

R.S. 40:37A-44 et seq.

July 17, 1967

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LEGISLATIVE HISTORY OF R.S. 40:37A - 44 et seq.
(County Improvement Authorities)

L. 1960, Chapter 183 - Senate 284
Introduced November 28, 1960 by Senator Farley.
Not amended during passage.
No statement on bill.

We could not find any reports, hearings, or articles on this bill.

We checked the following:

V.F. Atlantic County.
V.F. County Government.
Governor's Annual Message, 1960.
Jersey plans, 1960-62.
New Jersey County Government, 1959-62.

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SENATE, No. 284

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 28, 1960

By Senator FARLEY

(Without Reference)

AN Act relating to the authorization, acquisition, financing and operation, by or on behalf of any county, of lands, structures, and other property and facilities for certain public purposes, and providing for the creation of authorities as public bodies corporate and politic to undertake the same, establishing the powers of such authorities and of other public bodies with respect thereto, and providing for the issuance of bonds and other obligations therefor and for rents, charges and other means to meet the expense thereof, and supplementing Title 40 of the Revised Statutes.

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

1 1. This act shall be known and may be cited as the "county improvement
2 authorities law."

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

3 (a) "Authority" shall mean a public body created pursuant to this act;

4 (b) "Bond resolution" shall have the meaning ascribed thereto in sec-
5 tion 16 of this act;

6 (c) "Bonds" shall mean bonds, notes or other obligations issued pur-
7 suant to this act;

8 (d) "Construct" and "construction" shall connote and include acts of
9 construction, reconstruction, replacement, extension, improvement and better-
10 ment;

11 (e) "Cost" shall mean, in addition to the usual connotations thereof,
12 the cost of planning, acquisition or construction of all or any part of any
13 public facility or facilities of an authority and of all or any property, rights,
14 easements, privileges, agreements and franchises deemed by the authority
15 to be necessary or useful and convenient therefor or in connection therewith,
16 including interest or discount on bonds, cost of issuance of bonds, archi-
17 tectural, engineering and inspection costs and legal expenses, cost of financial,
18 professional and other estimates and advice, organization, administrative,
19 operating and other expenses of the authority prior to and during such
20 acquisition or construction, and all such other expenses as may be necessary
21 or incident to the financing, acquisition, construction and completion of such
22 public facility or facilities or part thereof and the placing of the same fully
23 in operation, and also such provision or reserves for working capital, operat-
24 ing, maintenance or replacement expenses or for payment or security of
25 principal of or interest on bonds during or after such acquisition or construc-
26 tion as the authority may determine, and also reimbursements to the au-
27 thority or any governmental unit or person of any moneys theretofore ex-
28-29 pended for the purposes of the authority;

30 (f) The term "county" shall mean any county of any class of the State,
31 and the term "the county" shall mean the county which created an author-
32 ity pursuant to this act;

33 (g) "Facility charges" shall have the meaning ascribed to said term in
34 section 14 of this act;

35 (h) "Facility revenues" shall have the meaning ascribed to said term in
36 section 20 (e) of this act;

37 (i) "Governing body" shall mean, in the case of a county, the board of
38 chosen freeholders, and, in the case of a municipality, the commission,

39 council, board or body, by whatever name it may be known, having charge
40 of the finances of the municipality;

41 (j) "Governmental unit" shall mean the United States of America or
42 the State or any county or municipality or any subdivision, department,
43 agency, or instrumentality heretofore or hereafter created, designated or
44 established by or for the United States of America or the State or any
45 county or municipality;

46 (k) "Local bond law" shall mean article 1 of chapter 1 of Title 40,
47 Municipalities and Counties, of the Revised Statutes as amended and
48 supplemented;

49 (l) "Municipality" shall mean any city, borough, village, town, or town-
50 ship of the state but not a county or a school district;

51 (m) "Person" shall mean any person, partnership, association, corpo-
52 ration or entity other than a nation, State, county or municipality or any
53 subdivision, department, agency or instrumentality thereof;

54 (n) "Project" shall have the meaning ascribed to said term in section
55 16 of this act;

56 (o) "Public facility" shall mean any lands, structures, or other property
57 or facilities acquired or constructed or to be acquired or constructed by an
58 authority for its purposes and operated or to be operated by an authority or
59 by any governmental unit or person under a lease or other agreement by or
60 with the authority; and

61 (p) "Real property" shall mean lands within or without the State,
62 above or below water, and improvements thereof or thereon, or any riparian
63 or other rights or interests therein.

1 3. The governing body of a county may by resolution create a public
2 body corporate and politic under and pursuant to this act, under the name
3 and style of "the county improvement authority," with all
4 or any significant part of the name of said county inserted. Said body shall
5 consist of the 5 members thereof, who shall be residents of the county and
6 be appointed by resolution of said governing body as hereinafter provided,

7 and it shall constitute the authority contemplated and provided for in this
8 act and an agency or instrumentality of said county. Copies of said resolu-
9 tion for the creation of the authority, certified by the clerk of said governing
10 body, shall be filed in the office of the Secretary of State and in the office of
11 the Division of Local Government in the Department of the Treasury. A
12 copy of any such certified resolution, duly certified by or on behalf of the
13 Secretary of State, shall be admissible in evidence in any action or proceeding
14 and shall be conclusive evidence of due and proper adoption and filing thereof
15 as aforesaid. After such filing in the office of the Secretary of State, a copy
16 of said resolution shall be published at least once in a newspaper published
17 or circulating in the county, together with a notice stating the fact and date
18 of its adoption and the date of the first publication of such notice. If no
19 action questioning the validity of the creation or establishment of the au-
20 thority shall be commenced within 45 days after the first publication of such
21 notice, then said authority shall be conclusively deemed to have been validly
22 created and established and authorized to transact business and exercise
23 powers as a public body created pursuant to this act.

1 4. The governing body of any county which has created an authority
2 pursuant to this act may by resolution dissolve such authority if either (1)
3 such authority has no debts or obligations outstanding, or (2) all creditors
4 or other obligees of the authority have consented to said resolution. A copy
5 of said resolution, certified by the clerk of said governing body, shall be filed
6 in the office of the Secretary of State and in the office of the Division of Local
7 Government in the Department of the Treasury. Upon proof of such filing
8 and upon proof either that said authority had no debts or obligations out-
9 standing at the time of the adoption of such resolution or that all creditors
10 or other obligees of the authority have consented to such resolution, the au-
11 thority shall be conclusively deemed to have been lawfully and properly dis-
12 solved. Thereupon, all right, title and interest in and to the property of the
13 authority shall be vested in the county, except that any particular property
14 shall vest in any other governmental unit or person if the terms of any lease

15 or other agreement of the authority with respect thereto shall so provide.
16 A copy of any such certified resolution, duly certified by or on behalf of the
17 Secretary of State, shall be admissible in evidence in any action or proceed-
18 ing and shall be conclusive evidence of due and proper adoption and filing
19 thereof as aforesaid.

1 5. After expiration of the period of 45 days following the first publica-
2 tion as provided in section 3 hereof of a notice regarding creation of an
3 authority, 5 persons shall be appointed as the members of the authority.
4 The members first appointed shall, by the resolution of appointment, be
5 designated to serve for terms respectively expiring on the first days of the
6 first, second, third, fourth and fifth Februarys next ensuing after the date
7 of their appointment. On or after January 1 in each year after such first ap-
8 pointments, 1 person shall be appointed as a member of the authority for a
9 term commencing on or after February 1 in such year and expiring on Feb-
10 ruary 1 in the fifth year after such year. Each member shall hold office for
11 the term of appointment and until his successor shall have been appointed
12 and qualified. Any vacancy in the membership of the authority during an
13 unexpired term shall be filled by appointment of a person as member for the
14 unexpired term. A copy of any resolution appointing any such members, cer-
15 tified by the clerk of the governing body, may be filed in the office of the
16 Secretary of State. A copy of any such certified resolution, duly certified by
17 or on behalf of the Secretary of State, shall be admissible in evidence in any
18 action or proceeding and shall be conclusive evidence of due and proper adop-
19 tion and filing thereof as aforesaid and, except in an action or proceeding
20 seeking only exclusion of the appointee from office, shall be conclusive evi-
21 dence of the due and proper appointment of the members named therein.

1 6. Every authority, upon the first appointment of its members and there-
2 after on or after February 1 in each year, shall annually elect from among its
3 members a chairman and a vice chairman who shall hold office until February
4 1 next ensuing and until their respective successors shall have been ap-
5 pointed and qualified. Every authority may also appoint and employ, without

6 regard to the provisions of Title 11, Civil Service, of the Revised Statutes, a
7 secretary, a treasurer, an executive director and a chief engineer and such
8 other agents and employees as it may require, and it shall determine their
9 qualifications, terms of office, duties and compensation.

1 7. The powers of an authority shall be vested in the members thereof in
2 office from time to time and 3 members shall constitute a quorum at any
3 meeting thereof. Action may be taken and motions and resolutions adopted
4 by the authority at any meeting of the members thereof by the affirmative
5 vote of 3 members, unless in any case the by-laws of the authority shall
6 require a larger number.

1 8. The members of an authority shall serve without compensation, but the
2 authority may reimburse its members for necessary expenses incurred in the
3 discharge of their duties.

1 9. No member of the governing body of the county shall be appointed as
2 a member of, or employed by, an authority.

1 10. A member of an authority may be removed by the governing body of
2 the county for incapacity, inefficiency or neglect of duty or misconduct in
3 office or other disqualifying cause and after he shall have been given a copy
4 of the charges against him and, not sooner than 10 days thereafter, been af-
5 forded opportunity for a hearing, in person or by counsel, by such governing
6 body with respect to such charges.

1 11. The purposes of every authority shall be provision within the county
2 (a) of public buildings for use by the State, the county, or any municipality
3 in the county, or any 2 or more or any subdivisions, departments, agencies or
4 instrumentalities of any of the foregoing, (b) of structures and facilities for
5 public transportation or terminal purposes, and (c) of structures or other
6 facilities used or operated by the authority or any governmental unit in con-
7 nection with, or relative to development and improvement of, aviation for
8 military or civilian purposes, including research in connection therewith.

1 12. Every authority shall be a public body politic and corporate constitut-
2 ing a political subdivision of the State established as an instrumentality

3 exercising public and essential governmental functions to provide for the
4 public convenience, benefit and welfare and shall have perpetual succession
5 and, for the effectuation of its purposes, have the following additional powers:

6 (a) To adopt and have a common seal and to alter the same at pleasure;

7 (b) To sue and be sued;

8 (c) To acquire, hold, use and dispose of its facility charges and other
9 revenues and other moneys;

10 (d) To acquire, rent, hold, use and dispose of other personal property for
11 the purposes of the authority;

12 (e) Subject to the provisions of section 26 of this act, to acquire by pur-
13 chase, gift, condemnation or otherwise, or lease as lessee, real property and
14 easements or interests therein necessary or useful and convenient for the
15 purposes of the authority, whether subject to mortgages, deeds of trust or
16 other liens or otherwise, and to hold and to use the same, and to dispose of
17 property so acquired no longer necessary for the purposes of the authority;

18 (f) Subject to the provisions of section 13 of this act, to lease to any
19 governmental unit or person, all or any part of any public facility for such
20 consideration and for such period or periods of time and upon such other
21 terms and conditions as it may fix and agree upon;

22 (g) Subject to the provisions of section 13 of this act, to make agree-
23 ments of any kind with any governmental unit or person for the use or
24 operation of all or any part of any public facility for such consideration and
25 for such period or periods of time and upon such other terms and conditions
26 as it may fix and agree upon;

27 (h) To borrow money and issue negotiable bonds or notes or other
28 obligations and provide for and secure the payment of any bonds and the
29 rights of the holders thereof, and to purchase, hold and dispose of any bonds;

30 (i) To apply for and to accept gifts or grants of real or personal prop-
31 erty, money, material, labor or supplies for the purposes of the authority
32 from any governmental unit or person, and to make and perform agreements
33 and contracts and to do any and all things necessary or useful and convenient

34 in connection with the procuring, acceptance or disposition of such gifts or
35 grants;

36 (j) To determine the location, type and character of any public facility
37 and all other matters in connection with all or any part of any public facility
38 which it is authorized to own, construct, establish, effectuate or control;

39 (k) To make and enforce by-laws or rules and regulations for the manage-
40 ment and regulation of its business and affairs and for the use, maintenance
41 and operation of any public facility, and to amend the same;

42 (l) To do and perform any acts and things authorized by this act under,
43 through or by means of its own officers, agents and employees, or by con-
44 tracts with any governmental unit or person;

45 (m) To acquire, purchase, construct, lease, operate, maintain and under-
46 take any project and to fix and collect facility charges for the use thereof; and

47 (n) To enter into any and all agreements or contracts, execute any and
48 all instruments, and do and perform any and all acts or things necessary,
49 convenient or desirable for the purposes of the authority or to carry out any
50 power expressly given in this act.

1 13. Whenever an authority after investigation and study shall plan to
2 undertake any public facility or facilities for the purposes of the authority,
3 the authority shall make to the governing body of the county a detailed report
4 dealing with the proposed public facility or facilities. Notwithstanding any
5 other provision of this act, the authority shall not construct or acquire such
6 public facility or facilities, or make any lease or other agreement relating to
7 use by any governmental unit or person of all or any part of any public
8 facility for a term in excess of five years, until there has been filed with the
9 authority a copy of a resolution adopted by the governing body of the county,
10 certified by its clerk, describing such public facility or facilities in terms suf-
11 ficient for reasonable identification and consenting to the construction or ac-
12 quisition thereof by the authority or the making of such lease or other agree-
13 ment.

1 14. Every authority is hereby authorized to charge and collect tolls, rents,
2 rates, fees or other charges (in this act sometimes referred to as "facility
3 charges") in connection with, or for the use or services of, or otherwise re-
4 lating to, any public facility or other property owned or controlled by the
5 authority. Such facility charges may be charged to and collected from any
6 governmental unit or person and such governmental unit or person shall be
7 liable for and shall pay such facility charges to the authority at the time when
8 and place where such charges are due and payable.

1 15. The facility charges fixed, charged and collected by an authority with
2 respect to any public facility shall comply with the terms of any lease or
3 other agreement of the authority with regard to such public facility, and the
4 facility charges fixed, charged and collected by an authority may be so ad-
5 justed that the revenues of the authority will at all times be adequate to pay
6 all expenses of the authority, including the expenses of operation and mainte-
7 nance of any public facility or other property owned or controlled by the au-
8 thority, including insurance, improvements, replacements, reconstruction and
9 any other required payments, and to pay the principal of and interest on any
10 bonds, and to maintain such reserves or sinking funds for any of the forego-
11 ing purposes as may be required by the terms of any lease or other agreement
12 of the authority or as may be deemed necessary or convenient and desirable
13 by the authority.

1 16. (1) For the purpose of raising funds to pay the cost of any public
2 facility or facilities or for the purpose of funding or refunding any bonds,
3 an authority shall have power to authorize or provide for the issuance of
4 bonds pursuant to this act, by a resolution (in this act sometimes referred
5 to as "bond resolution") which shall:

6 (a) describe in brief and general terms sufficient for reasonable identi-
7 fication the public facility or facilities or part thereof, (in this act sometimes
8 called "project") to be constructed or acquired, or describe the bonds which
9 are to be funded or refunded (if any);

10 (b) state the cost or estimated cost of the project (if any); and

11 (c) provide for the issuance of the bonds in accordance with section 17
12 of this act.

13 (2) Notwithstanding the foregoing provisions of this section, an author-
14 ity shall not authorize or provide for the issuance of bonds for the purpose
15 of raising funds to pay the cost of any public facility except upon findings
16 by the authority, which may be expressed in the bond resolution providing
17 for the issuance of such bonds, that there has been filed with the authority
18 (a) a copy of a resolution adopted by the governing body of the county, cer-
19 tified by its clerk, either (i) requesting the acquisition or construction and
20 operation by the authority of said public facility, or (ii) requesting the ac-
21 quisition or construction by the authority of said public facility for operation
22 by the county or by any other governmental unit or any person under leases
23 or other agreements upon terms and conditions satisfactory to the author-
24 ity, and (b) proof satisfactory to the authority that the acquisition or con-
25 struction of said public facility and operation thereof as so requested is
26 economically feasible and is in furtherance of the purposes of the authority.

1 17. Upon adoption of a bond resolution, an authority shall have power
2 to issue its bonds for the purpose of financing the project or of funding or
3 refunding the bonds described therein. Such bonds shall be authorized by the
4 bond resolution and may be issued in 1 or more series and shall bear such
5 date or dates, mature at such time or times not exceeding 40 years from the
6 date thereof, bear interest at a rate or rates within such maximum rate (not
7 exceeding 6% per annum), be in such denomination or denominations, be in
8 such form either coupon or registered, carry such conversion or registration
9 privileges, have such rank or priority, be executed in such manner, be paya-
10 ble from such sources in such medium of payment at such place or places
11 within or without the State, and be subject to such terms of redemption
12 (with or without premium) as the bond resolution may provide. The author-
13 ity may issue such types of bonds as it may determine, including (without
14 limiting the generality of the foregoing) bonds on which the principal and
15 interest are payable (a) exclusively from the income and revenues of the

16 project financed with the proceeds of such bonds; (b) exclusively from the
17 income and revenues of certain designated projects whether or not they are
18 financed in whole or in part with the proceeds of such bonds; or (c) from its
19 revenues generally. Any such bonds may be additionally secured by a pledge
20 of any grant or contributions from any governmental unit or person or a
21 pledge of any income or revenues of the authority from any source whatso-
22 ever.

1 18. Bonds of an authority may be sold at public or private sale at such
2 price or prices as the authority shall determine; provided, however, that the
3 interest cost to their average maturity of the money received for any group of
4 bonds sold in a single transaction (computed according to standard tables
5 of bond values) shall not exceed 6% per annum.

1 19. An authority shall cause a copy of any bond resolution adopted by
2 it to be filed for public inspection in its office and in the office of the clerk
3 of the governing body of the county and may thereupon cause to be pub-
4 lished at least once in a newspaper published or circulating in the county
5 a notice stating the fact and date of such adoption and the places where such
6 bond resolution has been so filed for public inspection and also the date of
7 the first publication of such notice and also stating that any action or pro-
8 ceeding of any kind or nature in any court questioning the validity or proper
9 authorization of bonds provided for by the bond resolution, or the validity
10 of any covenants, agreements or contracts provided for by the bond resolu-
11 tion shall be commenced within 20 days after the first publication of such
12 notice. If any such notice shall at any time be published and if no action or
13 proceeding questioning the validity or proper authorization of bonds pro-
14 vided for by the bond resolution referred to in said notice, or the validity
15 of any covenants, agreements or contracts provided for by said bond reso-
16 lution shall be commenced or instituted within 20 days after the first publica-
17 tion of said notice, then all residents and taxpayers and owners of property
18 in the county and all other persons shall be forever barred and foreclosed
19 from instituting or commencing any action or proceeding in any court, or

20 from pleading any defense to any action or proceeding, questioning the va-
21 lidity or proper authorization of such bonds, or the validity of such cove-
22 nants, agreements or contracts, and said bonds, covenants, agreements and
23 contracts shall be conclusively deemed to be valid and binding obligations in
24 accordance with their terms and tenor.

1 20. Any bond resolution of an authority providing for or authorizing the
2 issuance of any bonds may contain provisions, and such authority, in order
3 to secure the payment of such bonds and in addition to its other powers,
4 shall have power by provision in such bond resolution to covenant and agree
5 with the several holders of such bonds, as to:

6 (a) the custody, security, use, expenditure or application of the pro-
7 ceeds of the bonds;

8 (b) the construction and completion, or replacement, of any public fa-
9 cility or facilities;

10 (c) the use, regulation, operation, maintenance, insurance or disposition
11 of any public facility or facilities, or restrictions on the exercise of the
12 powers of the authority to dispose, or to limit or regulate the use, of any
13 public facility or facilities;

14 (d) payment of the principal of or interest on the bonds, or any other
15 obligations, and the sources and methods thereof, the rank or priority of any
16 such bonds or obligations as to any lien or security, or the acceleration of the
17 maturity of any such bonds or obligations;

18 (e) the use and disposition of any moneys of the authority, including
19 revenues (in this act sometimes called "facility revenues") derived or to be
20 derived from the operation of any public facility or facilities, including any
21 parts thereof theretofore constructed or acquired and any parts, extensions,
22 replacements or improvements thereof thereafter constructed or acquired;

23 (f) pledging, setting aside, depositing or trusteeing all or any part of the
24 facility revenues or other moneys of the authority to secure the payment of
25 the principal of or interest on the bonds or any other obligations or the pay-

26 ment of expenses of operation or maintenance of any public facility or fa-
27 cilities, and the powers and duties of any trustee with regard thereto;

28 (g) the setting aside out of the facility revenues or other moneys of the
29 authority of reserves and sinking funds, and the source, custody, security,
30 regulation, application and disposition thereof;

31 (h) determination or definition of the facility revenues or of the expenses
32 of operation and maintenance of a public facility or facilities;

33 (i) the rents, rates, fees, or other charges in connection with, or for the
34 use or services of, or otherwise relating to any public facility or facilities,
35 including any parts thereof theretofore constructed or acquired and any
36 parts, extensions, replacements or improvements thereof thereafter con-
37 structed or acquired, and the fixing, establishment, collection and enforce-
38 ment of the same, the amount or amounts of facility revenues to be produced
39 thereby, and the disposition and application of the amounts charged or
40 collected;

41 (j) the assumption or payment or discharge of any indebtedness, liens or
42 other claims relating to any part of any public facility or facilities or any
43 obligations having or which may have a lien on any part of the facility
44 revenues;

45 (k) limitations on the issuance of additional bonds or any other obliga-
46 tions or on the incurrence of indebtedness of the authority;

47 (l) limitations on the powers of the authority to construct, acquire or
48 operate any structures, facilities or properties which may compete or tend
49 to compete with any of its public facilities;

50 (m) vesting in a trustee or trustees within or without the State such
51 property, rights, powers and duties in trust as the authority may determine
52 which may include any or all of the rights, powers and duties of the trustee
53 appointed by the holders of bonds pursuant to section 21 of this act, and
54 limiting or abrogating the right of such holders to appoint a trustee pur-
55 suant to section 21 of this act or limiting the rights, duties and powers of
56 such trustee;

57 (n) payment of the costs or expenses incident to the enforcement of the
58 bonds or of the provisions of the bond resolution or of any covenant or
59 agreement of the authority with the holders of bonds;

60 (o) the procedure, if any, by which the terms of any covenant or agree-
61 ment with, or duty to, the holders of bonds may be amended or abrogated,
62 the amount of bonds the holders of which must consent thereto, and the man-
63 ner in which such consent may be given or evidenced; or

64 (p) any other matter or course of conduct which, by recital in the bond
65 resolution, is declared to further secure the payment of the principal of or
66 interest on bonds and to be part of any covenant or agreement with the
67 holders of bonds.

68 All such provisions of said bond resolution and all such covenants and
69 agreements shall constitute valid and legally binding contracts between the
70 authority and the several holders of the bonds, regardless of the time of
71 issuance of such bonds, and shall be enforceable by any such holder or
72 holders by appropriate action or proceeding in any court of competent juris-
73 diction, including a proceeding in lieu of prerogative writ.

1 21. (1) If the bond resolution of an authority authorizing or providing
2 for the issuance of a series of its bonds shall provide in substance that the
3 holders of the bonds of such series shall be entitled to the benefits of this
4 section, then if there shall be a default in the payment of principal of or in-
5 terest on any bonds of such series after the same shall become due, whether
6 at maturity or upon call for redemption, and such default shall continue for
7 a period of 30 days, or if the authority shall fail or refuse to comply with any
8 of the provisions of this act or shall fail or refuse to carry out and perform
9 the terms of any contract with the holders of any such bonds and such
10 failure or refusal shall continue for a period of 30 days after written notice
11 to the authority of its existence and nature, the holders of 25% in aggregate
12 principal amount of the bonds of such series then outstanding by instrument
13 or instruments filed in the office of the Secretary of State and proved or ac-
14 knowledged in the same manner as a deed to be recorded, may appoint a

15 trustee to represent the holders of the bonds of such series for the purposes
16 provided in this section.

17 (2) Such trustee may, and upon written request of the holders of 25%
18 in aggregate principal amount of the bonds of such series then outstanding
19 shall, in his or its own name :

20 (a) By any action or proceeding, enforce all rights of the holders of such
21 bonds, including the right to require the authority to charge and collect
22 facility charges adequate to carry out any contract as to, or pledge of, facility
23 revenues, and to require the authority to carry out and perform the terms of
24 any contract with the holders of such bonds or its duties under this act ;

25 (b) Bring an action upon all or any part of such bonds or interest
26 coupons or claims appurtenant thereto ;

27 (c) By action, require the authority to account as if it were the trustee
28 of an express trust for the holders of such bonds ;

29 (d) By action, enjoin any acts or things which may be unlawful or in
30 violation of the rights of the holders of such bonds ; or

31 (e) Declare all such bonds due and payable, whether or not in advance of
32 maturity, upon 30 days' prior notice in writing to the authority and, if all
33 defaults shall be made good, then with the consent of the holders of 25% of
34 the principal amount of such bonds then outstanding, annul such declaration
35 and its consequences.

36 (3) Such trustee shall, in addition to the foregoing, have and possess all
37 of the powers necessary or appropriate for the exercise of the functions
38 specifically set forth herein or incident to the general representation of the
39 holders of bonds of such series in the enforcement and protection of their
40 rights.

41 (4) In any action or proceeding by such trustee, the fees, counsel fees
42 and expenses of the trustee and of the receiver, if any, appointed pursuant to
43 this act, shall, if allowed by the court, constitute taxable costs and disburse-
44 ments, and all costs and disbursements, allowed by the court, shall be a first

45 charge upon any facility charges and facility revenues of the authority
46 pledged for the payment or security of bonds of such series.

1 22. If the bond resolution of an authority authorizing or providing for
2 the issuance of a series of its bonds shall provide in substance that the holders
3 of the bonds of such series shall be entitled to the benefits of section 21 of this
4 act and shall further provide in substance that any trustee appointed pur-
5 suant to said section or having the powers of such a trustee shall have the
6 powers provided by this section, then such trustee, whether or not all of the
7 bonds of such series shall have been declared due and payable, shall be
8 entitled to the appointment of a receiver of the public facility or facilities of
9 the authority, and such receiver may enter upon and take possession of such
10 public facility or facilities and, subject to any pledge or contract with the
11 holders of bonds of the authority, shall take possession of all moneys and
12 other property derived from or applicable to the acquisition, construction,
13 operation, maintenance or reconstruction of such public facility or facilities
14 and proceed with such acquisition, construction, operation, maintenance or
15 reconstruction which the authority is under any obligation to do, and operate,
16 maintain and reconstruct such public facility or facilities and fix, charge,
17 collect, enforce and receive the facility charges and all facility revenues there-
18 after arising subject to any pledge thereof or contract with the holders of
19 bonds relating thereto and perform the public duties and carry out the con-
20 tracts and obligations of the authority in the same manner as the authority
21 itself might do and under the direction of the court.

1 23. Neither the members of an authority nor any person executing bonds
2 issued pursuant to this act shall be liable personally on the bonds by reason
3 of the issuance thereof. Bonds or other obligations issued by an authority
4 pursuant to this act shall not be in any way a debt or liability of the State or
5 any subdivision thereof and shall not create or constitute any indebtedness,
6 liability or obligation of the State or any such subdivision, except the
7 authority and any county which in accordance with this act shall have
8 guaranteed payment of the principal of and interest on such bonds.

1 24. Any provision of any law to the contrary notwithstanding, any bond or
2 other obligation issued pursuant to this act shall be fully negotiable within the
3 meaning and for all purposes of the negotiable instruments law of the State,
4 and each holder or owner of such a bond or other obligation, or of any coupon
5 appurtenant thereto, by accepting such bond or coupon shall be conclusively
6 deemed to have agreed that such bond, obligation or coupon is and shall be
7 fully negotiable within the meaning and for all purposes of said negotiable
8 instruments law.

1 25. This act shall be complete authority for the issuance of bonds by an
2 authority, and the provisions of any other law shall not apply to the issuance
3 of such bonds.

1 26. Every authority is hereby empowered, in its own name but for the
2 county, to acquire by purchase, gift, grant or devise and to take for public use
3 real property, within or without the county, or any interest therein which
4 may be deemed by the authority necessary for its purposes, including public
5 lands owned by or in which any municipality within the county has a right,
6 title or interest. Such authority is hereby empowered to acquire and take
7 such real property including such public property or interests therein, by
8 condemnation, in the manner provided by chapter 1 of Title 20, Eminent
9 Domain, of the Revised Statutes (R. S. 20:1-1 et seq.) and, to that end, may
10 invoke and exercise in the manner or mode of procedure prescribed in said
11 chapter, either in its own name or in the name of the county, all of the powers
12 of such county to acquire or take property for public use; provided, however,
13 that, notwithstanding the foregoing or any other provision of this act, no
14 authority shall take, by condemnation, any real property except upon consent
15 thereto by the county which created the authority given by resolution adopted
16 by its governing body.

1 27. Upon the filing by an authority of a complaint in any action to fix the
2 compensation to be paid for any property or at any time thereafter, the
3 authority may file with the clerk of the county in which such property is
4 located and also with the Clerk of the Superior Court a declaration of taking,

5 signed by the authority, declaring that possession of 1 or more of the tracts
6 or parcels of land or property described in the complaint is thereby being
7 taken by and for the use of the authority. The said declaration of taking
8 shall be sufficient if it sets forth (a) a description of each tract or parcel of
9 land or property to be so taken sufficient for the identification thereof to
10 which there may or may not be attached a plan or map thereof, (b) a state-
11 ment of the estate or interest in the said land or property being taken, (c)
12 a statement of the sum of money estimated by the authority by resolution to
13 be just compensation for the taking of the estate or interest in each tract
14 or parcel of land or property described in said declaration, and (d) an alle-
15 gation that, in compliance with the provisions of this act, the authority has
16 established and is maintaining a trust fund as hereinafter provided.

1 28. Upon the filing by an authority of a declaration of taking of prop-
2 erty as provided in this act, the authority shall deposit with the Clerk of
3 the Superior Court the amount of the estimated compensation stated in
4 said declaration. In addition to the said deposits with the Clerk of the Su-
5 perior Court, the authority at all times shall maintain a fund on deposit
6 with a bank or trust company doing business in the State in an amount at
7 least equal to the aggregate amount deposited with the Clerk of the Superior
8 Court as estimated compensation for all property described in declarations
9 of taking with respect to which the compensation has not been finally de-
10 termined and paid to the persons entitled thereto or into court. Said fund
11 shall consist of cash or securities readily convertible into cash constituting
12 legal investments for trust funds under the laws of the State or may consist
13 of all or some part of the proceeds of bonds of the authority held by any
14 trustee for the holders of such bonds and available for payment for the land
15 or other property described in such declarations of taking. Said fund shall
16 be held by or on behalf of the authority to secure and may be applied to the
17 payment of just compensation for the land or other property described in
18 such declarations of taking. The authority shall be entitled to withdraw from
19 said fund from time to time so much as may then be in excess of the aggre-

20. gate amount deposited with the Clerk of the Superior Court as estimated
21. compensation for all land or other property described in declarations of
22. taking with respect to which the compensation has not been finally deter-
23. mined and paid to the persons entitled thereto or into court.

1 29. Upon the filing by an authority of a declaration of taking of property
2 as provided in this act and the depositing with the Clerk of the Superior
3 Court of the amount of the estimated compensation stated in said declara-
4 tion, the authority, without other process or proceedings, shall be entitled
5 to the exclusive possession and use of each tract of land or property described
6 in said declaration and may forthwith enter into and take possession of said
7 land or property, it being the intent of this provision that the action to fix
8 compensation to be paid or any other proceedings relating to the taking of
9 said land or interest therein or other property shall not delay the taking of
10 possession thereof and the use thereof by the authority for the purpose or
11 purposes for which the authority is authorized by law to acquire or condemn
12 such land or other property or interest therein.

1 30. Each authority shall cause notice of the filing of a declaration of tak-
2 ing of property as provided in this act and of the making of the deposit re-
3 quired by this act with respect thereto to be served upon each party to the
4 action to fix the compensation to be paid who resides in the State, either
5 personally or by leaving a copy thereof at his residence if known, and upon
6 each such party who resides out of the State, by mailing a copy thereof to
7 him at his residence if known. In the event that the residence of any such
8 party or the name of such party is unknown, such notice shall be published
9 at least once in a newspaper published or circulating in the county or counties
10 in which the property is located. Such service, mailing or publication shall
11 be made within 30 days after filing such declaration. Upon the application
12 of any party in interest and after notice to other parties in interest, includ-
13 ing the authority, the Superior Court may direct that the money deposited
14 with the Clerk of the Superior Court or any part thereof be paid forthwith
15 to the person or persons entitled thereto for or on account of the just com-

16 pension to be awarded in said action, provided that each such person shall
17 have filed with the Clerk of the Superior Court a consent in writing that, in
18 the event the award in the said action shall be less than the amount de-
19 posited, the court, after such notice as the court prescribes and hearing, may
20 determine his liability, if any, for the return of the difference or any part
21 thereof and enter judgment therefor. If the amount of the award as finally
22 determined shall exceed the amount so deposited, the person or persons to
23 whom the award is payable shall be entitled to recover from the authority
24 the difference between the amount of the deposit and the amount of the
25 award, with interest at the rate of 6% per annum thereon from the date of
26 making the deposit. If the amount of the award as so determined shall be less
27 than the amount so deposited, the Clerk of the Superior Court shall return
28 the difference between the amount of the award and the deposit to the au-
29 thority unless the deposit or any part thereof shall have theretofore been
30 distributed, in which event the court, on application of the authority and
31 notice to all persons interested in the award and affording them an oppor-
32 tunity to be heard, shall enter judgment in favor of the authority for the
33 difference against the party or parties liable for the return thereof.

1 31. The authority shall not abandon any condemnation proceeding sub-
2 sequent to the date upon which it has taken possession of the land or property
3 as provided in this act.

1 32. In addition to the other powers conferred upon it by this act or by
2 any other law and not in limitation thereof, every authority, in connection
3 with construction or operation of any public facility, shall have power to
4 make reasonable regulations for the installation, construction, maintenance,
5 repair, renewal, relocation and removal of tracks, pipes, mains, conduits,
6 cables, wires, towers, poles or any other equipment and appliances (in this
7 section called "works") of any public utility as defined in section 48:2-13
8 of the Revised Statutes, in, on, along, over or under any real property, in-
9 cluding public lands or waters. Whenever in connection with construction or
10 operation of any public facility, any authority shall determine that it is

11 necessary that any such works, which now are or hereafter may be located
12 in, on, along, over or under any such real property, should be relocated in
13 such real property or should be removed therefrom, the public utility owning
14 or operating such works shall relocate or remove the same in accordance
15 with the order of the authority, provided, however, that the cost and ex-
16 penses of such relocation or removal, including the cost of installing such
17 works in a new location or new locations, and the cost of any lands or any
18 rights or interest in lands or any other rights acquired to accomplish such
19 relocation or removal, less the cost of any lands or any rights or interests in
20 lands or any other rights of the public utility paid to the public utility in
21 connection with the relocation or removal of such works, shall be paid by the
22 authority and may be included in the cost of such public facility. In case of
23 any such relocation or removal of works as aforesaid, the public utility own-
24 ing or operating the same, its successors or assigns, may maintain and op-
25 erate such works, with the necessary appurtenances, in the new location or
26 new locations for as long a period, and upon the same terms and conditions,
27 as it had the right to maintain and operate such works in their former location.

1 33. For the purpose of aiding an authority and co-operating in the
2 planning, undertaking, acquisition, construction or operation of any public
3 facility, the county or any municipality in the county may (a) acquire real
4 property in its name for such public facility or for the widening of existing
5 roads, streets, parkways, avenues or highways or for new roads, streets,
6 parkways, avenues or highways to any such public facility, or partly for such
7 purposes and partly for other county or municipal purposes, by purchase or
8 condemnation in the manner provided by law for the acquisition of real prop-
9 erty by such county or municipality, (b) furnish, dedicate, close, vacate, pave,
10 install, grade, regrade, plan or replan parks, streets, roads, roadways, alleys,
11 sidewalks or other places which it is otherwise empowered to undertake, and
12 (c) do any and all things necessary or convenient to aid and co-operate in the
13 planning, undertaking, construction or operation of any such public facility,
14 and cause services to be furnished to the authority of any character which

15 such county or municipality is otherwise empowered to furnish, and to incur
16 the entire expense thereof.

1 34. Any county by resolution of its governing body, municipality by
2 ordinance of its governing body, governmental unit or person is hereby em-
3 powered, without any referendum or public or competitive bidding, to sell,
4 lease, lend, grant or convey to an authority, or to permit an authority to use,
5 maintain or operate as part of any public facility, any real or personal prop-
6 erty which may be necessary or useful and convenient for the purposes of
7 the authority and accepted by the authority. Any such sale, lease, loan, grant,
8 conveyance or permit may be made or given with or without consideration
9 and for a specified or an unlimited period of time and under any agreement
10 and on any terms and conditions which may be approved by such county,
11 municipality, governmental unit or person and which may be agreed to by the
12 authority in conformity with its contracts with the holders of any bonds.
13 Subject to any such contracts with the holders of bonds, the authority may
14 enter into and perform any and all agreements with respect to property so
15 purchased, leased, borrowed, received or accepted by it, including agreements
16 for the assumption of principal or interest or both of indebtedness of such
17 county, municipality, governmental unit or person or of any mortgage or lien
18 existing with respect to such property or for the operation and maintenance
19 of such property as part of any public facility.

1 35. Any county, municipality, governmental unit or person is hereby
2 empowered to enter into and perform any lease or other agreement with an
3 authority for the lease to or use by such county, municipality, governmental
4 unit or person of all or any part of any public facility or facilities. Any
5 such lease or other agreement may provide for the payment to the author-
6 ity by such county, municipality, governmental unit or persons annually or
7 otherwise of such sum or sums of money, computed at fixed amounts or by
8 any formula or in any other manner, as may be fixed in or pursuant thereto.
9 Any such lease or other agreement may be made and entered into for a term
10 beginning currently or at some future or contingent date and with or without

11 consideration and for a specified or unlimited time and on any terms and
12 conditions which may be approved by such county, municipality, govern-
13 mental unit or person and which may be agreed to by the authority in con-
14 formity with its contracts with the holders of any bonds, and shall be valid
15 and binding on such county, municipality, governmental unit or person
16 whether or not an appropriation is made thereby prior to authorization or
17 execution of such lease or other agreement. Every such county, municipality,
18 governmental unit or person is hereby authorized and directed to do and per-
19 form any and all acts and things necessary, convenient or desirable to carry
20 out and perform any such lease or other agreement entered into by it and
21 to provide for the payment or discharge of any obligation thereunder in the
22 same manner as other obligations of such county, municipality, governmental
23 unit or person.

1 36. For the purpose of aiding an authority and co-operating in the plan-
2 ning, undertaking, acquisition, construction or operation of any public facility,
3 the county by resolution of its governing body, or any municipality in the
4 county by ordinance of its governing body, shall have power from time to
5 time and for such period and upon such terms, with or without considera-
6 tion, as may be provided by such resolution or ordinance and accepted by the
7 authority (a) to appropriate moneys for the purposes of the authority, and
8 to loan or donate such money to the authority in such installments and upon
9 such terms as may be agreed upon with the authority, (b) to covenant and
10 agree with the authority to pay to or on the order of the authority annually
11 or at shorter intervals as a subsidy for the promotion of its purposes not
12 exceeding such sums of money as may be stated in such resolution or ordi-
13 nance or computed in accordance therewith, (c) upon authorization by it in
14 accordance with law of the performance of any act or thing which it is em-
15 powered by law to authorize and perform and after appropriation of the
16 moneys (if any) necessary for such performance, to covenant and agree with
17 the authority to do and perform such act or thing and as to the time, manner
18 and other details of its doing and performance, and (d) to appropriate money

19 for all or any part of the cost of acquisition or construction of such public
20 facility, and, in accordance with the limitations and any exceptions thereto
21 and in the manner or mode of procedure prescribed by the local bond law
22 to incur indebtedness, borrow money and issue its negotiable bonds for the
23 purpose of financing such public facility and appropriation, and to pay the
24 proceeds of such bonds to the authority.

1 37. For the purpose of aiding an authority in the planning, undertaking,
2 acquisition, construction or operation of any public facility, the county may,
3 pursuant to resolution duly adopted by its governing body in the manner
4 provided for adoption of a resolution authorizing bonds of such county as
5 provided in the local bond law and with or without consideration and upon
6 such terms and conditions as may be agreed to by and between the county
7 and the authority, unconditionally guarantee the punctual payment of the
8 principal of and interest on any bonds of the authority. Any guaranty of
9 bonds of an authority made pursuant to this section shall be evidenced by en-
10 dorsement thereof on such bonds, executed in the name of the county and on
11 its behalf by such officer thereof as may be designated in the resolution au-
12 thorizing such guaranty, and such county shall thereupon and thereafter be
13 obligated to pay the principal of and interest on said bonds in the same
14 manner and to the same extent as in the case of bonds issued by it. Any such
15 guaranty of bonds of an authority may be made, and any resolution authoriz-
16 ing such guaranty may be adopted, notwithstanding any statutory debt or
17 other limitations, including particularly any limitation or requirement under
18 or pursuant to the local bond law, but the principal amount of bonds so
19 guaranteed, shall, after their issuance, be included in the gross debt of such
20 county for the purpose of determining the indebtedness of such county under
21 or pursuant to the local bond law. The principal amount of said bonds so
22 guaranteed and included in gross debt shall be deducted and is hereby de-
23 clared to be and to constitute a deduction from such gross debt under and for
24 all the purposes of said local bond law (a) from and after the time of issu-
25 ance of said bonds until the end of the fiscal year beginning next after the

26 completion of acquisition or construction of the public facility to be financed
27 from the proceeds of such bonds and (b) in any annual debt statement filed
28 pursuant to said local bond law as of the end of said fiscal year or any sub-
29 sequent fiscal year if the revenues of the authority in such year are sufficient
30 to pay its expenses of operation and maintenance in such year and all
31 amounts payable in such year on account of the principal and interest on all
32 such guaranteed bonds, all bonds of the county issued as provided in section
33 36 of this act, and all bonds of the authority issued under this act.

1 38. Any lease or other agreement, and any instruments making or evi-
2 dencing the same, may be pledged or assigned by the authority to secure its
3 bonds and thereafter may not be modified except as provided by the terms of
4 such instrument or by the terms of such pledge or assignment.

1 39. All property of an authority shall be exempt from levy and sale by
2 virtue of an execution and no execution or other judicial process shall issue
3 against the same nor shall any judgment against an authority be a charge or
4 lien upon its property; provided, that nothing herein contained shall apply
5 to or limit the rights of the holder of any bonds to pursue any remedy for
6 the enforcement of any pledge or lien given by an authority on its facility
7 revenues or other moneys.

1 40. Every authority and every municipality in which any property of the
2 authority is located are hereby authorized and empowered to enter into agree-
3 ments with respect to the payment by the authority to such municipality of
4 annual sums of money in lieu of taxes on such property in such amounts as
5 may be agreed upon between the authority and the municipality, and each
6 such authority is empowered to make such payments and each such munic-
7 ipality is empowered to accept such payments and to apply them in the man-
8 ner in which taxes may be applied in such municipality; provided, however,
9 that no such annual payment with respect to any parcel of such property
10 shall exceed the amount of taxes paid thereon for the taxable year immedi-
11 ately prior to the time of its acquisition by the authority.

1 41. Notwithstanding any restriction contained in any other law, the State
2 and all public officers, municipalities, counties, political subdivisions and
3 public bodies, and agencies thereof, all banks, trust companies, savings banks
4 and institutions, building and loan associations, savings and loan associations,
5 investment companies, and other persons carrying on a banking business, all
6 insurance companies, insurance associations and other persons carrying on an
7 insurance business, and all executors, administrators, guardians, trustees
8 and other fiduciaries, may legally invest any sinking funds, moneys or other
9 funds belonging to them or within their control in any bonds issued pursuant
10 to this act, and such bonds shall be authorized security for any and all public
11 deposits.

1 42. All public facilities and all other properties of an authority are
2 hereby declared to be public property of a political subdivision of the State
3 and devoted to an essential public and governmental function and purpose and
4 shall be exempt from all taxes and special assessments of the State or any
5 subdivision thereof. All bonds issued pursuant to this act are hereby declared
6 to be issued by a political subdivision of this State and for an essential public
7 and governmental purpose and to be a public instrumentality and such bonds,
8 and the interest thereon and the income therefrom, and all facility charges,
9 funds, revenues and other moneys pledged or available to pay or secure the
10 payment of such bonds, or interest thereon, shall at all times be exempt from
11 taxation except for transfer, inheritance and estate taxes.

1 43. The State of New Jersey does hereby pledge to and covenant and
2 agree with the holders of any bonds issued pursuant to a bond resolution of an
3 authority adopted pursuant to this act that the State will not limit or alter the
4 rights hereby vested in the authority to acquire, construct, maintain, recon-
5 struct and operate any public facility, or to fix, establish, charge and collect
6 its facility charges and to fulfill the terms of any agreement made with the
7 holders of such bonds or other obligations, so as to in any way impair the
8 rights or remedies of such holders, and will not modify in any way the exemp-
9 tions from taxation provided for in this act, until the bonds, together with
10 interest thereon, with interest on any unpaid installments of interest, and all

11 costs and expenses in connection with any action or proceeding by or on
12 behalf of such holders, are fully met and discharged or provided for.

1 44. All banks, trust companies, savings banks, investment companies and
2 other persons carrying on a banking business are hereby authorized to give
3 to any authority a good and sufficient undertaking with such sureties as shall
4 be approved by the authority to the effect that such bank or banking institu-
5 tion as hereinbefore described shall faithfully keep and pay over to the order
6 of or upon the warrant of the authority or its authorized agent all such funds
7 as may be deposited with it by the authority and agreed interest thereon, at
8 such times or upon such demands as may be agreed with the authority or in
9 lieu of such sureties, deposit with the authority or its authorized agent or any
10 trustee therefor or for the holders of any bonds, as collateral, such securities
11 as the authority may approve. The deposits of the authority may be
12 evidenced by a depository collateral agreement in such form and upon such
13 terms and conditions as may be agreed upon by the authority and such bank
14 or banking institution.

1 45. Each authority shall cause an annual audit of its accounts to be
2 made, and for this purpose it shall employ a registered municipal accountant
3 of New Jersey or a certified public accountant of New Jersey. The audit
4 shall be completed and filed with the authority within 4 months after the
5 close of the fiscal year of the authority and a certified duplicate copy thereof
6 shall be filed in the office of the Division of Local Government in the Depart-
7 ment of the Treasury and in the office of the treasurer of the county within
8 5 days after the original report is filed with the authority.

1 46. Each authority shall file a certified copy of each bond resolution
2 adopted by it in the office of the Division of Local Government in the Depart-
3 ment of the Treasury, together with a certified summary of the dates, amounts,
4 maturities and interest rates of all bonds to be issued pursuant thereto prior
5 to the issuance of any such bonds. Upon the adoption of each annual budget
6 of an authority or amendment thereof, a certified copy thereof shall be filed
7 forthwith in the office of said Division of Local Government.

1 47. This act shall be construed liberally to effectuate the legislative in-
2 tent and as complete and independent authority for the performance of each
3 and every act and thing herein authorized, and an authority shall not con-
4 stitute or be deemed to be a county or municipality or agency or component
5 of a municipality for the purposes of any other law, and shall not be subject
6 to regulation as to its facility charges by any officer, board, agency, commis-
7 sion or other office of the State; provided, however, that no authority shall
8 exercise the powers of a common carrier, and, except as hereinabove in this
9 section set forth, nothing contained in this act shall in any way affect or
10 limit the jurisdiction, rights, powers or duties of any State regulatory agen-
11 cies.

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

1 49. This act shall take effect immediately.