

SENATE, No. 1588

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 19, 1996

By Senator CAFIERO

1 AN ACT concerning municipal sports facility authorities and
2 supplementing Title 40 of the Revised Statutes.

3

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

6

7 1. This act shall be known and may be cited as the "Municipal
8 Sports Facility Authority Law."

9

10 2. The Legislature finds and declares:

11 a. Sports activities, such as tennis, soccer, golf, basketball,
12 baseball, and football, provide many benefits to a community,
13 including tourism, employment and recreational opportunities.

14 b. Through the construction and operation of sports facilities such
15 as a soccer field, golf course, basketball court, tennis court, or baseball
16 stadium, a municipality can provide recreational and employment
17 opportunities to its residents.

18 c. The establishment of a local authority to finance, construct and
19 operate a municipal sports facility is in the public interest.

20

21 3. The following terms, wherever used or referred to in P.L. , c.
22 (C.) (now pending before the Legislature as this bill), shall
23 have the following respective meanings, unless a different meaning
24 clearly appears from the context:

25 "Approach" shall mean any driveway, road or other structure or
26 area necessary or useful or convenient for access to a project from a
27 public street, road or highway.

28 "Authority" or "municipal sports facility authority" shall mean a
29 public body created pursuant to section 4 of P.L. , c. (C.)
30 (now pending before the Legislature as this bill).

31 "Bonds" shall mean any bonds, notes, or other obligations issued by
32 an authority pursuant to P.L. , c. (C.) (now pending
33 before the Legislature as this bill).

34 "Construct" and "construction" shall mean and include acts of
35 planning, designing, construction, reconstruction, rehabilitation,
36 replacement, enlargement, improvement and betterment of a project
37 and any land and buildings or structures for or with respect to a

1 project, and shall also include demolition, clearance and removal of
2 buildings or structures on land acquired, held, leased or used for or
3 with respect to a project.

4 "Cost" shall mean, in addition to the usual meanings thereof, the
5 cost of planning, acquisition or construction of all or any part of any
6 sports facility project of an authority and of all or any property, rights,
7 easements, privileges, agreements and franchises deemed by the
8 authority to be necessary or useful and convenient therefor or in
9 connection therewith, including interest or discount on bonds, cost of
10 issuance of bonds, architectural, engineering and inspection costs and
11 legal expenses, cost of financial, professional and other estimates and
12 advice, organization, administrative, operating and other expenses of
13 the authority prior to and during such acquisition or construction, and
14 all such other expenses as may be necessary or incident to the
15 financing, acquisition, construction and completion of such sports
16 facility project or part thereof and the placing of the same fully in
17 operation or the disposition of the same, and also such provision or
18 reserves for working capital, operating, maintenance or replacement
19 expenses or for payment or security of principal of or interest on
20 bonds during or after such acquisition or construction as the authority
21 may determine, and also reimbursements to the authority or any public
22 body or person of any moneys theretofore expended for the purposes
23 of the authority.

24 "Federal agency" shall mean and include the United States of
25 America, the President of the United States of America and any
26 department or corporation, agency or instrumentality heretofore or
27 hereafter created, designated or established by the United States of
28 America.

29 "Governing body" shall mean the commission, council, board or
30 body, by whatever name it may be known, having charge of the
31 finances of the municipality.

32 "Municipality" shall mean any city, borough, village, town or
33 township of the State, but shall not mean a county or a school district.

34 "Public body" shall mean the State, or any county, municipality,
35 school district, authority or any other political subdivision of the State.

36 "Person" shall mean any person, association, corporation, nation,
37 state or any agency or subdivision thereof, other than a county or
38 municipality of this State or a municipal sports facility authority.

39 "Project" or "sports facility project" shall mean any stadium area or
40 place, or other improvement related to a sports facility acquired or
41 constructed, or to be acquired or constructed by an authority,
42 including, without limiting the foregoing, all real and personal
43 property, approaches, appurtenances and facilities either on, above or
44 under the ground necessary or useful and convenient for or in
45 connection with such sports facility, including parking facilities.

46 "Real property" shall mean lands within or without the State, above

1 or below water, and improvements thereof or thereon, or any riparian
2 or other rights or interests therein.

3
4 4. The governing body of any municipality may, by ordinance,
5 create a public body corporate and politic, with corporate succession,
6 under the name and style of "the municipal sports facility
7 authority", inserting all or any significant part of the name of the
8 municipality creating such authority. The authority shall constitute a
9 political subdivision of the State established as an instrumentality
10 exercising public and essential governmental functions, and the
11 exercise by the authority of the powers and duties conferred pursuant
12 to P.L. , c. (C.) (now pending before the Legislature as this bill)
13 shall be deemed and held to be an essential governmental function of
14 the municipality. The creating ordinance may provide that no real
15 property shall be acquired by the power of eminent domain without the
16 consent of the governing body. Such authority shall constitute an
17 agency and instrumentality of the municipality creating it. Thereupon
18 the governing body shall appoint, by resolution, seven persons as
19 commissioners of the authority. The commissioners who are first
20 appointed shall be designated to serve for terms of 1, 2, 3, 4, and
21 5 years, respectively, from the date of their appointment, except that
22 three of the commissioners first appointed shall be designated to serve
23 for terms of three years. Thereafter, commissioners shall be appointed
24 as aforesaid for a term of 5 years, except that all vacancies shall be
25 filled for the unexpired term.

26 Upon the creation of any such authority, the municipal clerk shall
27 certify a copy of the ordinance creating the municipal sports facility
28 authority, and also a copy of the resolution appointing the first
29 commissioners thereof, which documents shall be filed in the office of
30 the Secretary of State and in the office of the Division of Local
31 Government Services in the Department of Community Affairs. A
32 copy of any such certified resolution, duly certified by or on behalf of
33 the Secretary of State, shall be admissible in evidence in any action or
34 proceeding and shall be conclusive evidence of due and proper
35 adoption and filing thereof as aforesaid.

36
37 5. No commissioner of any authority may be an officer or employee
38 of the municipality for which the authority is created; provided,
39 however, that a municipality may appoint a municipal recreation
40 commissioner under R.S.40:12-1 et seq. to the authority. A
41 commissioner shall hold office until his successor has been appointed
42 and has qualified. A certificate of the appointment or reappointment
43 of any commissioner shall be filed with the municipal clerk and such
44 certificate shall be conclusive evidence of the due and proper
45 appointment of such commissioner. A commissioner shall receive no
46 compensation for his services but he shall be entitled to the necessary

1 expenses, including traveling expenses incurred in the discharge of his
2 duties. The powers of each authority shall be vested in the
3 commissioners thereof in office from time to time. A majority shall
4 constitute a quorum of the authority for the purpose of conducting its
5 business and exercising its powers and for all other purposes. Action
6 may be taken by the authority upon a vote of the majority of the
7 commissioners present, unless in any case the bylaws of the authority
8 shall require a larger number. The authority shall select a chairman
9 and a vice-chairman from among its commissioners, and it may employ
10 a secretary, technical experts and such other officers, agents and
11 employees, permanent and temporary, as it may require, and shall
12 determine their qualifications, duties and compensation. For such legal
13 services as it may require, an authority may call upon any chief law
14 officers of the municipality or may employ its own counsel and legal
15 staff. An authority may delegate to one or more of its agents or
16 employees such powers and duties as it may deem proper. No
17 commissioner or employee of an authority shall acquire any interest
18 direct or indirect in any sports facility project or in any property
19 included or planned to be included in the project nor shall he have any
20 interest direct or indirect in any contract or proposed contract for
21 materials or services to be furnished or used in connection with any
22 sports facility project. If any commissioner or employee of an
23 authority owns or controls an interest direct or indirect in any property
24 included or planned to be included in a sports facility project he shall
25 immediately disclose the same in writing to the authority and such
26 disclosure shall be entered upon the minutes of the authority. Failure
27 so to disclose such interest shall constitute misconduct in office. Upon
28 such disclosure such commissioner or employee shall not participate
29 in any action by the authority affecting such property. For inefficiency
30 or neglect of duty or misconduct in office, a commissioner of an
31 authority may be removed by the governing body which made the
32 original appointment, but a commissioner shall be removed only after
33 he shall have been given a copy of the charges at least 10 days prior to
34 the hearing thereon and had an opportunity to be heard in person or by
35 counsel. In the event of the removal of any commissioner, a record of
36 the proceedings, together with the charges and findings thereon, shall
37 be filed in the office of the municipal clerk.

38

39 6. a. Every municipal sports facility authority shall constitute a
40 public body corporate and politic, with corporate succession, with the
41 same territorial boundaries as the boundaries of the municipality
42 creating the authority, exercising public and essential governmental
43 functions, and having all the powers necessary or convenient to carry
44 out and effectuate its corporate purposes and the purposes and
45 provisions of P.L. , c. (C.) (now pending before the
46 Legislature as this bill).

1 b. The purposes of every municipal sports facility authority shall be
2 the construction and operation of a municipal sports facility.

3 c. Every municipal sports facility authority is hereby authorized to
4 plan, design, construct, reconstruct, enlarge, improve, manage,
5 maintain, repair, operate and use such sports facility project as in the
6 opinion of the authority will provide an effective and satisfactory
7 method for promoting the purposes of the authority.

8 d. Every municipal sports facility authority shall have the following
9 powers in addition to any others herein granted:

10 (1) To sue and be sued; to have a seal and to alter the same at
11 pleasure; to make and execute contracts and other instruments
12 necessary or convenient to the exercise of the powers of the authority;
13 and to make and from time to time amend and repeal bylaws, rules
14 and regulations, not inconsistent with P.L. , c. (C.) (now
15 pending before the Legislature as this bill), to conduct its affairs and
16 to carry into effect the powers and purposes of the authority.

17 (2) To conduct research respecting sports facilities and the
18 possibility or necessity of fulfillment of public needs in relation
19 thereto.

20 (3) To acquire by gift, purchase, lease, devise or otherwise and hold
21 and use, and to construct, improve, maintain, operate, own, manage,
22 or lease either in a capacity of lessor or lessee sports facility projects
23 and any land, franchise, property, real, personal or mixed, tangible or
24 intangible, or any interest therein, equipment or facilities to be devoted
25 to the sports facility purpose or which in the opinion of the authority
26 are necessary or useful and convenient in connection therewith.

27 (4) To lease as lessor any real or personal property, sports facility
28 project or portion or portions of sports facility projects for any
29 business, commercial or other use to any person for such consideration
30 and for such period or periods of time and upon such other terms and
31 conditions as it may fix and agree upon. Any such lease may be upon
32 condition that the lessee shall or may construct or provide any building
33 or buildings or other facilities on such real property, sports facility
34 project or projects or portions thereof, including space for business,
35 commercial or other uses, all upon such terms and conditions as may
36 be agreed upon.

37 (5) To sell, transfer and dispose of any property or interest therein
38 at any time acquired by it.

39 (6) To fix, alter, charge and collect rents, rates and other charges
40 at reasonable rates to be determined exclusively by it, for the use of
41 the facilities and projects of the authority and for all services sold,
42 furnished or supplied directly or indirectly by the authority through
43 said facilities and projects, which shall, together with any grants,
44 receipts, contributions or income from other sources, be sufficient to
45 provide for the payment of the expenses of the authority, repair,
46 maintenance and operation of its facilities and projects, and payment

1 of the principal of and interest on, and any premiums upon the
2 redemption of, its bonds and other obligations, and to fulfill the terms
3 and provisions of any agreements made with the purchasers or holders
4 of any such bonds or other obligations.

5 (7) To invest any funds held in reserve or sinking funds, or any
6 funds not required for immediate disbursement, in property or
7 securities in which savings banks may legally invest funds subject to
8 their control.

9 (8) To borrow money and accept grants from and to enter into
10 contracts, leases or other transactions with the State of New Jersey,
11 any Federal agency, any person, or any municipality, county or other
12 public body.

13 (9) To mortgage, pledge, hypothecate or otherwise encumber all or
14 any of its property or assets then existing or thereafter acquired or
15 coming into existence, including real and personal property donated to
16 it by a municipality or county.

17 (10) To enter into contracts with the State of New Jersey or any
18 municipality, county or governmental agency for the use of any project
19 of the authority.

20 (11) To do and perform any acts and things authorized by P.L. ,
21 c. (C.) (now pending before the Legislature as this bill)
22 under, through or by means of its own officers, agents and employees,
23 or by contract with any person.

24 (12) To enter into and perform any and all contracts, execute any
25 and all instruments, and do and perform any and all acts and things
26 necessary or useful and convenient for the purposes of the authority
27 or to carry out any of the powers expressly granted to it by P.L. , c.
28 (C.) (now pending before the Legislature as this bill) or any
29 other acts subject to the "Local Public Contracts Law," P.L.1971,
30 c.198 (C. 40A:11-1 et seq.).

31
32 7. It shall be the duty of every municipal sports facility authority
33 created pursuant to section 4 of P.L. , c. (C.) (now pending
34 before the Legislature as this bill) to cause an annual audit of the
35 accounts of the authority to be made and filed with the authority, and
36 for this purpose the authority shall employ a registered municipal
37 accountant of New Jersey or a certified public accountant of New
38 Jersey. The audit shall be completed and filed with the authority
39 within four months after the close of the fiscal year of the authority
40 and a certified duplicate copy thereof shall be filed with the Director
41 of the Division of Local Government Services in the Department of
42 Community Affairs within five days after the original report is filed
43 with the authority.

44
45 8. Every municipal sports facility authority created pursuant to
46 section 4 of P.L. , c. (C.) (now pending before the

1 Legislature as this bill) shall file a certified copy of every bond
2 resolution as finally passed with the Director of the Division of Local
3 Government Services in the Department of Community Affairs and in
4 addition shall file a certified copy of all bond proceedings with the
5 director.

6
7 9. An authority shall have the right to acquire by the exercise of the
8 power of eminent domain any real property which it may deem
9 necessary for its purposes under this chapter after the adoption by it
10 of a resolution declaring that the acquisition of the real property
11 described therein is necessary for such purposes unless in the
12 ordinance creating the authority it is provided that no real property
13 shall be acquired in said manner without the consent of the governing
14 body, in which case said power shall not be exercised without said
15 consent. Property already devoted to a public use may be acquired in
16 like manner provided that no real property belonging to a public body
17 or any corporation itself possessing the power of eminent domain may
18 be acquired without its consent.

19
20 10. Whenever an authority, or any municipality or county which
21 has acquired by purchase or condemnation real property for any sports
22 facility project or for the widening of existing roads, streets, parkways,
23 avenues or highways or for new roads, streets, parkways, avenues or
24 highways to any sports facility project or partly for such purposes and
25 partly for other municipal or county purposes, shall determine that it
26 is necessary that any tracks, pipes, mains, conduits, cables, wires,
27 towers, poles and other equipment and appliances (herein called
28 "public utility facilities") of any public utility, as defined in
29 R.S.27:7-1, in, on, along, over or under any project or any real
30 property acquired as aforesaid, should be relocated in, or removed
31 from, such project or real property acquired as aforesaid, the public
32 utility owning or operating such public utility facilities shall relocate
33 or remove the same in accordance with the order of such authority,
34 municipality or county; provided, however, that the cost and expenses
35 of such relocation or removal, including the cost of installing such
36 public utility facilities in a new location, or new locations, and the cost
37 of any lands, or any rights or interest in lands, or any other rights
38 acquired to accomplish such relocation or removal, less the cost of any
39 lands or any rights or interest in lands or any other rights of the public
40 utility paid to the public utility in connection with the relocation or
41 removal of such property, shall be ascertained and paid by the
42 authority, municipality or county making such order. In case of any
43 such relocation or removal of public utility facilities as aforesaid, the
44 public utility owning or operating the same, its successors or assigns,
45 may maintain and operate such facilities, with the necessary
46 appurtenances, in the new location or new locations, for as long a

1 period, and upon the same terms and conditions, as it had the right to
2 maintain and operate such public utility facilities in their former
3 location or locations.

4
5 11. Every authority shall have power to issue its bonds from time
6 to time in its discretion for any of its corporate purposes, including the
7 raising of funds to pay the costs of any part of a project and paying or
8 retiring of any bonds previously issued by it and the payment of any
9 expense incurred or expected to be incurred and payable by it. The
10 authority may issue such types of bonds as it may determine, including
11 (without limiting the generality of the foregoing) bonds on which the
12 principal and interest are payable:

13 a. exclusively from the income and revenues of the sports facility
14 project financed with the proceeds of such bonds;

15 b. exclusively from the income and revenues of certain designated
16 sports facility projects whether or not they are financed in whole or
17 in part with the proceeds of such bonds; or

18 c. from its revenues generally.

19 Any such bonds may be additionally secured by a pledge of any
20 grant or contributions from the Federal Government, State or county,
21 or municipality, or a pledge of any income or revenues of the
22 authority, or a mortgage of any sports facility project, projects or
23 other property of the authority. P.L. , c. (C.) (now
24 pending before the Legislature as this bill) shall be complete authority
25 for the issuance of bonds by an authority, and the provisions of any
26 other law shall not apply to the issuance of such bonds. Whenever and
27 for so long as any authority has issued and has outstanding bonds
28 pursuant to P.L. , c. (C.) (now pending before the
29 Legislature as this bill), it shall be the mandatory duty of the authority
30 to fix, charge and collect rents, rates and other charges in accordance
31 with paragraph (6), subsection d. of section 6 of P.L. , c. (C.)
32 (now pending before the Legislature as this bill).

33
34 12. Neither the commissioners of an authority nor any person
35 executing bonds shall be liable personally on the bonds by reason of
36 the issuance thereof. The bonds and other obligations of an authority
37 (and such bonds and obligations shall so state on their face) shall not
38 be a debt of the State or any political subdivision thereof except the
39 authority or a public body which in accordance with P.L. , c. (C.)
40 (now pending before the Legislature as this bill) shall have guaranteed
41 payment of principal of and interest on the same, and neither the State
42 nor any political subdivision thereof other than the authority or such
43 a public body shall be liable thereon. Except to the extent and for the
44 purposes otherwise expressly provided by other laws, the bonds shall
45 not constitute an indebtedness within the meaning of any
46 constitutional or statutory debt limitation or restriction. Bonds of an

1 authority are declared to be issued for an essential public and
2 governmental purpose and to be public instrumentalities, and,
3 together with interest thereon and income therefrom, shall be exempt
4 from taxes.

5
6 13. Bonds of an authority shall be authorized by its resolutions and
7 may be issued in one or more series and shall bear such date or dates,
8 mature at such time or times, bear interest at such rate or rates, be in
9 such denomination or denominations, be in such form, either coupon
10 or registered, carry such conversion or registration privileges, have
11 such rank or priority, be executed in such manner, be payable in such
12 medium of payment at such place or places, and be subject to such
13 terms of redemption (with or without premium) as such resolution or
14 the trust indenture or mortgage (hereinafter mentioned) securing such
15 bonds may provide. The bonds of a municipal sports facility authority
16 may be sold by the municipal sports facility authority at public or
17 private sale to such person or persons (whether or not constituting
18 technical experts or agents referred to in section 5 of P.L. , c. (C.)
19 (now pending before the Legislature as this bill), either bidding alone
20 or in conjunction with others, and at such price or prices as the
21 municipal sports facility authority shall determine.

22
23 14. In case of any of the commissioners or officers of the authority
24 whose signatures appear on any bonds or coupons shall cease to be
25 such commissioners or officers before the delivery of such bonds, such
26 signatures shall, nevertheless, be valid and sufficient for all purposes,
27 the same as if such commissioners or officers had remained in office
28 until such delivery. All bonds issued under the provisions of P.L. ,
29 c. (C.) (now pending before the Legislature as this bill) are
30 hereby made and declared to be negotiable instruments under the
31 negotiable instruments law of this State. (Subtitle 1 of Title 7 of the
32 Revised Statutes.)

33
34 15. In connection with the issuance of bonds or the incurring of
35 obligations and in order to secure the payment of such bonds or
36 obligations, an authority, in addition to its other powers, shall have
37 power:

38 a. To pledge all or any part of its gross or net rents, fees or
39 revenues to which its right then exists or may thereafter come into
40 existence.

41 b. To mortgage all or any part of its real or personal property, then
42 owned or thereafter acquired.

43 c. To covenant against pledging all or any part of its rents, fees and
44 revenues, or against mortgaging all or any part of its real or personal
45 property, to which its right or title then exists or may thereafter come
46 into existence or against permitting or suffering any lien on such

1 revenues or property; to covenant with respect to limitations on its
2 right to sell, lease or otherwise dispose of any sports facility project or
3 any part thereof; and to covenant as to what other, or additional debts
4 or obligations may be incurred by it.

5 d. To covenant as to the bonds to be issued and as to the issuance
6 of such bonds in escrow or otherwise, and as to the use and
7 disposition of the proceeds thereof; to provide for the replacement of
8 lost, destroyed or mutilated bonds; to covenant against extending the
9 time for the payment of its bonds or interest thereon; and to redeem
10 the bonds, and to covenant for their redemption and to provide the
11 terms and conditions thereof.

12 e. To covenant as to the rents and fees to be charged in the
13 operation of a sports facility project, the amount to be raised each year
14 or other period of time by rents, fees and other revenues, and as to the
15 use and disposition to be made thereof; to create or to authorize the
16 creation of special funds for moneys held for construction or operating
17 costs, debt service, reserves, or other purposes, and to covenant as to
18 the use and disposition of the moneys held in such funds.

19 f. To prescribe the procedure, if any, by which the terms of any
20 contract with bondholders may be amended or abrogated, the amount
21 of bonds the holders of which must consent thereto and the manner in
22 which such consent may be given.

23 g. To covenant as to the use of any or all of its real or personal
24 property; and to covenant as to the maintenance of its real and
25 personal property, the replacement thereof, the insurance to be carried
26 thereon and the use and disposition of insurance moneys.

27 h. To covenant as to the rights, liabilities, powers and duties
28 arising upon the breach by it of any covenant, condition, or obligation;
29 and to covenant and prescribe as to events of default and terms and
30 conditions upon which any or all of its bonds or obligations shall
31 become or may be declared due before maturity, and as to the terms
32 and conditions upon which such declaration and its consequences may
33 be waived.

34 i. To vest in a trustee or trustees or the holders of bonds or any
35 proportion of them the right to enforce the payment of the bonds or
36 any covenant securing or relating to the bonds; to vest in a trustee or
37 trustees the right, in the event of a default by said authority, to take
38 possession and use, operate and manage any sports facility project or
39 part thereof, and to collect the rents and revenues arising therefrom
40 and to dispose of such moneys in accordance with the agreement of
41 the authority with said trustee; to provide for the powers and duties of
42 a trustee or trustees or the holders of bonds or any proportion of them
43 who may enforce any covenant or rights securing or relating to the
44 bonds.

45 j. To exercise all or any part or combination of the powers herein
46 granted; to make covenants other than and in addition to the covenants

1 herein expressly authorized, of like or different character; to make
2 such covenants and to do any and all such acts and things as may be
3 necessary or convenient or desirable in order to secure its bonds, or in
4 the absolute discretion of said authority, as will tend to make the
5 bonds more marketable notwithstanding that such covenants, acts or
6 things may not be enumerated herein.

7
8 16. An obligee of an authority shall have the right in addition to all
9 other rights which may be conferred on such obligee, subject only to
10 any contractual restrictions binding upon such obligee;

11 a. By action or proceeding in lieu of prerogative writ, to compel
12 said authority and the commissioners, officers, agents or employees
13 thereof to perform each and every term, provision and covenant
14 contained in any contract of said authority with or for the benefit of
15 such obligee, and to require the carrying out of any or all such
16 covenants and agreements of said authority and the fulfillment of all
17 duties imposed upon the authority by P.L. , c. (C.) (now
18 pending before the Legislature as this bill).

19 b. By action to enjoin any acts or things which may be unlawful, or
20 the violation of any of the rights of such obligee of said authority.

21
22 17. a. Any bonds or any issue or issues of bonds of an authority
23 may, in the discretion of the authority, be secured by a mortgage or
24 trust indenture by and between the authority and a trustee or trustees
25 within or without the State of New Jersey. Any such mortgage or
26 trust indenture or any resolution authorizing the issuance of such
27 bonds may include and set forth the agreements, covenants, pledges
28 and other provisions on the part of the authority to be performed and
29 made by the authority pursuant to P.L. , c. (C.) (now
30 pending before the Legislature as this bill) in order to secure the
31 payment of such bonds.

32 b. An authority shall have power by its resolution, trust indenture,
33 mortgage, lease, or other contract to confer upon any obligee holding
34 or representing a specified amount in bonds, or holding a lease, the
35 right (in addition to all rights that may otherwise be conferred), upon
36 the happening of an event of default as defined in such resolution or
37 instrument, by suit, action or proceeding in any court of competent
38 jurisdiction:

39 (1) To cause possession of any sports facility project or any part
40 thereof to be surrendered to any such obligee.

41 (2) To obtain the appointment of a receiver of any sports facility
42 project of said authority or any part thereof and of the rents and
43 profits therefrom who may enter and take possession of such sports
44 facility project or any part thereof and operate and maintain same, and
45 collect and receive all fees, rents, revenues, or other charges thereafter
46 arising therefrom, and shall keep such moneys in a separate account or

1 accounts and apply the same in accordance with the obligations of said
2 authority as the court shall direct.

3 (3) To require said authority and the commissioners thereof to
4 account as if it and they were the trustees of an express trust.

5 c. Any pledge of revenues or other moneys made by an authority
6 pursuant to P.L. , c. (C.) (now pending before the
7 Legislature as this bill) shall be valid and binding from the time when
8 the pledge is made; the revenues or other moneys so pledged and
9 thereafter received by the authority shall immediately be subject to the
10 lien of such pledge without any physical delivery thereof or further act;
11 and the lien of any such pledge shall be valid and binding as against all
12 parties having claims of any kind in tort, contract or otherwise against
13 the authority irrespective of whether such parties have notice thereof.
14 Neither the resolution or resolutions, mortgage or trust indenture, nor
15 any other instrument by which such pledge is created, need be
16 recorded.

17 d. In the event of a default by an authority which results in title to
18 a sports facility project passing to a private mortgagee or person, all
19 tax exemption privilege or other special privilege accorded to such
20 sports facility project because of its public nature shall cease, except
21 exemptions from tax of bonds or the interest thereon or the income
22 therefrom.

23

24 18. All real property of an authority shall be exempt from levy and
25 sale by virtue of an execution, and no execution or other judicial
26 process shall issue against the same nor shall any judgment against an
27 authority be a charge or lien upon its real property; provided,
28 however, that the provisions of this section shall not apply to or limit
29 the right of obligees to foreclose or otherwise enforce any mortgage
30 of any authority or the right of obligees to pursue any remedies for the
31 enforcement of any pledge or lien given by an authority on its rents,
32 fees or revenues.

33

34 19. Notwithstanding any restrictions on investments contained in
35 any laws of this State, the State and all public officers, municipal
36 corporations, political subdivisions, and public bodies, all banks,
37 bankers, trust companies, savings banks and institutions, building and
38 loan associations, savings and loan associations, investment
39 companies, and other persons carrying on a banking business, all
40 insurance companies, insurance associations and other persons
41 carrying on an insurance business and all executors, administrators,
42 guardians, trustees and other fiduciaries may legally invest any sinking
43 funds, moneys or other funds belonging to them or within their control
44 in any bonds or other obligations issued by a municipal sports facility
45 authority created pursuant to this municipal sports facility authority
46 law and any amendments thereto; it being the purpose of P.L. , c.

1 (C.) (now pending before the Legislature as this bill) to
2 authorize any persons, firms, corporations, associations, political
3 subdivisions, bodies and officers, public or private, to use any funds
4 owned or controlled by them, including (but not limited to) sinking,
5 insurance, investment, retirement, compensation, pension and trust
6 funds, and funds held on deposit, for the purchase of any such bonds
7 or other obligations and that such bonds or other obligations shall be
8 authorized security for all public deposits; provided, however, that
9 nothing contained in this section shall be construed as relieving any
10 person, firm, or corporation from any duty of exercising reasonable
11 care in selecting securities.

12

13 20. Subject to any of the foregoing provisions any authority may
14 but without intending by this provision to limit any powers of such
15 authority enter into and carry out such contracts or establish or
16 comply with such rules and regulations concerning labor and materials
17 and other related matters in connection with any project or portion
18 thereof as the authority may deem desirable or as may be requested by
19 any Federal agency that may assist in the financing of such project or
20 any part thereof.

21

22 21. In addition to the powers conferred upon any authority by
23 other provisions of P.L. , c. (C.) (now pending before the
24 Legislature as this bill), every authority is empowered to borrow
25 money or accept contributions, grants or other financial assistance
26 from the Federal Government, and, with the consent of the
27 municipality to acquire, take over or lease, or manage, any sports
28 facility project or undertaking constructed or owned by such
29 municipality. It is the purpose and intent of P.L. , c. (C.)
30 (now pending before the Legislature as this bill) to authorize every
31 authority to do any and all things necessary or desirable to secure the
32 financial aid or co-operation of the Federal Government, the State
33 Government, or any county or municipality in the undertaking,
34 construction, maintenance, or operation of any sports facility project
35 by such authority.

36

37 22. Every sports facility project and all property of the municipal
38 sports facility authority are hereby declared to be public property of a
39 political subdivision of the State and devoted to an essential public and
40 governmental function and purpose and shall be exempt from all taxes
41 and special assessments of the State or any subdivision thereof. All
42 bonds are hereby declared to be issued by a political subdivision of this
43 State and for an essential public and governmental purpose and to be
44 a public instrumentality, and such bonds, and the interest thereon and
45 the income therefrom, and all service charges, funds, revenues and
46 other moneys pledged or available to pay or secure the payment of

1 such bonds, or interest thereon, shall at all times be exempt from
2 taxation except for transfer inheritance and estate taxes and taxes on
3 transfers by or in contemplation of death, and in lieu of taxes by
4 political subdivisions upon the property of a municipal sports facility
5 authority, the authority which owns or holds such property may agree
6 to make payments to a political subdivision for the services,
7 improvements or facilities furnished by it for the benefit of a sports
8 facility project.

9
10 23. The provisions of P.L. , c. (C.) (now pending
11 before the Legislature as this bill) shall constitute a part of any and all
12 contracts entered into by an authority created hereunder for the benefit
13 and security of the creditors of such authority, and the State of New
14 Jersey does hereby pledge to and agree with any person, firm or
15 corporation or Federal agency subscribing to or acquiring the bonds
16 issued by the authority for the construction, extension, improvement
17 or enlargement of any project or facilities or part thereof that the State
18 of New Jersey will not limit or alter the rights hereby vested in the
19 authority and in the holders of such bonds until all bonds at any time
20 issued together with the interest thereon and any premiums upon the
21 redemption thereof are fully met and discharged. The State of New
22 Jersey does further pledge in the event that any Federal agency shall
23 contribute or agree to contribute any funds for the construction,
24 extension, improvement or enlargement of any project or any portion
25 thereof, the State of New Jersey will not alter or limit the rights and
26 powers of the authority in any manner which would be inconsistent
27 with the continued maintenance and operation of the project or the
28 improvement thereof or which would be inconsistent with the due
29 performance of any agreements between the authority and any such
30 Federal agency and the authority shall continue to have and may
31 exercise all powers herein granted so long as the same shall be
32 necessary or desirable for the carrying out of the purposes of P.L. ,
33 c. (C.) (now pending before the Legislature as this bill) and
34 the purposes of the United States in the construction or improvement
35 or enlargement of the project or such portion thereof.

36
37 24. Any municipality or county, located in whole or in part within
38 the area of operation of a municipal sports facility authority organized
39 pursuant to this chapter, or any amendments thereto, shall have the
40 power from time to time to grant, appropriate, donate, contribute, or
41 lend money to such authority or to agree to take such action.

42
43 25. a. The municipality for which a municipal sports facility
44 authority shall have been created shall have the power from time to
45 time, by or pursuant to ordinance duly adopted or by instruments or
46 other action authorized by such an ordinance and for such period and

1 upon such terms, with or without consideration, as may be provided
2 in such ordinance and accepted by the authority:

3 (1) To sell, lease, lend, donate, grant or convey to the authority,
4 or permit the authority to use, maintain or operate as part of its
5 projects or to manage, any sports facility project or undertaking
6 constructed or owned by the municipality, or any equipment or other
7 real or personal property owned by the municipality, which may be
8 necessary or useful and convenient for the purposes of the authority
9 and accepted by the authority;

10 (2) To appropriate money for all or any part of the cost of
11 acquisition or construction of any sports facility project of the
12 authority and, in accordance with the limitations and any exceptions
13 thereto and in the manner or mode of procedure prescribed by the
14 local bond law, to incur indebtedness, borrow money and issue its
15 negotiable bonds for the purpose of financing such project and
16 appropriation, and to pay the proceeds of such bonds to the authority;

17 (3) To covenant and agree with the authority to pay to or on the
18 order of the authority annually or at shorter intervals as a subsidy for
19 the promotion of its purposes not exceeding such sums of money as
20 may be stated in such ordinance;

21 (4) To unconditionally guarantee the punctual payment of the
22 principal of and interest on any bonds of the authority; and

23 (5) Upon authorization by it in accordance with law of the
24 performance of any act or thing which it is empowered by law to
25 authorize and perform and after appropriation of the moneys (if any)
26 necessary for such performance, to covenant and agree with the
27 authority to do and perform such act or thing and as to the time,
28 manner and other details of its doing and performance.

29 b. Any guaranty of bonds of an authority made pursuant to this
30 section shall be evidenced by endorsement thereof on such bonds,
31 executed in the name of the municipality and on its behalf by such
32 officer thereof as may be designated in the ordinance authorizing such
33 guaranty, and such municipality shall thereupon and thereafter be
34 obligated to pay the principal of and interest on said bonds in the same
35 manner and to the same extent as in the case of bonds issued by it.
36 Any such guaranty of bonds of the authority may be made, and any
37 ordinance authorizing such guaranty may be adopted, notwithstanding
38 any statutory or other debt limitations, including particularly any
39 limitation or requirement under or pursuant to the local bond law, but
40 the principal amount of bonds guaranteed pursuant to said ordinance
41 shall be included in the gross debt of such municipality for the purpose
42 of determining the indebtedness of such municipality under or pursuant
43 to the local bond law. The principal amount of bonds guaranteed
44 pursuant to said ordinance and included in gross debt shall be
45 deducted and is hereby declared to be and to constitute a deduction
46 from such gross debt under and for all the purposes of the local bond

1 law (1) from and after the date of adoption of the ordinance
2 authorizing such guaranty and until the end of the fifth fiscal year
3 beginning next thereafter, and (2) in any annual debt statement filed
4 pursuant to the local bond law as of the end of said fifth fiscal year or
5 any subsequent fiscal year if the municipality shall not have been
6 required to make any payment in such fiscal year on account of the
7 principal of or interest on any of the bonds guaranteed pursuant to said
8 ordinance.

9 c. Every municipality which shall make any contract, covenant or
10 agreement with an authority or pledge to an authority pursuant to this
11 section is hereby authorized and directed to do and perform any and
12 all acts or things necessary, convenient or desirable to carry out and
13 perform the same and to provide for the payment or discharge of any
14 obligation thereunder in the same manner as other obligations of such
15 municipality. Every authority is hereby empowered to accept, and
16 make and enter into, any of the contracts, covenants, agreements or
17 contractual provisions referred to in this section and is hereby
18 authorized and directed to do and perform any and all acts and things
19 necessary, convenient or desirable to carry out and perform the same.
20 Any such contract, covenant, agreement, or pledge, and any
21 instrument making or evidencing the same, may be pledged or assigned
22 by the authority to secure its bonds and thereafter may not be modified
23 except as provided by the terms of such instrument or by the terms of
24 such pledge or assignment.

25

26 26. a. For the purpose of aiding and co-operating in the planning,
27 undertaking, construction or operation of sports facility projects of an
28 authority, any public body within the territory of which any such
29 project is located may:

30 (1) Acquire real property in its name for any project or for the
31 widening of existing roads, streets, parkways, avenues or highways or
32 for new roads, streets, parkways, avenues or highways to any project,
33 or partly for such purposes and partly for other municipal or county
34 purposes, by purchase or condemnation in the manner provided by law
35 for the acquisition of real property by a municipality or county;

36 (2) Cause water, sewer, lighting and drainage facilities, or other
37 works which it is otherwise empowered to undertake to be furnished
38 adjacent to or in connection with sports facility projects; provided,
39 nothing in P.L. , c. (C.) (now pending before the
40 Legislature as this bill) shall authorize the construction of any public
41 utility service or facility which would be competitive with any existing
42 public utility as the same is defined by section R.S.48:2-13 of the Title,
43 Public Utilities;

44 (3) Furnish, dedicate, close, pave, install, grade, regard, plan, or
45 replan streets, roads, roadways, alleys, sidewalks or other places
46 which it is otherwise empowered to undertake;

1 (4) Do any and all things necessary or convenient to aid and
2 cooperate in the planning, undertaking, construction or operation of
3 such sports facility projects, and cause services to be furnished to the
4 municipal sports facility authority of the character which such public
5 body is otherwise empowered to furnish.

6 b. In connection with any public improvements made by a public
7 body in exercising the powers herein granted or referred to, such
8 public body may incur the entire expense thereof. Any law or statute
9 to the contrary notwithstanding, any sale, lease, loan, grant, gift,
10 conveyance, contract, pledge or agreement provided for in this section
11 or in section 25 of P.L. , c. (C.) (now pending before the
12 Legislature as this bill) may be made by a public body without prior
13 appropriation therefor, or referendum, or appraisal, or public notice,
14 advertisement or bidding, and without the consent of any board,
15 officer or other agency of the State, and without regard to any
16 provisions of Title 40 of the Revised Statutes and of Title 40A of the
17 New Jersey Statutes, except for the provisions of the "Local Public
18 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

19 c. An authority shall appoint a treasurer, who may also act as
20 secretary of the authority, and all moneys of an authority shall be paid
21 to the treasurer of the authority. Such treasurer shall file a bond of
22 indemnity with the authority in an amount sufficient to cover the
23 moneys from time to time under his control. Such moneys shall be
24 deposited in a separate bank account or accounts. The moneys in
25 such accounts shall be paid out on checks of the treasurer on
26 requisitions of the chairman of the authority or of such other person
27 or persons as the authority may authorize to make such requisitions.
28 All deposits of such moneys shall, if required by the treasurer or the
29 authority, be secured by obligations of the United States or of the
30 State of New Jersey of a market value equal at all times to the amount
31 of the deposit, and all banks and trust companies are authorized to
32 give such security for such deposits. The treasurer and his legally
33 authorized representatives are authorized and empowered from time
34 to time to examine the accounts and books of the authority, including
35 its receipts, disbursements, contracts, leases, sinking funds,
36 investments and other records and papers relating to its financial
37 standing. The authority shall have power, notwithstanding the
38 provisions of this subsection, to contract with the holders of any of its
39 bonds as to the custody, collection, securing, investment and payment
40 of any moneys of the authority or any moneys held in trust or
41 otherwise for the payment of bonds or in any way to secure bonds,
42 and to carry out any such contract notwithstanding that such contract
43 may be inconsistent with the previous provisions of this subsection.
44 Moneys held in trust or otherwise for the payment of bonds or in any
45 way to secure bonds and deposits of such moneys may be secured in
46 the same manner as moneys of an authority, and all banks and trust

1 companies are authorized to give such security for such deposits.

2 d. A municipal sports facility authority shall not constitute a
3 municipality, or agency or component of a municipality for the
4 purposes of any provisions of Title 40 of the Revised Statutes and of
5 Title 40A of the New Jersey Statutes, except that it shall be subject to
6 the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et
7 seq.).

8
9 27. When any authority shall have finally paid and discharged all
10 bonds or other obligations, which together with interest due thereon,
11 shall have been secured by a pledge of any of the revenues or receipts
12 of a project, it may, subject to any agreements concerning the
13 operation or disposition of such projects, convey such project to the
14 municipality creating the authority. When any authority shall have
15 finally paid and discharged all bonds issued and outstanding and the
16 interest due thereon, and settled all other obligations or claims which
17 may be outstanding against it, it may convey all its property to the
18 municipality and terminate its existence. A certificate requesting the
19 termination of the existence of the authority shall be filed with the
20 clerk of the municipality creating such authority. If the certificate is
21 thereafter approved by the municipality creating the authority, which
22 approval shall be by ordinance, that certificate, together with a
23 certified copy thereof, shall be filed with the clerk or register of deeds
24 of the county in which the authority is located whereupon the property
25 of the authority shall pass to the municipality creating the authority
26 and the authority shall cease to exist. The clerk of the county in each
27 case, shall cause a duplicate certified copy of such documents to be
28 filed forthwith with the Secretary of State.

29
30 28. Notwithstanding any other evidence of legislative intent, it is
31 hereby declared to be the controlling legislative intent that if any
32 provision of P.L. , c. (C.) (now pending before the
33 Legislature as this bill), or the application thereof to any person or
34 circumstances, is held invalid, the remainder of P.L. , c. (C.)
35 (now pending before the Legislature as this bill) and the application of
36 such provision to persons or circumstances other than those as to
37 which it is held invalid, shall not be affected thereby.

38
39 29. All general or special laws, or parts thereof, inconsistent with
40 the provisions of P.L. , c. (C.) (now pending before the
41 Legislature as this bill) are hereby declared to be inapplicable to the
42 exercise of the powers, duties and obligations authorized under that
43 act.

1 30. This act shall take effect immediately.

2

3

4

STATEMENT

5

6 This bill is intended to permit municipalities to establish municipal
7 sports facility authorities for the purpose of financing, constructing
8 and operating various sports facilities such as basketball and tennis
9 courts, soccer fields, golf courses and baseball and football stadiums.

10 This bill also would enable a municipal sports facility authority to
11 construct and operate a stadium for a professional or semi-professional
12 sports team such as a minor league baseball team. Such facilities could
13 provide recreational and economic opportunities for a community as
14 well as increasing tourism. The construction and operation of sports
15 facilities may be particularly beneficial to the revitalization efforts of
16 resort communities.

17

18

19

20

21 _____

Permits creation of municipal sports facility authorities.