

[First Reprint]
SENATE, No. 2226

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 17, 1997

By Senators INVERSO and McNAMARA

1 AN ACT concerning the New Jersey Health Care Facilities Financing
2 Authority and amending ¹and supplementing¹ P.L.1972, c.29.

3

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

6

7 1. The Title of P.L.1972, c.29 is amended to read as follows:

8 AN ACT relating to the financing of health care facilities [and],
9 equipment and services; creating the New Jersey Health Care
10 Facilities Financing Authority and prescribing its powers and duties;
11 authorizing the issuance of bonds and notes of the authority and
12 providing for the terms and security thereof, and making an
13 appropriation therefor.

14 (c.f: P.L.1972, c.29, Title)

15

16 2. Section 1 of P.L.1972, c.29 (C.26:2I-1) is amended to read as
17 follows:

18 1. It is hereby declared that a serious public emergency exists
19 affecting the health, safety and welfare of the people of the State
20 resulting from the fact that many [hospitals and other health-care]
21 health care facilities throughout the State are [becoming obsolete and
22 are] no longer adequate to meet the needs of modern [medicine]
23 health care. [As a result of rapid technological changes, such facilities
24 require substantial structural or functional changes. Others are
25 unsuited for continued use by virtue of their location and the physical
26 characteristics of their existing plants and should be replaced. Such
27 inadequate] Inadequate and outmoded facilities deny to the people of
28 the State the benefits of health care of the highest quality, efficiently
29 and promptly provided at a reasonable cost. [Their replacement and
30 modernization is essential to protect and prolong the lives of the
31 State's population and cannot readily be accomplished by the ordinary

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SHH committee amendments adopted December 11, 1997.

1 unaided operation of private enterprise. Existing hospitals and other
2 health-care facilities must be adapted to accommodate new concepts
3 of medical treatment and provide units for the treatment of alcoholism,
4 narcotics addiction and other social ills] As a result, health care
5 providers are restructuring their organizations, facilities and operations
6 in order to develop integrated health care delivery systems capable of
7 providing a full range of health care services in the most cost-effective
8 manner.

9 It is the purpose of this act to [encourage the timely construction
10 and modernization, including the equipment, of hospital and other
11 health-care facilities, which are necessary for the diagnosis or
12 treatment of human disease, pain, injury, disability, deformity or
13 physical condition, including mental illness and retardation, and of
14 facilities incidental or appurtenant thereto to be administered in
15 accordance with the provisions of the Health Care Facilities Planning
16 Act, P.L.1971, c. 136 (C. 26:2H-1 et seq.)] ensure that all health care
17 institutions have access to financial resources to improve the health
18 and welfare of the citizens of the State. It is hereby declared to be the
19 policy of the State to encourage the provision of modern,
20 well-equipped [health-care] health care facilities, and such provision
21 is hereby declared to be a public use and purpose.

22 (cf: P.L.1972, c.29, s.1)

23

24 3. Section 3 of P.L.1972, c.29 (C.26:2I-3) is amended to read as
25 follows:

26 3. As used in this act, the following words and terms shall have the
27 following meanings, unless the context indicates or requires another
28 or different meaning or intent:

29 "Authority" means the New Jersey Health Care Facilities Financing
30 Authority created by this act or any board, body, commission,
31 department or officer succeeding to the principal functions thereof or
32 to whom the powers conferred upon the authority by this act shall be
33 given by law.

34 "Bond" means bonds, notes or other evidences of indebtedness of
35 the authority issued pursuant to this act.

36 "Commissioner" means the [State] Commissioner of Health and
37 Senior Services.

38 ["Hospital facility" means a structure suitable to provide hospitals,
39 hospital related housing facilities, doctors' office buildings or other
40 health-care facilities for the prevention, diagnosis or treatment of
41 human disease, pain, injury, disability, deformity or physical condition
42 or mental illness and retardation, and for facilities incidental or
43 appurtenant thereto.

44 "Participating hospital" means a public hospital or private hospital
45 which has entered into a regulatory agreement in accordance with this
46 act.

1 "Private hospital" means a hospital or health-care institution, or an
2 institution for the training of doctors, nurses, paramedical or other
3 personnel engaged in the provision of health care, other than a State,
4 county or municipal hospital or health care facility, or related
5 institution including a health maintenance organization, public health
6 center, diagnostic center, treatment center, rehabilitation center,
7 extended care facility, skilled nursing home, nursing home,
8 intermediate care facility, tuberculosis hospital, chronic disease
9 hospital, maternity hospital, special hospital, mental hospital,
10 outpatient clinic, dispensary, home health agency, boarding home or
11 other home for sheltered care situated within the State and which is a
12 nonprofit institution providing hospital or health care service to the
13 public.]

14 "Credit agreement" means a loan agreement, revolving credit
15 agreement, agreement establishing a line of credit, letter of credit,
16 reimbursement agreement, interest exchange agreement, insurance
17 contract, surety bond, commitment to purchase bonds, purchase or
18 sale agreement, or commitment or other contract or agreement
19 authorized and approved by the authority in connection with the
20 authorization, issuance, security or payment of bonds.

21 "Health care organization" means an organization located in this
22 State which is authorized or permitted by law, whether directly or
23 indirectly through a holding corporation, partnership or other entity,
24 to provide health care-related services, including, but not limited to,
25 hospital, outpatient, public health, home health care, residential care,
26 ¹assisted living, hospice, health maintenance organization, ¹ blood bank,
27 alcohol or drug abuse, half-way house, diagnostic, treatment,
28 rehabilitation, extended care, skilled nursing care, nursing care,
29 intermediate care, tuberculosis care, chronic disease care, maternity,
30 mental health, boarding or sheltered care or day care, services
31 provided by a physician in his office, or any other service offered in
32 connection with health care services or by an entity affiliated with a
33 health care organization or an integrated delivery system.

34 "Integrated delivery system" means a group of legally affiliated
35 health care organizations ¹[which includes an acute care hospital]¹.

36 "Public [hospital] health care organization" means a State, county
37 or municipal [hospital or health-care facility including health
38 maintenance organization, public health center, diagnostic center,
39 treatment center, rehabilitation center, extended care facility, skilled
40 nursing home, nursing home, intermediate care facility, tuberculosis
41 hospital, chronic disease hospital, maternity hospital, mental hospital,
42 outpatient clinic, dispensary, home health care agency, boarding home
43 or other home for sheltered care now or hereafter established or
44 authorized by law] health care organization.

45 "Project" or "[hospital] health care organization project" means [a
46 specific work, including] the acquisition, construction, improvement,

1 renovation or rehabilitation of lands, buildings, [improvements,
2 alterations, renovations, enlargements, reconstructions,] fixtures,
3 equipment and articles of personal property, [acquired, constructed,
4 rehabilitated, owned and operated by] or other tangible or intangible
5 assets that are necessary or useful in the development, establishment
6 or operation of a [participating hospital] health care organization
7 pursuant to this act, [to provide hospital or health-care facilities or
8 facilities related, required or useful to or for the operation of a hospital
9 facility,] and "project" or "[hospital] health care organization project"
10 may include: the financing, refinancing or consolidation of secured or
11 unsecured debt, borrowings or obligations, or the provision of
12 financing for any other expense incurred in the ordinary course of
13 business, all of which lands, buildings, fixtures, equipment and articles
14 of personal property are to be used or occupied by any person in the
15 health care organization; the acquisition of an entity interest, including
16 capital stock, in a corporation; or any combination thereof; and may
17 include any combination of the foregoing undertaken jointly by any
18 [participating hospital] health care organization with one or more
19 other [participating hospitals] health care organizations.

20 "Project cost" or "[hospital] health care organization project cost"
21 means the sum total of all or any part of costs incurred or estimated to
22 be incurred by the authority or by a [participating hospital] health care
23 organization which are reasonable and necessary for carrying out all
24 works and undertakings and providing all necessary equipment for the
25 development of a project, exclusive of the amount of any private or
26 Federal, State or local financial assistance for and received by a
27 [participating hospital] health care organization for the payment of
28 such project cost. Such costs shall include, but are not necessarily
29 limited to[.]; interest prior to, during and for a reasonable period after
30 such development[.]; start-up costs and costs of operation and
31 maintenance during the construction period and for a reasonable
32 additional period thereafter[.]; organization, administration, operation
33 and other expenses of the health care organization prior to and during
34 construction; the cost of necessary studies, surveys, plans and
35 specifications, architectural, engineering, legal or other special
36 services[.]; the cost of acquisition of land, buildings and improvements
37 thereon (including payments for the relocation of persons displaced by
38 such acquisition), site preparation and development, construction,
39 reconstruction, equipment, including fixtures, equipment, and cost of
40 demolition and removal, and articles of personal property required[.];
41 the reasonable cost of financing incurred by a [participating hospital]
42 health care organization or the authority in the course of the
43 development of the project[.]; reserves for debt service[.]; the fees
44 imposed upon a [participating hospital] health care organization by
45 the commissioner and by the authority; other fees charged, and
46 necessary expenses incurred in connection with the initial occupancy

1 of the project[,]; and the cost of such other items as may be reasonable
2 and necessary for the development of a project; as well as provision or
3 reserves for working capital, operating or maintenance or replacement
4 expenses, or for payment or security of principal of, or interest on,
5 bonds. [The commissioner's approval of estimated project cost in
6 accordance with section 6 of this act shall include his approval, which
7 shall be conclusive, as to the reasonableness or necessity of any item
8 of cost and as to the reasonableness of any period of time in respect of
9 which interest, start-up, operation and maintenance costs have
10 included in project costs.]

11 (cf: P.L.1972, c.29, s.3)

12

13 4. Section 4 of P.L.1972, c.29 (C.26:2I-4) is amended to read as
14 follows:

15 4. a. There is hereby established in the [State] Department of
16 Health and Senior Services, a public body corporate and politic, with
17 corporate succession, to be known as the "New Jersey [Health-Care]
18 Health Care Facilities Financing Authority." The authority shall
19 constitute a political subdivision of the State established as an
20 instrumentality exercising public and essential governmental functions,
21 and the exercise by the authority of the powers conferred by this act
22 shall be deemed and held to be an essential governmental function.

23 b. The authority shall consist of seven members, three of whom
24 shall be the commissioner, who shall be the chairman, the
25 Commissioner of Banking and Insurance, and the Commissioner of
26 [the Department of Institutions and Agencies] Human Services, who
27 shall serve during their terms of office, or when so designated by them,
28 their deputies or other representatives, who shall serve at their
29 pleasure, and four public members who are citizens of the State to be
30 appointed by the Governor, with the advice and consent of the Senate
31 for terms of [4] four years; provided that the four members first
32 appointed by the Governor shall serve terms expiring on the first,
33 second, third, and fourth, respectively, April 30 ensuing after the
34 enactment of this act. Each member shall hold office for the term of
35 his appointment and until his successor shall have been appointed and
36 qualified. Any vacancy among the public members shall be filled by
37 appointment for the unexpired term only.

38 c. Any member of the authority appointed by the Governor may be
39 removed from office by the Governor for cause after a public hearing.

40 d. The members of the authority shall serve without compensation,
41 but the authority may reimburse its members for necessary expenses
42 incurred in the discharge of their official duties.

43 e. The authority, upon the first appointment of its members and
44 thereafter on or after April 30 in each year, shall annually elect from
45 among its members a vice chairman who shall hold office until April
46 30 next ensuing and shall continue to serve during the term of his

1 successor and until his successor shall have been appointed and
2 qualified. The authority may also appoint, retain and employ, without
3 regard to the provisions of Title 11, Civil Service, of the Revised
4 Statutes, such officers, agents, and employees as it may require, and
5 it shall determine their qualifications, terms of office, duties, services
6 and compensation.

7 f. The powers of the authority shall be vested in the members
8 thereof in office from time to time and a majority of the total
9 authorized membership of the authority shall constitute a quorum at
10 any meeting thereof. Action may be taken and motions and resolutions
11 adopted by the authority at any meeting thereof by the affirmative vote
12 of a majority of the members present, unless in any case the bylaws of
13 the authority shall require a larger number. No vacancy in the
14 membership of the authority shall impair the right of a quorum to
15 exercise all the rights and perform all the duties of the authority.

16 g. Each member and the treasurer of the authority shall execute a
17 bond to be conditioned upon the faithful performance of the duties of
18 such member or treasurer, as the case may be, in such form and
19 amount as may be prescribed by the Attorney General. Such bonds
20 shall be filed in the office of the Secretary of State. At all times
21 thereafter the members and treasurer of the authority shall maintain
22 such bonds in full force and effect. All costs of such bonds shall be
23 borne by the authority.

24 h. No trustee, director, officer or employee of a [hospital] health
25 care organization may serve as a member of the authority.

26 i. At least two true copies of the minutes of every meeting of the
27 authority shall be forthwith delivered by and under the certification of
28 the secretary thereof, to the Governor. No action taken at such
29 meeting by the authority shall have force or effect until 10 days,
30 exclusive of Saturdays, Sundays and public holidays, after such copies
31 of the minutes shall have been so delivered or at such earlier time as
32 the Governor shall sign a statement of approval thereof. If, in said
33 10-day period, the Governor returns a copy of the minutes with veto
34 of any action taken by the authority or any member thereof at such
35 meeting, such action shall be null and of no effect. If the Governor
36 shall not return the minutes within said 10-day period, any action
37 therein recited shall have force and effect according to the wording
38 thereof. At any time prior to the expiration of the said 10-day period,
39 the Governor may sign a statement of approval of all or any such
40 action of the authority.

41 The powers conferred in this subsection upon the Governor shall be
42 exercised with due regard for the rights of the holders of bonds of the
43 authority at any time outstanding.

44 (cf: P.L.1972, c.29, s.4)

45

46 5. Section 5 of P.L.1972, c.29 (C.26:2I-5) is amended to read as

1 follows:

2 5. Powers of authority. The authority shall have power:

3 a. To adopt bylaws for the regulation of its affairs and the conduct
4 of its business and to alter and revise such bylaws from time to time at
5 its discretion.

6 b. To adopt and have an official seal and alter the same at pleasure.

7 c. To maintain an office at such place or places within the State as
8 it may designate.

9 d. To sue and be sued in its own name.

10 e. To borrow money and to issue bonds of the authority and to
11 provide for the rights of the holders thereof as provided in this act.

12 f. To acquire, lease as lessee or lessor, hold and dispose of real and
13 personal property or any interest therein, in the exercise of its powers
14 and the performance of its duties under this act.

15 g. To acquire in the name of the authority by purchase or
16 otherwise, on such terms and conditions and in such manner as it may
17 deem proper, any land or interest therein and other property which it
18 may determine is reasonably necessary for any project; and to hold and
19 use the same and to sell, convey, lease or otherwise dispose of
20 property so acquired, no longer necessary for the authority's purposes,
21 for fair consideration after public notice.

22 h. To receive and accept, from any federal or other public agency
23 or governmental entity directly or through the Department of Health
24 and Senior Services or any other agency of the State or any
25 [participating hospital] health care organization, grants or loans for or
26 in aid of the acquisition or construction of any project, and to receive
27 and accept aid or contributions from any other source, of either
28 money, property, labor or other things of value, to be held, used and
29 applied only for the purposes for which such grants, loans and
30 contributions may be made.

31 i. To prepare or cause to be prepared plans, specifications, designs
32 and estimates of costs for the construction and equipment of [hospital]
33 health care organization projects for [participating hospitals] health
34 care organizations under the provisions of this act, and from time to
35 time to modify such plans, specifications, designs or estimates.

36 j. By contract or contracts with and for [participating hospitals]
37 health care organizations only, to construct, acquire, reconstruct,
38 rehabilitate and improve, and furnish and equip [hospital] health care
39 organization projects. The authority, in the exercise of its authority to
40 make and enter into contracts and agreements necessary or incidental
41 to the performance of its duties and the execution of its powers, shall
42 adopt standing rules and procedures providing that, except as
43 hereinafter provided, no contract on behalf of the authority shall be
44 entered into for the doing of any work, or for the hiring of equipment
45 or vehicles, where the sum to be expended exceeds the sum of
46 \$7,500.00 or the amount determined as provided in this subsection,

1 unless the authority shall first publicly advertise for bids therefor, and
2 shall award the contract to the lowest responsible bidder; provided,
3 however, that such advertising shall not be required where the contract
4 to be entered into is one for the furnishing or performing of services
5 of a professional nature or for the supplying of any product or the
6 rendering of any service by a public utility subject to the jurisdiction
7 of the Board of Public Utilities, and tariffs and schedules of the
8 charges, made, charged, or exacted by the public utility for any such
9 products to be supplied or services to be rendered are filed with said
10 board. The Governor, in consultation with the Department of the
11 Treasury, shall, no later than March 1 of each odd-numbered year,
12 adjust the threshold amount set forth in this subsection, or subsequent
13 to 1985 the threshold amount resulting from any adjustment under
14 this subsection or section 17 of P.L.1985, c.469, in direct proportion
15 to the rise or fall of the Consumer Price Index for all urban consumers
16 in the New York City and the Philadelphia areas as reported by the
17 United States Department of Labor. The Governor shall, no later than
18 June 1 of each odd-numbered year, notify the authority of the
19 adjustment. The adjustment shall become effective July 1 of each
20 odd-numbered year.

21 k. To determine the location and character of any project to be
22 undertaken, subject to the provisions of this act, and subject to State
23 health and environmental laws, to construct, reconstruct, maintain,
24 repair, lease as lessee or lessor, and regulate the same and operate the
25 same in the event of default by a [participating hospital] health care
26 organization of its obligations and agreements with the authority; to
27 enter into contracts for any or all such purposes; and to enter into
28 contracts for the management and operation of a project in the event
29 of default as herein provided. The authority shall use its best efforts
30 to conclude its position as an operator as herein provided as soon as
31 is practicable.

32 l. To establish rules and regulations for the use of a project or any
33 portion thereof and to designate a [participating hospital] health care
34 organization as its agent to establish rules and regulations for the use
35 of a project undertaken by such a [participating hospital] health care
36 organization.

37 m. Generally to fix and revise from time to time and to charge and
38 collect rates, rents, fees and other charges for the use of and for the
39 services furnished or to be furnished by a project or any portion
40 thereof and to contract with holders of its bonds and with any other
41 person, party, association, corporation or other body, public or
42 private, in respect thereof [, subject to the provisions of the "Health
43 Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.)].

44 n. To enter into agreements, credit agreements or contracts,
45 execute any and all instruments, and do and perform any and all acts
46 or things necessary, convenient or desirable for the purposes of the

1 authority or to carry out any power expressly given in this act.

2 o. To invest any moneys held in reserve or sinking funds, or any
3 moneys not required for immediate use or disbursement, at the
4 discretion of the authority, in such obligations as are authorized by
5 resolution of the authority.

6 p. To obtain, or aid in obtaining, from any department or agency
7 of the United States any insurance or guarantee as to, or of, or for the
8 payment or repayment of interest or principal, or both, or any part
9 thereof, on any loan or any instrument evidencing or securing the
10 same, made or entered into pursuant to the provisions of this act; and
11 notwithstanding any other provisions of this act, to enter into
12 agreement, contract or any other instrument whatsoever with respect
13 to any such insurance or guarantee, and accept payment in such
14 manner and form as provided therein in the event of default by the
15 borrower.

16 q. To obtain from any department or agency of the United States
17 or a private insurance company any insurance or guarantee as to, or of,
18 or for the payment or repayment of interest or principal, or both, or
19 any part thereof, on any bonds issued by the authority pursuant to the
20 provisions of this act; and notwithstanding any other provisions of this
21 act, to enter into any agreement, contract or any other instrument
22 whatsoever with respect to any such insurance or guarantee, except to
23 the extent that such action would in any way impair or interfere with
24 the authority's ability to perform and fulfill the terms of any agreement
25 made with the holders of the bonds of the authority.

26 r. To receive and accept, from any department or agency of the
27 United States or of the State or from any other entity, any grant,
28 appropriation or other moneys to be used for or applied to any
29 corporate purpose of the authority, including without limitation the
30 meeting of debt service obligations of the authority in respect of its
31 bonds.

32 (cf: P.L.1985, c.469, s.2)

33

34 6. Section 10 of P.L.1972, c.29 (C.26:2I-10) is amended to read
35 as follows:

36 10. The authority is authorized to fix, revise, charge and collect
37 rates, rents, fees and charges for the use of and for the services
38 furnished or to be furnished by each project and to contract with any
39 person, partnership, association or corporation, or other body, public
40 or private, in respect thereof. Such rates, rents, fees and charges shall
41 be fixed and adjusted in respect of the aggregate of rents, rates, fees
42 and charges from such project so as to provide funds sufficient with
43 other revenues or moneys, if any:

44 a. To pay the cost of maintaining, repairing and operating the
45 project and each and every portion thereof, to the extent that the
46 payment of such cost has not otherwise been adequately provided for.

1 b. To pay the principal of and the interest on outstanding bonds of
2 the authority issued in respect of such project as the same shall
3 become due and payable; and

4 c. To create and maintain reserves required or provided for in any
5 resolution authorizing, or trust agreement securing, such bonds of the
6 authority.

7 Such rates, rents, fees and charges shall not be subject to
8 supervision or regulation by any department, commission, board, body,
9 bureau or agency of this State other than the authority [and the
10 provisions of the Health Care Facilities Planning Act, P.L.1971, c.136
11 (C.26:2H-1 et seq.)]. A sufficient amount of the revenues derived in
12 respect of a project, except such part of such revenues as may be
13 necessary to pay the cost of maintenance, repair and operation and to
14 provide reserves for renewals, replacements, extensions, enlargements
15 and improvements as may be provided for in the resolution authorizing
16 the issuance of any bonds of the authority or in the trust agreement
17 securing the same, shall be set aside at such regular intervals as may
18 be provided in such resolution or trust agreement in a sinking or other
19 similar fund which is hereby pledged to, and charged with, the
20 payment of the principal of and the interest on such bonds as the same
21 shall become due, and the redemption price or the purchase price of
22 bonds retired by call or purchase as therein provided. Such pledge
23 shall be valid and binding from the time when the pledge is made; the
24 rates, rents, fees and charges and other revenues or other moneys or
25 securities so pledged and thereafter received by the authority shall
26 immediately be subject to the lien of such pledge without any physical
27 delivery thereof or further act, and the lien of any such pledge shall be
28 valid and binding as against all parties having claims of any kind in
29 tort, contract or otherwise against the authority, irrespective of
30 whether such parties have notice thereof. Neither the resolution nor
31 any trust agreement by which a pledge is created need be filed or
32 recorded except in the records of the authority. The use and
33 disposition of moneys to the credit of such sinking or other similar
34 fund shall be subject to the provisions of the resolution authorizing the
35 issuance of such bonds or of such trust agreement. Except as may
36 otherwise be provided in such resolution or such trust agreement, such
37 sinking or other similar fund shall be a fund for all such bonds issued
38 to finance projects of a [participating hospital] health care
39 organization without distinction or priority of one over another;
40 provided the authority in any such resolution or trust agreement may
41 provide that such sinking or other similar fund shall be the fund for a
42 particular project at a [participating hospital] health care organization
43 and for the bonds issued to finance a particular project and may,
44 additionally, permit and provide for the issuance of bonds having a
45 subordinate lien in respect of the security herein authorized to other
46 bonds of the authority and, in such case, the authority may create

1 separate sinking or other similar funds in respect to such subordinate
2 lien bonds.

3 (cf: P.L.1972, c.29, s.10)

4

5 7. Section 17 of P.L.1972, c.29 (C.26:2I-17) is amended to read
6 as follows:

7 17. The State of New Jersey does pledge to and agree with the
8 holders of the bonds issued pursuant to authority contained in this act,
9 and with those parties who may enter into contracts with the authority
10 pursuant to the provisions of this act, that the State will not limit, alter
11 or restrict the rights hereby vested in the authority and the
12 [participating hospital] health care organization to maintain, construct,
13 reconstruct and operate any project as defined in this act or to
14 establish and collect such rents, fees, receipts or other charges as may
15 be convenient or necessary to produce sufficient revenues to meet the
16 expenses of maintenance and operation thereof and to fulfill the terms
17 of any agreements made with the holders of bonds authorized by this
18 act, and with the parties who may enter into contracts with the
19 authority pursuant to the provisions of this act, or in any way impair
20 the rights or remedies of the holders of such bonds or such parties
21 until the bonds, together with interest thereon, are fully paid and
22 discharged and such contracts are fully performed on the part of the
23 authority. The authority as a public body corporate and politic shall
24 have the right to include the pledge herein made in its bonds and
25 contracts.

26 (cf: P.L.1972, c.29, s.17)

27

28 8. Section 21 of P.L.1972, c.29 (C.26:2I-21) is amended to read
29 as follows:

30 21. The Department of Health and Senior Services, or the
31 commissioner or their representatives, may visit, examine into and
32 inspect, the authority and may require, as often as desired, duly
33 verified reports therefrom giving such information and in such form
34 as such department or commissioner shall prescribe.

35 (cf: P.L.1971, c.29, s.21)

36

37 9. Section 23 of P.L.1972, c.29 (C.26:2I-23) is amended to read
38 as follows:

39 23. In order to provide new [hospitals] health care organizations
40 and to enable the construction and financing thereof, to refinance
41 indebtedness hereafter created by the authority for the purpose of
42 providing [a hospital or hospitals] one or more health care
43 organizations or additions or improvements thereto or modernization
44 thereof or for any one or more of said purposes but for no other
45 purpose unless authorized by law, each of the following bodies shall
46 have the powers hereafter enumerated to be exercised upon such terms

1 and conditions, including the fixing of fair consideration or rental to
2 be paid or received, as it shall determine by resolution as to such
3 property and each shall be subject to the performance of the duties
4 hereafter enumerated, that is to say, the [State] Department of Health
5 and Senior Services as to such as are located on land owned by, or
6 owned by the State and held for, any State institution or on lands of
7 the institutions under the jurisdiction of the [State] Department of
8 Health and Senior Services or of the [State] Department of
9 [Institutions and Agencies] Human Services, or by the authority, the
10 Commissioner of [the State Department of Institutions and Agencies]
11 Human Services as to State institutions operated by that department,
12 the board of trustees or governing body of any public [hospital] health
13 care organization, the board of trustees of the [College] University of
14 Medicine and Dentistry of New Jersey, as to such as are located on
15 land owned by [such college] the university, or by the State for [such
16 college] the university, the State or by the particular public [hospital]
17 health care organization, respectively, namely:

18 a. The power to sell and to convey to the authority title in fee
19 simple in any such land and any existing [hospital facilities] health care
20 facility thereon owned by the State and held for any department
21 thereof or of any of the institutions under the jurisdiction of the
22 [State] Department of Health and Senior Services or the power to sell
23 and to convey to the authority such title as the State or the public
24 [hospital] health care organization, respectively, may have in any such
25 land and any existing [hospitals] health care facility thereon.

26 b. The power to lease to the authority any land and any existing
27 [hospital facilities] health care facility thereon so owned for a term or
28 terms not exceeding 50 years each.

29 c. The power to lease or sublease from the authority, and to make
30 available, any such land and existing [hospitals] health care facility
31 conveyed or leased to the authority under subsections a. and b. of this
32 section, and any new [hospitals] health care facility erected upon such
33 land or upon any other land owned by the authority.

34 d. The power and duty, upon receipt of notice of any assignment
35 by the authority of any lease or sublease made under subsection c. of
36 this section, or of any of its rights under any such lease or sublease, to
37 recognize and give effect to such assignment, and to pay to the
38 assignee thereof rentals or other payments then due or which may
39 become due under any such lease or sublease which has been so
40 assigned by the authority.

41 (cf: P.L.1972, c.29, s.23)

42

43 10. Section 24 of P.L.1972, c.29 (C.26:2I-24) is amended to read
44 as follows:

45 24. In addition thereto the Commissioner of [the State Department
46 of Institutions and Agencies] Human Services as to institutions

1 operated by that department, the chief executive officer and the board
2 of trustees of other State institutions, and the board of trustees or
3 governing body of county and municipal public [hospitals] health care
4 organizations shall have the following powers and shall be subject to
5 the following duties as to their lands and [hospital] health care
6 facilities:

7 a. The power to pledge and assign all or any part of the revenues
8 derived from the operation of [such new hospitals] a health care
9 organization as security for the payment of rentals due and to become
10 due under any lease or sublease of [such] a new [hospitals] health care
11 facility as provided under subsection c. of [the preceding] section 23
12 of P.L.1972, c.29 (C.26:2I-23).

13 b. The power to covenant and agree in any lease or sublease of
14 such new [hospitals] health care facilities made under subsection c. of
15 [the preceding] section 23 of P.L.1972, c.29 (C.26:2I-23) to impose
16 fees, rentals or other charges for the use and occupancy or other
17 operation of such new [hospitals] health care facilities in an amount
18 calculated to produce net revenues sufficient to pay the rentals due and
19 to become due under such lease or sublease.

20 c. The power to apply all or any part of the revenues derived from
21 the operation of any [hospitals] health care organization to the
22 payment of rentals due and to become due under any lease or sublease
23 made under subsection c. of [the preceding] section 23 of P.L.1972,
24 c.29 (C.26:2I-23).

25 d. The power to pledge and assign all or any part of the revenues
26 derived from the operation of any [hospitals] health care organization
27 to the payment of rentals due and to become due under any lease or
28 sublease made under subsection c. of [the preceding] section 23 of
29 P.L.1972, c.29 (C.26:2I-23).

30 e. The power to covenant and agree in any lease or sublease made
31 under subsection c. of [the preceding] section 23 of P.L.1972, c.29
32 (C.26:2I-23) to impose fees, rentals or other charges for the use and
33 occupancy of a health care facility or [other] for the operation of [any
34 hospitals] a health care organization in an amount calculated to
35 produce net revenues sufficient to pay the rentals due and to become
36 due under such lease or sublease.

37 (cf: P.L.1972, c.29, s.24)

38

39 11. Section 25 of P.L.1972, c.29 (C.26:2I-25) is amended to read
40 as follows:

41 25. In addition to the powers and duties with respect to [hospitals]
42 health care organizations given under sections 23 and 24 of P.L.1972,
43 c.29 (C.26:2I-23 and C.26:2I-24, respectively), the board of trustees
44 or governing body of any State institution or public [hospital] health
45 care organization and the board of trustees of the [College] University
46 of Medicine and Dentistry of New Jersey shall also have the same

1 powers and be subject to the same duties in relation to any
2 conveyance, lease or sublease made under subsections a., b., or c. of
3 section 24 of P.L.1972, c.29 (C.26:2I-24), with respect to revenue
4 producing facilities; that is to say, structures or facilities which
5 produce revenues sufficient to pay the rentals due and to become due
6 under any lease or sublease made under subsection c. of section 24 of
7 P.L.1972, c.29 (C.26:2I-24), including, without limitation, extended
8 care and parking facilities.

9 (cf: P.L.1972, c.29, s.25)

10

11 12. Section 27 of P.L.1972, c.29 (C.26:2I-27) is amended to read
12 as follows:

13 27. To the extent not otherwise expressly provided under existing
14 law, all powers and duties conferred upon any State institution or the
15 [College] University of Medicine and Dentistry of New Jersey or any
16 county, city or municipal [hospital] health care organization pursuant
17 to this act shall be exercised and performed by resolution of its
18 governing body and all powers and duties conferred upon any of [said
19 hospitals] these health care organizations pursuant to this act shall be
20 exercised and performed by resolution of its board of trustees or
21 governing body.

22 (cf: P.L.1972, c.29, s.27)

23

24 13. Section 28 of P.L.1972, c.29 (C.26:2I-28) is amended to read
25 as follows:

26 28. In addition to the foregoing powers, the authority with respect
27 to [private hospitals] health care organizations shall have power [, but
28 only upon approval by the commissioner of a regulatory agreement
29 with such private hospital and subject to the terms and conditions of
30 such agreement; and provided that no project will be undertaken
31 pursuant to this act without the prior issuance of a certificate of need
32 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.)]:

33 a. Upon application of the [participating hospital] health care
34 organization to construct, acquire or otherwise provide projects for
35 the use and benefit of the [participating hospital] health care
36 organization and the patients, employees and staff of [such
37 participating hospital] the health care organization. The [participating
38 hospital] health care organization for which such a project is
39 undertaken by the authority shall approve the plans and specifications
40 of such project.

41 b. To operate and manage any project provided pursuant to this
42 section, or the authority may lease any such project to the
43 [participating hospital] health care organization for which such project
44 is provided. At such time as the liabilities of the authority incurred for
45 any such project have been met and the bonds of the authority issued
46 therefor have been paid, or such liabilities and bonds have otherwise

1 been discharged, the authority shall transfer title to all the real and
2 personal property of such project vested in the authority, to the
3 [participating hospital] health care organization in connection with
4 which such project is then being operated, or to which such project is
5 then leased; provided, however, that if at any time prior thereto [such
6 participating hospital] the health care organization ceases to offer
7 [hospital or] health services, then such title shall vest in the State of
8 New Jersey.

9 Any lease of a project authorized by this section shall be a general
10 obligation of the lessee and may contain provisions, which shall be a
11 part of the contract with the holders of the bonds of the authority
12 issued for such project, as to:

13 (i) pledging all or any part of the moneys, earnings, income and
14 revenues derived by the lessee from such project or any part or parts
15 thereof, or other personal property of the lessee, to secure payments
16 required under the terms of such lease;

17 (ii) the rates, rentals, fees and other charges to be fixed and
18 collected by the lessee, the amounts to be raised in each year thereby,
19 and the use and disposition of such moneys, earning, income and
20 revenues;

21 (iii) the setting aside of reserves and the creation of special funds
22 and the regulation and disposition thereof;

23 (iv) the procedure, if any, by which the terms of such lease may be
24 amended;

25 (v) vesting in a trustee or trustees such specified properties, rights,
26 powers and duties as shall be deemed necessary or desirable for the
27 security of the holders of the bonds of the authority issued for such
28 projects;

29 (vi) the obligations of the lessee with respect to the replacement,
30 reconstruction, maintenance, operation, repairs and insurance of such
31 project;

32 (vii) defining the acts or omissions to act which shall constitute a
33 default in the obligations and duties of the lessee, and providing for
34 the rights and remedies of the authority and of its bondholders in the
35 event of such default;

36 (viii) any other matters, of like or different character, which may be
37 deemed necessary or desirable for the security or protection of the
38 authority or the holders of its bonds.

39 (cf: P.L.1972, c.29, s.28)

40

41 14. Section 29 of P.L.1972, c.29 (C.26:2I-29) is amended to read
42 as follows:

43 29. The authority also shall have power:

44 a. To make loans to any [private hospital] health care organization
45 for the construction or acquisition of projects in accordance with a
46 loan agreement [and plans and specifications approved by the

1 authority]. No such loan shall exceed the total cost of such project [as
2 determined and approved by the authority]. Each such loan shall be
3 promised upon an agreement between the authority and the [private
4 hospital] health care organization as to payment, security, maturity,
5 redemption, interest and other appropriate matters.

6 b. To make loans to any [private hospital] health care organization
7 to refund existing bonds, mortgages or advances given or made by
8 [such private hospital] the health care organization for the
9 construction of projects to the extent that this will enable [such private
10 hospital] the health care organization to offer greater security for loans
11 for new project construction.

12 (cf: P.L.1972, c.29, s.29)

13

14 15. Section 30 of P.L.1972, c.29 (C.26:2I-30) is amended to read
15 as follows:

16 30. For the purpose of obtaining and securing loans under section
17 29 of P.L.1972, c.29 (C.26:2I-29), every [private hospital] health care
18 organization shall have power to mortgage and pledge any of its real
19 or personal property, and to pledge any of its income from whatever
20 source to repay the principal of and interest on any loan made to it by
21 the authority or to pay the interest on and principal and redemption
22 premium, if any, of any bond or other evidence of indebtedness
23 evidencing the debt created by any such loan; provided that the
24 foregoing shall not be construed to authorize actions in conflict with
25 specific legislation, trusts, endowment, or other agreements relating to
26 specific properties or funds.

27 (cf: P.L.1972, c.29, s.30)

28

29 16. Section 31 of P.L.1972, c.29 (C.26:2I-31) is amended to read
30 as follows:

31 31. Moneys of the authority received from any [private hospital]
32 health care organization in payment of any sum due to the authority
33 pursuant to the terms of any loan or other agreement or any bond,
34 note or other evidence of indebtedness, shall be deposited in an
35 account in which only moneys received from [private hospitals] health
36 care organizations shall be deposited and shall be kept separate and
37 apart from and not commingled with any other moneys of the
38 authority. Moneys deposited in such account shall be paid out on
39 checks signed by the chairman of the authority or by such other person
40 or persons as the authority may authorize, and countersigned by one

1 other member of the authority.
2 (cf: P.L.1972, c.29, s.31)

3
4 17. Section 32 of P.L.1972, c.29 (C.26:2I-32) is amended to read
5 as follows:

6 32. a. Whenever the authority under section 28 of P.L.1972, c.29
7 (C.26:2I-28) undertakes to construct, acquire or otherwise provide
8 and operate and manage a project, the authority shall be responsible
9 for the direct operation and maintenance costs of such projects, but
10 each [private hospital] health care organization in connection with
11 which such a project is provided and operated and managed shall be
12 responsible at its own expense for the overall supervision of each
13 project, for the overhead and general administrative costs of the
14 [private hospital] health care organization which are incurred because
15 of such project and for the integration of each project operation into
16 the [institution's hospital] health care organization's health care
17 program.

18 b. Whenever the authority under section 28 of P.L.1972, c.29
19 (C.26:2I-28) undertakes to construct, acquire or otherwise provide a
20 project and to lease the same to a [private hospital] health care
21 organization, the lessee shall be responsible for the direct operation
22 and maintenance costs of such project and, in addition, shall be
23 responsible for the overall supervision of each project, for the
24 overhead and general administrative costs of the lessee which are
25 incurred because of such project and for the integration of each
26 project operation into the lessee's [hospital] health care program.

27 c. Whenever the authority under section 29 of P.L.1972, c.29
28 (C.26:2I-29) makes loans for the construction of a project, the
29 [private hospital] health care organization at which such project is
30 located shall be responsible for the direct operation and maintenance
31 costs of such project and, in addition, shall be responsible for the
32 overall supervision of each project, for the overhead and general
33 administrative costs of the [private hospital] health care organization
34 which are incurred because of such project and for the integration of
35 each project operation into the [institution's hospital] health care
36 organization's health care program.
37 (cf: P.L.1972, c.29, s.32)

38
39 18. Section 33 of P.L.1972, c.29 (C.26:2I-33) is amended to read
40 as follows:

41 33. Any pledge of moneys, earnings, income or revenues authorized
42 with respect to [private hospitals] health care organizations, pursuant
43 to the provisions of this act, shall be valid and binding from the time
44 when the pledge is made. The moneys, earnings, income or revenues
45 so pledged and thereafter received by the pledgor shall immediately be
46 subject to the lien of such pledge without any physical delivery

1 thereof or further act. The lien of any such pledge shall be valid and
2 binding as against all parties having claims of any kind in tort, contract
3 or otherwise against the pledgor irrespective of whether such parties
4 have notice thereof. No instrument by which such a pledge is created
5 need be filed or recorded in any manner.

6 (cf: P.L.1972, c.29, s.33)

7

8 19. Section 34 of P.L.1972, c.29 (C.26:2I-34) is amended to read
9 as follows:

10 34. a. Whenever any [public or private hospital] health care
11 organization has constructed or acquired any work or improvement
12 which would otherwise qualify as a project under the preceding
13 portions of this act except for the fact that such construction or
14 acquisition was undertaken and financed without assistance from the
15 authority, the authority may purchase such work or improvement, and
16 lease the same to [such hospital] the health care organization, or may
17 lend funds to [such hospital] the health care organization for the
18 purpose of enabling the latter to retire obligations incurred for such
19 construction or acquisition, provided that the amount of any such
20 purchase price or loan shall not exceed the project cost as herein
21 defined, irrespective of such work or improvement. All powers,
22 rights, obligations and duties granted to or imposed upon the
23 authority, [hospitals] health care organizations, State departments and
24 agencies or others by this act in respect to projects shall apply to the
25 same extent with respect to transactions authorized by this section,
26 provided that any action otherwise required to be taken at a particular
27 time in the progression of a project may, where the circumstances so
28 required in connection with a transaction under this section be taken
29 nunc pro tunc.

30 b. Acquisition of [hospital] health care facilities from counties or
31 municipalities. Notwithstanding the provisions of any law to the
32 contrary, the authority may authorize the acquisition, and any county
33 or municipality by resolution or ordinance may authorize a private sale
34 and conveyance or leasing to the authority, of any interest of the
35 county or municipality in any lands and existing [hospital] health care
36 facilities which are then being operated by a [private or public
37 hospital] health care organization upon such terms and conditions as
38 may be agreed upon by the authority and the county and municipality.
39 The authority may use its funds for the acquisition by providing for the
40 retirement of obligations incurred for the acquisition of the land, and
41 for the acquisition and construction of the existing [hospital] health
42 care facilities, provided that the amount of the purchase price shall
43 not exceed the project costs. Upon acquisition of the lands and
44 existing [hospital] health care facilities, the authority may convey or
45 lease the lands and existing [hospital] health care facilities to a
46 [participating hospital] health care organization under such terms and

1 conditions as the authority and [participating hospital] health care
 2 organization may agree.

3 (cf: P.L.1984, c.217, s.1)

4

5 20. Section 38 of P.L.1972, c.29 (C.26:2I-38) is amended to read
 6 as follows:

7 38. All laws, or parts thereof, inconsistent with this act are hereby
 8 declared to be inapplicable to the provisions of this act, except as
 9 otherwise provided [, and provided that no project shall be
 10 constructed pursuant to this act which does not comply with the
 11 Health Care Facilities Planning Act, P.L.1971, c. 136 (C. 26:2H-1, et
 12 seq.)].

13 (cf: P.L.1972, c.29, s.38)

14

15 ¹21. (New section) The provisions of P.L.1972, c.29 (C.26:2I-1
 16 et seq.) shall not be construed to require a health care organization as
 17 defined in section 3 of P.L.1972, c.29 (C.26:2I-3) which is seeking to
 18 finance a project, to obtain financing from the New Jersey Health Care
 19 Facilities Financing Authority.¹

20

21 ¹22. (New section) The authority shall not enter into a credit
 22 agreement with a health care organization that does not qualify as a
 23 nonprofit entity under Title 15A of the New Jersey Statutes unless: a.
 24 the borrowing is a part of a larger plan of financing for an organization
 25 that qualifies as a nonprofit entity, or b. the health care organization
 26 has provided the authority with certification that it has sought
 27 financing directly from a banking institution or other licensed lending
 28 institution which is not a government entity or authority, and in good
 29 faith, is unable to obtain financing on terms acceptable to the borrower
 30 unless the financing is completed through the authority.¹

31

32 ¹[21.] 23.¹ Sections 6 and 26 of P.L.1972, c.29 (C.26:2I-6 and
 33 C.26:2I-26, respectively) are repealed.

34

35 ¹[22.] 24.¹ This act shall take effect immediately.

36

37

38

39

40 Expands range of health care organizations and projects eligible for
 41 New Jersey Health Care Facilities Financing Authority financing.