

SENATE, No. 2792

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED JANUARY 3, 2002

Sponsored by:

Senator MARTHA W. BARK

District 8 (Atlantic, Burlington and Camden)

Senator WILLIAM L. GORMLEY

District 2 (Atlantic)

Co-Sponsored by:

Assemblymen Malone and Chatzidakis

SYNOPSIS

Authorizes New Jersey Economic Development Authority to refinance county solid waste facility bonds.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/8/2002)

1 AN ACT concerning the restructuring of certain solid waste facility
2 bonds, and providing for the financing thereof through the New
3 Jersey Economic Development Authority.

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

7
8 1. Section 3 of P.L.1974, c.80 (C.34:1B-3) is amended to read as
9 follows:

10 3. As used in **[this act]** the provisions of P.L.1974, c.80 (C.34:1B-
11 1 et seq.), P.L.1979, c.303 (C.34:1B-5.1 et seq.), sections 50 through
12 54 of P.L.2000, c.72 (C.34:1B-5.5 through 34:1B-5.9), P.L.1981,
13 c.505 (C.34:1B-7.1 et seq.), P.L.1986, c.127 (C.34:1B-7.7 et seq.),
14 P.L.1992, c.16 (C.34:1B-7.10 et seq.) and section 6 of
15 P.L. , c. (C.34:1B-4.1)(pending in the Legislature as this bill),
16 unless a different meaning clearly appears from the context:

17 [a.] "Authority" means the New Jersey Economic Development
18 Authority, created by section 4 of **[this act]** P.L.1974, c.80 (C.34:1B-
19 4).

20 [b.] "Bonds" means bonds or other obligations issued by the
21 authority pursuant to **[this act]** P.L.1974, c.80 (C.34:1B-1 et seq.),
22 "Economic Recovery Bonds or Notes" issued pursuant to P.L.1992,
23 c.16 (C.34:1B-7.10 et al.), or bonds, notes, other obligations and
24 refunding bonds issued by the authority pursuant to P.L.2000, c.72
25 (C.18A:7G-1 et al.).

26 [c.] "Cost" means the cost of the acquisition, construction,
27 reconstruction, repair, alteration, improvement and extension of any
28 building, structure, facility including water transmission facilities, or
29 other improvement; the cost of machinery and equipment; the cost of
30 acquisition, construction, reconstruction, repair, alteration,
31 improvement and extension of energy saving improvements or
32 pollution control devices, equipment or facilities; the cost of lands,
33 rights-in-lands, easements, privileges, agreements, franchises, utility
34 extensions, disposal facilities, access roads and site development
35 deemed by the authority to be necessary or useful and convenient for
36 any project or school facilities project or in connection therewith;
37 discount on bonds; cost of issuance of bonds; engineering and
38 inspection costs; costs of financial, legal, professional and other
39 estimates and advice; organization, administrative, insurance,
40 operating and other expenses of the authority or any person prior to
41 and during any acquisition or construction, and all such expenses as
42 may be necessary or incident to the financing, acquisition, construction

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

Matter underlined thus is new matter.

1 or completion of any project or school facilities project or part thereof,
2 and also such provision for reserves for payment or security of
3 principal of or interest on bonds during or after such acquisition or
4 construction as the authority may determine.

5 [d.] "County" means any county of any class.

6 "County solid waste facility" means a solid waste facility that is
7 designated by a public authority or county in its adopted district solid
8 waste management plan as approved by the department prior to
9 November 10, 1997 as the in-county facility to which solid waste
10 generated within the boundaries of the county is transported for final
11 disposal, or transfer for transportation to an offsite solid waste facility
12 or designated out-of-district disposal site for disposal, as appropriate,
13 pursuant to interdistrict or intradistrict waste flow orders issued by the
14 department, regardless of whether the county solid waste facility was
15 acquired, constructed, operated, abandoned or canceled.

16 "Department" means the Department of Environmental Protection.

17 [e.] "Development property" means any real or personal property,
18 interest therein, improvements thereon, appurtenances thereto and air
19 or other rights in connection therewith, including land, buildings,
20 plants, structures, systems, works, machinery and equipment acquired
21 or to be acquired by purchase, gift or otherwise by the authority within
22 an urban growth zone.

23 [f.] "Person" means any person, including individuals, firms,
24 partnerships, associations, societies, trusts, public or private
25 corporations, or other legal entities, including public or governmental
26 bodies, as well as natural persons. "Person" shall include the plural as
27 well as the singular.

28 [g.] "Pollution control project" means any device, equipment,
29 improvement, structure or facility, or any land and any building,
30 structure, facility or other improvement thereon, or any combination
31 thereof, whether or not in existence or under construction, or the
32 refinancing thereof in order to facilitate improvements or additions
33 thereto or upgrading thereof, and all real and personal property
34 deemed necessary thereto, having to do with or the end purpose of
35 which is the control, abatement or prevention of land, sewer, water,
36 air, noise or general environmental pollution, including, but not limited
37 to, any air pollution control facility, noise abatement facility, water
38 management facility, thermal pollution control facility, radiation
39 contamination control facility, wastewater collection system,
40 wastewater treatment works, sewage treatment works system, sewage
41 treatment system or solid waste [disposal] facility or site; provided
42 that the authority shall have received from the Commissioner of the
43 State Department of Environmental Protection or [his] the
44 commissioner's duly authorized representative a certificate stating the
45 opinion that, based upon information, facts and circumstances
46 available to the State Department of Environmental Protection and any

1 other pertinent data, (1) [said] the pollution control facilities do not
2 conflict with, overlap or duplicate any other planned or existing
3 pollution control facilities undertaken or planned by another public
4 agency or authority within any political subdivision, and (2) [that
5 such] the facilities, as designed, will be a pollution control project as
6 defined [in this act] the provisions of P.L.1974, c.80 (C.34:1B-1 et
7 seq.) and are in furtherance of the purpose of abating or controlling
8 pollution.

9 [h.] "Project" means: (1) (a) acquisition, construction,
10 reconstruction, repair, alteration, improvement and extension of any
11 building, structure, facility, including water transmission facilities or
12 other improvement, whether or not in existence or under construction,
13 (b) purchase and installation of equipment and machinery, (c)
14 acquisition and improvement of real estate and the extension or
15 provision of utilities, access roads and other appurtenant facilities; and
16 (2) (a) the acquisition, financing, or refinancing of inventory, raw
17 materials, supplies, work in process, or stock in trade, or (b) the
18 financing, refinancing or consolidation of secured or unsecured debt,
19 borrowings, or obligations, or (c) the provision of financing for any
20 other expense incurred in the ordinary course of business; all of which
21 are to be used or occupied by any person in any enterprise promoting
22 employment, either for the manufacturing, processing or assembly of
23 materials or products, or for research or office purposes, including,
24 but not limited to, medical and other professional facilities, or for
25 industrial, recreational, hotel or motel facilities, public utility and
26 warehousing, or for commercial and service purposes, including, but
27 not limited to, retail outlets, retail shopping centers, restaurant and
28 retail food outlets, and any and all other employment promoting
29 enterprises, including, but not limited to, motion picture and television
30 studios and facilities and commercial fishing facilities, commercial
31 facilities for recreational fishermen, fishing vessels, aquaculture
32 facilities and marketing facilities for fish and fish products and (d)
33 acquisition of an equity interest in, including capital stock of, any
34 corporation; or any combination of the above, which the authority
35 determines will: (i) tend to maintain or provide gainful employment
36 opportunities within and for the people of the State, or (ii) aid, assist
37 and encourage the economic development or redevelopment of any
38 political subdivision of the State, or (iii) maintain or increase the tax
39 base of the State or of any political subdivision of the State, or (iv)
40 maintain or diversify and expand employment promoting enterprises
41 within the State; and (3) the cost of acquisition, construction,
42 reconstruction, repair, alteration, improvement and extension of an
43 energy saving improvement or pollution control project which the
44 authority determines will tend to reduce the consumption in a building
45 devoted to industrial or commercial purposes, or in an office building,
46 of nonrenewable sources of energy or to reduce, abate or prevent

1 environmental pollution within the State; and (4) the acquisition,
2 construction, reconstruction, repair, alteration, improvement,
3 extension, development, financing or refinancing of infrastructure and
4 transportation facilities or improvements related to economic
5 development and of cultural, recreational and tourism facilities or
6 improvements related to economic development and of capital facilities
7 for primary and secondary schools and of mixed use projects
8 consisting of housing and commercial development; and (5) the
9 establishment, acquisition, construction, rehabilitation, improvement,
10 and ownership of port facilities as defined in section 3 of P.L.1997,
11 c.150 (C.34:1B-146). Project may also include: (i) reimbursement to
12 any person for costs in connection with any project, or the refinancing
13 of any project or portion thereof, if determined by the authority as
14 necessary and in the public interest to maintain employment and the
15 tax base of any political subdivision and will facilitate improvements
16 thereto or the completion thereof, and (ii) development property and
17 any construction, reconstruction, improvement, alteration, equipment
18 or maintenance or repair, or planning and designing in connection
19 therewith. For the purpose of carrying out mixed use projects
20 consisting of both housing and commercial development, the authority
21 may enter into agreements with the New Jersey Housing and Mortgage
22 Finance Agency for loan guarantees for any such project in accordance
23 with the provisions of P.L.1995, c.359 (C.55:14K-64 et al.), and for
24 that purpose shall allocate to the New Jersey Housing and Mortgage
25 Finance Agency, under such agreements, funding available pursuant to
26 subsection a. of section 4 of P.L.1992, c.16 (C.34:1B-7.13). Project
27 shall not include a school facilities project.

28 "Public authority" means a municipal or county utilities authority
29 created pursuant to the "municipal and county utilities authorities
30 law," P.L.1957, c.183 (C.40:14B-1 et seq.); a county improvement
31 authority created pursuant to the "county improvement authorities
32 law," P.L.1960, c.183 (C.40:37A-44 et seq.); or a pollution control
33 financing authority created pursuant to the "New Jersey Pollution
34 Control Financing Law," P.L.1973, c.376 (C.40:37C-1 et seq.) that
35 has issued solid waste facility bonds or that has been designated by the
36 county pursuant to section 12 of P.L.1975, c.326 (C.13:1E-21) to
37 supervise the implementation of the district solid waste management
38 plan.

39 [i.] "Revenues" means receipts, fees, rentals or other payments to
40 be received on account of lease, mortgage, conditional sale, or sale,
41 and payments and any other income derived from the lease, sale or
42 other disposition of a project, moneys in such reserve and insurance
43 funds or accounts or other funds and accounts, and income from the
44 investment thereof, established in connection with the issuance of
45 bonds or notes for a project or projects, and fees, charges or other
46 moneys to be received by the authority in respect of projects or school

1 facilities projects and contracts with persons.

2 [j.] "Resolution" means any resolution adopted or trust agreement
3 executed by the authority, pursuant to which bonds of the authority
4 are authorized to be issued.

5 "Solid waste" means garbage, refuse, and other discarded materials
6 resulting from industrial, commercial and agricultural operations, and
7 from domestic and community activities, and shall include all other
8 waste materials including liquids, except for source separated
9 recyclable materials or source separated food waste collected by
10 livestock producers approved by the State Department of Agriculture
11 to collect, prepare and feed such wastes to livestock on their own
12 farms.

13 "Solid waste disposal" means the storage, treatment, utilization,
14 processing, or final disposal of solid waste.

15 "Solid waste facility bonds" means the bonds, notes or other
16 evidences of financial indebtedness issued by, or on behalf of, any
17 public authority or county related to the planning, design, acquisition,
18 construction, renovation, installation, operation or management of a
19 county solid waste facility.

20 "Solid waste facilities" means, and includes, the plants, structures
21 and other real and personal property acquired, constructed or operated
22 by, or on behalf of, any county or public authority pursuant to the
23 provisions of the "Solid Waste Management Act," P.L.1970, c.39
24 (C.13:1E-1 et seq.) or any other act, including transfer stations,
25 incinerators, resource recovery facilities, including co-composting
26 facilities, sanitary landfill facilities or other plants for the disposal of
27 solid waste, and all vehicles, equipment and other real and personal
28 property and rights therein and appurtenances necessary or useful and
29 convenient for the collection or disposal of solid waste in a sanitary
30 manner.

31 [k.] "Energy saving improvement" means the construction,
32 purchase and installation in a building devoted to industrial or
33 commercial purposes of any of the following, designed to reduce the
34 amount of energy from nonrenewable sources needed for heating and
35 cooling that building: insulation, replacement burners, replacement
36 high efficiency heating and air conditioning units, including modular
37 boilers and furnaces, water heaters, central air conditioners with or
38 without heat recovery to make hot water for industrial or commercial
39 purposes or in office buildings, and any solar heating or cooling system
40 improvement, including any system which captures solar radiation to
41 heat a fluid which passes over or through the collector element of that
42 system and then transfers that fluid to a point within the system where
43 the heat is withdrawn from the fluid for direct usage or storage. These
44 systems shall include, but not necessarily be limited to, systems
45 incorporating flat plate, evacuated tube or focusing solar collectors.

46 The foregoing list shall not be construed to be exhaustive, and shall

1 not serve to exclude other improvements consistent with the legislative
2 intent of [this amendatory act] the provisions of P.L.1983, c.282.

3 [l.] "Urban growth zone" means any area within a municipality
4 receiving State aid pursuant to the provisions of P.L.1978, c.14
5 (C.52:27D-178 et seq.) or a municipality certified by the
6 Commissioner of Community Affairs to qualify under such law in
7 every respect except population, which area has been so designated
8 pursuant to an ordinance of the governing body of such municipality.

9 [m.] "District" means a local or regional school district established
10 pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey
11 Statutes, a county special services school district established pursuant
12 to article 8 of chapter 46 of Title 18A of the New Jersey Statutes, a
13 county vocational school district established pursuant to article 3 of
14 chapter 54 of Title 18A of the New Jersey Statutes, and a
15 State-operated school district established pursuant to P.L.1987, c.399
16 (C.18A:7A-34 et seq.).

17 [n.] "Local unit" means a county, municipality, board of education
18 or any other political entity authorized to construct, operate and
19 maintain a school facilities project and to borrow money for those
20 purposes pursuant to law.

21 [o.] "Refunding bonds" means bonds, notes or other obligations
22 issued to refinance bonds previously issued by the authority pursuant
23 to P.L.1974, c.80 (C.34:1B-1 et seq.) and P.L.2000, c.72
24 (C.18A:7G-1 et al.).

25 [p.] "School facilities project" means the acquisition, demolition,
26 construction, improvement, repair, alteration, modernization,
27 renovation, reconstruction or maintenance of all or any part of a
28 school facility or of any other personal property necessary for, or
29 ancillary to, any school facility, and shall include fixtures, furnishings
30 and equipment, and shall also include, but is not limited to, site
31 acquisition, site development, the services of design professionals,
32 such as engineers and architects, construction management, legal
33 services, financing costs and administrative costs and expenses
34 incurred in connection with the project.

35 [q.] "School facility" means and includes any structure, building
36 or facility used wholly or in part for academic purposes by a district,
37 but shall exclude athletic stadiums, grandstands, and any structure,
38 building or facility used solely for school administration.
39 (cf: P.L.2000, c.72, s.44)

40

41 2. Section 4 of P.L.1974, c.80 (C.34:1B-4) is amended to read as
42 follows:

43 4. a. There is hereby established in, but not of, the Department of
44 the Treasury a public body corporate and politic, with corporate
45 succession, to be known as the "New Jersey Economic Development
46 Authority." The authority is hereby constituted as an instrumentality

1 of the State exercising public and essential governmental functions,
2 and the exercise by the authority of the powers conferred by [this act]
3 the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.) or section 6 of
4 P.L. , c. (C.34:1B-4.1)(pending in the Legislature as this bill) shall
5 be deemed and held to be an essential governmental function of the
6 State.

7 b. The authority shall consist of the Commissioner of Banking and
8 Insurance, the Chief Executive Officer and Secretary of the New
9 Jersey Commerce and Economic Growth Commission, the
10 Commissioner of Labor, the Commissioner of Education, and the State
11 Treasurer, who shall be members ex officio, and eight public members
12 appointed by the Governor as follows: two public members (who shall
13 not be legislators) shall be appointed by the Governor upon
14 recommendation of the Senate President; two public members (who
15 shall not be legislators) shall be appointed by the Governor upon
16 recommendation of the Speaker of the General Assembly; and four
17 public members shall be appointed by the Governor, all for terms of
18 three years. Each member shall hold office for the term of [his] the
19 member's appointment and until [his] the member's successor shall
20 have been appointed and qualified. A member shall be eligible for
21 reappointment. Any vacancy in the membership occurring other than
22 by expiration of term shall be filled in the same manner as the original
23 appointment but for the unexpired term only. In the event the
24 authority shall by resolution determine to accept the declaration of an
25 urban growth zone by any municipality, the mayor or other chief
26 executive officer of such municipality shall ex officio be a member of
27 the authority for the purpose of participating and voting on all matters
28 pertaining to such urban growth zone.

29 The Governor shall appoint three alternate members of the
30 authority, of which one alternate member (who shall not be a
31 legislator) shall be appointed by the Governor upon the
32 recommendation of the Senate President, and one alternate member
33 (who shall not be a legislator) shall be appointed by the Governor
34 upon the recommendation of the Speaker of the General Assembly;
35 and one alternate member shall be appointed by the Governor, all for
36 terms of three years. The chairperson may authorize an alternate
37 member, in order of appointment, to exercise all of the powers, duties
38 and responsibilities of such member, including, but not limited to, the
39 right to vote on matters before the authority.

40 Each alternate member shall hold office for the term of [his] the
41 member's appointment and until [his] the member's successor shall
42 have been appointed and qualified. An alternate member shall be
43 eligible for reappointment. Any vacancy in the alternate membership
44 occurring other than by the expiration of a term shall be filled in the
45 same manner as the original appointment but for the unexpired term
46 only. Any reference to a member of the authority in this act shall be

1 deemed to include alternate members unless the context indicates
2 otherwise.

3 The terms of office of the members and alternate members of the
4 authority appointed by the Governor who are serving on [the effective
5 date of P.L.2000, c.72 (C.18A:7G-1 et al.)] July 18, 2000 shall expire
6 upon the appointment by the Governor of eight public members and
7 three alternate members. The initial appointments of the eight public
8 members shall be as follows: the two members appointed upon the
9 recommendation of the President of the Senate and the two members
10 appointed upon the recommendation of the Speaker of the General
11 Assembly shall serve terms of three years; two members shall serve
12 terms of two years; and two members shall serve terms of one year.
13 The initial appointments of the alternate members shall be as follows:
14 the alternate member appointed upon the recommendation of the
15 President of the Senate shall serve a term of three years; the alternate
16 member appointed upon the recommendation of the Speaker of the
17 General Assembly shall serve a term of two years; and one alternate
18 member shall serve a term of one year. No member shall be appointed
19 who is holding elective office.

20 c. Each member appointed by the Governor may be removed from
21 office by the Governor, for cause, after a public hearing, and may be
22 suspended by the Governor pending the completion of such hearing.
23 Each member before entering upon his duties shall take and subscribe
24 an oath to perform the duties of [his] the office faithfully, impartially
25 and justly to the best of his ability. A record of such oaths shall be
26 filed in the office of the Secretary of State.

27 d. A chairperson shall be appointed by the Governor from the
28 public members. The members of the authority shall elect from their
29 remaining number a vice chairperson and a treasurer thereof. The
30 authority shall employ an executive director who shall be its secretary
31 and chief executive officer. The powers of the authority shall be
32 vested in the members thereof in office from time to time and seven
33 members of the authority shall constitute a quorum at any meeting
34 thereof. Action may be taken and motions and resolutions adopted by
35 the authority at any meeting thereof by the affirmative vote of at least
36 seven members of the authority. No vacancy in the membership of the
37 authority shall impair the right of a quorum of the members to exercise
38 all the powers and perform all the duties of the authority.

39 e. Each member of the authority shall execute a bond to be
40 conditioned upon the faithful performance of the duties of such
41 member in such form and amount as may be prescribed by the Director
42 of the Division of Budget and Accounting in the Department of the
43 Treasury. Such bonds shall be filed in the office of the Secretary of
44 State. At all times thereafter the members and treasurer of the
45 authority shall maintain such bonds in full force and effect. All costs
46 of such bonds shall be borne by the authority.

1 f. The members of the authority shall serve without compensation,
2 but the authority shall reimburse its members for actual expenses
3 necessarily incurred in the discharge of their duties. Notwithstanding
4 the provisions of any other law, no officer or employee of the State
5 shall be deemed to have forfeited or shall forfeit ~~[his]~~ any office or
6 employment or any benefits or emoluments thereof by reason of ~~[his]~~
7 the acceptance of the office of ex officio member of the authority or
8 ~~[his]~~ any services therein.

9 g. Each ex officio member of the authority may designate an officer
10 or employee of ~~[his]~~ the member's department to represent ~~[him]~~ the
11 member at meetings of the authority, and each such designee may
12 lawfully vote and otherwise act on behalf of the member for whom
13 ~~[he]~~ the person constitutes the designee. Any such designation shall
14 be in writing delivered to the authority and shall continue in effect
15 until revoked or amended by writing delivered to the authority.

16 h. The authority may be dissolved by act of the Legislature on
17 condition that the authority has no debts or obligations outstanding or
18 that provision has been made for the payment or retirement of such
19 debts or obligations. Upon any such dissolution of the authority, all
20 property, funds and assets thereof shall be vested in the State.

21 i. A true copy of the minutes of every meeting of the authority shall
22 be forthwith delivered by and under the certification of the secretary
23 thereof to the Governor. No action taken at such meeting by the
24 authority shall have force or effect until 10 days, Saturdays, Sundays,
25 and public holidays excepted, after the copy of the minutes shall have
26 been so delivered, unless during such 10-day period the Governor shall
27 approve the same in which case such action shall become effective
28 upon such approval. If, in that 10-day period, the Governor returns
29 such copy of the minutes with veto of any action taken by the
30 authority or any member thereof at such meeting, such action shall be
31 null and void and of no effect. The powers conferred in this
32 subsection i. upon the Governor shall be exercised with due regard for
33 the rights of the holders of bonds and notes of the authority at any
34 time outstanding, and nothing in, or done pursuant to, this subsection
35 i. shall in any way limit, restrict or alter the obligation or powers of the
36 authority or any representative or officer of the authority to carry out
37 and perform in every detail each and every covenant, agreement or
38 contract at any time made or entered into by or on behalf of the
39 authority with respect to its bonds or notes or for the benefit,
40 protection or security of the holders thereof.

41 j. On or before March 31 in each year, the authority shall make an
42 annual report of its activities for the preceding calendar year to the
43 Governor and the Legislature. Each such report shall set forth a
44 complete operating and financial statement covering the authority's
45 operations during the year. The authority shall cause an audit of its
46 books and accounts to be made at least once in each year by certified

1 public accountants and cause a copy thereof to be filed with the
2 Secretary of State and the Director of the Division of Budget and
3 Accounting in the Department of the Treasury.

4 k. The Director of the Division of Budget and Accounting in the
5 Department of the Treasury and [his] the director's legally authorized
6 representatives are hereby authorized and empowered from time to
7 time to examine the accounts, books and records of the authority
8 including its receipts, disbursements, contracts, sinking funds,
9 investments and any other matters relating thereto and to its financial
10 standing.

11 l. No member, officer, employee or agent of the authority shall be
12 interested, either directly or indirectly, in any project or school
13 facilities project, or in any contract, sale, purchase, lease or transfer of
14 real or personal property to which the authority is a party.

15 (cf: P.L.2000, c.72, s.45)

16

17 3. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read as
18 follows:

19 5. The authority shall have the following powers:

20 a. To adopt bylaws for the regulation of its affairs and the conduct
21 of its business;

22 b. To adopt and have a seal and to alter the same at pleasure;

23 c. To sue and be sued;

24 d. To acquire in the name of the authority by purchase or
25 otherwise, on such terms and conditions and such manner as it may
26 deem proper, or by the exercise of the power of eminent domain in the
27 manner provided by the "Eminent Domain Act of 1971," P.L.1971,
28 c.361 (C.20:3-1 et seq.), any lands or interests therein or other
29 property which it may determine is reasonably necessary for any
30 project or school facilities project; provided, however, that the
31 authority in connection with any project shall not take by exercise of
32 the power of eminent domain any real property except upon consent
33 thereto given by resolution of the governing body of the municipality
34 in which such real property is located; and provided further that the
35 authority shall be limited in its exercise of the power of eminent
36 domain in connection with any project to municipalities receiving State
37 aid under the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.), or
38 to municipalities which had a population, according to the latest
39 federal decennial census, in excess of 10,000;

40 e. To enter into contracts with a person upon such terms and
41 conditions as the authority shall determine to be reasonable, including,
42 but not limited to, reimbursement for the planning, designing,
43 financing, construction, reconstruction, improvement, equipping,
44 furnishing, operation and maintenance of the project or the school
45 facilities project and to pay or compromise any claims arising
46 therefrom;

- 1 f. To establish and maintain reserve and insurance funds with
2 respect to the financing of the project or the school facilities project;
- 3 g. To sell, convey or lease to any person all or any portion of a
4 project or school facilities project, for such consideration and upon
5 such terms as the authority may determine to be reasonable;
- 6 h. To mortgage, pledge or assign or otherwise encumber all or any
7 portion of a project, school facilities project or revenues, whenever it
8 shall find such action to be in furtherance of the purposes of this act
9 and P.L.2000, c.72 (C.18A:7G-1 et al.);
- 10 i. To grant options to purchase or renew a lease for any of its
11 projects or school facilities projects on such terms as the authority may
12 determine to be reasonable;
- 13 j. To contract for and to accept any gifts or grants or loans of
14 funds or property or financial or other aid in any form from the United
15 States of America or any agency or instrumentality thereof, or from
16 the State or any agency, instrumentality or political subdivision
17 thereof, or from any other source and to comply, subject to the
18 provisions of [this act] P.L.1974, c.80 (C.34:1B-1 et seq.), section 6
19 of P.L. , c. (C.34:1B-4.1)(pending in the Legislature as this bill)
20 and P.L.2000, c.72 (C.18A:7G-1 et al.), with the terms and conditions
21 thereof;
- 22 k. In connection with any application for assistance under [this
23 act] P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L. , c.
24 (C.34:1B-4.1)(pending in the Legislature as this bill) or P.L.2000, c.72
25 (C.18A:7G-1 et al.) or commitments therefor, to require and collect
26 such fees and charges as the authority shall determine to be
27 reasonable;
- 28 l. To adopt, amend and repeal regulations to carry out the
29 provisions of [this act] P.L.1974, c.80 (C.34:1B-1 et seq.), section 6
30 of P.L. , c. (C.34:1B-4.1)(pending in the Legislature as this bill)
31 and P.L.2000, c.72 (C.18A:7G-1 et al.);
- 32 m. To acquire, purchase, manage and operate, hold and dispose of
33 real and personal property or interests therein, take assignments of
34 rentals and leases and make and enter into all contracts, leases,
35 agreements and arrangements necessary or incidental to the
36 performance of its duties;
- 37 n. To purchase, acquire and take assignments of notes, mortgages
38 and other forms of security and evidences of indebtedness;
- 39 o. To purchase, acquire, attach, seize, accept or take title to any
40 project or school facilities project by conveyance or by foreclosure,
41 and sell, lease, manage or operate any project or school facilities
42 project for a use specified in this act and P.L.2000, c.72 (C.18A:7G-1
43 et al.);
- 44 p. To borrow money and to issue bonds of the authority and to
45 provide for the rights of the holders thereof, as provided in [this act]

1 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L. , c. (C.34:1B-
2 4.1)(pending in the Legislature as this bill) and P.L.2000, c.72
3 (C.18A:7G-1 et al.);

4 q. To extend credit or make loans to any person for the planning,
5 designing, acquiring, constructing, reconstructing, improving,
6 equipping and furnishing of a project or school facilities project, which
7 credits or loans may be secured by loan and security agreements,
8 mortgages, leases and any other instruments, upon such terms and
9 conditions as the authority shall deem reasonable, including provision
10 for the establishment and maintenance of reserve and insurance funds,
11 and to require the inclusion in any mortgage, lease, contract, loan and
12 security agreement or other instrument, such provisions for the
13 construction, use, operation and maintenance and financing of a
14 project or school facilities project as the authority may deem necessary
15 or desirable;

16 r. To guarantee up to 90% of the amount of a loan to a person, if
17 the proceeds of the loan are to be applied to the purchase and
18 installation, in a building devoted to industrial or commercial
19 purposes, or in an office building, of an energy improvement system;

20 s. To employ consulting engineers, architects, attorneys, real estate
21 counselors, appraisers, and such other consultants and employees as
22 may be required in the judgment of the authority to carry out the
23 purposes of **[this act]** P.L.1974, c.80 (C.34:1B-1 et seq.), section 6
24 of P.L. , c. (C.34:1B-4.1)(pending in the Legislature as this bill)
25 and P.L.2000, c.72 (C.18A:7G-1 et al.), and to fix and pay their
26 compensation from funds available to the authority therefor, all
27 without regard to the provisions of Title 11A of the New Jersey
28 Statutes;

29 t. To do and perform any acts and things authorized by **[this act]**
30 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L. , c. (C.34:1B-
31 4.1)(pending in the Legislature as this bill) and P.L.2000, c.72
32 (C.18A:7G-1 et al.) under, through or by means of its own officers,
33 agents and employees, or by contract with any person;

34 u. To procure insurance against any losses in connection with its
35 property, operations or assets in such amounts and from such insurers
36 as it deems desirable;

37 v. To do any and all things necessary or convenient to carry out its
38 purposes and exercise the powers given and granted in **[this act]**
39 P..1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L. , c. (C.34:1B-
40 4.1)(pending in the Legislature as this bill) and P.L.2000, c.72
41 (C.18A:7G-1 et al.);

42 w. To construct, reconstruct, rehabilitate, improve, alter, equip,
43 maintain or repair or provide for the construction, reconstruction,
44 improvement, alteration, equipping or maintenance or repair of any
45 development property and lot, award and enter into construction
46 contracts, purchase orders and other contracts with respect thereto,

1 upon such terms and conditions as the authority shall determine to be
2 reasonable, including, but not limited to, reimbursement for the
3 planning, designing, financing, construction, reconstruction,
4 improvement, equipping, furnishing, operation and maintenance of any
5 such development property and the settlement of any claims arising
6 therefrom and the establishment and maintenance of reserve funds with
7 respect to the financing of such development property;

8 x. When authorized by the governing body of a municipality
9 exercising jurisdiction over an urban growth zone, to construct, cause
10 to be constructed or to provide financial assistance to projects in an
11 urban growth zone which shall be exempt from the terms and
12 requirements of the land use ordinances and regulations, including, but
13 not limited to, the master plan and zoning ordinances, of such
14 municipality;

15 y. To enter into business employment incentive agreements as
16 provided in the "Business Employment Incentive Program Act,"
17 P.L.1996, c.26 (C.34:1B-124 et al.);

18 z. To undertake school facilities projects and to enter into
19 agreements or contracts, execute instruments, and do and perform all
20 acts or things necessary, convenient or desirable for the purposes of
21 the authority to carry out any power expressly provided pursuant to
22 P.L.1974, c.80 (C.34:1B-1 et seq.) and P.L.2000, c.72 (C.18A:7G-1
23 et al.), including, but not limited to, entering into contracts with the
24 State Treasurer, the Commissioner of Education, districts and any
25 other entity which may be required in order to carry out the provisions
26 of P.L.2000, c.72 (C.18A:7G-1 et al.);

27 aa. To enter into leases, rentals or other disposition of a real
28 property interest in and of any school facilities project to or from any
29 local unit pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.);

30 bb. To make and contract to make loans or leases and to make
31 grants to local units to finance the cost of school facilities projects and
32 to acquire and contract to acquire bonds, notes or other obligations
33 issued or to be issued by local units to evidence the loans or leases, all
34 in accordance with the provisions of P.L.2000, c.72 (C.18A:7G-1 et
35 al.);

36 cc. Subject to any agreement with holders of its bonds issued to
37 finance a project or school facilities project, obtain as security or to
38 provide liquidity for payment of all or any part of the principal of and
39 interest and premium on the bonds of the authority or for the purchase
40 upon tender or otherwise of the bonds, lines of credit, letters of credit,
41 reimbursement agreements, interest rate exchange agreements,
42 currency exchange agreements, interest rate floors or caps, options,
43 puts or calls to hedge payment, currency, rate, spread or similar
44 exposure or similar agreements, float agreements, forward agreements,
45 insurance contract, surety bond, commitment to purchase or sell
46 bonds, purchase or sale agreement, or commitments or other contracts

1 or agreements, and other security agreements or instruments in any
2 amounts and upon any terms as the authority may determine and pay
3 any fees and expenses required in connection therewith; [and]

4 dd. To charge to and collect from local units, the State and any
5 other person, any fees and charges in connection with the authority's
6 actions undertaken with respect to school facilities projects, including,
7 but not limited to, fees and charges for the authority's administrative,
8 organization, insurance, operating and other expenses incident to the
9 financing, construction and placing into service and maintenance of
10 school facilities projects; and

11 ee. To make loans to refinance solid waste facility bonds through
12 the issuance of bonds or other obligations and the execution of any
13 agreements with counties or public authorities to effect the refunding
14 or rescheduling of solid waste facility bonds, or otherwise provide for
15 the payment of all or a portion of any series of solid waste facility
16 bonds. Any county or public authority refunding or rescheduling its
17 solid waste facility bonds pursuant to this subsection shall provide for
18 the payment of not less than fifty percent of the aggregate debt service
19 for the refunded or rescheduled debt of the particular county or public
20 authority for the duration of the loan; except that, whenever the solid
21 waste facility bonds to be refinanced were issued by a public authority
22 and the county solid waste facility was utilized as a regional county
23 solid waste facility, as designated in the respective adopted district
24 solid waste management plans of the participating counties as
25 approved by the department prior to November 10, 1997, and the
26 utilization of the facility was established pursuant to tonnage
27 obligations set forth in their respective interdistrict agreements, the
28 public authority refunding or rescheduling its solid waste facility bonds
29 pursuant to this subsection shall provide for the payment of a
30 percentage of the aggregate debt service for the refunded or
31 rescheduled debt of the public authority not to exceed the percentage
32 of the specified tonnage obligation of the host county for the duration
33 of the loan. Whenever the solid waste facility bonds are the obligation
34 of a public authority, the relevant county shall execute a deficiency
35 agreement with the authority, which shall provide that the county
36 pledges to cover any shortfall and to pay deficiencies in scheduled
37 repayment obligations of the public authority. All costs associated
38 with the issuance of bonds pursuant to this subsection may be paid by
39 the authority from the proceeds of these bonds. Any county or public
40 authority is hereby authorized to enter into any agreement with the
41 authority necessary, desirable or convenient to effectuate the
42 provisions of this subsection.

43 The authority shall not issue bonds or other obligations to effect the

1 refunding or rescheduling of solid waste facility bonds after December
2 31, 2002. The authority may refund its own bonds issued for the
3 purposes herein at any time.

4 (cf: P.L.2000, c.72, s.46)

5
6 4. Section 9 of P.L.1974, c.80 (C.34:1B-9) is amended to read as
7 follows:

8 9. For the purpose of providing funds (a) to pay all or any part of
9 the cost of any project or projects, (b) to make loans in accordance
10 with the provisions of [this act] P.L.1974, c.80 (C.34:1B-1 et seq.),
11 and (c) for the funding or refunding any bonds pursuant to P.L.1974,
12 c.80 (C.34:1B-1 et seq.) or section 6 of P.L. , c. (C.34:1B-
13 4.1)(pending in the Legislature as this bill), the authority shall have
14 power to authorize or provide for the issuance of bonds pursuant to
15 [this act] P.L.1974, c.80 (C.34:1B-1 et seq.).

16 (cf: P.L.1974, c.80, s.9)

17
18 5. Section 10 of P.L.1974, c.80 (C.34:1B-10) is amended to read
19 as follows:

20 10. By resolution, the authority shall have power to incur
21 indebtedness, borrow money and issue its bonds for the purposes
22 stated in section [8 hereof] 9 of P.L.1974, c.80 (C.34:1B-9). Except
23 as may otherwise be expressly provided by the authority, or by the
24 provisions of section 6 of P.L. , c. (C.34:1B-4.1)(pending in the
25 Legislature as this bill), every issue of its bonds shall be general
26 obligations of the authority payable from any revenues or moneys of
27 the authority, subject only to any agreements with the holders of
28 particular bonds or notes pledging any particular revenues or moneys.
29 Such bonds shall be authorized by resolution and may be issued in one
30 or more series and shall bear such date or dates, mature at such time
31 or times not exceeding 40 years from the date thereof, bear interest at
32 a rate or rates, be in such denomination or denominations, be in such
33 form, either coupon or registered, carry such conversion or
34 registration privileges, have such rank or priority, be executed in such
35 manner, be payable from such sources in such medium of payment at
36 such place or places within or without the State, and be subject to
37 such terms of redemption (with or without premium) as such
38 resolution may provide. Bonds of the authority may be sold by the
39 authority at public or private sale at such price or prices as the
40 authority shall determine.

41 (cf: P.L.1974, c.80)

42
43 6. (New section) a. The New Jersey Economic Development
44 Authority and the State Treasurer are hereby authorized to enter into
45 one or more contracts to secure, in whole or in part, any bonds,
46 refunding bonds or other obligations of the authority issued for the

1 purposes set forth in subsection ee. of section 5 of P.L.1974, c.80
2 (C.34:1B-5), upon such terms and conditions as are determined by the
3 parties; provided, however, that any obligation of the State incurred
4 under the contract or contracts, including any payments to be made
5 thereunder from the General Fund, shall be subject to and dependent
6 upon appropriations being made from time to time by the Legislature
7 for the purposes set forth in subsection ee. of section 5 of P.L.1974,
8 c.80 (C.34:1B-5)(pending in the Legislature as this bill), as provided
9 by law.

10 b. In any resolution authorizing the issuance of bonds, refunding
11 bonds or other obligations of the authority issued for the purposes set
12 forth in subsection ee. of section 5 of P.L.1974, c.80 (C.34:1B-5), the
13 authority may pledge the contract with the State Treasurer, or any part
14 thereof, for the payment or redemption of the bonds or refunding
15 bonds, and covenant as to the use and disposition of money available
16 to the authority for payments of bonds, refunding bonds or other
17 obligations of the authority.

18 c. The State Treasurer shall pay from the General Fund to the
19 authority in each State fiscal year, in accordance with a contract or
20 contracts between the State Treasurer and the authority, an amount
21 equivalent to the amount due to be paid for debt service incurred in
22 the particular fiscal year on the bonds or refunding bonds of the
23 authority issued pursuant to subsection ee. of section 5 of P.L.1974,
24 c.80 (C.34:1B-5), and any additional costs incurred in connection with
25 any agreements entered into by the authority relating to these bonds
26 or refunding bonds.

27 d. The provisions of any other law, rule, regulation or order to the
28 contrary notwithstanding, the bonds, refunding bonds or other
29 obligations of the authority issued for the purposes set forth in
30 subsection ee. of section 5 of P.L.1974, c.80 (C.34:1B-5) shall be
31 special and limited obligations of the authority, payable from and
32 secured by such funds and moneys as determined by the authority in
33 accordance with the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.)
34 or section 6 of P.L. , c. (C.34:1B-4.1)(pending in the Legislature
35 as this bill), and shall not be in any way a debt or liability of the State
36 or of any political subdivision thereof, except as otherwise provided
37 in this section, and shall not create or constitute any indebtedness,
38 liability or obligation of the State or of any political subdivision
39 thereof, either legal, moral or otherwise, and nothing contained in the
40 provisions of P.L.1974, c.80 (C.34:1B-1 et seq.) or section 6 of
41 P.L. , c. (C.34:1B-4.1)(pending in the Legislature as this bill) shall
42 be construed to authorize the authority to incur any indebtedness on
43 behalf of or in any way to obligate the State or any political
44 subdivision thereof, and all bonds and refunding bonds issued by the
45 authority in connection therewith shall contain on the face thereof a
46 statement to that effect.

1 7. This act shall take effect immediately.

2

3

4

STATEMENT

5

6 This bill authorizes the New Jersey Economic Development
7 Authority to refinance the solid waste facility bonds issued by, or on
8 behalf of, any county or public authority related to the planning,
9 design, acquisition, construction, renovation, installation, operation or
10 management of a county solid waste facility.

11 The bill authorizes the authority to: (1) make loans to refinance
12 solid waste facility bonds through the issuance of bonds of the
13 authority and the execution of any agreements with participating
14 counties or public authorities necessary to effect the refunding or
15 rescheduling of their solid waste facility bonds; or (2) otherwise
16 provide for the payment of all or a portion of any series of outstanding
17 solid waste facility bonds.

18 Any county or public authority refunding or rescheduling its solid
19 waste facility bonds is required to provide for the payment of not less
20 than fifty percent of the aggregate debt service for its refunded or
21 rescheduled debt for the duration of the loan except under the
22 following circumstances. If the bonds to be refinanced were issued by
23 a public authority and the county solid waste facility was a regional
24 county solid waste facility designated in the adopted district solid
25 waste management plans of the participating counties as approved by
26 the department prior to November 10, 1997, and the use of the facility
27 was established pursuant to tonnage obligations in the respective
28 interdistrict agreements, then the public authority would be required
29 to provide for the payment of a percentage of the debt service not to
30 exceed the percentage of the specified tonnage obligation of the host
31 county for the duration of the loan.

32 Whenever the solid waste facility bonds are the obligation of a
33 public authority, the relevant county must execute a deficiency
34 agreement with the Authority, which provides that the county pledges
35 to cover any shortfall and to pay deficiencies in scheduled repayment
36 obligations of the public authority. Thus, the relevant county is
37 required to guarantee the repayment of not less than fifty percent of
38 the aggregate debt service except when the public authority's debt
39 service payments are limited by the percentage of the specified tonnage
40 obligation of the host county for the duration of the loan. This
41 exception does not modify the requirement that the State share of debt
42 service to be paid be limited to no more than fifty percent of the
43 amount refinanced. The bill authorizes any county or public authority
44 to enter into any agreement with the authority necessary to effectuate
45 these provisions.

46 The bill authorizes the authority and the State Treasurer to enter

1 into one or more contracts to secure, in whole or in part, any bonds,
2 refunding bonds or other obligations of the authority issued to
3 refinance county solid waste facility bonds. Any obligation of the
4 State incurred under the contracts, including any payments to be made
5 thereunder from the General Fund, are subject to and dependent upon
6 appropriations being made from time to time by the Legislature for this
7 purpose. In any resolution authorizing the authority to issue bonds,
8 refunding bonds or other obligations of the authority to refinance
9 county solid waste facility bonds, the authority may pledge the
10 contracts with the State Treasurer, or any part thereof, for the
11 payment or redemption of the bonds or refunding bonds, and covenant
12 as to the use and disposition of money available to the authority for
13 payments of bonds and refunding bonds.

14 The bill requires the State Treasurer to pay from the General Fund
15 to the authority in each State fiscal year, in accordance with a contract
16 or contracts between the State Treasurer and the authority, an amount
17 equivalent to the amount due to be paid for debt service incurred in
18 the particular fiscal year on the bonds or refunding bonds of the
19 authority issued to refinance county solid waste facility bonds, and any
20 additional costs incurred in connection with any agreements entered
21 into by the authority relating to these bonds or refunding bonds.

22 The bill provides that any bonds, refunding bonds or other
23 obligations of the authority issued to refinance county solid waste
24 facility bonds would constitute special and limited obligations of the
25 authority, payable from and secured by such funds and moneys as
26 determined by the authority. The bonds, refunding bonds or other
27 obligations of the authority issued to refinance county solid waste
28 facility bonds would not in any way constitute a debt or liability of the
29 State or of any of its political subdivisions, and would not create or
30 constitute any indebtedness, liability or obligation of the State or of
31 any of its political subdivisions, either legal, moral or otherwise.

32 Further, nothing contained in the provisions of the bill may be
33 construed to authorize the authority to incur any indebtedness on
34 behalf of or in any way to obligate the State or any of its political
35 subdivisions, and all bonds and refunding bonds issued by the authority
36 to refinance county solid waste facility bonds must contain on their
37 face a statement to that effect.

38 As of April 12, 2001, the total amount of solid waste facility debt
39 among all counties and local authorities amounted to \$1.09 billion. If
40 the full amount of that debt were to be refinanced through the issuance
41 of bonds of the Economic Development Authority, and the State were
42 to agree to pay the maximum (50%) cost allowed under the bill for
43 debt service on those bonds, the annual cost to the State could amount
44 to roughly \$40 to \$47 million.

ASSEMBLY, No. 4048

STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED DECEMBER 13, 2001

Sponsored by:

Assemblyman JOSEPH R. MALONE, III

District 30 (Burlington, Monmouth and Ocean)

SYNOPSIS

Authorizes New Jersey Economic Development Authority to refinance county solid waste facility bonds.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the restructuring of certain solid waste facility
2 bonds, and providing for the financing thereof through the New
3 Jersey Economic Development Authority.

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

7
8 1. Section 3 of P.L.1974, c.80 (C.34:1B-3) is amended to read as
9 follows:

10 3. As used in **[this act]** the provisions of P.L.1974, c.80 (C.34:1B-
11 1 et seq.), P.L.1979, c.303 (C.34:1B-5.1 et seq.), sections 50 through
12 54 of P.L.2000, c.72 (C.34:1B-5.5 through 34:1B-5.9), P.L.1981,
13 c.505 (C.34:1B-7.1 et seq.), P.L.1986, c.127 (C.34:1B-7.7 et seq.),
14 P.L.1992, c.16 (C.34:1B-7.10 et seq.) and section 6 of P.L. , c.
15 (C.34:1B-4.1)(pending in the Legislature as this bill), unless a different
16 meaning clearly appears from the context:

17 [a.] "Authority" means the New Jersey Economic Development
18 Authority, created by section 4 of **[this act]** P.L.1974, c.80 (C.34:1B-
19 4).

20 [b.] "Bonds" means bonds or other obligations issued by the
21 authority pursuant to **[this act]** P.L.1974, c.80 (C.34:1B-1 et seq.),
22 "Economic Recovery Bonds or Notes" issued pursuant to P.L.1992,
23 c.16 (C.34:1B-7.10 et al.), or bonds, notes, other obligations and
24 refunding bonds issued by the authority pursuant to P.L.2000, c.72
25 (C.18A:7G-1 et al.).

26 [c.] "Cost" means the cost of the acquisition, construction,
27 reconstruction, repair, alteration, improvement and extension of any
28 building, structure, facility including water transmission facilities, or
29 other improvement; the cost of machinery and equipment; the cost of
30 acquisition, construction, reconstruction, repair, alteration,
31 improvement and extension of energy saving improvements or
32 pollution control devices, equipment or facilities; the cost of lands,
33 rights-in-lands, easements, privileges, agreements, franchises, utility
34 extensions, disposal facilities, access roads and site development
35 deemed by the authority to be necessary or useful and convenient for
36 any project or school facilities project or in connection therewith;
37 discount on bonds; cost of issuance of bonds; engineering and
38 inspection costs; costs of financial, legal, professional and other
39 estimates and advice; organization, administrative, insurance,
40 operating and other expenses of the authority or any person prior to
41 and during any acquisition or construction, and all such expenses as
42 may be necessary or incident to the financing, acquisition, construction

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

Matter underlined thus is new matter.

1 or completion of any project or school facilities project or part thereof,
2 and also such provision for reserves for payment or security of
3 principal of or interest on bonds during or after such acquisition or
4 construction as the authority may determine.

5 [d.] "County" means any county of any class.

6 "County solid waste facility" means a solid waste facility that is
7 designated by a public authority or county in its adopted district solid
8 waste management plan as approved by the department prior to
9 November 10, 1997 as the in-county facility to which solid waste
10 generated within the boundaries of the county is transported for final
11 disposal, or transfer for transportation to an offsite solid waste facility
12 or designated out-of-district disposal site for disposal, as appropriate,
13 pursuant to interdistrict or intradistrict waste flow orders issued by the
14 department, regardless of whether the county solid waste facility was
15 acquired, constructed, operated, abandoned or canceled.

16 "Department" means the Department of Environmental Protection.

17 [e.] "Development property" means any real or personal property,
18 interest therein, improvements thereon, appurtenances thereto and air
19 or other rights in connection therewith, including land, buildings,
20 plants, structures, systems, works, machinery and equipment acquired
21 or to be acquired by purchase, gift or otherwise by the authority within
22 an urban growth zone.

23 [f.] "Person" means any person, including individuals, firms,
24 partnerships, associations, societies, trusts, public or private
25 corporations, or other legal entities, including public or governmental
26 bodies, as well as natural persons. "Person" shall include the plural as
27 well as the singular.

28 [g.] "Pollution control project" means any device, equipment,
29 improvement, structure or facility, or any land and any building,
30 structure, facility or other improvement thereon, or any combination
31 thereof, whether or not in existence or under construction, or the
32 refinancing thereof in order to facilitate improvements or additions
33 thereto or upgrading thereof, and all real and personal property
34 deemed necessary thereto, having to do with or the end purpose of
35 which is the control, abatement or prevention of land, sewer, water,
36 air, noise or general environmental pollution, including, but not limited
37 to, any air pollution control facility, noise abatement facility, water
38 management facility, thermal pollution control facility, radiation
39 contamination control facility, wastewater collection system,
40 wastewater treatment works, sewage treatment works system, sewage
41 treatment system or solid waste [disposal] facility or site; provided
42 that the authority shall have received from the Commissioner of the
43 State Department of Environmental Protection or [his] the
44 commissioner's duly authorized representative a certificate stating the
45 opinion that, based upon information, facts and circumstances
46 available to the State Department of Environmental Protection and any

1 other pertinent data, (1) [said] the pollution control facilities do not
2 conflict with, overlap or duplicate any other planned or existing
3 pollution control facilities undertaken or planned by another public
4 agency or authority within any political subdivision, and (2) [that
5 such] the facilities, as designed, will be a pollution control project as
6 defined [in this act] the provisions of P.L.1974, c.80 (C.34:1B-1 et
7 seq.) and are in furtherance of the purpose of abating or controlling
8 pollution.

9 [h.] "Project" means: (1) (a) acquisition, construction,
10 reconstruction, repair, alteration, improvement and extension of any
11 building, structure, facility, including water transmission facilities or
12 other improvement, whether or not in existence or under construction,
13 (b) purchase and installation of equipment and machinery, (c)
14 acquisition and improvement of real estate and the extension or
15 provision of utilities, access roads and other appurtenant facilities; and
16 (2) (a) the acquisition, financing, or refinancing of inventory, raw
17 materials, supplies, work in process, or stock in trade, or (b) the
18 financing, refinancing or consolidation of secured or unsecured debt,
19 borrowings, or obligations, or (c) the provision of financing for any
20 other expense incurred in the ordinary course of business; all of which
21 are to be used or occupied by any person in any enterprise promoting
22 employment, either for the manufacturing, processing or assembly of
23 materials or products, or for research or office purposes, including,
24 but not limited to, medical and other professional facilities, or for
25 industrial, recreational, hotel or motel facilities, public utility and
26 warehousing, or for commercial and service purposes, including, but
27 not limited to, retail outlets, retail shopping centers, restaurant and
28 retail food outlets, and any and all other employment promoting
29 enterprises, including, but not limited to, motion picture and television
30 studios and facilities and commercial fishing facilities, commercial
31 facilities for recreational fishermen, fishing vessels, aquaculture
32 facilities and marketing facilities for fish and fish products and (d)
33 acquisition of an equity interest in, including capital stock of, any
34 corporation; or any combination of the above, which the authority
35 determines will: (i) tend to maintain or provide gainful employment
36 opportunities within and for the people of the State, or (ii) aid, assist
37 and encourage the economic development or redevelopment of any
38 political subdivision of the State, or (iii) maintain or increase the tax
39 base of the State or of any political subdivision of the State, or (iv)
40 maintain or diversify and expand employment promoting enterprises
41 within the State; and (3) the cost of acquisition, construction,
42 reconstruction, repair, alteration, improvement and extension of an
43 energy saving improvement or pollution control project which the
44 authority determines will tend to reduce the consumption in a building
45 devoted to industrial or commercial purposes, or in an office building,
46 of nonrenewable sources of energy or to reduce, abate or prevent

1 environmental pollution within the State; and (4) the acquisition,
2 construction, reconstruction, repair, alteration, improvement,
3 extension, development, financing or refinancing of infrastructure and
4 transportation facilities or improvements related to economic
5 development and of cultural, recreational and tourism facilities or
6 improvements related to economic development and of capital facilities
7 for primary and secondary schools and of mixed use projects
8 consisting of housing and commercial development; and (5) the
9 establishment, acquisition, construction, rehabilitation, improvement,
10 and ownership of port facilities as defined in section 3 of P.L.1997,
11 c.150 (C.34:1B-146). Project may also include: (i) reimbursement to
12 any person for costs in connection with any project, or the refinancing
13 of any project or portion thereof, if determined by the authority as
14 necessary and in the public interest to maintain employment and the
15 tax base of any political subdivision and will facilitate improvements
16 thereto or the completion thereof, and (ii) development property and
17 any construction, reconstruction, improvement, alteration, equipment
18 or maintenance or repair, or planning and designing in connection
19 therewith. For the purpose of carrying out mixed use projects
20 consisting of both housing and commercial development, the authority
21 may enter into agreements with the New Jersey Housing and Mortgage
22 Finance Agency for loan guarantees for any such project in accordance
23 with the provisions of P.L.1995, c.359 (C.55:14K-64 et al.), and for
24 that purpose shall allocate to the New Jersey Housing and Mortgage
25 Finance Agency, under such agreements, funding available pursuant to
26 subsection a. of section 4 of P.L.1992, c.16 (C.34:1B-7.13). Project
27 shall not include a school facilities project.

28 "Public authority" means a municipal or county utilities authority
29 created pursuant to the "municipal and county utilities authorities
30 law," P.L.1957, c.183 (C.40:14B-1 et seq.); a county improvement
31 authority created pursuant to the "county improvement authorities
32 law," P.L.1960, c.183 (C.40:37A-44 et seq.); or a pollution control
33 financing authority created pursuant to the "New Jersey Pollution
34 Control Financing Law," P.L.1973, c.376 (C.40:37C-1 et seq.) that
35 has issued solid waste facility bonds or that has been designated by the
36 county pursuant to section 12 of P.L.1975, c.326 (C.13:1E-21) to
37 supervise the implementation of the district solid waste management
38 plan.

39 [i.] "Revenues" means receipts, fees, rentals or other payments to
40 be received on account of lease, mortgage, conditional sale, or sale,
41 and payments and any other income derived from the lease, sale or
42 other disposition of a project, moneys in such reserve and insurance
43 funds or accounts or other funds and accounts, and income from the
44 investment thereof, established in connection with the issuance of
45 bonds or notes for a project or projects, and fees, charges or other
46 moneys to be received by the authority in respect of projects or school

1 facilities projects and contracts with persons.

2 [j.] "Resolution" means any resolution adopted or trust agreement
3 executed by the authority, pursuant to which bonds of the authority
4 are authorized to be issued.

5 "Solid waste" means garbage, refuse, and other discarded materials
6 resulting from industrial, commercial and agricultural operations, and
7 from domestic and community activities, and shall include all other
8 waste materials including liquids, except for source separated
9 recyclable materials or source separated food waste collected by
10 livestock producers approved by the State Department of Agriculture
11 to collect, prepare and feed such wastes to livestock on their own
12 farms.

13 "Solid waste disposal" means the storage, treatment, utilization,
14 processing, or final disposal of solid waste.

15 "Solid waste facility bonds" means the bonds, notes or other
16 evidences of financial indebtedness issued by, or on behalf of, any
17 public authority or county related to the planning, design, acquisition,
18 construction, renovation, installation, operation or management of a
19 county solid waste facility.

20 "Solid waste facilities" means, and includes, the plants, structures
21 and other real and personal property acquired, constructed or operated
22 by, or on behalf of, any county or public authority pursuant to the
23 provisions of the "Solid Waste Management Act," P.L.1970, c.39
24 (C.13:1E-1 et seq.) or any other act, including transfer stations,
25 incinerators, resource recovery facilities, including co-composting
26 facilities, sanitary landfill facilities or other plants for the disposal of
27 solid waste, and all vehicles, equipment and other real and personal
28 property and rights therein and appurtenances necessary or useful and
29 convenient for the collection or disposal of solid waste in a sanitary
30 manner.

31 [k.] "Energy saving improvement" means the construction,
32 purchase and installation in a building devoted to industrial or
33 commercial purposes of any of the following, designed to reduce the
34 amount of energy from nonrenewable sources needed for heating and
35 cooling that building: insulation, replacement burners, replacement
36 high efficiency heating and air conditioning units, including modular
37 boilers and furnaces, water heaters, central air conditioners with or
38 without heat recovery to make hot water for industrial or commercial
39 purposes or in office buildings, and any solar heating or cooling system
40 improvement, including any system which captures solar radiation to
41 heat a fluid which passes over or through the collector element of that
42 system and then transfers that fluid to a point within the system where
43 the heat is withdrawn from the fluid for direct usage or storage. These
44 systems shall include, but not necessarily be limited to, systems
45 incorporating flat plate, evacuated tube or focusing solar collectors.

1 The foregoing list shall not be construed to be exhaustive, and shall
2 not serve to exclude other improvements consistent with the legislative
3 intent of [this amendatory act] the provisions of P.L.1983, c.282.

4 [l.] "Urban growth zone" means any area within a municipality
5 receiving State aid pursuant to the provisions of P.L.1978, c.14
6 (C.52:27D-178 et seq.) or a municipality certified by the
7 Commissioner of Community Affairs to qualify under such law in
8 every respect except population, which area has been so designated
9 pursuant to an ordinance of the governing body of such municipality.

10 [m.] "District" means a local or regional school district established
11 pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey
12 Statutes, a county special services school district established pursuant
13 to article 8 of chapter 46 of Title 18A of the New Jersey Statutes, a
14 county vocational school district established pursuant to article 3 of
15 chapter 54 of Title 18A of the New Jersey Statutes, and a
16 State-operated school district established pursuant to P.L.1987, c.399
17 (C.18A:7A-34 et seq.).

18 [n.] "Local unit" means a county, municipality, board of education
19 or any other political entity authorized to construct, operate and
20 maintain a school facilities project and to borrow money for those
21 purposes pursuant to law.

22 [o.] "Refunding bonds" means bonds, notes or other obligations
23 issued to refinance bonds previously issued by the authority pursuant
24 to P.L.1974, c.80 (C.34:1B-1 et seq.) and P.L.2000, c.72
25 (C.18A:7G-1 et al.).

26 [p.] "School facilities project" means the acquisition, demolition,
27 construction, improvement, repair, alteration, modernization,
28 renovation, reconstruction or maintenance of all or any part of a
29 school facility or of any other personal property necessary for, or
30 ancillary to, any school facility, and shall include fixtures, furnishings
31 and equipment, and shall also include, but is not limited to, site
32 acquisition, site development, the services of design professionals,
33 such as engineers and architects, construction management, legal
34 services, financing costs and administrative costs and expenses
35 incurred in connection with the project.

36 [q.] "School facility" means and includes any structure, building
37 or facility used wholly or in part for academic purposes by a district,
38 but shall exclude athletic stadiums, grandstands, and any structure,
39 building or facility used solely for school administration.

40 (cf: P.L.2000, c.72, s.44)

41
42 2. Section 4 of P.L.1974, c.80 (C.34:1B-4) is amended to read as
43 follows:

44 4. a. There is hereby established in, but not of, the Department of
45 the Treasury a public body corporate and politic, with corporate
46 succession, to be known as the "New Jersey Economic Development

1 Authority." The authority is hereby constituted as an instrumentality
2 of the State exercising public and essential governmental functions,
3 and the exercise by the authority of the powers conferred by [this act]
4 the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.) or section 6 of
5 P.L. , c. (C.34:1B-4.1)(pending in the Legislature as this bill) shall
6 be deemed and held to be an essential governmental function of the
7 State.

8 b. The authority shall consist of the Commissioner of Banking and
9 Insurance, the Chief Executive Officer and Secretary of the New
10 Jersey Commerce and Economic Growth Commission, the
11 Commissioner of Labor, the Commissioner of Education, and the State
12 Treasurer, who shall be members ex officio, and eight public members
13 appointed by the Governor as follows: two public members (who shall
14 not be legislators) shall be appointed by the Governor upon
15 recommendation of the Senate President; two public members (who
16 shall not be legislators) shall be appointed by the Governor upon
17 recommendation of the Speaker of the General Assembly; and four
18 public members shall be appointed by the Governor, all for terms of
19 three years. Each member shall hold office for the term of [his] the
20 member's appointment and until [his] the member's successor shall
21 have been appointed and qualified. A member shall be eligible for
22 reappointment. Any vacancy in the membership occurring other than
23 by expiration of term shall be filled in the same manner as the original
24 appointment but for the unexpired term only. In the event the
25 authority shall by resolution determine to accept the declaration of an
26 urban growth zone by any municipality, the mayor or other chief
27 executive officer of such municipality shall ex officio be a member of
28 the authority for the purpose of participating and voting on all matters
29 pertaining to such urban growth zone.

30 The Governor shall appoint three alternate members of the
31 authority, of which one alternate member (who shall not be a
32 legislator) shall be appointed by the Governor upon the
33 recommendation of the Senate President, and one alternate member
34 (who shall not be a legislator) shall be appointed by the Governor
35 upon the recommendation of the Speaker of the General Assembly;
36 and one alternate member shall be appointed by the Governor, all for
37 terms of three years. The chairperson may authorize an alternate
38 member, in order of appointment, to exercise all of the powers, duties
39 and responsibilities of such member, including, but not limited to, the
40 right to vote on matters before the authority.

41 Each alternate member shall hold office for the term of [his] the
42 member's appointment and until [his] the member's successor shall
43 have been appointed and qualified. An alternate member shall be
44 eligible for reappointment. Any vacancy in the alternate membership
45 occurring other than by the expiration of a term shall be filled in the
46 same manner as the original appointment but for the unexpired term

1 only. Any reference to a member of the authority in this act shall be
2 deemed to include alternate members unless the context indicates
3 otherwise.

4 The terms of office of the members and alternate members of the
5 authority appointed by the Governor who are serving on [the effective
6 date of P.L.2000, c.72 (C.18A:7G-1 et al.)] July 18, 2000 shall expire
7 upon the appointment by the Governor of eight public members and
8 three alternate members. The initial appointments of the eight public
9 members shall be as follows: the two members appointed upon the
10 recommendation of the President of the Senate and the two members
11 appointed upon the recommendation of the Speaker of the General
12 Assembly shall serve terms of three years; two members shall serve
13 terms of two years; and two members shall serve terms of one year.
14 The initial appointments of the alternate members shall be as follows:
15 the alternate member appointed upon the recommendation of the
16 President of the Senate shall serve a term of three years; the alternate
17 member appointed upon the recommendation of the Speaker of the
18 General Assembly shall serve a term of two years; and one alternate
19 member shall serve a term of one year. No member shall be appointed
20 who is holding elective office.

21 c. Each member appointed by the Governor may be removed from
22 office by the Governor, for cause, after a public hearing, and may be
23 suspended by the Governor pending the completion of such hearing.
24 Each member before entering upon his duties shall take and subscribe
25 an oath to perform the duties of [his] the office faithfully, impartially
26 and justly to the best of his ability. A record of such oaths shall be
27 filed in the office of the Secretary of State.

28 d. A chairperson shall be appointed by the Governor from the
29 public members. The members of the authority shall elect from their
30 remaining number a vice chairperson and a treasurer thereof. The
31 authority shall employ an executive director who shall be its secretary
32 and chief executive officer. The powers of the authority shall be
33 vested in the members thereof in office from time to time and seven
34 members of the authority shall constitute a quorum at any meeting
35 thereof. Action may be taken and motions and resolutions adopted by
36 the authority at any meeting thereof by the affirmative vote of at least
37 seven members of the authority. No vacancy in the membership of the
38 authority shall impair the right of a quorum of the members to exercise
39 all the powers and perform all the duties of the authority.

40 e. Each member of the authority shall execute a bond to be
41 conditioned upon the faithful performance of the duties of such
42 member in such form and amount as may be prescribed by the Director
43 of the Division of Budget and Accounting in the Department of the
44 Treasury. Such bonds shall be filed in the office of the Secretary of
45 State. At all times thereafter the members and treasurer of the
46 authority shall maintain such bonds in full force and effect. All costs

- 1 of such bonds shall be borne by the authority.
- 2 f. The members of the authority shall serve without compensation,
3 but the authority shall reimburse its members for actual expenses
4 necessarily incurred in the discharge of their duties. Notwithstanding
5 the provisions of any other law, no officer or employee of the State
6 shall be deemed to have forfeited or shall forfeit ~~his~~ any office or
7 employment or any benefits or emoluments thereof by reason of ~~his~~
8 the acceptance of the office of ex officio member of the authority or
9 ~~his~~ any services therein.
- 10 g. Each ex officio member of the authority may designate an officer
11 or employee of ~~his~~ the member's department to represent ~~him~~ the
12 member at meetings of the authority, and each such designee may
13 lawfully vote and otherwise act on behalf of the member for whom
14 ~~he~~ the person constitutes the designee. Any such designation shall
15 be in writing delivered to the authority and shall continue in effect
16 until revoked or amended by writing delivered to the authority.
- 17 h. The authority may be dissolved by act of the Legislature on
18 condition that the authority has no debts or obligations outstanding or
19 that provision has been made for the payment or retirement of such
20 debts or obligations. Upon any such dissolution of the authority, all
21 property, funds and assets thereof shall be vested in the State.
- 22 i. A true copy of the minutes of every meeting of the authority shall
23 be forthwith delivered by and under the certification of the secretary
24 thereof to the Governor. No action taken at such meeting by the
25 authority shall have force or effect until 10 days, Saturdays, Sundays,
26 and public holidays excepted, after the copy of the minutes shall have
27 been so delivered, unless during such 10-day period the Governor shall
28 approve the same in which case such action shall become effective
29 upon such approval. If, in that 10-day period, the Governor returns
30 such copy of the minutes with veto of any action taken by the
31 authority or any member thereof at such meeting, such action shall be
32 null and void and of no effect. The powers conferred in this
33 subsection i. upon the Governor shall be exercised with due regard for
34 the rights of the holders of bonds and notes of the authority at any
35 time outstanding, and nothing in, or done pursuant to, this subsection
36 i. shall in any way limit, restrict or alter the obligation or powers of the
37 authority or any representative or officer of the authority to carry out
38 and perform in every detail each and every covenant, agreement or
39 contract at any time made or entered into by or on behalf of the
40 authority with respect to its bonds or notes or for the benefit,
41 protection or security of the holders thereof.
- 42 j. On or before March 31 in each year, the authority shall make an
43 annual report of its activities for the preceding calendar year to the
44 Governor and the Legislature. Each such report shall set forth a
45 complete operating and financial statement covering the authority's
46 operations during the year. The authority shall cause an audit of its

1 books and accounts to be made at least once in each year by certified
2 public accountants and cause a copy thereof to be filed with the
3 Secretary of State and the Director of the Division of Budget and
4 Accounting in the Department of the Treasury.

5 k. The Director of the Division of Budget and Accounting in the
6 Department of the Treasury and [his] the director's legally authorized
7 representatives are hereby authorized and empowered from time to
8 time to examine the accounts, books and records of the authority
9 including its receipts, disbursements, contracts, sinking funds,
10 investments and any other matters relating thereto and to its financial
11 standing.

12 l. No member, officer, employee or agent of the authority shall be
13 interested, either directly or indirectly, in any project or school
14 facilities project, or in any contract, sale, purchase, lease or transfer of
15 real or personal property to which the authority is a party.
16 (cf: P.L.2000, c.72, s.45)

17
18 3. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read as
19 follows:

20 5. The authority shall have the following powers:

21 a. To adopt bylaws for the regulation of its affairs and the conduct
22 of its business;

23 b. To adopt and have a seal and to alter the same at pleasure;

24 c. To sue and be sued;

25 d. To acquire in the name of the authority by purchase or
26 otherwise, on such terms and conditions and such manner as it may
27 deem proper, or by the exercise of the power of eminent domain in the
28 manner provided by the "Eminent Domain Act of 1971," P.L.1971,
29 c.361 (C.20:3-1 et seq.), any lands or interests therein or other
30 property which it may determine is reasonably necessary for any
31 project or school facilities project; provided, however, that the
32 authority in connection with any project shall not take by exercise of
33 the power of eminent domain any real property except upon consent
34 thereto given by resolution of the governing body of the municipality
35 in which such real property is located; and provided further that the
36 authority shall be limited in its exercise of the power of eminent
37 domain in connection with any project to municipalities receiving State
38 aid under the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.), or
39 to municipalities which had a population, according to the latest
40 federal decennial census, in excess of 10,000;

41 e. To enter into contracts with a person upon such terms and
42 conditions as the authority shall determine to be reasonable, including,
43 but not limited to, reimbursement for the planning, designing,
44 financing, construction, reconstruction, improvement, equipping,
45 furnishing, operation and maintenance of the project or the school
46 facilities project and to pay or compromise any claims arising

- 1 therefrom;
- 2 f. To establish and maintain reserve and insurance funds with
3 respect to the financing of the project or the school facilities project;
- 4 g. To sell, convey or lease to any person all or any portion of a
5 project or school facilities project, for such consideration and upon
6 such terms as the authority may determine to be reasonable;
- 7 h. To mortgage, pledge or assign or otherwise encumber all or any
8 portion of a project, school facilities project or revenues, whenever it
9 shall find such action to be in furtherance of the purposes of this act
10 and P.L.2000, c.72 (C.18A:7G-1 et al.);
- 11 i. To grant options to purchase or renew a lease for any of its
12 projects or school facilities projects on such terms as the authority may
13 determine to be reasonable;
- 14 j. To contract for and to accept any gifts or grants or loans of
15 funds or property or financial or other aid in any form from the United
16 States of America or any agency or instrumentality thereof, or from
17 the State or any agency, instrumentality or political subdivision
18 thereof, or from any other source and to comply, subject to the
19 provisions of [this act] P.L.1974, c.80 (C.34:1B-1 et seq.), section 6
20 of P.L. , c. (C.34:1B-4.1)(pending in the Legislature as this bill)
21 and P.L.2000, c.72 (C.18A:7G-1 et al.), with the terms and conditions
22 thereof;
- 23 k. In connection with any application for assistance under [this
24 act] P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L. , c.
25 (C.34:1B-4.1)(pending in the Legislature as this bill) or P.L.2000, c.72
26 (C.18A:7G-1 et al.) or commitments therefor, to require and collect
27 such fees and charges as the authority shall determine to be
28 reasonable;
- 29 l. To adopt, amend and repeal regulations to carry out the
30 provisions of [this act] P.L.1974, c.80 (C.34:1B-1 et seq.), section 6
31 of P.L. , c. (C.34:1B-4.1)(pending in the Legislature as this bill)
32 and P.L.2000, c.72 (C.18A:7G-1 et al.);
- 33 m. To acquire, purchase, manage and operate, hold and dispose of
34 real and personal property or interests therein, take assignments of
35 rentals and leases and make and enter into all contracts, leases,
36 agreements and arrangements necessary or incidental to the
37 performance of its duties;
- 38 n. To purchase, acquire and take assignments of notes, mortgages
39 and other forms of security and evidences of indebtedness;
- 40 o. To purchase, acquire, attach, seize, accept or take title to any
41 project or school facilities project by conveyance or by foreclosure,
42 and sell, lease, manage or operate any project or school facilities
43 project for a use specified in this act and P.L.2000, c.72 (C.18A:7G-1
44 et al.);
- 45 p. To borrow money and to issue bonds of the authority and to
46 provide for the rights of the holders thereof, as provided in [this act]

1 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L. , c. (C.34:1B-
2 4.1)(pending in the Legislature as this bill) and P.L.2000, c.72
3 (C.18A:7G-1 et al.);

4 q. To extend credit or make loans to any person for the planning,
5 designing, acquiring, constructing, reconstructing, improving,
6 equipping and furnishing of a project or school facilities project, which
7 credits or loans may be secured by loan and security agreements,
8 mortgages, leases and any other instruments, upon such terms and
9 conditions as the authority shall deem reasonable, including provision
10 for the establishment and maintenance of reserve and insurance funds,
11 and to require the inclusion in any mortgage, lease, contract, loan and
12 security agreement or other instrument, such provisions for the
13 construction, use, operation and maintenance and financing of a
14 project or school facilities project as the authority may deem necessary
15 or desirable;

16 r. To guarantee up to 90% of the amount of a loan to a person, if
17 the proceeds of the loan are to be applied to the purchase and
18 installation, in a building devoted to industrial or commercial
19 purposes, or in an office building, of an energy improvement system;

20 s. To employ consulting engineers, architects, attorneys, real estate
21 counselors, appraisers, and such other consultants and employees as
22 may be required in the judgment of the authority to carry out the
23 purposes of **[this act]** P.L.1974, c.80 (C.34:1B-1 et seq.), section 6
24 of P.L. , c. (C.34:1B-4.1)(pending in the Legislature as this bill)
25 and P.L.2000, c.72 (C.18A:7G-1 et al.), and to fix and pay their
26 compensation from funds available to the authority therefor, all
27 without regard to the provisions of Title 11A of the New Jersey
28 Statutes;

29 t. To do and perform any acts and things authorized by **[this act]**
30 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L. , c. (C.34:1B-
31 4.1)(pending in the Legislature as this bill) and P.L.2000, c.72
32 (C.18A:7G-1 et al.) under, through or by means of its own officers,
33 agents and employees, or by contract with any person;

34 u. To procure insurance against any losses in connection with its
35 property, operations or assets in such amounts and from such insurers
36 as it deems desirable;

37 v. To do any and all things necessary or convenient to carry out its
38 purposes and exercise the powers given and granted in **[this act]**
39 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L. , c. (C.34:1B-
40 4.1)(pending in the Legislature as this bill) and P.L.2000, c.72
41 (C.18A:7G-1 et al.);

42 w. To construct, reconstruct, rehabilitate, improve, alter, equip,
43 maintain or repair or provide for the construction, reconstruction,
44 improvement, alteration, equipping or maintenance or repair of any
45 development property and lot, award and enter into construction
46 contracts, purchase orders and other contracts with respect thereto,

1 upon such terms and conditions as the authority shall determine to be
2 reasonable, including, but not limited to, reimbursement for the
3 planning, designing, financing, construction, reconstruction,
4 improvement, equipping, furnishing, operation and maintenance of any
5 such development property and the settlement of any claims arising
6 therefrom and the establishment and maintenance of reserve funds with
7 respect to the financing of such development property;

8 x. When authorized by the governing body of a municipality
9 exercising jurisdiction over an urban growth zone, to construct, cause
10 to be constructed or to provide financial assistance to projects in an
11 urban growth zone which shall be exempt from the terms and
12 requirements of the land use ordinances and regulations, including, but
13 not limited to, the master plan and zoning ordinances, of such
14 municipality;

15 y. To enter into business employment incentive agreements as
16 provided in the "Business Employment Incentive Program Act,"
17 P.L.1996, c.26 (C.34:1B-124 et al.);

18 z. To undertake school facilities projects and to enter into
19 agreements or contracts, execute instruments, and do and perform all
20 acts or things necessary, convenient or desirable for the purposes of
21 the authority to carry out any power expressly provided pursuant to
22 P.L.1974, c.80 (C.34:1B-1 et seq.) and P.L.2000, c.72 (C.18A:7G-1
23 et al.), including, but not limited to, entering into contracts with the
24 State Treasurer, the Commissioner of Education, districts and any
25 other entity which may be required in order to carry out the provisions
26 of P.L.2000, c.72 (C.18A:7G-1 et al.);

27 aa. To enter into leases, rentals or other disposition of a real
28 property interest in and of any school facilities project to or from any
29 local unit pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.);

30 bb. To make and contract to make loans or leases and to make
31 grants to local units to finance the cost of school facilities projects and
32 to acquire and contract to acquire bonds, notes or other obligations
33 issued or to be issued by local units to evidence the loans or leases, all
34 in accordance with the provisions of P.L.2000, c.72 (C.18A:7G-1 et
35 al.);

36 cc. Subject to any agreement with holders of its bonds issued to
37 finance a project or school facilities project, obtain as security or to
38 provide liquidity for payment of all or any part of the principal of and
39 interest and premium on the bonds of the authority or for the purchase
40 upon tender or otherwise of the bonds, lines of credit, letters of credit,
41 reimbursement agreements, interest rate exchange agreements,
42 currency exchange agreements, interest rate floors or caps, options,
43 puts or calls to hedge payment, currency, rate, spread or similar
44 exposure or similar agreements, float agreements, forward agreements,
45 insurance contract, surety bond, commitment to purchase or sell
46 bonds, purchase or sale agreement, or commitments or other contracts

1 or agreements, and other security agreements or instruments in any
2 amounts and upon any terms as the authority may determine and pay
3 any fees and expenses required in connection therewith; [and]

4 dd. To charge to and collect from local units, the State and any
5 other person, any fees and charges in connection with the authority's
6 actions undertaken with respect to school facilities projects, including,
7 but not limited to, fees and charges for the authority's administrative,
8 organization, insurance, operating and other expenses incident to the
9 financing, construction and placing into service and maintenance of
10 school facilities projects; and

11 ee. To make loans to refinance solid waste facility bonds through
12 the issuance of bonds or other obligations and the execution of any
13 agreements with counties or public authorities to effect the refunding
14 or rescheduling of solid waste facility bonds, or otherwise provide for
15 the payment of all or a portion of any series of solid waste facility
16 bonds. Any county or public authority refunding or rescheduling its
17 solid waste facility bonds pursuant to this subsection shall provide for
18 the payment of not less than fifty percent of the aggregate debt service
19 for the refunded or rescheduled debt of the particular county or public
20 authority for the duration of the loan. Whenever the solid waste
21 facility bonds are the obligation of a public authority, the relevant
22 county shall execute a deficiency agreement with the authority, which
23 shall provide that the county pledges to cover any shortfall and to pay
24 deficiencies in scheduled repayment obligations of the public authority.
25 All costs associated with the issuance of bonds pursuant to this
26 subsection may be paid by the authority from the proceeds of these
27 bonds. Any county or public authority is hereby authorized to enter
28 into any agreement with the authority necessary, desirable or
29 convenient to effectuate the provisions of this subsection.

30 The authority shall not issue bonds or other obligations to effect the
31 refunding or rescheduling of solid waste facility bonds after
32 December 31, 2002. The authority may refund its own bonds issued
33 for the purposes herein at any time.

34 (cf: P.L.2000, c.72, s.46)

35
36 4. Section 9 of P.L.1974, c.80 (C.34:1B-9) is amended to read as
37 follows:

38 9. For the purpose of providing funds (a) to pay all or any part of
39 the cost of any project or projects, (b) to make loans in accordance
40 with the provisions of [this act] P.L.1974, c.80 (C.34:1B-1 et seq.),
41 and (c) for the funding or refunding any bonds pursuant to P.L.1974,
42 c.80 (C.34:1B-1 et seq.) or section 6 of P.L. _____, c. _____ (C.34:1B-
43 4.1)(pending in the Legislature as this bill), the authority shall have
44 power to authorize or provide for the issuance of bonds pursuant to
45 [this act] P.L.1974, c.80 (C.34:1B-1 et seq.).

46 (cf: P.L.1974, c.80, s.9)

1 5. Section 10 of P.L.1974, c.80 (C.34:1B-10) is amended to read
2 as follows:

3 10. By resolution, the authority shall have power to incur
4 indebtedness, borrow money and issue its bonds for the purposes
5 stated in section ~~8~~ 9 of P.L.1974, c.80 (C.34:1B-9). Except
6 as may otherwise be expressly provided by the authority, or by the
7 provisions of section 6 of P.L. , c. (C.34:1B-4.1)(pending in the
8 Legislature as this bill), every issue of its bonds shall be general
9 obligations of the authority payable from any revenues or moneys of
10 the authority, subject only to any agreements with the holders of
11 particular bonds or notes pledging any particular revenues or moneys.
12 Such bonds shall be authorized by resolution and may be issued in one
13 or more series and shall bear such date or dates, mature at such time
14 or times not exceeding 40 years from the date thereof, bear interest at
15 a rate or rates, be in such denomination or denominations, be in such
16 form, either coupon or registered, carry such conversion or
17 registration privileges, have such rank or priority, be executed in such
18 manner, be payable from such sources in such medium of payment at
19 such place or places within or without the State, and be subject to
20 such terms of redemption (with or without premium) as such
21 resolution may provide. Bonds of the authority may be sold by the
22 authority at public or private sale at such price or prices as the
23 authority shall determine.

24 (cf: P.L.1974, c.80)

25

26 6. (New section) a. The New Jersey Economic Development
27 Authority and the State Treasurer are hereby authorized to enter into
28 one or more contracts to secure, in whole or in part, any bonds,
29 refunding bonds or other obligations of the authority issued for the
30 purposes set forth in subsection ee. of section 5 of P.L.1974, c.80
31 (C.34:1B-5), upon such terms and conditions as are determined by the
32 parties; provided, however, that any obligation of the State incurred
33 under the contract or contracts, including any payments to be made
34 thereunder from the General Fund, shall be subject to and dependent
35 upon appropriations being made from time to time by the Legislature
36 for the purposes set forth in subsection ee. of section 5 of P.L.1974,
37 c.80 (C.34:1B-5)(pending in the Legislature as this bill), as provided
38 by law.

39 b. In any resolution authorizing the issuance of bonds, refunding
40 bonds or other obligations of the authority issued for the purposes set
41 forth in subsection ee. of section 5 of P.L.1974, c.80 (C.34:1B-5), the
42 authority may pledge the contract with the State Treasurer, or any part
43 thereof, for the payment or redemption of the bonds or refunding
44 bonds, and covenant as to the use and disposition of money available
45 to the authority for payments of bonds, refunding bonds or other
46 obligations of the authority.

1 c. The State Treasurer shall pay from the General Fund to the
2 authority in each State fiscal year, in accordance with a contract or
3 contracts between the State Treasurer and the authority, an amount
4 equivalent to the amount due to be paid for debt service incurred in
5 the particular fiscal year on the bonds or refunding bonds of the
6 authority issued pursuant to subsection ee. of section 5 of P.L.1974,
7 c.80 (C.34:1B-5), and any additional costs incurred in connection with
8 any agreements entered into by the authority relating to these bonds
9 or refunding bonds.

10 d. The provisions of any other law, rule, regulation or order to the
11 contrary notwithstanding, the bonds, refunding bonds or other
12 obligations of the authority issued for the purposes set forth in
13 subsection ee. of section 5 of P.L.1974, c.80 (C.34:1B-5) shall be
14 special and limited obligations of the authority, payable from and
15 secured by such funds and moneys as determined by the authority in
16 accordance with the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.)
17 or section 6 of P.L. , c. (C.34:1B-4.1)(pending in the Legislature
18 as this bill), and shall not be in any way a debt or liability of the State
19 or of any political subdivision thereof, except as otherwise provided
20 in this section, and shall not create or constitute any indebtedness,
21 liability or obligation of the State or of any political subdivision
22 thereof, either legal, moral or otherwise, and nothing contained in the
23 provisions of P.L.1974, c.80 (C.34:1B-1 et seq.) or section 6 of
24 P.L. , c. (C.34:1B-4.1)(pending in the Legislature as this bill) shall
25 be construed to authorize the authority to incur any indebtedness on
26 behalf of or in any way to obligate the State or any political
27 subdivision thereof, and all bonds and refunding bonds issued by the
28 authority in connection therewith shall contain on the face thereof a
29 statement to that effect.

30
31 7. This act shall take effect immediately.
32
33

34 STATEMENT 35

36 This bill authorizes the New Jersey Economic Development
37 Authority to refinance the solid waste facility bonds issued by, or on
38 behalf of, any county or public authority related to the planning,
39 design, acquisition, construction, renovation, installation, operation or
40 management of a county solid waste facility.

41 The bill authorizes the Authority to: (1) make loans to refinance
42 solid waste facility bonds through the issuance of bonds of the
43 Authority and the execution of any agreements with participating
44 counties or public authorities necessary to effect the refunding or
45 rescheduling of their solid waste facility bonds; or (2) otherwise
46 provide for the payment of all or a portion of any series of outstanding

1 solid waste facility bonds.

2 Any county or public authority refunding or rescheduling its solid
3 waste facility bonds is required to provide for the payment of not less
4 than fifty percent of the aggregate debt service for its refunded or
5 rescheduled debt for the duration of the loan. Whenever the solid
6 waste facility bonds are the obligation of a public authority, the
7 relevant county must execute a deficiency agreement with the
8 Authority, which provides that the county pledges to cover any
9 shortfall and to pay deficiencies in scheduled repayment obligations of
10 the public authority.

11 The bill authorizes any county or public authority to enter into any
12 agreement with the Authority necessary to effectuate these provisions.

13 The bill authorizes the Authority and the State Treasurer to enter
14 into one or more contracts to secure, in whole or in part, any bonds,
15 refunding bonds or other obligations of the Authority issued to
16 refinance county solid waste facility bonds. Any obligation of the
17 State incurred under the contracts, including any payments to be made
18 thereunder from the General Fund, are subject to and dependent upon
19 appropriations being made from time to time by the Legislature for this
20 purpose. In any resolution authorizing the Authority to issue bonds,
21 refunding bonds or other obligations of the Authority to refinance
22 county solid waste facility bonds, the Authority may pledge the
23 contracts with the State Treasurer, or any part thereof, for the
24 payment or redemption of the bonds or refunding bonds, and covenant
25 as to the use and disposition of money available to the Authority for
26 payments of bonds and refunding bonds.

27 The bill requires the State Treasurer to pay from the General Fund
28 to the Authority in each State fiscal year, in accordance with a
29 contract or contracts between the State Treasurer and the Authority,
30 an amount equivalent to the amount due to be paid for debt service
31 incurred in the particular fiscal year on the bonds or refunding bonds
32 of the Authority issued to refinance county solid waste facility bonds,
33 and any additional costs incurred in connection with any agreements
34 entered into by the Authority relating to these bonds or refunding
35 bonds.

36 The bill provides that any bonds, refunding bonds or other
37 obligations of the Authority issued to refinance county solid waste
38 facility bonds would constitute special and limited obligations of the
39 Authority, payable from and secured by such funds and moneys as
40 determined by the Authority. The bonds, refunding bonds or other
41 obligations of the Authority issued to refinance county solid waste
42 facility bonds would not in any way constitute a debt or liability of the
43 State or of any of its political subdivisions, and would not create or
44 constitute any indebtedness, liability or obligation of the State or of
45 any of its political subdivisions, either legal, moral or otherwise.

46 Further, nothing contained in the provisions of the bill may be

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19

1 construed to authorize the Authority to incur any indebtedness on
2 behalf of or in any way to obligate the State or any of its political
3 subdivisions, and all bonds and refunding bonds issued by the
4 Authority to refinance county solid waste facility bonds must contain
5 on their face a statement to that effect.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4048

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 20, 2001

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4048 with committee amendments.

Assembly Bill No. 4048, as amended, authorizes the New Jersey Economic Development Authority to refinance the solid waste facility bonds issued by, or on behalf of, any county or public authority related to the planning, design, acquisition, construction, renovation, installation, operation or management of a county solid waste facility.

The bill authorizes the authority to: (1) make loans to refinance solid waste facility bonds through the issuance of bonds of the authority and the execution of any agreements with participating counties or public authorities necessary to effect the refunding or rescheduling of their solid waste facility bonds; or (2) otherwise provide for the payment of all or a portion of any series of outstanding solid waste facility bonds.

Any county or public authority refunding or rescheduling its solid waste facility bonds is generally required to provide for the payment of not less than fifty percent of the aggregate debt service for its refunded or rescheduled debt for the duration of the loan, except that if the bonds to be refinanced were issued by a public authority and the county solid waste facility was utilized as a regional county solid waste facility a debt service percentage based on the host county's percentage of tonnage may apply. Whenever the solid waste facility bonds are the obligation of a public authority, the relevant county must execute a deficiency agreement with the Authority, which provides that the county pledges to cover any shortfall and to pay deficiencies in scheduled repayment obligations of the public authority.

Whenever the solid waste facility bonds are the obligation of a public authority, the relevant county must execute a deficiency agreement with the authority, which provides that the county pledges to cover any shortfall and to pay deficiencies in scheduled repayment obligations of the public authority.

The bill authorizes any county or public authority to enter into any agreement with the authority necessary to effectuate these provisions.

The bill authorizes the authority and the State Treasurer to enter into one or more contracts to secure, in whole or in part, any bonds, refunding bonds or other obligations of the authority issued to refinance county solid waste facility bonds. Any obligation of the State incurred under the contracts, including any payments to be made thereunder from the General Fund, are subject to and dependent upon appropriations being made from time to time by the Legislature for this purpose. In any resolution authorizing the authority to issue bonds, refunding bonds or other obligations of the authority to refinance county solid waste facility bonds, the authority may pledge the contracts with the State Treasurer, or any part thereof, for the payment or redemption of the bonds or refunding bonds, and covenant as to the use and disposition of money available to the authority for payments of bonds and refunding bonds.

The bill requires the State Treasurer to pay from the General Fund to the authority in each State fiscal year, in accordance with a contract or contracts between the State Treasurer and the authority, an amount equivalent to the amount due to be paid for debt service incurred in the particular fiscal year on the bonds or refunding bonds of the authority issued to refinance county solid waste facility bonds, and any additional costs incurred in connection with any agreements entered into by the authority relating to these bonds or refunding bonds.

The bill provides that any bonds, refunding bonds or other obligations of the authority issued to refinance county solid waste facility bonds would constitute special and limited obligations of the authority, payable from and secured by such funds and moneys as determined by the authority. The bonds, refunding bonds or other obligations of the authority issued to refinance county solid waste facility bonds would not in any way constitute a debt or liability of the State or of any of its political subdivisions, and would not create or constitute any indebtedness, liability or obligation of the State or of any of its political subdivisions, either legal, moral or otherwise.

Further, nothing contained in the provisions of the bill may be construed to authorize the authority to incur any indebtedness on behalf of or in any way to obligate the State or any of its political subdivisions, and all bonds and refunding bonds issued by the authority to refinance county solid waste facility bonds must contain on their face a statement to that effect.

FISCAL IMPACT

As of April 12, 2001, the total amount of solid waste facility debt among all counties and local authorities amounted to \$1.09 billion. If the full amount of that debt were to be refinanced through the issuance of bonds of the Economic Development Authority, and the State were to agree to pay the maximum (50%) cost allowed under the bill for debt service on those bonds, the annual cost to the State could amount to roughly \$40 to \$47 million.

COMMITTEE AMENDMENTS:

The amendments provide an exception to the general requirement that an authority refunding or rescheduling its solid waste facility bonds is generally required to provide for the payment of not less than fifty percent of the aggregate debt service for its refunded or rescheduled debt for the duration of the loan. If the bonds to be refinanced were issued by a public authority and the county solid waste facility was a regional county solid waste facility designated in the adopted district solid waste management plans of the participating counties as approved by the department prior to November 10, 1997, and the use of the facility was established pursuant to tonnage obligations in the respective interdistrict agreements, then the public authority refunding or rescheduling its bonds pursuant shall provide for the payment of a percentage of the aggregate debt service not to exceed the percentage of the specified tonnage obligation of the host county for the duration of the loan.

[First Reprint]

ASSEMBLY, No. 4048

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED DECEMBER 13, 2001

Sponsored by:

Assemblyman JOSEPH R. MALONE, III

District 30 (Burlington, Monmouth and Ocean)

Assemblyman LARRY CHATZIDAKIS

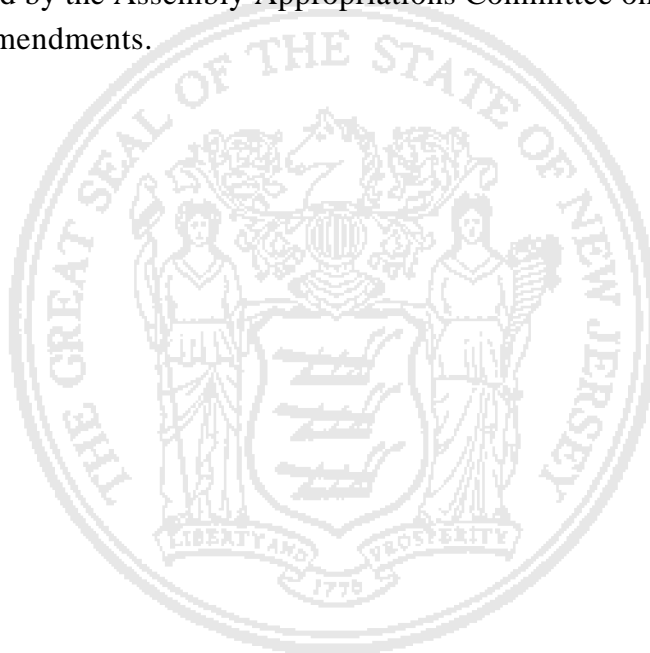
District 8 (Atlantic, Burlington and Camden)

SYNOPSIS

Authorizes New Jersey Economic Development Authority to refinance county solid waste facility bonds.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on December 20, 2001, with amendments.



(Sponsorship Updated As Of: 1/4/2002)

1 AN ACT concerning the restructuring of certain solid waste facility
2 bonds, and providing for the financing thereof through the New
3 Jersey Economic Development Authority.

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

7
8 1. Section 3 of P.L.1974, c.80 (C.34:1B-3) is amended to read as
9 follows:

10 3. As used in **[this act]** the provisions of P.L.1974, c.80 (C.34:1B-
11 1 et seq.), P.L.1979, c.303 (C.34:1B-5.1 et seq.), sections 50 through
12 54 of P.L.2000, c.72 (C.34:1B-5.5 through 34:1B-5.9), P.L.1981,
13 c.505 (C.34:1B-7.1 et seq.), P.L.1986, c.127 (C.34:1B-7.7 et seq.),
14 P.L.1992, c.16 (C.34:1B-7.10 et seq.) and section 6 of P.L. , c.
15 (C.34:1B-4.1)(pending in the Legislature as this bill), unless a different
16 meaning clearly appears from the context:

17 [a.] "Authority" means the New Jersey Economic Development
18 Authority, created by section 4 of **[this act]** P.L.1974, c.80 (C.34:1B-
19 4).

20 [b.] "Bonds" means bonds or other obligations issued by the
21 authority pursuant to **[this act]** P.L.1974, c.80 (C.34:1B-1 et seq.),
22 "Economic Recovery Bonds or Notes" issued pursuant to P.L.1992,
23 c.16 (C.34:1B-7.10 et al.), or bonds, notes, other obligations and
24 refunding bonds issued by the authority pursuant to P.L.2000, c.72
25 (C.18A:7G-1 et al.).

26 [c.] "Cost" means the cost of the acquisition, construction,
27 reconstruction, repair, alteration, improvement and extension of any
28 building, structure, facility including water transmission facilities, or
29 other improvement; the cost of machinery and equipment; the cost of
30 acquisition, construction, reconstruction, repair, alteration,
31 improvement and extension of energy saving improvements or
32 pollution control devices, equipment or facilities; the cost of lands,
33 rights-in-lands, easements, privileges, agreements, franchises, utility
34 extensions, disposal facilities, access roads and site development
35 deemed by the authority to be necessary or useful and convenient for
36 any project or school facilities project or in connection therewith;
37 discount on bonds; cost of issuance of bonds; engineering and
38 inspection costs; costs of financial, legal, professional and other
39 estimates and advice; organization, administrative, insurance,
40 operating and other expenses of the authority or any person prior to
41 and during any acquisition or construction, and all such expenses as

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 Assembly AAP committee amendments adopted December 20, 2001.

1 may be necessary or incident to the financing, acquisition, construction
2 or completion of any project or school facilities project or part thereof,
3 and also such provision for reserves for payment or security of
4 principal of or interest on bonds during or after such acquisition or
5 construction as the authority may determine.

6 [d.] "County" means any county of any class.

7 "County solid waste facility" means a solid waste facility that is
8 designated by a public authority or county in its adopted district solid
9 waste management plan as approved by the department prior to
10 November 10, 1997 as the in-county facility to which solid waste
11 generated within the boundaries of the county is transported for final
12 disposal, or transfer for transportation to an offsite solid waste facility
13 or designated out-of-district disposal site for disposal, as appropriate,
14 pursuant to interdistrict or intradistrict waste flow orders issued by the
15 department, regardless of whether the county solid waste facility was
16 acquired, constructed, operated, abandoned or canceled.

17 "Department" means the Department of Environmental Protection.

18 [e.] "Development property" means any real or personal property,
19 interest therein, improvements thereon, appurtenances thereto and air
20 or other rights in connection therewith, including land, buildings,
21 plants, structures, systems, works, machinery and equipment acquired
22 or to be acquired by purchase, gift or otherwise by the authority within
23 an urban growth zone.

24 [f.] "Person" means any person, including individuals, firms,
25 partnerships, associations, societies, trusts, public or private
26 corporations, or other legal entities, including public or governmental
27 bodies, as well as natural persons. "Person" shall include the plural as
28 well as the singular.

29 [g.] "Pollution control project" means any device, equipment,
30 improvement, structure or facility, or any land and any building,
31 structure, facility or other improvement thereon, or any combination
32 thereof, whether or not in existence or under construction, or the
33 refinancing thereof in order to facilitate improvements or additions
34 thereto or upgrading thereof, and all real and personal property
35 deemed necessary thereto, having to do with or the end purpose of
36 which is the control, abatement or prevention of land, sewer, water,
37 air, noise or general environmental pollution, including, but not limited
38 to, any air pollution control facility, noise abatement facility, water
39 management facility, thermal pollution control facility, radiation
40 contamination control facility, wastewater collection system,
41 wastewater treatment works, sewage treatment works system, sewage
42 treatment system or solid waste [disposal] facility or site; provided
43 that the authority shall have received from the Commissioner of the
44 State Department of Environmental Protection or [his] the
45 commissioner's duly authorized representative a certificate stating the
46 opinion that, based upon information, facts and circumstances

1 available to the State Department of Environmental Protection and any
2 other pertinent data, (1) [said] the pollution control facilities do not
3 conflict with, overlap or duplicate any other planned or existing
4 pollution control facilities undertaken or planned by another public
5 agency or authority within any political subdivision, and (2) [that
6 such] the facilities, as designed, will be a pollution control project as
7 defined [in this act] the provisions of P.L.1974, c.80 (C.34:1B-1 et
8 seq.) and are in furtherance of the purpose of abating or controlling
9 pollution.

10 [h.] "Project" means: (1) (a) acquisition, construction,
11 reconstruction, repair, alteration, improvement and extension of any
12 building, structure, facility, including water transmission facilities or
13 other improvement, whether or not in existence or under construction,
14 (b) purchase and installation of equipment and machinery, (c)
15 acquisition and improvement of real estate and the extension or
16 provision of utilities, access roads and other appurtenant facilities; and
17 (2) (a) the acquisition, financing, or refinancing of inventory, raw
18 materials, supplies, work in process, or stock in trade, or (b) the
19 financing, refinancing or consolidation of secured or unsecured debt,
20 borrowings, or obligations, or (c) the provision of financing for any
21 other expense incurred in the ordinary course of business; all of which
22 are to be used or occupied by any person in any enterprise promoting
23 employment, either for the manufacturing, processing or assembly of
24 materials or products, or for research or office purposes, including,
25 but not limited to, medical and other professional facilities, or for
26 industrial, recreational, hotel or motel facilities, public utility and
27 warehousing, or for commercial and service purposes, including, but
28 not limited to, retail outlets, retail shopping centers, restaurant and
29 retail food outlets, and any and all other employment promoting
30 enterprises, including, but not limited to, motion picture and television
31 studios and facilities and commercial fishing facilities, commercial
32 facilities for recreational fishermen, fishing vessels, aquaculture
33 facilities and marketing facilities for fish and fish products and (d)
34 acquisition of an equity interest in, including capital stock of, any
35 corporation; or any combination of the above, which the authority
36 determines will: (i) tend to maintain or provide gainful employment
37 opportunities within and for the people of the State, or (ii) aid, assist
38 and encourage the economic development or redevelopment of any
39 political subdivision of the State, or (iii) maintain or increase the tax
40 base of the State or of any political subdivision of the State, or (iv)
41 maintain or diversify and expand employment promoting enterprises
42 within the State; and (3) the cost of acquisition, construction,
43 reconstruction, repair, alteration, improvement and extension of an
44 energy saving improvement or pollution control project which the
45 authority determines will tend to reduce the consumption in a building
46 devoted to industrial or commercial purposes, or in an office building,

1 of nonrenewable sources of energy or to reduce, abate or prevent
2 environmental pollution within the State; and (4) the acquisition,
3 construction, reconstruction, repair, alteration, improvement,
4 extension, development, financing or refinancing of infrastructure and
5 transportation facilities or improvements related to economic
6 development and of cultural, recreational and tourism facilities or
7 improvements related to economic development and of capital facilities
8 for primary and secondary schools and of mixed use projects
9 consisting of housing and commercial development; and (5) the
10 establishment, acquisition, construction, rehabilitation, improvement,
11 and ownership of port facilities as defined in section 3 of P.L.1997,
12 c.150 (C.34:1B-146). Project may also include: (i) reimbursement to
13 any person for costs in connection with any project, or the refinancing
14 of any project or portion thereof, if determined by the authority as
15 necessary and in the public interest to maintain employment and the
16 tax base of any political subdivision and will facilitate improvements
17 thereto or the completion thereof, and (ii) development property and
18 any construction, reconstruction, improvement, alteration, equipment
19 or maintenance or repair, or planning and designing in connection
20 therewith. For the purpose of carrying out mixed use projects
21 consisting of both housing and commercial development, the authority
22 may enter into agreements with the New Jersey Housing and Mortgage
23 Finance Agency for loan guarantees for any such project in accordance
24 with the provisions of P.L.1995, c.359 (C.55:14K-64 et al.), and for
25 that purpose shall allocate to the New Jersey Housing and Mortgage
26 Finance Agency, under such agreements, funding available pursuant to
27 subsection a. of section 4 of P.L.1992, c.16 (C.34:1B-7.13). Project
28 shall not include a school facilities project.

29 "Public authority" means a municipal or county utilities authority
30 created pursuant to the "municipal and county utilities authorities
31 law," P.L.1957, c.183 (C.40:14B-1 et seq.); a county improvement
32 authority created pursuant to the "county improvement authorities
33 law," P.L.1960, c.183 (C.40:37A-44 et seq.); or a pollution control
34 financing authority created pursuant to the "New Jersey Pollution
35 Control Financing Law," P.L.1973, c.376 (C.40:37C-1 et seq.) that
36 has issued solid waste facility bonds or that has been designated by the
37 county pursuant to section 12 of P.L.1975, c.326 (C.13:1E-21) to
38 supervise the implementation of the district solid waste management
39 plan.

40 [i.] "Revenues" means receipts, fees, rentals or other payments to
41 be received on account of lease, mortgage, conditional sale, or sale,
42 and payments and any other income derived from the lease, sale or
43 other disposition of a project, moneys in such reserve and insurance
44 funds or accounts or other funds and accounts, and income from the
45 investment thereof, established in connection with the issuance of
46 bonds or notes for a project or projects, and fees, charges or other

1 moneys to be received by the authority in respect of projects or school
2 facilities projects and contracts with persons.

3 [j.] "Resolution" means any resolution adopted or trust agreement
4 executed by the authority, pursuant to which bonds of the authority
5 are authorized to be issued.

6 "Solid waste" means garbage, refuse, and other discarded materials
7 resulting from industrial, commercial and agricultural operations, and
8 from domestic and community activities, and shall include all other
9 waste materials including liquids, except for source separated
10 recyclable materials or source separated food waste collected by
11 livestock producers approved by the State Department of Agriculture
12 to collect, prepare and feed such wastes to livestock on their own
13 farms.

14 "Solid waste disposal" means the storage, treatment, utilization,
15 processing, or final disposal of solid waste.

16 "Solid waste facility bonds" means the bonds, notes or other
17 evidences of financial indebtedness issued by, or on behalf of, any
18 public authority or county related to the planning, design, acquisition,
19 construction, renovation, installation, operation or management of a
20 county solid waste facility.

21 "Solid waste facilities" means, and includes, the plants, structures
22 and other real and personal property acquired, constructed or operated
23 by, or on behalf of, any county or public authority pursuant to the
24 provisions of the "Solid Waste Management Act," P.L.1970, c.39
25 (C.13:1E-1 et seq.) or any other act, including transfer stations,
26 incinerators, resource recovery facilities, including co-composting
27 facilities, sanitary landfill facilities or other plants for the disposal of
28 solid waste, and all vehicles, equipment and other real and personal
29 property and rights therein and appurtenances necessary or useful and
30 convenient for the collection or disposal of solid waste in a sanitary
31 manner.

32 [k.] "Energy saving improvement" means the construction,
33 purchase and installation in a building devoted to industrial or
34 commercial purposes of any of the following, designed to reduce the
35 amount of energy from nonrenewable sources needed for heating and
36 cooling that building: insulation, replacement burners, replacement
37 high efficiency heating and air conditioning units, including modular
38 boilers and furnaces, water heaters, central air conditioners with or
39 without heat recovery to make hot water for industrial or commercial
40 purposes or in office buildings, and any solar heating or cooling system
41 improvement, including any system which captures solar radiation to
42 heat a fluid which passes over or through the collector element of that
43 system and then transfers that fluid to a point within the system where
44 the heat is withdrawn from the fluid for direct usage or storage. These
45 systems shall include, but not necessarily be limited to, systems
46 incorporating flat plate, evacuated tube or focusing solar collectors.

1 The foregoing list shall not be construed to be exhaustive, and shall
2 not serve to exclude other improvements consistent with the legislative
3 intent of [this amendatory act] the provisions of P.L.1983, c.282.

4 [l.] "Urban growth zone" means any area within a municipality
5 receiving State aid pursuant to the provisions of P.L.1978, c.14
6 (C.52:27D-178 et seq.) or a municipality certified by the
7 Commissioner of Community Affairs to qualify under such law in
8 every respect except population, which area has been so designated
9 pursuant to an ordinance of the governing body of such municipality.

10 [m.] "District" means a local or regional school district established
11 pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey
12 Statutes, a county special services school district established pursuant
13 to article 8 of chapter 46 of Title 18A of the New Jersey Statutes, a
14 county vocational school district established pursuant to article 3 of
15 chapter 54 of Title 18A of the New Jersey Statutes, and a
16 State-operated school district established pursuant to P.L.1987, c.399
17 (C.18A:7A-34 et seq.).

18 [n.] "Local unit" means a county, municipality, board of education
19 or any other political entity authorized to construct, operate and
20 maintain a school facilities project and to borrow money for those
21 purposes pursuant to law.

22 [o.] "Refunding bonds" means bonds, notes or other obligations
23 issued to refinance bonds previously issued by the authority pursuant
24 to P.L.1974, c.80 (C.34:1B-1 et seq.) and P.L.2000, c.72
25 (C.18A:7G-1 et al.).

26 [p.] "School facilities project" means the acquisition, demolition,
27 construction, improvement, repair, alteration, modernization,
28 renovation, reconstruction or maintenance of all or any part of a
29 school facility or of any other personal property necessary for, or
30 ancillary to, any school facility, and shall include fixtures, furnishings
31 and equipment, and shall also include, but is not limited to, site
32 acquisition, site development, the services of design professionals,
33 such as engineers and architects, construction management, legal
34 services, financing costs and administrative costs and expenses
35 incurred in connection with the project.

36 [q.] "School facility" means and includes any structure, building
37 or facility used wholly or in part for academic purposes by a district,
38 but shall exclude athletic stadiums, grandstands, and any structure,
39 building or facility used solely for school administration.

40 (cf: P.L.2000, c.72, s.44)

41

42 2. Section 4 of P.L.1974, c.80 (C.34:1B-4) is amended to read as
43 follows:

44 4. a. There is hereby established in, but not of, the Department of
45 the Treasury a public body corporate and politic, with corporate
46 succession, to be known as the "New Jersey Economic Development

1 Authority." The authority is hereby constituted as an instrumentality
2 of the State exercising public and essential governmental functions,
3 and the exercise by the authority of the powers conferred by [this act]
4 the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.) or section 6 of
5 P.L. , c. (C.34:1B-4.1)(pending in the Legislature as this bill) shall
6 be deemed and held to be an essential governmental function of the
7 State.

8 b. The authority shall consist of the Commissioner of Banking and
9 Insurance, the Chief Executive Officer and Secretary of the New
10 Jersey Commerce and Economic Growth Commission, the
11 Commissioner of Labor, the Commissioner of Education, and the State
12 Treasurer, who shall be members ex officio, and eight public members
13 appointed by the Governor as follows: two public members (who shall
14 not be legislators) shall be appointed by the Governor upon
15 recommendation of the Senate President; two public members (who
16 shall not be legislators) shall be appointed by the Governor upon
17 recommendation of the Speaker of the General Assembly; and four
18 public members shall be appointed by the Governor, all for terms of
19 three years. Each member shall hold office for the term of [his] the
20 member's appointment and until [his] the member's successor shall
21 have been appointed and qualified. A member shall be eligible for
22 reappointment. Any vacancy in the membership occurring other than
23 by expiration of term shall be filled in the same manner as the original
24 appointment but for the unexpired term only. In the event the
25 authority shall by resolution determine to accept the declaration of an
26 urban growth zone by any municipality, the mayor or other chief
27 executive officer of such municipality shall ex officio be a member of
28 the authority for the purpose of participating and voting on all matters
29 pertaining to such urban growth zone.

30 The Governor shall appoint three alternate members of the
31 authority, of which one alternate member (who shall not be a
32 legislator) shall be appointed by the Governor upon the
33 recommendation of the Senate President, and one alternate member
34 (who shall not be a legislator) shall be appointed by the Governor
35 upon the recommendation of the Speaker of the General Assembly;
36 and one alternate member shall be appointed by the Governor, all for
37 terms of three years. The chairperson may authorize an alternate
38 member, in order of appointment, to exercise all of the powers, duties
39 and responsibilities of such member, including, but not limited to, the
40 right to vote on matters before the authority.

41 Each alternate member shall hold office for the term of [his] the
42 member's appointment and until [his] the member's successor shall
43 have been appointed and qualified. An alternate member shall be
44 eligible for reappointment. Any vacancy in the alternate membership
45 occurring other than by the expiration of a term shall be filled in the
46 same manner as the original appointment but for the unexpired term

1 only. Any reference to a member of the authority in this act shall be
2 deemed to include alternate members unless the context indicates
3 otherwise.

4 The terms of office of the members and alternate members of the
5 authority appointed by the Governor who are serving on [the effective
6 date of P.L.2000, c.72 (C.18A:7G-1 et al.)] July 18, 2000 shall expire
7 upon the appointment by the Governor of eight public members and
8 three alternate members. The initial appointments of the eight public
9 members shall be as follows: the two members appointed upon the
10 recommendation of the President of the Senate and the two members
11 appointed upon the recommendation of the Speaker of the General
12 Assembly shall serve terms of three years; two members shall serve
13 terms of two years; and two members shall serve terms of one year.
14 The initial appointments of the alternate members shall be as follows:
15 the alternate member appointed upon the recommendation of the
16 President of the Senate shall serve a term of three years; the alternate
17 member appointed upon the recommendation of the Speaker of the
18 General Assembly shall serve a term of two years; and one alternate
19 member shall serve a term of one year. No member shall be appointed
20 who is holding elective office.

21 c. Each member appointed by the Governor may be removed from
22 office by the Governor, for cause, after a public hearing, and may be
23 suspended by the Governor pending the completion of such hearing.
24 Each member before entering upon his duties shall take and subscribe
25 an oath to perform the duties of [his] the office faithfully, impartially
26 and justly to the best of his ability. A record of such oaths shall be
27 filed in the office of the Secretary of State.

28 d. A chairperson shall be appointed by the Governor from the
29 public members. The members of the authority shall elect from their
30 remaining number a vice chairperson and a treasurer thereof. The
31 authority shall employ an executive director who shall be its secretary
32 and chief executive officer. The powers of the authority shall be
33 vested in the members thereof in office from time to time and seven
34 members of the authority shall constitute a quorum at any meeting
35 thereof. Action may be taken and motions and resolutions adopted by
36 the authority at any meeting thereof by the affirmative vote of at least
37 seven members of the authority. No vacancy in the membership of the
38 authority shall impair the right of a quorum of the members to exercise
39 all the powers and perform all the duties of the authority.

40 e. Each member of the authority shall execute a bond to be
41 conditioned upon the faithful performance of the duties of such
42 member in such form and amount as may be prescribed by the Director
43 of the Division of Budget and Accounting in the Department of the
44 Treasury. Such bonds shall be filed in the office of the Secretary of
45 State. At all times thereafter the members and treasurer of the
46 authority shall maintain such bonds in full force and effect. All costs

- 1 of such bonds shall be borne by the authority.
- 2 f. The members of the authority shall serve without compensation,
3 but the authority shall reimburse its members for actual expenses
4 necessarily incurred in the discharge of their duties. Notwithstanding
5 the provisions of any other law, no officer or employee of the State
6 shall be deemed to have forfeited or shall forfeit ~~his~~ any office or
7 employment or any benefits or emoluments thereof by reason of ~~his~~
8 the acceptance of the office of ex officio member of the authority or
9 ~~his~~ any services therein.
- 10 g. Each ex officio member of the authority may designate an officer
11 or employee of ~~his~~ the member's department to represent ~~him~~ the
12 member at meetings of the authority, and each such designee may
13 lawfully vote and otherwise act on behalf of the member for whom
14 ~~he~~ the person constitutes the designee. Any such designation shall
15 be in writing delivered to the authority and shall continue in effect
16 until revoked or amended by writing delivered to the authority.
- 17 h. The authority may be dissolved by act of the Legislature on
18 condition that the authority has no debts or obligations outstanding or
19 that provision has been made for the payment or retirement of such
20 debts or obligations. Upon any such dissolution of the authority, all
21 property, funds and assets thereof shall be vested in the State.
- 22 i. A true copy of the minutes of every meeting of the authority shall
23 be forthwith delivered by and under the certification of the secretary
24 thereof to the Governor. No action taken at such meeting by the
25 authority shall have force or effect until 10 days, Saturdays, Sundays,
26 and public holidays excepted, after the copy of the minutes shall have
27 been so delivered, unless during such 10-day period the Governor shall
28 approve the same in which case such action shall become effective
29 upon such approval. If, in that 10-day period, the Governor returns
30 such copy of the minutes with veto of any action taken by the
31 authority or any member thereof at such meeting, such action shall be
32 null and void and of no effect. The powers conferred in this
33 subsection i. upon the Governor shall be exercised with due regard for
34 the rights of the holders of bonds and notes of the authority at any
35 time outstanding, and nothing in, or done pursuant to, this subsection
36 i. shall in any way limit, restrict or alter the obligation or powers of the
37 authority or any representative or officer of the authority to carry out
38 and perform in every detail each and every covenant, agreement or
39 contract at any time made or entered into by or on behalf of the
40 authority with respect to its bonds or notes or for the benefit,
41 protection or security of the holders thereof.

1 j. On or before March 31 in each year, the authority shall make an
2 annual report of its activities for the preceding calendar year to the
3 Governor and the Legislature. Each such report shall set forth a
4 complete operating and financial statement covering the authority's
5 operations during the year. The authority shall cause an audit of its
6 books and accounts to be made at least once in each year by certified
7 public accountants and cause a copy thereof to be filed with the
8 Secretary of State and the Director of the Division of Budget and
9 Accounting in the Department of the Treasury.

10 k. The Director of the Division of Budget and Accounting in the
11 Department of the Treasury and [his] the director's legally authorized
12 representatives are hereby authorized and empowered from time to
13 time to examine the accounts, books and records of the authority
14 including its receipts, disbursements, contracts, sinking funds,
15 investments and any other matters relating thereto and to its financial
16 standing.

17 l. No member, officer, employee or agent of the authority shall be
18 interested, either directly or indirectly, in any project or school
19 facilities project, or in any contract, sale, purchase, lease or transfer of
20 real or personal property to which the authority is a party.

21 (cf: P.L.2000, c.72, s.45)

22

23 3. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read as
24 follows:

25 5. The authority shall have the following powers:

26 a. To adopt bylaws for the regulation of its affairs and the conduct
27 of its business;

28 b. To adopt and have a seal and to alter the same at pleasure;

29 c. To sue and be sued;

30 d. To acquire in the name of the authority by purchase or
31 otherwise, on such terms and conditions and such manner as it may
32 deem proper, or by the exercise of the power of eminent domain in the
33 manner provided by the "Eminent Domain Act of 1971," P.L.1971,
34 c.361 (C.20:3-1 et seq.), any lands or interests therein or other
35 property which it may determine is reasonably necessary for any
36 project or school facilities project; provided, however, that the
37 authority in connection with any project shall not take by exercise of
38 the power of eminent domain any real property except upon consent
39 thereto given by resolution of the governing body of the municipality
40 in which such real property is located; and provided further that the
41 authority shall be limited in its exercise of the power of eminent
42 domain in connection with any project to municipalities receiving State
43 aid under the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.), or
44 to municipalities which had a population, according to the latest
45 federal decennial census, in excess of 10,000;

- 1 e. To enter into contracts with a person upon such terms and
2 conditions as the authority shall determine to be reasonable, including,
3 but not limited to, reimbursement for the planning, designing,
4 financing, construction, reconstruction, improvement, equipping,
5 furnishing, operation and maintenance of the project or the school
6 facilities project and to pay or compromise any claims arising
7 therefrom;
- 8 f. To establish and maintain reserve and insurance funds with
9 respect to the financing of the project or the school facilities project;
- 10 g. To sell, convey or lease to any person all or any portion of a
11 project or school facilities project, for such consideration and upon
12 such terms as the authority may determine to be reasonable;
- 13 h. To mortgage, pledge or assign or otherwise encumber all or any
14 portion of a project, school facilities project or revenues, whenever it
15 shall find such action to be in furtherance of the purposes of this act
16 and P.L.2000, c.72 (C.18A:7G-1 et al.);
- 17 i. To grant options to purchase or renew a lease for any of its
18 projects or school facilities projects on such terms as the authority may
19 determine to be reasonable;
- 20 j. To contract for and to accept any gifts or grants or loans of
21 funds or property or financial or other aid in any form from the United
22 States of America or any agency or instrumentality thereof, or from
23 the State or any agency, instrumentality or political subdivision
24 thereof, or from any other source and to comply, subject to the
25 provisions of [this act] P.L.1974, c.80 (C.34:1B-1 et seq.), section 6
26 of P.L. , c. (C.34:1B-4.1)(pending in the Legislature as this bill)
27 and P.L.2000, c.72 (C.18A:7G-1 et al.), with the terms and conditions
28 thereof;
- 29 k. In connection with any application for assistance under [this
30 act] P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L. , c.
31 (C.34:1B-4.1)(pending in the Legislature as this bill) or P.L.2000, c.72
32 (C.18A:7G-1 et al.) or commitments therefor, to require and collect
33 such fees and charges as the authority shall determine to be
34 reasonable;
- 35 l. To adopt, amend and repeal regulations to carry out the
36 provisions of [this act] P.L.1974, c.80 (C.34:1B-1 et seq.), section 6
37 of P.L. , c. (C.34:1B-4.1)(pending in the Legislature as this bill)
38 and P.L.2000, c.72 (C.18A:7G-1 et al.);
- 39 m. To acquire, purchase, manage and operate, hold and dispose of
40 real and personal property or interests therein, take assignments of
41 rentals and leases and make and enter into all contracts, leases,
42 agreements and arrangements necessary or incidental to the
43 performance of its duties;
- 44 n. To purchase, acquire and take assignments of notes, mortgages
45 and other forms of security and evidences of indebtedness;

- 1 o. To purchase, acquire, attach, seize, accept or take title to any
2 project or school facilities project by conveyance or by foreclosure,
3 and sell, lease, manage or operate any project or school facilities
4 project for a use specified in this act and P.L.2000, c.72 (C.18A:7G-1
5 et al.);
- 6 p. To borrow money and to issue bonds of the authority and to
7 provide for the rights of the holders thereof, as provided in [this act]
8 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L. , c. (C.34:1B-
9 4.1)(pending in the Legislature as this bill) and P.L.2000, c.72
10 (C.18A:7G-1 et al.);
- 11 q. To extend credit or make loans to any person for the planning,
12 designing, acquiring, constructing, reconstructing, improving,
13 equipping and furnishing of a project or school facilities project, which
14 credits or loans may be secured by loan and security agreements,
15 mortgages, leases and any other instruments, upon such terms and
16 conditions as the authority shall deem reasonable, including provision
17 for the establishment and maintenance of reserve and insurance funds,
18 and to require the inclusion in any mortgage, lease, contract, loan and
19 security agreement or other instrument, such provisions for the
20 construction, use, operation and maintenance and financing of a
21 project or school facilities project as the authority may deem necessary
22 or desirable;
- 23 r. To guarantee up to 90% of the amount of a loan to a person, if
24 the proceeds of the loan are to be applied to the purchase and
25 installation, in a building devoted to industrial or commercial
26 purposes, or in an office building, of an energy improvement system;
- 27 s. To employ consulting engineers, architects, attorneys, real estate
28 counselors, appraisers, and such other consultants and employees as
29 may be required in the judgment of the authority to carry out the
30 purposes of [this act] P.L.1974, c.80 (C.34:1B-1 et seq.), section 6
31 of P.L. , c. (C.34:1B-4.1)(pending in the Legislature as this bill)
32 and P.L.2000, c.72 (C.18A:7G-1 et al.), and to fix and pay their
33 compensation from funds available to the authority therefor, all
34 without regard to the provisions of Title 11A of the New Jersey
35 Statutes;
- 36 t. To do and perform any acts and things authorized by [this act]
37 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L. , c. (C.34:1B-
38 4.1)(pending in the Legislature as this bill) and P.L.2000, c.72
39 (C.18A:7G-1 et al.) under, through or by means of its own officers,
40 agents and employees, or by contract with any person;
- 41 u. To procure insurance against any losses in connection with its
42 property, operations or assets in such amounts and from such insurers
43 as it deems desirable;
- 44 v. To do any and all things necessary or convenient to carry out its
45 purposes and exercise the powers given and granted in [this act]

- 1 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L. _____, c. _____
2 (C.34:1B-4.1)(pending in the Legislature as this bill) and P.L.2000,
3 c.72 (C.18A:7G-1 et al.);
- 4 w. To construct, reconstruct, rehabilitate, improve, alter, equip,
5 maintain or repair or provide for the construction, reconstruction,
6 improvement, alteration, equipping or maintenance or repair of any
7 development property and lot, award and enter into construction
8 contracts, purchase orders and other contracts with respect thereto,
9 upon such terms and conditions as the authority shall determine to be
10 reasonable, including, but not limited to, reimbursement for the
11 planning, designing, financing, construction, reconstruction,
12 improvement, equipping, furnishing, operation and maintenance of any
13 such development property and the settlement of any claims arising
14 therefrom and the establishment and maintenance of reserve funds with
15 respect to the financing of such development property;
- 16 x. When authorized by the governing body of a municipality
17 exercising jurisdiction over an urban growth zone, to construct, cause
18 to be constructed or to provide financial assistance to projects in an
19 urban growth zone which shall be exempt from the terms and
20 requirements of the land use ordinances and regulations, including, but
21 not limited to, the master plan and zoning ordinances, of such
22 municipality;
- 23 y. To enter into business employment incentive agreements as
24 provided in the "Business Employment Incentive Program Act,"
25 P.L.1996, c.26 (C.34:1B-124 et al.);
- 26 z. To undertake school facilities projects and to enter into
27 agreements or contracts, execute instruments, and do and perform all
28 acts or things necessary, convenient or desirable for the purposes of
29 the authority to carry out any power expressly provided pursuant to
30 P.L.1974, c.80 (C.34:1B-1 et seq.) and P.L.2000, c.72 (C.18A:7G-1
31 et al.), including, but not limited to, entering into contracts with the
32 State Treasurer, the Commissioner of Education, districts and any
33 other entity which may be required in order to carry out the provisions
34 of P.L.2000, c.72 (C.18A:7G-1 et al.);
- 35 aa. To enter into leases, rentals or other disposition of a real
36 property interest in and of any school facilities project to or from any
37 local unit pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.);
- 38 bb. To make and contract to make loans or leases and to make
39 grants to local units to finance the cost of school facilities projects and
40 to acquire and contract to acquire bonds, notes or other obligations
41 issued or to be issued by local units to evidence the loans or leases, all
42 in accordance with the provisions of P.L.2000, c.72 (C.18A:7G-1 et
43 al.);
- 44 cc. Subject to any agreement with holders of its bonds issued to
45 finance a project or school facilities project, obtain as security or to

1 provide liquidity for payment of all or any part of the principal of and
2 interest and premium on the bonds of the authority or for the purchase
3 upon tender or otherwise of the bonds, lines of credit, letters of credit,
4 reimbursement agreements, interest rate exchange agreements,
5 currency exchange agreements, interest rate floors or caps, options,
6 puts or calls to hedge payment, currency, rate, spread or similar
7 exposure or similar agreements, float agreements, forward agreements,
8 insurance contract, surety bond, commitment to purchase or sell
9 bonds, purchase or sale agreement, or commitments or other contracts
10 or agreements, and other security agreements or instruments in any
11 amounts and upon any terms as the authority may determine and pay
12 any fees and expenses required in connection therewith; [and]

13 dd. To charge to and collect from local units, the State and any
14 other person, any fees and charges in connection with the authority's
15 actions undertaken with respect to school facilities projects, including,
16 but not limited to, fees and charges for the authority's administrative,
17 organization, insurance, operating and other expenses incident to the
18 financing, construction and placing into service and maintenance of
19 school facilities projects; and

20 ee. To make loans to refinance solid waste facility bonds through
21 the issuance of bonds or other obligations and the execution of any
22 agreements with counties or public authorities to effect the refunding
23 or rescheduling of solid waste facility bonds, or otherwise provide for
24 the payment of all or a portion of any series of solid waste facility
25 bonds. Any county or public authority refunding or rescheduling its
26 solid waste facility bonds pursuant to this subsection shall provide for
27 the payment of not less than fifty percent of the aggregate debt service
28 for the refunded or rescheduled debt of the particular county or public
29 authority for the duration of the loan¹; except that, whenever the solid
30 waste facility bonds to be refinanced were issued by a public authority
31 and the county solid waste facility was utilized as a regional county
32 solid waste facility, as designated in the respective adopted district
33 solid waste management plans of the participating counties as
34 approved by the department prior to November 10, 1997, and the
35 utilization of the facility was established pursuant to tonnage
36 obligations set forth in their respective interdistrict agreements, the
37 public authority refunding or rescheduling its solid waste facility bonds
38 pursuant to this subsection shall provide for the payment of a
39 percentage of the aggregate debt service for the refunded or
40 rescheduled debt of the public authority not to exceed the percentage
41 of the specified tonnage obligation of the host county for the duration
42 of the loan.¹ Whenever the solid waste facility bonds are the
43 obligation of a public authority, the relevant county shall execute a
44 deficiency agreement with the authority, which shall provide that the

1 county pledges to cover any shortfall and to pay deficiencies in
2 scheduled repayment obligations of the public authority. All costs
3 associated with the issuance of bonds pursuant to this subsection may
4 be paid by the authority from the proceeds of these bonds. Any
5 county or public authority is hereby authorized to enter into any
6 agreement with the authority necessary, desirable or convenient to
7 effectuate the provisions of this subsection.

8 The authority shall not issue bonds or other obligations to effect the
9 refunding or rescheduling of solid waste facility bonds after December
10 31, 2002. The authority may refund its own bonds issued for the
11 purposes herein at any time.

12 (cf: P.L.2000, c.72, s.46)

13
14 4. Section 9 of P.L.1974, c.80 (C.34:1B-9) is amended to read as
15 follows:

16 9. For the purpose of providing funds (a) to pay all or any part of
17 the cost of any project or projects, (b) to make loans in accordance
18 with the provisions of [this act] P.L.1974, c.80 (C.34:1B-1 et seq.),
19 and (c) for the funding or refunding any bonds pursuant to P.L.1974,
20 c.80 (C.34:1B-1 et seq.) or section 6 of P.L. , c. (C.34:1B-
21 4.1)(pending in the Legislature as this bill), the authority shall have
22 power to authorize or provide for the issuance of bonds pursuant to
23 [this act] P.L.1974, c.80 (C.34:1B-1 et seq.).

24 (cf: P.L.1974, c.80, s.9)

25
26 5. Section 10 of P.L.1974, c.80 (C.34:1B-10) is amended to read
27 as follows:

28 10. By resolution, the authority shall have power to incur
29 indebtedness, borrow money and issue its bonds for the purposes
30 stated in section [8 hereof] 9 of P.L.1974, c.80 (C.34:1B-9). Except
31 as may otherwise be expressly provided by the authority, or by the
32 provisions of section 6 of P.L. , c. (C.34:1B-4.1)(pending in the
33 Legislature as this bill), every issue of its bonds shall be general
34 obligations of the authority payable from any revenues or moneys of
35 the authority, subject only to any agreements with the holders of
36 particular bonds or notes pledging any particular revenues or moneys.
37 Such bonds shall be authorized by resolution and may be issued in one
38 or more series and shall bear such date or dates, mature at such time
39 or times not exceeding 40 years from the date thereof, bear interest at
40 a rate or rates, be in such denomination or denominations, be in such
41 form, either coupon or registered, carry such conversion or
42 registration privileges, have such rank or priority, be executed in such
43 manner, be payable from such sources in such medium of payment at
44 such place or places within or without the State, and be subject to
45 such terms of redemption (with or without premium) as such
46 resolution may provide. Bonds of the authority may be sold by the

1 authority at public or private sale at such price or prices as the
2 authority shall determine.

3 (cf: P.L.1974, c.80)

4

5 6. (New section) a. The New Jersey Economic Development
6 Authority and the State Treasurer are hereby authorized to enter into
7 one or more contracts to secure, in whole or in part, any bonds,
8 refunding bonds or other obligations of the authority issued for the
9 purposes set forth in subsection ee. of section 5 of P.L.1974, c.80
10 (C.34:1B-5), upon such terms and conditions as are determined by the
11 parties; provided, however, that any obligation of the State incurred
12 under the contract or contracts, including any payments to be made
13 thereunder from the General Fund, shall be subject to and dependent
14 upon appropriations being made from time to time by the Legislature
15 for the purposes set forth in subsection ee. of section 5 of P.L.1974,
16 c.80 (C.34:1B-5)(pending in the Legislature as this bill), as provided
17 by law.

18 b. In any resolution authorizing the issuance of bonds, refunding
19 bonds or other obligations of the authority issued for the purposes set
20 forth in subsection ee. of section 5 of P.L.1974, c.80 (C.34:1B-5), the
21 authority may pledge the contract with the State Treasurer, or any part
22 thereof, for the payment or redemption of the bonds or refunding
23 bonds, and covenant as to the use and disposition of money available
24 to the authority for payments of bonds, refunding bonds or other
25 obligations of the authority.

26 c. The State Treasurer shall pay from the General Fund to the
27 authority in each State fiscal year, in accordance with a contract or
28 contracts between the State Treasurer and the authority, an amount
29 equivalent to the amount due to be paid for debt service incurred in
30 the particular fiscal year on the bonds or refunding bonds of the
31 authority issued pursuant to subsection ee. of section 5 of P.L.1974,
32 c.80 (C.34:1B-5), and any additional costs incurred in connection with
33 any agreements entered into by the authority relating to these bonds
34 or refunding bonds.

35 d. The provisions of any other law, rule, regulation or order to the
36 contrary notwithstanding, the bonds, refunding bonds or other
37 obligations of the authority issued for the purposes set forth in
38 subsection ee. of section 5 of P.L.1974, c.80 (C.34:1B-5) shall be
39 special and limited obligations of the authority, payable from and
40 secured by such funds and moneys as determined by the authority in
41 accordance with the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.)
42 or section 6 of P.L. , c. (C.34:1B-4.1)(pending in the Legislature
43 as this bill), and shall not be in any way a debt or liability of the State
44 or of any political subdivision thereof, except as otherwise provided
45 in this section, and shall not create or constitute any indebtedness,
46 liability or obligation of the State or of any political subdivision

1 thereof, either legal, moral or otherwise, and nothing contained in the
2 provisions of P.L.1974, c.80 (C.34:1B-1 et seq.) or section 6 of
3 P.L. , c. (C.34:1B-4.1)(pending in the Legislature as this bill) shall
4 be construed to authorize the authority to incur any indebtedness on
5 behalf of or in any way to obligate the State or any political
6 subdivision thereof, and all bonds and refunding bonds issued by the
7 authority in connection therewith shall contain on the face thereof a
8 statement to that effect.

9

10 7. This act shall take effect immediately.

P.L. 2001, CHAPTER 401, *approved January 8, 2002*

Senate, No. 2792

1 **AN ACT** concerning the restructuring of certain solid waste facility
2 bonds, and providing for the financing thereof through the New
3 Jersey Economic Development Authority.

4

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

7

8 1. Section 3 of P.L.1974, c.80 (C.34:1B-3) is amended to read as
9 follows:

10 3. As used in **[this act]** the provisions of P.L.1974, c.80 (C.34:1B-
11 1 et seq.), P.L.1979, c.303 (C.34:1B-5.1 et seq.), sections 50 through
12 54 of P.L.2000, c.72 (C.34:1B-5.5 through 34:1B-5.9), P.L.1981,
13 c.505 (C.34:1B-7.1 et seq.), P.L.1986, c.127 (C.34:1B-7.7 et seq.),
14 P.L.1992, c.16 (C.34:1B-7.10 et seq.) and section 6 of
15 P.L. , c. (C.34:1B-4.1)(pending in the Legislature as this bill),
16 unless a different meaning clearly appears from the context:

17 **[a.]** "Authority" means the New Jersey Economic Development
18 Authority, created by section 4 of **[this act]** P.L.1974, c.80 (C.34:1B-
19 4).

20 **[b.]** "Bonds" means bonds or other obligations issued by the
21 authority pursuant to **[this act]** P.L.1974, c.80 (C.34:1B-1 et seq.),
22 "Economic Recovery Bonds or Notes" issued pursuant to P.L.1992,
23 c.16 (C.34:1B-7.10 et al.), or bonds, notes, other obligations and
24 refunding bonds issued by the authority pursuant to P.L.2000, c.72
25 (C.18A:7G-1 et al.).

26 **[c.]** "Cost" means the cost of the acquisition, construction,
27 reconstruction, repair, alteration, improvement and extension of any
28 building, structure, facility including water transmission facilities, or
29 other improvement; the cost of machinery and equipment; the cost of
30 acquisition, construction, reconstruction, repair, alteration,
31 improvement and extension of energy saving improvements or
32 pollution control devices, equipment or facilities; the cost of lands,
33 rights-in-lands, easements, privileges, agreements, franchises, utility
34 extensions, disposal facilities, access roads and site development
35 deemed by the authority to be necessary or useful and convenient for
36 any project or school facilities project or in connection therewith;
37 discount on bonds; cost of issuance of bonds; engineering and
38 inspection costs; costs of financial, legal, professional and other
39 estimates and advice; organization, administrative, insurance,
40 operating and other expenses of the authority or any person prior to
41 and during any acquisition or construction, and all such expenses as

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

Matter underlined thus is new matter.

1 may be necessary or incident to the financing, acquisition, construction
2 or completion of any project or school facilities project or part thereof,
3 and also such provision for reserves for payment or security of
4 principal of or interest on bonds during or after such acquisition or
5 construction as the authority may determine.

6 [d.] "County" means any county of any class.

7 "County solid waste facility" means a solid waste facility that is
8 designated by a public authority or county in its adopted district solid
9 waste management plan as approved by the department prior to
10 November 10, 1997 as the in-county facility to which solid waste
11 generated within the boundaries of the county is transported for final
12 disposal, or transfer for transportation to an offsite solid waste facility
13 or designated out-of-district disposal site for disposal, as appropriate,
14 pursuant to interdistrict or intradistrict waste flow orders issued by the
15 department, regardless of whether the county solid waste facility was
16 acquired, constructed, operated, abandoned or canceled.

17 "Department" means the Department of Environmental Protection.

18 [e.] "Development property" means any real or personal property,
19 interest therein, improvements thereon, appurtenances thereto and air
20 or other rights in connection therewith, including land, buildings,
21 plants, structures, systems, works, machinery and equipment acquired
22 or to be acquired by purchase, gift or otherwise by the authority within
23 an urban growth zone.

24 [f.] "Person" means any person, including individuals, firms,
25 partnerships, associations, societies, trusts, public or private
26 corporations, or other legal entities, including public or governmental
27 bodies, as well as natural persons. "Person" shall include the plural as
28 well as the singular.

29 [g.] "Pollution control project" means any device, equipment,
30 improvement, structure or facility, or any land and any building,
31 structure, facility or other improvement thereon, or any combination
32 thereof, whether or not in existence or under construction, or the
33 refinancing thereof in order to facilitate improvements or additions
34 thereto or upgrading thereof, and all real and personal property
35 deemed necessary thereto, having to do with or the end purpose of
36 which is the control, abatement or prevention of land, sewer, water,
37 air, noise or general environmental pollution, including, but not limited
38 to, any air pollution control facility, noise abatement facility, water
39 management facility, thermal pollution control facility, radiation
40 contamination control facility, wastewater collection system,
41 wastewater treatment works, sewage treatment works system, sewage
42 treatment system or solid waste [disposal] facility or site; provided
43 that the authority shall have received from the Commissioner of the
44 State Department of Environmental Protection or [his] the
45 commissioner's duly authorized representative a certificate stating the
46 opinion that, based upon information, facts and circumstances

1 available to the State Department of Environmental Protection and any
2 other pertinent data, (1) [said] the pollution control facilities do not
3 conflict with, overlap or duplicate any other planned or existing
4 pollution control facilities undertaken or planned by another public
5 agency or authority within any political subdivision, and (2) [that
6 such] the facilities, as designed, will be a pollution control project as
7 defined [in this act] the provisions of P.L.1974, c.80 (C.34:1B-1 et
8 seq.) and are in furtherance of the purpose of abating or controlling
9 pollution.

10 [h.] "Project" means: (1) (a) acquisition, construction,
11 reconstruction, repair, alteration, improvement and extension of any
12 building, structure, facility, including water transmission facilities or
13 other improvement, whether or not in existence or under construction,
14 (b) purchase and installation of equipment and machinery, (c)
15 acquisition and improvement of real estate and the extension or
16 provision of utilities, access roads and other appurtenant facilities; and
17 (2) (a) the acquisition, financing, or refinancing of inventory, raw
18 materials, supplies, work in process, or stock in trade, or (b) the
19 financing, refinancing or consolidation of secured or unsecured debt,
20 borrowings, or obligations, or (c) the provision of financing for any
21 other expense incurred in the ordinary course of business; all of which
22 are to be used or occupied by any person in any enterprise promoting
23 employment, either for the manufacturing, processing or assembly of
24 materials or products, or for research or office purposes, including,
25 but not limited to, medical and other professional facilities, or for
26 industrial, recreational, hotel or motel facilities, public utility and
27 warehousing, or for commercial and service purposes, including, but
28 not limited to, retail outlets, retail shopping centers, restaurant and
29 retail food outlets, and any and all other employment promoting
30 enterprises, including, but not limited to, motion picture and television
31 studios and facilities and commercial fishing facilities, commercial
32 facilities for recreational fishermen, fishing vessels, aquaculture
33 facilities and marketing facilities for fish and fish products and (d)
34 acquisition of an equity interest in, including capital stock of, any
35 corporation; or any combination of the above, which the authority
36 determines will: (i) tend to maintain or provide gainful employment
37 opportunities within and for the people of the State, or (ii) aid, assist
38 and encourage the economic development or redevelopment of any
39 political subdivision of the State, or (iii) maintain or increase the tax
40 base of the State or of any political subdivision of the State, or (iv)
41 maintain or diversify and expand employment promoting enterprises
42 within the State; and (3) the cost of acquisition, construction,
43 reconstruction, repair, alteration, improvement and extension of an
44 energy saving improvement or pollution control project which the
45 authority determines will tend to reduce the consumption in a building
46 devoted to industrial or commercial purposes, or in an office building,

1 of nonrenewable sources of energy or to reduce, abate or prevent
2 environmental pollution within the State; and (4) the acquisition,
3 construction, reconstruction, repair, alteration, improvement,
4 extension, development, financing or refinancing of infrastructure and
5 transportation facilities or improvements related to economic
6 development and of cultural, recreational and tourism facilities or
7 improvements related to economic development and of capital facilities
8 for primary and secondary schools and of mixed use projects
9 consisting of housing and commercial development; and (5) the
10 establishment, acquisition, construction, rehabilitation, improvement,
11 and ownership of port facilities as defined in section 3 of P.L.1997,
12 c.150 (C.34:1B-146). Project may also include: (i) reimbursement to
13 any person for costs in connection with any project, or the refinancing
14 of any project or portion thereof, if determined by the authority as
15 necessary and in the public interest to maintain employment and the
16 tax base of any political subdivision and will facilitate improvements
17 thereto or the completion thereof, and (ii) development property and
18 any construction, reconstruction, improvement, alteration, equipment
19 or maintenance or repair, or planning and designing in connection
20 therewith. For the purpose of carrying out mixed use projects
21 consisting of both housing and commercial development, the authority
22 may enter into agreements with the New Jersey Housing and Mortgage
23 Finance Agency for loan guarantees for any such project in accordance
24 with the provisions of P.L.1995, c.359 (C.55:14K-64 et al.), and for
25 that purpose shall allocate to the New Jersey Housing and Mortgage
26 Finance Agency, under such agreements, funding available pursuant to
27 subsection a. of section 4 of P.L.1992, c.16 (C.34:1B-7.13). Project
28 shall not include a school facilities project.

29 "Public authority" means a municipal or county utilities authority
30 created pursuant to the "municipal and county utilities authorities
31 law," P.L.1957, c.183 (C.40:14B-1 et seq.); a county improvement
32 authority created pursuant to the "county improvement authorities
33 law," P.L.1960, c.183 (C.40:37A-44 et seq.); or a pollution control
34 financing authority created pursuant to the "New Jersey Pollution
35 Control Financing Law," P.L.1973, c.376 (C.40:37C-1 et seq.) that
36 has issued solid waste facility bonds or that has been designated by the
37 county pursuant to section 12 of P.L.1975, c.326 (C.13:1E-21) to
38 supervise the implementation of the district solid waste management
39 plan.

40 [i.] "Revenues" means receipts, fees, rentals or other payments to
41 be received on account of lease, mortgage, conditional sale, or sale,
42 and payments and any other income derived from the lease, sale or
43 other disposition of a project, moneys in such reserve and insurance
44 funds or accounts or other funds and accounts, and income from the
45 investment thereof, established in connection with the issuance of
46 bonds or notes for a project or projects, and fees, charges or other

1 moneys to be received by the authority in respect of projects or school
2 facilities projects and contracts with persons.

3 [j.] "Resolution" means any resolution adopted or trust agreement
4 executed by the authority, pursuant to which bonds of the authority
5 are authorized to be issued.

6 "Solid waste" means garbage, refuse, and other discarded materials
7 resulting from industrial, commercial and agricultural operations, and
8 from domestic and community activities, and shall include all other
9 waste materials including liquids, except for source separated
10 recyclable materials or source separated food waste collected by
11 livestock producers approved by the State Department of Agriculture
12 to collect, prepare and feed such wastes to livestock on their own
13 farms.

14 "Solid waste disposal" means the storage, treatment, utilization,
15 processing, or final disposal of solid waste.

16 "Solid waste facility bonds" means the bonds, notes or other
17 evidences of financial indebtedness issued by, or on behalf of, any
18 public authority or county related to the planning, design, acquisition,
19 construction, renovation, installation, operation or management of a
20 county solid waste facility.

21 "Solid waste facilities" means, and includes, the plants, structures
22 and other real and personal property acquired, constructed or operated
23 by, or on behalf of, any county or public authority pursuant to the
24 provisions of the "Solid Waste Management Act," P.L.1970, c.39
25 (C.13:1E-1 et seq.) or any other act, including transfer stations,
26 incinerators, resource recovery facilities, including co-composting
27 facilities, sanitary landfill facilities or other plants for the disposal of
28 solid waste, and all vehicles, equipment and other real and personal
29 property and rights therein and appurtenances necessary or useful and
30 convenient for the collection or disposal of solid waste in a sanitary
31 manner.

32 [k.] "Energy saving improvement" means the construction,
33 purchase and installation in a building devoted to industrial or
34 commercial purposes of any of the following, designed to reduce the
35 amount of energy from nonrenewable sources needed for heating and
36 cooling that building: insulation, replacement burners, replacement
37 high efficiency heating and air conditioning units, including modular
38 boilers and furnaces, water heaters, central air conditioners with or
39 without heat recovery to make hot water for industrial or commercial
40 purposes or in office buildings, and any solar heating or cooling system
41 improvement, including any system which captures solar radiation to
42 heat a fluid which passes over or through the collector element of that
43 system and then transfers that fluid to a point within the system where
44 the heat is withdrawn from the fluid for direct usage or storage. These
45 systems shall include, but not necessarily be limited to, systems
46 incorporating flat plate, evacuated tube or focusing solar collectors.

1 The foregoing list shall not be construed to be exhaustive, and shall
2 not serve to exclude other improvements consistent with the legislative
3 intent of [this amendatory act] the provisions of P.L.1983, c.282.

4 [l.] "Urban growth zone" means any area within a municipality
5 receiving State aid pursuant to the provisions of P.L.1978, c.14
6 (C.52:27D-178 et seq.) or a municipality certified by the
7 Commissioner of Community Affairs to qualify under such law in
8 every respect except population, which area has been so designated
9 pursuant to an ordinance of the governing body of such municipality.

10 [m.] "District" means a local or regional school district established
11 pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey
12 Statutes, a county special services school district established pursuant
13 to article 8 of chapter 46 of Title 18A of the New Jersey Statutes, a
14 county vocational school district established pursuant to article 3 of
15 chapter 54 of Title 18A of the New Jersey Statutes, and a
16 State-operated school district established pursuant to P.L.1987, c.399
17 (C.18A:7A-34 et seq.).

18 [n.] "Local unit" means a county, municipality, board of education
19 or any other political entity authorized to construct, operate and
20 maintain a school facilities project and to borrow money for those
21 purposes pursuant to law.

22 [o.] "Refunding bonds" means bonds, notes or other obligations
23 issued to refinance bonds previously issued by the authority pursuant
24 to P.L.1974, c.80 (C.34:1B-1 et seq.) and P.L.2000, c.72
25 (C.18A:7G-1 et al.).

26 [p.] "School facilities project" means the acquisition, demolition,
27 construction, improvement, repair, alteration, modernization,
28 renovation, reconstruction or maintenance of all or any part of a
29 school facility or of any other personal property necessary for, or
30 ancillary to, any school facility, and shall include fixtures, furnishings
31 and equipment, and shall also include, but is not limited to, site
32 acquisition, site development, the services of design professionals,
33 such as engineers and architects, construction management, legal
34 services, financing costs and administrative costs and expenses
35 incurred in connection with the project.

36 [q.] "School facility" means and includes any structure, building
37 or facility used wholly or in part for academic purposes by a district,
38 but shall exclude athletic stadiums, grandstands, and any structure,
39 building or facility used solely for school administration.

40 (cf: P.L.2000, c.72, s.44)

41
42 2. Section 4 of P.L.1974, c.80 (C.34:1B-4) is amended to read as
43 follows:

44 4. a. There is hereby established in, but not of, the Department of
45 the Treasury a public body corporate and politic, with corporate
46 succession, to be known as the "New Jersey Economic Development

1 Authority." The authority is hereby constituted as an instrumentality
2 of the State exercising public and essential governmental functions,
3 and the exercise by the authority of the powers conferred by [this act]
4 the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.) or section 6 of
5 P.L. , c. (C.34:1B-4.1)(pending in the Legislature as this bill) shall
6 be deemed and held to be an essential governmental function of the
7 State.

8 b. The authority shall consist of the Commissioner of Banking and
9 Insurance, the Chief Executive Officer and Secretary of the New
10 Jersey Commerce and Economic Growth Commission, the
11 Commissioner of Labor, the Commissioner of Education, and the State
12 Treasurer, who shall be members ex officio, and eight public members
13 appointed by the Governor as follows: two public members (who shall
14 not be legislators) shall be appointed by the Governor upon
15 recommendation of the Senate President; two public members (who
16 shall not be legislators) shall be appointed by the Governor upon
17 recommendation of the Speaker of the General Assembly; and four
18 public members shall be appointed by the Governor, all for terms of
19 three years. Each member shall hold office for the term of [his] the
20 member's appointment and until [his] the member's successor shall
21 have been appointed and qualified. A member shall be eligible for
22 reappointment. Any vacancy in the membership occurring other than
23 by expiration of term shall be filled in the same manner as the original
24 appointment but for the unexpired term only. In the event the
25 authority shall by resolution determine to accept the declaration of an
26 urban growth zone by any municipality, the mayor or other chief
27 executive officer of such municipality shall ex officio be a member of
28 the authority for the purpose of participating and voting on all matters
29 pertaining to such urban growth zone.

30 The Governor shall appoint three alternate members of the
31 authority, of which one alternate member (who shall not be a
32 legislator) shall be appointed by the Governor upon the
33 recommendation of the Senate President, and one alternate member
34 (who shall not be a legislator) shall be appointed by the Governor
35 upon the recommendation of the Speaker of the General Assembly;
36 and one alternate member shall be appointed by the Governor, all for
37 terms of three years. The chairperson may authorize an alternate
38 member, in order of appointment, to exercise all of the powers, duties
39 and responsibilities of such member, including, but not limited to, the
40 right to vote on matters before the authority.

41 Each alternate member shall hold office for the term of [his] the
42 member's appointment and until [his] the member's successor shall
43 have been appointed and qualified. An alternate member shall be
44 eligible for reappointment. Any vacancy in the alternate membership
45 occurring other than by the expiration of a term shall be filled in the
46 same manner as the original appointment but for the unexpired term

1 only. Any reference to a member of the authority in this act shall be
2 deemed to include alternate members unless the context indicates
3 otherwise.

4 The terms of office of the members and alternate members of the
5 authority appointed by the Governor who are serving on [the effective
6 date of P.L.2000, c.72 (C.18A:7G-1 et al.)] July 18, 2000 shall expire
7 upon the appointment by the Governor of eight public members and
8 three alternate members. The initial appointments of the eight public
9 members shall be as follows: the two members appointed upon the
10 recommendation of the President of the Senate and the two members
11 appointed upon the recommendation of the Speaker of the General
12 Assembly shall serve terms of three years; two members shall serve
13 terms of two years; and two members shall serve terms of one year.
14 The initial appointments of the alternate members shall be as follows:
15 the alternate member appointed upon the recommendation of the
16 President of the Senate shall serve a term of three years; the alternate
17 member appointed upon the recommendation of the Speaker of the
18 General Assembly shall serve a term of two years; and one alternate
19 member shall serve a term of one year. No member shall be appointed
20 who is holding elective office.

21 c. Each member appointed by the Governor may be removed from
22 office by the Governor, for cause, after a public hearing, and may be
23 suspended by the Governor pending the completion of such hearing.
24 Each member before entering upon his duties shall take and subscribe
25 an oath to perform the duties of [his] the office faithfully, impartially
26 and justly to the best of his ability. A record of such oaths shall be
27 filed in the office of the Secretary of State.

28 d. A chairperson shall be appointed by the Governor from the
29 public members. The members of the authority shall elect from their
30 remaining number a vice chairperson and a treasurer thereof. The
31 authority shall employ an executive director who shall be its secretary
32 and chief executive officer. The powers of the authority shall be
33 vested in the members thereof in office from time to time and seven
34 members of the authority shall constitute a quorum at any meeting
35 thereof. Action may be taken and motions and resolutions adopted by
36 the authority at any meeting thereof by the affirmative vote of at least
37 seven members of the authority. No vacancy in the membership of the
38 authority shall impair the right of a quorum of the members to exercise
39 all the powers and perform all the duties of the authority.

40 e. Each member of the authority shall execute a bond to be
41 conditioned upon the faithful performance of the duties of such
42 member in such form and amount as may be prescribed by the Director
43 of the Division of Budget and Accounting in the Department of the
44 Treasury. Such bonds shall be filed in the office of the Secretary of
45 State. At all times thereafter the members and treasurer of the
46 authority shall maintain such bonds in full force and effect. All costs

- 1 of such bonds shall be borne by the authority.
- 2 f. The members of the authority shall serve without compensation,
3 but the authority shall reimburse its members for actual expenses
4 necessarily incurred in the discharge of their duties. Notwithstanding
5 the provisions of any other law, no officer or employee of the State
6 shall be deemed to have forfeited or shall forfeit ~~his~~ any office or
7 employment or any benefits or emoluments thereof by reason of ~~his~~
8 the acceptance of the office of ex officio member of the authority or
9 ~~his~~ any services therein.
- 10 g. Each ex officio member of the authority may designate an officer
11 or employee of ~~his~~ the member's department to represent ~~him~~ the
12 member at meetings of the authority, and each such designee may
13 lawfully vote and otherwise act on behalf of the member for whom
14 ~~he~~ the person constitutes the designee. Any such designation shall
15 be in writing delivered to the authority and shall continue in effect
16 until revoked or amended by writing delivered to the authority.
- 17 h. The authority may be dissolved by act of the Legislature on
18 condition that the authority has no debts or obligations outstanding or
19 that provision has been made for the payment or retirement of such
20 debts or obligations. Upon any such dissolution of the authority, all
21 property, funds and assets thereof shall be vested in the State.
- 22 i. A true copy of the minutes of every meeting of the authority shall
23 be forthwith delivered by and under the certification of the secretary
24 thereof to the Governor. No action taken at such meeting by the
25 authority shall have force or effect until 10 days, Saturdays, Sundays,
26 and public holidays excepted, after the copy of the minutes shall have
27 been so delivered, unless during such 10-day period the Governor shall
28 approve the same in which case such action shall become effective
29 upon such approval. If, in that 10-day period, the Governor returns
30 such copy of the minutes with veto of any action taken by the
31 authority or any member thereof at such meeting, such action shall be
32 null and void and of no effect. The powers conferred in this
33 subsection i. upon the Governor shall be exercised with due regard for
34 the rights of the holders of bonds and notes of the authority at any
35 time outstanding, and nothing in, or done pursuant to, this subsection
36 i. shall in any way limit, restrict or alter the obligation or powers of the
37 authority or any representative or officer of the authority to carry out
38 and perform in every detail each and every covenant, agreement or
39 contract at any time made or entered into by or on behalf of the
40 authority with respect to its bonds or notes or for the benefit,
41 protection or security of the holders thereof.
- 42 j. On or before March 31 in each year, the authority shall make an
43 annual report of its activities for the preceding calendar year to the
44 Governor and the Legislature. Each such report shall set forth a
45 complete operating and financial statement covering the authority's
46 operations during the year. The authority shall cause an audit of its

1 books and accounts to be made at least once in each year by certified
2 public accountants and cause a copy thereof to be filed with the
3 Secretary of State and the Director of the Division of Budget and
4 Accounting in the Department of the Treasury.

5 k. The Director of the Division of Budget and Accounting in the
6 Department of the Treasury and [his] the director's legally authorized
7 representatives are hereby authorized and empowered from time to
8 time to examine the accounts, books and records of the authority
9 including its receipts, disbursements, contracts, sinking funds,
10 investments and any other matters relating thereto and to its financial
11 standing.

12 l. No member, officer, employee or agent of the authority shall be
13 interested, either directly or indirectly, in any project or school
14 facilities project, or in any contract, sale, purchase, lease or transfer of
15 real or personal property to which the authority is a party.

16 (cf: P.L.2000, c.72, s.45)

17

18 3. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read as
19 follows:

20 5. The authority shall have the following powers:

21 a. To adopt bylaws for the regulation of its affairs and the conduct
22 of its business;

23 b. To adopt and have a seal and to alter the same at pleasure;

24 c. To sue and be sued;

25 d. To acquire in the name of the authority by purchase or
26 otherwise, on such terms and conditions and such manner as it may
27 deem proper, or by the exercise of the power of eminent domain in the
28 manner provided by the "Eminent Domain Act of 1971," P.L.1971,
29 c.361 (C.20:3-1 et seq.), any lands or interests therein or other
30 property which it may determine is reasonably necessary for any
31 project or school facilities project; provided, however, that the
32 authority in connection with any project shall not take by exercise of
33 the power of eminent domain any real property except upon consent
34 thereto given by resolution of the governing body of the municipality
35 in which such real property is located; and provided further that the
36 authority shall be limited in its exercise of the power of eminent
37 domain in connection with any project to municipalities receiving State
38 aid under the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.), or
39 to municipalities which had a population, according to the latest
40 federal decennial census, in excess of 10,000;

41 e. To enter into contracts with a person upon such terms and
42 conditions as the authority shall determine to be reasonable, including,
43 but not limited to, reimbursement for the planning, designing,
44 financing, construction, reconstruction, improvement, equipping,
45 furnishing, operation and maintenance of the project or the school
46 facilities project and to pay or compromise any claims arising

- 1 therefrom;
- 2 f. To establish and maintain reserve and insurance funds with
3 respect to the financing of the project or the school facilities project;
- 4 g. To sell, convey or lease to any person all or any portion of a
5 project or school facilities project, for such consideration and upon
6 such terms as the authority may determine to be reasonable;
- 7 h. To mortgage, pledge or assign or otherwise encumber all or any
8 portion of a project, school facilities project or revenues, whenever it
9 shall find such action to be in furtherance of the purposes of this act
10 and P.L.2000, c.72 (C.18A:7G-1 et al.);
- 11 i. To grant options to purchase or renew a lease for any of its
12 projects or school facilities projects on such terms as the authority may
13 determine to be reasonable;
- 14 j. To contract for and to accept any gifts or grants or loans of
15 funds or property or financial or other aid in any form from the United
16 States of America or any agency or instrumentality thereof, or from
17 the State or any agency, instrumentality or political subdivision
18 thereof, or from any other source and to comply, subject to the
19 provisions of [this act] P.L.1974, c.80 (C.34:1B-1 et seq.), section 6
20 of P.L. , c. (C.34:1B-4.1)(pending in the Legislature as this bill)
21 and P.L.2000, c.72 (C.18A:7G-1 et al.), with the terms and conditions
22 thereof;
- 23 k. In connection with any application for assistance under [this
24 act] P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L. , c.
25 (C.34:1B-4.1)(pending in the Legislature as this bill) or P.L.2000, c.72
26 (C.18A:7G-1 et al.) or commitments therefor, to require and collect
27 such fees and charges as the authority shall determine to be
28 reasonable;
- 29 l. To adopt, amend and repeal regulations to carry out the
30 provisions of [this act] P.L.1974, c.80 (C.34:1B-1 et seq.), section 6
31 of P.L. , c. (C.34:1B-4.1)(pending in the Legislature as this bill)
32 and P.L.2000, c.72 (C.18A:7G-1 et al.);
- 33 m. To acquire, purchase, manage and operate, hold and dispose of
34 real and personal property or interests therein, take assignments of
35 rentals and leases and make and enter into all contracts, leases,
36 agreements and arrangements necessary or incidental to the
37 performance of its duties;
- 38 n. To purchase, acquire and take assignments of notes, mortgages
39 and other forms of security and evidences of indebtedness;
- 40 o. To purchase, acquire, attach, seize, accept or take title to any
41 project or school facilities project by conveyance or by foreclosure,
42 and sell, lease, manage or operate any project or school facilities
43 project for a use specified in this act and P.L.2000, c.72 (C.18A:7G-1
44 et al.);
- 45 p. To borrow money and to issue bonds of the authority and to
46 provide for the rights of the holders thereof, as provided in [this act]

1 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L. , c. (C.34:1B-
2 4.1)(pending in the Legislature as this bill) and P.L.2000, c.72
3 (C.18A:7G-1 et al.);

4 q. To extend credit or make loans to any person for the planning,
5 designing, acquiring, constructing, reconstructing, improving,
6 equipping and furnishing of a project or school facilities project, which
7 credits or loans may be secured by loan and security agreements,
8 mortgages, leases and any other instruments, upon such terms and
9 conditions as the authority shall deem reasonable, including provision
10 for the establishment and maintenance of reserve and insurance funds,
11 and to require the inclusion in any mortgage, lease, contract, loan and
12 security agreement or other instrument, such provisions for the
13 construction, use, operation and maintenance and financing of a
14 project or school facilities project as the authority may deem necessary
15 or desirable;

16 r. To guarantee up to 90% of the amount of a loan to a person, if
17 the proceeds of the loan are to be applied to the purchase and
18 installation, in a building devoted to industrial or commercial
19 purposes, or in an office building, of an energy improvement system;

20 s. To employ consulting engineers, architects, attorneys, real estate
21 counselors, appraisers, and such other consultants and employees as
22 may be required in the judgment of the authority to carry out the
23 purposes of **[this act]** P.L.1974, c.80 (C.34:1B-1 et seq.), section 6
24 of P.L. , c. (C.34:1B-4.1)(pending in the Legislature as this bill)
25 and P.L.2000, c.72 (C.18A:7G-1 et al.), and to fix and pay their
26 compensation from funds available to the authority therefor, all
27 without regard to the provisions of Title 11A of the New Jersey
28 Statutes;

29 t. To do and perform any acts and things authorized by **[this act]**
30 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L. , c. (C.34:1B-
31 4.1)(pending in the Legislature as this bill) and P.L.2000, c.72
32 (C.18A:7G-1 et al.) under, through or by means of its own officers,
33 agents and employees, or by contract with any person;

34 u. To procure insurance against any losses in connection with its
35 property, operations or assets in such amounts and from such insurers
36 as it deems desirable;

37 v. To do any and all things necessary or convenient to carry out its
38 purposes and exercise the powers given and granted in **[this act]**
39 P..1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L. , c. (C.34:1B-
40 4.1)(pending in the Legislature as this bill) and P.L.2000, c.72
41 (C.18A:7G-1 et al.);

42 w. To construct, reconstruct, rehabilitate, improve, alter, equip,
43 maintain or repair or provide for the construction, reconstruction,
44 improvement, alteration, equipping or maintenance or repair of any
45 development property and lot, award and enter into construction
46 contracts, purchase orders and other contracts with respect thereto,

1 upon such terms and conditions as the authority shall determine to be
2 reasonable, including, but not limited to, reimbursement for the
3 planning, designing, financing, construction, reconstruction,
4 improvement, equipping, furnishing, operation and maintenance of any
5 such development property and the settlement of any claims arising
6 therefrom and the establishment and maintenance of reserve funds with
7 respect to the financing of such development property;

8 x. When authorized by the governing body of a municipality
9 exercising jurisdiction over an urban growth zone, to construct, cause
10 to be constructed or to provide financial assistance to projects in an
11 urban growth zone which shall be exempt from the terms and
12 requirements of the land use ordinances and regulations, including, but
13 not limited to, the master plan and zoning ordinances, of such
14 municipality;

15 y. To enter into business employment incentive agreements as
16 provided in the "Business Employment Incentive Program Act,"
17 P.L.1996, c.26 (C.34:1B-124 et al.);

18 z. To undertake school facilities projects and to enter into
19 agreements or contracts, execute instruments, and do and perform all
20 acts or things necessary, convenient or desirable for the purposes of
21 the authority to carry out any power expressly provided pursuant to
22 P.L.1974, c.80 (C.34:1B-1 et seq.) and P.L.2000, c.72 (C.18A:7G-1
23 et al.), including, but not limited to, entering into contracts with the
24 State Treasurer, the Commissioner of Education, districts and any
25 other entity which may be required in order to carry out the provisions
26 of P.L.2000, c.72 (C.18A:7G-1 et al.);

27 aa. To enter into leases, rentals or other disposition of a real
28 property interest in and of any school facilities project to or from any
29 local unit pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.);

30 bb. To make and contract to make loans or leases and to make
31 grants to local units to finance the cost of school facilities projects and
32 to acquire and contract to acquire bonds, notes or other obligations
33 issued or to be issued by local units to evidence the loans or leases, all
34 in accordance with the provisions of P.L.2000, c.72 (C.18A:7G-1 et
35 al.);

36 cc. Subject to any agreement with holders of its bonds issued to
37 finance a project or school facilities project, obtain as security or to
38 provide liquidity for payment of all or any part of the principal of and
39 interest and premium on the bonds of the authority or for the purchase
40 upon tender or otherwise of the bonds, lines of credit, letters of credit,
41 reimbursement agreements, interest rate exchange agreements,
42 currency exchange agreements, interest rate floors or caps, options,
43 puts or calls to hedge payment, currency, rate, spread or similar
44 exposure or similar agreements, float agreements, forward agreements,
45 insurance contract, surety bond, commitment to purchase or sell
46 bonds, purchase or sale agreement, or commitments or other contracts

1 or agreements, and other security agreements or instruments in any
2 amounts and upon any terms as the authority may determine and pay
3 any fees and expenses required in connection therewith; [and]

4 dd. To charge to and collect from local units, the State and any
5 other person, any fees and charges in connection with the authority's
6 actions undertaken with respect to school facilities projects, including,
7 but not limited to, fees and charges for the authority's administrative,
8 organization, insurance, operating and other expenses incident to the
9 financing, construction and placing into service and maintenance of
10 school facilities projects; and

11 ee. To make loans to refinance solid waste facility bonds through
12 the issuance of bonds or other obligations and the execution of any
13 agreements with counties or public authorities to effect the refunding
14 or rescheduling of solid waste facility bonds, or otherwise provide for
15 the payment of all or a portion of any series of solid waste facility
16 bonds. Any county or public authority refunding or rescheduling its
17 solid waste facility bonds pursuant to this subsection shall provide for
18 the payment of not less than fifty percent of the aggregate debt service
19 for the refunded or rescheduled debt of the particular county or public
20 authority for the duration of the loan; except that, whenever the solid
21 waste facility bonds to be refinanced were issued by a public authority
22 and the county solid waste facility was utilized as a regional county
23 solid waste facility, as designated in the respective adopted district
24 solid waste management plans of the participating counties as
25 approved by the department prior to November 10, 1997, and the
26 utilization of the facility was established pursuant to tonnage
27 obligations set forth in their respective interdistrict agreements, the
28 public authority refunding or rescheduling its solid waste facility bonds
29 pursuant to this subsection shall provide for the payment of a
30 percentage of the aggregate debt service for the refunded or
31 rescheduled debt of the public authority not to exceed the percentage
32 of the specified tonnage obligation of the host county for the duration
33 of the loan. Whenever the solid waste facility bonds are the obligation
34 of a public authority, the relevant county shall execute a deficiency
35 agreement with the authority, which shall provide that the county
36 pledges to cover any shortfall and to pay deficiencies in scheduled
37 repayment obligations of the public authority. All costs associated
38 with the issuance of bonds pursuant to this subsection may be paid by
39 the authority from the proceeds of these bonds. Any county or public
40 authority is hereby authorized to enter into any agreement with the
41 authority necessary, desirable or convenient to effectuate the
42 provisions of this subsection.

43 The authority shall not issue bonds or other obligations to effect the
44 refunding or rescheduling of solid waste facility bonds after December
45 31, 2002. The authority may refund its own bonds issued for the

1 purposes herein at any time.

2 (cf: P.L.2000, c.72, s.46)

3

4 4. Section 9 of P.L.1974, c.80 (C.34:1B-9) is amended to read as
5 follows:

6 9. For the purpose of providing funds (a) to pay all or any part of
7 the cost of any project or projects, (b) to make loans in accordance
8 with the provisions of [this act] P.L.1974, c.80 (C.34:1B-1 et seq.),
9 and (c) for the funding or refunding any bonds pursuant to P.L.1974,
10 c.80 (C.34:1B-1 et seq.) or section 6 of P.L. , c. (C.34:1B-
11 4.1)(pending in the Legislature as this bill), the authority shall have
12 power to authorize or provide for the issuance of bonds pursuant to
13 [this act] P.L.1974, c.80 (C.34:1B-1 et seq.).

14 (cf: P.L.1974, c.80, s.9)

15

16 5. Section 10 of P.L.1974, c.80 (C.34:1B-10) is amended to read
17 as follows:

18 10. By resolution, the authority shall have power to incur
19 indebtedness, borrow money and issue its bonds for the purposes
20 stated in section [8 hereof] 9 of P.L.1974, c.80 (C.34:1B-9). Except
21 as may otherwise be expressly provided by the authority, or by the
22 provisions of section 6 of P.L. , c. (C.34:1B-4.1)(pending in the
23 Legislature as this bill), every issue of its bonds shall be general
24 obligations of the authority payable from any revenues or moneys of
25 the authority, subject only to any agreements with the holders of
26 particular bonds or notes pledging any particular revenues or moneys.
27 Such bonds shall be authorized by resolution and may be issued in one
28 or more series and shall bear such date or dates, mature at such time
29 or times not exceeding 40 years from the date thereof, bear interest at
30 a rate or rates, be in such denomination or denominations, be in such
31 form, either coupon or registered, carry such conversion or
32 registration privileges, have such rank or priority, be executed in such
33 manner, be payable from such sources in such medium of payment at
34 such place or places within or without the State, and be subject to
35 such terms of redemption (with or without premium) as such
36 resolution may provide. Bonds of the authority may be sold by the
37 authority at public or private sale at such price or prices as the
38 authority shall determine.

39 (cf: P.L.1974, c.80)

40

41 6. (New section) a. The New Jersey Economic Development
42 Authority and the State Treasurer are hereby authorized to enter into
43 one or more contracts to secure, in whole or in part, any bonds,
44 refunding bonds or other obligations of the authority issued for the
45 purposes set forth in subsection ee. of section 5 of P.L.1974, c.80
46 (C.34:1B-5), upon such terms and conditions as are determined by the

1 parties; provided, however, that any obligation of the State incurred
2 under the contract or contracts, including any payments to be made
3 thereunder from the General Fund, shall be subject to and dependent
4 upon appropriations being made from time to time by the Legislature
5 for the purposes set forth in subsection ee. of section 5 of P.L.1974,
6 c.80 (C.34:1B-5)(pending in the Legislature as this bill), as provided
7 by law.

8 b. In any resolution authorizing the issuance of bonds, refunding
9 bonds or other obligations of the authority issued for the purposes set
10 forth in subsection ee. of section 5 of P.L.1974, c.80 (C.34:1B-5), the
11 authority may pledge the contract with the State Treasurer, or any part
12 thereof, for the payment or redemption of the bonds or refunding
13 bonds, and covenant as to the use and disposition of money available
14 to the authority for payments of bonds, refunding bonds or other
15 obligations of the authority.

16 c. The State Treasurer shall pay from the General Fund to the
17 authority in each State fiscal year, in accordance with a contract or
18 contracts between the State Treasurer and the authority, an amount
19 equivalent to the amount due to be paid for debt service incurred in
20 the particular fiscal year on the bonds or refunding bonds of the
21 authority issued pursuant to subsection ee. of section 5 of P.L.1974,
22 c.80 (C.34:1B-5), and any additional costs incurred in connection with
23 any agreements entered into by the authority relating to these bonds
24 or refunding bonds.

25 d. The provisions of any other law, rule, regulation or order to the
26 contrary notwithstanding, the bonds, refunding bonds or other
27 obligations of the authority issued for the purposes set forth in
28 subsection ee. of section 5 of P.L.1974, c.80 (C.34:1B-5) shall be
29 special and limited obligations of the authority, payable from and
30 secured by such funds and moneys as determined by the authority in
31 accordance with the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.)
32 or section 6 of P.L. , c. (C.34:1B-4.1)(pending in the Legislature
33 as this bill), and shall not be in any way a debt or liability of the State
34 or of any political subdivision thereof, except as otherwise provided
35 in this section, and shall not create or constitute any indebtedness,
36 liability or obligation of the State or of any political subdivision
37 thereof, either legal, moral or otherwise, and nothing contained in the
38 provisions of P.L.1974, c.80 (C.34:1B-1 et seq.) or section 6 of
39 P.L. , c. (C.34:1B-4.1)(pending in the Legislature as this bill) shall
40 be construed to authorize the authority to incur any indebtedness on
41 behalf of or in any way to obligate the State or any political
42 subdivision thereof, and all bonds and refunding bonds issued by the
43 authority in connection therewith shall contain on the face thereof a
44 statement to that effect.

45

46 7. This act shall take effect immediately.

1 STATEMENT

2

3

4 This bill authorizes the New Jersey Economic Development
5 Authority to refinance the solid waste facility bonds issued by, or on
6 behalf of, any county or public authority related to the planning,
7 design, acquisition, construction, renovation, installation, operation or
8 management of a county solid waste facility.

9 The bill authorizes the authority to: (1) make loans to refinance
10 solid waste facility bonds through the issuance of bonds of the
11 authority and the execution of any agreements with participating
12 counties or public authorities necessary to effect the refunding or
13 rescheduling of their solid waste facility bonds; or (2) otherwise
14 provide for the payment of all or a portion of any series of outstanding
15 solid waste facility bonds.

16 Any county or public authority refunding or rescheduling its solid
17 waste facility bonds is required to provide for the payment of not less
18 than fifty percent of the aggregate debt service for its refunded or
19 rescheduled debt for the duration of the loan except under the
20 following circumstances. If the bonds to be refinanced were issued by
21 a public authority and the county solid waste facility was a regional
22 county solid waste facility designated in the adopted district solid
23 waste management plans of the participating counties as approved by
24 the department prior to November 10, 1997, and the use of the facility
25 was established pursuant to tonnage obligations in the respective
26 interdistrict agreements, then the public authority would be required
27 to provide for the payment of a percentage of the debt service not to
28 exceed the percentage of the specified tonnage obligation of the host
29 county for the duration of the loan.

30 Whenever the solid waste facility bonds are the obligation of a
31 public authority, the relevant county must execute a deficiency
32 agreement with the Authority, which provides that the county pledges
33 to cover any shortfall and to pay deficiencies in scheduled repayment
34 obligations of the public authority. Thus, the relevant county is
35 required to guarantee the repayment of not less than fifty percent of
36 the aggregate debt service except when the public authority's debt
37 service payments are limited by the percentage of the specified tonnage
38 obligation of the host county for the duration of the loan. This
39 exception does not modify the requirement that the State share of debt
40 service to be paid be limited to no more than fifty percent of the
41 amount refinanced. The bill authorizes any county or public authority
42 to enter into any agreement with the authority necessary to effectuate
43 these provisions.

44 The bill authorizes the authority and the State Treasurer to enter
45 into one or more contracts to secure, in whole or in part, any bonds,
46 refunding bonds or other obligations of the authority issued to
refinance county solid waste facility bonds. Any obligation of the

1 State incurred under the contracts, including any payments to be made
2 thereunder from the General Fund, are subject to and dependent upon
3 appropriations being made from time to time by the Legislature for this
4 purpose. In any resolution authorizing the authority to issue bonds,
5 refunding bonds or other obligations of the authority to refinance
6 county solid waste facility bonds, the authority may pledge the
7 contracts with the State Treasurer, or any part thereof, for the
8 payment or redemption of the bonds or refunding bonds, and covenant
9 as to the use and disposition of money available to the authority for
10 payments of bonds and refunding bonds.

11 The bill requires the State Treasurer to pay from the General Fund
12 to the authority in each State fiscal year, in accordance with a contract
13 or contracts between the State Treasurer and the authority, an amount
14 equivalent to the amount due to be paid for debt service incurred in
15 the particular fiscal year on the bonds or refunding bonds of the
16 authority issued to refinance county solid waste facility bonds, and any
17 additional costs incurred in connection with any agreements entered
18 into by the authority relating to these bonds or refunding bonds.

19 The bill provides that any bonds, refunding bonds or other
20 obligations of the authority issued to refinance county solid waste
21 facility bonds would constitute special and limited obligations of the
22 authority, payable from and secured by such funds and moneys as
23 determined by the authority. The bonds, refunding bonds or other
24 obligations of the authority issued to refinance county solid waste
25 facility bonds would not in any way constitute a debt or liability of the
26 State or of any of its political subdivisions, and would not create or
27 constitute any indebtedness, liability or obligation of the State or of
28 any of its political subdivisions, either legal, moral or otherwise.

29 Further, nothing contained in the provisions of the bill may be
30 construed to authorize the authority to incur any indebtedness on
31 behalf of or in any way to obligate the State or any of its political
32 subdivisions, and all bonds and refunding bonds issued by the authority
33 to refinance county solid waste facility bonds must contain on their
34 face a statement to that effect.

35 As of April 12, 2001, the total amount of solid waste facility debt
36 among all counties and local authorities amounted to \$1.09 billion. If
37 the full amount of that debt were to be refinanced through the issuance
38 of bonds of the Economic Development Authority, and the State were
39 to agree to pay the maximum (50%) cost allowed under the bill for
40 debt service on those bonds, the annual cost to the State could amount
41 to roughly \$40 to \$47 million.

42

43

44

45 Authorizes New Jersey Economic Development Authority to refinance
46 county solid waste facility bonds.

CHAPTER 401

AN ACT concerning the restructuring of certain solid waste facility bonds, and providing for the financing thereof through the New Jersey Economic Development Authority.

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

1. Section 3 of P.L.1974, c.80 (C.34:1B-3) is amended to read as follows:

C.34:1B-3 Definitions.

3. As used in the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), P.L.1979, c.303 (C.34:1B-5.1 et seq.), sections 50 through 54 of P.L.2000, c.72 (C.34:1B-5.5 through 34:1B-5.9), P.L.1981, c.505 (C.34:1B-7.1 et seq.), P.L.1986, c.127 (C.34:1B-7.7 et seq.), P.L.1992, c.16 (C.34:1B-7.10 et seq.) and section 6 of P.L.2001, c.401 (C.34:1B-4.1), unless a different meaning clearly appears from the context:

"Authority" means the New Jersey Economic Development Authority, created by section 4 of P.L.1974, c.80 (C.34:1B-4).

"Bonds" means bonds or other obligations issued by the authority pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.), "Economic Recovery Bonds or Notes" issued pursuant to P.L.1992, c.16 (C.34:1B-7.10 et al.), or bonds, notes, other obligations and refunding bonds issued by the authority pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.).

"Cost" means the cost of the acquisition, construction, reconstruction, repair, alteration, improvement and extension of any building, structure, facility including water transmission facilities, or other improvement; the cost of machinery and equipment; the cost of acquisition, construction, reconstruction, repair, alteration, improvement and extension of energy saving improvements or pollution control devices, equipment or facilities; the cost of lands, rights-in-lands, easements, privileges, agreements, franchises, utility extensions, disposal facilities, access roads and site development deemed by the authority to be necessary or useful and convenient for any project or school facilities project or in connection therewith; discount on bonds; cost of issuance of bonds; engineering and inspection costs; costs of financial, legal, professional and other estimates and advice; organization, administrative, insurance, operating and other expenses of the authority or any person prior to and during any acquisition or construction, and all such expenses as may be necessary or incident to the financing, acquisition, construction or completion of any project or school facilities project or part thereof, and also such provision for reserves for payment or security of principal of or interest on bonds during or after such acquisition or construction as the authority may determine.

"County" means any county of any class.

"County solid waste facility" means a solid waste facility that is designated by a public authority or county in its adopted district solid waste management plan as approved by the department prior to November 10, 1997 as the in-county facility to which solid waste generated within the boundaries of the county is transported for final disposal, or transfer for transportation to an offsite solid waste facility or designated out-of-district disposal site for disposal, as appropriate, pursuant to interdistrict or intradistrict waste flow orders issued by the department, regardless of whether the county solid waste facility was acquired, constructed, operated, abandoned or canceled.

"Department" means the Department of Environmental Protection.

"Development property" means any real or personal property, interest therein, improvements thereon, appurtenances thereto and air or other rights in connection therewith, including land, buildings, plants, structures, systems, works, machinery and equipment acquired or to be acquired by purchase, gift or otherwise by the authority within an urban growth zone.

"Person" means any person, including individuals, firms, partnerships, associations, societies, trusts, public or private corporations, or other legal entities, including public or governmental bodies, as well as natural persons. "Person" shall include the plural as well as the singular.

"Pollution control project" means any device, equipment, improvement, structure or facility, or any land and any building, structure, facility or other improvement thereon, or any combination thereof, whether or not in existence or under construction, or the refinancing thereof in order to facilitate improvements or additions thereto or upgrading thereof, and all real and personal property deemed necessary thereto, having to do with or the end purpose of which is the control, abatement or prevention of land, sewer, water, air, noise or general environmental

pollution, including, but not limited to, any air pollution control facility, noise abatement facility, water management facility, thermal pollution control facility, radiation contamination control facility, wastewater collection system, wastewater treatment works, sewage treatment works system, sewage treatment system or solid waste facility or site; provided that the authority shall have received from the Commissioner of the State Department of Environmental Protection or the commissioner's duly authorized representative a certificate stating the opinion that, based upon information, facts and circumstances available to the State Department of Environmental Protection and any other pertinent data, (1) the pollution control facilities do not conflict with, overlap or duplicate any other planned or existing pollution control facilities undertaken or planned by another public agency or authority within any political subdivision, and (2) the facilities, as designed, will be a pollution control project as defined in the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.) and are in furtherance of the purpose of abating or controlling pollution.

"Project" means: (1) (a) acquisition, construction, reconstruction, repair, alteration, improvement and extension of any building, structure, facility, including water transmission facilities or other improvement, whether or not in existence or under construction, (b) purchase and installation of equipment and machinery, (c) acquisition and improvement of real estate and the extension or provision of utilities, access roads and other appurtenant facilities; and (2) (a) the acquisition, financing, or refinancing of inventory, raw materials, supplies, work in process, or stock in trade, or (b) the financing, refinancing or consolidation of secured or unsecured debt, borrowings, or obligations, or (c) the provision of financing for any other expense incurred in the ordinary course of business; all of which are to be used or occupied by any person in any enterprise promoting employment, either for the manufacturing, processing or assembly of materials or products, or for research or office purposes, including, but not limited to, medical and other professional facilities, or for industrial, recreational, hotel or motel facilities, public utility and warehousing, or for commercial and service purposes, including, but not limited to, retail outlets, retail shopping centers, restaurant and retail food outlets, and any and all other employment promoting enterprises, including, but not limited to, motion picture and television studios and facilities and commercial fishing facilities, commercial facilities for recreational fishermen, fishing vessels, aquaculture facilities and marketing facilities for fish and fish products and (d) acquisition of an equity interest in, including capital stock of, any corporation; or any combination of the above, which the authority determines will: (i) tend to maintain or provide gainful employment opportunities within and for the people of the State, or (ii) aid, assist and encourage the economic development or redevelopment of any political subdivision of the State, or (iii) maintain or increase the tax base of the State or of any political subdivision of the State, or (iv) maintain or diversify and expand employment promoting enterprises within the State; and (3) the cost of acquisition, construction, reconstruction, repair, alteration, improvement and extension of an energy saving improvement or pollution control project which the authority determines will tend to reduce the consumption in a building devoted to industrial or commercial purposes, or in an office building, of nonrenewable sources of energy or to reduce, abate or prevent environmental pollution within the State; and (4) the acquisition, construction, reconstruction, repair, alteration, improvement, extension, development, financing or refinancing of infrastructure and transportation facilities or improvements related to economic development and of cultural, recreational and tourism facilities or improvements related to economic development and of capital facilities for primary and secondary schools and of mixed use projects consisting of housing and commercial development; and (5) the establishment, acquisition, construction, rehabilitation, improvement, and ownership of port facilities as defined in section 3 of P.L.1997, c.150 (C.34:1B-146). Project may also include: (i) reimbursement to any person for costs in connection with any project, or the refinancing of any project or portion thereof, if determined by the authority as necessary and in the public interest to maintain employment and the tax base of any political subdivision and will facilitate improvements thereto or the completion thereof, and (ii) development property and any construction, reconstruction, improvement, alteration, equipment or maintenance or repair, or planning and designing in connection therewith. For the purpose of carrying out mixed use projects consisting of both housing and commercial development, the authority may enter into agreements with the New Jersey Housing and Mortgage Finance Agency for loan guarantees for any such project in

accordance with the provisions of P.L.1995, c.359 (C.55:14K-64 et al.), and for that purpose shall allocate to the New Jersey Housing and Mortgage Finance Agency, under such agreements, funding available pursuant to subsection a. of section 4 of P.L.1992, c.16 (C.34:1B-7.13). Project shall not include a school facilities project.

"Public authority" means a municipal or county utilities authority created pursuant to the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.); a county improvement authority created pursuant to the "county improvement authorities law," P.L.1960, c.183 (C.40:37A-44 et seq.); or a pollution control financing authority created pursuant to the "New Jersey Pollution Control Financing Law," P.L.1973, c.376 (C.40:37C-1 et seq.) that has issued solid waste facility bonds or that has been designated by the county pursuant to section 12 of P.L.1975, c.326 (C.13:1E-21) to supervise the implementation of the district solid waste management plan.

"Revenues" means receipts, fees, rentals or other payments to be received on account of lease, mortgage, conditional sale, or sale, and payments and any other income derived from the lease, sale or other disposition of a project, moneys in such reserve and insurance funds or accounts or other funds and accounts, and income from the investment thereof, established in connection with the issuance of bonds or notes for a project or projects, and fees, charges or other moneys to be received by the authority in respect of projects or school facilities projects and contracts with persons.

"Resolution" means any resolution adopted or trust agreement executed by the authority, pursuant to which bonds of the authority are authorized to be issued.

"Solid waste" means garbage, refuse, and other discarded materials resulting from industrial, commercial and agricultural operations, and from domestic and community activities, and shall include all other waste materials including liquids, except for source separated recyclable materials or source separated food waste collected by livestock producers approved by the State Department of Agriculture to collect, prepare and feed such wastes to livestock on their own farms.

"Solid waste disposal" means the storage, treatment, utilization, processing, or final disposal of solid waste.

"Solid waste facility bonds" means the bonds, notes or other evidences of financial indebtedness issued by, or on behalf of, any public authority or county related to the planning, design, acquisition, construction, renovation, installation, operation or management of a county solid waste facility.

"Solid waste facilities" means, and includes, the plants, structures and other real and personal property acquired, constructed or operated by, or on behalf of, any county or public authority pursuant to the provisions of the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) or any other act, including transfer stations, incinerators, resource recovery facilities, including co-composting facilities, sanitary landfill facilities or other plants for the disposal of solid waste, and all vehicles, equipment and other real and personal property and rights therein and appurtenances necessary or useful and convenient for the collection or disposal of solid waste in a sanitary manner.

"Energy saving improvement" means the construction, purchase and installation in a building devoted to industrial or commercial purposes of any of the following, designed to reduce the amount of energy from nonrenewable sources needed for heating and cooling that building: insulation, replacement burners, replacement high efficiency heating and air conditioning units, including modular boilers and furnaces, water heaters, central air conditioners with or without heat recovery to make hot water for industrial or commercial purposes or in office buildings, and any solar heating or cooling system improvement, including any system which captures solar radiation to heat a fluid which passes over or through the collector element of that system and then transfers that fluid to a point within the system where the heat is withdrawn from the fluid for direct usage or storage. These systems shall include, but not necessarily be limited to, systems incorporating flat plate, evacuated tube or focusing solar collectors.

The foregoing list shall not be construed to be exhaustive, and shall not serve to exclude other improvements consistent with the legislative intent of the provisions of P.L.1983, c.282.

"Urban growth zone" means any area within a municipality receiving State aid pursuant to

the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.) or a municipality certified by the Commissioner of Community Affairs to qualify under such law in every respect except population, which area has been so designated pursuant to an ordinance of the governing body of such municipality.

"District" means a local or regional school district established pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey Statutes, a county special services school district established pursuant to article 8 of chapter 46 of Title 18A of the New Jersey Statutes, a county vocational school district established pursuant to article 3 of chapter 54 of Title 18A of the New Jersey Statutes, and a State-operated school district established pursuant to P.L.1987, c.399 (C.18A:7A-34 et seq.).

"Local unit" means a county, municipality, board of education or any other political entity authorized to construct, operate and maintain a school facilities project and to borrow money for those purposes pursuant to law.

"Refunding bonds" means bonds, notes or other obligations issued to refinance bonds previously issued by the authority pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.) and P.L.2000, c.72 (C.18A:7G-1 et al.).

"School facilities project" means the acquisition, demolition, construction, improvement, repair, alteration, modernization, renovation, reconstruction or maintenance of all or any part of a school facility or of any other personal property necessary for, or ancillary to, any school facility, and shall include fixtures, furnishings and equipment, and shall also include, but is not limited to, site acquisition, site development, the services of design professionals, such as engineers and architects, construction management, legal services, financing costs and administrative costs and expenses incurred in connection with the project.

"School facility" means and includes any structure, building or facility used wholly or in part for academic purposes by a district, but shall exclude athletic stadiums, grandstands, and any structure, building or facility used solely for school administration.

2. Section 4 of P.L.1974, c.80 (C.34:1B-4) is amended to read as follows:

C.34:1B-4 "New Jersey Economic Development Authority."

4. a. There is hereby established in, but not of, the Department of the Treasury a public body corporate and politic, with corporate succession, to be known as the "New Jersey Economic Development Authority." The authority is hereby constituted as an instrumentality of the State exercising public and essential governmental functions, and the exercise by the authority of the powers conferred by the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.) or section 6 of P.L.2001, c.401 (C.34:1B-4.1) shall be deemed and held to be an essential governmental function of the State.

b. The authority shall consist of the Commissioner of Banking and Insurance, the Chief Executive Officer and Secretary of the New Jersey Commerce and Economic Growth Commission, the Commissioner of Labor, the Commissioner of Education, and the State Treasurer, who shall be members ex officio, and eight public members appointed by the Governor as follows: two public members (who shall not be legislators) shall be appointed by the Governor upon recommendation of the Senate President; two public members (who shall not be legislators) shall be appointed by the Governor upon recommendation of the Speaker of the General Assembly; and four public members shall be appointed by the Governor, all for terms of three years. Each member shall hold office for the term of the member's appointment and until the member's successor shall have been appointed and qualified. A member shall be eligible for reappointment. Any vacancy in the membership occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only. In the event the authority shall by resolution determine to accept the declaration of an urban growth zone by any municipality, the mayor or other chief executive officer of such municipality shall ex officio be a member of the authority for the purpose of participating and voting on all matters pertaining to such urban growth zone.

The Governor shall appoint three alternate members of the authority, of which one alternate member (who shall not be a legislator) shall be appointed by the Governor upon the

recommendation of the Senate President, and one alternate member (who shall not be a legislator) shall be appointed by the Governor upon the recommendation of the Speaker of the General Assembly; and one alternate member shall be appointed by the Governor, all for terms of three years. The chairperson may authorize an alternate member, in order of appointment, to exercise all of the powers, duties and responsibilities of such member, including, but not limited to, the right to vote on matters before the authority.

Each alternate member shall hold office for the term of the member's appointment and until the member's successor shall have been appointed and qualified. An alternate member shall be eligible for reappointment. Any vacancy in the alternate membership occurring other than by the expiration of a term shall be filled in the same manner as the original appointment but for the unexpired term only. Any reference to a member of the authority in this act shall be deemed to include alternate members unless the context indicates otherwise.

The terms of office of the members and alternate members of the authority appointed by the Governor who are serving on July 18, 2000 shall expire upon the appointment by the Governor of eight public members and three alternate members. The initial appointments of the eight public members shall be as follows: the two members appointed upon the recommendation of the President of the Senate and the two members appointed upon the recommendation of the Speaker of the General Assembly shall serve terms of three years; two members shall serve terms of two years; and two members shall serve terms of one year. The initial appointments of the alternate members shall be as follows: the alternate member appointed upon the recommendation of the President of the Senate shall serve a term of three years; the alternate member appointed upon the recommendation of the Speaker of the General Assembly shall serve a term of two years; and one alternate member shall serve a term of one year. No member shall be appointed who is holding elective office.

c. Each member appointed by the Governor may be removed from office by the Governor, for cause, after a public hearing, and may be suspended by the Governor pending the completion of such hearing. Each member before entering upon his duties shall take and subscribe an oath to perform the duties of the office faithfully, impartially and justly to the best of his ability. A record of such oaths shall be filed in the office of the Secretary of State.

d. A chairperson shall be appointed by the Governor from the public members. The members of the authority shall elect from their remaining number a vice chairperson and a treasurer thereof. The authority shall employ an executive director who shall be its secretary and chief executive officer. The powers of the authority shall be vested in the members thereof in office from time to time and seven members of the authority shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the authority at any meeting thereof by the affirmative vote of at least seven members of the authority. No vacancy in the membership of the authority shall impair the right of a quorum of the members to exercise all the powers and perform all the duties of the authority.

e. Each member of the authority shall execute a bond to be conditioned upon the faithful performance of the duties of such member in such form and amount as may be prescribed by the Director of the Division of Budget and Accounting in the Department of the Treasury. Such bonds shall be filed in the office of the Secretary of State. At all times thereafter the members and treasurer of the authority shall maintain such bonds in full force and effect. All costs of such bonds shall be borne by the authority.

f. The members of the authority shall serve without compensation, but the authority shall reimburse its members for actual expenses necessarily incurred in the discharge of their duties. Notwithstanding the provisions of any other law, no officer or employee of the State shall be deemed to have forfeited or shall forfeit any office or employment or any benefits or emoluments thereof by reason of the acceptance of the office of ex officio member of the authority or any services therein.

g. Each ex officio member of the authority may designate an officer or employee of the member's department to represent the member at meetings of the authority, and each such designee may lawfully vote and otherwise act on behalf of the member for whom the person constitutes the designee. Any such designation shall be in writing delivered to the authority and shall continue in effect until revoked or amended by writing delivered to the authority.

h. The authority may be dissolved by act of the Legislature on condition that the authority has no debts or obligations outstanding or that provision has been made for the payment or retirement of such debts or obligations. Upon any such dissolution of the authority, all property, funds and assets thereof shall be vested in the State.

i. A true copy of the minutes of every meeting of the authority shall be forthwith delivered by and under the certification of the secretary thereof to the Governor. No action taken at such meeting by the authority shall have force or effect until 10 days, Saturdays, Sundays, and public holidays excepted, after the copy of the minutes shall have been so delivered, unless during such 10-day period the Governor shall approve the same in which case such action shall become effective upon such approval. If, in that 10-day period, the Governor returns such copy of the minutes with veto of any action taken by the authority or any member thereof at such meeting, such action shall be null and void and of no effect. The powers conferred in this subsection i. upon the Governor shall be exercised with due regard for the rights of the holders of bonds and notes of the authority at any time outstanding, and nothing in, or done pursuant to, this subsection i. shall in any way limit, restrict or alter the obligation or powers of the authority or any representative or officer of the authority to carry out and perform in every detail each and every covenant, agreement or contract at any time made or entered into by or on behalf of the authority with respect to its bonds or notes or for the benefit, protection or security of the holders thereof.

j. On or before March 31 in each year, the authority shall make an annual report of its activities for the preceding calendar year to the Governor and the Legislature. Each such report shall set forth a complete operating and financial statement covering the authority's operations during the year. The authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants and cause a copy thereof to be filed with the Secretary of State and the Director of the Division of Budget and Accounting in the Department of the Treasury.

k. The Director of the Division of Budget and Accounting in the Department of the Treasury and the director's legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts, books and records of the authority including its receipts, disbursements, contracts, sinking funds, investments and any other matters relating thereto and to its financial standing.

l. No member, officer, employee or agent of the authority shall be interested, either directly or indirectly, in any project or school facilities project, or in any contract, sale, purchase, lease or transfer of real or personal property to which the authority is a party.

3. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read as follows:

C.34:1B-5 Powers.

5. The authority shall have the following powers:

a. To adopt bylaws for the regulation of its affairs and the conduct of its business;

b. To adopt and have a seal and to alter the same at pleasure;

c. To sue and be sued;

d. To acquire in the name of the authority by purchase or otherwise, on such terms and conditions and such manner as it may deem proper, or by the exercise of the power of eminent domain in the manner provided by the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), any lands or interests therein or other property which it may determine is reasonably necessary for any project or school facilities project; provided, however, that the authority in connection with any project shall not take by exercise of the power of eminent domain any real property except upon consent thereto given by resolution of the governing body of the municipality in which such real property is located; and provided further that the authority shall be limited in its exercise of the power of eminent domain in connection with any project to municipalities receiving State aid under the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.), or to municipalities which had a population, according to the latest federal decennial census, in excess of 10,000;

e. To enter into contracts with a person upon such terms and conditions as the authority

shall determine to be reasonable, including, but not limited to, reimbursement for the planning, designing, financing, construction, reconstruction, improvement, equipping, furnishing, operation and maintenance of the project or the school facilities project and to pay or compromise any claims arising therefrom;

f. To establish and maintain reserve and insurance funds with respect to the financing of the project or the school facilities project;

g. To sell, convey or lease to any person all or any portion of a project or school facilities project, for such consideration and upon such terms as the authority may determine to be reasonable;

h. To mortgage, pledge or assign or otherwise encumber all or any portion of a project, school facilities project or revenues, whenever it shall find such action to be in furtherance of the purposes of this act and P.L.2000, c.72 (C.18A:7G-1 et al.);

i. To grant options to purchase or renew a lease for any of its projects or school facilities projects on such terms as the authority may determine to be reasonable;

j. To contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the United States of America or any agency or instrumentality thereof, or from the State or any agency, instrumentality or political subdivision thereof, or from any other source and to comply, subject to the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1) and P.L.2000, c.72 (C.18A:7G-1 et al.), with the terms and conditions thereof;

k. In connection with any application for assistance under P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1) or P.L.2000, c.72 (C.18A:7G-1 et al.) or commitments therefor, to require and collect such fees and charges as the authority shall determine to be reasonable;

l. To adopt, amend and repeal regulations to carry out the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1) and P.L.2000, c.72 (C.18A:7G-1 et al.);

m. To acquire, purchase, manage and operate, hold and dispose of real and personal property or interests therein, take assignments of rentals and leases and make and enter into all contracts, leases, agreements and arrangements necessary or incidental to the performance of its duties;

n. To purchase, acquire and take assignments of notes, mortgages and other forms of security and evidences of indebtedness;

o. To purchase, acquire, attach, seize, accept or take title to any project or school facilities project by conveyance or by foreclosure, and sell, lease, manage or operate any project or school facilities project for a use specified in this act and P.L.2000, c.72 (C.18A:7G-1 et al.);

p. To borrow money and to issue bonds of the authority and to provide for the rights of the holders thereof, as provided in P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1) and P.L.2000, c.72 (C.18A:7G-1 et al.);

q. To extend credit or make loans to any person for the planning, designing, acquiring, constructing, reconstructing, improving, equipping and furnishing of a project or school facilities project, which credits or loans may be secured by loan and security agreements, mortgages, leases and any other instruments, upon such terms and conditions as the authority shall deem reasonable, including provision for the establishment and maintenance of reserve and insurance funds, and to require the inclusion in any mortgage, lease, contract, loan and security agreement or other instrument, such provisions for the construction, use, operation and maintenance and financing of a project or school facilities project as the authority may deem necessary or desirable;

r. To guarantee up to 90% of the amount of a loan to a person, if the proceeds of the loan are to be applied to the purchase and installation, in a building devoted to industrial or commercial purposes, or in an office building, of an energy improvement system;

s. To employ consulting engineers, architects, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the authority to carry out the purposes of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1) and P.L.2000, c.72 (C.18A:7G-1 et al.), and to fix and pay their compensation from funds available to the authority therefor, all without regard to the provisions of Title 11A

of the New Jersey Statutes;

t. To do and perform any acts and things authorized by P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1) and P.L.2000, c.72 (C.18A:7G-1 et al.) under, through or by means of its own officers, agents and employees, or by contract with any person;

u. To procure insurance against any losses in connection with its property, operations or assets in such amounts and from such insurers as it deems desirable;

v. To do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1) and P.L.2000, c.72 (C.18A:7G-1 et al.);

w. To construct, reconstruct, rehabilitate, improve, alter, equip, maintain or repair or provide for the construction, reconstruction, improvement, alteration, equipping or maintenance or repair of any development property and lot, award and enter into construction contracts, purchase orders and other contracts with respect thereto, upon such terms and conditions as the authority shall determine to be reasonable, including, but not limited to, reimbursement for the planning, designing, financing, construction, reconstruction, improvement, equipping, furnishing, operation and maintenance of any such development property and the settlement of any claims arising therefrom and the establishment and maintenance of reserve funds with respect to the financing of such development property;

x. When authorized by the governing body of a municipality exercising jurisdiction over an urban growth zone, to construct, cause to be constructed or to provide financial assistance to projects in an urban growth zone which shall be exempt from the terms and requirements of the land use ordinances and regulations, including, but not limited to, the master plan and zoning ordinances, of such municipality;

y. To enter into business employment incentive agreements as provided in the "Business Employment Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.);

z. To undertake school facilities projects and to enter into agreements or contracts, execute instruments, and do and perform all acts or things necessary, convenient or desirable for the purposes of the authority to carry out any power expressly provided pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.) and P.L.2000, c.72 (C.18A:7G-1 et al.), including, but not limited to, entering into contracts with the State Treasurer, the Commissioner of Education, districts and any other entity which may be required in order to carry out the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.);

aa. To enter into leases, rentals or other disposition of a real property interest in and of any school facilities project to or from any local unit pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.);

bb. To make and contract to make loans or leases and to make grants to local units to finance the cost of school facilities projects and to acquire and contract to acquire bonds, notes or other obligations issued or to be issued by local units to evidence the loans or leases, all in accordance with the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.);

cc. Subject to any agreement with holders of its bonds issued to finance a project or school facilities project, obtain as security or to provide liquidity for payment of all or any part of the principal of and interest and premium on the bonds of the authority or for the purchase upon tender or otherwise of the bonds, lines of credit, letters of credit, reimbursement agreements, interest rate exchange agreements, currency exchange agreements, interest rate floors or caps, options, puts or calls to hedge payment, currency, rate, spread or similar exposure or similar agreements, float agreements, forward agreements, insurance contract, surety bond, commitment to purchase or sell bonds, purchase or sale agreement, or commitments or other contracts or agreements, and other security agreements or instruments in any amounts and upon any terms as the authority may determine and pay any fees and expenses required in connection therewith;

dd. To charge to and collect from local units, the State and any other person, any fees and charges in connection with the authority's actions undertaken with respect to school facilities projects, including, but not limited to, fees and charges for the authority's administrative, organization, insurance, operating and other expenses incident to the financing, construction and placing into service and maintenance of school facilities projects; and

ee. To make loans to refinance solid waste facility bonds through the issuance of bonds or other obligations and the execution of any agreements with counties or public authorities to

effect the refunding or rescheduling of solid waste facility bonds, or otherwise provide for the payment of all or a portion of any series of solid waste facility bonds. Any county or public authority refunding or rescheduling its solid waste facility bonds pursuant to this subsection shall provide for the payment of not less than fifty percent of the aggregate debt service for the refunded or rescheduled debt of the particular county or public authority for the duration of the loan; except that, whenever the solid waste facility bonds to be refinanced were issued by a public authority and the county solid waste facility was utilized as a regional county solid waste facility, as designated in the respective adopted district solid waste management plans of the participating counties as approved by the department prior to November 10, 1997, and the utilization of the facility was established pursuant to tonnage obligations set forth in their respective interdistrict agreements, the public authority refunding or rescheduling its solid waste facility bonds pursuant to this subsection shall provide for the payment of a percentage of the aggregate debt service for the refunded or rescheduled debt of the public authority not to exceed the percentage of the specified tonnage obligation of the host county for the duration of the loan. Whenever the solid waste facility bonds are the obligation of a public authority, the relevant county shall execute a deficiency agreement with the authority, which shall provide that the county pledges to cover any shortfall and to pay deficiencies in scheduled repayment obligations of the public authority. All costs associated with the issuance of bonds pursuant to this subsection may be paid by the authority from the proceeds of these bonds. Any county or public authority is hereby authorized to enter into any agreement with the authority necessary, desirable or convenient to effectuate the provisions of this subsection.

The authority shall not issue bonds or other obligations to effect the refunding or rescheduling of solid waste facility bonds after December 31, 2002. The authority may refund its own bonds issued for the purposes herein at any time.

4. Section 9 of P.L.1974, c.80 (C.34:1B-9) is amended to read as follows:

C.34:1B-9 Power to authorize issuance of bonds.

9. For the purpose of providing funds (a) to pay all or any part of the cost of any project or projects, (b) to make loans in accordance with the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), and (c) for the funding or refunding any bonds pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.) or section 6 of P.L.2001, c.401 (C.34:1B-4.1), the authority shall have power to authorize or provide for the issuance of bonds pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.).

5. Section 10 of P.L.1974, c.80 (C.34:1B-10) is amended to read as follows:

C.34:1B-10 Powers of authority by resolution.

10. By resolution, the authority shall have power to incur indebtedness, borrow money and issue its bonds for the purposes stated in section 9 of P.L.1974, c.80 (C.34:1B-9). Except as may otherwise be expressly provided by the authority, or by the provisions of section 6 of P.L.2001, c.401 (C.34:1B-4.1), every issue of its bonds shall be general obligations of the authority payable from any revenues or moneys of the authority, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues or moneys. Such bonds shall be authorized by resolution and may be issued in one or more series and shall bear such date or dates, mature at such time or times not exceeding 40 years from the date thereof, bear interest at a rate or rates, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable from such sources in such medium of payment at such place or places within or without the State, and be subject to such terms of redemption (with or without premium) as such resolution may provide. Bonds of the authority may be sold by the authority at public or private sale at such price or prices as the authority shall determine.

C.34:1B-4.1 Contracts to secure bonds, other obligations.

6. a. The New Jersey Economic Development Authority and the State Treasurer are hereby

authorized to enter into one or more contracts to secure, in whole or in part, any bonds, refunding bonds or other obligations of the authority issued for the purposes set forth in subsection ee. of section 5 of P.L.1974, c.80 (C.34:1B-5), upon such terms and conditions as are determined by the parties; provided, however, that any obligation of the State incurred under the contract or contracts, including any payments to be made thereunder from the General Fund, shall be subject to and dependent upon appropriations being made from time to time by the Legislature for the purposes set forth in subsection ee. of section 5 of P.L.1974, c.80 (C.34:1B-5), as provided by law.

b. In any resolution authorizing the issuance of bonds, refunding bonds or other obligations of the authority issued for the purposes set forth in subsection ee. of section 5 of P.L.1974, c.80 (C.34:1B-5), the authority may pledge the contract with the State Treasurer, or any part thereof, for the payment or redemption of the bonds or refunding bonds, and covenant as to the use and disposition of money available to the authority for payments of bonds, refunding bonds or other obligations of the authority.

c. The State Treasurer shall pay from the General Fund to the authority in each State fiscal year, in accordance with a contract or contracts between the State Treasurer and the authority, an amount equivalent to the amount due to be paid for debt service incurred in the particular fiscal year on the bonds or refunding bonds of the authority issued pursuant to subsection ee. of section 5 of P.L.1974, c.80 (C.34:1B-5), and any additional costs incurred in connection with any agreements entered into by the authority relating to these bonds or refunding bonds.

d. The provisions of any other law, rule, regulation or order to the contrary notwithstanding, the bonds, refunding bonds or other obligations of the authority issued for the purposes set forth in subsection ee. of section 5 of P.L.1974, c.80 (C.34:1B-5) shall be special and limited obligations of the authority, payable from and secured by such funds and moneys as determined by the authority in accordance with the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.) or section 6 of P.L.2001, c.401 (C.34:1B-4.1), and shall not be in any way a debt or liability of the State or of any political subdivision thereof, except as otherwise provided in this section, and shall not create or constitute any indebtedness, liability or obligation of the State or of any political subdivision thereof, either legal, moral or otherwise, and nothing contained in the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.) or section 6 of P.L.2001, c.401 (C.34:1B-4.1) shall be construed to authorize the authority to incur any indebtedness on behalf of or in any way to obligate the State or any political subdivision thereof, and all bonds and refunding bonds issued by the authority in connection therewith shall contain on the face thereof a statement to that effect.

7. This act shall take effect immediately.

Approved January 8, 2002.