1960, c.183, s.15)

7

8 13. Section 2 of P.L.1960, c.183 (C.40:37A-45) is amended to
9 read as follows:

10 2. As used in this act[, unless a different meaning clearly appears
11 from the context]:

12 (a) "Authority" shall mean a public body created pursuant to [this
13 act] the provisions of P.L.1960, c.183 (C.40:37A-44 et seq.);

14 (b) "Bond resolution" shall have the meaning ascribed thereto in
15 section 17 of P.L.1960, c.183 (C.40:37A-60);

16 (c) "Bonds" shall mean bonds, notes or other obligations issued
17 pursuant to [this act] the provisions of P.L.1960, c.183 (C.40:37A-44
18 et seq.);

19 (d) "Construct" and "construction" shall connote and include acts
20 of clearance, demolition, construction, development or redevelopment,
21 reconstruction, replacement, extension, improvement and betterment;

22 (e) "Cost" shall mean, in addition to the usual connotations thereof,
23 the cost of planning, acquisition or construction of all or any part of
24 any public facility or facilities of an authority and of all or any
25 property, rights, easements, privileges, agreements and franchises
26 deemed by the authority to be necessary or useful and convenient
27 therefor or in connection therewith, including interest or discount on
28 bonds, cost of issuance of bonds, architectural, engineering and
29 inspection costs and legal expenses, cost of financial, professional and
30 other estimates and advice, organization, administrative, operating and
31 other expenses of the authority prior to and during such acquisition or
32 construction, and all such other expenses as may be necessary or
33 incident to the financing, acquisition, construction and completion of
34 such public facility or facilities or part thereof and the placing of the
35 same fully in operation or the disposition of the same, and also such
36 provision or reserves for working capital, operating, maintenance or
37 replacement expenses or for payment or security of principal of or
38 interest on bonds during or after such acquisition or construction as
39 the authority may determine, and also reimbursements to the authority
40 or any governmental unit or person of any moneys theretofore
41 expended for the purposes of the authority;

42 (f) The term "county" shall mean any county of any class of the
43 State and shall include, without limitation, the terms "the county" and
44 "beneficiary county" defined in this [act] section, and the term "the
45 county" shall mean the county which created an authority pursuant to
46 [this act] the provisions of P.L.1960, c.183 (C.40:37A-44 et seq.);

- 1 (g) "Development project" shall mean any lands, structures, or
2 property or facilities acquired or constructed or to be acquired or
3 constructed by an authority for the purposes of the authority described
4 in subsection (e) of section 11 of P.L.1960, c.183 (C.40:37A-54);
- 5 (h) "Facility charges" shall have the meaning ascribed to said term
6 in section 14 of P.L.1960, c.183 (C.40:37A-57);
- 7 (i) "Facility revenues" shall have the meaning ascribed to said term
8 in subsection (e) of section 20 of P.L.1960, c.183 (C.40:37A-63);
- 9 (j) "Governing body" shall mean, in the case of a county, the board
10 of chosen freeholders, or in the case of a county operating under
11 article 3 or 5 of the "Optional County Charter Law" (P.L.1972, c.154;
12 C.40:41A-1 et seq.) as defined thereunder, and, in the case of a
13 municipality, the commission, council, board or body, by whatever
14 name it may be known, having charge of the finances of the
15 municipality;
- 16 (k) "Governmental unit" shall mean the United States of America
17 or the State or any county or municipality or any subdivision,
18 department, agency, or instrumentality heretofore or hereafter created,
19 designated or established by or for the United States of America or the
20 State or any county or municipality;
- 21 (l) "Local bond law" shall mean chapter 2 of Title 40A,
22 Municipalities and Counties, of the New Jersey Statutes (N.J.S.) as
23 amended and supplemented;
- 24 (m) "Municipality" shall mean any city, borough, village, town, or
25 township of the State but not a county or a school district;
- 26 (n) "Person" shall mean any person, partnership, association,
27 corporation or entity other than a nation, state, county or municipality
28 or any subdivision, department, agency or instrumentality thereof;
- 29 (o) "Project" shall have the meaning ascribed to said term in
30 section 17 of P.L.1960, c.183 (C.40:37A-60);
- 31 (p) "Public facility" shall mean any lands, structures, franchises,
32 equipment, or other property or facilities acquired, constructed,
33 owned, financed, or leased by the authority or any other governmental
34 unit or person to accomplish any of the purposes of an authority
35 authorized by section 11 of P.L.1960, c.183 (C.40:37A-54);
- 36 (q) "Real property" shall mean lands within or without the State,
37 above or below water, and improvements thereof or thereon, or any
38 riparian or other rights or interests therein;
- 39 (r) "[Garbage and solid waste disposal] Solid waste management
40 system" shall mean the plants, structures and other real and personal
41 property acquired, constructed or operated or to be acquired,
42 constructed or operated by a county improvement authority for the
43 benefit or use by any governmental unit or person, including transfer
44 stations, incinerators, resource recovery facilities, sanitary landfill
45 facilities or other plants for the [treatment and] disposal of [garbage,]
46 solid waste [and refuse matter] and all other real and personal

1 property and rights therein and appurtenances necessary or useful and
2 convenient for the collection [and treatment], recycling or disposal of
3 solid waste in a sanitary manner [of garbage, solid waste and refuse
4 matter (but not including sewage)];

5 (s) "[Garbage, solid] Solid waste [or refuse matter]" shall mean
6 garbage, refuse and other discarded materials resulting from industrial,
7 commercial and agricultural operations, and from domestic and
8 community activities, and shall include all other waste materials
9 including [sludge, chemical waste, hazardous wastes and] liquids,
10 [except for liquids which are treated in public sewage treatment plants
11 and] except for solid animal and vegetable wastes collected by swine
12 producers licensed by the State Department of Agriculture to collect,
13 prepare and feed such wastes to swine on their own farms;

14 (t) "Blighted, deteriorated or deteriorating area" may include an
15 area determined heretofore by the municipality to be blighted in
16 accordance with the provisions of P.L.1949, c.187, repealed by
17 P.L.1992, c.79 (C.40:55-21.1 et seq.) and, in addition, areas which are
18 determined by the municipality, pursuant to the same procedures as
19 provided in said law, to be blighted, deteriorated or deteriorating
20 because of structures or improvements which are dilapidated or
21 characterized by disrepair, lack of ventilation or light or sanitary
22 facilities, faulty arrangement, location, or design, or other unhealthful
23 or unsafe conditions;

24 (u) "Redevelopment" may include planning, replanning,
25 conservation, rehabilitation, clearance, development and
26 redevelopment; and the construction and rehabilitation and provision
27 for construction and rehabilitation of residential, commercial,
28 industrial, public or other structures and the grant or dedication or
29 rededication of spaces as may be appropriate or necessary in the
30 interest of the general welfare for streets, parks, playgrounds, or other
31 public purposes including recreational and other facilities incidental or
32 appurtenant thereto, in accordance with a redevelopment plan
33 approved by the governing body of a municipality;

34 (v) "Redevelopment plan" shall mean a plan as it exists from time
35 to time for the redevelopment of all or any part of a redevelopment
36 area, which plan shall be sufficiently complete to indicate such land
37 acquisition, demolition and removal of structures, redevelopment,
38 improvements, conservation or rehabilitation as may be proposed to
39 be carried out in the area of the project, zoning and planning changes,
40 if any, land uses, maximum densities, building requirements, the plan's
41 relationship to definite local objectives respecting appropriate land
42 uses, improved traffic, public transportation, public utilities,
43 recreational and community facilities, and other public improvements
44 and provision for relocation of any residents and occupants to be
45 displaced in a manner which has been or is likely to be approved by the
46 Department of Community Affairs pursuant to the "Relocation

1 Assistance Law of 1967," P.L.1967, c.79 (C.52:31B-1 et seq.) and the
2 "Relocation Assistance Act," P.L.1971, c.362 (C.20:4-1 et seq.) and
3 rules and regulations pursuant thereto;

4 (w) "Redevelopment project" shall mean any undertakings and
5 activities for the elimination, and for the prevention of the
6 development or spread, of blighted, deteriorated, or deteriorating
7 areas and may involve any work or undertaking pursuant to a
8 redevelopment plan; such undertaking may include: (1) acquisition of
9 real property and demolition, removal or rehabilitation of buildings and
10 improvements thereon; (2) carrying out plans for a program of
11 voluntary repair and rehabilitation of buildings or other improvements;
12 and (3) installation, construction or reconstruction of streets, utilities,
13 parks, playgrounds or other improvements necessary for carrying out
14 the objectives of the redevelopment project;

15 (x) "Redeveloper" shall mean any person or governmental unit that
16 shall enter into or propose to enter into a contract with an authority
17 for the redevelopment of an area or any part thereof under the
18 provisions of [this act] P.L.1960, c.183 (C.40:37A-44 et seq.);

19 (y) "Redevelopment area" shall mean an area of a municipality
20 which the governing body thereof finds is a blighted area or an area in
21 need of rehabilitation whose redevelopment is necessary to effectuate
22 the public purposes declared in [this act] the provisions of P.L.1960,
23 c.183 (C.40:37A-44 et seq.). A redevelopment area may include
24 lands, buildings, or improvements which of themselves are not
25 detrimental to the public health, safety or welfare, but whose inclusion
26 is found necessary, with or without change in their condition, for the
27 effective redevelopment of the area of which they are a part;

28 (z) ["Sludge" shall mean any solid, semisolid, or liquid waste
29 generated from a municipal, industrial or other sewage treatment plant,
30 water supply treatment plant, or air pollution control facility, or any
31 other such waste having similar characteristics and effects, but shall
32 not include effluent; and] (Deleted by amendment, P.L. _____,
33 c.)(pending in the Legislature as this bill)

34 (aa) "Beneficiary county" shall mean any county that has not
35 created an authority pursuant to [this act]the provisions of P.L.1960,
36 c.183 (C.40:37A-44 et seq.);

37 (bb) "Stranded investments" means any: (1) facilities, equipment or
38 materials utilized or consumed by an authority for, or with respect to,
39 the implementation of a solid waste management system; (2) contracts
40 executed by an authority for, or with respect to, the provision of
41 services relating to the collection, disposal or recycling of solid waste;
42 or (3) programs undertaken and implemented by an authority for, or
43 with respect to, the provision of services relating to the collection,
44 disposal or recycling of solid waste, if the facilities, equipment or
45 materials utilized or consumed, contracts executed or programs
46 undertaken and implemented were: (i) commenced prior to May 1994;

1 (ii) the obligations of the authority relating thereto, including, without
2 limitation, the obligation to make payments with respect thereto,
3 continue beyond the date that the facilities, equipment or materials,
4 contracts or programs are no longer utilized by, or on behalf of, the
5 authority in the manner contemplated at the time the facilities,
6 equipment or materials were acquired or constructed, the contracts
7 were executed or the programs were implemented; and (iii) a
8 determination has been made by the authority, by a resolution adopted
9 therefor, that the facilities, equipment or materials, contracts or
10 programs will no longer be utilized by, or on behalf of, the authority
11 in the manner contemplated at the time the facilities, equipment or
12 materials were acquired or constructed, the contracts were executed
13 or the programs were implemented; and

14 (cc) "Stranded investment costs" means any cost incurred by an
15 authority for, or with respect to, stranded investments, regardless of
16 whether the costs have actually been paid by the authority prior to the
17 date the authority makes the determination, by a resolution adopted
18 therefor, that the facilities, equipment or materials, contracts or
19 programs will no longer be utilized by, or on behalf of, the authority
20 in the manner contemplated at the time the facilities, equipment or
21 materials were acquired or constructed, the contracts were executed
22 or the programs were implemented.

23 (cf: P.L.1994, c.76, s.1)

24

25 14. Section 11 of P.L.1960, c.183 (C.40:37A-54) is amended to
26 read as follows:

27 11. The purposes of every authority shall be (a) provision within
28 the county or any beneficiary county of public facilities for use by the
29 State, the county or any beneficiary county, or any municipality in any
30 such county, or any two or more or any subdivisions, departments,
31 agencies or instrumentalities of any of the foregoing for any of their
32 respective governmental purposes, including the establishment and
33 implementation of a system to calculate, charge and collect moneys for
34 payment of stranded investment costs and establishment and
35 implementation of a program for the inspection of solid waste and a
36 program to enforce or prosecute violations or violators for the
37 purposes described in (1) and (2) of subsection (u) of section 12 of
38 P.L.1960, c.183 (C.40:37A-55). (b) provision within the county or
39 any beneficiary county of public facilities for use as convention halls,
40 or the rehabilitation, improvement or enlargement of any convention
41 hall, including appropriate and desirable appurtenances located within
42 the convention hall or near, adjacent to or over it within boundaries
43 determined at the discretion of the authority, including but not limited
44 to office facilities, commercial facilities, community service facilities,
45 parking facilities, hotel facilities and other facilities for the
46 accommodation and entertainment of tourists and visitors, (c)

1 provision within the county or any beneficiary county of structures,
2 franchises, equipment and facilities for operation of public
3 transportation or for terminal purposes, including development and
4 improvement of port terminal structures, facilities and equipment for
5 public use in counties in, along or through which a navigable river
6 flows, (d) provision within the county or any beneficiary county of
7 structures or other facilities used or operated by the authority or any
8 governmental unit in connection with, or relative to development and
9 improvement of, aviation for military or civilian purposes, including
10 research in connection therewith, and including structures or other
11 facilities for the accommodation of passengers, (e) provision within the
12 county or any beneficiary county of a public facility for a combination
13 of governmental and nongovernmental uses; provided that not more
14 than 50% of the usable space in any such facility shall be made
15 available for nongovernmental use under a lease or other agreement by
16 or with the authority, (f) acquisition of any real property within the
17 county or any beneficiary county, with or without the improvements
18 thereof or thereon or personal property appurtenant or incidental
19 thereto, from the United States of America or any department, agency
20 or instrumentality heretofore or hereafter created, designated or
21 established by or for it, and the clearance, development or
22 redevelopment, improvement, use or disposition of the acquired lands
23 and premises in accordance with the provisions and for the purposes
24 stated in this act, including the construction, reconstruction,
25 demolition, rehabilitation, conversion, repair or alteration of
26 improvements on or to said lands and premises, and structures and
27 facilities incidental to the foregoing as may be necessary, convenient
28 or desirable, (g) acquisition, construction, maintenance and operation
29 of [garbage and solid waste disposal] solid waste management
30 systems for the purpose of collecting [and], disposing or recycling of
31 [garbage,]solid waste [or refuse matter], whether owned or operated
32 by any person, the authority or any other governmental unit, within or
33 without the county or any beneficiary county, including the
34 establishment and implementation of a system to calculate, charge and
35 collect moneys for payment of stranded investment costs and
36 establishment and implementation of a program for the inspection of
37 solid waste and a program to enforce or prosecute violations or
38 violators for the purposes described in (1) and (2) of subsection (u) of
39 section 12 of P.L.1960, c.183 (C.40:37A-55). (h) the improvement,
40 furtherance and promotion of the tourist industries and recreational
41 attractiveness of the county or any beneficiary county through the
42 planning, acquisition, construction, improvement, maintenance and
43 operation of facilities for the recreation and entertainment of the
44 public, which facilities may include, without being limited to, a center
45 for the performing and visual arts, (i) provision of loans and other
46 financial assistance and technical assistance for the construction,

1 reconstruction, demolition, rehabilitation, conversion, repair or
2 alteration of buildings or facilities designed to provide decent, safe and
3 sanitary dwelling units for persons of low and moderate income in
4 need of housing, including the acquisition of land, equipment or other
5 real or personal properties which the authority determines to be
6 necessary, convenient or desirable appurtenances, all in accordance
7 with the provisions of this act, as amended and supplemented, (j)
8 planning, initiating and carrying out redevelopment projects for the
9 elimination, and for the prevention of the development or spread of
10 blighted, deteriorated or deteriorating areas and the disposition, for
11 uses in accordance with the objectives of the redevelopment project,
12 of any property or part thereof acquired in the area of such project, (k)
13 any combination or combinations of the foregoing or following, and (l)
14 subject to the prior approval of the Local Finance Board, the planning,
15 design, acquisition, construction, improvement, renovation,
16 installation, maintenance and operation of facilities or any other type
17 of real or personal property within the county or any beneficiary
18 county for a corporation or other person organized for any one or
19 more of the purposes described in subsection a. of N.J.S.15A:2-1
20 except those facilities or any other type of real or personal property
21 which can be financed pursuant to the provisions of P.L.1972, c.29
22 (C.26:2I-1 et seq.) as amended.
23 (cf: P.L.1994, c.110, s.1)

24

25 15. Section 12 of P.L.1960, c.183 (C.40:37A-55) is amended to
26 read as follows:

27 12. Every authority shall be a public body politic and corporate
28 constituting a political subdivision of the State established as an
29 instrumentality exercising public and essential governmental functions
30 to provide for the public convenience, benefit and welfare and shall
31 have perpetual succession and, for the effectuation of its purposes,
32 have the following additional powers:

33 (a) To adopt and have a common seal and to alter the same at
34 pleasure;

35 (b) To sue and be sued;

36 (c) To acquire, hold, use and dispose of its facility charges and
37 other revenues and other moneys;

38 (d) To acquire, rent, hold, use and dispose of other personal
39 property for the purposes of the authority;

40 (e) Subject to the provisions of section 26 of [this act] P.L.1960,
41 c.183 (C.40:37A-69), to acquire by purchase, gift, condemnation or
42 otherwise, or lease as lessee, real property and easements or interests
43 therein necessary or useful and convenient for the purposes of the
44 authority, whether subject to mortgages, deeds of trust or other liens
45 or otherwise, and to hold and to use the same, and to dispose of
46 property so acquired no longer necessary for the purposes of the

1 authority; provided that the authority may dispose of such property at
2 any time to any governmental unit or person if the authority shall
3 receive a leasehold interest in the property for such term as the
4 authority deems appropriate to fulfill its purposes;

5 (f) Subject to the provisions of section 13 of [this act] P.L.1960,
6 c.183 (C.40:37A-56), to lease to any governmental unit or person, all
7 or any part of any public facility for such consideration and for such
8 period or periods of time and upon such other terms and conditions as
9 it may fix and agree upon;

10 (g) To enter into agreements to lease, as lessee, public facilities for
11 such term and under such conditions as the authority may deem
12 necessary and desirable to fulfill its purposes, and to agree, pursuant
13 thereto, to be unconditionally obligated to make payments for the term
14 of the lease, without set-off or counterclaim, whether or not the public
15 facility is completed, operating or operable, and notwithstanding the
16 destruction of, damage to, or suspension, interruption, interference,
17 reduction or curtailment of the availability or output of the public
18 facility to which the agreement applies;

19 (h) To extend credit or make loans to any governmental unit or
20 person for the planning, design, acquisition, construction, equipping
21 and furnishing of a public facility, upon the terms and conditions that
22 the loans be secured by loan and security agreements, mortgages,
23 leases and other instruments, the payments on which shall be sufficient
24 to pay the principal of and interest on any bonds issued for the purpose
25 by the authority, and upon such other terms and conditions as the
26 authority shall deem reasonable;

27 (i) Subject to the provisions of section 13 of [this act] P.L.1960,
28 c.183 (C.40:37A-56), to make agreements of any kind with any
29 governmental unit or person for the use or operation of all or any part
30 of any public facility for such consideration and for such period or
31 periods of time and upon such other terms and conditions as it may fix
32 and agree upon;

33 (j) To borrow money and issue negotiable bonds or notes or other
34 obligations and provide for and secure the payment of any bonds and
35 the rights of the holders thereof, and to purchase, hold and dispose of
36 any bonds;

37 (k) To apply for and to accept gifts or grants of real or personal
38 property, money, material, labor or supplies for the purposes of the
39 authority from any governmental unit or person, and to make and
40 perform agreements and contracts and to do any and all things
41 necessary or useful and convenient in connection with the procuring,
42 acceptance or disposition of such gifts or grants;

43 (l) To determine the location, type and character of any public
44 facility and all other matters in connection with all or any part of any
45 public facility which it is authorized to own, construct, establish,
46 effectuate or control;

1 (m) To make and enforce bylaws or rules and regulations for the
2 management and regulation of its business and affairs and for the use,
3 maintenance and operation of any public facility, and to amend the
4 same;

5 (n) To do and perform any acts and things authorized by [this act]
6 the provisions of P.L.1960, c.183 (C.40:37A-44 et seq.) under,
7 through or by means of its own officers, agents and employees, or by
8 contract with any governmental unit or person;

9 (o) To acquire, purchase, construct, lease, operate, maintain and
10 undertake any project and to fix and collect facility charges for the use
11 thereof;

12 (p) To mortgage, pledge or assign or otherwise encumber all or
13 any portion of its revenues and other income, real and personal
14 property, projects and facilities for the purpose of securing its bonds,
15 notes and other obligations or otherwise in furtherance of the purpose
16 of [this act] P.L.1960, c.183 (C.40:37A-44 et seq.);

17 (q) To extend credit or make loans to redevelopers for the
18 planning, designing, acquiring, constructing, reconstructing,
19 improving, equipping and furnishing any redevelopment project or
20 redevelopment work;

21 (r) To conduct examinations and investigations, hear testimony and
22 take proof, under oath at public or private hearings of any material
23 matter, require the attendance of witnesses and the production of
24 books and papers and issue commissions for the examination of
25 witnesses who are out of the State, unable to attend, or excused from
26 attendance;

27 (s) To authorize a committee designated by it consisting of one or
28 more members, or counsel, or any officer or employee to conduct any
29 such investigation or examination, in which case such committee,
30 counsel, officer or employee shall have power to administer oaths,
31 take affidavits and issue [subpenas] subpoenas or commissions; [and]

32 (t) To establish and implement a system to calculate, charge and
33 collect moneys for payment of stranded investment costs;

34 (u) To establish and implement a program for the inspection of
35 solid waste and a program to enforce or prosecute violations or
36 violators of (1) the system established pursuant to subsection (t)
37 hereinabove for payment of stranded investment costs; or (2) the
38 provisions of any agreements, contracts or instruments executed in
39 connection with the implementation of a solid waste management
40 system or use of any public facility acquired, constructed or contracted
41 for by an authority for such purpose; and

42 (v) To enter into any and all agreements or contracts, execute any
43 and all instruments, and do and perform any and all acts or things
44 necessary, convenient or desirable for the purposes of the authority or
45 to carry out any power expressly given in [this act] the provisions of
46 P.L.1960, c.183 (C.40:37A-44 et seq.) subject to P.L.1971, c.198,

1 "Local Public Contracts Law" (C.40A:11-1 et seq.).
2 (cf: P.L.1982, c.113, s.8)

3

4 16. Section 13 of P.L.1960, c.183 (C.40:37A-56) is amended to
5 read as follows:

6 13. (1) Whenever an authority after investigation and study shall
7 plan to undertake any public facility or facilities (other than a
8 development project or redevelopment project) for the purposes of the
9 authority, the authority shall make to the governing body of the county
10 and if the public facility or facilities (including a development project
11 or redevelopment project) benefit any beneficiary county, to the
12 governing body of any such beneficiary county a detailed report
13 dealing with the proposed public facility or facilities. Notwithstanding
14 any other provision of [this act] P.L.1960, c.183 (C.40:37A-44 et
15 seq.), the authority shall not construct or acquire such public facility
16 or facilities (other than a development project or redevelopment
17 project within the county which created the authority), or make any
18 lease or other agreement relating to use by any governmental unit or
19 person of all or any part of any such public facility or facilities for a
20 term in excess of five years, until there has been filed with the
21 authority a copy of a resolution adopted by the governing body of the
22 county and, if applicable, by any beneficiary county, certified by its
23 clerk, describing such public facility or facilities in terms sufficient for
24 reasonable identification and consenting to the construction or
25 acquisition thereof by the authority or the making of such leases or
26 other agreements.

27 (2) Unless otherwise required by any agreement of the authority
28 with holders of its bonds, no authority shall sell any part of a
29 development project or make any lease or other agreement relating to
30 use by any governmental unit or person of said part for a term in
31 excess of five years (A) Until the Commissioner of Community Affairs
32 (hereinafter called the "commissioner") has approved a plan
33 (hereinafter called, with respect to such part, the "development plan")
34 prepared by the authority which provides an outline for the
35 development of said part sufficient, in the opinion of the
36 commissioner: (i) to indicate its relationship to appropriate land uses
37 in the area and proper traffic, public transportation, public utility,
38 recreational and community facilities, and other public improvements,
39 (ii) to indicate proposed land uses and building requirements and
40 restrictions in said part, and (iii) to provide reasonable assurance that
41 said part will not be in danger of becoming a blighted area and will be
42 developed in a manner reasonably designed in the public interest to
43 encourage industrial, commercial, residential or other proper uses
44 thereof or restore or increase employment opportunities for residents
45 of the State; or (B) Unless such sale, lease or other agreement, in the
46 opinion of the authority, is necessary or desirable in order to effectuate

1 and carry out the said development plan.

2 (3) Every authority shall have power, subject to the provisions of
3 subsection (2) of this section, to sell or otherwise dispose of all or any
4 part of any development project or to lease the same to any
5 governmental unit or person or make agreement of any kind with any
6 governmental unit or person for the use or operation thereof, for such
7 consideration and for such period or periods of time and upon such
8 other terms and conditions as it may fix and agree upon. In the
9 exercise of such power, the authority may make any land or structure
10 in the development project available for use by private enterprise or
11 governmental units in accordance with the development plan at its use
12 value, being the value (whether expressed in terms of rental or capital
13 price) at which the authority determines such land or structure should
14 be made available in order that it may be developed or used for the
15 purpose or purposes specified in such plan. In order to assure that
16 land or other property included in the development project is
17 developed or used in accordance with the development plan, the
18 authority, upon the sale, lease or other disposition of such land or
19 property, shall obligate purchasers, lessees or other users: (A) to use
20 the land or property for the purpose designated in such plan, (B) to
21 begin the building or installation of their improvements or other
22 property (if any), and to complete the same, within such periods of
23 time as the authority may fix as reasonable, and (C) to comply with
24 such other conditions as are necessary or desirable to carry out the
25 purposes stated in this act. Any such obligations imposed on a
26 purchaser of land shall be covenants and conditions running with the
27 land where the authority so stipulates.

28 (4) Notwithstanding the foregoing, the provisions of this section
29 shall not apply to the establishment and implementation of a system to
30 calculate, charge and collect moneys for payment of stranded
31 investment costs as authorized pursuant to (a) and (g) of section 11 of
32 P.L.1960, c.183 (C.40:37A-54).

33 (cf: P.L.1994, c.76, s.5)

34

35 17. Section 14 of P.L.1960, c.183 (C.40:37A-57) is amended to
36 read as follows:

37 14. a. Every authority is hereby authorized to charge and collect
38 tolls, rents, rates, fares, fees or other charges (in this act sometimes
39 referred to as "facility charges") in connection with, or for the use or
40 services of, or otherwise relating to, any public facility or other
41 property owned, leased or controlled by the authority. If the public
42 facility is a solid waste management system [of solid waste disposal],
43 including, but not limited to, a resource recovery facility, recycling
44 [plant] center or transfer station owned, leased or controlled by the
45 authority, the authority may charge and collect in connection with that
46 solid waste management system from any governmental unit included

1 within the jurisdiction of the authority or any governmental unit which
2 contracts for service with that authority, or from any person utilizing
3 the solid waste management system, or from any owner or occupant
4 of any real property situated in a constituent municipality or in a
5 municipality which contracts for service with that authority. [Such]
6 The facility charges may be charged to and collected from any
7 governmental unit or person and [such] the governmental unit or
8 person shall be liable for and shall pay [such] the facility charges to the
9 authority at the time when and place where [such] the facility charges
10 are due and payable.

11 In the event that the facility charges of an authority with regard to
12 any parcel of real property owned by any person, other than the State
13 or an agency or subdivision thereof, shall not be paid as and when due,
14 the unpaid balance thereof, and all interest accruing thereon, shall be
15 a lien on the parcel. The lien shall be superior and paramount to the
16 interest in the parcel of any owner, lessee, tenant, mortgagee or other
17 person except the lien of municipal taxes and shall be on a parity with
18 and deemed equal to the lien on the parcel of the municipality wherein
19 the parcel is situated for taxes thereon due in the same year and not
20 paid as and when due. Whenever the facility charges, and any interest
21 accrued thereon, shall have been fully paid to the authority, the lien
22 shall be promptly withdrawn or canceled by the authority.

23 The collector or other officer of every municipality charged by law
24 with the duty of enforcing municipal liens on real property shall
25 enforce, in the same manner as with any other municipal lien on real
26 property in the municipality, all facility charges and the lien thereof
27 shown in any statement filed with the collector or officer by an
28 authority pursuant to the provisions of this subsection, and shall pay
29 over to the authority the sums or a pro rata share of the sums realized
30 upon the enforcement or liquidation of any property acquired by the
31 municipality by virtue of the enforcement action.

32 In the event that the facility charges of an authority shall not be
33 paid as and when due, notwithstanding any other remedies available to
34 the authority, the unpaid balance thereof, and any interest accrued
35 thereon, together with attorney's fees and costs, may be recovered by
36 the authority in a civil action, and any lien on real property for the
37 facility charges, and any interest accrued thereon, may be foreclosed
38 or otherwise enforced by the authority by action or suit in equity as for
39 the foreclosure of a mortgage on the real property.

40 All rights and remedies provided in this subsection for the collection
41 and enforcement of facility charges shall be cumulative and concurrent.

42 b. Notwithstanding the provisions of any other law to the contrary
43 and in addition to the powers provided in subsection a. of this section,
44 every authority is hereby authorized to establish and implement a
45 system to calculate, charge and collect rates, fees or other charges for
46 payment of stranded investment costs.

1 These rates, fees or other charges shall constitute "facility charges"
2 as defined in subsection a. of this section and may be collected by an
3 authority in any manner reasonably established by the authority,
4 including without limitation, the collection of facility charges from:

5 (1) every solid waste generator included within the jurisdiction of
6 the authority, regardless of whether the solid waste is to be delivered
7 to the solid waste management system owned, leased or controlled by
8 the authority for disposal or recycling, through the implementation of
9 a unit charge based upon the amount of solid waste generated;

10 (2) every constituent municipality which has previously utilized the
11 authority's solid waste management system and has thereby received
12 the benefit of the stranded investments, through the implementation of
13 an assessment against the municipality based upon the aggregate
14 amount of solid waste generated within the boundaries of the
15 municipality from all sources of generation; or

16 (3) the county wherein the solid waste management system is
17 located or from any other governmental unit which has contracted with
18 the authority for the utilization of the solid waste management system,
19 through the implementation of an assessment against the county based
20 upon the aggregate amount of solid waste generated within the
21 boundaries of the county from all sources of generation.

22 Upon the establishment of a system to calculate, charge and collect
23 rates, fees or other charges for payment of stranded investment costs,
24 but prior to the implementation thereof, the authority shall hold a
25 public hearing thereon at least 20 days after notice of the proposed
26 implementation has been mailed to the clerk of each municipality
27 located within the boundaries of the county wherein the solid waste
28 management system is located, and after publication of the notice of
29 the proposed implementation and the time and place of the public
30 hearing in at least 2 newspapers of general circulation within the
31 county.

32 (cf: P.L.1988, c.140, s.1)

33
34 18. Section 15 of P.L.1960, c.183 (C.40:37A-58) is amended to
35 read as follows:

36 15. a. The facility charges fixed, charged and collected by an
37 authority with respect to any public facility shall comply with the terms
38 of any lease or other agreement of the authority with regard to [such]
39 the public facility, and the facility charges fixed, charged and collected
40 by an authority may be so adjusted that the revenues of the authority
41 will at all times be adequate to pay all expenses of the authority,
42 including the expenses of operation and maintenance of any public
43 facility or other property owned or controlled by the authority,
44 including insurance, improvements, replacements, reconstruction and
45 any other required payments, and to pay the principal of and interest
46 on any bonds, and to maintain such reserves or sinking funds for any

1 of the foregoing purposes as may be required by the terms of any
2 lease or other agreement of the authority or as may be deemed
3 necessary or convenient and desirable by the authority.

4 b. Notwithstanding the foregoing, the provisions of this section
5 shall not apply to the facility charges established and collected
6 pursuant to subsection b. of section 14 of P.L.1960, c.183
7 (C.40:37A-57). The facility charges established and collected pursuant
8 to subsection b. of section 14 of P.L.1960, c.183 (C.40:37A-57) shall,
9 to the extent applicable, comply with the terms and conditions of any
10 agreement, contract or instrument executed by the authority with any
11 county, municipality, other governmental unit or person responsible
12 for the payment of stranded investment costs, as determined by the
13 authority pursuant to subsection b. of section 14 of P.L.1960, c.183
14 (C.40:37A-57).

15 (cf: P.L.1960, c.183, s.15)

16
17 19. Section 3 of P.L.1973, c.330 (C.40:37A-100) is amended to
18 read as follows:

19 3. a. Any solid waste [disposal] management system owned or
20 operated by a county improvement authority shall be subject to the
21 provisions of the "Solid Waste Management Act [(1970)]" (P.L.1970,
22 c.39, C.13:1E-1 et seq.), and to any rules and regulations adopted
23 [thereunder] pursuant thereto by the State Department of
24 Environmental Protection, in connection with the environmental
25 aspects of the solid waste collection, disposal or recycling operations
26 of the solid waste management system.

27 b. Notwithstanding the provisions of P.L.1970, c.39 (C.13:1E-1 et
28 seq.), as amended and supplemented by P.L.1975, c.326, or P.L.1977,
29 c.443 (C.26:3A2-21 et seq.) to the contrary, any county improvement
30 authority is authorized to establish and implement a program for the
31 inspection of solid waste and a program to enforce or prosecute
32 violations or violators of (1) any system established pursuant to
33 subsection (t) of section 12 of P.L.1960, c.183 (C.40:37A-55) for
34 payment of stranded investment costs; or (2) the provisions of any
35 agreements, contracts or instruments executed in connection with the
36 implementation of a solid waste management system or use of any
37 public facility acquired, constructed or contracted for by a county
38 improvement authority for such purpose.

39 c. In furtherance of the provisions of this section, any county
40 improvement authority is authorized to exercise the enforcement
41 powers conferred on local boards of health or county health
42 departments pursuant to the provisions of the "County Environmental
43 Health Act," P.L.1977, c.443 (C.26:3A2-21 et seq.) and section 9 of
44 P.L.1970, c.39 (C.13:1E-9), and may exercise these powers directly
45 in the manner provided by the aforementioned acts to local boards of
46 health or county health departments.

1 (cf: P.L.1973, c.330, s.3)

2

3 20. Section 6 of P.L.1973 c.330 (C.40:37A-103) is amended to
4 read as follows:

5 6. Any solid waste facilities owned or operated by a county
6 improvement authority pursuant to the provisions of [this amendatory
7 and supplementary act,] P.L.1973, c.330 (C.40:37A-100 et seq.) shall
8 be deemed a public utility and shall be subject to such rules and
9 regulations as may be adopted by the Board of Public Utilities in
10 accordance with the provisions of the "Solid Waste Utility Control
11 Act" (P.L.1970, c.40, C.48:13A-1 et seq.), in connection with the
12 economic aspects of the solid waste disposal operations of the solid
13 waste management system. The county improvement authority's
14 application to operate any solid waste facility shall be considered at a
15 public hearing to be conducted by the Board of Public Utilities.

16 (cf: P.L.1991, c.381, s.46)

17

18 21. Section 3 of P.L.1973, c.376 (C.40:37C-3) is amended to read
19 as follows:

20 3. [In] As used in this act[, unless the context otherwise clearly
21 requires, the terms used herein shall have the meanings ascribed to
22 them as follows]:

23 "Act" means [this] the "New Jersey Pollution Control Financing
24 Law," P.L.1973, c.376 (C.40:37C-1 et seq.).

25 "Authority" means a pollution control financing authority created
26 pursuant to this act.

27 "Bonds" means any notes, bonds and other evidences of
28 indebtedness or obligations of any agency.

29 "County" means any county of any class.

30 "Governing body" means the board of chosen freeholders.

31 "Person" means any individual, partnership, firm, company,
32 corporation, public utility, association, trust, estate, or any other legal
33 entity, or their legal representative, agent or assigns.

34 "Pollution" means any form of environmental pollution deriving
35 from the operation of public utility, industrial, manufacturing,
36 warehousing, commercial, office or research facilities, or deriving from
37 the disposal of solid waste generated at residences, hotels, apartments
38 or any other public or private buildings, including, but not limited to,
39 water pollution, air pollution, pollution caused by solid waste disposal,
40 thermal pollution, radiation contamination, or noise pollution as
41 determined by the various standards prescribed by this State or the
42 Federal Government and including, but not limited to, anything which
43 is considered as pollution or environmental damage pursuant to the
44 laws, rules and regulations administered by the Department of
45 Environmental Protection as established by P.L.1970, c.33 (C.13:1D-1
46 et seq.), and any amendments and supplements thereto.

1 "Pollution control facilities" means any structures, facilities,
2 systems, fixtures, lands and rights in lands, improvements,
3 appurtenances, machinery, equipment or any combination thereof
4 designed and utilized for the purpose of resource recovery and in
5 connection with a solid waste management system, or for the purpose
6 of reducing, abating or preventing pollution, deriving from the
7 operation of public utility, industrial, manufacturing, warehousing,
8 commercial, office or research facilities; and provided that the State
9 Department of Environmental Protection and the governing body of
10 the county certify that any such facility does not conflict with, overlap
11 or duplicate any other planned or existing pollution control facilities
12 undertaken or planned by another public agency or authority.

13 "Project costs" as applied to pollution control facilities financed
14 under the provisions of this act means the sum total of all reasonable
15 or necessary costs incident to the acquisition, construction,
16 reconstruction, repair, alteration, improvement and extension of such
17 pollution control facilities including, but not limited to, the cost of
18 studies and surveys; plans, specifications, architectural and engineering
19 services; organization, marketing or other special services; legal
20 financing, acquisition, demolition, construction, equipment and site
21 development of new and rehabilitated buildings; rehabilitation,
22 reconstruction, repair or remodeling of existing buildings, fixtures,
23 machinery and equipment; insurance premiums; and all other necessary
24 and incidental expenses including an initial bond and interest reserve
25 together with interest on bonds issued to finance such pollution
26 control facilities to a date 6 months subsequent to the estimated date
27 of completion and such other reserves as may be required by
28 resolution of an agency.

29 "Resource recovery" means the collection, separation, recycling
30 and recovery of metals, glass, paper and other materials for reuse; or
31 the incineration of solid waste for energy production.

32 "Solid waste" means garbage, refuse and other discarded materials
33 resulting from industrial, commercial and agricultural operations, and
34 from domestic and community activities, and shall include all other
35 waste materials including liquids, except for solid animal and vegetable
36 wastes collected by swine producers licensed by the State Department
37 of Agriculture to collect, prepare and feed such wastes to swine on
38 their own farms.

39 "Solid waste management system" means the plants, structures and
40 other real and personal property acquired, constructed or operated or
41 to be acquired, constructed or operated by an authority for the benefit
42 or use by any governmental unit or person, including transfer stations,
43 incinerators, resource recovery facilities, sanitary landfill facilities or
44 other plants for the disposal of solid waste and all other real and
45 personal property and rights therein and appurtenances necessary or
46 useful and convenient for the collection, recycling or disposal of solid

1 waste in a sanitary manner. "Solid waste management system" also
2 means any contracts executed or to be executed by an authority in
3 order to provide for the collection, recycling, or disposal of solid
4 waste in a sanitary manner.

5 "Stranded investments" means any: (1) facilities, equipment or
6 materials utilized or consumed by an authority for, or with respect to,
7 the implementation of a solid waste management system; (2) contracts
8 executed by an authority for, or with respect to, the provision of
9 services relating to the collection, disposal or recycling of solid waste;
10 or (3) programs undertaken and implemented by an authority for, or
11 with respect to, the provision of services relating to the collection,
12 disposal or recycling of solid waste, if the facilities, equipment or
13 materials utilized or consumed, contracts executed or programs
14 undertaken and implemented were: (i) commenced prior to May 1994;
15 (ii) the obligations of the authority relating thereto, including, without
16 limitation, the obligation to make payments with respect thereto,
17 continue beyond the date that the facilities, equipment or materials,
18 contracts or programs are no longer utilized by, or on behalf of, the
19 authority in the manner contemplated at the time the facilities,
20 equipment or materials were acquired or constructed, the contracts
21 were executed or the programs were implemented; and (iii) a
22 determination has been made by the authority, by a resolution adopted
23 therefor, that the facilities, equipment or materials, contracts or
24 programs will no longer be utilized by, or on behalf of, the authority
25 in the manner contemplated at the time the facilities, equipment or
26 materials were acquired or constructed, the contracts were executed
27 or the programs were implemented.

28 "Stranded investment costs" means any cost incurred by an
29 authority for, or with respect to, stranded investments, regardless of
30 whether the costs have actually been paid by the authority prior to the
31 date the authority makes the determination, by a resolution adopted
32 therefor, that the facilities, equipment or materials, contracts or
33 programs will no longer be utilized by, or on behalf of, the authority
34 in the manner contemplated at the time the facilities, equipment or
35 materials were acquired or constructed, the contracts were executed
36 or the programs were implemented.

37 (cf: P.L.1983, c.298, s. 4)

38

39 22. Section 4 of P.L.1973, c.376 (C.40:37C-4) is amended to read
40 as follows:

41 4. a. (1) Any county may create an authority under the provisions
42 of this act which shall be a public body corporate and politic and a
43 political subdivision of the State for the purpose of acquiring,
44 constructing, reconstructing, repairing, altering, improving, extending,
45 owning, leasing, financing, selling, maintaining, operating and
46 disposing of pollution control facilities within such county; provided

1 that, with respect to any pollution control facility which is not engaged
2 in resource recovery, the Department of Environmental Protection
3 certifies that the proposed undertaking of the authority is the proper
4 method of solving the problem under consideration; and provided
5 further that, with respect to any pollution control facility which is
6 engaged in resource recovery, the solid waste management system,
7 including the resource recovery facility, conforms to the Statewide
8 solid waste management plan and the applicable district solid waste
9 management plan and has an approved registration statement and
10 engineering design pursuant to section 5 of P.L.1970, c.39
11 (C.13:1E-5).

12 (2) The purposes of every authority shall include the acquisition,
13 construction, maintenance and operation of a solid waste management
14 system for the purpose of collecting, disposing or recycling of solid
15 waste, whether owned or operated by any person, the authority or any
16 other governmental unit, within or without the county, including the
17 establishment and implementation of a system to calculate, charge and
18 collect moneys for payment of stranded investment costs and
19 establishment and implementation of a program for the inspection of
20 solid waste and a program to enforce or prosecute violations or
21 violators for the purposes described in subsection r. or subsection s.
22 of section 5 of P.L.1973, c.376 (C.40:37C-5).

23 b. The authority shall be created by resolution and shall be known
24 as the " Pollution Control Financing Authority of _____," inserting all
25 or any significant part of the name of the county creating the authority.
26 The authority shall constitute an agency and instrumentality of the
27 county creating it.

28 c. An authority shall consist of five members appointed by
29 resolution of the governing body of the county which created such
30 authority.

31 Members shall serve for terms of 5 years, provided that the
32 members first appointed shall be designated by the resolution of
33 appointment to serve for terms expiring on the first days of the first,
34 second, third, fourth and fifth Februarys next ensuing after such
35 appointment. Each member shall hold office for the term of his
36 appointment and until his successor shall have been appointed and
37 qualified. Any vacancy shall be filled in the same manner as the
38 original appointment but for the unexpired term only.

39 d. The governing body of any county which has created an
40 authority may dissolve the authority by resolution on condition that the
41 authority has no debts or obligations outstanding or that provision has
42 been made for the retirement of such debts or obligations. Upon any
43 such dissolution, all property, funds and assets of the authority shall
44 be vested in the county which created the authority.

45 e. A certified copy of each resolution creating or dissolving an
46 authority and each resolution appointing members thereto shall be filed

1 in the office of the Secretary of State. A copy of any such certified
2 resolution, certified by or on behalf of the Secretary of State, shall be
3 conclusive evidence of the due and proper creation or dissolution of
4 the authority or the due and proper appointment of the member or
5 members named therein.

6 f. The powers of an authority shall be vested in the members
7 thereof from time to time and three members shall constitute a
8 quorum. Action may be taken and motions and resolutions adopted by
9 an agency at any meeting thereof by the affirmative vote of at least
10 three members of the authority.

11 No vacancy in the membership of an authority shall impair the right
12 of a quorum of the members thereof to exercise all the powers and
13 perform all the duties of the authority.

14 g. At the first meeting of any authority and thereafter on or after
15 February 1 in each year, the members shall elect from among their
16 number a chairman and vice chairman who shall hold office until
17 February 1 next ensuing and until their respective successors have
18 been appointed and qualified. Every authority also may appoint,
19 without regard to the provisions of Title [11 of the Revised] 11A of
20 the New Jersey Statutes, a secretary, treasurer and such other officers,
21 agents and employees as it may require.

22 h. The members of an authority shall serve without compensation,
23 but the authority shall reimburse its members for actual expenses
24 necessarily incurred in the discharge of their official duties.

25 i. No member, officer or employee of an authority, nor member of
26 their family, shall have or acquire any interest, direct or indirect in any
27 pollution control facilities undertaken or planned by the authority or
28 in any contract or proposed contract for materials or services to be
29 furnished to or used by the authority, but neither the holding of any
30 office or employment in the government of any county or municipality
31 or under any law of the State shall be deemed a disqualification for
32 membership in or employment by an authority, except as may be
33 specifically provided by law, and members of the governing body of
34 a county may be appointed by such governing body and may serve as
35 members of the authority. A member may be removed only by the
36 governing body by which he was appointed for inefficiency or neglect
37 of duty or misconduct in office or conviction of a crime, and after he
38 shall have been given a copy of the charges against him and, not
39 sooner than 10 days thereafter, had the opportunity in person or by
40 counsel to be heard thereon by such governing body.

41 (cf: P.L.1983, c.298, s.5)

42

43 23. Section 5 of P.L.1973, c.376 (C.40:37C-5) is amended to read
44 as follows:

45 5. The authority shall have the following powers together with all
46 powers incidental thereto or necessary for the performance thereof:

- 1 a. To have perpetual succession as a public body corporate and
2 politic;
- 3 b. to adopt bylaws for the regulation of its affairs and the conduct
4 of its business;
- 5 c. to sue and to be sued;
- 6 d. to have and to use a corporate seal and to alter the same at
7 pleasure;
- 8 e. to maintain an office at such place or places within the county
9 as it may designate;
- 10 f. to acquire after a public notice has been given at least 20 days
11 prior thereto in a newspaper of general circulation in the area served
12 by the authority, in the name of the authority by purchase or
13 otherwise, on such terms and conditions and in such manner as it may
14 deem proper any land and other property which it may determine is
15 reasonably necessary for any of its pollution control facilities;
- 16 g. to determine, with the approval of the State Department of
17 Environmental Protection, the location and manner of construction of
18 pollution control facilities to be financed under the provisions of this
19 act, and to acquire, construct, reconstruct, repair, alter, improve,
20 extend, own, lease, finance, sell, maintain and dispose of the same and
21 to enter into contracts for any and all of such purposes, and to
22 designate persons as its employees and agents to accomplish the same;
- 23 h. to lease to a person or persons any or all of the pollution control
24 facilities upon such terms, conditions and guarantees as the authority
25 shall deem proper, and to charge and collect rent and fees therefor and
26 to terminate any such lease upon the failure of the lessee to comply
27 with any of the obligations thereof; and to include in any such lease,
28 if desired, provisions that the lessee or lessees thereof, and any
29 guarantor of such lease, shall have upon the termination of the lease
30 term options to renew the term of the lease for such period or periods
31 and at such rent as shall be determined by the authority or to purchase
32 any or all of the pollution control facilities for a nominal amount or
33 otherwise or that upon payment of all of the indebtedness incurred by
34 the authority for the financing of such pollution control facilities of
35 the authority may convey any or all of the pollution control facilities
36 to the lessee or lessees thereof;
- 37 i. to sell to a person or persons any or all of the pollution control
38 facilities upon such terms and conditions as the authority shall deem
39 proper including the right to receive for such sale the note or notes of
40 the person or persons purchasing the facility;
- 41 j. to acquire, hold, pledge, mortgage and dispose of real and
42 personal property in the exercise of its powers and performance of its
43 duties under this act;
- 44 k. to invest and reinvest bond proceeds pending application to the
45 purposes for which such bonds were issued and other funds under its
46 control, subject only to the provisions of any bond resolution, lease

- 1 or other agreement entered into by such authority;
- 2 l. to issue bonds in such principal amounts as, in the opinion of
3 such authority, shall be necessary to provide sufficient funds to carry
4 out the purpose of this act, including the planning, financing,
5 acquisition, construction and other project costs of pollution control
6 facilities, the payment of interest on the bonds of the authority, the
7 provision for working capital and all other expenditures of the agency
8 incident to and necessary or convenient for carrying out its purposes
9 and powers and to refund the same, all as provided for in this act;
- 10 m. to employ engineers, architects, attorneys, accountants,
11 construction and financial experts, superintendents, managers and such
12 other employees and agents, without regard to the provisions of Title
13 [11 of the Revised] 11A of the New Jersey Statutes, as may be
14 necessary in its judgment and to fix their compensation;
- 15 n. to receive and accept from any public agency loans or grants for
16 or in aid of the construction of pollution control facilities and any
17 portion thereof, or for equipping the same, and to receive and accept
18 grants, gifts or other contributions from any source;
- 19 o. to refund, after public notice has been given, outstanding
20 obligations incurred by any agency or any person to finance the cost
21 of pollution control facilities, including obligations incurred for
22 pollution control facilities undertaken and completed after the
23 enactment of this act when the authority finds that such financing is in
24 the public interest;
- 25 p. to extend credit or make loans to any person in order to pay or
26 provide for the payment of any project costs of a pollution control
27 facility; [and]
- 28 q. to do all things necessary and convenient to carry out the
29 purposes of this act
- 30 r. to establish and implement a system to calculate, charge and
31 collect moneys for payment of stranded investment costs; and
- 32 s. to establish and implement a program for the inspection of solid
33 waste and a program to enforce or prosecute violations or violators of
34 the system established pursuant to subsection r. hereinabove for
35 payment of stranded investment costs, or the provisions of any
36 agreements, contracts or instruments executed in connection with the
37 implementation of a solid waste management system or use of any
38 solid waste facility acquired, constructed or contracted for by an
39 authority for such purpose.
- 40 (cf: P.L.1983, c.298, s.6)
- 41
- 42 24. (New section) a. Every authority created pursuant to the
43 provisions of P.L.1973, c.376 (C.40:37C-1 et seq.) is hereby
44 authorized to charge and collect rates, fees or other charges
45 (hereinafter referred to as "solid waste charges") in connection with,
46 or for the use or services of, or otherwise relating to, a solid waste

1 management system owned, sold, leased or controlled by the authority,
2 including, but not limited to, any materials recovery facility, recycling
3 center, resource recovery facility, transfer station or sanitary landfill
4 facility. An authority may charge and collect solid waste charges from
5 any governmental unit included within the jurisdiction of the authority,
6 or any governmental unit which contracts for service with the
7 authority, or from any person utilizing the solid waste management
8 system, or from any owner or occupant of any real property situated
9 in a municipality or county which contracts for service with the
10 authority. The solid waste charges may be charged to and collected
11 from any governmental unit or person and the governmental unit or
12 person shall be liable for and shall pay the solid waste charges to the
13 authority at the time when and place where the solid waste charges are
14 due and payable.

15 b. In the event that the solid waste charges of an authority with
16 regard to any parcel of real property owned by any person, other than
17 the State or an agency or subdivision thereof, shall not be paid as and
18 when due, the unpaid balance thereof, and all interest accruing
19 thereon, shall be a lien on the parcel. The lien shall be superior and
20 paramount to the interest in the parcel of any owner, lessee, tenant,
21 mortgagee or other person except the lien of municipal taxes and shall
22 be on a parity with and deemed equal to the lien on the parcel of the
23 municipality wherein the parcel is situated for taxes thereon due in the
24 same year and not paid as and when due. Whenever the solid waste
25 charges, and any interest accrued thereon, shall have been fully paid to
26 the authority, the lien shall be promptly withdrawn or canceled by the
27 authority.

28 The collector or other officer of every municipality charged by law
29 with the duty of enforcing municipal liens on real property shall
30 enforce, in the same manner as with any other municipal lien on real
31 property in the municipality, all solid waste charges and the lien
32 thereof shown in any statement filed with the collector or officer by an
33 authority pursuant to the provisions of this subsection, and shall pay
34 over to the authority the sums or a pro rata share of the sums realized
35 upon the enforcement or liquidation of any property acquired by the
36 municipality by virtue of the enforcement action.

37 In the event that the solid waste charges of an authority shall not be
38 paid as and when due, notwithstanding any other remedies available to
39 the authority, the unpaid balance thereof, and any interest accrued
40 thereon, together with attorney's fees and costs, may be recovered by
41 the authority in a civil action, and any lien on real property for the
42 solid waste charges, and any interest accrued thereon, may be
43 foreclosed or otherwise enforced by the authority by action or suit in
44 equity as for the foreclosure of a mortgage on the real property.

45 All rights and remedies provided in this subsection for the collection
46 and enforcement of solid waste charges shall be cumulative and

1 concurrent.

2 c. Notwithstanding the provisions of any other law to the contrary
3 and in addition to the powers provided in subsection b. of this section,
4 every authority created pursuant to the provisions of P.L.1973, c.376
5 (C.40:37C-1 et seq.) is hereby authorized to establish and implement
6 a system to calculate, charge and collect rates, fees or other charges
7 for payment of stranded investment costs.

8 These rates, fees or other charges shall constitute "solid waste
9 charges" as defined in subsection a. of this section and may be
10 collected by an authority in any manner reasonably established by the
11 authority, including without limitation, the collection of solid waste
12 charges from:

13 (1) every solid waste generator included within the jurisdiction of
14 the authority, regardless of whether the solid waste is to be delivered
15 to the solid waste management system established by the authority for
16 disposal or recycling, through the implementation of a unit charge
17 based upon the amount of solid waste generated;

18 (2) every municipality which has previously utilized the solid
19 waste management system established by the authority and has thereby
20 received the benefit of the stranded investments, through the
21 implementation of an assessment against the municipality based upon
22 the aggregate amount of solid waste generated within the boundaries
23 of the municipality from all sources of generation; or

24 (3) the county wherein the solid waste management system is
25 located or from any other governmental unit which has contracted with
26 the authority for the utilization of the solid waste management system,
27 through the implementation of an assessment against the county based
28 upon the aggregate amount of solid waste generated within the
29 boundaries of the county from all sources of generation.

30 Upon the establishment of a system to calculate, charge and collect
31 solid waste charges for payment of stranded investment costs, but
32 prior to the implementation thereof, the authority shall hold a public
33 hearing thereon at least 20 days after notice of the proposed
34 implementation has been mailed to the clerk of each municipality
35 located within the boundaries of the county wherein the solid waste
36 management system is located, and after publication of the notice of
37 the proposed implementation and the time and place of the public
38 hearing in at least 2 newspapers of general circulation within the
39 county.

40

41 25. (New section) a. Every solid waste management system
42 established by an authority created pursuant to the provisions of
43 P.L.1973, c.376 (C.40:37C-1 et seq.) shall be subject to the provisions
44 of the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et
45 seq.), and to any rules and regulations adopted pursuant thereto by the
46 Department of Environmental Protection, in connection with the

1 environmental aspects of all solid waste collection, disposal or
2 recycling activities or operations of the solid waste management
3 system.

4 b. Notwithstanding the provisions of P.L.1970, c.39 (C.13:1E-1 et
5 seq.), as amended and supplemented by P.L.1975, c.326, or P.L.1977,
6 c.443 (C.26:3A2-21 et seq.) to the contrary, any authority is
7 authorized to establish and implement a program for the inspection of
8 solid waste and a program to enforce or prosecute violations or
9 violators of (1) any system established pursuant to section 24 of
10 P.L. , c. (C.)(pending in the Legislature as this bill) for
11 payment of stranded investment costs; or (2) the provisions of any
12 agreements, contracts or instruments executed in connection with the
13 implementation of a solid waste management system or use of any
14 solid waste facility acquired, constructed or contracted for by an
15 authority for that purpose.

16 c. In furtherance of the provisions of this section, any authority is
17 authorized to exercise the enforcement powers conferred on local
18 boards of health or county health departments pursuant to the
19 provisions of the "County Environmental Health Act," P.L.1977, c.443
20 (C.26:3A2-21 et seq.) and section 9 of P.L.1970, c.39 (C.13:1E-9),
21 and may exercise these powers directly in the manner provided by the
22 aforementioned acts to local boards of health or county health
23 departments.

24

25 26. Section 3 of P.L.1970, c.39 (C.13:1E-3) is amended to read as
26 follows:

27 3. [For purposes of] As used in this act[, unless the context clearly
28 requires a different meaning]:

29 a. "Solid waste" means garbage, refuse, and other discarded
30 materials resulting from industrial, commercial and agricultural
31 operations, and from domestic and community activities, and shall
32 include all other waste materials including liquids, except for solid
33 animal and vegetable wastes collected by swine producers licensed by
34 the State Department of Agriculture to collect, prepare and feed such
35 wastes to swine on their own farms.

36 b. "Solid waste collection" means the activity related to pick-up
37 and transportation of solid waste from its source or location to a
38 transfer station or other authorized solid waste facility.

39 c. "Disposal" means the storage, treatment, utilization, processing,
40 resource recovery of, or the discharge, deposit, injection, dumping,
41 spilling, leaking or placing of any solid or hazardous waste into or on
42 any land or water, so that the solid or hazardous waste or any
43 constituent thereof may enter the environment or be emitted into the
44 air or discharged into any waters, including groundwaters.

45 d. "Solid waste management" includes all activities related to the
46 collection and disposal of solid waste by any person engaging in such

- 1 process.
- 2 e. "Council" means the Advisory Council on Solid Waste
3 Management.
- 4 f. "Department" means the State Department of Environmental
5 Protection.
- 6 g. "Commissioner" means the Commissioner of Environmental
7 Protection in the State Department of Environmental Protection.
- 8 h. "Solid waste facilities" mean and include the plants, structures
9 and other real and personal property acquired, constructed or operated
10 or to be acquired, constructed or operated by any person pursuant to
11 the provisions of P.L.1970, c.39 (C.13:1E-1 et seq.), P.L.1970, c.40
12 (C.48:13A-1 et seq.) or any other act, including transfer stations,
13 incinerators, resource recovery facilities, sanitary landfill facilities or
14 other plants for the disposal of solid waste, and all vehicles, equipment
15 and other real and personal property and rights therein and
16 appurtenances necessary or useful and convenient for the collection or
17 disposal of solid waste in a sanitary manner.
- 18 i. "Public authority" means any [solid waste management authority
19 created pursuant to the "solid waste management authorities law,"
20 P.L.1968, c.249 (C.40:66A-32 et seq.);] municipal or county utilities
21 authority created pursuant to the "municipal and county utilities
22 authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.); [incinerator
23 authority created pursuant to the "incinerator authorities law,"
24 P.L.1948, c.348 (C.40:66A-1 et seq.);] county improvement authority
25 created pursuant to the "county improvement authorities law,"
26 P.L.1960, c.183 (C.40:37A-44 et seq.), or any other public body
27 corporate and politic created for solid waste management purposes in
28 any county [or municipality], pursuant to the provisions of any law.
- 29 j. "Hackensack Meadowlands District" means the area within the
30 jurisdiction of the Hackensack Meadowlands Development
31 Commission created pursuant to the provisions of the "Hackensack
32 Meadowlands Reclamation and Development Act," P.L.1968, c.404
33 (C.13:17-1 et seq.).
- 34 k. "Hackensack Commission" means the Hackensack Meadowlands
35 Development Commission created pursuant to the provisions of the
36 "Hackensack Meadowlands Reclamation and Development Act,"
37 P.L.1968, c.404 (C.13:17-1 et seq.).
- 38 l. (Deleted by amendment, P.L.1990, c.113.)
- 39 m. (Deleted by amendment, P.L.1990, c.113.)
- 40 n. "Public sewage treatment plant" means any structure or
41 structures required to be approved by the department pursuant to
42 P.L.1977, c.224 (C.58:12A-1 et seq.) or P.L.1977, c.74 (C.58:10A-1
43 et seq.), by means of which domestic wastes are subjected to any
44 artificial process in order to remove or so alter constituents as to
45 render the waste less offensive or dangerous to the public health,
46 comfort or property of any of the inhabitants of this State, before the

1 discharge of the plant effluent into any of the waters of this State; this
2 definition includes plants for the treatment of industrial wastes, as well
3 as a combination of domestic and industrial wastes.

4 o. "Resource recovery" means the collection, separation, recycling
5 and recovery of metals, glass, paper and other materials for reuse; or
6 the incineration of solid waste for energy production and the recovery
7 of metals and other materials for reuse.

8 p. (Deleted by amendment, P.L.1990, c.113.)

9 q. "Sanitary landfill facility" means a solid waste facility at which
10 solid waste is deposited on or in the land as fill for the purpose of
11 permanent disposal or storage for a period exceeding six months,
12 except that it shall not include any waste facility approved for disposal
13 of hazardous waste.

14 r. "Transfer station" means a solid waste facility at which solid
15 waste is transferred from a solid waste collection vehicle to a licensed
16 solid waste haulage vehicle, including a rail car, for transportation to
17 an offsite sanitary landfill facility, resource recovery facility, or other
18 destination for disposal, except that a "transfer station" shall not
19 include any solid waste facility at which solid waste is received for
20 onsite transfer, and processing or disposal utilizing facility-owned or
21 operated equipment and vehicles operated therefor.

22 s. "Resource recovery facility" means a solid waste facility
23 constructed and operated for the incineration of solid waste for energy
24 production and the recovery of metals and other materials for reuse,
25 or a mechanized composting facility, or any other facility constructed
26 or operated for the collection, separation, recycling, and recovery of
27 metals, glass, paper, and other recyclable materials for reuse or for
28 energy production.

29 (cf: P.L.1990, c.113, s.4)

30
31 27. The following are repealed:

32 Section 4 of P.L.1973 c.330 (C.40:37A-101);

33 Section 5 of P.L.1973 c.330 (C.40:37A-102);

34 Section 7 of P.L.1973 c.330 (C.40:37A-104);

35 Section 8 of P.L.1973 c.330 (C.40:37A-105).

36
37 28. This act shall take effect immediately.

38
39
40 STATEMENT

41
42 This bill would authorize public authorities and counties to consider
43 the costs incurred in developing and operating designated solid waste
44 facilities, which have been devalued as a result of the Carbone
45 decision, as "stranded investment costs," and empower them to charge
46 and collect fees from the facility's users to recover these costs.

1 A "public authority" refers to any (1) municipal or county utilities
2 authority created pursuant to the "municipal and county utilities
3 authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.); (2) county
4 improvement authority created pursuant to the "county improvement
5 authorities law," P.L.1960, c.183 (C.40:37A-44 et seq.); or (3)
6 pollution control financing authority created pursuant to the "New
7 Jersey Pollution Control Financing Law," P.L.1973, c.376
8 (C.40:37C-1 et seq.).

9 On May 16, 1994, the U.S. Supreme Court, in its first-ever waste
10 flow control case, Carbone v. Town of Clarkstown, held that, without
11 unambiguous congressional authorization, a state or local
12 government's regulation of where haulers must transport solid waste
13 for processing or disposal is a violation of the Commerce Clause of the
14 U.S. Constitution. If Carbone is reaffirmed by a New Jersey-related
15 case, the legal authority of counties and public authorities to control
16 the flow of solid waste to their State-designated solid waste facilities
17 would be invalidated. Consequently, all operating solid waste
18 incinerators, landfills and transfer stations in New Jersey would lose
19 the guaranteed waste flows that ensure the economic viability of these
20 facilities, and the counties and public authorities that financed them
21 through bonded indebtedness would face financial disaster.
22 Collectively, these local governments have invested more than \$1
23 billion underwritten by 20 - 40 year revenue bonds.

24 In response to this potential invalidation of waste flow control, this
25 bill would authorize public authorities and counties that have
26 previously developed and implemented solid waste management
27 systems, through the acquisition, construction and operation of solid
28 waste facilities - solid waste incinerators, landfills, transfer stations
29 and so forth - or through execution of contracts and implementation
30 of solid waste collection, disposal or recycling programs, to establish
31 and implement a system for the collection of fees or charges from all
32 public and private users of these systems to recover the stranded
33 investment costs incurred by the public authority or county.

34 In addition, the bill would authorize public authorities and counties
35 to exercise sole jurisdiction to undertake enforcement actions to assure
36 compliance with the system established to recover the stranded
37 investment costs, and to assure that all solid waste generated by the
38 (voluntary) public and private users of a solid waste management
39 system is delivered to the designated solid waste facilities.

40 To these ends, the bill would grant public authorities and counties
41 the same enforcement powers conferred upon local boards of health,
42 county health departments and counties under the provisions of the
43 "County Environmental Health Act," P.L.1977, c.443 (C.26:3A2-21
44 et seq.) and the "Solid Waste Management Act," P.L.1970, c.39
45 (C.13:1E-1 et seq.).

46

- 1 _____
- 2
- 3 "Solid Waste Management System Cost Recovery Act."