

40A:5A-1 to 40A:5A-27

LEGISLATIVE HISTORY CHECKLIST

NJSA: 40A-5A-1 to 40A:5A-27 (Local authorities - empowers Local Finance Board to oversee)

LAWS OF: 1983

CHAPTER: 313

Bill No: A144

Sponsor(s): Doyle, Karcher and Van Wagner

Date Introduced: Pre-filed

Committee: Assembly: Revenue, Finance and Appropriations  
Senate: County and Municipal Government

Amended during passage: Yes  
Amendments during passage denoted by asterisks. Substituted for S1517 (OCR and original bill attached)

Date of Passage: Assembly: July 11, 1983  
Senate: May 26, 1983

Date of Approval: August 26, 1983

Following statements are attached if available:

Sponsor statement: Yes (Below)

Committee statement: Assembly Yes  
Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: Yes

Following were printed:

Reports: Yes

Hearings: Yes

Sponsors' statement:

The bill empowers the Local Finance Board to oversee the creation, operation and dissolution of local authorities established by municipalities or counties. These authorities have the potential for misuse as a means of avoiding the budgetary limitations of the local "cap" law (P.L. 1976, c.68, C 40A:4-45.1 et seq).

See newspaper clippings (attached)

Hearing/report referred to in newspaper clipping:

974.90 New Jersey. Commission of Investigation.

162 Report and recommendations...on county and local sewerage

1983 utility authorities. March 15, 1983. Trenton, 1983.

[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 144

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1982 SESSION

By Assemblymen DOYLE, KARCHER and VAN WAGNER

AN ACT **\*[concerning the Regulation of Local Authorities by the Local Finance Board]** **\*\*[\*providing for the regulation by the State of the fiscal affairs of local authorities\*.]\*\*** **\*\*to provide for State controls over the creation and financial affairs of local authorities of this State, assigning necessary powers and responsibilities with respect thereto, and supplementing Title 40A of the New Jersey Statutes.\*\***

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

1 1. This act shall be known and may be cited as the "Local  
2 **\*[Public Facility]** **\* Authorities\*** Fiscal Control Law."

1 2. The Legislature declares it to be in the public interest **\*\*[and**  
2 to be the policy of the State to maintain, support, foster, and pro-  
3 mote the financial stability of local authorities in the State and  
3A municipalities served by local authorities, State approval of  
4 project financing of local authorities, and State supervision of  
5 financial operations of local authorities in order to assure their  
6 financial stability and integrity] **\*\* of the citizens of this State to**  
6A maintain, support, foster, and promote the financial integrity and  
6B stability of local authorities in the State and of counties and  
6C municipalities served by these local authorities, by providing for  
6D State review of project financing of local authorities and for State  
6E supervision over the financial operations of local authorities\*\*.

7 The Legislature declares that it is the purpose and object of  
8 this act to implement this policy by providing that the creation  
9 of a local authority be subject to Local Finance Board approval,

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

**Matter printed in italics thus is new matter.**

**Matter enclosed in asterisks or stars has been adopted as follows:**

**\*—Assembly committee amendments adopted May 5, 1983.**

**\*\*—Senate committee amendments adopted June 30, 1983.**

10 that project financing of a local authority be submitted to the Local  
 11 Finance Board for \*\***[approval]**\*\* *hearing and review*\*\*, that  
 12 annual budgets of a local authority be submitted to the **[Local**  
 13 Finance Board] *Division of Local Government Services in the*  
 14 *Department of Community Affairs* for approval, that financial  
 15 reports be prepared and submitted by a local authority to the  
 16 **[Local Finance Board]** *division* in the form and at the time or  
 17 times as shall be prescribed by rule or regulation **[prescribed by]**  
 18 *of* the Local Finance Board *or of the Director of the Division*  
 19 *of Local Government Services* **[, and that]** *. In addition,*  
 20 the Local Finance Board may take remedial action to address an  
 21 emergency situation with respect to the financial condition and  
 22 operation of a local authority or to respond to an undue financial  
 23 burden imposed by a local authority on residents of the State, in-  
 24 cluding the power to order the dissolution of a local authority if it is  
 25 in the public interest.

1 3. As used in this act **[, unless a different meaning clearly**  
 2 appears from the context] *:*

3 a. "Authority" means a **[local public body or political sub-**  
 4 division, other than a school district subject to the supervision of  
 5 the New Jersey Department of Education, created by a munici-  
 6 pality, municipalities, county, or counties, under the provisions of  
 7 any law heretofore or hereafter adopted which law authorized the  
 8 authority to develop and finance public improvements or a body  
 9 created by the State Legislature which is not statutorily allocated  
 10 to a State cabinet department; and further provided that the term  
 11 "authority" as used herein shall not include a bi-State govern-  
 12 mental entity.] *body, public and corporate, created by one or*  
 12A *more municipalities or counties pursuant to any law authorizing*  
 12B *that creation, which law provides that the public body so created*  
 12C *has at least the following powers:*

12D (1) *To adopt and use a corporate seal;*

12E (2) *To sue and be sued;*

12F (3) *To acquire and hold real or personal property for its pur-*  
 12G *poses; and*

12H (4) *To provide for and secure the payment of its bonds or other*  
 12I *obligations, or to provide for the assessment of a tax on real*  
 12J *property within its district, or to impose charges for the use of its*  
 12K *facilities, or any combination thereof;*

12L *but shall not include any public body for which federal or State*  
 12M *fiscal controls differing from those imposed by this act, have been*  
 12N *explicitly established by law, but only to the extent of that dif-*  
 12O *ference.\**

13 b. "Director" means the Director of the Division of Local Gov-  
14 ernment Services in the Department of Community Affairs.

15 c. "Financing agreement" means an agreement of a local unit  
16 or units intended to provide security for an issue of obligations  
17 of an authority, including\*\*, *but not limited to*,\*\* a contract pro-  
18 viding for payments by a local unit or units with respect to use,  
19 services or provision of a project, facility or public improvement  
20 of an authority or payments for debt service \*\***[therefore]**\*\*  
20A *therefor*\*\*.

21 d. "Local Finance Board" means the Local Finance Board in  
22 the Division of Local Government Services in the Department of  
23 Community Affairs.

24 e. "Local unit or units" means a county or municipality which  
25 created or joined in the creation of an authority\*\*,\*\* or which  
26 proposes to create or join in the creation thereof\*\*,\*\* or which  
27 proposes to enter into a financing agreement with an authority.

28 f. "Project financing" means the financing by an authority of  
29 a facility for the benefit of the inhabitants of a local unit or units  
30 and includes payment for the design and plan for the facility.

31 g. "Security agreement" means a bond resolution of an au-  
32 thority\*\*,\*\* or a trust indenture to be executed by an authority\*\*,\*\*  
33 or other similar proceeding or document.

1 4. **[Upon]** *On and after* the effective date of this act,  
2 no authority **[other than an authority created by an act of the**  
3 **Legislature]** shall be created *by any local unit or units* without  
4 the prior approval of the Local Finance Board. Prior to the  
5 introduction of an ordinance or the adoption of a resolution to  
6 create an authority, the local unit or units proposing this creation  
7 shall make application to the Local Finance Board for its approval.  
8 The application shall contain: **[**(a) a copy of the proposed  
9 ordinance or resolution creating the authority; (b) a statement,  
10 in brief and general terms of the project or projects to be under-  
11 taken, the estimated cost thereof including the manner of the  
12 financing thereof, and the area to be served thereby; (c) a proposed  
13 budget for the first year of authority operations, including a  
14 table of organization, personnel requirements, the level of staff  
15 required for supervision of the operation of the authority and  
15A the proposed source or sources of the authority's funding; and  
16 (d) a statement, in the form prescribed by the Local Finance Board,  
17 indicating that the local unit or units have considered **[alternate]**  
18 *alternative* means of undertaking the proposed project or proj-  
19 ects and the financing thereof and **[determining]** *have deter-*  
20 *mined* that the creation of an authority is the most efficient and

21 feasible means of providing and financing such project or proj-  
22 ects.】\*\*

23 *\*\*a. A copy of the proposed ordinance or resolution creating the*  
24 *authority;*

25 *b. A statement, in brief and general terms, of the project or*  
26 *projects to be undertaken, the estimated project cost, the manner*  
27 *of project financing, and the area to be served by the project;*

28 *c. A proposed budget for the first year of authority operations,*  
29 *including a table of organization, personnel requirements, the level*  
30 *of staff required for supervision of the operation of the authority*  
31 *and the proposed source or sources of the authority's funding; and,*

32 *d. A statement, in the form prescribed by the Local Finance*  
33 *Board, indicating that the local unit or units have considered*  
34 *alternative means of undertaking and financing the proposed proj-*  
35 *ect or projects and have determined that the creation of an au-*  
36 *thority is the most efficient and feasible means of providing and*  
37 *financing the project or projects.\*\**

38 The Local Finance Board may consider estimates, computations  
39 or calculations made in connection with an application, may require  
40 the production of papers, documents, witnesses or information,  
41 may make or cause to be made an audit or investigation\*\*,\*\* and  
42 may take any *\*\*other appropriate\*\** action *\*\*[which it may deter-*  
43 *mine advisable in connection with]*\*\* *\*\*necessary to\*\** its con-  
44 sideration of whether *\*or not\** *\*\*[it should consent]*\*\* to  
45 *\*\*approve\*\** the creation of an authority.

1 5. The Local Finance Board shall\*\*, *within 60 days of its receipt*  
2 *of an application pursuant to section 4 of this act,\*\** approve in  
3 writing the creation of the proposed authority *\*\*[if it determines*  
4 *that the authority to be created]*\*\* *\*\* , if it shall determine that the*  
5 *creation of the proposed authority\*\** is *\*[in the public interest and*  
6 *will serve the health, welfare, or convenience of the inhabitants of*  
7 *the local unit or units and the creation of an authority is]*\* an  
8 efficient and feasible means of providing and financing this project  
9 or projects\*, *given the needs of, and the financial burdens to be*  
10 *placed upon, the inhabitants of the local unit or units\*.*

11 *\*\*If the application is not disapproved within 60 days of its sub-*  
12 *mission to the Local Finance Board, it shall be deemed to be*  
13 *approved, and the local unit or units may proceed to adopt the pro-*  
14 *posed ordinance or resolution. If the Local Finance Board shall not*  
15 *approve the creation of the authority, it shall specify in writing the*  
16 *reason or reasons therefor, and shall file its statement with the*  
17 *clerk or clerks of the local unit or units. A local unit shall not adopt*  
18 *any ordinance or resolution which is disapproved by the Local*

19 *Finance Board within the 60 days, but may resubmit the application*  
 20 *to the board with such changes as the local unit deems appropriate,*  
 21 *and the review and approval of the resubmitted application shall*  
 22 *be subject to the limitations set forth above.\*\**

1 **\*\*[6. If the Local Finance Board shall not \*[make the determina-**  
 2 **tions required by the preceding paragraph]\* \*approve the crea-**  
 2A **tion of the authority\*, it shall specify in writing the reason or**  
 3 **reasons therefore and shall file same with the clerk or clerks**  
 4 **of the local unit or units. Not less than 90 days from the receipt**  
 5 **thereof, the local unit or units may submit a revised application**  
 6 **for consideration and approval of the Local Finance Board.]\*\*\***

1 **\*\*[7.]\*\* \*\*6.\*\* Prior to the adoption of a security agreement by**  
 2 **an authority\*\*, or an ordinance or resolution of a local unit or**  
 3 **units authorizing a financing agreement, the proposed project**  
 4 **financing shall be submitted to the Local Finance Board for its**  
 5 **review \*\*[and approval]\*\*. The Local Finance Board shall, in**  
 6 **the course of its review \*\*[and approval]\*\*, give consideration to:**  
 7 **\*\*[(a) the nature, purpose, and scope of the proposed project**  
 8 **financing; (b) the engineering and feasibility studies prepared in**  
 9 **connection therewith; (c) the terms and provisions of the proposed**  
 10 **financing agreements, security agreements and, in the instance of a**  
 11 **negotiated offering, the proposed or maximum terms and conditions**  
 12 **of sale; (d) the proposed or maximum schedule of debt service pay-**  
 13 **ments required and the impact thereof on the budget and financial**  
 14 **condition of the authority and of the local unit or units; (e) the**  
 15 **estimate of the annual cost of operating and maintaining the proj-**  
 16 **ect as set forth in the engineering report of feasibility studies; and**  
 17 **(f) the initial rate, rent, fee, or charge schedule or structure pro-**  
 18 **posed by the authority or other proposed method of raising the**  
 19 **amounts required to finance the operations of the authority (includ-**  
 20 **ing the payment of debt service on its obligations)]\*\***

21 **\*\*a. The nature, purpose, and scope of the proposed project**  
 22 **financing;**

23 **b. The engineering and feasibility studies prepared in connection**  
 24 **therewith;**

25 **c. The terms and provisions of the proposed financing agree-**  
 26 **ments, security agreements and, in the instance of a negotiated**  
 27 **offering, the proposed or maximum terms and conditions of sale;**

28 **d. The proposed or maximum schedule of debt service payments**  
 29 **required, and the impact thereof on the budget and financial condi-**  
 30 **tion of the authority and of the local unit;**

31 **e. The estimate of the annual cost of operating and maintaining**

32 *the project as set forth in the engineering report or feasibility*  
 33 *studies; and*

34 *f. The initial rate, rent, fee, or charge schedule proposed by the*  
 35 *authority, or any other proposed method of raising the amounts*  
 36 *required to finance the operations and payments of debt service on*  
 37 *the obligations of the authority\*\*.*

38 The Local Finance Board may examine the estimates, computa-  
 39 tions or calculations made in connection with **\*\*[this]\*\*** **\*\*the\*\***  
 40 submission, may require the production of papers, documents,  
 41 witnesses or information, may **\*\*[take]\*\*** **\*\*make\*\*** or cause to  
 42 be made an audit or investigation and may take any other action  
 43 which it may deem **\*\*[advisable in connection with this]\*\***  
 44 **\*\*necessary to its review of the\*\*** submission.

1 **\*\*[8.]\* \*7.\*\*** The Local Finance Board shall\*, **\*\*[upon the**  
 2 **completion of its review]\*\*** **\*\*within 31 days of its receipt of the**  
 3 **proposed project financing\*\***, hold a hearing at which any in-  
 4 terested party may furnish additional information regarding the  
 5 proposal. **\*\*[After]\*\*** **\*\*Within 10 days after\*\*** the hearing, the  
 6 board shall\* **\*\*[approve]\*\*** **\*\*issue its findings on\*\*** the proposed  
 7 financing **\*\*[if it determines with the respect to the proposal]\*\***  
 8 **\*\*including therein its findings as to whether\*\***: (a) **\*\*[that]\*\***  
 9 the project cost has been **\*\*[accurately]\*\*** determined **\*\*by reasonable**  
 10 **and accepted methods\***; (b) **\*\*[that]\*\*** the method proposed for  
 11 the funding of the project cost, proposed or maximum terms and  
 12 provisions of the financing and of a proposed financing agreement  
 13 are **\*\*[fair, reasonable and feasible]\*\*** **\*\*not unreasonable nor im-**  
 14 **practicable,\*** and would not impose an undue **\*\*and unnecessary\*\***  
 15 financial burden on the inhabitants of the local unit or units, which  
 16 have created or have joined in the creation of the authority or  
 17 which may enter into a financing agreement with the authority, or  
 18 would not materially impair the ability of the local unit or units or  
 19 the authority to pay promptly the principal of and interest on the  
 20 outstanding indebtedness thereof or to provide essential public  
 21 services to the inhabitants thereof; and (c) in the case of a  
 22 negotiated offering, **\*\*[that]\*\*** the proposed or maximum terms  
 23 and conditions of sale are, in light of current market conditions for  
 24 obligations of similar quality, **\*\*[fair and]\*\*** reasonable. The  
 25 **\*\*[approval]\*\*** **\*\*findings\*\*** shall be in writing and shall be filed  
 26 with the clerk or clerks of the local unit or units and with the  
 27 secretary of the authority.

28 **\*\*The times set forth in this section may be extended by mutual**  
 29 **agreement of the authority and the Local Finance Board.**

30 *The governing body of the authority shall, within 15 days of*

31 *receipt of the Local Finance Board's findings and recommendations*  
 32 *on the proposed project financing, certify by resolution to the Local*  
 33 *Finance Board that each member thereof has personally reviewed*  
 34 *the findings and recommendations and has evidenced same by*  
 35 *group affidavit in the form prescribed by the Local Finance Board.*  
 36 *Failure to comply with this paragraph may subject the members of*  
 37 *the authority to the penalty provisions of section 52 of P. L. 1947,*  
 38 *c. 151 (C. 52:27BB-52).\*\**

1 **\*\*[9.]\*\*** **\*\*8.\*\*** The Local Finance Board may **\*\*[require, as a**  
 2 **condition of its approval of]** **\*\* recommend in its findings with**  
 2A **respect to\*\*** a proposed project financing:

3 a. That the debt service reserve fund in an amount established by  
 4 the board be funded from the proceeds of the sale of the authority's  
 5 bonds;

6 b. The incurrence of indebtedness and the issuance of obligations  
 7 by the local unit or units to finance a portion of the proposed project  
 8 cost. Except as otherwise provided in this act, these obligations  
 9 shall be authorized and issued in the manner provided for in Title  
 10 40 of the Revised Statutes or Title 40A of the New Jersey Statutes;

11 c. That the local unit or units execute a financing agreement with  
 12 the authority; **\*\*[and]\*\***

13 d. That the local unit or units not execute a financing agreement  
 14 with the authority, if the Local Finance Board determines that the  
 15 agreement would impose an inappropriate risk on the local unit;

16 e. That an amount not to exceed the outstanding principal each  
 17 year for the proposed financing of the authority be included in the  
 18 net debt of a local unit, under N. J. S. 40A:2-1 et seq., if the local  
 19 unit executes a financing agreement with the authority;

20 f. In addition to the above, any other conditions that the Local  
 21 Finance Board considers appropriate to provide sound financial  
 22 support for the project financing.

1 **\*\*[10.]\*\*** **\*\*9.\*\*** To the extent not otherwise provided for in Title  
 2 40 of the Revised Statutes or Title 40A of the New Jersey Statutes  
 3 and in order to satisfy the provisions of section **\*\*[9]\*\*** **\*\*8\*\*** of  
 4 this act, any local unit or units **\*\*[now members of]** **\*\* having**  
 5 **created or joined\*\*** an authority**\*\*,\*\*** or which may hereafter join,  
 6 **\*\*[form or]\*\*** create **\*\*or join in the creation of\*\*** an authority or  
 7 which are now or hereafter under contract with an authority in con-  
 8 nection with a project financing**\*\*,\*\*** are authorized and shall have  
 9 the power to incur indebtedness and issue obligations for any  
 10 purpose for which an authority may issue obligations and to donate  
 11 the proceeds of those obligations to an authority to be expended for  
 12 the purpose for which the funds were borrowed. Except as other-



13 wise provided in this act, all obligations shall be authorized and  
14 issued in the manner provided for in Title 40 or Title 40A.

1     \*\*[11.]\*\* \*\*10.\*\* \* \* \* [Every authority shall, not later than 45 days  
2 prior to the commencement of its fiscal year, or, if a local unit or  
3 units have entered into a financing agreement with an authority,  
4 not later than November 15 of each year, submit a budget for the  
5 next fiscal year to the Local Finance Board. The budget shall be in  
6 such detail as to items of revenue and expense as shall be required  
7 by law or by rules and regulations of the Local Finance Board and  
8 shall also comply with the terms and provisions of any security  
9 agreements.]\* *\*a. Each authority shall submit a budget for each  
10 fiscal year to the director prior to its adoption thereof. The budget  
11 shall comply with the terms and provisions of any security agree-  
12 ments, and shall be in such form and detail as to items of revenue,  
13 expenditure and other content as shall be required by law or by  
14 rules and regulations of the Local Finance Board.*

15     *b. The Local Finance Board shall prescribe by rule or regulation  
16 the procedure for the adoption of budgets by authorities. The rules  
17 and regulations may include or be similar to any provisions of the  
18 "Local Budget Law" (N. J. S. 40A:4-1 et seq.) which the Local  
19 Finance Board shall deem to be practicable or necessary, and may  
20 further include any other provisions and requirements which the  
21 Local Finance Board shall deem appropriate or necessary. \*\*The  
21A rules and regulations shall provide for approval or disapproval of a  
21B budget within 45 days of the director's receipt thereof.\*\**

22     *c. The Local Finance Board shall also prescribe by rule or regula-  
23 tion the procedures and requirements for execution of any budget  
24 after adoption, and for the administration of financial affairs of  
25 authorities. The rules and regulations may include, without limita-  
26 tion, any provisions of the "Local Budget Law" (N. J. S. 40A:4-1  
27 et seq.), and the "Local Fiscal Affairs Law" (N. J. S. 40A:5-1 et  
28 seq.), which the Local Finance Board shall deem to be practicable  
29 and necessary.\**

1     \*\*[12.]\*\* \*\*11.\*\* No authority budget shall be finally adopted  
2 until the \*[Local Finance Board]\* \*director\* shall have approved  
3 same. In granting the approval, \*[the Local Finance Board shall  
3A consider:

4     a. Whether revenues have been realistically anticipated and,

5     b. Whether the schedule of rates then in effect will produce  
6 revenues sufficient to satisfy all obligations to the holders of bonds  
7 of the authority. The Local Finance Board shall, in making this  
8 determination, consider the prior history of collection of service  
9 charges of the authority and the likelihood of adequate collections of

10 service charges under the existing rate schedule or a proposed rate  
 11 schedule and the amounts to be appropriated by the local unit or  
 12 units.】\* *the director shall consider whether or not:*

13 a. *All estimates of revenue are reasonable, accurate and cor-*  
 14 *rectly stated;*

15 b. *Items of appropriation are properly set forth;*

16 c. *In itemization, form and content, the budget will permit the*  
 17 *exercise of the comptroller function within the authority;*

18 d. *The schedule of rates, fees and charges then in effect will*  
 19 *produce sufficient revenues, together with all other anticipated*  
 20 *revenues, to satisfy all obligations to the holders of bonds of the*  
 21 *authority, to meet operating expenses, capital outlays, debt service*  
 22 *requirements, and to provide for such reserves, all as may be re-*  
 23 *quired by law, regulation or terms of contracts and agreements.*

24 *The director may require such documentation, records and other*  
 25 *information, and undertake any audit or investigation, as he may*  
 26 *deem necessary in connection with his review.*

27 *If the director finds that all requirements of law and the rules*  
 28 *and regulations of the Local Finance Board have been met, he*  
 29 *shall\*\* within 45 days of his receipt of the budget,\*\* approve*  
 30 *\*\*[the budget]\*\* \*\*it\*\*; otherwise he shall \*\*within that time\*\**  
 31 *refuse to approve it. The director, in refusing to approve the*  
 32 *budget, shall not substitute his discretion with respect to the amount*  
 32A *of an appropriation when that amount is not made mandatory by*  
 32B *by law or regulation.*

33 *Any decision of the director in the course of budget review under*  
 34 *this section may be appealed to the Local Finance Board in the*  
 35 *manner generally provided by law.\**

1 *\*\*[13.]\*\* \*\*12.\*\** The Local Finance Board shall have the power,  
 2 in the case of a financing agreement between an authority and a  
 3 local unit or units, to enforce, by appropriate order, the terms and  
 4 provisions thereof with respect to the funding of a deficit, whether  
 5 in existence or anticipated. If the Local Finance Board has reason  
 6 to believe that an authority is faced with financial difficulty, it shall  
 7 have the power to order an increase in rents, rates, fees or other  
 8 charges of the authority, and this order shall be valid and enforce-  
 9 able\*\*, notwithstanding any provisions to the contrary in R. S.  
 10 48:2-1 et seq.\*\*[, except that the]\*\* \*\*. *The\*\** Local Finance  
 11 Board, before issuing this order, shall first hold a hearing con-  
 12 sistent with section *\*\*[19]\*\* \*\*18\*\** of this act. The Local Finance  
 13 Board also shall have authority to provide that a requirement that  
 14 a local unit or units pay a deficit under a financing agreement be  
 15 funded *\*\*[as provided in section 15 of this act and this]\*\**

16 *\*\*through the issuance of authority deficit funding notes as pro-*  
 17 *vided in this act. Any\*\* order **\*\*so issued\*\*** shall be deemed con-*  
 18 *clusive and final\*\*,\*\* and upon receipt of this order all persons*  
 19 *shall be estopped from contesting the order or the provisions*  
 20 *thereof **\*\*[and the]\*\*** **\*\*.** Any\*\* authority or local unit or units*  
 21 *affected **\*\*[thereby]\*\*** **\*\*by the order\*\*** shall promptly take the*  
 22 *action necessary to comply with this order.*

1 **\*\*[14.]\*\*** **\*\*13.\*\*** To the extent not otherwise provided for **\*\*[in**  
 2 **this act, or]\*\*** by **\*\*[any other provision of]\*\*** law, an authority is  
 3 authorized and shall have the power to issue obligations to be  
 4 designated “Authority **\*\*[Emergency]\*\*** *\*Temporary Funding\**  
 5 Notes” in an amount not exceeding the realized deficit in revenues  
 6 for the preceding fiscal year and an estimated deficit in revenues  
 7 for the current fiscal year **\*\*[, and]\*\*** **\*\*.** *The notes\** may be renewed  
 8 from time to time. All **\*\*[such]\*\*** notes and **\*\*[the]\*\*** **\*\*any\*\***  
 9 renewals thereof, shall mature not later than the close of the  
 9A succeeding fiscal year and shall be payable in **\*\*[the]\*\*** **\*\*that\*\***  
 10 fiscal year. Payment shall, however, be subordinate to the payment  
 11 of principal and interest on, or sinking fund payments with respect  
 12 to, bonds or other obligations (other than “Authority **\*\*[Emer-**  
 13 **gency]\*\*** *\*Temporary Funding\** Notes”) of the authority.

14 The proceeds of the sale of “Authority **\*\*[Emergency]\*\*** *\*Tem-*  
 15 *porary Funding\** Notes” shall be deposited in the fund or funds  
 16 in which a deficiency exists**\*\*,\*\*** or is expected to exist**\*\*,\*\*** as set  
 17 forth in the resolution under which the notes are issued.

18 *\*An authority shall notify the Local Finance Board in writing of*  
 19 *its intention to issue “Authority Temporary Funding Notes” pur-*  
 20 *suant to this section, including therein a statement of the deficit*  
 21 *which the proceeds of the notes are intended to fund, and a state-*  
 22 *ment of the manner in which the authority plans to either retire or*  
 23 *refinance the notes on or before the close of the succeeding fiscal*  
 24 *year. The notification shall be made at least 30 days prior to*  
 25 *issuance, or within such lesser time period as the Local Finance*  
 26 *Board shall permit.\**

1 **\*\*[15.]\*\*** **\*\*14.\*\*** If the issuance of “Authority **\*\*[Emergency]\*\***  
 2 *\*Temporary Funding\** Notes” is not permitted by the terms of a  
 3 security agreement **\*\*[than]\*\*** **\*\*,** *then\** the local unit or units, if  
 4 obligated to make payments on account of a deficiency in revenues  
 5 under the terms of a financing agreement, may issue emergency  
 6 notes *\*pursuant to the provisions of sections 40A:4-46 through*  
 7 *40A:4-50 of the New Jersey Statutes\** to fund this payment or por-  
 8 tions thereof. These obligations shall be designated “Authority  
 9 Deficit Funding Notes” and shall be general obligations of the

10 issuer. Each note shall be authorized by resolution of the governing  
 11 body and may be renewed from time to time. All notes and the  
 12 renewals thereof shall mature not later than the last day of the  
 13 fiscal year next succeeding the fiscal year in which these notes were  
 14 issued and the emergency appropriation authorized.

15 *\*A local unit shall notify the Local Finance Board in writing of  
 16 its intention to issue "Authority Deficit Funding Notes" pursuant  
 17 to this section at least 30 days prior to the issuance, or within such  
 18 lesser time period as the Local Finance Board shall permit, includ-  
 19 ing therein a statement of the deficit which the proceeds of the  
 20 notes are intended to fund, and a statement of the manner in which  
 21 the local unit plans to either retire or refinance the notes on or  
 22 before the close of the succeeding fiscal year.\**

1 **\*\*[16.]\*\*** **\*\*15.\*\*** **\*[Every]** *\*Notwithstanding the provisions of  
 2 N. J. S. 40A:5-1 et seq., each\* authority shall cause an annual audit  
 3 of its accounts to be made, and for this purpose it shall \*contract  
 4 with the Division of Local Government Services or\* employ a  
 5 registered municipal accountant of New Jersey or a certified public  
 6 accountant of New Jersey. The audit shall be completed and filed  
 7 with the authority within four months after the close of the fiscal  
 8 year of the authority **\*\*[and a]** **\*\***. *A\*\*certified duplicate copy  
 9 thereof shall be filed with \*the governing body of each local unit  
 10 having created the authority and with\* the director within five days  
 11 after the original report is filed with the authority. \*The Local  
 12 Finance Board shall by rule or regulation prescribe the accounting  
 13 principles and policies, auditing procedures, and financial reporting  
 14 practices applicable to authorities and authority and is conducted  
 15 pursuant to this section. The rules and regulations may include or  
 16 be similar to any provisions of the "Local Fiscal Affairs Law  
 17 N. J. S. 40A:5-1 et seq. which the Local Finance Board shall deem  
 18 to be practicable or necessary.\***

1 **\*\*[17.]\*\*** **\*\*16.\*\*** **A** synopsis of **\*[all audits, together with the  
 2 recommendations made by the registered municipal accountant or  
 3 certified municipal accountant, shall be prepared and published by  
 4 the secretary of the authority at least once in a newspaper circulat-  
 5 ing within the district of the authority.]\*\*** *\*the annual audit shall be  
 6 prepared by the chairman of the authority and published at least  
 7 once in a newspaper circulating in the district of the authority. A  
 8 copy of the synopsis shall be filed with the director within 10 days  
 9 after publication.\**

1 **\*\*[18.]\*\*** **\*\*17.\*\*** **\*[If the secretary fails to have the publication  
 2 made within 30 days after receipt of the report of audit and recom-  
 3 mendations, he shall be subject to a fine of \$10.00 payable to the**

4 authority for each day after the expiration of the 30 days that the  
 5 publication fails to appear.]\* *\*The governing body of each au-*  
 6 *thority shall, within 45 days of receipt of the annual audit, certify*  
 7 *by resolution to the Local Finance Board that each member thereof*  
 8 *has personally reviewed the annual audit report, and specifically the*  
 9 *sections of the audit report entitled General Comments, and Recom-*  
 10 *mendations, and has evidenced same by group affidavit in the form*  
 11 *prescribed by the Local Finance Board. Failure to comply with this*  
 12 *provision may subject the members of the authority to the penalty*  
 13 *provisions of section 52 of P. L. 1947, c. 151 (C. 52:27BB-52).\**

1 **\*\*[19.]\*\*** **\*\*18.\*\*** If at any time, as a result of exercising his  
 2 responsibilities under this act, the director has reason to believe  
 3 that an authority is faced with financial difficulty, the director shall  
 4 summon appropriate officials of the authority and the local unit or  
 5 units or either of the aforesaid to a hearing before the Local Finance  
 6 Board. The Local Finance Board may require the production of  
 7 papers, documents, witnesses or information and may make or  
 8 cause to be made an audit or investigation of the circumstances  
 9 with respect to which the hearing was called.

1 **\*\*[20.]\*\*** **\*\*19.\*\*** If the Local Finance Board determines that  
 2 financial difficulties exist which (1) jeopardize the payment of  
 3 operating expenses and debt service on obligations of the authority  
 4 or either of the aforesaid; or place an undue financial burden on the  
 5 inhabitants of the local unit or units or the users of the system or  
 6 facilities of an authority; and (2) that these difficulties are likely  
 7 to reoccur and **\*\*[the continuance of which]\*\*** **\*\***, *if they con-*  
 8 *tinue,\*\** will impair the credit of the authority and local unit or  
 9 units or either of the aforesaid to the detriment of the inhabitants  
 10 thereof; and (3) no financial plan designed to prevent a reoccur-  
 11 rence of these conditions and which is deemed to be practicable and  
 12 feasible by the director has been undertaken by the authority or  
 13 the local unit or units, the Local Finance Board shall order the  
 14 implementation of a financial plan which will assure the payment  
 15 of debt service on obligations of the authority, or provide relief  
 16 from undue financial burden. The order shall be deemed conclusive  
 17 and final and upon receipt of the order all persons shall be estopped  
 18 from contesting the order or the provisions thereof and the au-  
 19 thority or local unit or units affected thereby shall take the action to  
 20 comply with the order.

1 **\*\*[21. The]\*\*** **\*\*20.** *Notwithstanding the provisions of any other*  
 2 *law to the contrary, the\*\** governing body of a local unit **\*\*[or the**  
 3 **governing bodies of the respective local units constituting]\*\***  
 4 **\*\*which has established\*\*** an authority shall have the power and

5 **[are]** **is** authorized by ordinance *in the case of a muni-*  
6 *cipality,* **[in the case of municipalities and resolution in the case**  
7 **of counties]** **[\* or resolutions]** **and ordinance or resolu-**  
8 **tion,** *as appropriate,* *in the case of a county,* to dissolve the  
9 authority, except that **[an action to dissolve an authority shall**  
10 **make]** *the ordinance or resolution, as the case may be, shall be*  
11 *approved by the Local Finance Board prior to adoption. Any*  
12 *authority established by more than one municipality or county may*  
13 *be dissolved by the adoption of parallel ordinances or resolutions,*  
14 *as appropriate. The Local Finance Board shall approve the*  
15 *dissolution if it finds that the ordinance or resolution makes*  
16 *adequate provision in accordance with a security agreement or*  
17 *otherwise for the payment of all creditors or obligees of the au-*  
18 *thority and that adequate provision is made for the assumption of*  
19 *those services provided by the authority which are necessary for the*  
20 *health, safety and welfare of the recipients of those services.* The  
21 ordinance or resolution shall be introduced and adopted in the  
22 manner provided by law **[and]** **,** shall take effect im-  
23 mediately after final adoption**,** and shall not be subject to  
24 referendum. *A copy of the ordinance or resolution as adopted*  
25 *shall be filed immediately with the Local Finance Board and with*  
26 *the Secretary of State.* In the event that an authority has obliga-  
27 tions outstanding at the time of the taking effect of the ordinance  
28 or resolution **[authorizing the dissolution thereof]** **to dis-**  
29 **solve the authority,** the local unit or units **[constituting]**  
30 **dissolving** the authority are authorized to issue obligations in  
31 furtherance of the dissolution**,** and the obligations shall have  
32 a period of usefulness not exceeding 40 years from the date  
33 **[thereof]** **of issuance.** The bonds shall be authorized by a  
34 bond ordinance to be introduced and adopted in accordance with the  
35 provisions of the **Local [Board] Bond Law**  
36 **(N. J. S. 40A:2-1 et seq.)** **;** except for the provisions  
37 of sections **[40A:2-6,]** 40A:2-11, 40A:2-26, 40A:2-27 and  
38 40A:2-31 of the New Jersey Statutes**,** and except that the bond  
39 ordinance shall take effect immediately after final adoption and  
40 shall not be subject to referendum. *The bonds may be deducted*  
41 *from the gross debt of the local unit by action of the Local Finance*  
42 *Board in accordance with subsection d. of N. J. S. 40A:2-7.* Bonds  
43 issued for this purpose shall be sold under the direction and super-  
44 vision of the Local Finance Board**,** and may be sold at either  
45 public or private sale as the board shall prescribe.  
46 *Nothing contained in this section or in this act shall limit the*  
47 *powers accorded under any other law to any county or municipality*  
48 *to dissolve any authority which it has created or of which it has*

49 *joined in the creation, nor limit any general reorganization powers*  
 50 *accorded under law to any county or municipality to alter or abolish*  
 51 *its agencies, but the provisions of this section and this act shall be*  
 52 *supplementary to the powers accorded under any other law.\*\**

1     \*\*21.\*\* The Local Finance Board may order the dissolution of a  
 2 local authority if, after holding a hearing consistent with section  
 3 \*\*~~19~~\*\* \*\*18\*\* of this act, it determines that\*, *due to financial*  
 4 *difficulties or mismanagement,\** the dissolution of an authority will  
 5 be in the public interest and will serve the health, welfare, or con-  
 6 venience of the inhabitants of the local unit or units, and the  
 7 dissolution will achieve a more efficient means for providing and  
 8 financing local public facilities, except that an order dissolving an  
 9 authority shall \*~~make~~\* *assure* adequate provision in accor-  
 10 dance with a security agreement or otherwise for all creditors or  
 11 obligees of the authority. *Any order so adopted by the Local*  
 12 *Finance Board to provide for the dissolution of an authority shall*  
 13 *take effect only upon its approval by the Commissioner of the De-*  
 14 *partment of Community Affairs, the State Treasurer and the*  
 15 *Attorney General. Upon approval, the order shall be immediately*  
 16 *transmitted to the authority, to the clerk of the governing body of*  
 17 *the local unit or units, and to the Secretary of State.\**

1     22. ~~21.~~ *The language and terms of this act shall be construed liber-*  
 2 *ally to effectuate the legislative intent and be complete and inde-*  
 3 *pendent authority for the performance of each and every act and*  
 4 *thing herein authorized.* \*\**Records of minutes, accounts, bills,*  
 5 *vouchers, contracts or other papers connected with or used or filed*  
 6 *with any authority or with any officer or employee acting for or in*  
 7 *its behalf are declared to be public records, and shall be open to*  
 8 *public inspection in accordance with P. L. 1963, c. 73 (C. 47:1A-1*  
 9 *et seq.) and regulations of the authority.\*\**

1     23. ~~22.~~ *If a section, subsection, clause or provision of this act*  
 2 *shall be adjudged unconstitutional or to be ineffective in whole or*  
 3 *in part, to the extent that it is not adjudged unconstitutional or*  
 4 *is not ineffective it shall be valid and effective and no other section,*  
 5 *subsection, clause or provision of this act shall on account thereof*  
 6 *be deemed invalid or ineffective, and the inapplicability or in-*  
 7 *validity of a section, subsection, clause or provision of this act*  
 8 *in one or more instances or under one or more circumstances shall*  
 9 *not be taken to affect or prejudice in any way its applicability or*  
 10 *validity in any other instance or under any other circumstance.* \*\*  
 11 *Notwithstanding the provisions of any law to the contrary, the*  
 12 *State Auditor or his legally authorized representative may examine*  
 13 *the accounts and books of any authority subject to the provisions of*  
 14 *this act.\*\**

1 24. \*~~¶~~No local unit, without the prior approval of the Local Fi-  
 2 nance Board, may agree to lease a facility from or pay any other  
 3 charge or fee for the use of the facility to a corporation or other  
 4 private entity which constructs or develops all or a substantial por-  
 5 tion of a facility primarily for the use of one or more local units. The  
 6 Local Finance Board shall not approve this agreement unless  
 7 it determines that the proposed terms of the agreement are fair,  
 8 reasonable, and feasible and would not impose an undue financial  
 9 burden on the inhabitants of the local unit or units, or undermine  
 10 the financial soundness and credit status of the local unit or units.  
 11 A municipality and other contracting party in entering into this  
 12 agreement shall comply with the provisions of the "Local Public  
 13 Contracts Law," P. L. 1971, c. 198 (C. 40A:11-1 et seq.).~~¶~~ \*Not-  
 14 withstanding any other law to the contrary, any authority, in  
 15 anticipation of the issuance of bonds, may borrow money and issue  
 16 temporary obligations if the security agreement so provides. A  
 17 temporary obligation shall be designated "bond anticipation note"  
 18 or "project note" and shall contain a recital that it is issued in  
 19 anticipation of the issuance of bonds. The notes may be issued for a  
 20 period of not exceeding five years, or the period of construction as  
 21 certified by the consulting engineer plus 12 months, whichever shall  
 22 be less, and may be renewed from time to time with the approval of  
 23 the Local Finance Board.\*

1 25. If the Local Finance Board has reason to believe that a  
 2 municipal public utility is faced with financial difficulty, it shall  
 3 have the power to order an increase in rents, rates, fees or other  
 4 charges of the utility, and this order shall be valid and enforceable  
 5 notwithstanding any provisions of the contrary in R. S. 48:2-1  
 6 et seq., but the Local Finance Board, before issuing this order,  
 7 shall first hold a hearing to which the Director of the Division of  
 8 Local Government Services shall summon appropriate officials of  
 9 the municipality. The Local Finance Board may require the produc-  
 10 tion of papers, documents, witnesses or information and may make  
 11 or cause to be made an audit or investigation of the circumstances  
 12 with respect to which the hearing was called.

13 The Local Finance Board may \*~~¶~~exempt~~¶~~\* *except*\* municipal  
 14 and county funding for a deficit of a municipal public utility \*or  
 15 authority\* from the expenditure limitations of P. L. 1976, c. 68 (C.  
 16 40A:4-45.1 et seq.).

1 26. a. The Local Finance Board is authorized to adopt, amend  
 2 and repeal rules and regulations to effectuate the purposes of this  
 3 act.

4 \*b. This act shall not limit the powers of the Local Finance Board



5 *or the director to regulate the financial affairs of authorities in the*  
6 *manner authorized by P. L. 1947, c. 151 (C. 52:27BB-1 et seq.).\**

1 27. The Local Finance Board, the director, and local units and  
2 local authorities shall not act under this act in a manner inconsistent  
3 with a security or financing agreement in effect at the time of the  
4 action.

1 28. This act shall take effect **\*[immediately]\*** *\*90 days following*  
2 *enactment, except that sections **\*\*[11, 12, 16, 17, and 18]\*\*** **\*\*10, 11,***  
3 *15, 16, and 17\*\* shall apply to the first fiscal year of an authority*  
4 *which commences 180 days following the promulgation by the Local*  
5 *Finance Board of rules and regulations to govern the adoption and*  
6 *approval of authority budgets and the conduct of annual audits by*  
7 *authorities pursuant to those sections\*.*

---

ASSEMBLY, No. 144  
STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1982 SESSION

By Assemblymen DOYLE, KARCHER and VAN WAGNER

AN ACT concerning the Regulation of Local Authorities by the  
Local Finance Board.

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

1 1. This act shall be known and may be cited as the "Local Public  
2 Facilities Fiscal Control Law."

1 2. The Legislature declares it to be in the public interest and  
2 to be the policy of the State to maintain, support, foster, and pro-  
3 mote the financial stability of local authorities in the State and  
3A municipalities served by local authorities, State approval of  
4 project financing of local authorities, and State supervision of  
5 financial operations of local authorities in order to assure their  
6 financial stability and integrity.

7 The Legislature declares that it is the purpose and object of  
8 this act to implement this policy by providing that the creation  
9 of a local authority be subject to Local Finance Board approval,  
10 that project financing of a local authority be submitted to the Local  
11 Finance Board for approval, that annual budgets of a local au-  
12 thority be submitted to the Local Finance Board for approval,  
13 that financial reports be prepared and submitted by a local au-  
14 thority to the Local Finance Board in the form and at the time  
15 or times as shall be prescribed by rule or regulation prescribed by  
16 the Local Finance Board, and that the Local Finance Board may  
17 take remedial action to address an emergency situation with re-  
18 spect to the financial condition and operation of a local authority  
19 or to respond to an undue financial burden imposed by a local  
20 authority on residents of the State, including the power to order  
21 the dissolution of a local authority if it is in the public interest.

1 3. As used in this act, unless a different meaning clearly appears  
2 from the context:

3 a. "Authority" means a local public body or political sub-

4 division, other than a school district subject to the supervision of  
5 the New Jersey Department of Education, created by a municipi-  
6 pality, municipalities, county, or counties, under the provisions of  
7 any law heretofore or hereafter adopted which law authorized the  
8 authority to develop and finance public improvements or a body  
9 created by the State Legislature which is not statutorily allocated  
10 to a State cabinet department; and further provided that the term  
11 "authority" as used herein shall not include a bi-State govern-  
12 mental entity.

13 b. "Director" means the Director of the Division of Local Gov-  
14 ernment Services in the Department of Community Affairs.

15 c. "Financing agreement" means an agreement of a local unit  
16 or units intended to provide security for an issue of obligations  
17 of an authority, including a contract providing for payments  
18 by a local unit or units with respect to use, services or provision  
19 of a project, facility or public improvement of an authority or  
20 payments for debt service therefore.

21 d. "Local Finance Board" means the Local Finance Board in  
22 the Division of Local Government Services in the Department of  
23 Community Affairs.

24 e. "Local unit or units" means a county or municipality which  
25 created or joined in the creation of an authority or which proposes  
26 to create or join in the creation thereof or which proposes to enter  
27 into a financing agreement with an authority.

28 f. "Project financing" means the financing by an authority of  
29 a facility for the benefit of the inhabitants of a local unit or units  
30 and includes payment for the design and plan for the facility.

31 g. "Security agreement" means a bond resolution of an au-  
32 thority or a trust indenture to be executed by an authority or other  
33 similar proceeding or document.

1 4. Upon the effective date of this act, no authority other than  
2 an authority created by an act of the Legislature shall be created  
3 without the prior approval of the Local Finance Board. Prior to  
4 the introduction of an ordinance or the adoption of a resolu-  
5 tion to create an authority, the local unit or units proposing this  
6 creation shall make application to the Local Finance Board for  
7 its approval. The application shall contain: (a) a copy of the  
8 proposed ordinance or resolution creating the authority; (b) a  
9 statement, in brief and general terms of the project or projects  
10 to be undertaken, the estimated cost thereof including the manner  
11 of the financing thereof, and the area to be served thereby; (c)  
12 a proposed budget for the first year of authority operations, in-  
13 cluding a table of organization, personnel requirements, the level

14 of staff required for supervision of the operation of the authority  
15 and the proposed source or sources of the authority's funding; and  
16 (d) a statement, in the form prescribed by the Local Finance Board,  
17 indicating that the local unit or units have considered alternate  
18 means of undertaking the proposed project or projects and the  
19 financing thereof and determining that the creation of an authority  
20 is the most efficient and feasible means of providing and financing  
21 such project or projects. The Local Finance Board may consider  
22 estimates, computations or calculations made in connection with  
23 an application, may require the production of papers, documents,  
24 witnesses or information, may make or cause to be made an audit  
25 or investigation and may take any action which it may determine  
26 advisable in connection with its consideration of whether it should  
27 consent to the creation of an authority.

1 5. The Local Finance Board shall approve in writing the creation  
2 of the proposed authority if it determines that the authority to be  
3 created is in the public interest and will serve the health, welfare,  
4 or convenience of the inhabitants of the local unit or units and  
5 the creation of an authority is an efficient and feasible means of  
6 providing and financing this project or projects.

1 6. If the Local Finance Board shall not make the determinations  
2 required by the preceding paragraph, it shall specify in writing the  
3 reason or reasons therefore and shall file same with the clerk or  
4 clerks of the local unit or units. Not less than 90 days from the  
5 receipt thereof, the local unit or units may submit a revised appli-  
6 cation for consideration and approval of the Local Finance Board.

1 7. Prior to the adoption of a security agreement by an authority  
2 or an ordinance or resolution of a local unit or units authorizing a  
3 financing agreement, the proposed project financing shall be sub-  
4 mitted to the Local Finance Board for its review and approval.  
5 The Local Finance Board shall, in the course of its review and  
6 approval, give consideration to: (a) the nature, purpose, and scope  
7 of the proposed project financing; (b) the engineering and feasi-  
8 bility studies prepared in connection therewith; (c) the terms and  
9 provisions of the proposed financing agreements, security agree-  
10 ments and, in the instance of a negotiated offering, the proposed or  
11 maximum terms and conditions of sale; (d) the proposed or maxi-  
12 mum schedule of debt service payments required and the impact  
13 thereof on the budget and financial condition of the authority and  
14 of the local unit or units; (e) the estimate of the annual cost of  
15 operating and maintaining the project as set forth in the engineer-  
16 ing report of feasibility studies; and (f) the initial rate, rent, fee,  
17 or charge schedule or structure proposed by the authority or other

18 proposed method of raising the amounts required to finance the  
19 operations of the authority (including the payment of debt service  
20 on its obligations). The Local Finance Board may examine the  
21 estimates, computations or calculations made in connection with  
22 this submission, may require the production of papers, documents,  
23 witnesses or information, may take or cause to be made an audit  
24 or investigation and may take any other action which it may deem  
25 advisable in connection with this submission.

1 8. The Local Finance Board shall approve the proposed financing  
2 if it determines with respect to the proposal: (a) that the project  
3 cost has been accurately determined; (b) that the method proposed  
4 for the funding of the project cost, proposed or maximum terms and  
5 provisions of the financing and of a proposed financing agree-  
6 ment are fair, reasonable and feasible and would not impose an  
7 undue financial burden on the inhabitants of the local unit or units,  
8 which have created or have joined in the creation of the authority  
9 or which may enter into a financing agreement with the authority,  
10 or would not materially impair the ability of the local unit or units  
11 or the authority to pay promptly the principal of and interest on  
12 the outstanding indebtedness thereof or to provide essential public  
13 services to the inhabitants thereof; and (c) in the case of a negoti-  
14 ated offering, that the proposed or maximum terms and conditions  
15 of sale are, in light of current market conditions for obligations  
16 of similar quality, fair and reasonable. The approval shall be in  
17 writing and shall be filed with the clerk or clerks of the local unit  
18 or units and with the secretary of the authority.

1 9. The Local Finance Board may require, as a condition of its  
2 approval of a proposed project financing:

3 a. That the debt service reserve fund in an amount established by  
4 the board be funded from the proceeds of the sale of the authority's  
5 bonds;

6 b. The incurrence of indebtedness and the issuance of obligations  
7 by the local unit or units to finance a portion of the proposed project  
8 cost. Except as otherwise provided in this act, these obligations  
9 shall be authorized and issued in the manner provided for in Title  
10 40 of the Revised Statutes or Title 40A of the New Jersey Statutes;

11 c. That the local unit or units execute a financing agreement with  
12 the authority; and

13 d. That the local unit or units not execute a financing agreement  
14 with the authority, if the Local Finance Board determines that the  
15 agreement would impose an inappropriate risk on the local unit;

16 e. That an amount not to exceed the outstanding principal each  
17 year for the proposed financing of the authority be included in the

18 net debt of a local unit, under N. J. S. 40A:2-1 et seq., if the local  
19 unit executes a financing agreement with the authority;

20 f. In addition to the above, any other conditions that the Local  
21 Finance Board considers appropriate to provide sound financial  
22 support for the project financing.

1 10. To the extent not otherwise provided for in Title 40 of the  
2 Revised Statutes or Title 40A of the New Jersey Statutes and in  
3 order to satisfy the provisions of section 9 of this act, any local unit  
4 or units now members of an authority or which may hereafter join,  
5 form or create an authority or which are now or hereafter under  
6 contract with an authority in connection with a project financing  
7 are authorized and shall have the power to incur indebtedness and  
8 issue obligations for any purpose for which an authority may issue  
9 obligations and to donate the proceeds of those obligations to an  
10 authority to be expended for the purpose for which the funds were  
11 borrowed. Except as otherwise provided in this act, all obligations  
12 shall be authorized and issued in the manner provided for in Title  
13 40 or Title 40A.

1 11. Every authority shall, not later than 45 days prior to the com-  
2 mencement of its fiscal year, or, if a local unit or units have  
3 entered into a financing agreement with an authority, not later than  
4 November 15 of each year, submit a budget for the next fiscal year  
5 to the Local Finance Board. The budget shall be in such detail as  
6 to items of revenue and expense as shall be required by law or by  
7 rules and regulations of the Local Finance Board and shall also  
8 comply with the terms and provisions of any security agreements.

1 12. No authority budget shall be finally adopted until the Local  
2 Finance Board shall have approved same. In granting the approval,  
3 the Local Finance Board shall consider:

- 4 a. Whether revenues have been realistically anticipated and,  
5 b. Whether the schedule of rates then in effect will produce  
6 revenues sufficient to satisfy all obligations to the holders of bonds  
7 of the authority. The Local Finance Board shall, in making this  
8 determination, consider the prior history of collection of service  
9 charges of the authority and the likelihood of adequate collections of  
10 service charges under the existing rate schedule or a proposed rate  
11 schedule and the amounts to be appropriated by the local unit or  
12 units.

1 13. The Local Finance Board shall have the power, in the case of  
2 a financing agreement between an authority and a local unit or units,  
3 to enforce, by appropriate order, the terms and provisions thereof  
4 with respect to the funding of a deficit, whether in existence or  
5 anticipated. If the Local Finance Board has reason to believe that

6 an authority is faced with financial difficulty, it shall have the power  
7 to order an increase in rents, rates, fees or other charges of the  
8 authority, and this order shall be valid and enforceable notwith-  
9 standing any provisions to the contrary in R. S. 48:2-1 et seq.,  
10 except that the Local Finance Board, before issuing this order,  
11 shall first hold a hearing consistent with section 19 of this act. The  
12 Local Finance Board also shall have authority to provide that a  
13 requirement that a local unit or units pay a deficit under a financing  
14 agreement be funded as provided in section 15 of this act and this  
15 order shall be deemed conclusive and final and upon receipt of this  
16 order all persons shall be estopped from contesting the order or the  
17 provisions thereof and the authority or local unit or units affected  
18 thereby shall promptly take the action necessary to comply with this  
19 order.

1 14. To the extent not otherwise provided for in this act, or by  
2 any other provision of law, an authority is authorized and shall  
3 have the power to issue obligations to be designated "Authority  
4 Emergency Notes" in an amount not exceeding the realized deficit  
5 in revenues for the preceding fiscal year and an estimated deficit  
6 in revenues for the current fiscal year, and may be renewed from  
7 time to time. All such notes and the renewals thereof, shall mature  
8 not later than the close of the succeeding fiscal year and shall be  
9 payable in the fiscal year. Payment shall, however, be subordinate  
10 to the payment of principal and interest on, or sinking fund pay-  
11 ments with respect to, bonds or other obligations (other than  
12 "Authority Emergency Notes") of the authority.

13 The proceeds of the sale of "Authority Emergency Notes" shall  
14 be deposited in the fund or funds in which a deficiency exists or  
15 is expected to exist as set forth in the resolution under which the  
16 notes are issued.

1 15. If the issuance of "Authority Emergency Notes" is not  
2 permitted by the terms of a security agreement than the local  
3 unit or units, if obligated to make payments on account of a de-  
4 ficiency in revenues under the terms of a financing agreement,  
5 may issue emergency notes to fund this payment or portions  
6 thereof. These obligations shall be designated "Authority Deficit  
7 Funding Notes" and shall be general obligations of the issuer.  
8 Each note shall be authorized by resolution of the governing body  
9 and may be renewed from time to time. All notes and the renewals  
10 thereof shall mature not later than the last day of the fiscal year  
11 next succeeding the fiscal year in which these notes were issued  
12 and the emergency appropriation authorized.

1 16. Every authority shall cause an annual audit of its accounts  
2 to be made, and for this purpose it shall employ a registered mu-  
3 nicipal accountant of New Jersey or a certified public accountant  
4 of New Jersey. The audit shall be completed and filed with the  
5 authority within 4 months after the close of the fiscal year of the  
6 authority and a certified duplicate copy thereof shall be filed with  
7 the director within 5 days after the original report is filed with  
8 the authority.

1 17. A synopsis of all audits, together with the recommendations  
2 made by the registered municipal accountant or certified municipal  
3 accountant, shall be prepared and published by the secretary of  
4 the authority at least once in a newspaper circulating within the  
5 district of the authority.

1 18. If the secretary fails to have the publication made within  
2 30 days after receipt of the report of audit and recommendations,  
3 he shall be subject to a fine of \$10.00 payable to the authority for  
4 each day after the expiration of the 30 days that the publication  
5 fails to appear.

1 19. If at any time, as a result of exercising his responsibilities  
2 under this act, the director has reason to believe that an authority  
3 is faced with financial difficulty, the director shall summon appro-  
4 priate officials of the authority and the local unit or units or  
5 either of the aforesaid to a hearing before the Local Finance  
6 Board. The Local Finance Board may require the production of  
7 papers, documents, witnesses or information and may make or  
8 cause to be made an audit or investigation of the circumstances  
9 with respect to which the hearing was called.

1 20. If the Local Finance Board determines that financial diffi-  
2 culties exist which (1) jeopardize the payment of operating ex-  
3 penses and debt service on obligations of the authority or either  
4 of the aforesaid; or place an undue financial burden on the in-  
5 habitants of the local unit or units or the users of the system or  
6 facilities of an authority; and (2) that these difficulties are likely  
7 to reoccur and the continuance of which will impair the credit of  
8 the authority and local unit or units or either of the aforesaid to  
9 the detriment of the inhabitants thereof; and (3) no financial plan  
10 designed to prevent a reoccurrence of these conditions and which  
11 is deemed to be practicable and feasible by the director has been  
12 undertaken by the authority or the local unit or units, the Local  
13 Finance Board shall order the implementation of a financial plan  
14 which will assure the payment of debt service on obligations of  
15 the authority, or provide relief from undue financial burden. The  
16 order shall be deemed conclusive and final and upon receipt of the



17 order all persons shall be estopped from contesting the order or  
18 the provisions thereof and the authority or local unit or units  
19 affected thereby shall take the action to comply with the order.

1 21. The governing body of a local unit or the governing bodies  
2 of the respective local units constituting an authority shall have  
3 the power and are authorized by ordinance in the case of munici-  
4 palities and resolution in the case of counties, to dissolve the  
5 authority, except that an action to dissolve an authority shall make  
6 adequate provision in accordance with a security agreement or  
7 otherwise for the payment of all creditors or obligees of the au-  
8 thority. The ordinance or resolution shall be introduced and  
9 adopted in the manner provided by law and shall take effect  
10 immediately after final adoption and shall not be subject to  
11 referendum. In the event that an authority has obligations out-  
12 standing at the time of the taking effect of the ordinance or resolu-  
13 tion authorizing the dissolution thereof, the local unit or units  
14 constituting the authority are authorized to issue obligations in  
15 furtherance of the dissolution and the obligations shall have a  
16 period of usefulness not exceeding 40 years from the date thereof.  
17 The bonds shall be authorized by a bond ordinance to be introduced  
18 and adopted in accordance with the provisions of the Local Board  
19 Law except for the provisions of sections 40A:2-6, 40A:2-11,  
20 40A:2-26, 40A:2-27 and 40A:2-31 of the New Jersey Statutes and  
21 except that the bond ordinance shall take effect immediately after  
22 final adoption and shall not be subject to referendum. Bonds issued  
23 for this purpose shall be sold under the direction and supervision  
24 of the Local Finance Board and may be sold at either public or  
25 private sale as the board shall prescribe.

26 The Local Finance Board may order the dissolution of a local  
27 authority if, after holding a hearing consistent with section 19 of  
28 this act, it determines that the dissolution of an authority will be  
29 in the public interest and will serve the health, welfare, or con-  
30 venience of the inhabitants of the local unit or units, and the  
31 dissolution will achieve a more efficient means for providing and  
32 financing local public facilities, except that an order dissolving an  
33 authority shall make adequate provision in accordance with a  
34 security agreement or otherwise for all creditors or obligees of the  
35 authority.

1 22. The language and terms of this act shall be construed liber-  
2 ally to effectuate the legislative intent and be complete and inde-  
3 pendent authority for the performance of each and every act and  
4 thing herein authorized.

1 23. If a section, subsection, clause or provision of this act  
2 shall be adjudged unconstitutional or to be ineffective in whole or

3 in part, to the extent that it is not adjudged unconstitutional or  
4 is not ineffective it shall be valid and effective and no other section,  
5 subsection, clause or provision of this act shall on account thereof  
6 be deemed invalid or ineffective, and the inapplicability or in-  
7 validity of a section, subsection, clause or provision of this act  
8 in one or more instances or under one or more circumstances shall  
9 not be taken to affect or prejudice in any way its applicability or  
10 validity in any other instance or under any other circumstance.

1 24. No local unit, without the prior approval of the Local Finance  
2 Board, may agree to lease a facility from or pay any other charge  
3 or fee for the use of the facility to a corporation or other private  
4 entity which constructs or develops all or a substantial portion of  
5 a facility primarily for the use of one or more local units. The  
6 Local Finance Board shall not approve this agreement unless  
7 it determines that the proposed terms of the agreement are fair,  
8 reasonable, and feasible and would not impose an undue financial  
9 burden on the inhabitants of the local unit or units, or undermine  
10 the financial soundness and credit status of the local unit or units.  
11 A municipality and other contracting party in entering into this  
12 agreement shall comply with the provisions of the "Local Public  
13 Contracts Law," P. L. 1971, c. 198 (C. 40A:11-1 et seq.).

1 25. If the Local Finance Board has reason to believe that a  
2 municipal public utility is faced with financial difficulty, it shall  
3 have the power to order an increase in rents, rates, fees or other  
4 charges of the utility, and this order shall be valid and enforceable  
5 notwithstanding any provisions of the contrary in R. S. 48:2-1  
6 et seq., but the Local Finance Board, before issuing this order,  
7 shall first hold a hearing to which the Director of the Division of  
8 Local Government Services shall summon appropriate officials of  
9 the municipality. The Local Finance Board may require the produc-  
10 tion of papers, documents, witnesses or information and may make  
11 or cause to be made an audit or investigation of the circumstances  
12 with respect to which the hearing was called.

13 The Local Finance Board may exempt municipal and county  
14 funding for a deficit of a municipal public utility from the ex-  
15 penditure limitations of P. L. 1976, c. 68 (C. 40A:4-45.1 et seq.).

1 26. The Local Finance Board is authorized to adopt, amend and  
2 repeal rules and regulations to effectuate the purposes of this act.

1 27. The Local Finance Board, the director, and local units and  
2 local authorities shall not act under this act in a manner inconsistent  
3 with a security or financing agreement in effect at the time of the  
4 action.

1 28. This act shall take effect immediately.

## STATEMENT

This bill empowers the Local Finance Board to oversee the creation, operation and dissolution of local authorities established by municipalities or counties. These authorities have the potential for misuse as a means of avoiding the budgetary limitations of the local "cap" law (P. L. 1976, c. 68, C. 40A:4-45.1 et seq.).

---

ASSEMBLY REVENUE, FINANCE AND APPROPRIATIONS  
COMMITTEE

STATEMENT TO  
**ASSEMBLY, No. 144**

[OFFICIAL COPY REPRINT]  
with committee amendments

---

**STATE OF NEW JERSEY**

---

DATED: MAY 5, 1983

Assembly Bill No. 144, with committee amendments, creates an oversight function to control the creation, operation and dissolution of local authorities. The oversight function is assigned to the Local Finance Board and the Director of the Division of Local Government Services in the Department of Community Affairs.

Generally, the Local Finance Board must approve the creation of a local authority; its debt issuance and an authority's dissolution.

The Director of the Division of Local Government Services is charged with the review of authority budgets as per guidelines established by the board.

COMMITTEE AMENDMENTS:

The committee amended the bill by adding the requirement that the Local Finance Board hold a public hearing prior to approving an authority's proposed project financing. The amendments provide more specific direction and minimum requirements regarding the authority's annual budget submission and execution and approval by the director.

While the bill authorizes authorities to issue Temporary Funding Notes whose purpose is to meet required deficits, the committee amendments require notification to the Local Finance Board prior to issuing such notes.

Regarding audits, the committee amendments call for minimum audit requirements regarding accounting principles, auditing procedures and finance reporting practices, as prescribed by the Local Finance Board. Additionally, the members of the authority's governing body are to certify in writing to the Local Finance Board that each member has personally reviewed the audit and, in particular, any recommendations contained in the audit.

Regarding the dissolution of an authority, the committee inserted the requirement that any local ordinance or resolution to dissolve an

authority must be approved by the Local Finance Board prior to that ordinance or resolution's adoption. The dissolution of an authority ordered by the Local Finance Board must also be approved by the Commissioner of the Department of Community Affairs, the State Treasurer, and the Attorney General.

The committee changed the effective date of the bill from immediately to 90 days following enactment and the section regarding budgets and audits are to comply to the fiscal year of an authority which commences 180 days following promulgation of rules and regulations regarding submission of budgets and audits.

---

[OFFICIAL COPY REPRINT]  
ASSEMBLY, No. 144

**STATE OF NEW JERSEY**

PRE-FILED FOR INTRODUCTION IN THE 1982 SESSION

By Assemblymen DOYLE, KARCHER and VAN WAGNER

AN ACT **\*[**concerning the Regulation of Local Authorities by the  
Local Finance Board**]\*** *\*providing for the regulation by the  
State of the fiscal affairs of local authorities\*.*

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

1 1. This act shall be known and may be cited as the "Local  
2 **\*[**Public Facility**]\*** *\*Authorities\* Fiscal Control Law."*

1 2. The Legislature declares it to be in the public interest and  
2 to be the policy of the State to maintain, support, foster, and pro-  
3 mote the financial stability of local authorities in the State and  
3A municipalities served by local authorities, State approval of  
4 project financing of local authorities, and State supervision of  
5 financial operations of local authorities in order to assure their  
6 financial stability and integrity.

7 The Legislature declares that it is the purpose and object of  
8 this act to implement this policy by providing that the creation  
9 of a local authority be subject to Local Finance Board approval,  
10 that project financing of a local authority be submitted to the Local  
11 Finance Board for approval, that annual budgets of a local au-  
12 thority be submitted to the **\*[**Local Finance Board**]\*** *\*Division of*  
13 *Local Government Services in the Department of Community*  
14 *Affairs\** for approval, that financial reports be prepared and sub-  
15 mitted by a local authority to the **\*[**Local Finance Board**]\*** *\*divi-*  
16 *sion\** in the form and at the time or times as shall be prescribed by  
17 rule or regulation **\*[**prescribed by**]\*** *\*of\** the Local Finance  
18 Board *\*or of the Director of the Division of Local Government*  
19 *Services\**, and that the Local Finance Board may take remedial

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

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

\*—Assembly committee amendments adopted May 5, 1983.

24 e. "Local unit or units" means a county or municipality which  
25 created or joined in the creation of an authority or which proposes  
26 to create or join in the creation thereof or which proposes to enter  
27 into a financing agreement with an authority.

28 f. "Project financing" means the financing by an authority of  
29 a facility for the benefit of the inhabitants of a local unit or units  
30 and includes payment for the design and plan for the facility.

31 g. "Security agreement" means a bond resolution of an au-  
32 thority or a trust indenture to be executed by an authority or other  
33 similar proceeding or document.

1 4. Upon the effective date of this act, no authority \*~~other than~~  
2 an authority created by an act of the Legislature]\* shall be created  
3 \*by any local unit or units\* without the prior approval of the Local  
4 Finance Board. Prior to the introduction of an ordinance or the  
5 adoption of a resolution to create an authority, the local unit or  
6 units proposing this creation shall make application to the Local  
7 Finance Board for its approval. The application shall contain: (a)  
8 a copy of the proposed ordinance or resolution creating the author-  
9 ity; (b) a statement, in brief and general terms of the project or  
10 projects to be undertaken, the estimated cost thereof including the  
11 manner of the financing thereof, and the area to be served thereby;  
12 (c) a proposed budget for the first year of authority operations,  
13 including a table of organization, personnel requirements, the level  
14 of staff required for supervision of the operation of the authority  
15 and the proposed source or sources of the authority's funding; and  
16 (d) a statement, in the form prescribed by the Local Finance Board,  
17 indicating that the local unit or units have considered \*~~alternate~~\*  
18 \*alternative\* means of undertaking the proposed project or proj-  
19 ects and the financing thereof and \*~~determining~~\* \*have deter-  
20 mined\* that the creation of an authority is the most efficient and  
21 feasible means of providing and financing such project or projects.  
22 The Local Finance Board may consider estimates, computations  
23 or calculations made in connection with an application, may require  
24 the production of papers, documents, witnesses or information,  
25 may make or cause to be made an audit or investigation and may  
26 take any action which it may determine advisable in connection  
27 with its consideration of whether \*or not\* it should consent to the  
28 creation of an authority.

1 5. The Local Finance Board shall approve in writing the creation  
2 of the proposed authority if it determines that the authority to be  
3 created is \*~~in the public interest and will serve the health, welfare,~~  
4 or convenience of the inhabitants of the local unit or units and  
5 the creation of an authority is]\* an efficient and feasible means of

6 providing and financing this project or projects\*, *given the needs*  
7 *of, and the financial burdens to be placed upon, the inhabitants*  
8 *of the local unit or units\**.

1 6. If the Local Finance Board shall not \***[**make the determina-  
2 tions required by the preceding paragraph**]**\* *approve the crea-*  
2A *tion of the authority\**, it shall specify in writing the reason or  
3 reasons therefore and shall file same with the clerk or clerks  
4 of the local unit or units. Not less than 90 days from the receipt  
5 thereof, the local unit or units may submit a revised application  
6 for consideration and approval of the Local Finance Board.

1 7. Prior to the adoption of a security agreement by an authority  
2 or an ordinance or resolution of a local unit or units authorizing a  
3 financing agreement, the proposed project financing shall be sub-  
4 mitted to the Local Finance Board for its review and approval.  
5 The Local Finance Board shall, in the course of its review and  
6 approval, give consideration to: (a) the nature, purpose, and scope  
7 of the proposed project financing; (b) the engineering and feasi-  
8 bility studies prepared in connection therewith; (c) the terms and  
9 provisions of the proposed financing agreements, security agree-  
10 ments and, in the instance of a negotiated offering, the proposed or  
11 maximum terms and conditions of sale; (d) the proposed or maxi-  
12 mum schedule of debt service payments required and the impact  
13 thereof on the budget and financial condition of the authority and  
14 of the local unit or units; (e) the estimate of the annual cost of  
15 operating and maintaining the project as set forth in the engineer-  
16 ing report of feasibility studies; and (f) the initial rate, rent, fee,  
17 or charge schedule or structure proposed by the authority or other  
18 proposed method of raising the amounts required to finance the  
19 operations of the authority (including the payment of debt service  
20 on its obligations). The Local Finance Board may examine the  
21 estimates, computations or calculations made in connection with  
22 this submission, may require the production of papers, documents,  
23 witnesses or information, may take or cause to be made an audit  
24 or investigation and may take any other action which it may deem  
25 advisable in connection with this submission.

1 8. The Local Finance Board shall \*, *upon the completion of its*  
2 *review, hold a hearing at which any interested party may furnish*  
3 *additional information regarding the proposal. After the hearing,*  
4 *the board shall\** approve the proposed financing if it determines  
5 with the respect to the proposal: (a) that the project cost has been  
6 \***[**accurately**]**\* determined *\*by reasonable and accepted methods\**;  
7 (b) that the method proposed for the funding of the project cost,  
8 proposed or maximum terms and provisions of the financing and of



9 a proposed financing agreement are \***[fair, reasonable and**  
10 **feasible]**\* *\*not unreasonable nor impracticable,\** and would not  
11 impose an undue *\*and unnecessary\** financial burden on the in-  
12 habitants of the local unit or units, which have created or have  
13 joined in the creation of the authority or which may enter into a  
14 financing agreement with the authority, or would not materially  
15 impair the ability of the local unit or units or the authority to pay  
16 promptly the principal of and interest on the outstanding in-  
17 debtedness thereof or to provide essential public services to the  
18 inhabitants thereof; and (c) in the case of a negotiated offering,  
19 that the proposed or maximum terms and conditions of sale are, in  
20 light of current market conditions for obligations of similar quality,  
21 **\*[fair and]**\* reasonable. The approval shall be in writing and shall  
22 be filed with the clerk or clerks of the local unit or units and with the  
23 secretary of the authority.

1 9. The Local Finance Board may require, as a condition of its  
2 approval of a proposed project financing:

- 3 a. That the debt service reserve fund in an amount established by  
4 the board be funded from the proceeds of the sale of the authority's  
5 bonds;
- 6 b. The incurrence of indebtedness and the issuance of obligations  
7 by the local unit or units to finance a portion of the proposed project  
8 cost. Except as otherwise provided in this act, these obligations  
9 shall be authorized and issued in the manner provided for in Title  
10 40 of the Revised Statutes or Title 40A of the New Jersey Statutes;
- 11 c. That the local unit or units execute a financing agreement with  
12 the authority; and
- 13 d. That the local unit or units not execute a financing agreement  
14 with the authority, if the Local Finance Board determines that the  
15 agreement would impose an inappropriate risk on the local unit;
- 16 e. That an amount not to exceed the outstanding principal each  
17 year for the proposed financing of the authority be included in the  
18 net debt of a local unit, under N. J. S. 40A:2-1 et seq., if the local  
19 unit executes a financing agreement with the authority;
- 20 f. In addition to the above, any other conditions that the Local  
21 Finance Board considers appropriate to provide sound financial  
22 support for the project financing.

1 10. To the extent not otherwise provided for in Title 40 of the  
2 Revised Statutes or Title 40A of the New Jersey Statutes and in  
3 order to satisfy the provisions of section 9 of this act, any local unit  
4 or units now members of an authority or which may hereafter join,  
5 form or create an authority or which are now or hereafter under  
6 contract with an authority in connection with a project financing

7 are authorized and shall have the power to incur indebtedness and  
 8 issue obligations for any purpose for which an authority may issue  
 9 obligations and to donate the proceeds of those obligations to an  
 10 authority to be expended for the purpose for which the funds were  
 11 borrowed. Except as otherwise provided in this act, all obligations  
 12 shall be authorized and issued in the manner provided for in Title  
 13 40 or Title 40A.

1 11. \*~~Every~~ authority shall, not later than 45 days prior to the  
 2 commencement of its fiscal year, or, if a local unit or units have  
 3 entered into a financing agreement with an authority, not later than  
 4 November 15 of each year, submit a budget for the next fiscal year  
 5 to the Local Finance Board. The budget shall be in such detail as  
 6 to items of revenue and expense as shall be required by law or by  
 7 rules and regulations of the Local Finance Board and shall also  
 8 comply with the terms and provisions of any security agreements.]\*\*

9 *\*a. Each authority shall submit a budget for each fiscal year to the*  
 10 *director prior to its adoption thereof. The budget shall comply with*  
 11 *the terms and provisions of any security agreements, and shall be*  
 12 *in such form and detail as to items of revenue, expenditure and other*  
 13 *content as shall be required by law or by rules and regulations of the*  
 14 *Local Finance Board.*

15 *b. The Local Finance Board shall prescribe by rule or regulation*  
 16 *the procedure for the adoption of budgets by authorities. The rules*  
 17 *and regulations may include or be similar to any provisions of the*  
 18 *"Local Budget Law" (N. J. S. 40A:4-1 et seq.) which the Local*  
 19 *Finance Board shall deem to be practicable or necessary, and may*  
 20 *further include any other provisions and requirements which the*  
 21 *Local Finance Board shall deem appropriate or necessary.*

22 *c. The Local Finance Board shall also prescribe by rule or regula-*  
 23 *tion the procedures and requirements for execution of any budget*  
 24 *after adoption, and for the administration of financial affairs of*  
 25 *authorities. The rules and regulations may include, without limita-*  
 26 *tion, any provisions of the "Local Budget Law" (N. J. S. 40A:4-1*  
 27 *et seq.), and the "Local Fiscal Affairs Law" (N. J. S. 40A:5-1 et*  
 28 *seq.), which the Local Finance Board shall deem to be practicable*  
 29 *and necessary.\**

1 12. No authority budget shall be finally adopted until the \*~~Local~~  
 2 ~~Finance Board]~~\* *director*\* shall have approved same. In granting  
 3 the approval, \*~~the~~ Local Finance Board shall consider:

4 a. Whether revenues have been realistically anticipated and,

5 b. Whether the schedule of rates then in effect will produce  
 6 revenues sufficient to satisfy all obligations to the holders of bonds  
 7 of the authority. The Local Finance Board shall, in making this

8 determination, consider the prior history of collection of service  
 9 charges of the authority and the likelihood of adequate collections of  
 10 service charges under the existing rate schedule or a proposed rate  
 11 schedule and the amounts to be appropriated by the local unit or  
 12 units.】\* *the director shall consider whether or not:*

13 *a. All estimates of revenue are reasonable, accurate and cor-*  
 14 *rectly stated;*

15 *b. Items of appropriation are properly set forth;*

16 *c. In itemization, form and content, the budget will permit the*  
 17 *exercise of the comptroller function within the authority;*

18 *d. The schedule of rates, fees and charges then in effect will*  
 19 *produce sufficient revenues, together with all other anticipated*  
 20 *revenues, to satisfy all obligations to the holders of bonds of the*  
 21 *authority, to meet operating expenses, capital outlays, debt service*  
 22 *requirements, and to provide for such reserves, all as may be re-*  
 23 *quired by law, regulation or terms of contracts and agreements.*

24 *The director may require such documentation, records and other*  
 25 *information, and undertake any audit or investigation, as he may*  
 26 *deem necessary in connection with his review.*

27 *If the director finds that all requirements of law and the rules*  
 28 *and regulations of the Local Finance Board have been met, he shall*  
 29 *approve the budget; otherwise he shall refuse to approve it. The*  
 30 *director, in refusing to approve the budget, shall not substitute his*  
 31 *discretion with respect to the amount of an appropriation when that*  
 32 *amount is not made mandatory by law or regulation.*

33 *Any decision of the director in the course of budget review under*  
 34 *this section may be appealed to the Local Finance Board in the*  
 35 *manner generally provided by law.\**

1 13. The Local Finance Board shall have the power, in the case of  
 2 a financing agreement between an authority and a local unit or units,  
 3 to enforce, by appropriate order, the terms and provisions thereof  
 4 with respect to the funding of a deficit, whether in existence or  
 5 anticipated. If the Local Finance Board has reason to believe that  
 6 an authority is faced with financial difficulty, it shall have the power  
 7 to order an increase in rents, rates, fees or other charges of the  
 8 authority, and this order shall be valid and enforceable notwith-  
 9 standing any provisions to the contrary in R. S. 48:2-1 et seq.,  
 10 except that the Local Finance Board, before issuing this order,  
 11 shall first hold a hearing consistent with section 19 of this act. The  
 12 Local Finance Board also shall have authority to provide that a  
 13 requirement that a local unit or units pay a deficit under a financing  
 14 agreement be funded as provided in section 15 of this act and this  
 15 order shall be deemed conclusive and final and upon receipt of this

16 order all persons shall be estopped from contesting the order or the  
 17 provisions thereof and the authority or local unit or units affected  
 18 thereby shall promptly take the action necessary to comply with this  
 19 order.

1 14. To the extent not otherwise provided for in this act, or by  
 2 any other provision of law, an authority is authorized and shall  
 3 have the power to issue obligations to be designated "Authority  
 4 \***[Emergency]**\* *Temporary Funding*\* Notes" in an amount not  
 5 exceeding the realized deficit in revenues for the preceding fiscal  
 6 year and an estimated deficit in revenues for the current fiscal  
 7 year\***[, and]**\* \*. *The notes*\* may be renewed from time to time.  
 8 All such notes and the renewals thereof, shall mature not later than  
 9 the close of the succeeding fiscal year and shall be payable in the  
 10 fiscal year. Payment shall, however, be subordinate to the payment  
 11 of principal and interest on, or sinking fund payments with respect  
 12 to, bonds or other obligations (other than "Authority \***[Emer-**  
 13 **gency]**\* *Temporary Funding*\* Notes") of the authority.

14 The proceeds of the sale of "Authority \***[Emergency]**\* *Tem-*  
 15 *porary Funding*\* Notes" shall be deposited in the fund or funds  
 16 in which a deficiency exists or is expected to exist as set forth in the  
 17 resolution under which the notes are issued.

18 *\*An authority shall notify the Local Finance Board in writing of*  
 19 *its intention to issue "Authority Temporary Funding Notes" pur-*  
 20 *suant to this section, including therein a statement of the deficit*  
 21 *which the proceeds of the notes are intended to fund, and a state-*  
 22 *ment of the manner in which the authority plans to either retire or*  
 23 *refinance the notes on or before the close of the succeeding fiscal*  
 24 *year. The notification shall be made at least 30 days prior to*  
 25 *issuance, or within such lesser time period as the Local Finance*  
 26 *Board shall permit.\**

1 15. If the issuance of "Authority \***[Emergency]**\* *Temporary*  
 2 *Funding*\* Notes" is not permitted by the terms of a security agree-  
 3 ment \***[than]**\* \*, *then*\* the local unit or units, if obligated to make  
 4 payments on account of a deficiency in revenues under the terms of  
 5 a financing agreement, may issue emergency notes *\*pursuant to the*  
 6 *provisions of sections 40A:4-46 through 40A:4-50 of the New*  
 7 *Jersey Statutes*\* to fund this payment or portions thereof. These  
 8 obligations shall be designated "Authority Deficit Funding Notes"  
 9 and shall be general obligations of the issuer. Each note shall be  
 10 authorized by resolution of the governing body and may be renewed  
 11 from time to time. All notes and the renewals thereof shall mature  
 12 not later than the last day of the fiscal year next succeeding the  
 13 fiscal year in which these notes were issued and the emergency  
 14 appropriation authorized.

15     *\*A local unit shall notify the Local Finance Board in writing of*  
 16 *its intention to issue "Authority Deficit Funding Notes" pursuant*  
 17 *to this section at least 30 days prior to the issuance, or within such*  
 18 *lesser time period as the Local Finance Board shall permit, includ-*  
 19 *ing therein a statement of the deficit which the proceeds of the*  
 20 *notes are intended to fund, and a statement of the manner in which*  
 21 *the local unit plans to either retire or refinance the notes on or*  
 22 *before the close of the succeeding fiscal year.\**

1     16. **\*[Every]** *\*Notwithstanding the provisions of N. J. S.*  
 2 *40A:5-1 et seq., each\** authority shall cause an annual audit of its  
 2 accounts to be made, and for this purpose it shall *\*contract with the*  
 3 *Division of Local Government Services or\** employ a registered  
 3A municipal accountant of New Jersey or a certified public accountant  
 4 of New Jersey. The audit shall be completed and filed with the  
 5 authority within 4 months after the close of the fiscal year of the  
 6 authority and a certified duplicate copy thereof shall be filed with  
 7 *\*the governing body of each local unit having created the authority*  
 8 *and with\** the director within five days after the original report is  
 9 filed with the authority. *\*The Local Finance Board shall by rule or*  
 10 *regulation prescribe the accounting principles and policies, auditing*  
 11 *procedures, and financial reporting practices applicable to au-*  
 12 *thorities and authority audits conducted pursuant to this section.*  
 13 *The rules and regulations may include or be similar to any pro-*  
 14 *visions of the "Local Fiscal Affairs Law" N. J. S. 40A:5-1 et seq.*  
 15 *which the Local Finance Board shall deem to be practicable or*  
 16 *necessary.\**

1     17. A synopsis of **\*[all audits, together with the recommendations**  
 2 **made by the registered municipal accountant or certified municipal**  
 3 **accountant, shall be prepared and published by the secretary of**  
 4 **the authority at least once in a newspaper circulating within the**  
 5 **district of the authority.]\*** *\*the annual audit shall be prepared by*  
 6 *the chairman of the authority and published at least once in a news-*  
 7 *paper circulating in the district of the authority. A copy of the*  
 8 *synopsis shall be filed with the director within 10 days after publica-*  
 9 *tion.\**

1     18. **\*[If the secretary fails to have the publication made within**  
 2 **30 days after receipt of the report of audit and recommendations,**  
 3 **he shall be subject to a fine of \$10.00 payable to the authority for**  
 4 **each day after the expiration of the 30 days that the publication**  
 5 **fails to appear.]\*** *\*The governing body of each authority shall,*  
 6 *within 45 days of receipt of the annual audit, certify by resolution*  
 7 *to the Local Finance Board that each member thereof has person-*  
 8 *ally reviewed the annual audit report, and specifically the sections*

9 of the audit report entitled *General Comments, and Recommenda-*  
10 *tions, and has evidenced same by group affidavit in the form pre-*  
11 *scribed by the Local Finance Board. Failure to comply with this*  
12 *provision may subject the members of the authority to the penalty*  
13 *provisions of section 52 of P. L. 1947, c. 151 (C. 52:27BB-52).\**

1 19. If at any time, as a result of exercising his responsibilities  
2 under this act, the director has reason to believe that an authority  
3 is faced with financial difficulty, the director shall summon appro-  
4 priate officials of the authority and the local unit or units or  
5 either of the aforesaid to a hearing before the Local Finance  
6 Board. The Local Finance Board may require the production of  
7 papers, documents, witnesses or information and may make or  
8 cause to be made an audit or investigation of the circumstances  
9 with respect to which the hearing was called.

1 20. If the Local Finance Board determines that financial diffi-  
2 culties exist which (1) jeopardize the payment of operating ex-  
3 penses and debt service on obligations of the authority or either  
4 of the aforesaid; or place an undue financial burden on the in-  
5 habitants of the local unit or units or the users of the system or  
6 facilities of an authority; and (2) that these difficulties are likely  
7 to reoccur and the continuance of which will impair the credit of  
8 the authority and local unit or units or either of the aforesaid to  
9 the detriment of the inhabitants thereof; and (3) no financial plan  
10 designed to prevent a reoccurrence of these conditions and which  
11 is deemed to be practicable and feasible by the director has been  
12 undertaken by the authority or the local unit or units, the Local  
13 Finance Board shall order the implementation of a financial plan  
14 which will assure the payment of debt service on obligations of  
15 the authority, or provide relief from undue financial burden. The  
16 order shall be deemed conclusive and final and upon receipt of the  
17 order all persons shall be estopped from contesting the order or  
18 the provisions thereof and the authority or local unit or units  
19 affected thereby shall take the action to comply with the order.

1 21. The governing body of a local unit or the governing bodies  
2 of the respective local units constituting an authority shall have  
3 the power and are authorized by ordinance \***[in the case of municipi-**  
4 **palities and resolution in the case of counties]**\* *\*or resolutions, as*  
5 *appropriate\**, to dissolve the authority, except that \***[an action to**  
6 **dissolve an authority shall make]**\* *\*the ordinance or resolution, as*  
7 *the case may be, shall be approved by the Local Finance Board prior*  
8 *to adoption. The Local Finance Board shall approve the dissolution*  
9 *if it finds that the ordinance or resolution makes\* adequate pro-*  
10 *vision in accordance with a security agreement or otherwise for the*

11 payment of all creditors or obligees of the authority *\*and that*  
12 *adequate provision is made for the assumption of those services*  
13 *provided by the authority which are necessary for the health, safety*  
14 *and welfare of the recipients of those services.\** The ordinance or  
15 resolution shall be introduced and adopted in the manner provided  
16 by law and shall take effect immediately after final adoption and  
17 shall not be subject to referendum.\* *A copy of the ordinance or*  
18 *resolution as adopted shall be filed immediately with the Local*  
19 *Finance Board and with the Secretary of State.\** In the event that  
20 an authority has obligations outstanding at the time of the taking  
21 effect of the ordinance or resolution authorizing the dissolution  
22 thereof, the local unit or units constituting the authority are au-  
23 thorized to issue obligations in furtherance of the dissolution and  
24 the obligations shall have a period of usefulness not exceeding 40  
25 years from the date thereof. The bonds shall be authorized by a  
26 bond ordinance to be introduced and adopted in accordance with the  
27 provisions of the Local **\*[Board]\*** *\*Bond\* Law* *\*(N. J. S. 40A:2-1*  
28 *et seq.);\** except for the provisions of sections **\*[40A:2-6,]\***  
29 40A:2-11, 40A:2-26, 40A:2-27 and 40A:2-31 of the New Jersey  
30 Statutes\*,\* and except that the bond ordinance shall take effect im-  
31 mediately after final adoption and shall not be subject to referen-  
32 dum. *\*The bonds may be deducted from the gross debt of the local*  
33 *unit by action of the Local Finance Board in accordance with sub-*  
34 *section d. of N. J. S. 40A:2-7.\** Bonds issued for this purpose shall  
35 be sold under the direction and supervision of the Local Finance  
36 Board and may be sold at either public or private sale as the board  
37 shall prescribe.

38 The Local Finance Board may order the dissolution of a local  
39 authority if, after holding a hearing consistent with section 19 of  
40 this act, it determines that\*, *due to financial difficulties or mis-*  
41 *management,\** the dissolution of an authority will be in the public  
42 interest and will serve the health, welfare, or convenience of the  
43 inhabitants of the local unit or units, and the dissolution will  
44 achieve a more efficient means for providing and financing local  
45 public facilities, except that an order dissolving an authority shall  
46 **\*[make]\*** *\*assure\** adequate provision in accordance with a  
47 security agreement or otherwise for all creditors or obligees of the  
48 authority. *\*Any order so adopted by the Local Finance Board to*  
49 *provide for the dissolution of an authority shall take effect only*  
50 *upon its approval by the Commissioner of the Department of Com-*  
51 *munity Affairs, the State Treasurer and the Attorney General.*  
52 *Upon approval, the order shall be immediately transmitted to the*  
53 *authority; to the clerk of the governing body of the local unit or*  
54 *units, and to the Secretary of State.\**

1 22. The language and terms of this act shall be construed liber-  
2 ally to effectuate the legislative intent and be complete and inde-  
3 pendent authority for the performance of each and every act and  
4 thing herein authorized.

1 23. If a section, subsection, clause or provision of this act  
2 shall be adjudged unconstitutional or to be ineffective in whole or  
3 in part, to the extent that it is not adjudged unconstitutional or  
4 is not ineffective it shall be valid and effective and no other section,  
5 subsection, clause or provision of this act shall on account thereof  
6 be deemed invalid or ineffective, and the inapplicability or in-  
7 validity of a section, subsection, clause or provision of this act  
8 in one or more instances or under one or more circumstances shall  
9 not be taken to affect or prejudice in any way its applicability or  
10 validity in any other instance or under any other circumstance.

1 24. \***[**No local unit, without the prior approval of the Local Fi-  
2 nance Board, may agree to lease a facility from or pay any other  
3 charge or fee for the use of the facility to a corporation or other  
4 private entity which constructs or develops all or a substantial por-  
5 tion of a facility primarily for the use of one or more local units. The  
6 Local Finance Board shall not approve this agreement unless  
7 it determines that the proposed terms of the agreement are fair,  
8 reasonable, and feasible and would not impose an undue financial  
9 burden on the inhabitants of the local unit or units, or undermine  
10 the financial soundness and credit status of the local unit or units.  
11 A municipality and other contracting party in entering into this  
12 agreement shall comply with the provisions of the "Local Public  
13 Contracts Law," P. L. 1971, c. 198 (C. 40A:11-1 et seq.).]\* *\*Not-*  
14 *withstanding any other law to the contrary, any authority, in*  
15 *anticipation of the issuance of bonds, may borrow money and issue*  
16 *temporary obligations if the security agreement so provides. A*  
17 *temporary obligation shall be designated "bond anticipation note"*  
18 *or "project note" and shall contain a recital that it is issued in*  
19 *anticipation of the issuance of bonds. The notes may be issued for a*  
20 *period of not exceeding five years, or the period of construction as*  
21 *certified by the consulting engineer plus 12 months, whichever shall*  
22 *be less, and may be renewed from time to time with the approval of*  
23 *the Local Finance Board.\**

1 25. If the Local Finance Board has reason to believe that a  
2 municipal public utility is faced with financial difficulty, it shall  
3 have the power to order an increase in rents, rates, fees or other  
4 charges of the utility, and this order shall be valid and enforceable  
5 notwithstanding any provisions of the contrary in R. S. 48:2-1  
6 et seq., but the Local Finance Board, before issuing this order,



7 shall first hold a hearing to which the Director of the Division of  
8 Local Government Services shall summon appropriate officials of  
9 the municipality. The Local Finance Board may require the produc-  
10 tion of papers, documents, witnesses or information and may make  
11 or cause to be made an audit or investigation of the circumstances  
12 with respect to which the hearing was called.

13 The Local Finance Board may ~~\*[exempt]\*~~ *\*except\** municipal  
14 and county funding for a deficit of a municipal public utility *\*or*  
15 *authority\** from the expenditure limitations of P. L. 1976, c. 68 (C.  
16 40A:4-45.1 et seq.).

1 26. a. The Local Finance Board is authorized to adopt, amend  
2 and repeal rules and regulations to effectuate the purposes of this  
3 act.

4 *\*b. This act shall not limit the powers of the Local Finance Board*  
5 *or the director to regulate the financial affairs of authorities in the*  
6 *manner authorized by P. L. 1947, c. 151 (C. 52:27BB-1 et seq.).\**

1 27. The Local Finance Board, the director, and local units and  
2 local authorities shall not act under this act in a manner inconsistent  
3 with a security or financing agreement in effect at the time of the  
4 action.

1 28. This act shall take effect ~~\*[immediately]\*~~ *\*90 days following*  
2 *enactment, except that sections 11, 12, 16, 17, and 18 shall apply to*  
3 *the first fiscal year of an authority which commences 180 days*  
4 *following the promulgation by the Local Finance Board of rules*  
5 *and regulations to govern the adoption and approval of authority*  
6 *budgets and the conduct of annual audits by authorities pursuant*  
7 *to those sections\*.*

---

SENATE COUNTY AND MUNICIPAL GOVERNMENT  
COMMITTEE

STATEMENT TO  
**ASSEMBLY, No. 144**

[OFFICIAL COPY REPRINT]  
with Senate committee amendments

---

**STATE OF NEW JERSEY**

---

DATED: JUNE 30, 1983

Assembly Bill No. 144 would strengthen the existing system of State oversight of local financial operations and debt by providing for State supervision of independent local authority and special tax district financial operations and debt. Implementation of these reforms will strengthen the credit standing of municipalities, counties, and independent financing authorities, by extending a proven system of financial regulation to a now largely unregulated area of local debt financing.

The bill assigns financial control responsibilities over local authorities and special districts to the Local Finance Board and the Director of Local Government Services in the Department of Community Affairs. The Local Finance Board would exercise approval power over the creation of new authorities and special districts. The Local Finance Board would review, conduct hearings, and issue findings and recommendations on any proposed project financing of an authority or district, and on any financing agreement between a local government and an authority or special district. The Local Finance Board would prescribe minimum audit requirements to be followed by authorities and special districts in their conduct of their annual audits. The Director of Local Government Services would review and approve annual budgets of authorities and special districts.

The bill would apply to all autonomous public bodies credited by counties or municipalities, which are empowered to issue bonds, to impose facility or service charges, or to levy taxes in their districts. This would encompass most autonomous local authorities (sewerage, water, parking, port, recreation, county improvement, etc.) and special tax districts (fire districts, garbage districts, street light districts, etc.). Authorities which are subject to differing State or federal financial restrictions are exempted, but only to the extent of that difference. This would exempt, for example, local housing authorities which are dependent upon federal subsidies and must adhere to federal require-

ments to qualify for those subsidies. With respect to State requirements, the Atlantic County Improvement Authority for example, would be exempt to the extent of the special State restrictions imposed on its use of luxury tax funds.

The bill enables a local authority to issue "Authority Temporary Funding Notes" to cover deficits for the current and preceding year. When bond covenants preclude the issuance of such notes, and a local unit is contractually obligated to fund deficits of the authority, then the local unit would be empowered to issue "Authority Deficit Funding Notes."

The bill provides a mechanism for meeting unsound financial conditions of local authorities. If the Director of the Division of Local Government Services finds that a local authority is faced with financial difficulty, he is to convene a hearing before the Local Finance Board. If the Local Finance Board determines that a serious, continuing financial difficulty exists, and that the authority or local unit has not undertaken a remedial plan, the Local Finance Board may order implementation of a financial plan. The financial plan shall assure the payment of debt service or provide relief from undue financial burdens on residents of the affected local unit or users of the authority's services and facilities.

The bill provides two procedures for dissolving an existing local authority, as long as the dissolution is consistent with outstanding board covenants and other contractual obligations. A local unit or units served by an authority would be empowered with the approval of the Local Finance Board to dissolve the authority. Also, the Local Finance Board may order the dissolution of an authority if it determines that the dissolution is in the public interest because of financial difficulties or mismanagement. The order of dissolution would require the approval of the Commissioner of Community Affairs, the State Treasurer and the Attorney General.

Assembly Bill No. 144 OCR with Senate committee amendments is identical to Senate Bill No. 1517 with Senate committee amendments.

#### ASSEMBLY COMMITTEE AMENDMENTS :

The Assembly committee amended Assembly Bill No. 144 by adding the requirement that the Local Finance Board hold a public hearing prior to approving an authority's proposed project financing. The amendments provide more specific direction and minimum requirements regarding the authority's annual budget submission and execution and approval by the director.

While the bill authorizes authorities to issue Temporary Funding Notes whose purpose is to meet required deficits, the committee amend-

ments require notification to the Local Finance Board prior to issuing such notes.

Regarding audits, the committee amendments call for minimum audit requirements regarding accounting principles, auditing procedures and finance reporting practices, as prescribed by the Local Finance Board. Additionally, the members of the authority's governing body are to certify in writing to the Local Finance Board that each member has personally reviewed the audit and, in particular, any recommendations contained in the audit.

Regarding the dissolution of an authority, the committee inserted the requirement that any local ordinance or resolution to dissolve an authority must be approved by the Local Finance Board prior to that ordinance or resolution's adoption. The dissolution of an authority ordered by the Local Finance Board must also be approved by the Commissioner of the Department of Community Affairs, the State Treasurer, and the Attorney General.

The committee changed the effective date of the bill from immediately to 90 days following enactment and the section regarding budgets and audits are to apply to the fiscal year of an authority which commences 180 days following promulgation of rules and regulations regarding submission of budgets and audits.

#### SENATE COMMITTEE AMENDMENTS:

Besides amending Assembly Bill No. 144 in numerous respects to conform its language with that of Senate Bill No. 1517, the Senate committee made several substantive amendments which now appear in both bills:

1. The Local Finance Board is required to approve or disapprove the creation of an authority or special district with 60 days of application;

2. The Director of Local Government Services is required to review and approve or disapprove authority and special district budgets within 45 days of submission;

3. The provisions for State review of proposed project financing are changed from an approval procedure, to a procedure for hearing and findings and recommendations. The Senate committee recognized the need for an impartial agency to review authority project financing proposals and to represent the public interest in the deliberations which lead up to bond sales. The Local Finance Board has an additional public interest in assuring that local governments do not overcommit themselves in financing agreements with local authorities. There is, however, a substantial public interest in permitting authorities to expedite a bond sale to take advantage of sudden improvements in the bond market. The public interest is sufficiently served if the Local

Finance Board is empowered to review, conduct a hearing and issue its findings and recommendations on a proposed project financing. The Senate committee expects that if the Local Finance Board's objections are substantial, it will be very difficult for an authority to proceed with a bond sale. In addition, the authority members are required to certify in writing to the Local Finance Board that each member has personally read the findings and recommendations. The Senate committee notes that if this mechanism does not prove effective in discouraging unsound project financing, the Legislature can impose State approval requirements at some later time.

---

[SENATE REPRINT]  
**ASSEMBLY, No. 144**  
[OFFICIAL COPY REPRINT]

---

**STATE OF NEW JERSEY**

---

PRE-FILED FOR INTRODUCTION IN THE 1982 SESSION

By Assemblymen DOYLE, KARCHER and VAN WAGNER

AN ACT **\*[concerning the Regulation of Local Authorities by the Local Finance Board]\*** **\*\*[\*providing for the regulation by the State of the fiscal affairs of local authorities\*.]\*\*** **\*\*to provide for State controls over the creation and financial affairs of local authorities of this State, assigning necessary powers and responsibilities with respect thereto, and supplementing Title 40A of the New Jersey Statutes.\*\***

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

1 1. This act shall be known and may be cited as the "Local  
2 **\*[Public Facility]\* \*Authorities\* Fiscal Control Law.**"

1 2. The Legislature declares it to be in the public interest **\*\*[and**  
2 to be the policy of the State to maintain, support, foster, and pro-  
3 mote the financial stability of local authorities in the State and  
3A municipalities served by local authorities, State approval of  
4 project financing of local authorities, and State supervision of  
5 financial operations of local authorities in order to assure their  
6 financial stability and integrity]**\*\*** *of the citizens of this State to*  
6A *maintain, support, foster, and promote the financial integrity and*  
6B *stability of local authorities in the State and of counties and*  
6C *municipalities served by these local authorities, by providing for*  
6D *State review of project financing of local authorities and for State*  
6E *supervision over the financial operations of local authorities\*\*.*

7 The Legislature declares that it is the purpose and object of  
8 this act to implement this policy by providing that the creation  
9 of a local authority be subject to Local Finance Board approval,

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

**Matter printed in italics thus is new matter.**

**Matter enclosed in asterisks or stars has been adopted as follows:**

**\*—Assembly committee amendments adopted May 5, 1983.**

**\*\*—Senate committee amendments adopted June 30, 1983.**

10 that project financing of a local authority be submitted to the Local  
 11 Finance Board for **\*\*[approval]\*\*** **\*\*hearing and review\*\***, that  
 12 annual budgets of a local authority be submitted to the **\*\*[Local**  
 13 Finance Board]\*\* *Division of Local Government Services in the*  
 14 *Department of Community Affairs* for approval, that financial  
 15 reports be prepared and submitted by a local authority to the  
 16 **\*\*[Local Finance Board]\*\*** *division* in the form and at the time or  
 17 times as shall be prescribed by rule or regulation **\*\*[prescribed by]\*\***  
 18 *of* the Local Finance Board *or of the Director of the Division*  
 19 *of Local Government Services* **\*\*[, and that]\*\*** **\*\*.** *In addition,\*\**  
 20 the Local Finance Board may take remedial action to address an  
 21 emergency situation with respect to the financial condition and  
 22 operation of a local authority or to respond to an undue financial  
 23 burden imposed by a local authority on residents of the State, in-  
 24 cluding the power to order the dissolution of a local authority if it is  
 25 in the public interest.

1 3. As used in this act **\*\*[, unless a different meaning clearly**  
 2 appears from the context]\*\*

3 a. "Authority" means a **\*\*[local public body or political sub-**  
 4 division, other than a school district subject to the supervision of  
 5 the New Jersey Department of Education, created by a municipi-  
 6 tality, municipalities, county, or counties, under the provisions of  
 7 any law heretofore or hereafter adopted which law authorized the  
 8 authority to develop and finance public improvements or a body  
 9 created by the State Legislature which is not statutorily allocated  
 10 to a State cabinet department; and further provided that the term  
 11 "authority" as used herein shall not include a bi-State govern-  
 12 mental entity.]\*\*

*body, public and corporate, created by one or*  
 12A *more municipalities or counties pursuant to any law authorizing*  
 12B *that creation, which law provides that the public body so created*  
 12C *has at least the following powers:*

12D (1) *To adopt and use a corporate seal;*

12E (2) *To sue and be sued;*

12F (3) *To acquire and hold real or personal property for its pur-*  
 12G *poses; and*

12H (4) *To provide for and secure the payment of its bonds or other*  
 12I *obligations, or to provide for the assessment of a tax on real*  
 12J *property within its district, or to impose charges for the use of its*  
 12K *facilities, or any combination thereof;*

12L *but shall not include any public body for which federal or State*  
 12M *fiscal controls differing from those imposed by this act, have been*  
 12N *explicitly established by law, but only to the extent of that dif-*  
 12O *ference.\**

13 b. "Director" means the Director of the Division of Local Gov-  
14 ernment Services in the Department of Community Affairs.

15 c. "Financing agreement" means an agreement of a local unit  
16 or units intended to provide security for an issue of obligations  
17 of an authority, including\*\*, *but not limited to*,\*\* a contract pro-  
18 viding for payments by a local unit or units with respect to use,  
19 services or provision of a project, facility or public improvement  
20 of an authority or payments for debt service \*\***[therefore]**\*\*  
20A *\*\*therefor\*\**.

21 d. "Local Finance Board" means the Local Finance Board in  
22 the Division of Local Government Services in the Department of  
23 Community Affairs.

24 e. "Local unit or units" means a county or municipality which  
25 created or joined in the creation of an authority\*\*,\*\* or which  
26 proposes to create or join in the creation thereof\*\*,\*\* or which  
27 proposes to enter into a financing agreement with an authority.

28 f. "Project financing" means the financing by an authority of  
29 a facility for the benefit of the inhabitants of a local unit or units  
30 and includes payment for the design and plan for the facility.

31 g. "Security agreement" means a bond resolution of an au-  
32 thority\*\*,\*\* or a trust indenture to be executed by an authority\*\*,\*\*  
33 or other similar proceeding or document.

1 4. **[Upon]** *\*\*On and after\*\** the effective date of this act,  
2 no authority **[other than an authority created by an act of the**  
3 **Legislature]** shall be created *\*by any local unit or units\** without  
4 the prior approval of the Local Finance Board. Prior to the  
5 introduction of an ordinance or the adoption of a resolution to  
6 create an authority, the local unit or units proposing this creation  
7 shall make application to the Local Finance Board for its approval.  
8 The application shall contain: **[a)** a copy of the proposed  
9 ordinance or resolution creating the authority; (b) a statement,  
10 in brief and general terms of the project or projects to be under-  
11 taken, the estimated cost thereof including the manner of the  
12 financing thereof, and the area to be served thereby; (c) a proposed  
13 budget for the first year of authority operations, including a  
14 table of organization, personnel requirements, the level of staff  
15 required for supervision of the operation of the authority and  
15A the proposed source or sources of the authority's funding; and  
16 (d) a statement, in the form prescribed by the Local Finance Board,  
17 indicating that the local unit or units have considered **[alternate]**  
18 *\*alternative\** means of undertaking the proposed project or proj-  
19 ects and the financing thereof and **[determining]** *\*have deter-*  
20 *mined\** that the creation of an authority is the most efficient and



21 feasible means of providing and financing such project or proj-  
22 ects.]\*\*

23 *\*\*a. A copy of the proposed ordinance or resolution creating the*  
24 *authority;*

25 *b. A statement, in brief and general terms, of the project or*  
26 *projects to be undertaken, the estimated project cost, the manner*  
27 *of project financing, and the area to be served by the project;*

28 *c. A proposed budget for the first year of authority operations,*  
29 *including a table of organization, personnel requirements, the level*  
30 *of staff required for supervision of the operation of the authority*  
31 *and the proposed source or sources of the authority's funding; and,*

32 *d. A statement, in the form prescribed by the Local Finance*  
33 *Board, indicating that the local unit or units have considered*  
34 *alternative means of undertaking and financing the proposed proj-*  
35 *ect or projects and have determined that the creation of an au-*  
36 *thority is the most efficient and feasible means of providing and*  
37 *financing the project or projects.\*\**

38 The Local Finance Board may consider estimates, computations  
39 or calculations made in connection with an application, may require  
40 the production of papers, documents, witnesses or information,  
41 may make or cause to be made an audit or investigation\*\*,\*\* and  
42 may take any *\*\*other appropriate\*\** action *\*\*[which it may deter-*  
43 *mine advisable in connection with]\*\** *\*\*necessary to\*\** its con-  
44 sideration of whether *\*or not\** *\*\*[it should consent]\*\** to  
45 *\*\*approve\*\** the creation of an authority.

1 5. The Local Finance Board shall\*\*, *within 60 days of its receipt*  
2 *of an application pursuant to section 4 of this act,\*\** approve in  
3 writing the creation of the proposed authority *\*\*[if it determines*  
4 *that the authority to be created]\*\** *\*\* , if it shall determine that the*  
5 *creation of the proposed authority\*\** is *\*[in the public interest and*  
6 *will serve the health, welfare, or convenience of the inhabitants of*  
7 *the local unit or units and the creation of an authority is]\*\** an  
8 efficient and feasible means of providing and financing this project  
9 or projects\*, *given the needs of, and the financial burdens to be*  
10 *placed upon, the inhabitants of the local unit or units\*.*

11 *\*\*If the application is not disapproved within 60 days of its sub-*  
12 *mission to the Local Finance Board, it shall be deemed to be*  
13 *approved, and the local unit or units may proceed to adopt the pro-*  
14 *posed ordinance or resolution. If the Local Finance Board shall not*  
15 *approve the creation of the authority, it shall specify in writing the*  
16 *reason or reasons therefor, and shall file its statement with the*  
17 *clerk or clerks of the local unit or units. A local unit shall not adopt*  
18 *any ordinance or resolution which is disapproved by the Local*

19 *Finance Board within the 60 days, but may resubmit the application*  
 20 *to the board with such changes as the local unit deems appropriate,*  
 21 *and the review and approval of the resubmitted application shall*  
 22 *be subject to the limitations set forth above.\*\**

1 *\*\*[6. If the Local Finance Board shall not \*[make the determina-*  
 2 *tions required by the preceding paragraph]\* \*approve the crea-*  
 2A *tion of the authority\*, it shall specify in writing the reason or*  
 3 *reasons therefore and shall file same with the clerk or clerks*  
 4 *of the local unit or units. Not less than 90 days from the receipt*  
 5 *thereof, the local unit or units may submit a revised application*  
 6 *for consideration and approval of the Local Finance Board.]\*\**

1 *\*\*[7.]\*\* \*\*6.\*\* Prior to the adoption of a security agreement by*  
 2 *an authority\*\*, or an ordinance or resolution of a local unit or*  
 3 *units authorizing a financing agreement, the proposed project*  
 4 *financing shall be submitted to the Local Finance Board for its*  
 5 *review \*\*[and approval]\*\*. The Local Finance Board shall, in*  
 6 *the course of its review \*\*[and approval]\*\*, give consideration to:*  
 7 *\*\*[(a) the nature, purpose, and scope of the proposed project*  
 8 *financing; (b) the engineering and feasibility studies prepared in*  
 9 *connection therewith; (c) the terms and provisions of the proposed*  
 10 *financing agreements, security agreements and, in the instance of a*  
 11 *negotiated offering, the proposed or maximum terms and conditions*  
 12 *of sale; (d) the proposed or maximum schedule of debt service pay-*  
 13 *ments required and the impact thereof on the budget and financial*  
 14 *condition of the authority and of the local unit or units; (e) the*  
 15 *estimate of the annual cost of operating and maintaining the proj-*  
 16 *ect as set forth in the engineering report of feasibility studies; and*  
 17 *(f) the initial rate, rent, fee, or charge schedule or structure pro-*  
 18 *posed by the authority or other proposed method of raising the*  
 19 *amounts required to finance the operations of the authority (includ-*  
 20 *ing the payment of debt service on its obligations)]\*\**

21 *\*\*a. The nature, purpose, and scope of the proposed project*  
 22 *financing;*

23 *b. The engineering and feasibility studies prepared in connection*  
 24 *therewith;*

25 *c. The terms and provisions of the proposed financing agree-*  
 26 *ments, security agreements and, in the instance of a negotiated*  
 27 *offering, the proposed or maximum terms and conditions of sale;*

28 *d. The proposed or maximum schedule of debt service payments*  
 29 *required, and the impact thereof on the budget and financial condi-*  
 30 *tion of the authority and of the local unit;*

31 *e. The estimate of the annual cost of operating and maintaining*

32 the project as set forth in the engineering report or feasibility  
33 studies; and

34 f. The initial rate, rent, fee, or charge schedule proposed by the  
35 authority, or any other proposed method of raising the amounts  
36 required to finance the operations and payments of debt service on  
37 the obligations of the authority\*\*.

38 The Local Finance Board may examine the estimates, computa-  
39 tions or calculations made in connection with \*\*[this]\*\* \*\*the\*\*  
40 submission, may require the production of papers, documents,  
41 witnesses or information, may \*\*[take]\*\* \*\*make\*\* or cause to  
42 be made an audit or investigation and may take any other action  
43 which it may deem \*\*[advisable in connection with this]\*\*  
44 \*\*necessary to its review of the\*\* submission.

1 \*\*[8.]\*\* \*\*7.\*\* The Local Finance Board shall\*, \*\*[upon the  
2 completion of its review]\*\* \*\*within 31 days of its receipt of the  
3 proposed project financing\*\*, hold a hearing at which any in-  
4 terested party may furnish additional information regarding the  
5 proposal. \*\*[After]\*\* \*\*Within 10 days after\*\* the hearing, the  
6 board shall\* \*\*[approve]\*\* \*\*issue its findings on\*\* the proposed  
7 financing \*\*[if it determines with the respect to the proposal]\*\*  
8 \*\*including therein its findings as to whether\*\*: (a) \*\*[that]\*\*  
9 the project cost has been \***[accurately]**\* determined *by reasonable  
10 and accepted methods*; (b) \*\*[that]\*\* the method proposed for  
11 the funding of the project cost, proposed or maximum terms and  
12 provisions of the financing and of a proposed financing agreement  
13 are \***[fair, reasonable and feasible]**\* *not unreasonable nor im-  
14 practicable*,\* and would not impose an undue *and unnecessary*  
15 financial burden on the inhabitants of the local unit or units, which  
16 have created or have joined in the creation of the authority or  
17 which may enter into a financing agreement with the authority, or  
18 would not materially impair the ability of the local unit or units or  
19 the authority to pay promptly the principal of and interest on the  
20 outstanding indebtedness thereof or to provide essential public  
21 services to the inhabitants thereof; and (c) in the case of a  
22 negotiated offering, \*\*[that]\*\* the proposed or maximum terms  
23 and conditions of sale are, in light of current market conditions for  
24 obligations of similar quality, \***[fair and]**\* reasonable. The  
25 \*\*[approval]\*\* \*\*findings\*\* shall be in writing and shall be filed  
26 with the clerk or clerks of the local unit or units and with the  
27 secretary of the authority.

28 \*\*The times set forth in this section may be extended by mutual  
29 agreement of the authority and the Local Finance Board.

30 The governing body of the authority shall, within 15 days of

31 receipt of the Local Finance Board's findings and recommendations  
 32 on the proposed project financing, certify by resolution to the Local  
 33 Finance Board that each member thereof has personally reviewed  
 34 the findings and recommendations and has evidenced same by  
 35 group affidavit in the form prescribed by the Local Finance Board.  
 36 Failure to comply with this paragraph may subject the members of  
 37 the authority to the penalty provisions of section 52 of P. L. 1947,  
 38 c. 151 (C. 52:27BB-52).\*\*

1     \*\*[9.]\*\* \*\*8.\*\* The Local Finance Board may \*\*[require, as a  
 2 condition of its approval of]\*\* \*\*recommend in its findings with  
 2A respect to\*\* a proposed project financing:

3     a. That the debt service reserve fund in an amount established by  
 4 the board be funded from the proceeds of the sale of the authority's  
 5 bonds;

6     b. The incurrence of indebtedness and the issuance of obligations  
 7 by the local unit or units to finance a portion of the proposed project  
 8 cost. Except as otherwise provided in this act, these obligations  
 9 shall be authorized and issued in the manner provided for in Title  
 10 40 of the Revised Statutes or Title 40A of the New Jersey Statutes:

11     c. That the local unit or units execute a financing agreement with  
 12 the authority; \*\*[and]\*\*

13     d. That the local unit or units not execute a financing agreement  
 14 with the authority, if the Local Finance Board determines that the  
 15 agreement would impose an inappropriate risk on the local unit;

16     e. That an amount not to exceed the outstanding principal each  
 17 year for the proposed financing of the authority be included in the  
 18 net debt of a local unit, under N. J. S. 40A:2-1 et seq., if the local  
 19 unit executes a financing agreement with the authority;

20     f. In addition to the above, any other conditions that the Local  
 21 Finance Board considers appropriate to provide sound financial  
 22 support for the project financing.

1     \*\*[10.]\*\* \*\*9.\*\* To the extent not otherwise provided for in Title  
 2 40 of the Revised Statutes or Title 40A of the New Jersey Statutes  
 3 and in order to satisfy the provisions of section \*\*[9]\*\* \*\*8\*\* of  
 4 this act, any local unit or units \*\*[now members of]\*\* \*\*having  
 5 created or joined\*\* an authority\*\*, \*\* or which may hereafter join,  
 6 \*\*[form or]\*\* create \*\*or join in the creation of\*\* an authority or  
 7 which are now or hereafter under contract with an authority in con-  
 8 nection with a project financing\*\*, \*\* are authorized and shall have  
 9 the power to incur indebtedness and issue obligations for any  
 10 purpose for which an authority may issue obligations and to donate  
 11 the proceeds of those obligations to an authority to be expended for  
 12 the purpose for which the funds were borrowed. Except as other-

13 wise provided in this act, all obligations shall be authorized and  
14 issued in the manner provided for in Title 40 or Title 40A.

1     \*\*[11.]\*\* \*\*10.\*\* \* \* [Every authority shall, not later than 45 days  
2 prior to the commencement of its fiscal year, or, if a local unit or  
3 units have entered into a financing agreement with an authority,  
4 not later than November 15 of each year, submit a budget for the  
5 next fiscal year to the Local Finance Board. The budget shall be in  
6 such detail as to items of revenue and expense as shall be required  
7 by law or by rules and regulations of the Local Finance Board and  
8 shall also comply with the terms and provisions of any security  
9 agreements.]\* *a. Each authority shall submit a budget for each  
10 fiscal year to the director prior to its adoption thereof. The budget  
11 shall comply with the terms and provisions of any security agree-  
12 ments, and shall be in such form and detail as to items of revenue,  
13 expenditure and other content as shall be required by law or by  
14 rules and regulations of the Local Finance Board.*

15     *b. The Local Finance Board shall prescribe by rule or regulation  
16 the procedure for the adoption of budgets by authorities. The rules  
17 and regulations may include or be similar to any provisions of the  
18 "Local Budget Law" (N. J. S. 40A:4-1 et seq.) which the Local  
19 Finance Board shall deem to be practicable or necessary, and may  
20 further include any other provisions and requirements which the  
21 Local Finance Board shall deem appropriate or necessary. \*\*The  
21A rules and regulations shall provide for approval or disapproval of a  
21B budget within 45 days of the director's receipt thereof.\*\**

22     *c. The Local Finance Board shall also prescribe by rule or regula-  
23 tion the procedures and requirements for execution of any budget  
24 after adoption, and for the administration of financial affairs of  
25 authorities. The rules and regulations may include, without limita-  
26 tion, any provisions of the "Local Budget Law" (N. J. S. 40A:4-1  
27 et seq.), and the "Local Fiscal Affairs Law" (N. J. S. 40A:5-1 et  
28 seq.), which the Local Finance Board shall deem to be practicable  
29 and necessary.\**

1     \*\*[12.]\*\* \*\*11.\*\* \* No authority budget shall be finally adopted  
2 until the \*[Local Finance Board]\* \*director\* shall have approved  
3 same. In granting the approval, \*[the Local Finance Board shall  
3A consider:

4     a. Whether revenues have been realistically anticipated and,

5     b. Whether the schedule of rates then in effect will produce  
6 revenues sufficient to satisfy all obligations to the holders of bonds  
7 of the authority. The Local Finance Board shall, in making this  
8 determination, consider the prior history of collection of service  
9 charges of the authority and the likelihood of adequate collections of

10 service charges under the existing rate schedule or a proposed rate  
 11 schedule and the amounts to be appropriated by the local unit or  
 12 units.]\* *\*the director shall consider whether or not:*

13 a. *All estimates of revenue are reasonable, accurate and cor-*  
 14 *rectly stated;*

15 b. *Items of appropriation are properly set forth;*

16 c. *In itemization, form and content, the budget will permit the*  
 17 *exercise of the comptroller function within the authority;*

18 d. *The schedule of rates, fees and charges then in effect will*  
 19 *produce sufficient revenues, together with all other anticipated*  
 20 *revenues, to satisfy all obligations to the holders of bonds of the*  
 21 *authority, to meet operating expenses, capital outlays, debt service*  
 22 *requirements, and to provide for such reserves, all as may be re-*  
 23 *quired by law, regulation or terms of contracts and agreements.*

24 *The director may require such documentation, records and other*  
 25 *information, and undertake any audit or investigation, as he may*  
 26 *deem necessary in connection with his review.*

27 *If the director finds that all requirements of law and the rules*  
 28 *and regulations of the Local Finance Board have been met, he*  
 29 *shall\*\**, within 45 days of his receipt of the budget,\*\* *approve*  
 30 *\*\*[the budget]\*\* \*\*it\*\**; otherwise he shall *\*\*within that time\*\**  
 31 *refuse to approve it. The director, in refusing to approve the*  
 32 *budget, shall not substitute his discretion with respect to the amount*  
 32A *of an appropriation when that amount is not made mandatory by*  
 32B *by law or regulation.*

33 *Any decision of the director in the course of budget review under*  
 34 *this section may be appealed to the Local Finance Board in the*  
 35 *manner generally provided by law.\**

1 *\*\*[13.]\*\* \*\*12.\*\** The Local Finance Board shall have the power,  
 2 in the case of a financing agreement between an authority and a  
 3 local unit or units, to enforce, by appropriate order, the terms and  
 4 provisions thereof with respect to the funding of a deficit, whether  
 5 in existence or anticipated. If the Local Finance Board has reason  
 6 to believe that an authority is faced with financial difficulty, it shall  
 7 have the power to order an increase in rents, rates, fees or other  
 8 charges of the authority, and this order shall be valid and enforce-  
 9 able\*\*, notwithstanding any provisions to the contrary in R. S.  
 10 48:2-1 et seq.\*\*[, except that the]\*\* \*\*. *The\*\** Local Finance  
 11 Board, before issuing this order, shall first hold a hearing con-  
 12 sistent with section *\*\*[19]\*\* \*\*18\*\** of this act. The Local Finance  
 13 Board also shall have authority to provide that a requirement that  
 14 a local unit or units pay a deficit under a financing agreement be  
 15 funded *\*\*[as provided in section 15 of this act and this]\*\**

16 *through the issuance of authority deficit funding notes as pro-*  
 17 *vided in this act. Any* order *so issued* shall be deemed con-  
 18 clusive and final, and upon receipt of this order all persons  
 19 shall be estopped from contesting the order or the provisions  
 20 thereof ~~and the~~. Any authority or local unit or units  
 21 affected ~~thereby~~ *by the order* shall promptly take the  
 22 action necessary to comply with this order.

1 ~~14.~~ *13.* To the extent not otherwise provided for ~~in~~  
 2 this act, or ~~by any other provision of~~ law, an authority is  
 3 authorized and shall have the power to issue obligations to be  
 4 designated "Authority ~~Emergency~~ *Temporary Funding*  
 5 Notes" in an amount not exceeding the realized deficit in revenues  
 6 for the preceding fiscal year and an estimated deficit in revenues  
 7 for the current fiscal year ~~and~~. The notes may be renewed  
 8 from time to time. All ~~such~~ notes and ~~the~~ any  
 9 renewals thereof, shall mature not later than the close of the  
 9A succeeding fiscal year and shall be payable in ~~the~~ that  
 10 fiscal year. Payment shall, however, be subordinate to the payment  
 11 of principal and interest on, or sinking fund payments with respect  
 12 to, bonds or other obligations (other than "Authority ~~Emer-~~  
 13 ~~gency~~ *Temporary Funding* Notes") of the authority.

14 The proceeds of the sale of "Authority ~~Emergency~~ *Tem-*  
 15 *porary Funding* Notes" shall be deposited in the fund or funds  
 16 in which a deficiency exists, or is expected to exist, as set  
 17 forth in the resolution under which the notes are issued.

18 *An authority shall notify the Local Finance Board in writing of*  
 19 *its intention to issue "Authority Temporary Funding Notes" pur-*  
 20 *suant to this section, including therein a statement of the deficit*  
 21 *which the proceeds of the notes are intended to fund, and a state-*  
 22 *ment of the manner in which the authority plans to either retire or*  
 23 *refinance the notes on or before the close of the succeeding fiscal*  
 24 *year. The notification shall be made at least 30 days prior to*  
 25 *issuance, or within such lesser time period as the Local Finance*  
 26 *Board shall permit.*

1 ~~15.~~ *14.* If the issuance of "Authority ~~Emergency~~"  
 2 *Temporary Funding* Notes" is not permitted by the terms of a  
 3 security agreement ~~than~~, then the local unit or units, if  
 4 obligated to make payments on account of a deficiency in revenues  
 5 under the terms of a financing agreement, may issue emergency  
 6 notes *pursuant to the provisions of sections 40A:4-46 through*  
 7 *40A:4-50 of the New Jersey Statutes* to fund this payment or por-  
 8 tions thereof. These obligations shall be designated "Authority  
 9 Deficit Funding Notes" and shall be general obligations of the

10 issuer. Each note shall be authorized by resolution of the governing  
 11 body and may be renewed from time to time. All notes and the  
 12 renewals thereof shall mature not later than the last day of the  
 13 fiscal year next succeeding the fiscal year in which these notes were  
 14 issued and the emergency appropriation authorized.

15 *\*A local unit shall notify the Local Finance Board in writing of  
 16 its intention to issue "Authority Deficit Funding Notes" pursuant  
 17 to this section at least 30 days prior to the issuance, or within such  
 18 lesser time period as the Local Finance Board shall permit, includ-  
 19 ing therein a statement of the deficit which the proceeds of the  
 20 notes are intended to fund, and a statement of the manner in which  
 21 the local unit plans to either retire or refinance the notes on or  
 22 before the close of the succeeding fiscal year.\**

1 **\*\*[16.]\*\*** **\*\*15.\*\*** **\*\*[Every]** *\*Notwithstanding the provisions of  
 2 N. J. S. 40A:5-1 et seq., each\* authority shall cause an annual audit  
 3 of its accounts to be made, and for this purpose it shall *\*contract  
 4 with the Division of Local Government Services or\* employ a  
 5 registered municipal accountant of New Jersey or a certified public  
 6 accountant of New Jersey. The audit shall be completed and filed  
 7 with the authority within four months after the close of the fiscal  
 8 year of the authority **\*\*[and a]\*\*** **\*\*.** *A\*\*certified duplicate copy  
 9 thereof shall be filed with *\*the governing body of each local unit  
 10 having created the authority and with\* the director within five days  
 11 after the original report is filed with the authority. *\*The Local  
 12 Finance Board shall by rule or regulation prescribe the accounting  
 13 principles and policies, auditing procedures, and financial reporting  
 14 practices applicable to authorities and authority and is conducted  
 15 pursuant to this section. The rules and regulations may include or  
 16 be similar to any provisions of the "Local Fiscal Affairs Law  
 17 N. J. S. 40A:5-1 et seq. which the Local Finance Board shall deem  
 18 to be practicable or necessary.\******

1 **\*\*[17.]\*\*** **\*\*16.\*\*** A synopsis of **\*\*[all audits, together with the  
 2 recommendations made by the registered municipal accountant or  
 3 certified municipal accountant, shall be prepared and published by  
 4 the secretary of the authority at least once in a newspaper circulat-  
 5 ing within the district of the authority.]\*\*** *\*the annual audit shall be  
 6 prepared by the chairman of the authority and published at least  
 7 once in a newspaper circulating in the district of the authority. A  
 8 copy of the synopsis shall be filed with the director within 10 days  
 9 after publication.\**

1 **\*\*[18.]\*\*** **\*\*17.\*\*** **\*\*[If the secretary fails to have the publication  
 2 made within 30 days after receipt of the report of audit and recom-  
 3 mendations, he shall be subject to a fine of \$10.00 payable to the**



4 authority for each day after the expiration of the 30 days that the  
 5 publication fails to appear.]\* *\*The governing body of each au-*  
 6 *thority shall, within 45 days of receipt of the annual audit, certify*  
 7 *by resolution to the Local Finance Board that each member thereof*  
 8 *has personally reviewed the annual audit report, and specifically the*  
 9 *sections of the audit report entitled General Comments, and Recom-*  
 10 *mendations, and has evidenced same by group affidavit in the form*  
 11 *prescribed by the Local Finance Board. Failure to comply with this*  
 12 *provision may subject the members of the authority to the penalty*  
 13 *provisions of section 52 of P. L. 1947, c. 151 (C. 52:27BB-52).\**

1 **\*\*[19.]\*\*** **\*\*18.\*\*** If at any time, as a result of exercising his  
 2 responsibilities under this act, the director has reason to believe  
 3 that an authority is faced with financial difficulty, the director shall  
 4 summon appropriate officials of the authority and the local unit or  
 5 units or either of the aforesaid to a hearing before the Local Finance  
 6 Board. The Local Finance Board may require the production of  
 7 papers, documents, witnesses or information and may make or  
 8 cause to be made an audit or investigation of the circumstances  
 9 with respect to which the hearing was called.

1 **\*\*[20.]\*\*** **\*\*19.\*\*** If the Local Finance Board determines that  
 2 financial difficulties exist which (1) jeopardize the payment of  
 3 operating expenses and debt service on obligations of the authority  
 4 or either of the aforesaid; or place an undue financial burden on the  
 5 inhabitants of the local unit or units or the users of the system or  
 6 facilities of an authority; and (2) that these difficulties are likely  
 7 to reoccur and **\*\*[the continuance of which]\*\*** **\*\***, *if they con-*  
 8 *tinue,\*\** will impair the credit of the authority and local unit or  
 9 units or either of the aforesaid to the detriment of the inhabitants  
 10 thereof; and (3) no financial plan designed to prevent a reoccur-  
 11 rence of these conditions and which is deemed to be practicable and  
 12 feasible by the director has been undertaken by the authority or  
 13 the local unit or units, the Local Finance Board shall order the  
 14 implementation of a financial plan which will assure the payment  
 15 of debt service on obligations of the authority, or provide relief  
 16 from undue financial burden. The order shall be deemed conclusive  
 17 and final and upon receipt of the order all persons shall be estopped  
 18 from contesting the order or the provisions thereof and the au-  
 19 thority or local unit or units affected thereby shall take the action to  
 20 comply with the order.

1 **\*\*[21. The]\*\*** **\*\*20.** *Notwithstanding the provisions of any other*  
 2 *law to the contrary, the\*\** governing body of a local unit **\*\*[or the**  
 3 **governing bodies of the respective local units constituting]\*\***  
 4 **\*\*which has established\*\*** an authority shall have the power and

5 **[are]** **is** authorized by ordinance *in the case of a muni-*  
 6 *cipality,* **[in the case of municipalities and resolution in the case**  
 7 **of counties]** **[\* or resolutions]** *and ordinance or resolu-*  
 8 *tion,* *as appropriate,* *in the case of a county,* to dissolve the  
 9 authority, except that **[an action to dissolve an authority shall**  
 10 **make]** *the ordinance or resolution, as the case may be, shall be*  
 11 *approved by the Local Finance Board prior to adoption. Any*  
 12 *authority established by more than one municipality or county may*  
 13 *be dissolved by the adoption of parallel ordinances or resolutions,*  
 14 *as appropriate.* The Local Finance Board shall approve the  
 15 dissolution if it finds that the ordinance or resolution makes  
 16 adequate provision in accordance with a security agreement or  
 17 otherwise for the payment of all creditors or obligees of the au-  
 18 thority *and that adequate provision is made for the assumption of*  
 19 *those services provided by the authority which are necessary for the*  
 20 *health, safety and welfare of the recipients of those services.* The  
 21 ordinance or resolution shall be introduced and adopted in the  
 22 manner provided by law **[and]** **shall** take effect im-  
 23 mediately after final adoption **and** shall not be subject to  
 24 referendum. *A copy of the ordinance or resolution as adopted*  
 25 *shall be filed immediately with the Local Finance Board and with*  
 26 *the Secretary of State.* In the event that an authority has obliga-  
 27 tions outstanding at the time of the taking effect of the ordinance  
 28 or resolution **[authorizing the dissolution thereof]** *to dis-*  
 29 *solve the authority,* the local unit or units **[constituting]**  
 30 *dissolving* the authority are authorized to issue obligations in  
 31 furtherance of the dissolution **and** the obligations shall have  
 32 a period of usefulness not exceeding 40 years from the date  
 33 **[thereof]** *of issuance.* The bonds shall be authorized by a  
 34 bond ordinance to be introduced and adopted in accordance with the  
 35 provisions of the **Local [Board] Bond Law**  
 36 **(N. J. S. 40A:2-1 et seq.)** **[\*]** **except** for the provisions  
 37 of sections **[40A:2-6,]** 40A:2-11, 40A:2-26, 40A:2-27 and  
 38 40A:2-31 of the New Jersey Statutes **and** except that the bond  
 39 ordinance shall take effect immediately after final adoption and  
 40 shall not be subject to referendum. *The bonds may be deducted*  
 41 *from the gross debt of the local unit by action of the Local Finance*  
 42 *Board in accordance with subsection d. of N. J. S. 40A:2-7.* Bonds  
 43 issued for this purpose shall be sold under the direction and super-  
 44 vision of the Local Finance Board **and** may be sold at either  
 45 public or private sale as the board shall prescribe.  
 46 *Nothing contained in this section or in this act shall limit the*  
 47 *powers accorded under any other law to any county or municipality*  
 48 *to dissolve any authority which it has created or of which it has*

49 *joined in the creation, nor limit any general reorganization powers*  
 50 *accorded under law to any county or municipality to alter or abolish*  
 51 *its agencies, but the provisions of this section and this act shall be*  
 52 *supplementary to the powers accorded under any other law.\*\**

1    \*\*21.\*\* The Local Finance Board may order the dissolution of a  
 2 local authority if, after holding a hearing consistent with section  
 3 **\*\*[19]\*\*** **\*\*18\*\*** of this act, it determines that\*, *due to financial*  
 4 *difficulties or mismanagement,\** the dissolution of an authority will  
 5 be in the public interest and will serve the health, welfare, or con-  
 6 venience of the inhabitants of the local unit or units, and the  
 7 dissolution will achieve a more efficient means for providing and  
 8 financing local public facilities, except that an order dissolving an  
 9 authority shall **\*\*[make]\*\*** *\*assure\** adequate provision in accor-  
 10 dance with a security agreement or otherwise for all creditors or  
 11 obligees of the authority. *\*Any order so adopted by the Local*  
 12 *Finance Board to provide for the dissolution of an authority shall*  
 13 *take effect only upon its approval by the Commissioner of the De-*  
 14 *partment of Community Affairs, the State Treasurer and the*  
 15 *Attorney General. Upon approval, the order shall be immediately*  
 16 *transmitted to the authority, to the clerk of the governing body of*  
 17 *the local unit or units, and to the Secretary of State.\**

1    22. **\*\*[The language and terms of this act shall be construed liber-**  
 2 **ally to effectuate the legislative intent and be complete and inde-**  
 3 **pendent authority for the performance of each and every act and**  
 4 **thing herein authorized.]\*\*** *\*\*Records of minutes, accounts, bills,*  
 5 *vouchers, contracts or other papers connected with or used or filed*  
 6 *with any authority or with any officer or employee acting for or in*  
 7 *its behalf are declared to be public records, and shall be open to*  
 8 *public inspection in accordance with P. L. 1963, c. 73 (C. 47:1A-1*  
 9 *et seq.) and regulations of the authority.\*\**

1    23. **\*\*[If a section, subsection, clause or provision of this act**  
 2 **shall be adjudged unconstitutional or to be ineffective in whole or**  
 3 **in part, to the extent that it is not adjudged unconstitutional or**  
 4 **is not ineffective it shall be valid and effective and no other section,**  
 5 **subsection, clause or provision of this act shall on account thereof**  
 6 **be deemed invalid or ineffective, and the inapplicability or in-**  
 7 **validity of a section, subsection, clause or provision of this act**  
 8 **in one or more instances or under one or more circumstances shall**  
 9 **not be taken to affect or prejudice in any way its applicability or**  
 10 **validity in any other instance or under any other circumstance.]\*\***  
 11 *\*\*Notwithstanding the provisions of any law to the contrary, the*  
 12 *State Auditor or his legally authorized representative may examine*  
 13 *the accounts and books of any authority subject to the provisions of*  
 14 *this act.\*\**

1 24. \***[**No local unit, without the prior approval of the Local Fi-  
 2 nance Board, may agree to lease a facility from or pay any other  
 3 charge or fee for the use of the facility to a corporation or other  
 4 private entity which constructs or develops all or a substantial por-  
 5 tion of a facility primarily for the use of one or more local units. The  
 6 Local Finance Board shall not approve this agreement unless  
 7 it determines that the proposed terms of the agreement are fair,  
 8 reasonable, and feasible and would not impose an undue financial  
 9 burden on the inhabitants of the local unit or units, or undermine  
 10 the financial soundness and credit status of the local unit or units.  
 11 A municipality and other contracting party in entering into this  
 12 agreement shall comply with the provisions of the "Local Public  
 13 Contracts Law," P. L. 1971, c. 198 (C. 40A:11-1 et seq.).**]**\* *\*Not-*  
 14 *withstanding any other law to the contrary, any authority, in*  
 15 *anticipation of the issuance of bonds, may borrow money and issue*  
 16 *temporary obligations if the security agreement so provides. A*  
 17 *temporary obligation shall be designated "bond anticipation note"*  
 18 *or "project note" and shall contain a recital that it is issued in*  
 19 *anticipation of the issuance of bonds. The notes may be issued for a*  
 20 *period of not exceeding five years, or the period of construction as*  
 21 *certified by the consulting engineer plus 12 months, whichever shall*  
 22 *be less, and may be renewed from time to time with the approval of*  
 23 *the Local Finance Board.\**

1 25. If the Local Finance Board has reason to believe that a  
 2 municipal public utility is faced with financial difficulty, it shall  
 3 have the power to order an increase in rents, rates, fees or other  
 4 charges of the utility, and this order shall be valid and enforceable  
 5 notwithstanding any provisions of the contrary in R. S. 48:2-1  
 6 et seq., but the Local Finance Board, before issuing this order,  
 7 shall first hold a hearing to which the Director of the Division of  
 8 Local Government Services shall summon appropriate officials of  
 9 the municipality. The Local Finance Board may require the produc-  
 10 tion of papers, documents, witnesses or information and may make  
 11 or cause to be made an audit or investigation of the circumstances  
 12 with respect to which the hearing was called.

13 The Local Finance Board may \***[**exempt**]**\* *\*except\** municipal  
 14 and county funding for a deficit of a municipal public utility *\*or*  
 15 *authority\** from the expenditure limitations of P. L. 1976, c. 68 (C.  
 16 40A:4-45.1 et seq.).

1 26. a. The Local Finance Board is authorized to adopt, amend  
 2 and repeal rules and regulations to effectuate the purposes of this  
 3 act.

4 *\*b. This act shall not limit the powers of the Local Finance Board*

5 or the director to regulate the financial affairs of authorities in the  
6 manner authorized by P. L. 1947, c. 151 (C. 52:27BB-1 et seq.).\*

1 27. The Local Finance Board, the director, and local units and  
2 local authorities shall not act under this act in a manner inconsistent  
3 with a security or financing agreement in effect at the time of the  
4 action.

1 28. This act shall take effect \***[immediately]**\* \*90 days following  
2 enactment, except that sections \*\***[11, 12, 16, 17, and 18]**\*\* \*\*10, 11,  
3 15, 16, and 17\*\* shall apply to the first fiscal year of an authority  
4 which commences 180 days following the promulgation by the Local  
5 Finance Board of rules and regulations to govern the adoption and  
6 approval of authority budgets and the conduct of annual audits by  
7 authorities pursuant to those sections\*.

---

**SENATE, No. 1517**  
**STATE OF NEW JERSEY**

INTRODUCED JUNE 10, 1982

By Senator LYNCH

Referred to Committee on County and Municipal Government

AN ACT to provide for State controls over the creation and financial affairs of local authorities of this State, assigning necessary powers and responsibilities with respect thereto, and supplementing Title 40A of the New Jersey Statutes.

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

1 1. This act shall be known and may be cited as the "Local Au-  
2 thorities Fiscal Control Law".

1 2. The Legislature finds it to be in the public interest of the  
2 citizens of this State to maintain, support, foster, and promote  
3 the financial integrity and stability of local authorities in the State  
4 and of counties and municipalities served by these local authori-  
5 ties, by providing for State approval of project financing of local  
6 authorities and for State supervision over the financial operations  
7 of local authorities.

1 The Legislature declares that it is necessary to the successful  
2 implementation of that policy that the creation and project financ-  
3 ing of local authorities be subject to the approval of an appropriate  
4 State agency, and that the State agency be empowered to require  
5 the preparation of annual financial reports by local authorities to  
6 be approved by that agency. In addition, the appropriate State  
7 agency shall be empowered to take remedial action to address any  
8 emergency arising with respect to the financial condition and oper-  
9 ation of a local authority or to alleviate any undue financial burden  
10 imposed by a local authority on residents of the State, including  
11 the power to order the dissolution of a local authority where that

12 action is determined to be in the public interest of the citizens of  
13 the State. The Legislature declares that, since the Local Finance  
14 Board in the Department of Community Affairs has been charged  
15 with the exercise of similar powers and responsibilities with re-  
16 spect to the fiscal affairs of the counties and municipalities of the  
17 State, that board is the appropriate State agency to exercise the  
18 powers and responsibilities required with respect to local authori-  
19 ties under this act.

1 3. As used in this act:

2 a. "Authority" means any public body, instrumentality or spe-  
3 cial purposes district, other than a school district, created by one  
4 or more counties or municipalities, pursuant to the provisions of  
5 any law heretofore or hereafter adopted, which is authorized by  
6 law to incur indebtedness, or to assess charges, in order to develop  
7 and finance public improvements or to provide specified public  
8 services;

9 b. "Director" means the Director of the Division of Local Gov-  
10 ernment Services in the Department of Community Affairs;

11 c. "Financing agreement" means any agreement of a local unit  
12 intended to provide security for an issue of obligations of any  
13 authority, including, but not limited to, any contract providing for  
14 payments by a local unit or units with respect to use, services or  
15 provision of any project, facility or public improvement of an  
16 authority or payments for debt service therefor;

17 d. "Local Finance Board" means the Local Finance Board in  
18 the Division of Local Government Services in the Department of  
19 Community Affairs;

20 e. "Local unit" means any county or any municipality which  
21 shall create or join in the creation of any authority, or which pro-  
22 poses to create or join in the creation thereof, or which proposes  
23 to enter into a financing agreement with an authority;

24 f. "Project financing" means the financing by an authority of  
25 the costs of any system, facility or service which the authority is  
26 authorized to undertake by law; and,

27 g. "Security agreement" shall mean a bond resolution of an  
28 authority, or a trust indenture to be executed by an authority, or  
29 any other similar proceeding or document.

1 4. On and after the effective date of this act, the creation of  
2 any authority, except those created pursuant to a special and  
3 express act of the Legislature, shall require the prior approval of  
4 the Local Finance Board. Prior to the introduction of any ordi-  
5 nance or the adoption of any resolution to create an authority, the  
6 local unit or units proposing the creation shall make application

7 to the Local Finance Board for approval. The application shall  
8 contain:

9 a. A copy of the proposed ordinance or resolution creating  
10 the authority;

11 b. A statement, in brief and general terms of the project or  
12 projects to be undertaken, the estimated project cost, the manner  
13 of project financing, and the area to be served by the project;

14 c. A proposed budget for the first year of authority operations,  
15 including a table of organization, personnel requirements, the  
16 level of staff required for supervision of the operation of the  
17 authority and the proposed source or sources of the authority's  
18 funding; and,

19 d. A statement, in the form prescribed by the Local Finance  
20 Board, indicating that the local unit or units have considered  
21 alternate means of undertaking and financing the proposed  
22 project or projects and have determined that the creation of an  
23 authority is the most efficient and feasible means of providing  
24 and financing the project or projects.

25 The Local Finance Board may consider any estimates, computa-  
26 tions or calculations made in connection with the application, may  
27 require the production of any papers, documents, witnesses or in-  
28 formation, may make or cause to be made any audit or investiga-  
29 tion, and may take any other appropriate action necessary to its  
30 consideration of whether or not to approve the creation of an  
31 authority.

1 5. The Local Finance Board shall, within 60 days of its receipt  
2 on an application pursuant to section 4 of this act, approve in  
3 writing the creation of the proposed authority, if it shall determine  
4 that the creation of the authority is in the public interest and will  
5 serve the health, welfare, or convenience of the residents of the  
6 local unit or units, and is an efficient and feasible means of pro-  
7 viding and financing the proposed project or projects.

8 If the application is not disapproved within 60 days of its sub-  
9 mission to the Local Finance Board, it shall be deemed to be ap-  
10 proved, and the local unit or units may proceed to adopt the  
11 proposed ordinance or resolution. A local unit shall not adopt any  
12 ordinance or resolution which is disapproved by the Local Finance  
13 Board within the 60 days, but may resubmit the application to the  
14 board with such changes as the local unit deems appropriate, and  
15 the review and approval of the resubmitted application shall be  
16 subject to the limitations set forth above.

1 6. Prior to the adoption of a security agreement by any au-  
2 thority, or an ordinance or resolution of a local unit authorizing



3 the financing agreement, the proposed project financing shall be  
 4 submitted to the Local Finance Board for its review and approval.  
 5 The Local Finance Board shall, in the course of such review and  
 6 approval, give consideration to:

7 a. The nature, purpose, and scope of the proposed project  
 8 financing;

9 b. The engineering and feasibility studies prepared in con-  
 10 nection therewith;

11 c. The terms and provisions of the proposed financing agree-  
 12 ments, security agreements and, in the instance of a negotiated  
 13 offering, the proposed or maximum terms and conditions of sale;

14 d. The proposed or maximum schedule of debt service pay-  
 15 ments required, and the impact thereof on the budget and finan-  
 16 cial condition of the authority and of the local unit;

17 e. The estimate of the annual cost of operating and maintain-  
 18 ing the project as set forth in the engineering report or feasibility  
 19 studies; and

20 f. The initial rate, rent, fee, or charge schedule proposed by  
 21 the authority, or any other proposed method of raising the  
 22 amounts required to finance the operations and payments of debt  
 23 service on the obligations of the authority.

24 The Local Finance Board may examine into any estimates, com-  
 25 putations or calculations made in connection with the submission,  
 26 may require the production of any papers, documents, witnesses or  
 27 information, may take or cause to be made any audit, investigation  
 28 or any other action which it may deem necessary to its review and  
 29 approval of the submission.

1 7. The Local Finance Board shall approve a proposal submitted  
 2 pursuant to section 6 of this act if it determines:

3 a. That the project cost has been accurately determined;

4 b. That the method proposed for the funding of the project  
 5 cost, proposed or maximum terms, and provisions of the financ-  
 6 ing and of any proposed financing agreement are reasonable  
 7 and feasible, and would not impose an undue financial burden  
 8 on the residents of the local unit, and would not materially im-  
 9 pair the ability of the local unit or the authority to pay promptly  
 10 the principal of and interest on the outstanding indebtedness  
 11 of the authority or to provide essential public services to the  
 12 residents of the local unit; and,

13 c. In the case of a negotiated offering, that the proposed or  
 14 maximum terms and conditions of sale are fair and reasonable  
 15 in light of current market conditions for obligations of similar  
 16 quality.

17 If the proposed project financing is not disapproved within 60  
18 days of its submission to the Local Finance Board, it shall be  
19 deemed to be approved, and the local unit or authority may proceed  
20 to adopt the same. A local unit or authority shall not adopt any  
21 security agreement, or authorizing ordinance or resolution, which  
22 is disapproved by the Local Finance Board within 60 days, but  
23 may resubmit the proposal to the board with such changes as the  
24 local unit or authority deems appropriate, and the review and  
25 approval of the resubmitted proposal shall be subject to the limita-  
26 tions set forth above.

1 8. The Local Finance Board may require, as a condition of its  
2 approval of a proposed project financing:

3 a. That the debt service reserve fund in an amount established  
4 by the board be funded from the proceeds of the sale of the  
5 authority's bonds;

6 b. That the local unit finance a portion of the proposed project  
7 cost through the incurrence of indebtedness and the issuance of  
8 obligations. Except as otherwise provided in this act, obliga-  
9 tions shall be authorized and issued in the manner provided for  
10 in the "Local Bond Law" (N. J. S. 40A:2-1 et seq.); and,

11 c. Such other conditions as the Local Finance Board may con-  
12 sider appropriate in order to provide sound financial support  
13 for the project financing.

1 9. To the extent not otherwise provided for by law, and in order  
2 to satisfy the provisions of section 8 of this act, any local unit  
3 having created or joined in the creation of an authority, or which  
4 shall hereafter create or join in the creation of an authority, or  
5 which now or hereafter shall enter into a contract with an authority  
6 in connection with a project financing, are authorized and shall  
7 have the power to incur indebtedness and issue obligations for any  
8 purpose for which an authority may issue obligations and to donate  
9 the proceeds of such obligations to an authority to be expended  
10 for the purpose for which such funds were borrowed. Except as  
11 otherwise provided in this act, all such obligations shall be author-  
12 ized and issued in the manner provided for in the "Local Bond  
13 Law" (N. J. S. 40A:2-1 et seq.).

1 10. The Local Finance Board shall have the power, in the case  
2 of a financing agreement between an authority and a local unit, to  
3 enforce, by appropriate order, the terms and provisions thereof  
4 with respect to the funding of any deficit, whether in existence or  
5 anticipated. If the Local Finance Board has reason to believe that  
6 an authority is faced with financial difficulty, it shall have the power  
7 to order an increase in rents, rates, fees or other charges of the

8 authority, and any order shall be valid and enforceable, notwith-  
9 standing any other provisions of law to the contrary. The Local  
10 Finance Board, before issuing such an order, shall first hold a  
11 hearing pursuant to section 15 of this act. The Local Finance  
12 Board also shall have authority to provide that any requirement  
13 that a local unit or units pay a deficit pursuant to a financing agree-  
14 ment be funded through the issuance of authority deficit funding  
15 notes as provided in this act. Any order so issued shall be deemed  
16 conclusive and final, and upon receipt of the order all officers and  
17 employees of the authority shall be estopped from contesting the  
18 order or the provisions thereof. Any authority or local unit or  
19 units affected by the order shall take all necessary actions to comply  
20 with the order.

1 11. To the extent not otherwise provided by law, an authority  
2 is authorized and shall have the power to issue, and to renew from  
3 time to time, obligations to be designated "authority emergency  
4 notes" in an amount not exceeding the realized deficit in revenues  
5 for the preceding fiscal year and any estimated deficit in revenues  
6 for the current fiscal year. All notes and any renewals thereof,  
7 shall mature not later than the close of the succeeding fiscal year  
8 and shall be payable in that fiscal year. Payment shall, however,  
9 be subordinate to the payment of principal and interest on, or  
10 sinking fund payments with respect to, bonds or other obligations  
11 of the authority, other than authority emergency notes.

12 The proceeds of the sale of authority emergency notes shall be  
13 deposited in the fund or funds in which a deficiency exists, or is  
14 expected to exist, as set forth in the resolution pursuant to which  
15 the notes are issued.

1 12. If the issuance of authority emergency notes by an authority  
2 is not permitted by the terms of any security agreement entered  
3 into by the authority, the local unit, if obligated pursuant to the  
4 terms of a financing agreement to make payments on account of  
5 a deficiency in revenues, may issue emergency notes to fund its  
6 payments or portions thereof. These obligations shall be desig-  
7 nated "authority deficit funding notes" and shall be general ob-  
8 ligations of the issuer. Each note shall be authorized by resolution  
9 of the governing body and may be renewed from time to time. All  
10 notes and any renewals thereof shall mature not later than the  
11 close of fiscal year succeeding the fiscal year in which such notes  
12 were issued and the emergency appropriation authorized.

1 13. Every authority shall cause an annual audit of its accounts  
2 to be made, and for this purpose it shall employ a registered  
3 municipal accountant of New Jersey or a certified public accountant

4 of New Jersey. The audit shall be completed and filed with the  
5 authority within 4 months after the close of the fiscal year of  
6 the authority. A certified duplicate copy of the audit shall be filed  
7 with the director within 5 days after the original is filed with the  
8 authority.

9 A synopsis of all audits, together with the recommendations  
10 made by the registered municipal accountant or certified municipal  
11 accountant, shall be prepared and published by the secretary of  
12 the authority at least once in a newspaper circulating within the  
13 district of the authority, at the time that a copy is filed with the  
14 director.

1 14. Each authority shall annually file with the Local Finance  
2 Board, and with the governing body of each local unit having  
3 created or under contract with the authority, a report in such  
4 format and detail as the board shall prescribe setting forth the  
5 actual financial, operational and capital results of the previous  
6 fiscal year of the authority and a proposed operational, capital and  
7 financial plan for the next ensuing fiscal year. The Local Finance  
8 Board shall prescribe, by rule or regulation, an appropriate date  
9 on or before which each type of authority subject to the provisions  
10 of this act shall file an annual report, which date shall be pre-  
11 scribed in conformity with the provisions of the law pursuant to  
12 which each type of authority is organized.

13 The Local Finance Board shall review annual reports filed  
14 pursuant to this section and may make any written recommenda-  
15 tions of the authority or to any local unit having created, joined  
16 in the creation, or under contract to the authority, which the board  
17 may deem appropriate in order to promote the financial soundness  
18 and integrity of the authority.

1 15. If at any time, as a result of exercising his responsibilities  
2 pursuant to this act, the director has reason to believe that an  
3 authority may not be able to meet its financial obligations, or may  
4 not be able to provide an adequate level of services to residents  
5 of the local unit or users of the system or facilities of the authority,  
6 or may, in meeting those obligations or providing those services,  
7 impose undue financial burdens upon the residents of the local  
8 unit or upon users of the system or facilities of the authority, the  
9 director shall summon appropriate officials of the authority and  
10 of the local unit or units involved to a hearing before the Local  
11 Finance Board. The Local Finance Board may require the produc-  
12 tion of any papers, documents, witnesses or information and may  
13 make or cause to be made any audit or investigation of the circum-  
14 stances with respect to which the hearing was called.

15 If, as a result of that hearing, the Local Finance Board shall  
16 determine that financial difficulties exist with respect to the au-  
17 thority:

18 a. Which jeopardize the payment of the operating expenses  
19 or the debt service on obligations, or both, of the authority, or  
20 which impose an undue financial burden on the residents of the  
21 local unit or on the users of the system or facilities of the au-  
22 thority; and,

23 b. Which are likely to reoccur and which, if continued, are  
24 likely to impair the credit of the authority or local unit to the  
25 detriment of the residents or users; and,

26 c. For which a practicable and feasible financial plan has not  
27 been implemented by the authority or the local unit to remedy  
28 the conditions to prevent their reoccurrence;

29 the Local Finance Board shall order the implementation of a  
30 financial plan to assure the payment of debt service on obligations  
31 of the authority, provide for an adequate level of services to resi-  
32 dents of the local unit or users of the system or facilities of the  
33 authority and prevent the imposition of undue financial burdens  
34 on the residents of the local unit and users of the system or  
35 facilities. The order shall be deemed conclusive and final, and upon  
36 receipt of the order all persons shall be estopped from contesting  
37 the order or the provisions thereof, and the authority or local units  
38 affected thereby shall take all necessary actions to comply with  
39 the order.

1 16. If, as a result of a hearing held pursuant to section 15 of  
2 this act, the Local Finance Board shall determine that no practi-  
3 cable and feasible financial plan can be implemented which will  
4 assure the payment of debt service on obligations of an authority,  
5 provide for adequate level of services to residents of the local unit  
6 or users of the system or facilities of the authority, and prevent  
7 the imposition of undue financial burdens on the residents of the  
8 local unit and users of the system or facilities, the board shall  
9 order the dissolution of the authority. The order shall make  
10 adequate provision for the payment of all creditors or obligees of  
11 the authority, whether from the assets of the authority or the local  
12 unit having established the authority. If the authority shall have  
13 obligations outstanding at the time, the order shall, where neces-  
14 sary, provide for the issuance of obligations by the local units or  
15 units having established the authority in furtherance of the dis-  
16 solution, and the obligations shall have a period of usefulness not  
17 exceeding 40 years from the date of issuance. The bonds shall be  
18 authorized by a bond ordinance to be introduced and adopted in

19 accordance with the provisions of the "Local Bond Law" (N. J. S.  
 20 40A:2-1 et seq.), except for the provisions of N. J. S. 40A:2-6,  
 21 40A:2-11, 40A:2-26, 40A:2-27 and 40A:2-31, and except that any  
 22 bond ordinance shall take effect immediately upon final adoption  
 23 and shall not be subject to referendum. Bonds so issued shall be  
 24 sold under the direction and supervision of the Local Finance  
 25 Board, and may be sold at either public or private sale as the  
 26 board shall prescribe.

27 Any order so adopted by the Local Finance Board to provide  
 28 for the dissolution of an authority, shall effect only upon its ap-  
 29 proval by the Commissioner of the Department of Community  
 30 Affairs, the State Treasurer and the Attorney General. Upon ap-  
 31 proval, the order shall be immediately transmitted to the authority,  
 32 to the clerk of the governing body of the local unit, and to the  
 33 Secretary of State. The order shall be deemed conclusive and final  
 34 upon approval, and upon receipt of the order all persons shall be  
 35 estopped from contesting the order or the provisions thereof, and  
 36 the authority or local units affected thereby shall take all necessary  
 37 actions to comply with the order.

1 17. Notwithstanding the provisions of any other law to the  
 2 contrary, the governing body of any local unit which has estab-  
 3 lished an authority shall have the power and are authorized by  
 4 ordinance in the case of a municipality, and ordinance or resolu-  
 5 tion, as appropriate, in the case of a county, to dissolve that au-  
 6 thority. Any authority established by one or more municipalities  
 7 or counties may be dissolved by the adoption of parallel ordinances  
 8 or resolutions, as appropriate. Any ordinance or resolution so  
 9 adopted shall be immediately filed with the Secretary of State and  
 10 the Local Finance Board. Any ordinance or resolution so adopted  
 11 shall make adequate provision for the payment of all creditors or  
 12 obligees of the authority. The ordinance or resolution shall be  
 13 introduced and adopted in the manner provided by law, shall take  
 14 effect immediately upon final adoption, and shall not be subject  
 15 to referendum. If the authority shall have obligations outstanding  
 16 at the time of the final adoption of an ordinance or resolution to  
 17 dissolve the authority, the local unit or units dissolving the au-  
 18 thority shall, where necessary, provide for the issuance of obliga-  
 19 tions in furtherance of the dissolution, and the obligations shall  
 20 have a period of usefulness not exceeding 40 years from the date  
 21 of issuance. The bonds shall be authorized by a bond ordinance  
 22 to be introduced and adopted in accordance with the provisions  
 23 of the "Local Bond Law" (N. J. S. 40A:2-1 et seq.), except for  
 24 the provisions of N. J. S. 40A:2-6, 40A:2-11, 40A:2-26, 40A:2-27

25 and 40A :2-31, and except that any bond ordinance shall take effect  
 26 immediately upon final adoption and shall not be subject to refer-  
 27 endum. Bonds so issued shall be sold under the direction and  
 28 supervision of the Local Finance Board, and may be sold at either  
 29 public or private sale as the board shall prescribe.

30 Nothing contained in this section or in this act shall limit the  
 31 powers accorded under any other law to any county or municipality  
 32 to dissolve any authority which it has created or of which it has  
 33 joined in the creation, nor limit any general reorganization powers  
 34 accorded under law to any county or municipality to alter or  
 35 abolish its agencies, but the provisions of this section and this act  
 36 shall be supplementary to the powers accorded under any other law.

1 18. Records of minutes, accounts, bills, vouchers, contracts or  
 2 other papers connected with or used or filed with any authority  
 3 or with any officer or employee acting for or in its behalf are  
 4 declared to be public records, and shall be open to public inspec-  
 5 tion in accordance with P. L. 1963, c. 73 (C. 47:1A-1 et seq.) and  
 6 regulations of the authority.

1 19. Notwithstanding the provisions of any law to the contrary,  
 2 the State Auditor or his legally authorized representative may  
 3 examine the accounts and books of any authority subject to the  
 4 provisions of this act.

1 20. The Local Finance Board is authorized to adopt, amend and  
 2 repeal such rules and regulations as may be necessary to effec-  
 3 tuate the purposes of this act.

1 21. This act shall take effect January 1 next following enactment.

---

#### STATEMENT

This bill would strengthen the existing system of State oversight of local financial operations and debt by providing for State supervision of independent local authority and special district financial operations and debt. Implementation of these reforms will strengthen the credit standing of municipalities, counties, and independent financing authorities, by extending a proven system of financial regulation to a currently mostly unregulated area of local debt financing.

The bill would assign financial control responsibilities over local authorities and special districts to the Local Finance Board in the Department of Community Affairs including approval power: over the creation of a new local authority or district; of local authority and district bond and note sales; and, of municipal and county financial agreements supporting a local authority financing

S1517

or providing funding for local authority operations. The Local Finance Board is given the power to enforce by order compliance with an existing local government agreement supporting a local authority financing or providing funding for local authority operations.

The bill enables a local authority to issue authority emergency notes to cover deficits for the current and preceding year. When bond covenants preclude the issuance of such notes, and a local unit is contractually obligated to fund deficits of the authority, then the local unit would be empowered to issue authority deficit funding notes.

Each local authority is required to file an annual financial, operational and capital report with the Local Finance Board, and with each local government having created the authority or having entered into a service contract with it.

Each local authority is required to employ a registered municipal accountant to conduct an annual audit and file a copy with the Director of the Division of Local Government Services.

The bill provides a mechanism for meeting unsound financial conditions of local authorities. If the Director of the Division of Local Government Services finds that a local authority is faced with financial difficulty, he is to convene a hearing before the Local Finance Board. If the Local Finance Board determines that a serious, continuing financial difficulty exists, and that the authority or local unit has not undertaken a remedial plan, the Local Finance Board shall order implementation of a financial plan. The financial plan shall assure the payment of debt service or provide relief from undue financial burdens on residents of the affected local unit or users of the authority's services and facilities.

The bill provides two procedures for dissolving an existing local authority, as long as the dissolution is consistent with outstanding board covenants and other contractual obligations. A local unit or units served by an authority would be empowered to dissolve the authority. Also, the Local Finance Board may order the dissolution of an authority after holding a hearing on the financial condition of the authority, if it determines that a practicable and feasible remedial plan cannot be implemented. The order of dissolution would require the approval of the Commissioner of Community Affairs, the State Treasurer and the Attorney General.

---



[OFFICIAL COPY REPRINT]

SENATE, No. 1517

STATE OF NEW JERSEY

INTRODUCED JUNE 10, 1982

By Senator LYNCH

Referred to Committee on County and Municipal Government

AN ACT to provide for State controls over the creation and financial affairs of local authorities of this State, assigning necessary powers and responsibilities with respect thereto, and supplementing Title 40A of the New Jersey Statutes.

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

1 1. This act shall be known and may be cited as the "Local Au-  
2 thorities Fiscal Control Law".

1 2. The Legislature \***[finds]**\* \*declares\* it to be in the public  
2 interest of the citizens of this State to maintain, support, foster,  
3 and promote the financial integrity and stability of local authorities  
4 in the State and of counties and municipalities served by these local  
5 authorities, by providing for State \***[approval]**\* \*review\* of  
6 project financing of local authorities and for State supervision over  
7 the financial operations of local authorities.

1 The Legislature declares that it is \***[necessary to the successful**  
2 **implementation of that policy that the creation and project financ-**  
3 **ing of local authorities be subject to the approval of an appropriate**  
4 **State agency, and that the State agency be empowered to require**  
5 **the preparation of annual financial reports by local authorities to**  
6 **be approved by that agency]**\* *the purpose and object of this act to*  
7 *implement this policy by providing that the creation of a local*  
8 *authority be subject to Local Finance Board approval, that project*  
9 *financing of a local authority be submitted to the Local Finance*  
10 *Board for hearing and review, that annual budgets of a local*  
11 *authority be submitted to the Division of Local Government Ser-*

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

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

\*—Senate committee amendments adopted June 30, 1983.

12 *vices in the Department of Community Affairs for approval, that*  
 13 *financial reports be prepared and submitted by a local authority*  
 14 *to the division in the form and at the time or times as shall be*  
 15 *prescribed by rule or regulation of the Local Finance Board or of*  
 16 *the Director of the Division of Local Government Services\*. In*  
 17 *addition, the \***[appropriate State agency shall be empowered to]**\**  
 18 *\*Local Finance Board may\* take remedial action to address*  
 19 *\***[any]**\* \*an\* emergency \***[arising]**\* \*situation\* with respect to*  
 20 *the financial condition and operation of a local authority or to*  
 21 *\***[alleviate any]**\* \*respond to an\* undue financial burden imposed*  
 22 *by a local authority on residents of the State, including the power*  
 23 *to order the dissolution of a local authority \***[where that action]**\**  
 24 *\*if it\* is \***[determined to be]**\* in the public interest \***[of the citi-***  
 25 *zens of the State. The Legislature declares that, since the Local*  
 26 *Finance Board in the Department of Community Affairs has been*  
 27 *charged with the exercise of similar powers and responsibilities*  
 28 *with respect to the fiscal affairs of the counties and municipalities*  
 29 *of the State, that board is the appropriate State agency to exercise*  
 30 *the powers and responsibilities required with respect to local*  
 31 *authorities under this act]\*.*

1 3. As used in this act:

2 a. "Authority" means \***[any public body, instrumentality or spe-**

3 *cial purposes district, other than a school district, created by one*

4 *or more counties or municipalities, pursuant to the provisions of*

5 *any law heretofore or hereafter adopted, which is authorized by*

6 *law to incur indebtedness, or to assess charges, in order to develop*

7 *and finance public improvements or to provide specified public*

8 *services;]\* \*a body, public and corporate, created by one or more*

9 *municipalities or counties pursuant to any law authorizing that*

10 *creation, which law provides that the public body so created has at*

11 *least the following powers:*

- 12 (1) *To adopt and use a corporate seal;*
- 13 (2) *To sue and be sued;*
- 14 (3) *To acquire and hold real or personal property for its pur-*
- 15 *poses; and*
- 16 (4) *To provide for and secure the payment of its bonds or other*
- 17 *obligations, or to provide for the assessment of a tax on real*
- 18 *property within its district, or to impose charges for the use of its*
- 19 *facilities, or any combination thereof; but shall not include any*
- 20 *public body for which federal or State fiscal controls differing from*
- 21 *those imposed by this act, have been explicitly established by law,*
- 22 *but only to the extent of that difference.\**

23 b. "Director" means the Director of the Division of Local Gov-

24 ernment Services in the Department of Community Affairs\***[;]**\* \*.\*  
 25 c. “Financing agreement” means \***[any]**\* \*an\* agreement  
 26 of a local unit *or units*\* intended to provide security for an issue  
 27 of obligations of \***[any]**\* \*an\* authority, including, but not limited  
 28 to, \***[any]**\* \*a\* contract providing for payments by a local unit  
 29 or units with respect to use, services or provision of \***[any]**\* \*a\*  
 30 project, facility or public improvement of an authority or pay-  
 31 ments for debt service therefor\***[;]**\* \*.\*

32 d. “Local Finance Board” means the Local Finance Board in  
 33 the Division of Local Government Services in the Department of  
 34 Community Affairs\***[;]**\* \*.\*

35 e. “Local unit *or units*” means \***[any]**\* \*a\* county or \***[any]**\*  
 36 municipality which \***[shall create or join]**\* \*created or joined\* in  
 37 the creation of \***[any]**\* \*an\* authority, or which proposes to create  
 38 or join in the creation thereof, or which proposes to enter into a  
 39 financing agreement with an authority\***[;]**\* \*.\*

40 f. “Project financing” means the financing by an authority of  
 41 \***[the costs of any system, facility or service which the authority is**  
 42 **authorized to undertake by law; and,]**\* \*a facility for the benefit  
 43 **of the inhabitants of a local unit or units and includes payment for**  
 44 **the design and plan for the facility.\***

45 g. “Security agreement” \***[shall mean]**\* \*means\* a bond resolu-  
 46 tion of an authority, or a trust indenture to be executed by an  
 47 authority, or \***[any]**\* other similar proceeding or document.

1 4. On and after the effective date of this act, \***[the creation of**  
 2 **any authority, except those created pursuant to a special and**  
 3 **express act of the Legislature, shall require the]**\* \*no authority  
 4 **shall be created by any local unit or units without the\*** prior ap-  
 5 proval of the Local Finance Board. Prior to the introduction of  
 6 \***[any]**\* \*an\* ordinance or the adoption of \***[any]**\* \*a\* resolution  
 7 to create an authority, the local unit or units proposing \***[the]**\*  
 8 \*this\* creation shall make application to the Local Finance Board  
 8A for *its*\* approval. The application shall contain:

9 a. A copy of the proposed ordinance or resolution creating  
 10 the authority;

11 b. A statement, in brief and general terms\*,\* of the project or  
 12 projects to be undertaken, the estimated project cost, the manner  
 13 of project financing, and the area to be served by the project;

14 c. A proposed budget for the first year of authority operations,  
 15 including a table of organization, personnel requirements, the  
 16 level of staff required for supervision of the operation of the  
 17 authority and the proposed source or sources of the authority’s  
 18 funding; and,

19 d. A statement, in the form prescribed by the Local Finance  
 20 Board, indicating that the local unit or units have considered  
 21 **\*[altternate]\*** *\*alternative\** means of undertaking and financing  
 22 the proposed project or projects and have determined that the  
 23 creation of an authority is the most efficient and feasible means  
 24 of providing and financing the project or projects.

25 The Local Finance Board may consider **\*[any]\*** estimates, com-  
 26 putations or calculations made in connection with **\*[the]\*** *\*an\**  
 27 application, may require the production of **\*[any]\*** papers, docu-  
 28 ments, witnesses or information, may make or cause to be made  
 29 **\*[any]\*** *\*an\** audit or investigation, and may take any other  
 30 appropriate action necessary to its consideration of whether or  
 31 not to approve the creation of an authority.

1 5. The Local Finance Board shall, within 60 days of its receipt  
 2 **\*[on]\*** *\*of\** an application pursuant to section 4 of this act, approve  
 3 in writing the creation of the proposed authority, if it shall deter-  
 4 mine that the creation of the authority is **\*[in the public interest**  
 5 and will serve the health, welfare, or convenience of the residents  
 6 of the local unit or units, and is]**\*** an efficient and feasible means  
 7 of providing and financing **\*[the proposed]\*** *\*this\** project or  
 7A projects *\*, given the needs of, and the financial burdens to be*  
 7B *placed upon, the inhabitants of the local unit or units\*.*

8 If the application is not disapproved within 60 days of its sub-  
 9 mission to the Local Finance Board, it shall be deemed to be ap-  
 10 proved, and the local unit or units may proceed to adopt the  
 11 proposed ordinance or resolution. *\*If the Local Finance Board*  
 11A *shall not approve the creation of the authority, it shall specify in*  
 11B *writing the reason or reasons therefor, and shall file its statement*  
 11C *with the clerk or clerks of the local unit or units.\** A local unit shall  
 12 not adopt any ordinance or resolution which is disapproved by the  
 13 Local Finance Board within the 60 days, but may resubmit the  
 14 application to the board with such changes as the local unit deems  
 15 appropriate, and the review and approval of the resubmitted appli-  
 16 cation shall be subject to the limitations set forth above.

1 6. Prior to the adoption of a security agreement by **\*[any]\***  
 2 *\*an\** authority, or an ordinance or resolution of a local unit *\*or*  
 3 *units\** authorizing **\*[the]\*** *\*a\** financing agreement, the proposed  
 4 project financing shall be submitted to the Local Finance Board  
 5 for its review **\*[and approval]\***. The Local Finance Board shall,  
 6 in the course of **\*[such]\*** *\*its\** review **\*[and approval]\***, give  
 6A consideration to:

7 a. The nature, purpose, and scope of the proposed project  
 8 financing;

9       b. The engineering and feasibility studies prepared in con-  
10 nection therewith;

11       c. The terms and provisions of the proposed financing agree-  
12 ments, security agreements and, in the instance of a negotiated  
13 offering, the proposed or maximum terms and conditions of sale;

14       d. The proposed or maximum schedule of debt service pay-  
15 ments required, and the impact thereof on the budget and finan-  
16 cial condition of the authority and of the local unit;

17       e. The estimate of the annual cost of operating and maintain-  
18 ing the project as set forth in the engineering report or feasibility  
19 studies; and

20       f. The initial rate, rent, fee, or charge schedule proposed by  
21 the authority, or any other proposed method of raising the  
22 amounts required to finance the operations and payments of debt  
23 service on the obligations of the authority.

24       The Local Finance Board may **\*[examine into any]\*** *\*consider\**  
25 estimates, computations or calculations made in connection with  
26 the submission, may require the production of **\*[any]\*** papers,  
27 documents, witnesses or information, may **\*[take]\*** *\*make\** or  
28 cause to be made **\*[any]\*** *\*an\** audit**\*[,]\*** *\*or\** investigation  
29 **\*[or]\*** *\*and may take\** any other action which it may deem neces-  
30 sary to its review **\*[and approval]\*** of the submission.

1       7. The Local Finance Board shall **\*[approve a proposal sub-**  
2 mitted pursuant to section 6 of this act if it determines:

3       a. That the project cost has been accurately determined;

4       b. That the method proposed for the funding of the project  
5 cost, proposed or maximum terms, and provisions of the financ-  
6 ing and of any proposed financing agreement are reasonable  
7 and feasible, and would not impose an undue financial burden  
8 on the residents of the local unit, and would not materially im-  
9 pair the ability of the local unit or the authority to pay promptly  
10 the principal of and interest on the outstanding indebtedness  
11 of the authority or to provide essential public services to the  
12 residents of the local unit; and,

13       c. In the case of a negotiated offering, that the proposed or  
14 maximum terms and conditions of sale are fair and reasonable  
15 in light of current market conditions for obligations of similar  
16 quality.

17       If the proposed project financing is not disapproved within 60  
18 days of its submission to the Local Finance Board, it shall be  
19 deemed to be approved, and the local unit or authority may proceed  
20 to adopt the same. A local unit or authority shall not adopt any  
21 security agreement, or authorizing ordinance or resolution, which

22 is disapproved by the Local Finance Board within 60 days, but  
 23 may resubmit the proposal to the board with such changes as the  
 24 local unit or authority deems appropriate, and the review and  
 25 approval of the resubmitted proposal shall be subject to the limita-  
 26 tions set forth above.】\* \*, *within 31 days of its receipt of the*  
 27 *proposed project financing, hold a hearing at which any interested*  
 28 *party may furnish additional information regarding the proposal.*  
 29 *Within 10 days after the hearing, the board shall issue its findings*  
 30 *on the proposed financing including therein its findings as to*  
 31 *whether: (a) the project cost has been determined by reasonable*  
 32 *and accepted methods; (b) the method proposed for the funding*  
 33 *of the project cost, proposed or maximum terms and provisions of*  
 34 *the financing and of a proposed financing agreement are not un-*  
 35 *reasonable nor impracticable, and would not impose an undue and*  
 36 *unnecessary financial burden on the inhabitants of the local unit*  
 37 *or units, which have created or have joined in the creation of the*  
 38 *authority or which may enter into a financing agreement with the*  
 39 *authority, or would not materially impair the ability of the local*  
 40 *unit or units or the authority to pay promptly the principal of and*  
 41 *interest on the outstanding indebtedness thereof or to provide*  
 42 *essential public services to the inhabitants thereof; and (c) in the*  
 43 *case of a negotiated offering, the proposed or maximum terms and*  
 44 *conditions of sale are, in light of current market conditions for*  
 45 *obligations of similar quality, reasonable. The findings shall be in*  
 46 *writing and shall be filed with the clerk or clerks of the local unit*  
 47 *or units and with the secretary of the authority.*

48 *The times set forth in this section may be extended by mutual*  
 49 *agreement of the authority and the Local Finance Board.*

50 *The governing body of the authority shall, within 15 days of*  
 51 *receipt of the Local Finance Board's findings and recommenda-*  
 52 *tions on the proposed project financing, certify by resolution*  
 53 *to the Local Finance Board that each member thereof has per-*  
 54 *sonally reviewed the findings and recommendations and has evi-*  
 55 *denced same by group affidavit in the form prescribed by the Local*  
 56 *Finance Board. Failure to comply with this paragraph may subject*  
 57 *the members of the authority to the penalty provisions of section*  
 58 *52 of P. L. 1947, c. 151 (C. 52:27BB-52).\**

1 8. The Local Finance Board may \*【require, as a condition of its  
 2 approval of】\* \*recommend in its findings with respect to\* a pro-  
 2A posed project financing:

3 a. That the debt service reserve fund in an amount established  
 4 by the board be funded from the proceeds of the sale of the  
 5 authority's bonds;

6 b. **\*[That the local unit finance a portion of the proposed project**  
 7 **cost through the]** *\*The\* incurrence of indebtedness and the issu-*  
 8 *ance of obligations \*by the local unit or units to finance a portion*  
 9 *of the proposed project cost\*. Except as otherwise provided in this*  
 10 *act, \*these\* obligations shall be authorized and issued in the*  
 11 *manner provided for in \*[the “Local Bond Law” (N. J. S. 40A:2-1*  
 12 *et seq.); and]\*, \*Title 40 of the Revised Statutes or Title 40A of*  
 13 *the New Jersey Statutes;*

14 c. *That the local unit or units execute a financing agreement with*  
 15 *the authority;*

16 d. *That the local unit or units not execute a financing agreement*  
 17 *with the authority, if the Local Finance Board determines that the*  
 18 *agreement would impose an inappropriate risk on the local unit;*

19 e. *That an amount not to exceed the outstanding principal each*  
 20 *year for the proposed financing of the authority be included in the*  
 21 *net debt of a local unit, under N. J. S. 40A:2-1 et seq., if the local*  
 22 *unit executes a financing agreement with the authority;\**

23 **\*[c. Such]** *\*f. In addition to the above, any\* other conditions*  
 24 *\*[as]\* \*that\* the Local Finance Board **\*[may consider]** \*con-*  
 25 *siders\* appropriate **\*[in order]** \*to provide sound financial sup-*  
 26 *port for the project financing.*

1 9. To the extent not otherwise provided for **\*[by law,]** *\*in*  
 2 *Title 40 of the Revised Statutes or Title 40A of the New Jersey*  
 3 *Statutes\* and in order to satisfy the provisions of section 8 of this*  
 4 *act, any local unit \*or units\* having created or joined **\*[in the***  
 5 *creation of] *an authority, or which **\*[shall]** \*may\* hereafter*  
 6 *\*join,\* create or join in the creation of an authority, or which \*are\**  
 7 *now or hereafter **\*[shall enter into a]** \*under\* contract with an*  
 8 *authority in connection with a project financing, are authorized and*  
 9 *shall have the power to incur indebtedness and issue obligations for*  
 10 *any purpose for which an authority may issue obligations and to*  
 11 *donate the proceeds of **\*[such]** \*those\* obligations to an authority*  
 12 *to be expended for the purpose for which **\*[such]** \*the\* funds were*  
 13 *borrowed. Except as otherwise provided in this act, all **\*[such]**\**  
 14 *obligations shall be authorized and issued in the manner provided*  
 15 *for in **\*[the “Local Bond Law” (N. J. S. 40A:2-1 et seq.)]**\**  
 16 *\*Title 40 or Title 40A\*.**

1 *\*10. a. Each authority shall submit a budget for each fiscal year*  
 2 *to the director prior to its adoption thereof. The budget shall*  
 3 *comply with the terms and provisions of any security agreements,*  
 4 *and shall be in such form and detail as to items of revenue, expen-*  
 5 *diture and other content as shall be required by law or by rules*  
 6 *and regulations of the Local Finance Board.*

7     *b. The Local Finance Board shall prescribe by rule or regulation*  
 8     *the procedure for the adoption of budgets by authorities. The rules*  
 9     *and regulations may include or be similar to any provisions of the*  
 10    *“Local Budget Law” (N. J. S. 40A:4-1 et seq.) which the Local*  
 11    *Finance Board shall deem to be practicable or necessary, and may*  
 12    *further include any other provisions and requirements which the*  
 13    *Local Finance Board shall deem appropriate or necessary. The*  
 14    *rules and regulations shall provide for approval or disapproval of*  
 15    *a budget within 45 days of the director’s receipt thereof.*

16    *c. The Local Finance Board shall also prescribe by rule or regu-*  
 17    *lation the procedures and requirements for execution or any budget*  
 18    *after adoption, and for the administration of financial affairs of*  
 19    *authorities. The rules and regulations may include, without limi-*  
 20    *tation, any provisions of the “Local Budget Law” (N. J. S. 40A:4-1*  
 21    *et seq.), and the “Local Fiscal Affairs Law” (N. J. S. 40A:5-1*  
 22    *et seq.), which the Local Finance Board shall deem to be practi-*  
 23    *cable and necessary.*

1     11. *No authority budget shall be finally adopted until the*  
 2     *director shall have approved same. In granting the approval, the*  
 3     *director shall consider whether or not:*

4     *a. All estimates of revenue are reasonable, accurate and cor-*  
 5     *rectly stated;*

6     *b. Items of appropriation are properly set forth;*

7     *c. In itemization, form and content, the budget will permit the*  
 8     *exercise of the comptroller function within the authority;*

9     *d. The schedule of rates, fees and charges then in effect will*  
 10    *produce sufficient revenues, together with all other anticipated*  
 11    *revenues, to satisfy all obligations to the holders of bonds of the*  
 12    *authority, to meet operating expenses, capital outlays, debt service*  
 13    *requirements, and to provide for such reserves, all as may be*  
 14    *required by law, regulation or terms of contracts and agreements.*

15    *The director may require such documentation, records and other*  
 16    *information, and undertake any audit or investigation, as he may*  
 17    *deem necessary in connection with his review.*

18    *If the director finds that all requirements of law and the rules*  
 19    *and regulations of the Local Finance Board have been met, he shall,*  
 20    *within 45 days of his receipt of the budget, approve it; otherwise*  
 21    *he shall within that time refuse to approve it. The director, in*  
 22    *refusing to approve the budget, shall not substitute his discretion*  
 23    *with respect to the amount of an appropriation when that amount*  
 24    *is not made mandatory by law or regulation.*

25    *Any decision of the director in the course of budget review under*  
 26    *this section may be appealed to the Local Finance Board in the*  
 27    *manner generally provided by law.\**



1     \***[10.]**\* \*12.\* The Local Finance Board shall have the power, in  
 2 the case of a financing agreement between an authority and a local  
 3 unit *\*or units\**, to enforce, by appropriate order, the terms and  
 4 provisions thereof with respect to the funding of **\*[any]\*** *\*a\**  
 5 deficit, whether in existence or anticipated. If the Local Finance  
 6 Board has reason to believe that an authority is faced with financial  
 7 difficulty, it shall have the power to order an increase in rents,  
 8 rates, fees or other charges of the authority, and **\*[any]\*** *\*this\**  
 9 order shall be valid and enforceable, notwithstanding any **\*[other]\***  
 10 provisions **\*[of law]\*** to the contrary *\*in R. S. 48:2-1 et seq.\**.  
 11 The Local Finance Board, before issuing **\*[such an]\*** *\*this\** order,  
 12 shall first hold a hearing **\*[pursuant to]\*** *\*consistent with\** sec-  
 13 tion **\*[15]\*** \*18\* of this act. The Local Finance Board also shall  
 14 have authority to provide that **\*[any]\*** *\*a\** requirement that a  
 15 local unit or units pay a deficit **\*[pursuant to]\*** *\*under\** a financ-  
 16 ing agreement be funded through the issuance of authority deficit  
 17 funding notes as provided in this act. Any order so issued shall be  
 18 deemed conclusive and final, and upon receipt of **\*[the]\*** *\*this\**  
 19 order all **\*[officers and employees of the authority]\*** *\*persons\**  
 20 shall be estopped from contesting the order or the provisions  
 21 thereof. Any authority or local unit or units affected by the order  
 22 shall *\*promptly\** take **\*[all necessary actions]\*** *\*the action neces-*  
 23 *sary\** to comply with **\*[the]\*** *\*this\** order.

1     \***[11.]**\* \*13.\* To the extent not otherwise provided by law, an  
 2 authority is authorized and shall have the power to issue**[**, and to  
 3 renew from time to time,**]** obligations to be designated **\*[“**author-  
 4 ity emergency notes**”]** *\*Authority Temporary Funding Notes\**  
 5 in an amount not exceeding the realized deficit in revenues for  
 6 the preceding fiscal year and **\*[any]\*** *\*an\** estimated deficit in  
 7 revenues for the current fiscal year. *\*The notes may be renewed*  
 8 *from time to time.\** All notes and any renewals thereof, shall  
 9 mature not later than the close of the succeeding fiscal year and  
 10 shall be payable in that fiscal year. Payment shall, however, be  
 11 subordinate to the payment of principal and interest on, or sinking  
 12 fund payments with respect to, bonds or other obligations *\*(other*  
 13 *than “ Authority Temporary Funding Notes”)\** of the authority**[**,  
 14 other than authority emergency notes**]**.

15     The proceeds of the sale of **\*[authority emergency notes]\***  
 16 *\*“ Authority Temporary Funding Notes”\** shall be deposited in  
 17 the fund or funds in which a deficiency exists, or is expected to  
 18 exist, as set forth in the resolution **\*[pursuant to]\*** *\*under\** which  
 19 the notes are issued.

20     *\*An authority shall notify the Local Finance Board in writing of*

21 *its intention to issue "Authority Temporary Funding Notes" pur-*  
 22 *suant to this section, including therein a statement of the deficit*  
 23 *which the proceeds of the notes are intended to fund, and a state-*  
 24 *ment of the manner in which the authority plans to either retire*  
 25 *or refinance the notes on or before the close of the succeeding fiscal*  
 26 *year. The notification shall be made at least 30 days prior to issu-*  
 27 *ance, or within such lesser time period as the Local Finance Board*  
 28 *shall permit.\**

1 \***[12.]**\* \*14.\* If the issuance of \***[**authority emergency notes by  
 2 an authority\* \**Authority Temporary Funding Notes*\* is not  
 3 permitted by the the terms of \***[any]**\* \*a\* security agreement  
 4 \***[**entered into by the authority,**]**\* \*, then\* the local unit \*or units\*,  
 5 if obligated \***[**pursuant to the terms of a financing agreement**]**\* to  
 6 make payments on account of \***[**a deficiency in revenues, may issue  
 7 emergency notes to fund its payments\* \*a deficiency in revenues  
 8 under the terms of a financing agreement, may issue emergency  
 9 notes pursuant to the provisions of sections 40A:4-46 through  
 10 40A:4-50 of the New Jersey Statutes to fund this payment\* or  
 11 portions thereof. These obligations shall be designated \***[**"author-  
 12 ity deficit funding notes"**]**\* \*"*Authority Deficit Funding Notes*"\*  
 13 and shall be general obligations of the issuer. Each note shall be  
 14 authorized by resolution of the governing body and may be renewed  
 15 from time to time. All notes and any renewals thereof shall mature  
 16 not later than the \***[**close of fiscal year\* \*last day of the fiscal year  
 17 next\* succeeding the fiscal year in which \***[**such\* \*these\* notes  
 18 were issued and the emergency appropriation authorized.

19 \*A local unit shall notify the Local Finance Board in writing  
 20 of its intention to issue "Authority Deficit Funding Notes" pur-  
 21 suant to this section at least 30 days prior to the issuance, or within  
 22 such lesser time period as the Local Finance Board shall permit,  
 23 including therein a statement of the deficit which the proceeds of  
 24 the notes are intended to fund, and a statement of the manner in  
 25 which the local unit plans to either retire or refinance the notes  
 26 on or before the close of the succeeding fiscal year.\*

1 \***[**13. Every\* \*15. Notwithstanding the provisions of N. J. S.  
 2 40A:5-1 et seq., each\* authority shall cause an annual audit of its  
 3 accounts to be made, and for this purpose it shall \*contract with  
 4 the Division of Local Government Services or\* employ a registered  
 5 municipal accountant of New Jersey or a certified public accountant  
 6 of New Jersey. The audit shall be completed and filed with the  
 7 authority within four months after the close of the fiscal year of  
 8 the authority. A certified duplicate copy \***[**of the audit\* \*thereof\*  
 9 shall be filed \*with the governing body of each local unit having

10 *created the authority and\** with the director within five days after  
 11 the original *\*report\** is filed with the authority. *\*The Local Finance*  
 12 *Board shall by rule or regulation prescribe the accounting prin-*  
 13 *ciples and policies, auditing procedures, and financial reporting*  
 14 *practices applicable to authorities and authority audits conducted*  
 15 *pursuant to this section. The rules and regulations may include*  
 16 *or be similar to any provisions of the "Local Fiscal Affairs Law"*  
 17 *N. J. S. 40A:5-1 et seq. which the Local Finance Board shall deem*  
 18 *to be practicable or necessary.\**

19 *\*[A synopsis of all audits, together with the recommendations*  
 20 *made by the registered municipal accountant or certified municipal*  
 21 *accountant, shall be prepared and published by the secretary of*  
 22 *the authority at least once in a newspaper circulating within the*  
 23 *district of the authority, at the time that a copy is filed with the*  
 24 *director.]\**

1 *\*[14. Each authority shall annually file with the Local Finance*  
 2 *Board, and with the governing body of each local unit having*  
 3 *created or under contract with the authority, a report in such*  
 4 *format and detail as the board shall prescribe setting forth the*  
 5 *actual financial, operational and capital results of the previous*  
 6 *fiscal year of the authority and a proposed operational, capital and*  
 7 *financial plan for the next ensuing fiscal year. The Local Finance*  
 8 *Board shall prescribe, by rule or regulation, an appropriate date*  
 9 *on or before which each type of authority subject to the provisions*  
 10 *of this act shall file an annual report, which date shall be pre-*  
 11 *scribed in conformity with the provisions of the law pursuant to*  
 12 *which each type of authority is organized.*

13 The Local Finance Board shall review annual reports filed  
 14 pursuant to this section and may make any written recommenda-  
 15 tions of the authority or to any local unit having created, joined  
 16 in the creation, or under contract to the authority, which the board  
 17 may deem appropriate in order to promote the financial soundness  
 18 and integrity of the authority.]\*\*

1 *\*16. A synopsis of the annual audit shall be prepared by the*  
 2 *chairman of the authority and published at least once in a news-*  
 3 *paper circulating in the district of the authority. A copy of the*  
 4 *synopsis shall be filed with the director within 10 days after publi-*  
 5 *cation.*

1 *17. The governing body of each authority shall, within 45 days*  
 2 *of receipt of the annual audit, certify by resolution to the Local*  
 3 *Finance Board that each member thereof has personally reviewed*  
 4 *the annual audit report, and specifically the sections of the audit*  
 5 *report entitled General Comments, and Recommendations, and has*

6 *evidenced same by group affidavit in the form prescribed by the*  
 7 *Local Finance Board. Failure to comply with this provision may*  
 8 *subject the members of the authority to the penalty provisions of*  
 9 *section 52 of P. L. 1947, c. 151 (C. 52:27BB-52).\**

1 \***[15.]**\* \*18.\* If at any time, as a result of exercising his responsi-  
 2 bilities \***[pursuant to]**\* *under* this act, the director has reason  
 3 to believe that an authority \***[may not be able to meet its financial**  
 4 obligations, or may not be able to provide an adequate level of ser-  
 5 vices to residents of the local unit or users of the system or facilities  
 6 of the authority, or may, in meeting those obligations or providing  
 7 those services, impose undue financial burdens upon the residents  
 8 of the local unit or upon users of the system or facilities of the  
 9 authority, the]\* *is faced with financial difficulty, the* director  
 10 shall summon appropriate officials of the authority and \***[of]**\* the  
 11 local unit or units \***[involved]**\* *or either of the aforesaid* to a  
 12 hearing before the Local Finance Board. The Local Finance Board  
 13 may require the production of \***[any]**\* papers, documents, wit-  
 14 nesses or information and may make or cause to be made \***[any]**\*  
 14A *an* audit or investigation of the circumstances with respect to  
 14B which the hearing was called.

15 \***[If, as a result of that hearing, the Local Finance Board shall**  
 16 determine that financial difficulties exist with respect to the au-  
 17 thority:

18 a. Which jeopardize the payment of the operating expenses  
 19 or the debt service on obligations, or both, of the authority, or  
 20 which impose an undue financial burden on the residents of the  
 21 local unit or on the users of the system or facilities of the au-  
 22 thority; and,

23 b. Which are likely to reoccur and which, if continued, are  
 24 likely to impair the credit of the authority or local unit to the  
 25 detriment of the residents or users; and,

26 c. For which a practicable and feasible financial plan has not  
 27 been implemented by the authority or the local unit to remedy  
 28 the conditions to prevent their reoccurrence;

29 the Local Finance Board shall order the implementation of a  
 30 financial plan to assure the payment of debt service on obligations  
 31 of the authority, provide for an adequate level of services to resi-  
 32 dents of the local unit or users of the system or facilities of the  
 33 authority and prevent the imposition of undue financial burdens  
 34 on the residents of the local unit and users of the system or  
 35 facilities. The order shall be deemed conclusive and final, and upon  
 36 receipt of the order all persons shall be estopped from contesting  
 37 the order or the provisions thereof, and the authority or local units

38 affected thereby shall take all necessary actions to comply with  
39 the order.】\*

1 \*【16. If, as a result of a hearing held pursuant to section 15 of  
2 this act, the Local Finance Board shall determine that no practi-  
3 cable and feasible financial plan can be implemented which will  
4 assure the payment of debt service on obligations of an authority,  
5 provide for adequate level of services to residents of the local unit  
6 or users of the system or facilities of the authority, and prevent  
7 the imposition of undue financial burdens on the residents of the  
8 local unit and users of the system or facilities, the board shall  
9 order the dissolution of the authority. The order shall make  
10 adequate provision for the payment of all creditors or obligees of  
11 the authority, whether from the assets of the authority or the local  
12 unit having established the authority. If the authority shall have  
13 obligations outstanding at the time, the order shall, where neces-  
14 sary, provide for the issuance of obligations by the local units or  
15 units having established the authority in furtherance of the dis-  
16 solution, and the obligations shall have a period of usefulness not  
17 exceeding 40 years from the date of issuance. The bonds shall be  
18 authorized by a bond ordinance to be introduced and adopted in  
19 accordance with the provisions of the "Local Bond Law" (N. J. S.  
20 40A:2-1 et seq.), except for the provisions of N. J. S. 40A:2-6,  
21 40A:2-11, 40A:2-26, 40A:2-27 and 40A:2-31, and except that any  
22 bond ordinance shall take effect immediately upon final adoption  
23 and shall not be subject to referendum. Bonds so issued shall be  
24 sold under the direction and supervision of the Local Finance  
25 Board, and may be sold at either public or private sale as the  
26 board shall prescribe.

27 Any order so adopted by the Local Finance Board to provide  
28 for the dissolution of an authority, shall effect only upon its ap-  
29 proval by the Commissioner of the Department of Community  
30 Affairs, the State Treasurer and the Attorney General. Upon ap-  
31 proval, the order shall be immediately transmitted to the authority,  
32 to the clerk of the governing body of the local unit, and to the  
33 Secretary of State. The order shall be deemed conclusive and final  
34 upon approval, and upon receipt of the order all persons shall be  
35 estopped from contesting the order or the provisions thereof, and  
36 the authority or local units affected thereby shall take all necessary  
37 actions to comply with the order.】\*

1 \*19. *If the Local Finance Board determines that financial diffi-*  
2 *culties exist which (1) jeopardize the payment of operating ex-*  
3 *penses and debt service on obligations of the authority or either*  
4 *of the aforesaid; or place an undue financial burden on the inhabi-*

5 *tants of the local unit or units or the users of the system or facilities*  
 6 *of an authority; and (2) that these difficulties are likely to reoccur*  
 7 *and, if they continue, will impair the credit of the authority and*  
 8 *local unit or units or either of the aforesaid to the detriment of the*  
 9 *inhabitants thereof; and (3) no financial plan designed to prevent*  
 10 *a reoccurrence of these conditions and which is deemed to be*  
 11 *practicable and feasible by the director has been undertaken by the*  
 12 *authority or the local unit or units, the Local Finance Board shall*  
 13 *order the implementation of a financial plan which will assure the*  
 14 *payment of debt service on obligations of the authority, or provide*  
 15 *relief from undue financial burden. The order shall be deemed con-*  
 16 *clusive and final and upon receipt of the order all persons shall be*  
 17 *estopped from contesting the order or the provisions thereof and*  
 18 *the authority or local unit or units affected thereby shall take the*  
 19 *action to comply with the order.\**

1 *\*[17.]\* \*20.\* Notwithstanding the provisions of any other law to*  
 2 *the contrary, the governing body of \*[any]\* \*a\* local unit which*  
 3 *has established an authority shall have the power and \*[are]\* \*is\**  
 4 *authorized by ordinance in the case of a municipality, and ordi-*  
 5 *nance or resolution, as appropriate, in the case of a county, to*  
 6 *dissolve \*[that]\* \*the\* authority\*, except that the ordinance or*  
 7 *resolution, as the case may be, shall be approved by the Local*  
 8 *Finance Board prior to adoption\*. Any authority established by*  
 9 *\*[one or more municipalities or counties]\* \*more than one munici-*  
 10 *pality or county\* may be dissolved by the adoption of parallel*  
 11 *ordinances or resolutions, as appropriate. \*[Any ordinance or*  
 12 *resolution so adopted shall be immediately filed with the Secretary*  
 13 *of State and the Local Finance Board. Any ordinance or resolution*  
 14 *so adopted shall make]\* \*The Local Finance Board shall approve*  
 15 *the dissolution if it finds that the ordinance or resolution makes\**  
 16 *adequate provision \*in accordance with a security agreement or*  
 17 *otherwise\* for the payment of all creditors or obligees of the*  
 18 *authority \*and that adequate provision is made for the assumption*  
 19 *of those services provided by the authority which are necessary*  
 20 *for the health, safety and welfare of the recipients of those ser-*  
 21 *vices\*. The ordinance or resolution shall be introduced and adopted*  
 22 *in the manner provided by law, shall take effect immediately*  
 23 *\*[upon]\* \*after\* final adoption, and shall not be subject to refer-*  
 24 *endum. \*[If the authority shall have]\* \*A copy of the ordinance*  
 25 *or resolution as adopted shall be filed immediately with the Local*  
 26 *Finance Board and with the Secretary of State. In the event that*  
 27 *an authority has\* obligations outstanding at the time of the \*[final*  
 28 *adoption]\* \*taking effect\* of \*[an]\* \*the\* ordinance or resolution*

29 to dissolve the authority, the local unit or units dissolving the  
 30 authority \*~~shall, where necessary, provide for the issuance of~~\*  
 31 *\*are authorized to issue\** obligations in furtherance of the dissolu-  
 32 tion, and the obligations shall have a period of usefulness not  
 33 exceeding 40 years from the date of issuance. The bonds shall be  
 34 authorized by a bond ordinance to be introduced and adopted in  
 35 accordance with the provisions of the "Local Bond Law" (N. J. S.  
 36 40A:2-1 et seq.), except for the provisions of ~~\*N. J. S. 40A:2-6,\*~~  
 37 *\*sections\** 40A:2-11, 40A:2-26, 40A:2-27 and 40A:2-31 *\*of the*  
 38 *New Jersey Statutes\**, and except that ~~\*any\*~~ *\*the\** bond ordi-  
 39 nance shall take effect immediately upon final adoption and shall  
 40 not be subject to referendum. *\*The bonds may be deducted from the*  
 41 *gross debt of the local unit by action of the Local Finance Board in*  
 42 *accordance with subsection d. of N. J. S. 40A:2-7.\** Bonds ~~\*so\*~~  
 43 issued *\*for this purpose\** shall be sold under the direction and  
 44 supervision of the Local Finance Board, and may be sold at either  
 45 public or private sale as the board shall prescribe.

46 Nothing contained in this section or in this act shall limit the  
 47 powers accorded under any other law to any county or municipality  
 48 to dissolve any authority which it has created or of which it has  
 49 joined in the creation, nor limit any general reorganization powers  
 50 accorded under law to any county or municipality to alter or  
 51 abolish its agencies, but the provisions of this section and this act  
 52 shall be supplementary to the powers accorded under any other law.

1 *\*21. The Local Finance Board may order the dissolution of a*  
 2 *local authority if, after holding a hearing consistent with section 18*  
 3 *of this act, it determines that, due to financial difficulties or mis-*  
 4 *management, the dissolution of an authority will be in the public*  
 5 *interest and will serve the health, welfare, or convenience of the*  
 6 *inhabitants of the local unit or units, and the dissolution will achieve*  
 7 *a more efficient means for providing and financing local public*  
 8 *facilities, except that an order dissolving an authority shall assure*  
 9 *adequate provision in accordance with a security agreement or*  
 10 *otherwise for all creditors or obligees of the authority. Any order*  
 11 *so adopted by the Local Finance Board to provide for the dissolu-*  
 12 *tion of an authority shall take effect only upon its approval by the*  
 13 *Commissioner of the Department of Community Affairs, the State*  
 14 *Treasurer and the Attorney General. Upon approval, the order*  
 15 *shall be immediately transmitted to the authority, to the clerk of*  
 16 *the governing body of the local unit or units, and to the Secretary*  
 17 *of State.\**

1 ~~\*[18.]\*~~ *\*22.\** Records of minutes, accounts, bills, vouchers, con-  
 2 tracts or other papers connected with or used or filed with any

3 authority or with any officer or employee acting for or in its behalf  
 4 are declared to be public records, and shall be open to public inspec-  
 5 tion in accordance with P. L. 1963, c. 73 (C. 47:1A-1 et seq.) and  
 6 regulations of the authority.

1 \*~~19.~~\* \*23.\* Notwithstanding the provisions of any law to the  
 2 contrary, the State Auditor or his legally authorized representative  
 3 may examine the accounts and books of any authority subject to  
 4 the provisions of this act.

1 \*24. Notwithstanding any other law to the contrary, any author-  
 2 ity, in anticipation of the issuance of bonds, may borrow money and  
 3 issue temporary obligations if the security agreement so provides.  
 4 A temporary obligation shall be designated "bond anticipation  
 5 note" or "project note" and shall contain a recital that it is  
 6 issued in anticipation of the issuance of bonds. The notes may be  
 6A issued for a period of not exceeding five years, or the period of  
 7 construction as certified by the consulting engineer plus 12 months,  
 8 whichever shall be less, and may be renewed from time to time with  
 9 the approval of the Local Finance Board.

1 25. If the Local Finance Board has reason to believe that a  
 2 municipal public utility is faced with financial difficulty, it shall  
 3 have the power to order an increase in rents, rates, fees or other  
 4 charges of the utility, and this order shall be valid and enforceable  
 5 notwithstanding any provisions of the contrary in R. S. 48:2-1  
 6 et seq., but the Local Finance Board, before issuing this order,  
 7 shall first hold a hearing to which the Director of the Division of  
 8 Local Government Services shall summon appropriate officials of  
 8A the municipality. The Local Finance Board may require the pro-  
 8B duction of papers, documents, witnesses or information and may  
 9 make or cause to be made an audit or investigation of the circum-  
 10 stances with respect to which the hearing was called.

11 The Local Finance Board may except municipal and county fund-  
 12 ing for a deficit of a municipal public utility or authority from the  
 13 expenditure limitations of P. L. 1976, c. 68 (C. 40A:4-45.1 et seq.)\*

1 \*~~20.~~\* \*26. a.\* The Local Finance Board is authorized to adopt,  
 2 amend and repeal \*~~such~~\* rules and regulations \*~~as may be~~  
 3 necessary]\* to effectuate the purposes of this act.

4 \*b. This act shall not limit the powers of the Local Finance Board  
 5 or the director to regulate the financial affairs of authorities in the  
 6 manner authorized by P. L. 1947, c. 151 (C. 52:27BB-1 et seq.).

1 27. The Local Finance Board, the director, and local units and  
 2 local authorities shall not act under this act in a manner incon-  
 3 sistent with a security or financing agreement in effect at the  
 4 time of the action.\*



1    \*~~[21.]~~\* \*28.\* This act shall effect \*~~[January 1 next following~~  
2    enactment]\* \*90 days following enactment, except that sections 10,  
3    11, 15, 16, and 17 shall apply to the first fiscal year of an authority  
4    which commences 180 days following the promulgation by the Local  
5    Finance Board of rules and regulations to govern the adoption and  
6    approval of authority budgets and the conduct of annual audits  
7    by authorities pursuant to those sections\*.

---

OFFICE OF THE GOVERNOR

RELEASE: IMMEDIATE

CONTACT: PAUL WOLCOTT

FRIDAY, AUGUST 26, 1983

Governor Thomas H. Kean today signed legislation which will give the State the ability to regulate the fiscal affairs of local authorities.

The bill, A-144, is sponsored by Assemblyman John P. Doyle, D-Ocean. It establishes the Local Authorities Fiscal Control Act, extending State control to all types of local authorities, whether created by a municipality, a county or a joint effort. Such entities as sewerage authorities, county utility authorities and municipal parking authorities would fall under the provisions of the bill.

"New Jersey has traditionally exercised substantial control over the fiscal affairs of local and county governments," Kean said. "This has resulted in an extremely sound fiscal condition for our local and county units and has avoided the problems of overspending and insolvency that have threatened governments in many other states."

"Because authorities are often in a position of raising and spending

vast sums on large-scale public works projects, I believe it is entirely appropriate that the State have the ability to exercise the same types of controls over their fiscal dealings."

The Doyle bill will give the State the opportunity to control the creation of authorities, subject annual budgets to State scrutiny and require Local Finance Board review of project financing.

#

#

#