

§1 - C.40A:12A-50a
§6 - C.40A:12A-53.1
§§8 -15
C.40A:12A-56 to
40A:12A-63
§17 - Repealer

P.L. 1996, CHAPTER 73, *approved July 22, 1996*
Senate Committee Substitute for
Senate, No. 954

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

5

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

8

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

12

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

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

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

Matter underlined thus is new matter.

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

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

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

1 will benefit the public at large and which constitute an important
2 public purpose.

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

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

30

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

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

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

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

45 "Municipality" means the municipal governing body or, if a
46 redevelopment agency or redevelopment entity is established in the
47 municipality pursuant to P.L.1992, c.79 (C.40A:12A-1 et seq.) and the

1 municipality so provides, the redevelopment agency or entity so
2 established.

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

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

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

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

39 "Landfill reclamation improvement district" or "district" means a
40 [contiguous] tract of land of at least 150 acres in size, which may
41 consist of one or more tax lots, of which not less than 100 acres were
42 formerly or are presently used as a landfill, [located in a municipality
43 having a population of more than 12,000 according to the latest
44 federal decennial census and in an area designated as an urban
45 enterprise zone in which the receipts of certain sales are exempt to the
46 extent of 50% of the tax imposed under the "Sales and Use Tax Act,"
47 P.L.1966, c.30 (C.54:32B-1 et seq.), pursuant to section 21 of

1 P.L.1983, c.303 (C.52:27H-80),] which has been delineated a
2 "redevelopment area" or "area in need of redevelopment" pursuant to
3 the "Local Redevelopment and Housing Law" P.L.1992, c.79
4 (C.40A:12A-1 et seq.), and is an area which has been designated a
5 landfill reclamation improvement district by a municipality pursuant to
6 section 3 of P.L.1995, c.173 (C.40A:12A-52).

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

17

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

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

44

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

47 4. a. A municipality that has created a district pursuant to section

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

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

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

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

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

35 e. Upon adoption, the municipal clerk shall immediately transmit
36 a copy of the ordinance to the Director of the Division of Local
37 Government Services in the Department of Community Affairs and to
38 the Director of the Division of Taxation in the Department of the
39 Treasury. Every ordinance levying a franchise assessment pursuant to
40 this section shall provide for reporting assessments due and for the
41 collection thereof, and all franchise assessments pursuant to such an
42 ordinance shall be remitted to the chief financial officer of the
43 municipality. An ordinance levying a franchise assessment shall take
44 effect only on the first day of any month in any year. [For the
45 purposes of the effective administration of the franchise assessment,
46 the municipality shall have all of the rights and responsibilities
47 established pursuant to sections 35 through 39 of P.L.1970, c.326

1 (C.40:48C-35 through 40:48C-39) and the franchise assessment shall
2 be administered pursuant to those sections.] The ordinance shall
3 provide for the allocation and distribution of the proceeds of the
4 franchise assessments collected; provided, however, that only such
5 sums as are retained by the municipality pursuant to the ordinance
6 shall be included in the general funds of the municipality and all other
7 franchise assessment proceeds shall be held in trust for the payment or
8 reimbursement of costs or obligations incurred for the purposes of the
9 district.

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

19 g. The ordinance shall provide for the collection of the franchise
20 assessment by an officer of the municipality who shall be designated
21 in the ordinance; shall provide methods for enforcement; and may
22 provide penalties for the violation of any of the provisions of the
23 ordinance.

24 h. All revenues collected under the ordinance and retained by the
25 municipality pursuant to this section shall be deposited in the general
26 fund of the municipality and may be used for general municipal
27 purposes, including the payment of salaries, construction,
28 reconstruction, maintenance and repair of municipal buildings,
29 installations and properties and for such other purposes as may be
30 provided by existing ordinances or ordinances hereafter enacted for
31 general municipal purposes.

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

33

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

37 a. Collect the franchise assessment, interest and penalties imposed
38 by an ordinance adopted pursuant to section 4 of P.L.1995, c.173
39 (C.40A:12A-53) which shall from the time due be a debt of the person
40 by whom payable to the municipality, recoverable in a court of
41 competent jurisdiction in a civil action in the name of the municipality
42 to be instituted within three years of the date due.

43 b. Authorize, as an additional remedy, the chief financial officer
44 of the municipality to issue a certificate to the clerk of the Superior
45 Court that any person is indebted under the ordinance in an amount
46 stated in the certificate. Thereupon, the clerk to whom the certificate
47 is issued shall immediately enter upon the record of documented

1 judgments the name of the person, the address of the place of business
2 where the franchise assessment liability was incurred, the amount of
3 the debt so certified and the date of making of the entry. The making
4 of the entry shall have the same force and effect as the entry of a
5 documented judgment in the office of the clerk, and the chief financial
6 officer of the municipality shall have all the remedies and may take all
7 the proceedings for the collection of the debt which may be had or
8 taken upon the recovery of a judgment in an action, but without
9 prejudice to the person's right of appeal.

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

19 Any aggrieved person may, within 90 days of the entry of the
20 decision, order, finding, assessment or action of the chief financial
21 officer of the municipality under this section, file an appeal in the
22 Superior Court, upon payment of the amount stated by the chief
23 financial officer to be due. The appeal provided by this section shall
24 be the exclusive remedy available to any person for review of a
25 determination of the chief financial officer with respect to a liability for
26 the franchise assessment imposed.

27

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

30 5. [Notwithstanding any law to the contrary, all franchise
31 assessments that are payable to a municipality from businesses located
32 within a landfill reclamation improvement district and that are subject
33 to a redevelopment agreement shall be appropriated by the
34 municipality for payment as provided for in the redevelopment
35 agreement.] Any portion of the aggregate franchise assessment
36 collected annually by the municipality [and retained pursuant to a
37 redevelopment agreement] which is not appropriated or expended by
38 the municipality for purposes of the district as such purposes are
39 provided in the "Local Redevelopment and Housing Law," P.L.1992,
40 c.79 (C.40A:12A-1 et seq.), but is retained by the municipality, shall
41 be apportioned between the municipality and the county in which the
42 landfill reclamation improvement district is located, such that 90
43 percent of the [aggregate] retained franchise assessment collected in
44 that year shall be [paid to] retained by the municipality and 10 percent
45 shall be [paid] transferred by the municipality to the county for use in
46 economic development[, unless the county waives its interest or any
47 part thereof. Franchise assessments shall be made by the municipality

1 until such time as the redeveloper has been paid in full, as defined in
2 the redevelopment agreement, notwithstanding the fact that a
3 municipality may no longer qualify to designate a district or that the
4 district designation may have expired prior to the full satisfaction of
5 the payments due the redeveloper under a redevelopment agreement].
6 (cf: P. L.1995, c.173, s.5)

7
8 8. (New section) a. A municipality that has created a landfill
9 reclamation improvement district pursuant to section 3 of P.L.1995,
10 c.173 (C.40A:12A-52) may provide for tax abatement within that
11 district and for payments in lieu of taxes in accordance with the
12 provisions of P.L.1991, c.431 (C.40A:20-1 et seq.); provided,
13 however, that the provisions of section 12 of P.L.1991, c.431
14 (C.40A:20-12) establishing a minimum or maximum annual service
15 charge and requiring staged increases in annual service charges over
16 the term of the exemption period, and of section 13 of P.L.1991,
17 c.431 (C.40A:20-13) permitting the relinquishment of status under that
18 act, shall not apply to landfill reclamation improvement district
19 projects.

20 b. In addition to, or in lieu of, the tax abatement provided for in
21 subsection a. of this section, the municipality may provide by
22 ordinance for one or more special assessments within the landfill
23 reclamation improvement district in accordance with chapter 56 of title
24 40 of the Revised Statutes, R.S.40:56-1 et seq., provided, however,
25 that the provisions of R.S.40:56-35 shall be applied so that if any
26 installment of a special assessment shall remain unpaid for 30 days
27 after the time at which it shall become due, the municipality may
28 provide, by ordinance, either that: (1) the whole assessment or
29 balance due thereon shall become and be immediately due; or, (2) any
30 subsequent installments which would not yet have become due except
31 for the default shall be considered as not in default and that the lien for
32 the installments not yet due shall continue; and provided, further, that
33 the ordinance may require that the assessments be payable in yearly
34 installments, with legal interest thereon, over a period of years up to
35 but in no event exceeding the period of years for which the bonds were
36 issued, or for 30 years, whichever shall be less. In levying a special
37 assessment on the lands or improvements, or both, located in the
38 district, the municipality may provide that the amount of the special
39 assessment shall be a specific amount, not to exceed the cost of the
40 improvements, paid with respect to property located in the district.
41 That specific amount shall, to the extent accepted by the owner of the
42 property benefitted, be deemed the conferred benefit, in lieu of the
43 amount being determined by the procedures otherwise applicable to
44 determining the actual benefit conferred on the property. Special
45 assessments levied pursuant to an ordinance adopted under this
46 subsection shall constitute a municipal lien upon confirmation by the
47 municipal governing body or by the court, under R.S.40:56-33.

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

22

23 9. (New section) a. The municipality may, by resolution of the
24 governing body, authorize the municipality to apply to the authority
25 for the authority to issue negotiable bonds or other obligations secured
26 by payments in lieu of taxes and special assessments. Bonds so issued
27 shall be for the purpose of financing or refinancing the construction,
28 reconstruction, repair, alteration, improvement, and development of
29 any on-site or off-site infrastructure improvements, or parking or
30 transportation facilities, or work that reduces, abates or prevents
31 environmental pollution, or other improvements that provide a public
32 benefit within or to a landfill reclamation improvement district.

33 b. A municipality that has created a landfill reclamation
34 improvement district pursuant to section 3 of P.L.1995, c.173
35 (C.40A:12A-52) may, by resolution of its governing body, enter into
36 contracts with the authority relating to any project or projects for the
37 purpose of financing or refinancing the construction, reconstruction,
38 repair, alteration, improvement, and development of any on-site or off-
39 site infrastructure improvements, or parking or transportation
40 facilities, or work that reduces, abates or prevents environmental
41 pollution, or other improvements that provide a public benefit within
42 or to a landfill reclamation improvement district. A resolution so
43 adopted shall contain findings and determinations of the governing
44 body: (1) that the project will result in the closure and remediation
45 of a landfill and create employment opportunities in the municipality;
46 and, (2) that the contract with the authority is a necessary inducement
47 to the undertaking of the project in that the contract makes the

1 financing thereof feasible. The contract or contracts may provide for
2 the assignment, for the benefit of bondholders, of all or any portion of
3 payments in lieu of taxes and special assessments. A contract may be
4 made and entered into for a term beginning currently or at some future
5 or contingent date, and with or without consideration, and for a
6 specified or unlimited time, and on any terms and conditions which
7 may be requested by the municipality and as may be agreed to by the
8 authority in conformity with its contracts with the holders of bonds,
9 and shall be valid and binding on the municipality. The municipality
10 is hereby authorized and directed to do and perform any contract so
11 entered into by it and to provide for the discharge of any obligation
12 thereunder in the same manner as other obligations of the municipality.

13 Any contract, and any instrument making or evidencing the same,
14 may be pledged or assigned by the authority, with the consent of the
15 municipality executing the contract, to secure its bonds and thereafter
16 may not be modified except as provided by the terms of the instrument
17 or by the terms of the pledge or assignment.

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

36 d. Notwithstanding the provisions of subsection g. of section 37
37 of P.L.1992, c.79 (C.40A:12A-37), the bonds and notes issued
38 pursuant to this section shall be non-recourse obligations, and shall not
39 be direct and general obligations of the municipality, and the
40 municipality shall not be obligated to levy and collect a tax sufficient
41 in an amount to pay the principal and interest on the bonds and notes
42 when the same become due and payable. The provisions of the "Local
43 Government Supervision Act (1947)," P.L.1947, c 151 (C.52:27BB-1
44 et seq.) shall not apply to any bonds or other obligations issued or
45 authorized pursuant to this section and those bonds or other
46 obligations shall not be considered gross debt of the municipality on
47 any debt statement filed in accordance with the "Local Bond Law,"

1 N.J.S.40A:2-1, and the provisions of chapter 27 of Title 52 of the
2 Revised Statutes shall not apply to such bonds.

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

12

13 10. (New section) a. Payments required to be made in
14 accordance with an agreement for payments in lieu of taxes entered
15 into under section 8 of this amendatory and supplementary act, P.L. ,
16 c. (C.) (now pending before the Legislature as this bill) shall
17 be a continuous lien on the land against which the ordinance is
18 recorded on and after the date of recordation of both the ordinance
19 and the agreement, whether simultaneously or not, all subsequent
20 payments in lieu of taxes thereunder, interest, penalties and costs of
21 collection which thereafter fall due or accrue shall be added and relate
22 back to and be a part of initial lien. Upon recordation of the ordinance
23 and agreement, payments in lieu of taxes shall constitute a municipal
24 lien within the meaning, and for all purposes, of law.

25 b. If revenue bonds or other obligations are issued by the
26 authority in order to finance or refinance the construction,
27 reconstruction, repair, alteration, improvement, and development of
28 any infrastructure, or parking or transportation facilities, or work that
29 reduces, abates or prevents environmental pollution, or other
30 improvements that provide a public benefit within or to a landfill
31 reclamation improvement district in accordance with section 9
32 of P.L. , c. (C.) (now before the Legislature as this bill),
33 the municipality or the redeveloper may record, either simultaneously
34 or at different times, any ordinance enacted by the municipality
35 relating to the payment in lieu of taxes agreement or special
36 assessments and, either simultaneously with the ordinance or at
37 different times, a copy of the agreement or agreements. The
38 ordinance, when recorded, shall contain a legend at the top of the front
39 page substantially as follows:

40 "THIS ORDINANCE SECURES BONDS OR OTHER
41 OBLIGATIONS ISSUED IN ACCORDANCE WITH THE
42 PROVISIONS OF THE "LARGE SITE LANDFILL RECLAMATION
43 AND IMPROVEMENT LAW" AND THE LIEN HEREOF IN
44 FAVOR OF THE OWNERS OF SUCH BONDS OR OTHER
45 OBLIGATIONS IS A MUNICIPAL LIEN SUPERIOR TO ALL
46 OTHER NON-MUNICIPAL LIENS HEREAFTER RECORDED."

47 c. Notwithstanding any law to the contrary, upon recordation of

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

21 d. Upon the final payment in full of any bonds or other obligations
22 secured as provided in this section and section 9 of this amendatory
23 and supplementary act, P.L. _____, c. _____ (C. _____) (now
24 pending before the Legislature as this bill), the lien established hereby
25 shall terminate, and the municipality shall record a notice to that
26 effect.

27

28 11. (New section) In lieu of the provisions of section 10 of
29 P.L. _____, c. _____ (C. _____) (now pending before the Legislature as this
30 bill), the municipality may provide in the agreement that the payment
31 in lieu of taxes, if any, is to be secured by a mortgage. In that event
32 the mortgage may also be assigned and pledged to the repayment of
33 the bonds authorized herein.

34 The assignment of any mortgage that secures a payment in lieu of
35 taxes, if any, may also be an absolute assignment of all or part of the
36 municipality's right, title, and interest in the mortgage and, to the
37 extent assigned, any moneys realized from the foreclosure of the
38 mortgaged property shall not be included in the general funds of the
39 municipality.

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

42

43 12. (New section) All bonds issued pursuant to this act are hereby
44 declared to be issued by a political subdivision of this State and for an
45 essential public and governmental purpose and the bonds, and the
46 interest thereon and the income therefrom, and all facility charges,
47 funds revenues and other moneys pledged or available to pay or secure

1 the payment of the bonds, or interest thereon, shall at all times be
2 exempt from taxation except for transfer inheritance and estate taxes.

3
4 13. (New section) The State of New Jersey does hereby pledge
5 to and covenant and agree with the holders of any bonds issued
6 pursuant to this act that the State will not limit or alter the terms of
7 any agreement, ordinance or resolution made in connection with the
8 security for and the issuance and sale of any bonds, so as to in any way
9 impair the rights or remedies of such holders, and will not modify in
10 any way the exemption from taxation provided for in this act, until the
11 bonds, together with interest thereon, with interest on any unpaid
12 installments of interest, and all costs and expenses in connection with
13 any action or proceeding by or on behalf of such holders, are fully met
14 and discharged or provided for.

15
16 14. (New section) If any section, subsection, clause or provision
17 of this act shall be adjudged to be unconstitutional or ineffective in
18 whole or in part, to the extent that it is not adjudged unconstitutional
19 or is not ineffective, it shall be valid and effective and no other section,
20 subsection, clause or provision of this act shall on account thereof be
21 deemed invalid or ineffective, and the inapplicability or invalidity of
22 any section, subsection, clause or provision of this act in any one or
23 more instances or under any one or more circumstances shall not be
24 taken to affect or prejudice in any way its applicability or validity in
25 any other instance or under any other circumstance.

26
27 15. (New section) After issuance, pursuant to this act, all bonds,
28 notes or other obligations shall be conclusively presumed to be fully
29 authorized and issued by all courts and officers of this State, and any
30 person shall be estopped from questioning their sale, execution or
31 delivery.

32
33 16. N.J.S.40A:4-39 is amended to read as follows:

34 40A:4-39. a. In the budget of any local unit, dedicated revenues
35 anticipated during the fiscal year from any dog tax, dog license,
36 revenues collected pursuant to N.J.S.18A:39-1.2, solid fuel license,
37 sinking fund for term bonds, bequest, escheat, federal grant, motor
38 vehicle fine dedicated to road repairs, relocation costs deposited into
39 a revolving relocation assistance fund established pursuant to section
40 2 of P.L.1987, c.98 (C.20:4-4.1a), receipts from franchise assessments
41 levied pursuant to section 4 of P.L.1995, c.173 (C.40A:12A-53) to be
42 retained by the municipality and, subject to the prior written consent
43 of the director, other items of like character when the revenue is not
44 subject to reasonably accurate estimate in advance, may be included in
45 said budget by annexing to said budget a statement in substantially the
46 following form:

47 "The dedicated revenues anticipated during the year from

1 (here insert one or more of the sources above, as the case may
2 be) are hereby anticipated as revenue and are hereby appropriated for
3 the purposes to which said revenue is dedicated by statute or other
4 legal requirement."

5 b. Dedicated revenues included in accordance with this section
6 shall be available for expenditure by the local unit as and when
7 received in cash during the fiscal year. The inclusion of such dedicated
8 revenues shall be subject to the approval of the director, who may
9 require such explanatory statements or data in connection therewith as
10 the director deems advisable for the information and protection of the
11 public.

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

13

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

15

16 18. This act shall take effect immediately.

17

18

19

20

21 "Large Site Landfill Reclamation and Improvement Law."