

40A:27-1 to 40A:27-21 12/29/87

LEGISLATIVE HISTORY CHECKLIST

NJSA: 40A:27-1 to 40A:27-21 (Flood control-- county and municipal-- revise law)

LAWS OF: 1987 **CHAPTER:** 179

Bill No: A1754

Sponsor(s): Girgenti

Date Introduced: Pre-filed

Committee: **Assembly:** Energy and Natural Resources
Senate: County and Municipal Government

Amended during passage: Yes Amendments during passage denoted by asterisks.

Date of Passage: **Assembly:** June 23, 1986
Senate: March 26, 1987

Date of Approval: July 13, 1987

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: **Assembly** Yes
Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: Yes

Hearings: No

Report, mentioned in statements:

974.90 Flood control management: an overview of the issues and responses . . .
F631 County and Municipal Government Study Commission. 14th report
1977 November, 1977.

[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 1754

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION

By Assemblyman GIRGENTI

AN ACT concerning counties and municipalities in relation to flood control, revising parts of the statutory law, and enacting chapter 27 of 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.

TITLE 40A

CHAPTER 27

COUNTY AND MUNICIPAL FLOOD CONTROL

- 1 40A:27-1. Short title.
2 40A:27-2. Purposes.
3 40A:27-3. Definitions.
4 40A:27-4. Finding of need for acquisition, construction, financ-
5 ing, improvement, maintenance and operation of
6 flood control facility by local unit; notice to affected
7 parties and to State; contents of notice, etc.
8 40A:27-5. Adoption of resolution or ordinance.
9 40A:27-6. Powers of local unit.
10 40A:27-7. Surveys, investigations, studies, plans, etc.; payment
11 of costs.
12 40A:27-8. Restoration or compensation to owners of damaged or
13 destroyed property.
14 40A:27-9. Authorization to issue bonds; purpose.
15 40A:27-10. Finding of need for financing cost of construction of
16 flood control facilities by local improvement assess-

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 June 12, 1986.

**—Senate committee amendments adopted February 19, 1987.

- 17 ments; procedure; notice of intention; public hear-
18 ing.
- 19 40A:27-11. Adoption of resolution or ordinance.
- 20 40A:27-12. Assessments on lands specially benefited; procedures;
21 notice.
- 22 40A:27-13. Payment of assessment in installments by owner of
23 assessed real estate.
- 24 40A:27-14. Sale of property by local unit for arrearages in assess-
25 ments, interest or other charges.
- 26 40A:27-15. Contracts with other local units for provision of flood
27 control facilities, etc.
- 28 40A:27-16. Issuance of bonds to pay costs of provision of flood
29 control facilities; payment of costs in annual in-
30 stallments, etc.
- 31 40A:27-17. Powers of local unit re contract with another local
32 unit.
- 33 40A:27-18. Investments; exemption from taxation.
- 34 40A:27-19. Payments by contracting local unit; default; interest.
- 35 40A:27-20. Construction of chapter.
- 36 ***40A:27-21. Continuation of county and municipal obligations.***
- 37 ***[40A:27-21.]** **40A:27-22.*** Statutes repealed.
- 1 40A:27-1. Short title.
- 2 This chapter shall be known and may be cited as the "Municipal
3 and County Flood Control Financing Act."
- 4 Source: C. 40:23-34 (P. L. 1977, c. 333, s. 1).
- 1 40A:27-2. Purposes.
- 2 The Legislature finds and declares that it is in the public interest
3 for the State to foster and promote, by all reasonable means, the
4 relief of persons and property from the adverse effects of un-
5 controlled storm water drainage and the conditions of flooding. It
6 is the purpose of this chapter to implement this policy by authoriz-
7 ing municipalities and counties either separately or in combination
8 with other counties or municipalities to finance, acquire, construct,
9 maintain, operate or improve works for the collection, diversion,
10 impoundment, transportation and disposal of surface water in order
11 to foster flood control and promote a basinwide or subbasinwide
12 approach to controlling floods, thereby protecting the public from
13 the adverse effects of uncontrolled storm water drainage and condi-
14 tions of flooding.
- 15 Source: C. 40:23-35 (P. L. 1977, c. 333, s. 2).
- 1 40A:27-3. Definitions.
- 2 As used in this act:

3 “Contracting local unit” means a local unit which enters into a
4 contract with another local unit for the construction, maintenance,
5 improvement, acquisition or financing of a flood control facility for
6 its own use;

7 “Contractor” means a local unit, which enters into a contract
8 with a contracting local unit to construct, maintain, improve,
9 acquire or finance flood control facilities for the contracting local
10 unit;

11 “Cost” as applied to flood control facilities or extensions or addi-
12 tions thereto, means the cost of construction, reconstruction or
13 maintenance, improvement, the cost of all labor, materials, ma-
14 chinery and equipment, the costs of all lands, property, rights and
15 easements acquired, financing charges, interest on bonds issued to
16 finance a facility prior to, during and after acquisition or construc-
17 tion, the cost of plans and specifications, surveys or estimates of
18 costs and of revenues, the cost of engineering and legal services,
19 and all other expenses necessary or incident to determining the
20 feasibility or practicability of the construction, reconstruction, im-
21 provement, or maintenance of a facility, administrative expenses
22 and such other expenses as may be necessary or incident to the
23 construction, maintenance or acquisition of a facility, and the
24 financing herein authorized. Any obligation or expense incurred
25 by a local unit in connection with any of the foregoing items of cost
26 prior to the issuance of bonds or notes as authorized herein may be
27 reimbursed to the local unit out of the proceeds of bonds issued
28 under the provisions of this chapter;

29 “Department” means the Department of Environmental Pro-
30 tection;

31 “Flood control facilities” means the dams, drainageways, struc-
32 tures and other real and personal property acquired, constructed,
33 operated, financed, maintained or improved or to be acquired, con-
34 structed, operated, financed, maintained or improved by a local unit
35 for the purposes of flood control, including storage reservoirs, dikes,
36 diversions, dams, spillways, levees, revetments, drains, ditches or
37 channel improvements, such as widening, deepening, straightening,
38 clearing, desnagging, sloping, building and filling in, and other
39 plants, structures, boats, conveyances and other real or personal
40 property and rights therein, and appurtenances necessary for the
41 control of flooding, the preservation of stream flow and the manage-
42 ment of surface water and storm water*, *including any storm*
42A *sewers, storm drains, drainage facilities, and detention basins, and*
42B *the dredging or desnagging of any drainage ways**;

43 "General obligation bonds" means general obligations of the local
44 unit which are payable from unlimited ad valorem taxes addi-
45 tionally secured by a pledge of the revenues derived from the assess-
46 ment of such local improvement charges as may be assessed;

47 "Local unit" means a county or municipality;

48 "Parties to the contract" means a contractor and a contracting
49 local unit which have contracted for the construction, maintenance,
50 improvement or acquisition of flood control facilities.

51 Source: C. 40:23-36 (P. L. 1977, c. 333, s. 3).

1 40A:27-4. Finding of need for acquisition, construction, financ-
2 ing, improvement, maintenance and operation of flood control
3 facility by local unit; notice to affected parties and to State;
4 contents of notice.

5 The governing body of a local unit may acquire, construct, finance,
6 improve, maintain and operate a flood control facility upon conclud-
7 ing, by duly adopted resolution or ordinance, as the case may be,
8 that the public health, safety and welfare can best be assured by the
9 acquisition, construction, financing, improvement, maintenance and
10 operation of the facility by the local unit or in cooperation with any
11 other local unit and that the facility will contribute to the overall
12 management of the surface water of the river basin or subbasin to
13 be affected by the facility. Prior to the adoption of the resolution
14 or ordinance, as the case may be, the governing body shall take
15 cognizance of all existing and proposed upstream and downstream
16 developments which may affect, or be affected by, the proposed
17 flood control facility and shall notify, by certified mail, all upstream
18 and downstream municipalities, soil conservation districts and
19 counties, and the department, of its intent to construct one or more
20 flood control facilities. The notification shall include a request for
21 information from all upstream governments indicating which pro-
22 posed developments might alter the flow of water at the proposed
23 flood control facility. The governing body of a local unit also shall
24 make its staff available for consultation with persons who may
25 affect, or be affected by, the flood control facility.

26 **The basin or subbasinwide analysis shall be submitted to the*
27 *Department of Environmental Protection for its use in approving*
28 *or disapproving the development and use of land regulated pur-*
29 *suant to the provisions of the "Flood Hazard Area Control Act,"*
30 *P. L. 1962, c. 19 (C. 58:16A-50 et seq.). Each facility shall be con-*
31 *sistent with the Statewide Flood Control Master Plan prepared*
32 *pursuant to the provisions of P. L. 1978, c. 78 and the county*
33 *stormwater control and drainage plans prepared pursuant to the*

34 *provisions of section 10 of P. L. 1979, c. 359 (C. 58:16A-55.4).**

35 Source: C. 40:23-37 (P. L. 1977, c. 33, s. 4).

1 40A:27-5. Adoption of resolution or ordinance.

2 Upon the completion of this basinwide or subbasinwide analysis
3 and after consideration of the responses of concerned parties, the
4 governing body of a local unit may adopt a resolution or ordinance,
5 as the case may be, to acquire, construct, finance, improve, operate
6 or maintain the flood control facility.

7 Source: C. 40:23-37 (P. L. 1977, c. 333, s. 4).

1 40A:27-6. Powers of local unit.

2 A local unit is authorized:

3 a. To purchase, construct, improve, extend, enlarge or recon-
4 struct flood control facilities within or adjacent to that local unit
5 either alone or jointly with other local units and to operate, manage,
6 maintain and control all or part of these facilities;

7 b. To issue general obligation bonds of the local unit to pay all
8 or part of the cost of the purchase, construction, improvement,
9 extension, enlargement or reconstruction of these facilities;

10 c. To receive and accept from the federal or State government or
11 any agency thereof, grants for the planning, acquisition, purchase,
12 construction, extension, enlargement, reconstruction, improvement
13 or financing of any of these facilities and to receive and accept
14 contributions from any source or either money, property, labor, or
15 other things of value to be held, used and applied for the purposes
16 for which these grants and contributions may be made:

17 d. To acquire in the name of the local unit by gift, purchase, or
18 by the exercise of the right of eminent domain, lands and rights
19 and interests therein, including lands under water and riparian
20 rights, and to acquire such personal property, as it may deem
21 necessary for the acquisition, purchase, construction, improvement,
22 extension, enlargement or reconstruction, or for the efficient opera-
23 tion of any facility purchased or constructed under the provisions
24 of this chapter and to hold and dispose of all real and personal
25 property under its control;

26 e. To make and enter into all contracts and agreements necessary
27 or incidental to the performance of its duties and the execution of
28 its powers under this chapter and to employ engineers, superin-
29 tendents, managers, attorneys, financial or other consultants or
30 experts and other employees and agents necessary to carry out
31 the provisions of this chapter, and to fix their compensation;

32 f. Subject to the provisions and restrictions set forth in the
33 resolution or ordinance, as the case may be, authorizing or securing

34 bonds issued under the provisions of this chapter, to enter into
 35 contracts with the government of the United States or of the State,
 36 or any agency or instrumentality thereof, or with any other local
 37 unit, private corporation, copartnership, association, or individual
 38 providing for or relating to flood control, which contracts may
 39 provide for the furnishing of flood control services either by or to
 40 the local unit, joint construction or operation of a flood control
 41 facility.

42 Source: C. 40:23-38 (P. L. 1977, c. 333, s. 5).

1 40A:27-7. Surveys, investigations, studies, plans, etc.; payment
 2 of costs.

3 Whenever the governing body of a local unit by resolution or
 4 ordinance, as the case may be, exercises the powers granted by this
 5 chapter, it shall make or cause to be made the necessary surveys,
 6 investigations, studies, borings, maps, plans, drawings and esti-
 7 mates of costs and of revenues relating to the provision of flood
 8 control facilities.

9 The obtaining of these surveys, investigations, studies, borings,
 10 maps, plans, drawings and estimates is declared to be a public
 11 purpose and the costs thereof may be paid out of the general funds
 12 of the local unit or from the proceeds of any bonds issued pursuant
 13 to this chapter.

14 Source: C. 40:23-39 (P. L. 1977, c. 333, s. 6).

1 40A:27-8. Restoration or compensation to owners of damaged
 2 or destroyed property.

3 All public or private property damaged or destroyed in carrying
 4 out the powers granted by this chapter shall be restored or re-
 5 paired and placed in its original condition as nearly as practicable
 6 or adequate compensation shall be made therefor to the owner out
 7 of the funds authorized by this chapter.

8 Source: C. 40:23-39 (P. L. 1977, c. 333, s. 6).

1 40A:27-9. Authorization to issue bonds; purpose.

2 The governing body of a local unit exercising the powers granted
 3 by this chapter is authorized to provide by resolution or ordinance,
 4 as the case may be, at one time, or from time to time, for the
 5 issuance of general obligation bonds of the local unit for the
 6 purpose of paying all or any part of the cost of a flood control
 7 facility constructed, acquired, improved, operated, maintained, ex-
 8 tended, enlarged or reconstructed pursuant to this chapter. The
 9 bonds of each issue shall be issued pursuant to the provisions of
 10 the "Local Bond Law," (N. J. S. 40A:2-1 et seq.).

11 Source: C. 40:23-40 (P. L. 1977, c. 333, s. 7).

1 40A:27-10. Finding of need for financing cost of construction
2 of flood control facilities by local improvement assessments; pro-
3 cedures; notice of intention; public hearing.

4 If the governing body of a local unit determines that public
5 necessity and interest require the cost of construction of a flood
6 control facility to be financed by local improvement assessments,
7 it shall pass a resolution or ordinance, as the case may be, of its
8 intention to undertake and so finance the facility and shall give
9 notice of this intention by advertising in one or more newspapers
10 of general circulation in the county or municipality and by notify-
11 ing each concerned property owner by certified mail; and this
12 notice shall fix a time and place, not less than two weeks after the
13 date of the notice, for a public hearing on the proposed action.
14 At the public hearing the governing body of a local unit shall
15 present a preliminary assessment of the affected properties.

16 Source: C. 40:23-41 (P. L. 1977, c. 333, s. 8).

1 40A:27-11. Adoption of resolution or ordinance.

2 After the hearing, if the governing body of a local unit decides
3 to carry out the local improvements, it shall pass a resolution or
4 ordinance, as the case may be, to proceed to make the local improve-
5 ments.

6 Source: C. 40:23-41 (P. L. 1977, c. 333, s. 8).

1 40A:27-12. Assessments on lands specially benefited; proce-
2 dures; notice.

3 Upon the completion of the local improvements, the governing
4 body of a local unit shall assess the costs and expenses of the flood
5 control facility on the lands and improvements situated within
6 that unit which are specially benefited thereby in proportion to
7 the benefit received. When the assessment is completed it shall
7A be filed as a report with the clerk of the governing body
8 of the local unit who shall give notice, by advertising in one or
9 more newspapers of general circulation in the county or munici-
10 pality and by notifying each concerned property owner, by certified
11 mail, that the report has been filed and that the governing body of
12 the local unit will meet at a time and place designated in the notice
13 to hear objections to the report. The governing body of the local
14 unit may revise the report based on these objections, after which
15 it shall file the revised report with the clerk of the governing body
16 of the local unit. The assessment shall constitute a lien upon the
17 land so assessed.

18 The clerk shall deliver a duplicate copy of the report to the
19 appropriate officer of the county or municipality, as the case may
20 be, who shall immediately thereafter mail or deliver the bill for the

21 amount of the assessment, and shall keep a record, at the expense
 22 of the local unit, in the manner required by local improvements
 23 under R. S. 40:56-31. The governing body may make additional
 24 requirements for recording, accounting for, and collecting assess-
 25 ments.

26 Source: C. 40:23-41 (P. L. 1977, c. 333, s. 8).

1 40A:27-13. Payment of assessment in installments by owner of
 2 assessed real estate.

3 The governing body of a local unit may by resolution or ordi-
 4 nance, as the case may be, permit the owner of real estate upon
 5 which an assessment for an improvement has been made to pay
 6 the assessment in installments pursuant to the procedures con-
 7 tained in R. S. 40:56-35.

8 Source: C. 40:23-41 (P. L. 1977, c. 333, s. 8).

1 40A:27-14. Sale of property by local unit for arrearages in
 2 assessments, interest or other charges.

3 When any unpaid assessment, interest thereon or other charges
 4 for collection thereof remains in arrears on July 1 of the calendar
 5 year following the calendar year when the assessment, interest or
 6 other charge becomes in arrears, the appropriate officer of the
 7 local unit shall enforce the lien by selling the property in the man-
 8 ner set forth in chapter 5 of Title 54 of the Revised Statutes.

9 Source: C. 40:23-41 (P. L. 1977, c. 333, s. 8).

1 40A:27-15. Contracts with other local units for provision of
 2 flood control facilities, etc.

3 A local unit may negotiate and enter into contracts with other
 4 local units for the provision of flood control facilities **located*
 5 *within or without the boundaries of the local unit** pursuant to
 6 the provisions of this chapter. Where appropriate, the facilities
 7 may be situated on land leased or conveyed pursuant to law by a
 8 local unit which is not party to the contract.

9 Source: C. 40:23-42 (P. L. 1977, c. 333, s. 9).

1 40A:27-16. Issuance of bonds to pay costs of provision of flood
 2 control facilities; payment of costs in annual installments, etc.

3 If a contractor, pursuant to a contract with a contracting local
 4 unit, constructs, acquires or improves a flood control facility the
 5 contractor may either: a. bear the entire cost of the construction
 6 or acquisition of the facility by itself; or b. share the cost of the
 7 construction or acquisition of the facility with the contracting unit.
 8 The contractor may issue its bonds for all or part of the cost of
 9 the construction, acquisition or improvement of the facility. If the
 10 cost is to be shared by the contracting local unit, the contractor
 11 may issue bonds for its share of the cost and the contracting local

12 unit may issue bonds for its share of the cost, or the contractor may
 13 issue bonds for the entire cost of the facility, and the share of the
 14 cost to be borne by the contracting local unit shall be repaid to the
 15 contractor by the contracting local unit in annual installments,
 16 over a period not exceeding 40 years, agreed upon by the parties
 17 to the contract. The amount of the annual installments shall include
 18 interest at the rate or rates agreed upon by the parties to the
 19 contract. These agreements shall be authorized by a resolution or
 20 ordinance, as the case may be, duly adopted by the governing bodies
 21 of the parties to the contract. The annual payments received by
 22 a contractor from the contracting local unit may also include an
 23 additional annual amount agreed upon for the payment of the
 24 agreed share of the cost of operation and maintenance and improve-
 25 ment or enlargement of the facility.

26 Source: C. 40:23-42 (P. L. 1977, c. 333, s. 9).

1 40A:27-17. Powers of local unit re contract with another local
 2 unit.

3 A local unit with which another local unit is authorized to con-
 4 tract under the terms and provisions of this chapter shall have
 5 the power, by ordinance or resolution, as the case may be, duly
 6 adopted by its governing body, to authorize the proper officials to
 7 enter into and execute for it a contract for the period of time and
 8 under the terms necessary for the provision of a flood control
 9 facility notwithstanding that no appropriation was made or pro-
 10 vided to cover the estimated cost of the contract, and the govern-
 11 ing body shall adhere to the terms and conditions of the contract.

12 Source: C. 40:23-43 (P. L. 1977, c. 333, s. 10).

1 40A:27-18. Investments; exemption from taxation.

2 Notwithstanding any restriction contained in any other law, the
 3 State and all public officers, municipalities, counties, political sub-
 4 divisions and public bodies, and agencies thereof, all banks, bankers,
 5 trust companies, savings banks and institutions, building and loan
 6 associations, insurance associations and other persons carrying
 7 on any insurance business, and all executors, administrators, guar-
 8 dians, trustees and other fiduciaries may legally invest any sinking
 9 fund moneys or other funds belonging to them within their control
 10 in any bonds of a local unit authorized pursuant to this chapter,
 11 and the bonds are authorized as security for any and all public
 12 deposits. These bonds and the interest therein shall be exempt
 13 from taxation except for the transfer and inheritance taxes.

14 Source: C. 40:23-44 (P. L. 1977, c. 333, s. 11).

1 40A:27-19. Payments by contracting local unit; default; interest.

2 The chief fiscal officer of each contracting local unit which enters

3 into a contract pursuant to this chapter, shall cause to be paid to
 4 the contractor, at the times agreed upon, the amount of money
 5 certified to the contracting local unit by the contractor pursuant
 6 to this chapter. The power and obligation of the contracting local
 7 unit to provide for and make all payments is unlimited and the
 8 sums necessary for the payment shall be included in each annual
 9 budget of the contracting local unit; and the contracting local unit
 10 shall be irrevocably and unconditionally obligated to levy ad
 11 valorem taxes on all taxable property therein, without limits as to
 12 rate or amount, to the full extent necessary to make all payments,
 13 in full, as they become due. If any part of the amount certified
 14 to a contracting local unit by a contractor, pursuant to this act,
 15 remains unpaid for 30 days following the date fixed for payment
 16 by the contract, the contracting local unit thus in default shall be
 17 charged with and be liable for, and the chief fiscal officer thereof
 18 shall pay to the contractor, interest upon the amount unpaid at the
 19 rate of 8% per year.

20 Source: C. 40:23-45 (P. L. 1977, c. 333, s. 12).

1 40A:27-20. Construction of chapter.

2 This chapter shall not be construed to relieve a local unit of
 3 any obligation to seek and obtain various permits and other ap-
 4 provals from the Department of Environmental Protection as
 5 required by law for these projects and to comply with any other
 6 duty imposed by law.

7 Source: New.

1 ***40A:27-21. Continuation of county and municipal obligations.*
 2 *Any debt, liability or obligation incurred by any county or munici-*
 3 *pality pursuant to any section of law which is repealed pursuant to*
 4 *this act shall not in any manner be diminished by the provisions of*
 5 *this act.***

1 ****[40A:27-21]**** ****40A:27-22.**** Statutes repealed.

2 **R. S. 40:69-1 through 40:69-4, R. S. 40:30-18 through 40:30-21,*
 3 *P. L. 1944, c. 207 (C. 40:69-4.1 through 40:69-4.12)*.*

4 P. L. 1977, c. 333 (C. 40:23-34 through 40:23-46) is repealed.

1 2. This act shall take effect immediately.

FLOOD AND DROUGHT CONTROL

Enacts the "Municipal and County Flood Control Financing Act."

1 40A:27-20. Construction of chapter.

2 This chapter shall not be construed to relieve a local unit of
3 any obligation to seek and obtain various permits and other ap-
4 provals from the Department of Environmental Protection as
5 required by law for these projects and to comply with any other
6 duty imposed by law.

7 Source: New.

1 40A:27-21. Statutes repealed.

2 P. L. 1977, c. 333 (C. 40:23-34 through 40:23-46) is repealed.

1 2. This act shall take effect immediately.

STATEMENT

This bill would provide the basic powers needed by municipalities and counties to construct and maintain flood control facilities. A modern flood control statute was enacted for county governments in 1977. Municipal governments do not have clear or complete authorization to construct flood control facilities. This bill responds to recommendations of the County and Municipal Government Study Commission.

A municipal drainage statute exists in chapter 69 of Title 40 of the Revised Statutes providing authorization for the acquisition of real property and certain other activities relating to flood and drought control. Municipal powers to construct and operate storm drains in or out of the municipal street right-of-ways, found in municipal sewerage statutes, do not, however, provide full authorization to construct and operate flood control facilities.

This bill repeals the "County Flood Control Financing Act," P. L. 1977, c. 333 (C. 40:23-34 et seq.) and reenacts it as part of Title 40A of the New Jersey Statutes specifically authorizing both counties and municipalities to plan, design, survey, acquire by fee, gift or eminent domain, construct, reconstruct, maintain, and operate flood control facilities, contract for any related purpose with any person, and finance through local taxes or through local improvement assessments, gifts, including State and federal aid, and general obligation bonds for flood control facilities. This bill would explicitly include among the eligible purposes the construction and maintenance of storm drains and the dredging and desnagging of waterways.

3 A local unit with which another local unit is authorized to con-
4 tract under the terms and provisions of this chapter shall have
5 the power, by ordinance or resolution, as the case may be, duly
6 adopted by its governing body, to authorize the proper officials to
7 enter into and execute for it a contract for the period of time and
8 under the terms necessary for the provision of a flood control
9 facility notwithstanding that no appropriation was made or pro-
10 vided to cover the estimated cost of the contract, and the govern-
11 ing body shall adhere to the terms and conditions of the contract.
12 Source: C. 40:23-43 (P. L. 1977, c. 333, s. 10).

1 40A:27-18. Investments; exemption from taxation.

2 Notwithstanding any restriction contained in any other law, the
3 State and all public officers, municipalities, counties, political sub-
4 divisions and public bodies, and agencies thereof, all banks, bankers,
5 trust companies, savings banks and institutions, building and loan
6 associations, insurance associations and other persons carrying
7 on any insurance business, and all executors, administrators, guar-
8 dians, trustees and other fiduciaries may legally invest any sinking
9 fund moneys or other funds belonging to them within their control
10 in any bonds of a local unit authorized pursuant to this chapter,
11 and the bonds are authorized as security for any and all public
12 deposits. These bonds and the interest therein shall be exempt
13 from taxation except for the transfer and inheritance taxes.

14 Source: C. 40:23-44 (P. L. 1977, c. 333, s. 11).

1 40A:27-19. Payments by contracting local unit; default; interest.

2 The chief fiscal officer of each contracting local unit which enters
3 into a contract pursuant to this chapter, shall cause to be paid to
4 the contractor, at the times agreed upon, the amount of money
5 certified to the contracting local unit by the contractor pursuant
6 to this chapter. The power and obligation of the contracting local
7 unit to provide for and make all payments is unlimited and the
8 sums necessary for the payment shall be included in each annual
9 budget of the contracting local unit; and the contracting local unit
10 shall be irrevocably and unconditionally obligated to levy ad
11 valorem taxes on all taxable property therein, without limits as to
12 rate or amount, to the full extent necessary to make all payments,
13 in full, as they become due. If any part of the amount certified
14 to a contracting local unit by a contractor, pursuant to this act,
15 remains unpaid for 30 days following the date fixed for payment
16 by the contract, the contracting local unit thus in default shall be
17 charged with and be liable for, and the chief fiscal officer thereof
18 shall pay to the contractor, interest upon the amount unpaid at the
19 rate of 8% per year.

20 Source: C. 40:23-45 (P. L. 1977, c. 333, s. 12).

ASSEMBLY ENERGY AND NATURAL RESOURCES
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1754

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JUNE 12, 1986

The Assembly Energy and Natural Resources Committee favorably reported Assembly Bill No. 1754 with amendments. This measure would grant to municipalities and counties specific authority to construct and maintain flood control facilities. Prepared in response to recommendations of the County and Municipal Government Study Commission, the bill essentially reenacts the existing "County Flood Control Financing Act," P. L. 1977, c. 333; C. 40:23-34 et seq., but extends the powers conferred on counties thereby to municipalities as well.

The committee amended the bill to address concerns expressed by the Governor in his veto of the measure's predecessor last session, Assembly Bill No. 3291 OCR. Specifically, the amendments: clarify the definition of "flood control facilities" so as to assure the inclusion of sewers, storm drains, drainage facilities and detention basins, and dredging and desnagging facilities; require that the department review basinwide or subbasinwide analyses to prevent the influence of purely parochial concerns; obviate certain potential contractual problems by clarifying that the facilities need not be within the boundaries of the local unit; and repeal obsolete drainage statutes.

This bill was pre-filed for introduction in the 1986 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

SENATE COUNTY AND MUNICIPAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1754

[OFFICIAL COPY REPRINT]

with Senate committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 19, 1987

The Senate County and Municipal Government Committee reports favorably and with committee amendments Assembly Bill No. 1754 OCR.

Assembly Bill No. 1754 OCR Sca grants to municipalities and counties specific authority to construct and maintain flood control facilities.

Under the provisions of the bill, the "County Flood Control Financing Act," P. L. 1977, c. 333 (C. 40:23-34 et seq.) is repealed and the "Municipal and County Flood Control Financing Act" would be enacted. The new law would essentially reenact P. L. 1977, c. 333 except that the powers previously conferred only upon counties regarding flood control would be extended to municipalities as well.

Basically, the bill enables counties and municipalities to finance, acquire, construct and operate flood control facilities when such facilities contribute to the overall management of surface water in a river basin or subbasin. The facilities may be financed either from the general revenues of the county or municipality, the issuance of general obligation bonds or the imposition of an assessment on any lands benefited by the facility.

The Assembly Energy and Natural Resources Committee amended the bill to address concerns expressed by the Governor in his veto of the bill's predecessor from last session, Assembly Bill No. 3291 OCR. Specifically, the amendments: clarified the definition of "flood control facilities" so as to assure the inclusion of sewers, storm drains, drainage facilities and detention basins, and dredging and desnagging facilities; required that the department review basinwide or subbasinwide analyses to prevent the influence of purely parochial concerns; and obviated certain potential contractual problems by clarifying that the facilities need not be within the boundaries of the local unit. The bill was also amended to repeal certain drainage statutes.