

[Second Reprint]

**ASSEMBLY, No. 4808**

**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

INTRODUCED OCTOBER 8, 2020

**Sponsored by:**

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**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

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**District 7 (Burlington)**

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**Assemblywomen Pinkin, Carter, Assemblymen Caputo, Freiman, Johnson,**

**Assemblywomen Lopez, Downey, Timberlake, Swain and Assemblyman**

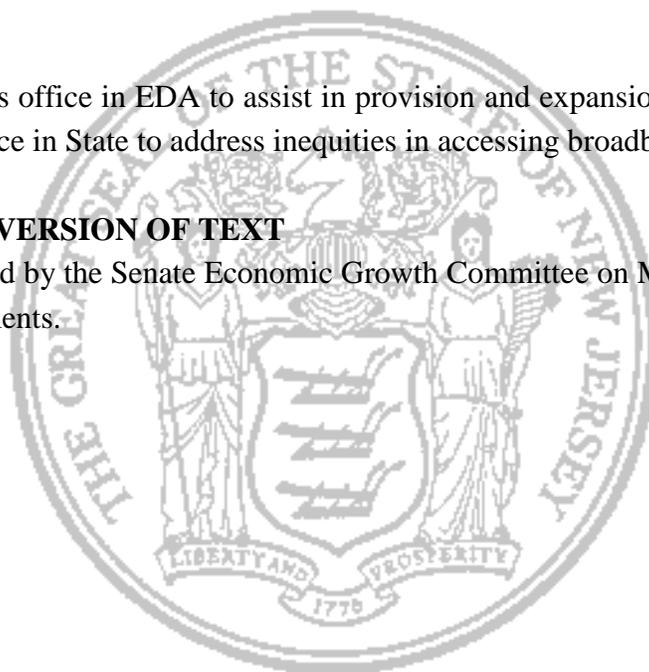
**Tully**

**SYNOPSIS**

Establishes office in EDA to assist in provision and expansion of broadband Internet service in State to address inequities in accessing broadband service.

**CURRENT VERSION OF TEXT**

As reported by the Senate Economic Growth Committee on March 11, 2021, with amendments.



**(Sponsorship Updated As Of: 10/29/2020)**

1 AN ACT concerning broadband Internet service and supplementing  
2 Title 48 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. a. The Legislature finds and declares that:

8 (1) The efforts taken to contain the spread of coronavirus disease  
9 2019 (COVID-19) have resulted in residents, especially students, and  
10 certain businesses in this State being required to perform their day-to-  
11 day activities from home or otherwise from a remote location, and  
12 with the start of the school year, it is especially important for students  
13 and educators engaged in remote learning to have Internet access  
14 suitable for their needs;

15 (2) Telehealth services, which are accessed through the Internet,  
16 have been offered to the public prior to and during the pandemic due  
17 to COVID-19, will continue to help to improve equitable access to  
18 healthcare;

19 (3) To properly perform telehealth services, remote student  
20 learning, and other activities during the pandemic, students, workers,  
21 and employers are required to have access to Internet service at  
22 broadband speeds to transmit data, graphics, video, and voice  
23 communications quickly and efficiently;

24 (4) To document and quantify the extent of the provision of  
25 broadband Internet (broadband) service deployment in the United  
26 States, twice a year, the Federal Communications Commission (FCC)  
27 requires all broadband service providers (providers) to file Form 477  
28 with the FCC, on which providers indicate where they offer service at  
29 speeds exceeding 200 kilobits per second in at least one direction, the  
30 minimum speed to be deemed as offering broadband service;

31 (5) Presently, the FCC's method in determining broadband  
32 <sup>2</sup>**[connectivity]** availability<sup>2</sup>, as determined by the information offered  
33 on Form 477, <sup>2</sup>**[allows for]** requires<sup>2</sup> a provider to <sup>2</sup>**[claim that an**  
34 **area is covered when the provider attests that it could serve an area**  
35 **within a]** measure coverage by<sup>2</sup> census block, <sup>2</sup>**[even though]** which  
36 means that some of<sup>2</sup> the people <sup>2</sup>**[of]** within<sup>2</sup> that area <sup>2</sup>**[have no]**  
37 may not have<sup>2</sup> access to broadband service;

38 (6) The FCC's website confirms the potential for inaccuracy in this  
39 methodology by stating that, "[p]roviders may not offer service to  
40 every home in every [census] block in which they report service. The  
41 calculations...treat every location as having service, and may therefore  
42 over-estimate broadband coverage, particularly in areas with large  
43 census blocks;

44 (7) <sup>2</sup>In March 2020, Congress passed the "Broadband DATA Act,"  
45 Pub.L.116-130, which requires the FCC to collect granular service

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AAP committee amendments adopted October 26, 2020.

<sup>2</sup>Senate SEG committee amendments adopted March 11, 2021.

1 availability data from wired, fixed wireless, and satellite broadband  
2 providers, and to create maps based on this information. The FCC has  
3 already implemented many of the Broadband DATA Act's  
4 requirements, and, on July 16, 2020, it released a report and order to  
5 implement collection and verification requirements for fixed and  
6 mobile broadband service availability and quality of service data.  
7 Even under the FCC's implementation of the "Broadband DATA Act,"  
8 providers are required to submit advertised broadband speed and not  
9 the actual speed that customers receive;

10 (8)<sup>2</sup> In 2018, a study by the Microsoft Corporation found that  
11 162.8 million people in this country are not using the Internet at  
12 broadband speeds, which far exceeds the FCC's estimated number of  
13 people without broadband service access at 25 million, a number  
14 determined by the data reported from Form 477;

15 <sup>2</sup>[(8)] (9)<sup>2</sup> A 2019 Pew Research Center survey found that only 73  
16 percent of American adults had high-speed Internet access at home and  
17 this figure was even lower in rural areas and low-income areas;

18 <sup>2</sup>[(9)] (10)<sup>2</sup> Having accurate information concerning broadband  
19 service connectivity in this State is necessary to determine how to  
20 better focus resources on providing broadband <sup>2</sup>[service to  
21 underserved] access to all<sup>2</sup> areas in New Jersey;

22 <sup>2</sup>[(10)] (11)<sup>2</sup> Disadvantaged <sup>2</sup>[individuals] households<sup>2</sup> in New  
23 Jersey do not have the means to pay for broadband service, especially  
24 during this time of high unemployment due to COVID-19, because of  
25 the high cost of this service;

26 <sup>2</sup>[(11)] (12)<sup>2</sup> A significant amount of residents and small  
27 businesses located in rural areas of this State still do not have access to  
28 broadband service;

29 <sup>2</sup>[(12)] (13)<sup>2</sup> This public health emergency has exposed the so-  
30 called "digital divide" in this State, making it difficult for rural and  
31 low-income areas to access medical care, continue education, and  
32 maintain employment; and

33 <sup>2</sup>[(13)] (14)<sup>2</sup> This lack of access exacerbates social, economic,  
34 income, and health inequalities in this State that can be addressed by  
35 taking measures that secure broadband access for areas in need.

36 b. The Legislature therefore determines that:

37 (1) It shall be the public policy of this State to foster the provision  
38 of wired broadband service to disadvantaged <sup>2</sup>[individuals]  
39 households<sup>2</sup> and to residents and small businesses located within rural  
40 areas of this State as a measure to lessen the negative economic effects  
41 of COVID-19 and the overall economy of this State;

42 (2) In order to foster the provision of wired broadband service to  
43 these residents and businesses, the State of New Jersey should have a  
44 role in meeting this need, and to serve as a source of funding for fiber  
45 optic or other wireline-based broadband service provided by State,  
46 federal, or local government entities and by private entities;

1 (3) The establishment of a Broadband Assistance Office within the  
2 <sup>2</sup>**[Board of Public Utilities]** New Jersey Economic Development  
3 Authority<sup>2</sup>, having duties and responsibilities that include, but not  
4 limited to, the review and approval of proposed projects providing for  
5 the deployment of fiber optic or other wireline-based broadband  
6 service to disadvantaged <sup>2</sup>**[individuals]** households<sup>2</sup> and in  
7 <sup>2</sup>**[underserved]** critical<sup>2</sup> areas, and the provision of financing for these  
8 projects, would meet this important need; and

9 (4) It shall be a goal for the State’s residents and businesses to  
10 have universal access to a fiber optic or other wireline-based  
11 broadband service provider, offering data transfer speeds of at least 25  
12 megabits per second (Mbps) download and at least three Mbps upload  
13 by 2023 and at least 100 Mbps download and 100 Mbps upload by  
14 2027. This goal shall allow for the Broadband Assistance Office to  
15 increase these minimum data transfer speeds as broadband service  
16 technology or capability advances.

17

18 2. As used in P.L. , c. (C. ) (pending before the Legislature  
19 as this bill):

20 “Authority” means the New Jersey Economic Development  
21 Authority established pursuant to section 4 of P.L.1974, c.80  
22 (C.34:1B-4).

23 “Board” means the Board of Public Utilities or any successor  
24 agency.

25 <sup>2</sup>“Broadband adoption” means residential subscribership to  
26 broadband Internet service that is already available to the customer  
27 premises.<sup>2</sup>

28 “Broadband Internet service” or “broadband service” means any  
29 fiber optic or other wireline-based Internet or other information service  
30 used for the purpose of offering high speed, switched, broadband  
31 wireline communications capability that enables users to send and  
32 receive high-quality voice, data, graphics, or video communications  
33 through the Internet and using any technology and with data transfer  
34 speeds of at least 25 megabits per second download and at least three  
35 megabits per second upload. These minimum data transfer speeds  
36 may be increased by an amount determined by <sup>2</sup>the<sup>2</sup> Broadband  
37 Assistance Office as broadband service technology or capability  
38 advances. “Broadband Internet service” shall not mean or include any  
39 Internet or information service that, in part, uses wireless  
40 communications equipment or facilities.

41 “Broadband Internet service infrastructure” or “broadband  
42 infrastructure” means fiber optic or other wireline-based information  
43 equipment and facilities, <sup>1</sup>including point-to-point communication  
44 connections between two communication endpoints or nodes.<sup>1</sup>  
45 information systems, and information technology used for the purpose  
46 of providing fiber optic or other wireline-based broadband Internet  
47 service. “Broadband Internet service infrastructure” shall not mean or

1 include any Internet or information service equipment or facilities that,  
2 in part, use 1point-to-multipoint wireless communications facilities or  
3 other<sup>1</sup> wireless communications equipment or facilities.

4 “Broadband Internet service provider” or “service provider” means  
5 a person, company, corporation, unincorporated association,  
6 partnership, or professional corporation which <sup>1</sup>[is certified by the  
7 board to offer] offers<sup>1</sup> fiber optic or other wireline-based broadband  
8 Internet service directly to the public, or to classes of users as to be  
9 effectively available directly to the public, regardless of the facilities  
10 used.

11 “Broadband office” means the “Broadband Assistance Office”  
12 established within the <sup>2</sup>[Board of Public Utilities] New Jersey  
13 Economic Development Authority<sup>2</sup> pursuant to section 3 of P.L. , c.  
14 (C. ) (pending before the Legislature as this bill).

15 “Broadband project” means a project developed, in whole or in  
16 part, for a new or existing broadband Internet service infrastructure or  
17 broadband Internet service, or both.

18 <sup>2</sup>“Critical area” means a census tract in which less than 100 percent  
19 of households have access to broadband service, or a census tract that  
20 meets the following requirements: a. at least 35 percent of the  
21 households qualify as low-income households; or b. at least 40 percent  
22 of the residents identify as a minority or as members of a State  
23 recognized tribal community.

24 “Disadvantaged household” means any household which receives  
25 benefits from or participates in the State Medicaid program, any form  
26 of public housing assistance, the New Jersey Supplemental Nutrition  
27 Assistance Program (SNAP), Temporary Assistance for Needy  
28 Families (TANF), federal Supplemental Security Income (SSI), a  
29 program resulting in a Charity Care subsidy to a hospital, the National  
30 School Lunch Program (NSLP), the Head Start Program, the federal  
31 Low Income Home Energy Assistance Program, the federal Special  
32 Supplemental Nutrition Program for Women, Infants, and Children  
33 (WIC), any veterans’ pension program, and any federal tribal  
34 assistance program. “Disadvantaged household” shall include any  
35 household that makes less than 200 percent of the federal poverty  
36 level.<sup>2</sup>

37 “Fund” means the “State Broadband <sup>1</sup>[Assistance]<sup>1</sup> Fund”  
38 established pursuant to section <sup>1</sup>[5] 6<sup>1</sup> of P.L. , c. (C. )  
39 (pending before the Legislature as this bill).

40 “Government entity” means the State, its subdivisions, and any  
41 department, agency, commission, authority, board, or instrumentality  
42 thereof, a county, a municipality, a regional or municipal authority, a  
43 quasi-State agency, a State-created corporation, a municipal  
44 corporation. “Governmental entity” may include a combination of  
45 governmental entities as defined herein.

1 “Office of Information Technology” means the Office of  
2 Information Technology established pursuant to section 9 of P.L.2007,  
3 c.56 (C.52:18A-227).

4 “Private entity” means a person, a combination of persons, a  
5 business entity, a combination of business entities, or a combination of  
6 persons and business entities <sup>2</sup>with experience in the construction and  
7 operation of broadband networks.<sup>2</sup>

8 “Public-private partnership agreement” or “P3 agreement” means  
9 an agreement entered into by a governmental entity and a private  
10 entity for the purposes of undertaking a broadband project approved by  
11 the broadband office pursuant to section 3 of  
12 P.L. , c. (C. ) (pending before the Legislature as this bill).

13  
14 3. a. There is hereby established in the <sup>2</sup>**[Board of Public**  
15 **Utilities]** New Jersey Economic Development Authority<sup>2</sup> a  
16 “Broadband Assistance Office.” The broadband office shall be  
17 responsible for the formulation and execution of a comprehensive  
18 Statewide policy that fosters the provision of wired broadband service  
19 by government or private entities, developing a broadband project, or  
20 both, if these entities develop a broadband project under a public-  
21 private partnership agreement, and shall be responsible for the  
22 development, promotion, coordination, oversight, and approval of a  
23 broadband project developed pursuant to P.L. , c. (C. )  
24 (pending before the Legislature as this bill).

25 b. The broadband office, in cooperation with the authority, shall  
26 establish guidelines for the broadband office’s approval, designation,  
27 operation, and reporting of a proposed broadband project, including  
28 any proposed broadband project developed under a P3 agreement, in a  
29 manner determined by the broadband office. The broadband office, in  
30 cooperation with the authority, shall oversee, coordinate, and provide  
31 assistance to a broadband project approved by the broadband office  
32 pursuant to P.L. , c. (C. ) (pending before the Legislature as  
33 this bill).

34 c. The broadband office shall consult and coordinate with  
35 representatives of other State departments, agencies, boards, and  
36 authorities, including the authority and the Office of Information  
37 Technology, as the broadband office, authority, and Office of  
38 Information Technology shall deem necessary and appropriate, to  
39 accomplish the goals of P.L. , c. (C. ) (pending before the  
40 Legislature as this bill).

41 d. The broadband office shall identify the resources and personnel  
42 of the board, the authority, and other participating agencies,  
43 departments, boards, and authorities of the State that are deemed  
44 necessary and appropriate to support the broadband office. The  
45 <sup>2</sup>**[board]** authority<sup>2</sup> may retain one or more qualified private  
46 consultants with relevant expertise to provide the technical assistance

1 and resources deemed necessary and appropriate to assist the  
2 broadband office.

3

4 4. To accomplish the duties and responsibilities described in  
5 section 3 of P.L. , c. (C. ) (pending before the Legislature as  
6 this bill), the broadband office shall be responsible for:

7 a. in conjunction with the Office of Information Technology,  
8 mapping Internet connectivity within the State <sup>2</sup>and publicly  
9 publishing this information<sup>2</sup>;

10 b. engaging with stakeholders, such as broadband infrastructure  
11 developers, broadband service providers, and local government and  
12 school officials representing <sup>2</sup>**underserved communities** critical  
13 areas<sup>2</sup>;

14 c. in conjunction with the authority, coordinating financial and  
15 technical assistance to municipalities wherein critical areas  
16 communities are located, which include households and small  
17 businesses that cannot afford to receive broadband service or areas  
18 within municipalities that lack adequate broadband service;

19 d. establishing policies and procedures that encourage  
20 government and private entity participation and investment in  
21 broadband projects as necessary and appropriate to implement the  
22 provisions of P.L. , c. (C. ) (pending before the Legislature as  
23 this bill);

24 e. providing technical advice, guidance, and assistance to  
25 government and private entities to ensure the availability of the  
26 necessary expertise and capacity to develop and evaluate the merits of  
27 proposed broadband projects;

28 f. promoting informed and timely decision-making with regard to  
29 the development of broadband projects;

30 g. establishing appropriate qualification criteria for government  
31 and private entities, including the qualification of private entities  
32 undertaking a broadband project under a P3 agreement; <sup>2</sup>**and** <sup>2</sup>

33 h. monitoring and enforcing the broadband project policies and  
34 procedures established pursuant to P.L. , c. (C. ) (pending  
35 before the Legislature as this bill), which may include a provision for  
36 potential revenue sharing opportunities between a government entity  
37 and a private entity in certain defined or agreed circumstances,  
38 including broadband projects that achieve profits that exceed a  
39 negotiated rate of return established for a private entity in a P3  
40 agreement <sup>2</sup>**.** <sup>2</sup>;

41 <sup>2</sup>i. coordinating with service providers that offer programs to  
42 members of disadvantaged households to raise awareness of these  
43 programs so that the households have a better understanding of  
44 these programs and how to access them;

45 j. cooperating with the Department of Children and Families,  
46 Department of Human Services, Department of Health, Department  
47 of Labor and Workforce Development, Department of Military and

1 Veterans Affairs, and service providers to complete a field study of  
2 barriers to broadband adoption by disadvantaged households, such  
3 as housing insecurity, language barriers, and population mobility.  
4 The authority shall provide, pursuant to section 2 of P.L.1991, c.164  
5 (C.52:14-19.1), a report on the results of the field study to the  
6 Legislature with recommendations for solutions to remove these  
7 barriers within 18 months of the enactment of P.L. , c. (C. )  
8 (pending before the Legislature as this bill);

9 k. cooperating with the Department of Children and Families,  
10 Department of Human Services, Department of Health, Department  
11 of Labor and Workforce Development, and Department of Military  
12 and Veterans Affairs, to identify and secure funding from either the  
13 State's General Fund or federal funding to underwrite the cost of  
14 monthly broadband service and household broadband service  
15 devices for disadvantaged households;

16 l. cooperating with the Department of Children and Families,  
17 Department of Human Services, Department of Health, Department  
18 of Labor and Workforce Development, and Department of Military  
19 and Veterans Affairs, to identify and secure funding sources from  
20 either the State's General Fund or federal funding to support  
21 development, installation, and financing of community-based  
22 broadband services that provide broadband access in safe spaces,  
23 including but not limited to libraries, homeless shelters, community  
24 centers, and school campuses;

25 m. cooperating with the Department of Education to identify and  
26 secure funding from either the State's General Fund or federal  
27 funding to underwrite the cost of monthly broadband service and  
28 broadband service devices purchased by public schools on behalf of  
29 students in grades from kindergarten to twelfth grade from  
30 disadvantaged households;

31 n. identifying and providing financial and technical support to  
32 community-based programs that provide digital literacy training in  
33 relevant community languages to members of disadvantaged  
34 households; and

35 o. developing and funding community-based programs that  
36 provide digital literacy training in relevant community languages to  
37 members of disadvantaged households.<sup>2</sup>

38

39 5. In evaluating a proposed broadband project, the broadband  
40 office shall:

41 a. consider whether leasing or purchasing established  
42 broadband infrastructure, such as unused fiber optic cable, is more  
43 advantageous in providing faster broadband service;

44 b. consider whether establishing a government entity or a non-  
45 profit corporation is appropriate to provide broadband infrastructure  
46 or broadband service to <sup>2</sup>**[an underserved]** a critical area<sup>2</sup>  
47 community;

1 c. evaluate the different methods, including P3 agreements  
2 with private entities, that other communities in this country have  
3 used to provide broadband infrastructure or broadband service to an  
4 underserved community;

5 d. determine the most cost effective method in which to  
6 establish broadband infrastructure and broadband service, with a  
7 cost estimate for a community and a price estimate for paying  
8 customers; and

9 e. explore all possible federal, State, and private sources of  
10 funding and technical assistance for the establishment of broadband  
11 infrastructure and broadband service in <sup>2</sup>**[underserved]** critical  
12 area<sup>2</sup> communities and populations of this State.

13

14 6. a. There is established in the <sup>2</sup>**[Board of Public Utilities]**  
15 New Jersey Economic Development Authority<sup>2</sup> a separate non-lapsing  
16 fund to be known as the “State Broadband Fund” for use by the  
17 broadband office to adequately and properly perform its duties and  
18 responsibilities in carrying out the requirements of P.L. , c. (C. )  
19 (pending before the Legislature as this bill). The <sup>2</sup>**[board]** authority<sup>2</sup>,  
20 in consultation with the <sup>2</sup>**[authority]** board<sup>2</sup>, shall determine the level  
21 of funding and the appropriate administration of the fund. <sup>2</sup>**[With**  
22 **financial assistance from the authority and any]** The fund may seek  
23 and accept any<sup>2</sup> available funding from federal, State, and private  
24 entity sources <sup>2</sup>**[, the board]** . The authority<sup>2</sup> shall provide sufficient  
25 funding to the broadband office to enable the broadband office to  
26 provide funding for <sup>2</sup>**[underserved communities]** critical areas<sup>2</sup> in the  
27 State to pay for broadband service and for the installation or expanded  
28 use of broadband infrastructure for communities that lack broadband  
29 access, specifically the portion of a communications infrastructure  
30 network that physically reaches the residents' or small business's  
31 premises within those communities.

32 b. The <sup>2</sup>**[board]** authority<sup>2</sup>, in consultation with the <sup>2</sup>**[authority]**  
33 board<sup>2</sup>, is authorized to seek and accept gifts, donations, grants, or  
34 loans from public or private sources, including, but not limited to, any  
35 funding provided by the Federal Communications Commission or any  
36 funding from a non-profit foundation, specifically for the provision of  
37 broadband infrastructure or broadband service, except that the board  
38 and authority shall not accept a gift, donation, grant, or loan that is  
39 subject to conditions that are inconsistent with any other law of this  
40 State.

41

42 7. The <sup>2</sup>**[board]** authority<sup>2</sup>, in consultation with the <sup>2</sup>**[authority]**  
43 board<sup>2</sup>, shall annually prepare a report to the Governor and, pursuant  
44 to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature  
45 regarding the number, nature, structure, and scope of each broadband  
46 project developed pursuant to P.L. , c. (C. ) (pending before the

1 Legislature as this bill) and whether the broadband project is  
2 developed under a P3 agreement. The report shall include:

- 3 a. a description of the broadband project and its location;
- 4 b. the costs incurred for the broadband project;
- 5 c. the number of jobs created and other economic and societal  
6 benefits of the broadband project;
- 7 d. the increase in the use and demand for broadband service as a  
8 result of the broadband project;
- 9 e. if applicable, the enhancements to the resiliency and reliability  
10 of the broadband service within the State; and
- 11 f. other relevant information as determined by the <sup>2</sup>**[board]**  
12 authority<sup>2</sup>.

13 The report shall address any issues related to the implementation  
14 P.L. , c. (C. ) (pending before the Legislature as this bill),  
15 including staffing and resource requirements of the broadband office.  
16 The report shall set forth recommendations, including  
17 recommendations for legislation, concerning how the processes and  
18 methods adopted to foster the development of broadband projects and  
19 any related P3 agreements under P.L. , c. (C. ) (pending before  
20 the Legislature as this bill) may be improved, expanded, or made more  
21 efficient.

22

23 8. The <sup>2</sup>**[board]** authority<sup>2</sup> shall promulgate rules and  
24 regulations, pursuant to the “Administrative Procedure Act,”  
25 P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to implement  
26 the provisions of P.L. , c. (C. ) (pending before the  
27 Legislature as this bill). The <sup>2</sup>**[board]** authority<sup>2</sup> may be assisted,  
28 as appropriate, by other participating agencies, departments, boards,  
29 and authorities, including the authority and the Office of  
30 Information Technology, in the promulgation of necessary rules and  
31 regulations.

32

33 9. This act shall take effect immediately.