



**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

LAW/KR

P.L.2012, CHAPTER 31, *approved August 7, 2012*  
Senate, No. 872 (*First Reprint*)

1 AN ACT expanding the permissible scope of operation of incinerator  
2 authorities and amending P.L.1948, c.348.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. Section 1 of P.L.1948, c.348 (C.40:66A-1) is amended to  
8 read as follows:

9 1. This act shall be known and may be cited as the "incinerator  
10 or environmental services authorities law."  
11 (cf: P.L.1948, c.348, s.1)

12  
13 2. Section 2 of P.L.1948, c.348 (C.40:66A-2) is amended to  
14 read as follows:

15 2. It is hereby declared to be in the public interest and to be the  
16 policy of the State to foster and promote by all reasonable means  
17 the health and welfare of the citizens thereof by the proper  
18 collection and disposal of garbage and other refuse matter, as well  
19 as by the performance of various other sanitation, public works and  
20 environmental services necessary to maintain a clean, healthy, and  
21 safe environment for all citizens.  
22 (cf: P.L.1948, c.348, s.2)

23  
24 3. Section 3 of P.L.1948, c.348 (C.40:66A-3) is amended to  
25 read as follows:

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

28 (1) "Municipality" shall mean any city of any class, any  
29 borough, village, town, township, or any other municipality other  
30 than a county or a school district;

31 (2) "Governing body" shall mean the commission, council,  
32 board or body, by whatever name it may be known, having charge  
33 of the finances of the municipality;

34 (3) "Person" shall mean any person, association, corporation,  
35 nation, State or any agency or subdivision thereof, municipality of  
36 the State or an incinerator authority;

37 (4) "Incinerator authority" or "environmental services authority"  
38 shall mean a public body created pursuant to section four of this act;

39 (5) Subject to the exceptions provided in the section four of this  
40 act, "district" shall mean the area within the territorial boundaries of

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AEN committee amendments adopted June 14, 2012.

1 the municipality or municipalities which created or joined in the  
2 creation of an incinerator or environmental services authority;

3 (6) "Local unit" shall mean any municipality which created or  
4 joined in the creation of an incinerator or environmental services  
5 authority;

6 (7) "Garbage disposal system" shall mean the plants, structures  
7 and other real and personal property acquired, constructed or  
8 operated or to be acquired constructed or operated by an incinerator  
9 or environmental services authority, including incinerators or other  
10 plants for the treatment and disposal of garbage and refuse matter  
11 and all other real and personal and rights therein and appurtenances  
12 necessary or useful and convenient for the collection, treatment or  
13 disposal in a sanitary manner of garbage and refuse matter (but not  
14 including sewage).

15 (8) "Cost" shall mean, in addition to the usual connotations  
16 thereof, the cost of acquisition or construction of all or any part of a  
17 garbage disposal system of all or any property, rights, easements  
18 and franchises deemed by the incinerator or environmental services  
19 authority to be necessary or useful and convenient therefor,  
20 including reimbursements to the incinerator or environmental  
21 services authority or any municipality or other person of any  
22 moneys theretofore expended for the purposes of the incinerator or  
23 environmental services authority and including interest or discount  
24 on bonds to finance such cost, engineering and inspection costs and  
25 legal expenses, the cost of financial, professional and other advice,  
26 and the cost of issuance of any such bonds;

27 (9) "Real property" shall mean lands both within and without  
28 the State, and improvements thereof or thereon, or any rights or  
29 interests therein;

30 (10) "Construct" and "construction" shall connote and include  
31 acts of construction, reconstruction, replacement, extension,  
32 improvement and betterment of a garbage disposal system;

33 (11) "Garbage or refuse matter" shall mean any refuse matter,  
34 trash or garbage from residences, hotels, apartments or any other  
35 public or private building but shall not include water-carried wastes,  
36 industrial waste or the kinds of wastes usually collected, carried  
37 away and disposed of by sewerage system.

38 (12) "Ordinance" means a written act of the governing body of a  
39 municipality adopted and otherwise approved and published in the  
40 manner or mode of procedure prescribed for ordinances tending to  
41 obligate such municipality pecuniarily; **[and]**

42 (13) "Resolution" means a written act of the governing body of a  
43 local unit adopted and otherwise approved in the manner or mode of  
44 procedure prescribed for resolutions tending to obligate such local  
45 unit pecuniarily; and

46 (14) "Environmental services" shall mean any and all services  
47 relative to sanitation, recycling, park and other recreation area

1 maintenance, demolition, repair or maintenance of unsafe,  
2 unsanitary, or unsound structures, automobile towing and impound,  
3 municipal vehicle maintenance and repair and services related  
4 thereto, street and road safety services, snow removal,  
5 environmental compliance and education, services necessary or  
6 appropriate for neighborhood beautification or environmental  
7 improvement, and any other service relative to maintaining a  
8 sanitary, safe, and healthy environment within a municipality.  
9 (cf: P.L.1948, c.348, s. 3)

10

11 4. Section 4 of P.L.1948, c.348 (C.40:66A-4) is amended to  
12 read as follows:

13 4. (a) The governing body of any municipality may, by  
14 ordinance duly adopted, create a public body corporate and politic  
15 under the name and style of "the incinerator authority" with all or  
16 any significant part of the name of such municipality inserted. The  
17 governing body of '[any] a' municipality 'in which an incinerator  
18 authority has been established pursuant to P.L.1948, c.348  
19 (C.40:66A-1 et seq.) prior to the effective date of P.L. . c.  
20 (pending before the Legislature as this bill)' may, by ordinance  
21 duly adopted, create '[a public body corporate and politic] ,  
22 continue and reestablish the incinerator authority' under the name  
23 and style of the "environmental services authority" with all or any  
24 significant part of the name of the municipality inserted. An  
25 incinerator or environmental services authority created pursuant to  
26 this section by a municipality other than a city of the first class shall  
27 consist of five members, and an incinerator or environmental  
28 services authority created pursuant to this section by a municipality  
29 which is a city of the first class shall consist of five or seven  
30 members, as determined by the governing body. Members of the  
31 incinerator or environmental services authority shall be appointed  
32 by resolution of the governing body as hereinafter in this section  
33 provided, and the authority shall constitute the incinerator or  
34 environmental services authority contemplated and provided for in  
35 this act and an agency and instrumentality of said municipality.  
36 After the taking effect of such ordinance and the filing of a certified  
37 copy thereof as in subsection (c) of this section provided, the  
38 members of the incinerator or environmental services authority  
39 shall be appointed. The members first appointed shall, by the  
40 resolution of appointment, be designated to serve for terms  
41 respectively expiring as follows: the terms of the first four members  
42 shall expire in turn on each of the first days of the first, second,  
43 third and fourth Februaries next ensuing after the date of their  
44 appointment, and the remaining members shall be designated to  
45 serve for terms expiring on the first day of the fifth February next  
46 ensuing after the date of their appointment. On or after the first day  
47 of January in each year after such first appointments, one person

1 shall be appointed or reappointed as a member of the incinerator or  
2 environmental services authority to succeed each member whose  
3 term is expiring, and shall serve for a term commencing on the first  
4 day of February in such year and expiring on the first day of  
5 February in the fifth year after such year. In the event of a vacancy  
6 in the membership of the incinerator or environmental services  
7 authority occurring during an unexpired term of office, a person  
8 shall be appointed as a member of the incinerator or environmental  
9 services authority to serve for such unexpired term.

10 The governing body of a municipality which is a city of the first  
11 class may increase the membership of its incinerator or  
12 environmental services authority to seven members from five  
13 members. The two additional members shall be appointed to serve  
14 five-year terms, commencing on the February 1 next following their  
15 appointment and expiring on February 1 in the fifth year after their  
16 appointment.

17 (b) The governing bodies of any two or more municipalities,  
18 whether or not the areas of such municipalities comprise an integral  
19 body of territory, may, by parallel ordinances duly adopted by each  
20 of such governing bodies within any single calendar year, create a  
21 public body corporate and politic under the name and style of "the  
22 incinerator authority" with all or any significant part of the name of  
23 each such municipality or some identifying geographical phrase  
24 inserted. The governing bodies of any two or more municipalities  
25 'who have established an incinerator authority pursuant to  
26 P.L.1948, c.348 (C.40:66A-1 et seq.) prior to the effective date of  
27 P.L. , c. (pending before the Legislature as this bill)' , whether  
28 or not the areas of such municipalities comprise an integral body of  
29 territory, may, by parallel ordinances duly adopted by each of such  
30 governing bodies within any single calendar year, create <sup>1</sup> [a public  
31 body corporate and politic] , continue and reestablish the  
32 incinerator authority' under the name and style of "the  
33 environmental services authority" with all or any significant part of  
34 the name of each such municipality or some identifying  
35 geographical phrase inserted. Said body shall consist of the  
36 members thereof, in an aggregate number determined as hereinafter  
37 in this subsection provided, who shall be appointed by resolution of  
38 the several governing bodies as hereinafter in this section provided,  
39 and it shall constitute the incinerator or environmental services  
40 authority contemplated and provided for in this act and an agency  
41 and instrumentality of the said municipalities. The number of  
42 members of the incinerator or environmental services authority to  
43 be appointed at any time for full terms of office by the governing  
44 body of any such municipality or municipalities, as the case may be,  
45 shall be as may be stated in said ordinances which shall be not less  
46 than one nor more than three. After the taking effect of the said  
47 ordinances of all such municipalities and after the filing of certified

1 copies thereof as in subsection (c) of this section provided, the  
2 appropriate number of persons shall be appointed as members of the  
3 incinerator or environmental services authority by the governing  
4 body of each municipality. The members first appointed or to be  
5 first appointed shall serve for terms expiring on the first day of the  
6 fifth February next ensuing after the date of the first appointment of  
7 any member. On or after the first day of January in the year in  
8 which expires the terms of the said members first appointed and in  
9 every fifth year thereafter, the appropriate number of persons shall  
10 be appointed as members of the incinerator or environmental  
11 services authority by the governing body of each municipality, to  
12 serve for terms commencing on the first day of February in such  
13 year and expiring on the first day of February in the fifth year after  
14 such year. In the event of a vacancy in the membership of the  
15 incinerator or environmental services authority occurring during an  
16 unexpired term of office, a person shall be appointed as a member  
17 of the incinerator or environmental services authority to serve for  
18 such unexpired term by the governing body which made the original  
19 appointment for such unexpired term.

20 (c) A copy of each ordinance for the creation of an incinerator  
21 or environmental services authority adopted pursuant to this  
22 section, duly certified by the appropriate officer of the local unit,  
23 shall be filed in the office of the Secretary of State. Upon proof of  
24 such filing of a certified copy of the ordinance or of certified copies  
25 of the parallel ordinances for the creation of an incinerator or  
26 environmental services authority as aforesaid, the incinerator or  
27 environmental services authority therein referred to shall, in any  
28 suit, action or proceeding involving the validity or enforcement of,  
29 or relating to, any contract or obligation or act of the incinerator or  
30 environmental services authority, be conclusively deemed to have  
31 been lawfully and properly created and established and authorized  
32 to transact business and exercise its powers under this act. A copy  
33 of any such certified ordinance, duly certified by or on behalf of the  
34 Secretary of State, shall be admissible in evidence in any suit,  
35 action or proceeding.

36 (d) A copy of each resolution appointing any member of an  
37 incinerator or environmental services authority adopted pursuant to  
38 this section, duly certified by the appropriate officer of the local  
39 unit, shall be filed in the office of the Secretary of State. A copy of  
40 such certified resolution, duly certified by or on behalf of the  
41 Secretary of State, shall be admissible in evidence in any suit,  
42 action or proceeding and, except in a suit, action or proceeding  
43 directly questioning such appointment, shall be conclusive evidence  
44 of the due and proper appointment of the members named therein.

45 (e) **'[No]** Except as otherwise provided in subsection (a) or  
46 subsection (b) of this section with respect to the continuation and  
47 reestablishment of an environmental services authority, no<sup>1</sup>

1 governing body which may create or join in the creation of any  
2 incinerator or environmental services authority pursuant to this  
3 section shall thereafter create or join in the creation of any other  
4 incinerator or environmental services authority. No governing body  
5 of any municipality within a district shall create or join in the  
6 creation of any incinerator or environmental services authority  
7 except upon the written consent of the incinerator or environmental  
8 services authority and in accordance with the terms and conditions  
9 of such consent, and in the event such consent be given and an  
10 incinerator or environmental services authority be created pursuant  
11 thereto, the area within the territorial boundaries of such  
12 municipality shall not thereafter be part of the district.  
13 (cf: P.L.1994, c.85, s.2)

14  
15 5. Section 5 of P.L.1948, c.348 (C.40:66A-5) is amended to  
16 read as follows:

17 5. (a) The powers of an incinerator or environmental services  
18 authority shall be vested in the members thereof in office from time  
19 to time. A majority of the entire authorized membership of the  
20 incinerator or environmental services authority shall constitute a  
21 quorum at any meeting thereof. Action may be taken and motions  
22 and resolutions adopted by the incinerator or environmental  
23 services authority at any meeting of the members thereof by vote of  
24 a majority of the members present, unless in any case the by-laws of  
25 the incinerator or environmental services authority shall require a  
26 large number. The incinerator or environmental services authority  
27 may delegate to one or more of its officers, agents or employees  
28 such powers and duties as it may deem proper.

29 (b) Each member of an incinerator or environmental services  
30 authority shall hold office for the term for which he was appointed  
31 and until his successor has been appointed and has qualified.

32 (c) No member, officer or employee of an incinerator or  
33 environmental services authority shall have or acquire any interest,  
34 direct or indirect, in the garbage disposal system in any property  
35 included or planned to be included in the garbage disposal system  
36 or in any contract or proposed contract for materials or services to  
37 be furnished to or used by the incinerator or environmental services  
38 authority, but neither the holding of any officer or employment in  
39 the government of any municipality or under any law of the State  
40 nor the owning of any property within the State shall be deemed a  
41 disqualification for membership in or employment by an incinerator  
42 or environmental services authority. A member of an incinerator or  
43 environmental services authority may be removed only by the  
44 governing body by which he was appointed and only for  
45 inefficiency or neglect of duty or misconduct in office and after he  
46 shall have been given a copy of the charges against him and, not



1 sooner than ten days thereafter, had opportunity in person or by  
2 counsel to be heard thereon by such governing body.

3 (d) An incinerator or environmental services authority may  
4 reimburse its members for necessary expenses incurred in the  
5 discharge of their duties. The ordinance or parallel ordinances for  
6 the creation of an incinerator or environmental services authority  
7 may provide that the members of the incinerator or environmental  
8 services authority may receive compensation for their services  
9 within an annual and other limitations to be stated in such ordinance  
10 or parallel ordinances, and in that event, each member may receive  
11 from the incinerator or environmental services authority such  
12 compensation for his services as the incinerator or environmental  
13 services authority may determine within the limitations stated in  
14 such ordinance or parallel ordinances. No member of any  
15 incinerator or environmental services authority shall receive any  
16 compensation for his services except as provided in this subsection.

17 (e) Every incinerator or environmental services authority, upon  
18 the first appointment of its members and thereafter on or after the  
19 first day of February in each year, shall annually elect from among  
20 its members a chairman and a vice-chairman who shall hold office,  
21 until the first day of February next ensuing and until their respective  
22 successors have been appointed and have qualified. Every  
23 incinerator or environmental services authority may also appoint  
24 and employ a secretary and such professional and technical advisers  
25 and experts and such other officers, agents and employees as it may  
26 require, and it shall determine their qualifications, duties and  
27 compensation.

28 (cf: P.L.1948, c.348, s.5)

29

30 6. Section 6 of P.L.1948, c.348 (C.40:66A-6) is amended to  
31 read as follows:

32 6. Every incinerator or environmental services authority is  
33 hereby authorized and directed, subject to the limitations of this act,  
34 to acquire, in its own name but for the local unit or units, by  
35 purchase, gift, condemnation or otherwise, and, notwithstanding the  
36 provisions of any charter, ordinance or resolution of any county or  
37 municipality to the contrary, to construct, maintain, operate and use  
38 such incinerators, treatment plants or works at such places, and such  
39 other plants, structures, property and conveyances, as in the  
40 judgment of the incinerator or environmental services authority will  
41 provide an effective and satisfactory method for promoting the  
42 purposes of the incinerator or environmental services authority.

43 (cf: P.L.1948, c.348, s.6)

44

45 7. Section 7 of P.L.1948, c.348 (C.40:66A-7) is amended to  
46 read as follows:

- 1       7. Every incinerator or environmental services authority shall  
2 be a public body politic and corporate constituting a political  
3 subdivision of the State established as an instrumentality exercising  
4 public and essential governmental functions to provide for the  
5 public health and welfare and shall have perpetual succession and  
6 have the following powers:
- 7       (1) To adopt and have a common seal and to alter the same at  
8 pleasure;
- 9       (2) To sue and to be sued;
- 10       (3) In the name of the incinerator or environmental services  
11 authority and on its behalf, to acquire, hold, use and dispose of its  
12 service charges and other revenues and other moneys;
- 13       (4) In the name of the incinerator or environmental services  
14 authority but for the local unit or unit, to acquire, hold, use and  
15 dispose of other personal property for the purposes of the  
16 incinerator or environmental services authority;
- 17       (5) In the name of the incinerator or environmental services  
18 authority but for the local unit or units, to acquire by purchase, gift,  
19 condemnation or otherwise, real property and easements therein,  
20 necessary or useful and convenient for the purposes of the  
21 incinerator or environmental services authority, and subject to  
22 mortgages, deeds of trust or other liens, or otherwise, and to hold  
23 and to use the same, and to dispose of property so acquired no  
24 longer necessary for the purposes of the incinerator or  
25 environmental services authority;
- 26       (6) To provide for and secure the payment of any bonds and the  
27 rights of the holders thereof, and to purchase, hold and dispose of  
28 any bonds;
- 29       (7) To accept gifts or grants of real or personal property, money,  
30 material, labor or supplies for the purpose of the incinerator or  
31 environmental services authority, and to make and perform such  
32 agreements and contracts as may be necessary or convenient in  
33 connection with the procuring, acceptance or disposition of such  
34 gifts or grants;
- 35       (8) To enter on any lands or premises for the purposes of the  
36 incinerator or environmental services authority;
- 37       (9) To make and enforce bylaws or rules and regulations for the  
38 management and regulation of its business and affairs and for the  
39 use, maintenance and operation of the garbage disposal system and  
40 any other of its properties, and to amend the same;
- 41       (10) To do and perform any acts and things authorized by this act  
42 under, through or by means of its own officers, agents and  
43 employees, or by contracts with any persons; and
- 44       (11) To enter into any and all contracts, execute any and all  
45 instruments, and do and perform any and all acts or things  
46 necessary, convenient or desirable for the purpose of the incinerator  
47 or environmental services authority or to carry out any power

1 expressly given in this act subject to P.L.1971, c. 198 "Local Public  
2 Contracts Law" (C. 40A:11-1 et seq.).  
3 (cf: P.L.1975, c.96, s.11)  
4

5 8. Section 1 of P.L.1952, c.304 (C.40:66A-7.1) is amended to  
6 read as follows:

7 1. It shall be the duty of every "incinerator or environmental  
8 services authority," created pursuant to the act to which this act is a  
9 supplement, to cause an annual audit of the accounts of the  
10 authority to be made and filed with the authority, and for this  
11 purpose the authority shall employ a registered municipal  
12 accountant of New Jersey or a certified public accountant of New  
13 Jersey. The audit shall be completed and filed with the authority  
14 within four months after the close of the fiscal year of the authority  
15 and a certified duplicate copy thereof shall be filed with the  
16 Director of the Division of Local Government Services in the  
17 Department of **【the Treasury】** Community Affairs within five days  
18 after the original report is filed with the authority.

19 (cf: P.L.1952, c.304, s.1)  
20

21 9. Section 2 of P.L.1952, c.304 (C.40:66A-7.2) is amended to  
22 read as follows:

23 2. Every such "incinerator or environmental services authority"  
24 shall file a certified copy of every bond resolution as finally passed  
25 with the Director of the Division of Local Government Services in  
26 the Department of **【the Treasury】** Community Affairs and in  
27 addition shall file a certified copy of all bond proceedings with the  
28 said director.

29 (cf: P.L.1952, c.304, s.2)  
30

31 10. Section 8 of P.L.1948, c.348 (C.40:66A-8) is amended to  
32 read as follows:

33 8. (a) Every incinerator or environmental services authority is  
34 hereby authorized to charge and collect rents, rates, fees or other  
35 charges (in this act sometimes referred to as "service charges") for  
36 the services and facilities of the garbage disposal system.

37 (b) Such rents, rates, fees and charges, being in the nature of use  
38 or service charges, shall as nearly as the incinerator or  
39 environmental services authority shall deem practicable and  
40 equitable be uniform throughout the district for the same type, class  
41 and amount of use or service of the garbage disposal system.

42 (c) The incinerator or environmental services authority shall  
43 prescribe and from time to time when necessary revise the schedule  
44 of such service charges, which in any event shall be such that the  
45 revenues of the incinerator or environmental services authority will  
46 at all times be adequate to pay all expenses of operation and  
47 maintenance of the garbage disposal system, including reserves,

1 insurance, extensions, and replacements, and to pay punctually the  
2 principal of and interest on any bonds and to maintain such reserves  
3 or sinking funds therefor as may be required by the terms of any  
4 contract of the incinerator or environmental services authority. Said  
5 schedule shall thus be prescribed and from time to time revised by  
6 the incinerator or environmental services authority after public  
7 hearing thereon which shall be held by the incinerator or  
8 environmental services authority at least 7 days after publication of  
9 notice of the proposed adjustment of the service charges and of the  
10 time and place of the public hearing in at least two newspapers of  
11 general circulation in the area serviced by the authority. The  
12 incinerator or environmental services authority shall provide  
13 evidence at the hearing showing that the proposed adjustment of the  
14 service charges is necessary and reasonable, and shall provide the  
15 opportunity for cross-examination of persons offering such  
16 evidence, and a transcript of the hearing shall be made and a copy  
17 thereof shall be available upon request to any interested party at a  
18 reasonable fee. The incinerator or environmental services authority  
19 shall likewise fix and determine the time or times when and the  
20 place or places where such service charges shall be due and payable  
21 and may require that such service charges shall be paid in advance  
22 for periods of not more than 1 year. A copy of such schedule of  
23 service charges in effect shall at all times be kept on file at the  
24 principal office of the incinerator or environmental services  
25 authority and shall at all reasonable times be open to public  
26 inspection.

27 (cf: P.L.1981, c.511, s.19)

28

29 11. Section '[11] 9' of P.L.1948, c.348 (C.40:66A-9) is  
30 amended to read as follows:

31 9. Any local unit shall have power, in the discretion of its  
32 governing body, to appropriate moneys for the purposes of the  
33 incinerator or environmental services authority, and to loan or  
34 donate such moneys to the incinerator or environmental services  
35 authority in such installments and upon such terms as may be  
36 agreed upon between such local unit and the incinerator or  
37 environmental services authority.

38 (cf: P.L.1948, c.348, s.9)

39

40 12. Section 10 of P.L.1948, c.348 (C.40:66A-10) is amended to  
41 read as follows:

42 10. Revenue bonds may be authorized to be issued under this act  
43 to provide funds to pay the cost of all or any part of the [garbage  
44 disposal] '[incinerator or environmental services] garbage  
45 disposal' system, or for the refunding of any bonds theretofore  
46 issued for such purposes. The purposes for which such revenue  
47 bonds may be issued shall include the payment to the local unit or

1 local units of the reasonable value of any properties or facilities  
2 deemed necessary or desirable for the purposes of the incinerator or  
3 environmental services authority, and such incinerator or  
4 environmental services authorities are hereby authorized to  
5 purchase and acquire such properties or facilities from such local  
6 unit or local units.

7 Such revenue bonds shall be authorized by resolution of the  
8 incinerator or environmental services authority which may be  
9 adopted at the same meeting at which it is introduced by a majority  
10 of all the members thereof then in office, shall take effect  
11 immediately and need not be published or posted. Such revenue  
12 bonds may bear interest at such rate or rates, not exceeding 6% per  
13 annum, may be in [1] one or more series, may bear such date or  
14 dates, may mature at such time or times not exceeding 30 years  
15 from their respective dates, may be payable in such medium of  
16 payment at such place or places, may carry such registration  
17 privileges, may be subject to such terms of redemption with or  
18 without premium, may be executed in such manner, may contain  
19 such terms, covenants and conditions, and may be in such form,  
20 either coupon or registered, as such resolution or subsequent  
21 resolution may provide. Such revenue bonds may be sold, all at one  
22 time or in blocks from time to time, at public or private sale, or if  
23 refunding bonds may also be delivered in exchange for the  
24 outstanding obligations to be refunded thereby, in such manner as  
25 the incinerator or environmental services authority shall determine  
26 by resolution, and at such price or prices, computed according to  
27 standard tables of bond values, as will yield to the purchasers or the  
28 holders of the obligations surrendered in exchange, income at a rate  
29 not exceeding 6% per annum to the maturity dates of the several  
30 bonds so sold or exchanged on the money paid or the principal  
31 amount of obligations surrendered therefor to the incinerator or  
32 environmental services authority.

33 (cf: P.L.1954, c.185, s.2)

34

35 13. Section 11 of P.L.1948, c.348 (C.40:66A-11) is amended to  
36 read as follows:

37 11. After sale of any revenue bonds pursuant to this act, the  
38 incinerator or environmental services authority shall have power to  
39 authorize the execution and issuance to the purchasers, pending the  
40 preparation of the definitive bonds, of interim certificates therefor  
41 or of temporary bonds or other temporary instruments exchangeable  
42 for the definitive bonds when prepared, executed and ready for  
43 delivery. The holders of such interim certificates, temporary bonds  
44 or other temporary instruments shall have all the rights and  
45 remedies which they would have as holders of the definitive bonds.

46 (cf: P.L.1948, c.348, s.11)

1       14. Section 12 of P.L.1948, c.348 (C.40:66A-12) is amended to  
2 read as follows:

3       12. Any incinerator or environmental services authority may  
4 cause to be published in a newspaper published in the district a  
5 notice stating the date of adoption of such bond resolution, the  
6 amount and maturities of the bonds authorized to be issued, and  
7 also stating that any action or proceeding of any kind or nature in  
8 any court questioning the validity of the creation and establishment  
9 of the incinerator or environmental services authority, or the  
10 validity or proper authorization of bonds provided for by the bond  
11 resolution, or the validity of any covenants, agreements or contracts  
12 provided for by the bond resolution shall be commenced within  
13 twenty days after the first publication of such notice. If no such  
14 action or proceeding shall be commenced or instituted within  
15 twenty days after the first publication of such notice, then all  
16 residents and taxpayers and owners of property in the district and  
17 users of the ~~garbage disposal~~ <sup>'[incinerator or environmental</sup>  
18 ~~services]~~ <sup>garbage disposal'</sup> system and all other persons  
19 whatsoever shall be forever barred and foreclosed from instituting  
20 or commencing any action or proceeding in any court, or from  
21 pleading any defense to any action or proceeding, questioning the  
22 validity of the creation and establishment of the incinerator or  
23 environmental services authority, the validity or proper  
24 authorization of such bonds, or the validity of any such covenants,  
25 agreements or contracts, and said bonds, covenants, agreements and  
26 contracts shall be conclusively deemed to be valid and binding  
27 obligations in accordance with their terms and tenor.  
28 (cf: P.L.1948, c.348, s.12)

29  
30       15. Section 14 of P.L.1948, c.348 (C.40:66A-14) is amended to  
31 read as follows:

32       14. Any bond resolution of an incinerator or environmental  
33 services authority providing for or authorizing the issuance of any  
34 bonds may contain provisions, and such incinerator or  
35 environmental services authority, in order to secure the payment of  
36 such bonds and in addition to its other powers, shall have power by  
37 provision in the bond resolution to covenant and agree with the  
38 several holders of such bonds, as to:

39       (1) The custody, security, use, expenditure or application of the  
40 proceeds of the bonds;

41       (2) The construction and completion, or replacement, of all or  
42 any part of the garbage disposal system;

43       (3) The use, regulation, operation, maintenance, insurance or  
44 disposition of all or any part of the garbage disposal system, or  
45 restrictions on the exercise of the powers of the incinerator or  
46 environmental services authority to dispose, or to limit or regulate  
47 the use, of all or any part of the garbage disposal system;

- 1 (4) Payment of the principal of or interest on the bonds, or any  
2 other obligations, and the sources and methods thereof, the rank or  
3 priority of any such bonds as obligations as to any lien or security,  
4 or the acceleration of the maturity of any such bonds or obligations.
- 5 (5) The use and disposition of any moneys of the incinerator or  
6 environmental services authority, including revenues (in this act  
7 sometimes called "system revenues" ) derived or to be derived from  
8 the operation of all or any part of the garbage disposal system,  
9 including any parts thereof theretofore constructed or acquired;
- 10 (6) Pledging, setting aside, depositing or trusteeing all or any  
11 part of the system revenues or other moneys of the incinerator or  
12 environmental services authority to secure the payment of the  
13 principal of or interest on the bonds or any other obligations, or the  
14 payment of expenses of operation or maintenance of the garbage  
15 disposal system, and the powers and duties of any trustee with  
16 regard thereto;
- 17 (7) The setting aside out of the system revenues or other moneys  
18 of the incinerator or environmental services authority of reserves  
19 and sinking funds, and the source, custody, security, regulation,  
20 application and disposition thereof;
- 21 (8) Determination or definition of the system revenues or of the  
22 expenses of operation and maintenance of the garbage disposal  
23 system;
- 24 (9) The rents, rates, fees, or other charges for the use of the  
25 services and facilities of the garbage disposal system, including any  
26 parts thereof theretofore constructed or acquired and any parts,  
27 extension, replacements or improvements thereof thereafter  
28 constructed or acquired, and the fixing, establishment, collection  
29 and enforcement of the same, the amount or amounts of system  
30 revenues to be produced thereby, and the disposition and  
31 application of the amounts charged or collected;
- 32 (10) The assumption or payment or discharge of any  
33 indebtedness, liens or other claims relating to any part of the  
34 garbage disposal system or any obligations having or which may  
35 have a lien on any part of the system revenue;
- 36 (11) Limitations on the issuance of additional bonds or any  
37 other obligations or on the incurrance of indebtedness of the  
38 incinerator or environmental services authority;
- 39 (12) Limitations on the powers of the incinerator or  
40 environmental services authority to construct, acquire or operate, or  
41 permit the construction, acquisition, or operation of, any plants,  
42 structures, facilities or properties which may compete or tend to  
43 compete with the garbage disposal system;
- 44 (13) Vesting in a trustee or trustees such property, rights,  
45 powers and duties in trust as the incinerator or environmental  
46 services authority may determine which may include any or all of  
47 the rights, powers and duties of the trustee appointed by the holders

1 of bonds pursuant to section seventeen of this act, and limiting or  
2 abrogating the right of such holders to appoint a trustee pursuant to  
3 section fifteen of this act or limiting the rights, duties and powers of  
4 such trustee;

5 (14) Payment of costs or expenses incident to the enforcement  
6 of the bonds or of the provision of the bond resolution or of any  
7 covenant or contract with the holders of bonds;

8 (15) The procedure, if any, by which the terms of any covenant  
9 or contract with, or duty to, the holders of bonds may be amended  
10 or abrogated, the amount of bonds the holders of which must  
11 consent thereto, and the manner in which such consent may be  
12 given or evidenced; or

13 (16) Any other matter or course of conduct which by recital in  
14 the bond resolution, is declared to further secure the payment of the  
15 principal of or interest on the bonds.

16 All such provisions of the bond resolution and all such covenants  
17 and agreements shall constitute valid and legally binding contracts  
18 between the incinerator or environmental services authority and the  
19 several holders of the bonds, regardless of the time of issuance of  
20 such bonds, and shall be enforceable by any such holder or holders  
21 by appropriate action or proceeding in any court of competent  
22 jurisdiction.

23 (cf: P.L.1953, c.37, s.232)

24

25 16. Section 15 of P.L.1948, c.348 (C.40:66A-15) is amended to  
26 read as follows:

27 15. In the event that there shall be a default in the payment of  
28 principal of or interest on any bonds after the same shall become  
29 due, whether at maturity or upon call for redemption, and such  
30 default shall continue for a period of thirty days, or in the event that  
31 the incinerator or environmental services authority shall fail or  
32 refuse to comply with the provisions of this act or shall fail or  
33 refuse to carry out and perform the terms of any contract with the  
34 holders of any of such bonds, and such failure or refusal shall  
35 continue for a period of thirty days after written notice to the  
36 incinerator <sup>1</sup>or environmental services<sup>1</sup> authority of its existence  
37 and nature, the holders of twenty-five per centum (25%) in  
38 aggregate principal amount of the bonds of such series then  
39 outstanding, by instruments or instrument filed in the office of the  
40 Secretary of State and proved and acknowledged in the same  
41 manner as a deed to be recorded, may appoint a trustee to represent  
42 the holders of the bonds of such series for the purposes in this  
43 section, and to have the powers provided in this section.

44 (a) Such trustee may and upon written request of the holders of  
45 twenty-five per centum (25%) in aggregate principal amount of the  
46 bonds of such series then outstanding shall, in his or its own name:



1 (1) By an action or proceeding in a court of competent  
2 jurisdiction, enforce all rights of the holders of such bonds,  
3 including the right to require the incinerator or environmental  
4 services authority to charge and collect service charges adequate to  
5 carry out any contract as to, or pledge of, system revenues, and to  
6 require the incinerator or environmental services authority to carry  
7 out and perform the terms of any contract with the holders of such  
8 bonds or its duties under this act;

9 (2) Bring an action upon all or any part of such bonds or interest  
10 coupons or claims appurtenant thereto;

11 (3) By an action require the incinerator or environmental  
12 services authority to account as if it were the trustee of an express  
13 trust for the holders of such bonds;

14 (4) By an action enjoin any acts or things which may be  
15 unlawful or in violation of the rights of the holders of such bonds;  
16 or

17 (5) Declare all such bonds due and payable, whether or not in  
18 advance of maturity, upon thirty days' prior notice in writing to the  
19 incinerator or environmental services authority and, if all defaults  
20 shall be made good, then with the consent of the holders of twenty-  
21 five per centum (25%) of the principal amount of such bonds then  
22 outstanding, annul such declaration and its consequences.

23 (b) Such trustee shall, in addition to the foregoing, have and  
24 possess all of the powers necessary or appropriate for the exercise  
25 of the functions specifically set forth herein or incident to the  
26 general representation of the holders of bonds of such series in the  
27 enforcement and protection of their rights.

28 (c) In any action or proceeding by such trustee, the fees, counsel  
29 fees and expenses of the trustee and of the receiver, if any,  
30 appointed pursuant to this act, may be allowed by the court as  
31 taxable costs and disbursements or otherwise, when so allowed,  
32 shall be a first charge upon any service charges and system  
33 revenues of the incinerator or environmental services authority  
34 pledged for the payment or security of bonds of such series.

35 (d) Such trustee, upon such default referred to in this section,  
36 whether or not all of the bonds of such series shall have been  
37 declared due and payable, shall be entitled as of right to the  
38 appointment of a receiver of the garbage disposal system, and such  
39 receiver may enter upon and take possession of all moneys and  
40 other property derived from or applicable to the acquisition,  
41 construction, operation, maintenance or reconstruction of the  
42 garbage disposal system and proceed with such acquisition,  
43 construction, operation, maintenance or reconstruction which the  
44 incinerator 'or environmental services' authority is under any  
45 obligation to do, and operate, maintain and reconstruct the garbage  
46 disposal system and fix, charge, collect, enforce and receive the  
47 service charges and all system revenues thereafter arising subject to

1 any pledge thereof or contract with the holders of such bonds  
2 relating thereto and perform the public duties and carry out the  
3 contracts and obligations of the incinerator or environmental  
4 services authority in the same manner as incinerator <sup>1</sup>or  
5 environmental services<sup>1</sup> authority itself might do and under the  
6 direction of the court.  
7 (cf: P.L.1953, c.37, s.233)

8  
9 17. Section 16 of P.L.1948, c.348 (C.40:66A-16) is amended to  
10 read as follows:

11 16. Neither the members of the incinerator or environmental  
12 services authority nor any person executing bonds issued pursuant  
13 to this act shall be liable personally on the bonds by reason of the  
14 issuance pursuant to this act shall not be in any way a debt or  
15 liability of the State, and bonds or other obligations issued by an  
16 incinerator or environmental services authority pursuant to this act  
17 shall not be in any way a debt or liability of the State or of any local  
18 unit or municipality.  
19 (cf: P.L.1948, c.348, s.16)

20  
21 18. Section 17 of P.L.1948, c.348 (C.40:66A-17) is amended to  
22 read as follows:

23 17. Every incinerator or environmental services authority is  
24 hereby empowered, in its own name but for the local unit or units,  
25 to acquire by purchase, gift, grant or devise and to take for public  
26 use real property, within or without the district, which may be  
27 deemed by the incinerator or environmental services authority  
28 necessary for its purposes. Such incinerator <sup>1</sup>or environmental  
29 services<sup>1</sup> authority is hereby empowered to acquire and take such  
30 real property by condemnation, in the manner provided by chapter  
31 one of Title 20, Eminent Domain, of the Revised Statutes (R.S.,  
32 section 20:1-1 et seq.) and, to that end, may invoke and exercise in  
33 the manner or mode of procedure prescribed in said chapter, either  
34 in its own name or in the name of any local unit or units, all of the  
35 powers of such local unit or units to acquire or take property for  
36 public use.  
37 (cf: P.L.1948, c.348, s.17)

38  
39 19. Section 18 of P.L.1948, c.348 (C.40:66A-18) is amended to  
40 read as follows:

41 18. (a) In the event that a service charge of any incinerator or  
42 environmental services authority with regard to any parcel of real  
43 property shall not be paid as and when due, interest shall accrue and  
44 be due to the incinerator or environmental services authority on the  
45 unpaid balance at the rate of one per centum (1%) per month until  
46 such service charge, and the interest thereon, shall be fully paid to  
47 the incinerator or environmental services authority.

1 (b) In the event that a service charge of any incinerator or  
2 environmental services authority with regard to any parcel of real  
3 property owned by any person, firm, corporation or association  
4 shall not be paid as and when due, the unpaid balance thereof and  
5 all interest accruing thereon shall be a lien on such parcel. Such  
6 lien shall be superior and paramount to the interest in such parcel of  
7 any owner, lessee, tenant, mortgagee or other person except the lien  
8 of State, county and municipal taxes and shall be on a parity with  
9 and deemed equal to the lien on such parcel of State, county and  
10 municipal taxes.

11 (c) In the event that a service charge of any incinerator or  
12 environmental services authority with regard to any parcel of real  
13 property shall not be paid as and when due, the incinerator or  
14 environmental services authority may, in its discretion, discontinue  
15 the furnishing of any of the services and facilities of said garbage  
16 disposal system until such service charge and any subsequent  
17 service charge with regard to such parcel and all interest accrued  
18 thereon shall be fully paid to the incinerator or environmental  
19 services authority.

20 (d) The collector or other officer of every municipality charged  
21 by law with the duty of enforcing municipal liens on real property  
22 shall enforce, with and as any other municipal lien on real property  
23 in such municipality, all service charges and the lien thereof and  
24 shall pay over to the incinerator or environmental services authority  
25 the sums or a pro rata share of the sums realized upon such  
26 enforcement or upon liquidation of any property acquired by the  
27 municipality by virtue of such enforcement.

28 (e) In the event that any service charge of an incinerator or  
29 environmental services authority shall not be paid as and when due,  
30 the unpaid balance thereof and all interest accrued thereon, together  
31 with attorneys' fees and costs, may be recovered by the incinerator  
32 or environmental services authority in a civil action, and any lien on  
33 real property for such service charge and interest accrued thereon  
34 may be foreclosed or otherwise enforced by the incinerator or  
35 environmental services authority by action or suit in equity as for  
36 the foreclosure of a mortgage on such real property.

37 (f) All rights and remedies granted by this act for the collection  
38 and enforcement of service charges shall be cumulative and  
39 concurrent.

40 (cf: P.L.1948, c.348, s.18)

41

42 20. Section 19 of P.L.1948, c.348 (C.40:66A-19) is amended to  
43 read as follows:

44 19. Any county, by resolution of its board of chosen freeholders,  
45 or any municipality, by ordinance of its governing body, or any  
46 other person is hereby empowered, without any referendum and  
47 without the consent of any board, officer or other agency of the

1 State, to sell, lease, lend, grant or convey to any incinerator or  
2 environmental services authority, or to permit any incinerator or  
3 environmental services authority **[in]** to use, maintain or operate as  
4 part of the garbage disposal system, any real or personal property  
5 owned by it, which may be necessary or useful and convenient for  
6 the purposes of the incinerator or environmental services authority  
7 and which may be accepted by the incinerator or environmental  
8 services authority. Any such sale, lease, loan, grant, conveyance or  
9 permit may be made with or without consideration and for a  
10 specified or an unlimited period of time and under any agreement  
11 and in any terms and conditions which may be approved by such  
12 county, municipality or other person and which may be agreed to by  
13 the incinerator or environmental services authority in conformity  
14 with its contracts with the holders of bonds, the incinerator or  
15 environmental services authority may enter into and perform any  
16 and all agreements for the assumption of principal or interest or  
17 both of indebtedness of such county, municipality or other person or  
18 of any mortgage or lien existing with respect to such property or for  
19 the operation and maintenance of such property as part of the  
20 garbage disposal system.  
21 (cf: P.L.1948, c.348, s.19)

22  
23 21. Section 20 of P.L.1948, c.348 (C.40:66A-20) is amended to  
24 read as follows:

25 20. Any incinerator or environmental services authority and any  
26 municipality within the district by ordinance of its governing body  
27 may enter into a contract or contracts providing for or relating to  
28 the collection, treatment and disposal of garbage and refuse  
29 originating in the district or in such municipality by means of the  
30 garbage disposal system, and the cost and expense of such  
31 collection, treatment and disposal. Such contract or contracts may  
32 provide for the payment to the incinerator or environmental services  
33 authority by such municipality annually or otherwise of such sum or  
34 sums of money, computed at fixed amounts or by a formula based  
35 on any factors or other matters described in subsection (b) of  
36 section 8 of this act or in any other manner, as said contract or  
37 contracts may provide, and the sum or sums so payable may include  
38 provision for all or any part or a share of the amounts necessary (1)  
39 to pay or provide for the expenses of operation and maintenance of  
40 the garbage disposal system, including without limitation insurance,  
41 extensions, betterments and replacements and the principal of and  
42 interest on any bonds, and (2) to provide for any deficits resulting  
43 from failure to receive sums payable to the incinerator or  
44 environmental services authority by such municipality, any other  
45 municipality, or any person, or from any other cause, and (3) to  
46 maintain such reserves or sinking funds for any of the foregoing as  
47 may be required by the terms of any contract of the incinerator or

1 environmental services authority or as may be deemed necessary or  
2 desirable by the incinerator or environmental services authority.  
3 Any such contract may provide that the sum or sums so payable to  
4 the incinerator or environmental services authority shall be in lieu  
5 of all or any part of the service charges which would otherwise be  
6 charged and collected by the incinerator or environmental services  
7 authority with regard to persons or real property within such  
8 municipality. Such contract or contracts may also contain  
9 provisions as to the financing and payment of expenses to be  
10 incurred by the incinerator or environmental services authority and  
11 determined by it to be necessary for its purposes prior to the placing  
12 in operation of the garbage disposal system and may provide for the  
13 payment by such municipality to the incinerator or environmental  
14 services authority for application to such expenses or indebtedness  
15 therefor such sum or sums of money, not in the aggregate exceeding  
16 an amount stated or otherwise limited in said contract or contracts  
17 plus interest thereon, as said contract or contracts may provide and  
18 as the governing body of said municipality shall, by virtue of its  
19 authorization of and entry into said contract or contracts, determine  
20 to be necessary for the purposes of the incinerator or environmental  
21 services authority. Any such contract may be made with or without  
22 consideration and for a specified or an unlimited time and on any  
23 terms and conditions which may be approved by such municipality  
24 and which may be agreed to by the incinerator or environmental  
25 services authority in conformity with its contracts with the holders  
26 of any bonds, and shall be valid whether or not an appropriation  
27 with respect thereto is made by such municipality prior to  
28 authorization or execution thereof. Subject to any such contracts  
29 with the holders of bonds, such municipality is hereby authorized  
30 and directed to do and perform any and all acts or things necessary,  
31 convenient or desirable to carry out and perform every such  
32 contract and to provide for the payment or discharge of any  
33 obligation thereunder in the same manner as other obligations of  
34 such municipality and, in accordance with any such contract, to  
35 waive, modify, suspend or reduce the service charges which would  
36 otherwise be charged and collected by the incinerator or  
37 environmental services authority with regard to persons or real  
38 property within such municipality. Nothing in this section,  
39 however, shall prevent the incinerator or environmental services  
40 authority from collecting additional fees and charges from the  
41 owners or occupants of all parcels of real estate served by it within  
42 such municipality if for any reason such additional fees or charges  
43 shall be necessary in order for the incinerator or environmental  
44 services authority to pay all operating expenses, debt service and  
45 other payments required pursuant to contracts with bondholders;  
46 and notwithstanding such contracts with such municipalities, the  
47 incinerator or environmental services authority shall at all times

1 have power and be obligated to collect sufficient additional fees and  
2 charges whenever necessary to pay all operating costs, debt service  
3 and all other payments required by contracts with bondholders.  
4 (cf: P.L.1954, c.185, s.1)

5  
6 22. Section 21 of P.L.1948, c.348 (C.40:66A-21) is amended to  
7 read as follows:

8 21. Each county, municipality and other public body shall  
9 promptly pay to any incinerator or environmental services authority  
10 all service charges which the incinerator or environmental services  
11 authority may charge to it, as owner or occupant of any real  
12 property and shall provide for the payment thereof in the same  
13 manner as other obligations of such county, municipality or public  
14 body.  
15 (cf: P.L.1948, c.348, s.21)

16  
17 23. Section 22 of P.L.1948, c.348 (C.40:66A-22) is amended to  
18 read as follows:

19 22. Neither the incinerator or environmental services authority  
20 nor any local unit shall have power to mortgage, pledge, encumber  
21 or otherwise dispose of any part of the garbage disposal system,  
22 except that the incinerator or environmental services authority may  
23 dispose of such part or parts thereof as may be no longer necessary  
24 for the purposes of the incinerator or environmental services  
25 authority. The provisions of this section shall be deemed to  
26 constitute a part of the contract with the holder of any bonds. All  
27 property of an incinerator or environmental services authority shall  
28 be exempt from levy and sale by virtue of an execution and no  
29 execution or other judicial process shall issue against the same nor  
30 shall any judgment against an incinerator or environmental services  
31 authority be a charge or lien upon its property; provided, that  
32 nothing herein contained shall apply to or limit the rights of the  
33 holder of any bonds to pursue any remedy for the enforcement of  
34 any pledge or lien given by an incinerator or environmental services  
35 authority on its system revenues.  
36 (cf: P.L.1948, c.348, s.22)

37  
38 24. Section 24 of P.L.1948, c.348 (C.40:66A-24) is amended to  
39 read as follows:

40 24. Every garbage disposal system and all other property of an  
41 incinerator or environmental services authority are hereby declared  
42 to be public property of a political subdivision of the State and  
43 devoted to an essential public and governmental function and  
44 purpose and shall be exempt from all taxes and special assessments  
45 of the State or any subdivision thereof. All bonds issued pursuant  
46 to this act are hereby declared to be issued by a political subdivision  
47 of this State and for an essential public and governmental purpose

1 and to be a public instrumentality, and such bonds, and the interest  
2 thereon and the income therefrom, and all service charges, funds,  
3 revenues and other moneys pledged or available to pay or secure the  
4 payment of such bonds, or interest thereon, shall at all times be  
5 exempt from taxation except for transfer, inheritance and estate  
6 taxes.

7 (cf: P.L.1948, c.348, s.24)

8

9 25. Section 25 of P.L.1948, c.348 (C.40:66A-25) is amended to  
10 read as follows:

11 25. The State of New Jersey does hereby pledge to and covenant  
12 and agree with the holders of any bonds issued pursuant to this act  
13 that the State will not authorize or permit the construction or  
14 maintenance of any incinerator or garbage disposal system which  
15 will be competitive with the garbage disposal system of the  
16 incinerator or environmental services authority, and will not limit or  
17 alter the rights hereby vested in the incinerator or environmental  
18 services authority to acquire, construct, maintain, reconstruct and  
19 operate its garbage disposal system, and to fix, establish, charge and  
20 collect its service charges and to fulfill the terms of any agreement  
21 made with the holders of such bonds or other obligations, and will  
22 not in any way impair the rights or remedies of such holders, and  
23 will not modify in any way the exemptions from taxation provided  
24 for in this act, until such bonds, together with interest thereon, with  
25 interest on any unpaid installments of interest, and all costs and  
26 expenses in connection with any action or proceeding by or on  
27 behalf of such holders, are fully met and discharged.

28 (cf: P.L.1948, c.348, s.25)

29

30 26. Section 26 of P.L.1948, c.348 (C.40:66A-26) is amended to  
31 read as follows:

32 26. All banks, bankers, trust companies, savings banks,  
33 investment companies and other persons carrying on a banking  
34 business are hereby authorized to give to any incinerator or  
35 environmental services authority a good and sufficient undertaking  
36 with such sureties as shall be approved by the incinerator or  
37 environmental services authority to the effect that such bank or  
38 banking institution as hereinbefore described shall faithfully keep  
39 and pay over to the order of or upon the warrant of the incinerator  
40 or environmental services authority or its authorized agent all such  
41 funds as may be deposited with it by the incinerator or  
42 environmental services authority and agreed interest thereon, at  
43 such times or upon such demands as may be agreed upon with the  
44 authority or, in lieu of such sureties, deposit with the incinerator or  
45 environmental services authority or its authorized agent or any  
46 trustee therefor or for the holders of any bonds, as collateral, such  
47 securities as the incinerator or environmental services authority may

1 approve; provided, such securities shall consist of obligations in  
2 which public officers and bodies of the State and its municipal  
3 subdivisions, savings institutions, including savings and loan  
4 associations, insurance companies and associations, executors,  
5 administrators, guardians, trustees and other fiduciaries in the State  
6 may properly and legally invest the funds within their control, in  
7 such principal amount, market value or other description as may be  
8 approved by the incinerator or environmental services authority.  
9 The deposits of the incinerator or environmental services authority  
10 may be evidenced by a depository collateral agreement in such form  
11 and upon such terms and conditions as may be agreed upon by the  
12 incinerator or environmental services authority and such bank or  
13 banking institution.

14 (cf: P.L.1948, c.348, s.26)

15

16 27. Section 27 of P.L.1948, c.348 (C.40:66A-27) is amended to  
17 read as follows:

18 27. After the creation of an incinerator or environmental  
19 services authority as provided herein, no municipality within the  
20 district shall have power to engage in, grant any license or permit  
21 for, or enter into any contract for, the collection, treatment and  
22 disposal of garbage and refuse; and no such municipality, or any  
23 person, firm, corporation or association shall engage in any  
24 activities within such municipality which would be competitive  
25 with the purposes of the incinerator or environmental services  
26 authority as provided in this act.

27 It is hereby determined and declared that it is necessary for the  
28 health and welfare of the inhabitants of every district within which  
29 an incinerator or environmental services authority is created that the  
30 facilities and services of such incinerator or environmental services  
31 authority shall be used by the owners or occupants of all lands,  
32 buildings and premises within such district, and the incinerator or  
33 environmental services authority may by resolution require the  
34 owners or occupants of all lands, buildings and premises therein to  
35 use the services and facilities of the incinerator or environmental  
36 services authority under such rules and regulations as the  
37 incinerator or environmental services authority shall fix and  
38 establish.

39 The provisions of this section shall not be construed, however, to  
40 affect or impair any contracts entered into prior to the creation of an  
41 incinerator or environmental services authority.

42 (cf: P.L.1948, c.348, s.27)

43

44 28. This act shall take effect immediately.



1  
2  
3  
4

---

Authorizes certain incinerator authorities to perform sanitation, public works, and environmental services.

**SENATE, No. 872**

**STATE OF NEW JERSEY**  
**215th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

**Sponsored by:**

**Senator SANDRA B. CUNNINGHAM**

**District 31 (Hudson)**

**SYNOPSIS**

Authorizes incinerator authorities to perform sanitation, public works, and environmental services.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



S872 CUNNINGHAM

2

1 AN ACT expanding the permissible scope of operation of incinerator  
2 authorities and amending P.L.1948, c.348.

3

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

6

7 1. Section 1 of P.L.1948, c.348 (C.40:66A-1) is amended to  
8 read as follows:

9 1. This act shall be known and may be cited as the "incinerator  
10 or environmental services authorities law."

11 (cf: P.L.1948, c.348, s.1)

12

13 2. Section 2 of P.L.1948, c.348 (C.40:66A-2) is amended to  
14 read as follows:

15 2. It is hereby declared to be in the public interest and to be the  
16 policy of the State to foster and promote by all reasonable means  
17 the health and welfare of the citizens thereof by the proper  
18 collection and disposal of garbage and other refuse matter, as well  
19 as by the performance of various other sanitation, public works and  
20 environmental services necessary to maintain a clean, healthy, and  
21 safe environment for all citizens.

22 (cf: P.L.1948, c.348, s.2)

23

24 3. Section 3 of P.L.1948, c.348 (C.40:66A-3) is amended to  
25 read as follows:

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

28 (1) "Municipality" shall mean any city of any class, any  
29 borough, village, town, township, or any other municipality other  
30 than a county or a school district;

31 (2) "Governing body" shall mean the commission, council,  
32 board or body, by whatever name it may be known, having charge  
33 of the finances of the municipality;

34 (3) "Person" shall mean any person, association, corporation,  
35 nation, State or any agency or subdivision thereof, municipality of  
36 the State or an incinerator authority;

37 (4) "Incinerator authority" or "environmental services authority"  
38 shall mean a public body created pursuant to section four of this act;

39 (5) Subject to the exceptions provided in the section four of this  
40 act, "district" shall mean the area within the territorial boundaries of  
41 the municipality or municipalities which created or joined in the  
42 creation of an incinerator or environmental services authority;

43 (6) "Local unit" shall mean any municipality which created or  
44 joined in the creation of an incinerator or environmental services  
45 authority;

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

Matter underlined thus is new matter.

S872 CUNNINGHAM

1 (7) "Garbage disposal system" shall mean the plants, structures  
2 and other real and personal property acquired, constructed or  
3 operated or to be acquired constructed or operated by an incinerator  
4 or environmental services authority, including incinerators or other  
5 plants for the treatment and disposal of garbage and refuse matter  
6 and all other real and personal and rights therein and appurtenances  
7 necessary or useful and convenient for the collection, treatment or  
8 disposal in a sanitary manner of garbage and refuse matter (but not  
9 including sewage).

10 (8) "Cost" shall mean, in addition to the usual connotations  
11 thereof, the cost of acquisition or construction of all or any part of a  
12 garbage disposal system of all or any property, rights, easements  
13 and franchises deemed by the incinerator or environmental services  
14 authority to be necessary or useful and convenient therefor,  
15 including reimbursements to the incinerator or environmental  
16 services authority or any municipality or other person of any  
17 moneys theretofore expended for the purposes of the incinerator or  
18 environmental services authority and including interest or discount  
19 on bonds to finance such cost, engineering and inspection costs and  
20 legal expenses, the cost of financial, professional and other advice,  
21 and the cost of issuance of any such bonds;

22 (9) "Real property" shall mean lands both within and without  
23 the State, and improvements thereof or thereon, or any rights or  
24 interests therein;

25 (10) "Construct" and "construction" shall connote and include  
26 acts of construction, reconstruction, replacement, extension,  
27 improvement and betterment of a garbage disposal system;

28 (11) "Garbage or refuse matter" shall mean any refuse matter,  
29 trash or garbage from residences, hotels, apartments or any other  
30 public or private building but shall not include water-carried wastes,  
31 industrial waste or the kinds of wastes usually collected, carried  
32 away and disposed of by sewerage system.

33 (12) "Ordinance" means a written act of the governing body of a  
34 municipality adopted and otherwise approved and published in the  
35 manner or mode of procedure prescribed for ordinances tending to  
36 obligate such municipality pecuniarily; **[and]**

37 (13) "Resolution" means a written act of the governing body of a  
38 local unit adopted and otherwise approved in the manner or mode of  
39 procedure prescribed for resolutions tending to obligate such local  
40 unit pecuniarily; and

41 (14) "Environmental services" shall mean any and all services  
42 relative to sanitation, recycling, park and other recreation area  
43 maintenance, demolition, repair or maintenance of unsafe,  
44 unsanitary, or unsound structures, automobile towing and impound,  
45 municipal vehicle maintenance and repair and services related  
46 thereto, street and road safety services, snow removal,  
47 environmental compliance and education, services necessary or

S872 CUNNINGHAM

1 appropriate for neighborhood beautification or environmental  
2 improvement, and any other service relative to maintaining a  
3 sanitary, safe, and healthy environment within a municipality.

4 (cf: P.L.1948, c.348, s. 3)

5

6 4. Section 4 of P.L.1948, c.348 (C.40:66A-4) is amended to  
7 read as follows:

8 4. (a) The governing body of any municipality may, by  
9 ordinance duly adopted, create a public body corporate and politic  
10 under the name and style of "the incinerator authority" with all or  
11 any significant part of the name of such municipality inserted. The  
12 governing body of any municipality may, by ordinance duly  
13 adopted, create a public body corporate and politic under the name  
14 and style of the "environmental services authority" with all or any  
15 significant part of the name of the municipality inserted. An  
16 incinerator or environmental services authority created pursuant to  
17 this section by a municipality other than a city of the first class shall  
18 consist of five members, and an incinerator or environmental  
19 services authority created pursuant to this section by a municipality  
20 which is a city of the first class shall consist of five or seven  
21 members, as determined by the governing body. Members of the  
22 incinerator or environmental services authority shall be appointed  
23 by resolution of the governing body as hereinafter in this section  
24 provided, and the authority shall constitute the incinerator or  
25 environmental services authority contemplated and provided for in  
26 this act and an agency and instrumentality of said municipality.  
27 After the taking effect of such ordinance and the filing of a certified  
28 copy thereof as in subsection (c) of this section provided, the  
29 members of the incinerator or environmental services authority  
30 shall be appointed. The members first appointed shall, by the  
31 resolution of appointment, be designated to serve for terms  
32 respectively expiring as follows: the terms of the first four members  
33 shall expire in turn on each of the first days of the first, second,  
34 third and fourth Februaries next ensuing after the date of their  
35 appointment, and the remaining members shall be designated to  
36 serve for terms expiring on the first day of the fifth February next  
37 ensuing after the date of their appointment. On or after the first day  
38 of January in each year after such first appointments, one person  
39 shall be appointed or reappointed as a member of the incinerator or  
40 environmental services authority to succeed each member whose  
41 term is expiring, and shall serve for a term commencing on the first  
42 day of February in such year and expiring on the first day of  
43 February in the fifth year after such year. In the event of a vacancy  
44 in the membership of the incinerator or environmental services  
45 authority occurring during an unexpired term of office, a person  
46 shall be appointed as a member of the incinerator or environmental  
47 services authority to serve for such unexpired term.

1 The governing body of a municipality which is a city of the first  
2 class may increase the membership of its incinerator or  
3 environmental services authority to seven members from five  
4 members. The two additional members shall be appointed to serve  
5 five-year terms, commencing on the February 1 next following their  
6 appointment and expiring on February 1 in the fifth year after their  
7 appointment.

8 (b) The governing bodies of any two or more municipalities,  
9 whether or not the areas of such municipalities comprise an integral  
10 body of territory, may, by parallel ordinances duly adopted by each  
11 of such governing bodies within any single calendar year, create a  
12 public body corporate and politic under the name and style of "the  
13 incinerator authority" with all or any significant part of the name of  
14 each such municipality or some identifying geographical phrase  
15 inserted. The governing bodies of any two or more municipalities,  
16 whether or not the areas of such municipalities comprise an integral  
17 body of territory, may, by parallel ordinances duly adopted by each  
18 of such governing bodies within any single calendar year, create a  
19 public body corporate and politic under the name and style of "the  
20 environmental services authority" with all or any significant part of  
21 the name of each such municipality or some identifying  
22 geographical phrase inserted. Said body shall consist of the  
23 members thereof, in an aggregate number determined as hereinafter  
24 in this subsection provided, who shall be appointed by resolution of  
25 the several governing bodies as hereinafter in this section provided,  
26 and it shall constitute the incinerator or environmental services  
27 authority contemplated and provided for in this act and an agency  
28 and instrumentality of the said municipalities. The number of  
29 members of the incinerator or environmental services authority to  
30 be appointed at any time for full terms of office by the governing  
31 body of any such municipality or municipalities, as the case may be,  
32 shall be as may be stated in said ordinances which shall be not less  
33 than one nor more than three. After the taking effect of the said  
34 ordinances of all such municipalities and after the filing of certified  
35 copies thereof as in subsection (c) of this section provided, the  
36 appropriate number of persons shall be appointed as members of the  
37 incinerator or environmental services authority by the governing  
38 body of each municipality. The members first appointed or to be  
39 first appointed shall serve for terms expiring on the first day of the  
40 fifth February next ensuing after the date of the first appointment of  
41 any member. On or after the first day of January in the year in  
42 which expires the terms of the said members first appointed and in  
43 every fifth year thereafter, the appropriate number of persons shall  
44 be appointed as members of the incinerator or environmental  
45 services authority by the governing body of each municipality, to  
46 serve for terms commencing on the first day of February in such  
47 year and expiring on the first day of February in the fifth year after

S872 CUNNINGHAM

1 such year. In the event of a vacancy in the membership of the  
2 incinerator or environmental services authority occurring during an  
3 unexpired term of office, a person shall be appointed as a member  
4 of the incinerator or environmental services authority to serve for  
5 such unexpired term by the governing body which made the original  
6 appointment for such unexpired term.

7 (c) A copy of each ordinance for the creation of an incinerator  
8 or environmental services authority adopted pursuant to this  
9 section, duly certified by the appropriate officer of the local unit,  
10 shall be filed in the office of the Secretary of State. Upon proof of  
11 such filing of a certified copy of the ordinance or of certified copies  
12 of the parallel ordinances for the creation of an incinerator or  
13 environmental services authority as aforesaid, the incinerator or  
14 environmental services authority therein referred to shall, in any  
15 suit, action or proceeding involving the validity or enforcement of,  
16 or relating to, any contract or obligation or act of the incinerator or  
17 environmental services authority, be conclusively deemed to have  
18 been lawfully and properly created and established and authorized  
19 to transact business and exercise its powers under this act. A copy  
20 of any such certified ordinance, duly certified by or on behalf of the  
21 Secretary of State, shall be admissible in evidence in any suit,  
22 action or proceeding.

23 (d) A copy of each resolution appointing any member of an  
24 incinerator or environmental services authority adopted pursuant to  
25 this section, duly certified by the appropriate officer of the local  
26 unit, shall be filed in the office of the Secretary of State. A copy of  
27 such certified resolution, duly certified by or on behalf of the  
28 Secretary of State, shall be admissible in evidence in any suit,  
29 action or proceeding and, except in a suit, action or proceeding  
30 directly questioning such appointment, shall be conclusive evidence  
31 of the due and proper appointment of the members named therein.

32 (e) No governing body which may create or join in the creation  
33 of any incinerator or environmental services authority pursuant to  
34 this section shall thereafter create or join in the creation of any  
35 other incinerator or environmental services authority. No governing  
36 of any municipality within a district shall create or join in the  
37 creation of any incinerator or environmental services authority  
38 except upon the written consent of the incinerator or environmental  
39 services authority and in accordance with the terms and conditions  
40 of such consent, and in the event such consent be given and an  
41 incinerator or environmental services authority be created pursuant  
42 thereto, the area within the territorial boundaries of such  
43 municipality shall not thereafter be part of the district.

44 (cf: P.L.1948, c.348, s.4)

45

46 5. Section 5 of P.L.1948, c.348 (C.40:66A-5) is amended to  
47 read as follows:

S872 CUNNINGHAM

1       5. (a) The powers of an incinerator or environmental services  
2 authority shall be vested in the members thereof in office from time  
3 to time. A majority of the entire authorized membership of the  
4 incinerator or environmental services authority shall constitute a  
5 quorum at any meeting thereof. Action may be taken and motions  
6 and resolutions adopted by the incinerator or environmental  
7 services authority at any meeting of the members thereof by vote of  
8 a majority of the members present, unless in any case the by-laws of  
9 the incinerator or environmental services authority shall require a  
10 large number. The incinerator or environmental services authority  
11 may delegate to one or more of its officers, agents or employees  
12 such powers and duties as it may deem proper.

13       (b) Each member of an incinerator or environmental services  
14 authority shall hold office for the term for which he was appointed  
15 and until his successor has been appointed and has qualified.

16       (c) No member, officer or employee of an incinerator or  
17 environmental services authority shall have or acquire any interest,  
18 direct or indirect, in the garbage disposal system in any property  
19 included or planned to be included in the garbage disposal system  
20 or in any contract or proposed contract for materials or services to  
21 be furnished to or used by the incinerator or environmental services  
22 authority, but neither the holding of any officer or employment in  
23 the government of any municipality or under any law of the State  
24 nor the owning of any property within the State shall be deemed a  
25 disqualification for membership in or employment by an incinerator  
26 or environmental services authority. A member of an incinerator or  
27 environmental services authority may be removed only by the  
28 governing body by which he was appointed and only for  
29 inefficiency or neglect of duty or misconduct in office and after he  
30 shall have been given a copy of the charges against him and, not  
31 sooner than ten days thereafter, had opportunity in person or by  
32 counsel to be heard thereon by such governing body.

33       (d) An incinerator or environmental services authority may  
34 reimburse its members for necessary expenses incurred in the  
35 discharge of their duties. The ordinance or parallel ordinances for  
36 the creation of an incinerator or environmental services authority  
37 may provide that the members of the incinerator or environmental  
38 services authority may receive compensation for their services  
39 within an annual and other limitations to be stated in such ordinance  
40 or parallel ordinances, and in that event, each member may receive  
41 from the incinerator or environmental services authority such  
42 compensation for his services as the incinerator or environmental  
43 services authority may determine within the limitations stated in  
44 such ordinance or parallel ordinances. No member of any  
45 incinerator or environmental services authority shall receive any  
46 compensation for his services except as provided in this subsection.



1 (e) Every incinerator or environmental services authority, upon  
2 the first appointment of its members and thereafter on or after the  
3 first day of February in each year, shall annually elect from among  
4 its members a chairman and a vice-chairman who shall hold office,  
5 until the first day of February next ensuing and until their respective  
6 successors have been appointed and have qualified. Every  
7 incinerator or environmental services authority may also appoint  
8 and employ a secretary and such professional and technical advisers  
9 and experts and such other officers, agents and employees as it may  
10 require, and it shall determine their qualifications, duties and  
11 compensation.

12 (cf: P.L.1948, c.348, s.5)

13

14 6. Section 6 of P.L.1948, c.348 (C.40:66A-6) is amended to  
15 read as follows:

16 6. Every incinerator or environmental services authority is  
17 hereby authorized and directed, subject to the limitations of this act,  
18 to acquire, in its own name but for the local unit or units, by  
19 purchase, gift, condemnation or otherwise, and, notwithstanding the  
20 provisions of any charter, ordinance or resolution of any county or  
21 municipality to the contrary, to construct, maintain, operate and use  
22 such incinerators, treatment plants or works at such places, and such  
23 other plants, structures, property and conveyances, as in the  
24 judgment of the incinerator or environmental services authority will  
25 provide an effective and satisfactory method for promoting the  
26 purposes of the incinerator or environmental services authority.

27 (cf: P.L.1948, c.348, s.6)

28

29 7. Section 7 of P.L.1948, c.348 (C.40:66A-7) is amended to  
30 read as follows:

31 7. Every incinerator or environmental services authority shall  
32 be a public body politic and corporate constituting a political  
33 subdivision of the State established as an instrumentality exercising  
34 public and essential governmental functions to provide for the  
35 public health and welfare and shall have perpetual succession and  
36 have the following powers:

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

39 (2) To sue and to be sued;

40 (3) In the name of the incinerator or environmental services  
41 authority and on its behalf, to acquire, hold, use and dispose of its  
42 service charges and other revenues and other moneys;

43 (4) In the name of the incinerator or environmental services  
44 authority but for the local unit or unit, to acquire, hold, use and  
45 dispose of other personal property for the purposes of the  
46 incinerator or environmental services authority;

S872 CUNNINGHAM

1 (5) In the name of the incinerator or environmental services  
2 authority but for the local unit or units, to acquire by purchase, gift,  
3 condemnation or otherwise, real property and easements therein,  
4 necessary or useful and convenient for the purposes of the  
5 incinerator or environmental services authority, and subject to  
6 mortgages, deeds of trust or other liens, or otherwise, and to hold  
7 and to use the same, and to dispose of property so acquired no  
8 longer necessary for the purposes of the incinerator or  
9 environmental services authority;

10 (6) To provide for and secure the payment of any bonds and the  
11 rights of the holders thereof, and to purchase, hold and dispose of  
12 any bonds;

13 (7) To accept gifts or grants of real or personal property, money,  
14 material, labor or supplies for the purpose of the incinerator or  
15 environmental services authority, and to make and perform such  
16 agreements and contracts as may be necessary or convenient in  
17 connection with the procuring, acceptance or disposition of such  
18 gifts or grants;

19 (8) To enter on any lands or premises for the purposes of the  
20 incinerator or environmental services authority;

21 (9) To make and enforce bylaws or rules and regulations for the  
22 management and regulation of its business and affairs and for the  
23 use, maintenance and operation of the garbage disposal system and  
24 any other of its properties, and to amend the same;

25 (10) To do and perform any acts and things authorized by this act  
26 under, through or by means of its own officers, agents and  
27 employees, or by contracts with any persons; and

28 (11) To enter into any and all contracts, execute any and all  
29 instruments, and do and perform any and all acts or things  
30 necessary, convenient or desirable for the purpose of the incinerator  
31 or environmental services authority or to carry out any power  
32 expressly given in this act subject to P.L.1971, c. 198 "Local Public  
33 Contracts Law" (C. 40A:11-1 et seq.).  
34 (cf: P.L.1975, c.96, s.11)

35  
36 8. Section 1 of P.L.1952, c.304 (C.40:66A-7.1) is amended to  
37 read as follows:

38 1. It shall be the duty of every "incinerator or environmental  
39 services authority," created pursuant to the act to which this act is a  
40 supplement, to cause an annual audit of the accounts of the  
41 authority to be made and filed with the authority, and for this  
42 purpose the authority shall employ a registered municipal  
43 accountant of New Jersey or a certified public accountant of New  
44 Jersey. The audit shall be completed and filed with the authority  
45 within four months after the close of the fiscal year of the authority  
46 and a certified duplicate copy thereof shall be filed with the  
47 Director of the Division of Local Government Services in the

1 Department of **the Treasury** Community Affairs within five days  
2 after the original report is filed with the authority.

3 (cf: P.L.1952, c.304, s.1)

4

5 9. Section 2 of P.L.1952, c.304 (C.40:66A-7.2) is amended to  
6 read as follows:

7 2. Every such "incinerator or environmental services authority"  
8 shall file a certified copy of every bond resolution as finally passed  
9 with the Director of the Division of Local Government Services in  
10 the Department of **the Treasury** Community Affairs and in  
11 addition shall file a certified copy of all bond proceedings with the  
12 said director.

13 (cf: P.L.1952, c.304, s.2)

14

15 10. Section 8 of P.L.1948, c.348 (C.40:66A-8) is amended to  
16 read as follows:

17 8. (a) Every incinerator or environmental services authority is  
18 hereby authorized to charge and collect rents, rates, fees or other  
19 charges (in this act sometimes referred to as "service charges") for  
20 the services and facilities of the garbage disposal system.

21 (b) Such rents, rates, fees and charges, being in the nature of use  
22 or service charges, shall as nearly as the incinerator or  
23 environmental services authority shall deem practicable and  
24 equitable be uniform throughout the district for the same type, class  
25 and amount of use or service of the garbage disposal system.

26 (c) The incinerator or environmental services authority shall  
27 prescribe and from time to time when necessary revise the schedule  
28 of such service charges, which in any event shall be such that the  
29 revenues of the incinerator or environmental services authority will  
30 at all times be adequate to pay all expenses of operation and  
31 maintenance of the garbage disposal system, including reserves,  
32 insurance, extensions, and replacements, and to pay punctually the  
33 principal of and interest on any bonds and to maintain such reserves  
34 or sinking funds therefor as may be required by the terms of any  
35 contract of the incinerator or environmental services authority. Said  
36 schedule shall thus be prescribed and from time to time revised by  
37 the incinerator or environmental services authority after public  
38 hearing thereon which shall be held by the incinerator or  
39 environmental services authority at least 7 days after publication of  
40 notice of the proposed adjustment of the service charges and of the  
41 time and place of the public hearing in at least two newspapers of  
42 general circulation in the area serviced by the authority. The  
43 incinerator or environmental services authority shall provide  
44 evidence at the hearing showing that the proposed adjustment of the  
45 service charges is necessary and reasonable, and shall provide the  
46 opportunity for cross-examination of persons offering such  
47 evidence, and a transcript of the hearing shall be made and a copy

1 thereof shall be available upon request to any interested party at a  
2 reasonable fee. The incinerator or environmental services authority  
3 shall likewise fix and determine the time or times when and the  
4 place or places where such service charges shall be due and payable  
5 and may require that such service charges shall be paid in advance  
6 for periods of not more than 1 year. A copy of such schedule of  
7 service charges in effect shall at all times be kept on file at the  
8 principal office of the incinerator or environmental services  
9 authority and shall at all reasonable times be open to public  
10 inspection.

11 (cf: P.L.1981, c.511, s.19)

12

13 11. Section 11 of P.L.1948, c.348 (C.40:66A-9) is amended to  
14 read as follows:

15 9. Any local unit shall have power, in the discretion of its  
16 governing body, to appropriate moneys for the purposes of the  
17 incinerator or environmental services authority, and to loan or  
18 donate such moneys to the incinerator or environmental services  
19 authority in such installments and upon such terms as may be  
20 agreed upon between such local unit and the incinerator or  
21 environmental services authority.

22 (cf: P.L.1948, c.348, s.9)

23

24 12. Section 10 of P.L.1948, c.348 (C.40:66A-10) is amended to  
25 read as follows:

26 10. Revenue bonds may be authorized to be issued under this act  
27 to provide funds to pay the cost of all or any part of the **[garbage**  
28 **disposal]** incinerator or environmental services system, or for the  
29 refunding of any bonds theretofore issued for such purposes. The  
30 purposes for which such revenue bonds may be issued shall include  
31 the payment to the local unit or local units of the reasonable value  
32 of any properties or facilities deemed necessary or desirable for the  
33 purposes of the incinerator or environmental services authority, and  
34 such incinerator or environmental services authorities are hereby  
35 authorized to purchase and acquire such properties or facilities from  
36 such local unit or local units.

37 Such revenue bonds shall be authorized by resolution of the  
38 incinerator or environmental services authority which may be  
39 adopted at the same meeting at which it is introduced by a majority  
40 of all the members thereof then in office, shall take effect  
41 immediately and need not be published or posted. Such revenue  
42 bonds may bear interest at such rate or rates, not exceeding 6% per  
43 annum, may be in **[1]** one or more series, may bear such date or  
44 dates, may mature at such time or times not exceeding 30 years  
45 from their respective dates, may be payable in such medium of  
46 payment at such place or places, may carry such registration  
47 privileges, may be subject to such terms of redemption with or

1 without premium, may be executed in such manner, may contain  
2 such terms, covenants and conditions, and may be in such form,  
3 either coupon or registered, as such resolution or subsequent  
4 resolution may provide. Such revenue bonds may be sold, all at one  
5 time or in blocks from time to time, at public or private sale, or if  
6 refunding bonds may also be delivered in exchange for the  
7 outstanding obligations to be refunded thereby, in such manner as  
8 the incinerator or environmental services authority shall determine  
9 by resolution, and at such price or prices, computed according to  
10 standard tables of bond values, as will yield to the purchasers or the  
11 holders of the obligations surrendered in exchange, income at a rate  
12 not exceeding 6% per annum to the maturity dates of the several  
13 bonds so sold or exchanged on the money paid or the principal  
14 amount of obligations surrendered therefor to the incinerator or  
15 environmental services authority.

16 (cf: P.L.1954, c.185, s.2)

17

18 13. Section 11 of P.L.1948, c.348 (C.40:66A-11) is amended to  
19 read as follows:

20 11. After sale of any revenue bonds pursuant to this act, the  
21 incinerator or environmental services authority shall have power to  
22 authorize the execution and issuance to the purchasers, pending the  
23 preparation of the definitive bonds, of interim certificates therefor  
24 or of temporary bonds or other temporary instruments exchangeable  
25 for the definitive bonds when prepared, executed and ready for  
26 delivery. The holders of such interim certificates, temporary bonds  
27 or other temporary instruments shall have all the rights and  
28 remedies which they would have as holders of the definitive bonds.

29 (cf: P.L.1948, c.348, s.11)

30

31 14. Section 12 of P.L.1948, c.348 (C.40:66A-12) is amended to  
32 read as follows:

33 12. Any incinerator or environmental services authority may  
34 cause to be published in a newspaper published in the district a  
35 notice stating the date of adoption of such bond resolution, the  
36 amount and maturities of the bonds authorized to be issued, and  
37 also stating that any action or proceeding of any kind or nature in  
38 any court questioning the validity of the creation and establishment  
39 of the incinerator or environmental services authority, or the  
40 validity or proper authorization of bonds provided for by the bond  
41 resolution, or the validity of any covenants, agreements or contracts  
42 provided for by the bond resolution shall be commenced within  
43 twenty days after the first publication of such notice. If no such  
44 action or proceeding shall be commenced or instituted within  
45 twenty days after the first publication of such notice, then all  
46 residents and taxpayers and owners of property in the district and  
47 users of the **【garbage disposal】** incinerator or environmental

1 services system and all other persons whatsoever shall be forever  
2 barred and foreclosed from instituting or commencing any action or  
3 proceeding in any court, or from pleading any defense to any action  
4 or proceeding, questioning the validity of the creation and  
5 establishment of the incinerator or environmental services authority,  
6 the validity or proper authorization of such bonds, or the validity of  
7 any such covenants, agreements or contracts, and said bonds,  
8 covenants, agreements and contracts shall be conclusively deemed  
9 to be valid and binding obligations in accordance with their terms  
10 and tenor.

11 (cf: P.L.1948, c.348, s.12)

12

13 15. Section 14 of P.L.1948, c.348 (C.40:66A-14) is amended to  
14 read as follows:

15 14. Any bond resolution of an incinerator or environmental  
16 services authority providing for or authorizing the issuance of any  
17 bonds may contain provisions, and such incinerator or  
18 environmental services authority, in order to secure the payment of  
19 such bonds and in addition to its other powers, shall have power by  
20 provision in the bond resolution to covenant and agree with the  
21 several holders of such bonds, as to:

22 (1) The custody, security, use, expenditure or application of the  
23 proceeds of the bonds;

24 (2) The construction and completion, or replacement, of all or  
25 any part of the garbage disposal system;

26 (3) The use, regulation, operation, maintenance, insurance or  
27 disposition of all or any part of the garbage disposal system, or  
28 restrictions on the exercise of the powers of the incinerator or  
29 environmental services authority to dispose, or to limit or regulate  
30 the use, of all or any part of the garbage disposal system;

31 (4) Payment of the principal of or interest on the bonds, or any  
32 other obligations, and the sources and methods thereof, the rank or  
33 priority of any such bonds as obligations as to any lien or security,  
34 or the acceleration of the maturity of any such bonds or obligations.

35 (5) The use and disposition of any moneys of the incinerator or  
36 environmental services authority, including revenues (in this act  
37 sometimes called "system revenues" ) derived or to be derived from  
38 the operation of all or any part of the garbage disposal system,  
39 including any parts thereof theretofore constructed or acquired;

40 (6) Pledging, setting aside, depositing or trusteeing all or any  
41 part of the system revenues or other moneys of the incinerator or  
42 environmental services authority to secure the payment of the  
43 principal of or interest on the bonds or any other obligations, or the  
44 payment of expenses of operation or maintenance of the garbage  
45 disposal system, and the powers and duties of any trustee with  
46 regard thereto;

- 1 (7) The setting aside out of the system revenues or other moneys  
2 of the incinerator or environmental services authority of reserves  
3 and sinking funds, and the source, custody, security, regulation,  
4 application and disposition thereof;
- 5 (8) Determination or definition of the system revenues or of the  
6 expenses of operation and maintenance of the garbage disposal  
7 system;
- 8 (9) The rents, rates, fees, or other charges for the use of the  
9 services and facilities of the garbage disposal system, including any  
10 parts thereof theretofore constructed or acquired and any parts,  
11 extension, replacements or improvements thereof thereafter  
12 constructed or acquired, and the fixing, establishment, collection  
13 and enforcement of the same, the amount or amounts of system  
14 revenues to be produced thereby, and the disposition and  
15 application of the amounts charged or collected;
- 16 (10) The assumption or payment or discharge of any  
17 indebtedness, liens or other claims relating to any part of the  
18 garbage disposal system or any obligations having or which may  
19 have a lien on any part of the system revenue;
- 20 (11) Limitations on the issuance of additional bonds or any  
21 other obligations or on the incurrence of indebtedness of the  
22 incinerator or environmental services authority;
- 23 (12) Limitations on the powers of the incinerator or  
24 environmental services authority to construct, acquire or operate, or  
25 permit the construction, acquisition, or operation of, any plants,  
26 structures, facilities or properties which may compete or tend to  
27 compete with the garbage disposal system;
- 28 (13) Vesting in a trustee or trustees such property, rights,  
29 powers and duties in trust as the incinerator or environmental  
30 services authority may determine which may include any or all of  
31 the rights, powers and duties of the trustee appointed by the holders  
32 of bonds pursuant to section seventeen of this act, and limiting or  
33 abrogating the right of such holders to appoint a trustee pursuant to  
34 section fifteen of this act or limiting the rights, duties and powers of  
35 such trustee;
- 36 (14) Payment of costs or expenses incident to the enforcement  
37 of the bonds or of the provision of the bond resolution or of any  
38 covenant or contract with the holders of bonds;
- 39 (15) The procedure, if any, by which the terms of any covenant  
40 or contract with, or duty to, the holders of bonds may be amended  
41 or abrogated, the amount of bonds the holders of which must  
42 consent thereto, and the manner in which such consent may be  
43 given or evidenced; or
- 44 (16) Any other matter or course of conduct which by recital in  
45 the bond resolution, is declared to further secure the payment of the  
46 principal of or interest on the bonds.

1 All such provisions of the bond resolution and all such covenants  
2 and agreements shall constitute valid and legally binding contracts  
3 between the incinerator or environmental services authority and the  
4 several holders of the bonds, regardless of the time of issuance of  
5 such bonds, and shall be enforceable by any such holder or holders  
6 by appropriate action or proceeding in any court of competent  
7 jurisdiction.

8 (cf: P.L.1953, c.37, s.232)

9

10 16. Section 15 of P.L.1948, c.348 (C.40:66A-15) is amended to  
11 read as follows:

12 15. In the event that there shall be a default in the payment of  
13 principal of or interest on any bonds after the same shall become  
14 due, whether at maturity or upon call for redemption, and such  
15 default shall continue for a period of thirty days, or in the event that  
16 the incinerator or environmental services authority shall fail or  
17 refuse to comply with the provisions of this act or shall fail or  
18 refuse to carry out and perform the terms of any contract with the  
19 holders of any of such bonds, and such failure or refusal shall  
20 continue for a period of thirty days after written notice to the  
21 incinerator authority of its existence and nature, the holders of  
22 twenty-five per centum (25%) in aggregate principal amount of the  
23 bonds of such series then outstanding, by instruments or instrument  
24 filed in the office of the Secretary of State and proved and  
25 acknowledged in the same manner as a deed to be recorded, may  
26 appoint a trustee to represent the holders of the bonds of such series  
27 for the purposes in this section, and to have the powers provided in  
28 this section.

29 (a) Such trustee may and upon written request of the holders of  
30 twenty-five per centum (25%) in aggregate principal amount of the  
31 bonds of such series then outstanding shall, in his or its own name:

32 (1) By an action or proceeding in a court of competent  
33 jurisdiction, enforce all rights of the holders of such bonds,  
34 including the right to require the incinerator or environmental  
35 services authority to charge and collect service charges adequate to  
36 carry out any contract as to, or pledge of, system revenues, and to  
37 require the incinerator or environmental services authority to carry  
38 out and perform the terms of any contract with the holders of such  
39 bonds or its duties under this act;

40 (2) Bring an action upon all or any part of such bonds or interest  
41 coupons or claims appurtenant thereto;

42 (3) By an action require the incinerator or environmental  
43 services authority to account as if it were the trustee of an express  
44 trust for the holders of such bonds;

45 (4) By an action enjoin any acts or things which may be  
46 unlawful or in violation of the rights of the holders of such bonds;

47 or



1 (5) Declare all such bonds due and payable, whether or not in  
2 advance of maturity, upon thirty days' prior notice in writing to the  
3 incinerator or environmental services authority and, if all defaults  
4 shall be made good, then with the consent of the holders of twenty-  
5 five per centum (25%) of the principal amount of such bonds then  
6 outstanding, annul such declaration and its consequences.

7 (b) Such trustee shall, in addition to the foregoing, have and  
8 possess all of the powers necessary or appropriate for the exercise  
9 of the functions specifically set forth herein or incident to the  
10 general representation of the holders of bonds of such series in the  
11 enforcement and protection of their rights.

12 (c) In any action or proceeding by such trustee, the fees, counsel  
13 fees and expenses of the trustee and of the receiver, if any,  
14 appointed pursuant to this act, may be allowed by the court as  
15 taxable costs and disbursements or otherwise, when so allowed,  
16 shall be a first charge upon any service charges and system  
17 revenues of the incinerator or environmental services authority  
18 pledged for the payment or security of bonds of such series.

19 (d) Such trustee, upon such default referred to in this section,  
20 whether or not all of the bonds of such series shall have been  
21 declared due and payable, shall be entitled as of right to the  
22 appointment of a receiver of the garbage disposal system, and such  
23 receiver may enter upon and take possession of all moneys and  
24 other property derived from or applicable to the acquisition,  
25 construction, operation, maintenance or reconstruction of the  
26 garbage disposal system and proceed with such acquisition,  
27 construction, operation, maintenance or reconstruction which the  
28 incinerator authority is under any obligation to do, and operate,  
29 maintain and reconstruct the garbage disposal system and fix,  
30 charge, collect, enforce and receive the service charges and all  
31 system revenues thereafter arising subject to any pledge thereof or  
32 contract with the holders of such bonds relating thereto and perform  
33 the public duties and carry out the contracts and obligations of the  
34 incinerator or environmental services authority in the same manner  
35 as the incinerator authority itself might do and under the direction  
36 of the court.

37 (cf: P.L.1953, c.37, s.233)

38

39 17. Section 16 of P.L.1948, c.348 (C.40:66A-16) is amended to  
40 read as follows:

41 16. Neither the members of the incinerator or environmental  
42 services authority nor any person executing bonds issued pursuant  
43 to this act shall be liable personally on the bonds by reason of the  
44 issuance pursuant to this act shall not be in any way a debt or  
45 liability of the State, and bonds or other obligations issued by an  
46 incinerator or environmental services authority pursuant to this act

1 shall not be in any way a debt or liability of the State or of any local  
2 unit or municipality.

3 (cf: P.L.1948, c.348, s.16)

4

5 18. Section 17 of P.L.1948, c.348 (C.40:66A-17) is amended to  
6 read as follows:

7 17. Every incinerator or environmental services authority is  
8 hereby empowered, in its own name but for the local unit or units,  
9 to acquire by purchase, gift, grant or devise and to take for public  
10 use real property, within or without the district, which may be  
11 deemed by the incinerator or environmental services authority  
12 necessary for its purposes. Such incinerator authority is hereby  
13 empowered to acquire and take such real property by condemnation,  
14 in the manner provided by chapter one of Title 20, Eminent  
15 Domain, of the Revised Statutes (R.S., section 20:1-1 et seq.) and,  
16 to that end, may invoke and exercise in the manner or mode of  
17 procedure prescribed in said chapter, either in its own name or in  
18 the name of any local unit or units, all of the powers of such local  
19 unit or units to acquire or take property for public use.

20 (cf: P.L.1948, c.348, s.17)

21

22 19. Section 18 of P.L.1948, c.348 (C.40:66A-18) is amended to  
23 read as follows:

24 18. (a) In the event that a service charge of any incinerator or  
25 environmental services authority with regard to any parcel of real  
26 property shall not be paid as and when due, interest shall accrue and  
27 be due to the incinerator or environmental services authority on the  
28 unpaid balance at the rate of one per centum (1%) per month until  
29 such service charge, and the interest thereon, shall be fully paid to  
30 the incinerator or environmental services authority.

31 (b) In the event that a service charge of any incinerator or  
32 environmental services authority with regard to any parcel of real  
33 property owned by any person, firm, corporation or association  
34 shall not be paid as and when due, the unpaid balance thereof and  
35 all interest accruing thereon shall be a lien on such parcel. Such  
36 lien shall be superior and paramount to the interest in such parcel of  
37 any owner, lessee, tenant, mortgagee or other person except the lien  
38 of State, county and municipal taxes and shall be on a parity with  
39 and deemed equal to the lien on such parcel of State, county and  
40 municipal taxes.

41 (c) In the event that a service charge of any incinerator or  
42 environmental services authority with regard to any parcel of real  
43 property shall not be paid as and when due, the incinerator or  
44 environmental services authority may, in its discretion, discontinue  
45 the furnishing of any of the services and facilities of said garbage  
46 disposal system until such service charge and any subsequent  
47 service charge with regard to such parcel and all interest accrued

1 thereon shall be fully paid to the incinerator or environmental  
2 services authority.

3 (d) The collector or other officer of every municipality charged  
4 by law with the duty of enforcing municipal liens on real property  
5 shall enforce, with and as any other municipal lien on real property  
6 in such municipality, all service charges and the lien thereof and  
7 shall pay over to the incinerator or environmental services authority  
8 the sums or a pro rata share of the sums realized upon such  
9 enforcement or upon liquidation of any property acquired by the  
10 municipality by virtue of such enforcement.

11 (e) In the event that any service charge of an incinerator or  
12 environmental services authority shall not be paid as and when due,  
13 the unpaid balance thereof and all interest accrued thereon, together  
14 with attorneys' fees and costs, may be recovered by the incinerator  
15 or environmental services authority in a civil action, and any lien on  
16 real property for such service charge and interest accrued thereon  
17 may be foreclosed or otherwise enforced by the incinerator or  
18 environmental services authority by action or suit in equity as for  
19 the foreclosure of a mortgage on such real property.

20 (f) All rights and remedies granted by this act for the collection  
21 and enforcement of service charges shall be cumulative and  
22 concurrent.

23 (cf: P.L.1948, c.348, s.18)

24

25 20. Section 19 of P.L.1948, c.348 (C.40:66A-19) is amended to  
26 read as follows:

27 19. Any county, by resolution of its board of chosen freeholders,  
28 or any municipality, by ordinance of its governing body, or any  
29 other person is hereby empowered, without any referendum and  
30 without the consent of any board, officer or other agency of the  
31 State, to sell, lease, lend, grant or convey to any incinerator or  
32 environmental services authority, or to permit any incinerator or  
33 environmental services authority **[in]** to use, maintain or operate as  
34 part of the garbage disposal system, any real or personal property  
35 owned by it, which may be necessary or useful and convenient for  
36 the purposes of the incinerator or environmental services authority  
37 and which may be accepted by the incinerator or environmental  
38 services authority. Any such sale, lease, loan, grant, conveyance or  
39 permit may be made with or without consideration and for a  
40 specified or an unlimited period of time and under any agreement  
41 and in any terms and conditions which may be approved by such  
42 county, municipality or other person and which may be agreed to by  
43 the incinerator or environmental services authority in conformity  
44 with its contracts with the holders of bonds, the incinerator or  
45 environmental services authority may enter into and perform any  
46 and all agreements for the assumption of principal or interest or  
47 both of indebtedness of such county, municipality or other person or

1 of any mortgage or lien existing with respect to such property or for  
2 the operation and maintenance of such property as part of the  
3 garbage disposal system.  
4 (cf: P.L.1948, c.348, s.19)

5  
6 21. Section 20 of P.L.1948, c.348 (C.40:66A-20) is amended to  
7 read as follows:

8 20. Any incinerator or environmental services authority and any  
9 municipality within the district by ordinance of its governing body  
10 may enter into a contract or contracts providing for or relating to  
11 the collection, treatment and disposal of garbage and refuse  
12 originating in the district or in such municipality by means of the  
13 garbage disposal system, and the cost and expense of such  
14 collection, treatment and disposal. Such contract or contracts may  
15 provide for the payment to the incinerator or environmental services  
16 authority by such municipality annually or otherwise of such sum or  
17 sums of money, computed at fixed amounts or by a formula based  
18 on any factors or other matters described in subsection (b) of  
19 section 8 of this act or in any other manner, as said contract or  
20 contracts may provide, and the sum or sums so payable may include  
21 provision for all or any part or a share of the amounts necessary (1)  
22 to pay or provide for the expenses of operation and maintenance of  
23 the garbage disposal system, including without limitation insurance,  
24 extensions, betterments and replacements and the principal of and  
25 interest on any bonds, and (2) to provide for any deficits resulting  
26 from failure to receive sums payable to the incinerator or  
27 environmental services authority by such municipality, any other  
28 municipality, or any person, or from any other cause, and (3) to  
29 maintain such reserves or sinking funds for any of the foregoing as  
30 may be required by the terms of any contract of the incinerator or  
31 environmental services authority or as may be deemed necessary or  
32 desirable by the incinerator or environmental services authority.  
33 Any such contract may provide that the sum or sums so payable to  
34 the incinerator or environmental services authority shall be in lieu  
35 of all or any part of the service charges which would otherwise be  
36 charged and collected by the incinerator or environmental services  
37 authority with regard to persons or real property within such  
38 municipality. Such contract or contracts may also contain  
39 provisions as to the financing and payment of expenses to be  
40 incurred by the incinerator or environmental services authority and  
41 determined by it to be necessary for its purposes prior to the placing  
42 in operation of the garbage disposal system and may provide for the  
43 payment by such municipality to the incinerator or environmental  
44 services authority for application to such expenses or indebtedness  
45 therefor such sum or sums of money, not in the aggregate exceeding  
46 an amount stated or otherwise limited in said contract or contracts  
47 plus interest thereon, as said contract or contracts may provide and

1 as the governing body of said municipality shall, by virtue of its  
2 authorization of and entry into said contract or contracts, determine  
3 to be necessary for the purposes of the incinerator or environmental  
4 services authority. Any such contract may be made with or without  
5 consideration and for a specified or an unlimited time and on any  
6 terms and conditions which may be approved by such municipality  
7 and which may be agreed to by the incinerator or environmental  
8 services authority in conformity with its contracts with the holders  
9 of any bonds, and shall be valid whether or not an appropriation  
10 with respect thereto is made by such municipality prior to  
11 authorization or execution thereof. Subject to any such contracts  
12 with the holders of bonds, such municipality is hereby authorized  
13 and directed to do and perform any and all acts or things necessary,  
14 convenient or desirable to carry out and perform every such  
15 contract and to provide for the payment or discharge of any  
16 obligation thereunder in the same manner as other obligations of  
17 such municipality and, in accordance with any such contract, to  
18 waive, modify, suspend or reduce the service charges which would  
19 otherwise be charged and collected by the incinerator or  
20 environmental services authority with regard to persons or real  
21 property within such municipality. Nothing in this section,  
22 however, shall prevent the incinerator or environmental services  
23 authority from collecting additional fees and charges from the  
24 owners or occupants of all parcels of real estate served by it within  
25 such municipality if for any reason such additional fees or charges  
26 shall be necessary in order for the incinerator or environmental  
27 services authority to pay all operating expenses, debt service and  
28 other payments required pursuant to contracts with bondholders;  
29 and notwithstanding such contracts with such municipalities, the  
30 incinerator or environmental services authority shall at all times  
31 have power and be obligated to collect sufficient additional fees and  
32 charges whenever necessary to pay all operating costs, debt service  
33 and all other payments required by contracts with bondholders.  
34 (cf: P.L.1954, c.185, s.1)

35  
36 22. Section 21 of P.L.1948, c.348 (C.40:66A-21) is amended to  
37 read as follows:

38 21. Each county, municipality and other public body shall  
39 promptly pay to any incinerator or environmental services authority  
40 all service charges which the incinerator or environmental services  
41 authority may charge to it, as owner or occupant of any real  
42 property and shall provide for the payment thereof in the same  
43 manner as other obligations of such county, municipality or public  
44 body.  
45 (cf: P.L.1948, c.348, s.21)

1       23. Section 22 of P.L.1948, c.348 (C.40:66A-22) is amended to  
2 read as follows:

3       22. Neither the incinerator or environmental services authority  
4 nor any local unit shall have power to mortgage, pledge, encumber  
5 or otherwise dispose of any part of the garbage disposal system,  
6 except that the incinerator or environmental services authority may  
7 dispose of such part or parts thereof as may be no longer necessary  
8 for the purposes of the incinerator or environmental services  
9 authority. The provisions of this section shall be deemed to  
10 constitute a part of the contract with the holder of any bonds. All  
11 property of an incinerator or environmental services authority shall  
12 be exempt from levy and sale by virtue of an execution and no  
13 execution or other judicial process shall issue against the same nor  
14 shall any judgment against an incinerator or environmental services  
15 authority be a charge or lien upon its property; provided, that  
16 nothing herein contained shall apply to or limit the rights of the  
17 holder of any bonds to pursue any remedy for the enforcement of  
18 any pledge or lien given by an incinerator or environmental services  
19 authority on its system revenues.

20 (cf: P.L.1948, c.348, s.22)

21

22       24. Section 24 of P.L.1948, c.348 (C.40:66A-24) is amended to  
23 read as follows:

24       24. Every garbage disposal system and all other property of an  
25 incinerator or environmental services authority are hereby declared  
26 to be public property of a political subdivision of the State and  
27 devoted to an essential public and governmental function and  
28 purpose and shall be exempt from all taxes and special assessments  
29 of the State or any subdivision thereof. All bonds issued pursuant  
30 to this act are hereby declared to be issued by a political subdivision  
31 of this State and for an essential public and governmental purpose  
32 and to be a public instrumentality, and such bonds, and the interest  
33 thereon and the income therefrom, and all service charges, funds,  
34 revenues and other moneys pledged or available to pay or secure the  
35 payment of such bonds, or interest thereon, shall at all times be  
36 exempt from taxation except for transfer, inheritance and estate  
37 taxes.

38 (cf: P.L.1948, c.348, s.24)

39

40       25. Section 25 of P.L.1948, c.348 (C.40:66A-25) is amended to  
41 read as follows:

42       25. The State of New Jersey does hereby pledge to and covenant  
43 and agree with the holders of any bonds issued pursuant to this act  
44 that the State will not authorize or permit the construction or  
45 maintenance of any incinerator or garbage disposal system which  
46 will be competitive with the garbage disposal system of the  
47 incinerator or environmental services authority, and will not limit or

1 alter the rights hereby vested in the incinerator or environmental  
2 services authority to acquire, construct, maintain, reconstruct and  
3 operate its garbage disposal system, and to fix, establish, charge and  
4 collect its service charges and to fulfill the terms of any agreement  
5 made with the holders of such bonds or other obligations, and will  
6 not in any way impair the rights or remedies of such holders, and  
7 will not modify in any way the exemptions from taxation provided  
8 for in this act, until such bonds, together with interest thereon, with  
9 interest on any unpaid installments of interest, and all costs and  
10 expenses in connection with any action or proceeding by or on  
11 behalf of such holders, are fully met and discharged.  
12 (cf: P.L.1948, c.348, s.25)

13

14 26. Section 26 of P.L.1948, c.348 (C.40:66A-26) is amended to  
15 read as follows:

16 26. All banks, bankers, trust companies, savings banks,  
17 investment companies and other persons carrying on a banking  
18 business are hereby authorized to give to any incinerator or  
19 environmental services authority a good and sufficient undertaking  
20 with such sureties as shall be approved by the incinerator or  
21 environmental services authority to the effect that such bank or  
22 banking institution as hereinbefore described shall faithfully keep  
23 and pay over to the order of or upon the warrant of the incinerator  
24 or environmental services authority or its authorized agent all such  
25 funds as may be deposited with it by the incinerator or  
26 environmental services authority and agreed interest thereon, at  
27 such times or upon such demands as may be agreed upon with the  
28 authority or, in lieu of such sureties, deposit with the incinerator or  
29 environmental services authority or its authorized agent or any  
30 trustee therefor or for the holders of any bonds, as collateral, such  
31 securities as the incinerator or environmental services authority may  
32 approve; provided, such securities shall consist of obligations in  
33 which public officers and bodies of the State and its municipal  
34 subdivisions, savings institutions, including savings and loan  
35 associations, insurance companies and associations, executors,  
36 administrators, guardians, trustees and other fiduciaries in the State  
37 may properly and legally invest the funds within their control, in  
38 such principal amount, market value or other description as may be  
39 approved by the incinerator or environmental services authority.  
40 The deposits of the incinerator or environmental services authority  
41 may be evidenced by a depository collateral agreement in such form  
42 and upon such terms and conditions as may be agreed upon by the  
43 incinerator or environmental services authority and such bank or  
44 banking institution.  
45 (cf: P.L.1948, c.348, s.26)

1       27. Section 27 of P.L.1948, c.348 (C.40:66A-27) is amended to  
2 read as follows:

3       27. After the creation of an incinerator or environmental  
4 services authority as provided herein, no municipality within the  
5 district shall have power to engage in, grant any license or permit  
6 for, or enter into any contract for, the collection, treatment and  
7 disposal of garbage and refuse; and no such municipality, or any  
8 person, firm, corporation or association shall engage in any  
9 activities within such municipality which would be competitive  
10 with the purposes of the incinerator or environmental services  
11 authority as provided in this act.

12       It is hereby determined and declared that it is necessary for the  
13 health and welfare of the inhabitants of every district within which  
14 an incinerator or environmental services authority is created that the  
15 facilities and services of such incinerator or environmental services  
16 authority shall be used by the owners or occupants of all lands,  
17 buildings and premises within such district, and the incinerator or  
18 environmental services authority may by resolution require the  
19 owners or occupants of all lands, buildings and premises therein to  
20 use the services and facilities of the incinerator or environmental  
21 services authority under such rules and regulations as the  
22 incinerator or environmental services authority shall fix and  
23 establish.

24       The provisions of this section shall not be construed, however, to  
25 affect or impair any contracts entered into prior to the creation of an  
26 incinerator or environmental services authority.

27 (cf: P.L.1948, c.348, s.27)

28

29       28. This act shall take effect immediately.

30

31

32

#### STATEMENT

33

34       This bill would authorize incinerator authorities to perform  
35 sanitation, public works and environmental services. At this time,  
36 there is only one incinerator authority in operation – the Jersey City  
37 Incinerator Authority. Under current law, the activities of  
38 incinerator authorities are limited to the operation of a garbage  
39 disposal system. However, apparently, the Jersey City Incinerator  
40 Authority functions not only as a collector and disposer of  
41 residential waste, but has many other responsibilities: monitoring  
42 compliance and enforcing city ordinances relative to solid waste  
43 disposal and recycling; educating various city groups and entities  
44 about environmental issues; property maintenance through the  
45 coordination of cleanups of city and privately owned vacant lots;  
46 providing container rentals for the disposal of construction and  
47 demolition debris; securing and storing impounded vehicles;



**S872 CUNNINGHAM**

24

1 providing mechanical street sweeping; removing graffiti; providing  
2 snow plowing and removal services; and providing demolition  
3 services for unsafe buildings.

4 This bill would authorize the creation of “environmental services  
5 authorities” as an alternative to incinerator authorities.  
6 Environmental services, as defined in the bill would mean any and  
7 all services relative to sanitation, recycling, park and other  
8 recreation area maintenance, demolition, repair or maintenance of  
9 unsafe, unsanitary or unsound structures, automobile towing and  
10 impound, municipal vehicle maintenance and repair and services  
11 related thereto, street and road safety services, snow removal,  
12 environmental compliance and education, services necessary or  
13 appropriate for neighborhood beautification or environmental  
14 improvement, and any other service relative to maintaining a  
15 sanitary, safe, and healthy environment within a municipality.

# SENATE, No. 872

## STATE OF NEW JERSEY 215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

**Sponsored by:**

**Senator SANDRA B. CUNNINGHAM**

**District 31 (Hudson)**

**SYNOPSIS**

Authorizes incinerator authorities to perform sanitation, public works, and environmental services.

**CURRENT VERSION OF TEXT**

As reported by the Senate Community and Urban Affairs Committee with technical review.



S872 CUNNINGHAM

2

1 AN ACT expanding the permissible scope of operation of incinerator  
2 authorities and amending P.L.1948, c.348.

3

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

6

7 1. Section 1 of P.L.1948, c.348 (C.40:66A-1) is amended to  
8 read as follows:

9 1. This act shall be known and may be cited as the "incinerator  
10 or environmental services authorities law."

11 (cf: P.L.1948, c.348, s.1)

12

13 2. Section 2 of P.L.1948, c.348 (C.40:66A-2) is amended to  
14 read as follows:

15 2. It is hereby declared to be in the public interest and to be the  
16 policy of the State to foster and promote by all reasonable means  
17 the health and welfare of the citizens thereof by the proper  
18 collection and disposal of garbage and other refuse matter, as well  
19 as by the performance of various other sanitation, public works and  
20 environmental services necessary to maintain a clean, healthy, and  
21 safe environment for all citizens.

22 (cf: P.L.1948, c.348, s.2)

23

24 3. Section 3 of P.L.1948, c.348 (C.40:66A-3) is amended to  
25 read as follows:

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

28 (1) "Municipality" shall mean any city of any class, any  
29 borough, village, town, township, or any other municipality other  
30 than a county or a school district;

31 (2) "Governing body" shall mean the commission, council,  
32 board or body, by whatever name it may be known, having charge  
33 of the finances of the municipality;

34 (3) "Person" shall mean any person, association, corporation,  
35 nation, State or any agency or subdivision thereof, municipality of  
36 the State or an incinerator authority;

37 (4) "Incinerator authority" or "environmental services authority"  
38 shall mean a public body created pursuant to section four of this act;

39 (5) Subject to the exceptions provided in the section four of this  
40 act, "district" shall mean the area within the territorial boundaries of  
41 the municipality or municipalities which created or joined in the  
42 creation of an incinerator or environmental services authority;

43 (6) "Local unit" shall mean any municipality which created or  
44 joined in the creation of an incinerator or environmental services  
45 authority;

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

Matter underlined thus is new matter.

S872 CUNNINGHAM

1 (7) "Garbage disposal system" shall mean the plants, structures  
2 and other real and personal property acquired, constructed or  
3 operated or to be acquired constructed or operated by an incinerator  
4 or environmental services authority, including incinerators or other  
5 plants for the treatment and disposal of garbage and refuse matter  
6 and all other real and personal and rights therein and appurtenances  
7 necessary or useful and convenient for the collection, treatment or  
8 disposal in a sanitary manner of garbage and refuse matter (but not  
9 including sewage).

10 (8) "Cost" shall mean, in addition to the usual connotations  
11 thereof, the cost of acquisition or construction of all or any part of a  
12 garbage disposal system of all or any property, rights, easements  
13 and franchises deemed by the incinerator or environmental services  
14 authority to be necessary or useful and convenient therefor,  
15 including reimbursements to the incinerator or environmental  
16 services authority or any municipality or other person of any  
17 moneys theretofore expended for the purposes of the incinerator or  
18 environmental services authority and including interest or discount  
19 on bonds to finance such cost, engineering and inspection costs and  
20 legal expenses, the cost of financial, professional and other advice,  
21 and the cost of issuance of any such bonds;

22 (9) "Real property" shall mean lands both within and without  
23 the State, and improvements thereof or thereon, or any rights or  
24 interests therein;

25 (10) "Construct" and "construction" shall connote and include  
26 acts of construction, reconstruction, replacement, extension,  
27 improvement and betterment of a garbage disposal system;

28 (11) "Garbage or refuse matter" shall mean any refuse matter,  
29 trash or garbage from residences, hotels, apartments or any other  
30 public or private building but shall not include water-carried wastes,  
31 industrial waste or the kinds of wastes usually collected, carried  
32 away and disposed of by sewerage system.

33 (12) "Ordinance" means a written act of the governing body of a  
34 municipality adopted and otherwise approved and published in the  
35 manner or mode of procedure prescribed for ordinances tending to  
36 obligate such municipality pecuniarily; **[and]**

37 (13) "Resolution" means a written act of the governing body of a  
38 local unit adopted and otherwise approved in the manner or mode of  
39 procedure prescribed for resolutions tending to obligate such local  
40 unit pecuniarily; and

41 (14) "Environmental services" shall mean any and all services  
42 relative to sanitation, recycling, park and other recreation area  
43 maintenance, demolition, repair or maintenance of unsafe,  
44 unsanitary, or unsound structures, automobile towing and impound,  
45 municipal vehicle maintenance and repair and services related  
46 thereto, street and road safety services, snow removal,  
47 environmental compliance and education, services necessary or

S872 CUNNINGHAM

1 appropriate for neighborhood beautification or environmental  
2 improvement, and any other service relative to maintaining a  
3 sanitary, safe, and healthy environment within a municipality.

4 (cf: P.L.1948, c.348, s. 3)

5

6 4. Section 4 of P.L.1948, c.348 (C.40:66A-4) is amended to  
7 read as follows:

8 4. (a) The governing body of any municipality may, by  
9 ordinance duly adopted, create a public body corporate and politic  
10 under the name and style of "the incinerator authority" with all or  
11 any significant part of the name of such municipality inserted. The  
12 governing body of any municipality may, by ordinance duly  
13 adopted, create a public body corporate and politic under the name  
14 and style of the "environmental services authority" with all or any  
15 significant part of the name of the municipality inserted. An  
16 incinerator or environmental services authority created pursuant to  
17 this section by a municipality other than a city of the first class shall  
18 consist of five members, and an incinerator or environmental  
19 services authority created pursuant to this section by a municipality  
20 which is a city of the first class shall consist of five or seven  
21 members, as determined by the governing body. Members of the  
22 incinerator or environmental services authority shall be appointed  
23 by resolution of the governing body as hereinafter in this section  
24 provided, and the authority shall constitute the incinerator or  
25 environmental services authority contemplated and provided for in  
26 this act and an agency and instrumentality of said municipality.  
27 After the taking effect of such ordinance and the filing of a certified  
28 copy thereof as in subsection (c) of this section provided, the  
29 members of the incinerator or environmental services authority  
30 shall be appointed. The members first appointed shall, by the  
31 resolution of appointment, be designated to serve for terms  
32 respectively expiring as follows: the terms of the first four members  
33 shall expire in turn on each of the first days of the first, second,  
34 third and fourth Februaries next ensuing after the date of their  
35 appointment, and the remaining members shall be designated to  
36 serve for terms expiring on the first day of the fifth February next  
37 ensuing after the date of their appointment. On or after the first day  
38 of January in each year after such first appointments, one person  
39 shall be appointed or reappointed as a member of the incinerator or  
40 environmental services authority to succeed each member whose  
41 term is expiring, and shall serve for a term commencing on the first  
42 day of February in such year and expiring on the first day of  
43 February in the fifth year after such year. In the event of a vacancy  
44 in the membership of the incinerator or environmental services  
45 authority occurring during an unexpired term of office, a person  
46 shall be appointed as a member of the incinerator or environmental  
47 services authority to serve for such unexpired term.

1 The governing body of a municipality which is a city of the first  
2 class may increase the membership of its incinerator or  
3 environmental services authority to seven members from five  
4 members. The two additional members shall be appointed to serve  
5 five-year terms, commencing on the February 1 next following their  
6 appointment and expiring on February 1 in the fifth year after their  
7 appointment.

8 (b) The governing bodies of any two or more municipalities,  
9 whether or not the areas of such municipalities comprise an integral  
10 body of territory, may, by parallel ordinances duly adopted by each  
11 of such governing bodies within any single calendar year, create a  
12 public body corporate and politic under the name and style of "the  
13 incinerator authority" with all or any significant part of the name of  
14 each such municipality or some identifying geographical phrase  
15 inserted. The governing bodies of any two or more municipalities,  
16 whether or not the areas of such municipalities comprise an integral  
17 body of territory, may, by parallel ordinances duly adopted by each  
18 of such governing bodies within any single calendar year, create a  
19 public body corporate and politic under the name and style of "the  
20 environmental services authority" with all or any significant part of  
21 the name of each such municipality or some identifying  
22 geographical phrase inserted. Said body shall consist of the  
23 members thereof, in an aggregate number determined as hereinafter  
24 in this subsection provided, who shall be appointed by resolution of  
25 the several governing bodies as hereinafter in this section provided,  
26 and it shall constitute the incinerator or environmental services  
27 authority contemplated and provided for in this act and an agency  
28 and instrumentality of the said municipalities. The number of  
29 members of the incinerator or environmental services authority to  
30 be appointed at any time for full terms of office by the governing  
31 body of any such municipality or municipalities, as the case may be,  
32 shall be as may be stated in said ordinances which shall be not less  
33 than one nor more than three. After the taking effect of the said  
34 ordinances of all such municipalities and after the filing of certified  
35 copies thereof as in subsection (c) of this section provided, the  
36 appropriate number of persons shall be appointed as members of the  
37 incinerator or environmental services authority by the governing  
38 body of each municipality. The members first appointed or to be  
39 first appointed shall serve for terms expiring on the first day of the  
40 fifth February next ensuing after the date of the first appointment of  
41 any member. On or after the first day of January in the year in  
42 which expires the terms of the said members first appointed and in  
43 every fifth year thereafter, the appropriate number of persons shall  
44 be appointed as members of the incinerator or environmental  
45 services authority by the governing body of each municipality, to  
46 serve for terms commencing on the first day of February in such  
47 year and expiring on the first day of February in the fifth year after

1 such year. In the event of a vacancy in the membership of the  
2 incinerator or environmental services authority occurring during an  
3 unexpired term of office, a person shall be appointed as a member  
4 of the incinerator or environmental services authority to serve for  
5 such unexpired term by the governing body which made the original  
6 appointment for such unexpired term.

7 (c) A copy of each ordinance for the creation of an incinerator  
8 or environmental services authority adopted pursuant to this  
9 section, duly certified by the appropriate officer of the local unit,  
10 shall be filed in the office of the Secretary of State. Upon proof of  
11 such filing of a certified copy of the ordinance or of certified copies  
12 of the parallel ordinances for the creation of an incinerator or  
13 environmental services authority as aforesaid, the incinerator or  
14 environmental services authority therein referred to shall, in any  
15 suit, action or proceeding involving the validity or enforcement of,  
16 or relating to, any contract or obligation or act of the incinerator or  
17 environmental services authority, be conclusively deemed to have  
18 been lawfully and properly created and established and authorized  
19 to transact business and exercise its powers under this act. A copy  
20 of any such certified ordinance, duly certified by or on behalf of the  
21 Secretary of State, shall be admissible in evidence in any suit,  
22 action or proceeding.

23 (d) A copy of each resolution appointing any member of an  
24 incinerator or environmental services authority adopted pursuant to  
25 this section, duly certified by the appropriate officer of the local  
26 unit, shall be filed in the office of the Secretary of State. A copy of  
27 such certified resolution, duly certified by or on behalf of the  
28 Secretary of State, shall be admissible in evidence in any suit,  
29 action or proceeding and, except in a suit, action or proceeding  
30 directly questioning such appointment, shall be conclusive evidence  
31 of the due and proper appointment of the members named therein.

32 (e) No governing body which may create or join in the creation  
33 of any incinerator or environmental services authority pursuant to  
34 this section shall thereafter create or join in the creation of any  
35 other incinerator or environmental services authority. No governing  
36 of any municipality within a district shall create or join in the  
37 creation of any incinerator or environmental services authority  
38 except upon the written consent of the incinerator or environmental  
39 services authority and in accordance with the terms and conditions  
40 of such consent, and in the event such consent be given and an  
41 incinerator or environmental services authority be created pursuant  
42 thereto, the area within the territorial boundaries of such  
43 municipality shall not thereafter be part of the district.

44 (cf: P.L.1948, c.348, s.4)

45

46 5. Section 5 of P.L.1948, c.348 (C.40:66A-5) is amended to  
47 read as follows:

S872 CUNNINGHAM

1       5. (a) The powers of an incinerator or environmental services  
2 authority shall be vested in the members thereof in office from time  
3 to time. A majority of the entire authorized membership of the  
4 incinerator or environmental services authority shall constitute a  
5 quorum at any meeting thereof. Action may be taken and motions  
6 and resolutions adopted by the incinerator or environmental  
7 services authority at any meeting of the members thereof by vote of  
8 a majority of the members present, unless in any case the by-laws of  
9 the incinerator or environmental services authority shall require a  
10 large number. The incinerator or environmental services authority  
11 may delegate to one or more of its officers, agents or employees  
12 such powers and duties as it may deem proper.

13       (b) Each member of an incinerator or environmental services  
14 authority shall hold office for the term for which he was appointed  
15 and until his successor has been appointed and has qualified.

16       (c) No member, officer or employee of an incinerator or  
17 environmental services authority shall have or acquire any interest,  
18 direct or indirect, in the garbage disposal system in any property  
19 included or planned to be included in the garbage disposal system  
20 or in any contract or proposed contract for materials or services to  
21 be furnished to or used by the incinerator or environmental services  
22 authority, but neither the holding of any officer or employment in  
23 the government of any municipality or under any law of the State  
24 nor the owning of any property within the State shall be deemed a  
25 disqualification for membership in or employment by an incinerator  
26 or environmental services authority. A member of an incinerator or  
27 environmental services authority may be removed only by the  
28 governing body by which he was appointed and only for  
29 inefficiency or neglect of duty or misconduct in office and after he  
30 shall have been given a copy of the charges against him and, not  
31 sooner than ten days thereafter, had opportunity in person or by  
32 counsel to be heard thereon by such governing body.

33       (d) An incinerator or environmental services authority may  
34 reimburse its members for necessary expenses incurred in the  
35 discharge of their duties. The ordinance or parallel ordinances for  
36 the creation of an incinerator or environmental services authority  
37 may provide that the members of the incinerator or environmental  
38 services authority may receive compensation for their services  
39 within an annual and other limitations to be stated in such ordinance  
40 or parallel ordinances, and in that event, each member may receive  
41 from the incinerator or environmental services authority such  
42 compensation for his services as the incinerator or environmental  
43 services authority may determine within the limitations stated in  
44 such ordinance or parallel ordinances. No member of any  
45 incinerator or environmental services authority shall receive any  
46 compensation for his services except as provided in this subsection.



1 (e) Every incinerator or environmental services authority, upon  
2 the first appointment of its members and thereafter on or after the  
3 first day of February in each year, shall annually elect from among  
4 its members a chairman and a vice-chairman who shall hold office,  
5 until the first day of February next ensuing and until their respective  
6 successors have been appointed and have qualified. Every  
7 incinerator or environmental services authority may also appoint  
8 and employ a secretary and such professional and technical advisers  
9 and experts and such other officers, agents and employees as it may  
10 require, and it shall determine their qualifications, duties and  
11 compensation.

12 (cf: P.L.1948, c.348, s.5)

13

14 6. Section 6 of P.L.1948, c.348 (C.40:66A-6) is amended to  
15 read as follows:

16 6. Every incinerator or environmental services authority is  
17 hereby authorized and directed, subject to the limitations of this act,  
18 to acquire, in its own name but for the local unit or units, by  
19 purchase, gift, condemnation or otherwise, and, notwithstanding the  
20 provisions of any charter, ordinance or resolution of any county or  
21 municipality to the contrary, to construct, maintain, operate and use  
22 such incinerators, treatment plants or works at such places, and such  
23 other plants, structures, property and conveyances, as in the  
24 judgment of the incinerator or environmental services authority will  
25 provide an effective and satisfactory method for promoting the  
26 purposes of the incinerator or environmental services authority.

27 (cf: P.L.1948, c.348, s.6)

28

29 7. Section 7 of P.L.1948, c.348 (C.40:66A-7) is amended to  
30 read as follows:

31 7. Every incinerator or environmental services authority shall  
32 be a public body politic and corporate constituting a political  
33 subdivision of the State established as an instrumentality exercising  
34 public and essential governmental functions to provide for the  
35 public health and welfare and shall have perpetual succession and  
36 have the following powers:

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

39 (2) To sue and to be sued;

40 (3) In the name of the incinerator or environmental services  
41 authority and on its behalf, to acquire, hold, use and dispose of its  
42 service charges and other revenues and other moneys;

43 (4) In the name of the incinerator or environmental services  
44 authority but for the local unit or unit, to acquire, hold, use and  
45 dispose of other personal property for the purposes of the  
46 incinerator or environmental services authority;

1 (5) In the name of the incinerator or environmental services  
2 authority but for the local unit or units, to acquire by purchase, gift,  
3 condemnation or otherwise, real property and easements therein,  
4 necessary or useful and convenient for the purposes of the  
5 incinerator or environmental services authority, and subject to  
6 mortgages, deeds of trust or other liens, or otherwise, and to hold  
7 and to use the same, and to dispose of property so acquired no  
8 longer necessary for the purposes of the incinerator or  
9 environmental services authority;

10 (6) To provide for and secure the payment of any bonds and the  
11 rights of the holders thereof, and to purchase, hold and dispose of  
12 any bonds;

13 (7) To accept gifts or grants of real or personal property, money,  
14 material, labor or supplies for the purpose of the incinerator or  
15 environmental services authority, and to make and perform such  
16 agreements and contracts as may be necessary or convenient in  
17 connection with the procuring, acceptance or disposition of such  
18 gifts or grants;

19 (8) To enter on any lands or premises for the purposes of the  
20 incinerator or environmental services authority;

21 (9) To make and enforce bylaws or rules and regulations for the  
22 management and regulation of its business and affairs and for the  
23 use, maintenance and operation of the garbage disposal system and  
24 any other of its properties, and to amend the same;

25 (10) To do and perform any acts and things authorized by this act  
26 under, through or by means of its own officers, agents and  
27 employees, or by contracts with any persons; and

28 (11) To enter into any and all contracts, execute any and all  
29 instruments, and do and perform any and all acts or things  
30 necessary, convenient or desirable for the purpose of the incinerator  
31 or environmental services authority or to carry out any power  
32 expressly given in this act subject to P.L.1971, c. 198 "Local Public  
33 Contracts Law" (C. 40A:11-1 et seq.).  
34 (cf: P.L.1975, c.96, s.11)  
35

36 8. Section 1 of P.L.1952, c.304 (C.40:66A-7.1) is amended to  
37 read as follows:

38 1. It shall be the duty of every "incinerator or environmental  
39 services authority," created pursuant to the act to which this act is a  
40 supplement, to cause an annual audit of the accounts of the  
41 authority to be made and filed with the authority, and for this  
42 purpose the authority shall employ a registered municipal  
43 accountant of New Jersey or a certified public accountant of New  
44 Jersey. The audit shall be completed and filed with the authority  
45 within four months after the close of the fiscal year of the authority  
46 and a certified duplicate copy thereof shall be filed with the  
47 Director of the Division of Local Government Services in the

1 Department of **【the Treasury】** Community Affairs within five days  
2 after the original report is filed with the authority.

3 (cf: P.L.1952, c.304, s.1)

4

5 9. Section 2 of P.L.1952, c.304 (C.40:66A-7.2) is amended to  
6 read as follows:

7 2. Every such "incinerator or environmental services authority"  
8 shall file a certified copy of every bond resolution as finally passed  
9 with the Director of the Division of Local Government Services in  
10 the Department of **【the Treasury】** Community Affairs and in  
11 addition shall file a certified copy of all bond proceedings with the  
12 said director.

13 (cf: P.L.1952, c.304, s.2)

14

15 10. Section 8 of P.L.1948, c.348 (C.40:66A-8) is amended to  
16 read as follows:

17 8. (a) Every incinerator or environmental services authority is  
18 hereby authorized to charge and collect rents, rates, fees or other  
19 charges (in this act sometimes referred to as "service charges") for  
20 the services and facilities of the garbage disposal system.

21 (b) Such rents, rates, fees and charges, being in the nature of use  
22 or service charges, shall as nearly as the incinerator or  
23 environmental services authority shall deem practicable and  
24 equitable be uniform throughout the district for the same type, class  
25 and amount of use or service of the garbage disposal system.

26 (c) The incinerator or environmental services authority shall  
27 prescribe and from time to time when necessary revise the schedule  
28 of such service charges, which in any event shall be such that the  
29 revenues of the incinerator or environmental services authority will  
30 at all times be adequate to pay all expenses of operation and  
31 maintenance of the garbage disposal system, including reserves,  
32 insurance, extensions, and replacements, and to pay punctually the  
33 principal of and interest on any bonds and to maintain such reserves  
34 or sinking funds therefor as may be required by the terms of any  
35 contract of the incinerator or environmental services authority. Said  
36 schedule shall thus be prescribed and from time to time revised by  
37 the incinerator or environmental services authority after public  
38 hearing thereon which shall be held by the incinerator or  
39 environmental services authority at least 7 days after publication of  
40 notice of the proposed adjustment of the service charges and of the  
41 time and place of the public hearing in at least two newspapers of  
42 general circulation in the area serviced by the authority. The  
43 incinerator or environmental services authority shall provide  
44 evidence at the hearing showing that the proposed adjustment of the  
45 service charges is necessary and reasonable, and shall provide the  
46 opportunity for cross-examination of persons offering such  
47 evidence, and a transcript of the hearing shall be made and a copy

1 thereof shall be available upon request to any interested party at a  
2 reasonable fee. The incinerator or environmental services authority  
3 shall likewise fix and determine the time or times when and the  
4 place or places where such service charges shall be due and payable  
5 and may require that such service charges shall be paid in advance  
6 for periods of not more than 1 year. A copy of such schedule of  
7 service charges in effect shall at all times be kept on file at the  
8 principal office of the incinerator or environmental services  
9 authority and shall at all reasonable times be open to public  
10 inspection.

11 (cf: P.L.1981, c.511, s.19)

12

13 11. Section 11 of P.L.1948, c.348 (C.40:66A-9) is amended to  
14 read as follows:

15 9. Any local unit shall have power, in the discretion of its  
16 governing body, to appropriate moneys for the purposes of the  
17 incinerator or environmental services authority, and to loan or  
18 donate such moneys to the incinerator or environmental services  
19 authority in such installments and upon such terms as may be  
20 agreed upon between such local unit and the incinerator or  
21 environmental services authority.

22 (cf: P.L.1948, c.348, s.9)

23

24 12. Section 10 of P.L.1948, c.348 (C.40:66A-10) is amended to  
25 read as follows:

26 10. Revenue bonds may be authorized to be issued under this act  
27 to provide funds to pay the cost of all or any part of the **【garbage**  
28 **disposal】** incinerator or environmental services system, or for the  
29 refunding of any bonds theretofore issued for such purposes. The  
30 purposes for which such revenue bonds may be issued shall include  
31 the payment to the local unit or local units of the reasonable value  
32 of any properties or facilities deemed necessary or desirable for the  
33 purposes of the incinerator or environmental services authority, and  
34 such incinerator or environmental services authorities are hereby  
35 authorized to purchase and acquire such properties or facilities from  
36 such local unit or local units.

37 Such revenue bonds shall be authorized by resolution of the  
38 incinerator or environmental services authority which may be  
39 adopted at the same meeting at which it is introduced by a majority  
40 of all the members thereof then in office, shall take effect  
41 immediately and need not be published or posted. Such revenue  
42 bonds may bear interest at such rate or rates, not exceeding 6% per  
43 annum, may be in **【1】** one or more series, may bear such date or  
44 dates, may mature at such time or times not exceeding 30 years  
45 from their respective dates, may be payable in such medium of  
46 payment at such place or places, may carry such registration  
47 privileges, may be subject to such terms of redemption with or

1 without premium, may be executed in such manner, may contain  
2 such terms, covenants and conditions, and may be in such form,  
3 either coupon or registered, as such resolution or subsequent  
4 resolution may provide. Such revenue bonds may be sold, all at one  
5 time or in blocks from time to time, at public or private sale, or if  
6 refunding bonds may also be delivered in exchange for the  
7 outstanding obligations to be refunded thereby, in such manner as  
8 the incinerator or environmental services authority shall determine  
9 by resolution, and at such price or prices, computed according to  
10 standard tables of bond values, as will yield to the purchasers or the  
11 holders of the obligations surrendered in exchange, income at a rate  
12 not exceeding 6% per annum to the maturity dates of the several  
13 bonds so sold or exchanged on the money paid or the principal  
14 amount of obligations surrendered therefor to the incinerator or  
15 environmental services authority.

16 (cf: P.L.1954, c.185, s.2)

17

18 13. Section 11 of P.L.1948, c.348 (C.40:66A-11) is amended to  
19 read as follows:

20 11. After sale of any revenue bonds pursuant to this act, the  
21 incinerator or environmental services authority shall have power to  
22 authorize the execution and issuance to the purchasers, pending the  
23 preparation of the definitive bonds, of interim certificates therefor  
24 or of temporary bonds or other temporary instruments exchangeable  
25 for the definitive bonds when prepared, executed and ready for  
26 delivery. The holders of such interim certificates, temporary bonds  
27 or other temporary instruments shall have all the rights and  
28 remedies which they would have as holders of the definitive bonds.

29 (cf: P.L.1948, c.348, s.11)

30

31 14. Section 12 of P.L.1948, c.348 (C.40:66A-12) is amended to  
32 read as follows:

33 12. Any incinerator or environmental services authority may  
34 cause to be published in a newspaper published in the district a  
35 notice stating the date of adoption of such bond resolution, the  
36 amount and maturities of the bonds authorized to be issued, and  
37 also stating that any action or proceeding of any kind or nature in  
38 any court questioning the validity of the creation and establishment  
39 of the incinerator or environmental services authority, or the  
40 validity or proper authorization of bonds provided for by the bond  
41 resolution, or the validity of any covenants, agreements or contracts  
42 provided for by the bond resolution shall be commenced within  
43 twenty days after the first publication of such notice. If no such  
44 action or proceeding shall be commenced or instituted within  
45 twenty days after the first publication of such notice, then all  
46 residents and taxpayers and owners of property in the district and  
47 users of the **【garbage disposal】** incinerator or environmental

1 services system and all other persons whatsoever shall be forever  
2 barred and foreclosed from instituting or commencing any action or  
3 proceeding in any court, or from pleading any defense to any action  
4 or proceeding, questioning the validity of the creation and  
5 establishment of the incinerator or environmental services authority,  
6 the validity or proper authorization of such bonds, or the validity of  
7 any such covenants, agreements or contracts, and said bonds,  
8 covenants, agreements and contracts shall be conclusively deemed  
9 to be valid and binding obligations in accordance with their terms  
10 and tenor.

11 (cf: P.L.1948, c.348, s.12)

12

13 15. Section 14 of P.L.1948, c.348 (C.40:66A-14) is amended to  
14 read as follows:

15 14. Any bond resolution of an incinerator or environmental  
16 services authority providing for or authorizing the issuance of any  
17 bonds may contain provisions, and such incinerator or  
18 environmental services authority, in order to secure the payment of  
19 such bonds and in addition to its other powers, shall have power by  
20 provision in the bond resolution to covenant and agree with the  
21 several holders of such bonds, as to:

22 (1) The custody, security, use, expenditure or application of the  
23 proceeds of the bonds;

24 (2) The construction and completion, or replacement, of all or  
25 any part of the garbage disposal system;

26 (3) The use, regulation, operation, maintenance, insurance or  
27 disposition of all or any part of the garbage disposal system, or  
28 restrictions on the exercise of the powers of the incinerator or  
29 environmental services authority to dispose, or to limit or regulate  
30 the use, of all or any part of the garbage disposal system;

31 (4) Payment of the principal of or interest on the bonds, or any  
32 other obligations, and the sources and methods thereof, the rank or  
33 priority of any such bonds as obligations as to any lien or security,  
34 or the acceleration of the maturity of any such bonds or obligations.

35 (5) The use and disposition of any moneys of the incinerator or  
36 environmental services authority, including revenues (in this act  
37 sometimes called "system revenues" ) derived or to be derived from  
38 the operation of all or any part of the garbage disposal system,  
39 including any parts thereof theretofore constructed or acquired;

40 (6) Pledging, setting aside, depositing or trusteeing all or any  
41 part of the system revenues or other moneys of the incinerator or  
42 environmental services authority to secure the payment of the  
43 principal of or interest on the bonds or any other obligations, or the  
44 payment of expenses of operation or maintenance of the garbage  
45 disposal system, and the powers and duties of any trustee with  
46 regard thereto;

- 1 (7) The setting aside out of the system revenues or other moneys  
2 of the incinerator or environmental services authority of reserves  
3 and sinking funds, and the source, custody, security, regulation,  
4 application and disposition thereof;
- 5 (8) Determination or definition of the system revenues or of the  
6 expenses of operation and maintenance of the garbage disposal  
7 system;
- 8 (9) The rents, rates, fees, or other charges for the use of the  
9 services and facilities of the garbage disposal system, including any  
10 parts thereof theretofore constructed or acquired and any parts,  
11 extension, replacements or improvements thereof thereafter  
12 constructed or acquired, and the fixing, establishment, collection  
13 and enforcement of the same, the amount or amounts of system  
14 revenues to be produced thereby, and the disposition and  
15 application of the amounts charged or collected;
- 16 (10) The assumption or payment or discharge of any  
17 indebtedness, liens or other claims relating to any part of the  
18 garbage disposal system or any obligations having or which may  
19 have a lien on any part of the system revenue;
- 20 (11) Limitations on the issuance of additional bonds or any  
21 other obligations or on the incurrence of indebtedness of the  
22 incinerator or environmental services authority;
- 23 (12) Limitations on the powers of the incinerator or  
24 environmental services authority to construct, acquire or operate, or  
25 permit the construction, acquisition, or operation of, any plants,  
26 structures, facilities or properties which may compete or tend to  
27 compete with the garbage disposal system;
- 28 (13) Vesting in a trustee or trustees such property, rights,  
29 powers and duties in trust as the incinerator or environmental  
30 services authority may determine which may include any or all of  
31 the rights, powers and duties of the trustee appointed by the holders  
32 of bonds pursuant to section seventeen of this act, and limiting or  
33 abrogating the right of such holders to appoint a trustee pursuant to  
34 section fifteen of this act or limiting the rights, duties and powers of  
35 such trustee;
- 36 (14) Payment of costs or expenses incident to the enforcement  
37 of the bonds or of the provision of the bond resolution or of any  
38 covenant or contract with the holders of bonds;
- 39 (15) The procedure, if any, by which the terms of any covenant  
40 or contract with, or duty to, the holders of bonds may be amended  
41 or abrogated, the amount of bonds the holders of which must  
42 consent thereto, and the manner in which such consent may be  
43 given or evidenced; or
- 44 (16) Any other matter or course of conduct which by recital in  
45 the bond resolution, is declared to further secure the payment of the  
46 principal of or interest on the bonds.

1 All such provisions of the bond resolution and all such covenants  
2 and agreements shall constitute valid and legally binding contracts  
3 between the incinerator or environmental services authority and the  
4 several holders of the bonds, regardless of the time of issuance of  
5 such bonds, and shall be enforceable by any such holder or holders  
6 by appropriate action or proceeding in any court of competent  
7 jurisdiction.

8 (cf: P.L.1953, c.37, s.232)

9

10 16. Section 15 of P.L.1948, c.348 (C.40:66A-15) is amended to  
11 read as follows:

12 15. In the event that there shall be a default in the payment of  
13 principal of or interest on any bonds after the same shall become  
14 due, whether at maturity or upon call for redemption, and such  
15 default shall continue for a period of thirty days, or in the event that  
16 the incinerator or environmental services authority shall fail or  
17 refuse to comply with the provisions of this act or shall fail or  
18 refuse to carry out and perform the terms of any contract with the  
19 holders of any of such bonds, and such failure or refusal shall  
20 continue for a period of thirty days after written notice to the  
21 incinerator authority of its existence and nature, the holders of  
22 twenty-five per centum (25%) in aggregate principal amount of the  
23 bonds of such series then outstanding, by instruments or instrument  
24 filed in the office of the Secretary of State and proved and  
25 acknowledged in the same manner as a deed to be recorded, may  
26 appoint a trustee to represent the holders of the bonds of such series  
27 for the purposes in this section, and to have the powers provided in  
28 this section.

29 (a) Such trustee may and upon written request of the holders of  
30 twenty-five per centum (25%) in aggregate principal amount of the  
31 bonds of such series then outstanding shall, in his or its own name:

32 (1) By an action or proceeding in a court of competent  
33 jurisdiction, enforce all rights of the holders of such bonds,  
34 including the right to require the incinerator or environmental  
35 services authority to charge and collect service charges adequate to  
36 carry out any contract as to, or pledge of, system revenues, and to  
37 require the incinerator or environmental services authority to carry  
38 out and perform the terms of any contract with the holders of such  
39 bonds or its duties under this act;

40 (2) Bring an action upon all or any part of such bonds or interest  
41 coupons or claims appurtenant thereto;

42 (3) By an action require the incinerator or environmental  
43 services authority to account as if it were the trustee of an express  
44 trust for the holders of such bonds;

45 (4) By an action enjoin any acts or things which may be  
46 unlawful or in violation of the rights of the holders of such bonds;  
47 or



1 (5) Declare all such bonds due and payable, whether or not in  
2 advance of maturity, upon thirty days' prior notice in writing to the  
3 incinerator or environmental services authority and, if all defaults  
4 shall be made good, then with the consent of the holders of twenty-  
5 five per centum (25%) of the principal amount of such bonds then  
6 outstanding, annul such declaration and its consequences.

7 (b) Such trustee shall, in addition to the foregoing, have and  
8 possess all of the powers necessary or appropriate for the exercise  
9 of the functions specifically set forth herein or incident to the  
10 general representation of the holders of bonds of such series in the  
11 enforcement and protection of their rights.

12 (c) In any action or proceeding by such trustee, the fees, counsel  
13 fees and expenses of the trustee and of the receiver, if any,  
14 appointed pursuant to this act, may be allowed by the court as  
15 taxable costs and disbursements or otherwise, when so allowed,  
16 shall be a first charge upon any service charges and system  
17 revenues of the incinerator or environmental services authority  
18 pledged for the payment or security of bonds of such series.

19 (d) Such trustee, upon such default referred to in this section,  
20 whether or not all of the bonds of such series shall have been  
21 declared due and payable, shall be entitled as of right to the  
22 appointment of a receiver of the garbage disposal system, and such  
23 receiver may enter upon and take possession of all moneys and  
24 other property derived from or applicable to the acquisition,  
25 construction, operation, maintenance or reconstruction of the  
26 garbage disposal system and proceed with such acquisition,  
27 construction, operation, maintenance or reconstruction which the  
28 incinerator authority is under any obligation to do, and operate,  
29 maintain and reconstruct the garbage disposal system and fix,  
30 charge, collect, enforce and receive the service charges and all  
31 system revenues thereafter arising subject to any pledge thereof or  
32 contract with the holders of such bonds relating thereto and perform  
33 the public duties and carry out the contracts and obligations of the  
34 incinerator or environmental services authority in the same manner  
35 as the incinerator authority itself might do and under the direction  
36 of the court.

37 (cf: P.L.1953, c.37, s.233)

38

39 17. Section 16 of P.L.1948, c.348 (C.40:66A-16) is amended to  
40 read as follows:

41 16. Neither the members of the incinerator or environmental  
42 services authority nor any person executing bonds issued pursuant  
43 to this act shall be liable personally on the bonds by reason of the  
44 issuance pursuant to this act shall not be in any way a debt or  
45 liability of the State, and bonds or other obligations issued by an  
46 incinerator or environmental services authority pursuant to this act

1 shall not be in any way a debt or liability of the State or of any local  
2 unit or municipality.

3 (cf: P.L.1948, c.348, s.16)

4

5 18. Section 17 of P.L.1948, c.348 (C.40:66A-17) is amended to  
6 read as follows:

7 17. Every incinerator or environmental services authority is  
8 hereby empowered, in its own name but for the local unit or units,  
9 to acquire by purchase, gift, grant or devise and to take for public  
10 use real property, within or without the district, which may be  
11 deemed by the incinerator or environmental services authority  
12 necessary for its purposes. Such incinerator authority is hereby  
13 empowered to acquire and take such real property by condemnation,  
14 in the manner provided by chapter one of Title 20, Eminent  
15 Domain, of the Revised Statutes (R.S., section 20:1-1 et seq.) and,  
16 to that end, may invoke and exercise in the manner or mode of  
17 procedure prescribed in said chapter, either in its own name or in  
18 the name of any local unit or units, all of the powers of such local  
19 unit or units to acquire or take property for public use.

20 (cf: P.L.1948, c.348, s.17)

21

22 19. Section 18 of P.L.1948, c.348 (C.40:66A-18) is amended to  
23 read as follows:

24 18. (a) In the event that a service charge of any incinerator or  
25 environmental services authority with regard to any parcel of real  
26 property shall not be paid as and when due, interest shall accrue and  
27 be due to the incinerator or environmental services authority on the  
28 unpaid balance at the rate of one per centum (1%) per month until  
29 such service charge, and the interest thereon, shall be fully paid to  
30 the incinerator or environmental services authority.

31 (b) In the event that a service charge of any incinerator or  
32 environmental services authority with regard to any parcel of real  
33 property owned by any person, firm, corporation or association  
34 shall not be paid as and when due, the unpaid balance thereof and  
35 all interest accruing thereon shall be a lien on such parcel. Such  
36 lien shall be superior and paramount to the interest in such parcel of  
37 any owner, lessee, tenant, mortgagee or other person except the lien  
38 of State, county and municipal taxes and shall be on a parity with  
39 and deemed equal to the lien on such parcel of State, county and  
40 municipal taxes.

41 (c) In the event that a service charge of any incinerator or  
42 environmental services authority with regard to any parcel of real  
43 property shall not be paid as and when due, the incinerator or  
44 environmental services authority may, in its discretion, discontinue  
45 the furnishing of any of the services and facilities of said garbage  
46 disposal system until such service charge and any subsequent  
47 service charge with regard to such parcel and all interest accrued

1 thereon shall be fully paid to the incinerator or environmental  
2 services authority.

3 (d) The collector or other officer of every municipality charged  
4 by law with the duty of enforcing municipal liens on real property  
5 shall enforce, with and as any other municipal lien on real property  
6 in such municipality, all service charges and the lien thereof and  
7 shall pay over to the incinerator or environmental services authority  
8 the sums or a pro rata share of the sums realized upon such  
9 enforcement or upon liquidation of any property acquired by the  
10 municipality by virtue of such enforcement.

11 (e) In the event that any service charge of an incinerator or  
12 environmental services authority shall not be paid as and when due,  
13 the unpaid balance thereof and all interest accrued thereon, together  
14 with attorneys' fees and costs, may be recovered by the incinerator  
15 or environmental services authority in a civil action, and any lien on  
16 real property for such service charge and interest accrued thereon  
17 may be foreclosed or otherwise enforced by the incinerator or  
18 environmental services authority by action or suit in equity as for  
19 the foreclosure of a mortgage on such real property.

20 (f) All rights and remedies granted by this act for the collection  
21 and enforcement of service charges shall be cumulative and  
22 concurrent.

23 (cf: P.L.1948, c.348, s.18)

24  
25 20. Section 19 of P.L.1948, c.348 (C.40:66A-19) is amended to  
26 read as follows:

27 19. Any county, by resolution of its board of chosen freeholders,  
28 or any municipality, by ordinance of its governing body, or any  
29 other person is hereby empowered, without any referendum and  
30 without the consent of any board, officer or other agency of the  
31 State, to sell, lease, lend, grant or convey to any incinerator or  
32 environmental services authority, or to permit any incinerator or  
33 environmental services authority **[in]** to use, maintain or operate as  
34 part of the garbage disposal system, any real or personal property  
35 owned by it, which may be necessary or useful and convenient for  
36 the purposes of the incinerator or environmental services authority  
37 and which may be accepted by the incinerator or environmental  
38 services authority. Any such sale, lease, loan, grant, conveyance or  
39 permit may be made with or without consideration and for a  
40 specified or an unlimited period of time and under any agreement  
41 and in any terms and conditions which may be approved by such  
42 county, municipality or other person and which may be agreed to by  
43 the incinerator or environmental services authority in conformity  
44 with its contracts with the holders of bonds, the incinerator or  
45 environmental services authority may enter into and perform any  
46 and all agreements for the assumption of principal or interest or  
47 both of indebtedness of such county, municipality or other person or

1 of any mortgage or lien existing with respect to such property or for  
2 the operation and maintenance of such property as part of the  
3 garbage disposal system.

4 (cf: P.L.1948, c.348, s.19)

5

6 21. Section 20 of P.L.1948, c.348 (C.40:66A-20) is amended to  
7 read as follows:

8 20. Any incinerator or environmental services authority and any  
9 municipality within the district by ordinance of its governing body  
10 may enter into a contract or contracts providing for or relating to  
11 the collection, treatment and disposal of garbage and refuse  
12 originating in the district or in such municipality by means of the  
13 garbage disposal system, and the cost and expense of such  
14 collection, treatment and disposal. Such contract or contracts may  
15 provide for the payment to the incinerator or environmental services  
16 authority by such municipality annually or otherwise of such sum or  
17 sums of money, computed at fixed amounts or by a formula based  
18 on any factors or other matters described in subsection (b) of  
19 section 8 of this act or in any other manner, as said contract or  
20 contracts may provide, and the sum or sums so payable may include  
21 provision for all or any part or a share of the amounts necessary (1)  
22 to pay or provide for the expenses of operation and maintenance of  
23 the garbage disposal system, including without limitation insurance,  
24 extensions, betterments and replacements and the principal of and  
25 interest on any bonds, and (2) to provide for any deficits resulting  
26 from failure to receive sums payable to the incinerator or  
27 environmental services authority by such municipality, any other  
28 municipality, or any person, or from any other cause, and (3) to  
29 maintain such reserves or sinking funds for any of the foregoing as  
30 may be required by the terms of any contract of the incinerator or  
31 environmental services authority or as may be deemed necessary or  
32 desirable by the incinerator or environmental services authority.  
33 Any such contract may provide that the sum or sums so payable to  
34 the incinerator or environmental services authority shall be in lieu  
35 of all or any part of the service charges which would otherwise be  
36 charged and collected by the incinerator or environmental services  
37 authority with regard to persons or real property within such  
38 municipality. Such contract or contracts may also contain  
39 provisions as to the financing and payment of expenses to be  
40 incurred by the incinerator or environmental services authority and  
41 determined by it to be necessary for its purposes prior to the placing  
42 in operation of the garbage disposal system and may provide for the  
43 payment by such municipality to the incinerator or environmental  
44 services authority for application to such expenses or indebtedness  
45 therefor such sum or sums of money, not in the aggregate exceeding  
46 an amount stated or otherwise limited in said contract or contracts  
47 plus interest thereon, as said contract or contracts may provide and

1 as the governing body of said municipality shall, by virtue of its  
2 authorization of and entry into said contract or contracts, determine  
3 to be necessary for the purposes of the incinerator or environmental  
4 services authority. Any such contract may be made with or without  
5 consideration and for a specified or an unlimited time and on any  
6 terms and conditions which may be approved by such municipality  
7 and which may be agreed to by the incinerator or environmental  
8 services authority in conformity with its contracts with the holders  
9 of any bonds, and shall be valid whether or not an appropriation  
10 with respect thereto is made by such municipality prior to  
11 authorization or execution thereof. Subject to any such contracts  
12 with the holders of bonds, such municipality is hereby authorized  
13 and directed to do and perform any and all acts or things necessary,  
14 convenient or desirable to carry out and perform every such  
15 contract and to provide for the payment or discharge of any  
16 obligation thereunder in the same manner as other obligations of  
17 such municipality and, in accordance with any such contract, to  
18 waive, modify, suspend or reduce the service charges which would  
19 otherwise be charged and collected by the incinerator or  
20 environmental services authority with regard to persons or real  
21 property within such municipality. Nothing in this section,  
22 however, shall prevent the incinerator or environmental services  
23 authority from collecting additional fees and charges from the  
24 owners or occupants of all parcels of real estate served by it within  
25 such municipality if for any reason such additional fees or charges  
26 shall be necessary in order for the incinerator or environmental  
27 services authority to pay all operating expenses, debt service and  
28 other payments required pursuant to contracts with bondholders;  
29 and notwithstanding such contracts with such municipalities, the  
30 incinerator or environmental services authority shall at all times  
31 have power and be obligated to collect sufficient additional fees and  
32 charges whenever necessary to pay all operating costs, debt service  
33 and all other payments required by contracts with bondholders.  
34 (cf: P.L.1954, c.185, s.1)

35  
36 22. Section 21 of P.L.1948, c.348 (C.40:66A-21) is amended to  
37 read as follows:

38 21. Each county, municipality and other public body shall  
39 promptly pay to any incinerator or environmental services authority  
40 all service charges which the incinerator or environmental services  
41 authority may charge to it, as owner or occupant of any real  
42 property and shall provide for the payment thereof in the same  
43 manner as other obligations of such county, municipality or public  
44 body.  
45 (cf: P.L.1948, c.348, s.21)

1       23. Section 22 of P.L.1948, c.348 (C.40:66A-22) is amended to  
2 read as follows:

3       22. Neither the incinerator or environmental services authority  
4 nor any local unit shall have power to mortgage, pledge, encumber  
5 or otherwise dispose of any part of the garbage disposal system,  
6 except that the incinerator or environmental services authority may  
7 dispose of such part or parts thereof as may be no longer necessary  
8 for the purposes of the incinerator or environmental services  
9 authority. The provisions of this section shall be deemed to  
10 constitute a part of the contract with the holder of any bonds. All  
11 property of an incinerator or environmental services authority shall  
12 be exempt from levy and sale by virtue of an execution and no  
13 execution or other judicial process shall issue against the same nor  
14 shall any judgment against an incinerator or environmental services  
15 authority be a charge or lien upon its property; provided, that  
16 nothing herein contained shall apply to or limit the rights of the  
17 holder of any bonds to pursue any remedy for the enforcement of  
18 any pledge or lien given by an incinerator or environmental services  
19 authority on its system revenues.

20 (cf: P.L.1948, c.348, s.22)

21

22       24. Section 24 of P.L.1948, c.348 (C.40:66A-24) is amended to  
23 read as follows:

24       24. Every garbage disposal system and all other property of an  
25 incinerator or environmental services authority are hereby declared  
26 to be public property of a political subdivision of the State and  
27 devoted to an essential public and governmental function and  
28 purpose and shall be exempt from all taxes and special assessments  
29 of the State or any subdivision thereof. All bonds issued pursuant  
30 to this act are hereby declared to be issued by a political subdivision  
31 of this State and for an essential public and governmental purpose  
32 and to be a public instrumentality, and such bonds, and the interest  
33 thereon and the income therefrom, and all service charges, funds,  
34 revenues and other moneys pledged or available to pay or secure the  
35 payment of such bonds, or interest thereon, shall at all times be  
36 exempt from taxation except for transfer, inheritance and estate  
37 taxes.

38 (cf: P.L.1948, c.348, s.24)

39

40       25. Section 25 of P.L.1948, c.348 (C.40:66A-25) is amended to  
41 read as follows:

42       25. The State of New Jersey does hereby pledge to and covenant  
43 and agree with the holders of any bonds issued pursuant to this act  
44 that the State will not authorize or permit the construction or  
45 maintenance of any incinerator or garbage disposal system which  
46 will be competitive with the garbage disposal system of the  
47 incinerator or environmental services authority, and will not limit or

1 alter the rights hereby vested in the incinerator or environmental  
2 services authority to acquire, construct, maintain, reconstruct and  
3 operate its garbage disposal system, and to fix, establish, charge and  
4 collect its service charges and to fulfill the terms of any agreement  
5 made with the holders of such bonds or other obligations, and will  
6 not in any way impair the rights or remedies of such holders, and  
7 will not modify in any way the exemptions from taxation provided  
8 for in this act, until such bonds, together with interest thereon, with  
9 interest on any unpaid installments of interest, and all costs and  
10 expenses in connection with any action or proceeding by or on  
11 behalf of such holders, are fully met and discharged.  
12 (cf: P.L.1948, c.348, s.25)

13

14 26. Section 26 of P.L.1948, c.348 (C.40:66A-26) is amended to  
15 read as follows:

16 26. All banks, bankers, trust companies, savings banks,  
17 investment companies and other persons carrying on a banking  
18 business are hereby authorized to give to any incinerator or  
19 environmental services authority a good and sufficient undertaking  
20 with such sureties as shall be approved by the incinerator or  
21 environmental services authority to the effect that such bank or  
22 banking institution as hereinbefore described shall faithfully keep  
23 and pay over to the order of or upon the warrant of the incinerator  
24 or environmental services authority or its authorized agent all such  
25 funds as may be deposited with it by the incinerator or  
26 environmental services authority and agreed interest thereon, at  
27 such times or upon such demands as may be agreed upon with the  
28 authority or, in lieu of such sureties, deposit with the incinerator or  
29 environmental services authority or its authorized agent or any  
30 trustee therefor or for the holders of any bonds, as collateral, such  
31 securities as the incinerator or environmental services authority may  
32 approve; provided, such securities shall consist of obligations in  
33 which public officers and bodies of the State and its municipal  
34 subdivisions, savings institutions, including savings and loan  
35 associations, insurance companies and associations, executors,  
36 administrators, guardians, trustees and other fiduciaries in the State  
37 may properly and legally invest the funds within their control, in  
38 such principal amount, market value or other description as may be  
39 approved by the incinerator or environmental services authority.  
40 The deposits of the incinerator or environmental services authority  
41 may be evidenced by a depository collateral agreement in such form  
42 and upon such terms and conditions as may be agreed upon by the  
43 incinerator or environmental services authority and such bank or  
44 banking institution.  
45 (cf: P.L.1948, c.348, s.26)

1       27. Section 27 of P.L.1948, c.348 (C.40:66A-27) is amended to  
2 read as follows:

3       27. After the creation of an incinerator or environmental  
4 services authority as provided herein, no municipality within the  
5 district shall have power to engage in, grant any license or permit  
6 for, or enter into any contract for, the collection, treatment and  
7 disposal of garbage and refuse; and no such municipality, or any  
8 person, firm, corporation or association shall engage in any  
9 activities within such municipality which would be competitive  
10 with the purposes of the incinerator or environmental services  
11 authority as provided in this act.

12       It is hereby determined and declared that it is necessary for the  
13 health and welfare of the inhabitants of every district within which  
14 an incinerator or environmental services authority is created that the  
15 facilities and services of such incinerator or environmental services  
16 authority shall be used by the owners or occupants of all lands,  
17 buildings and premises within such district, and the incinerator or  
18 environmental services authority may by resolution require the  
19 owners or occupants of all lands, buildings and premises therein to  
20 use the services and facilities of the incinerator or environmental  
21 services authority under such rules and regulations as the  
22 incinerator or environmental services authority shall fix and  
23 establish.

24       The provisions of this section shall not be construed, however, to  
25 affect or impair any contracts entered into prior to the creation of an  
26 incinerator or environmental services authority.

27 (cf: P.L.1948, c.348, s.27)

28

29       28. This act shall take effect immediately.



[Corrected Copy]

**SENATE, No. 872**

**STATE OF NEW JERSEY**  
**215th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

**Sponsored by:**

**Senator SANDRA B. CUNNINGHAM**

**District 31 (Hudson)**

**SYNOPSIS**

Authorizes incinerator authorities to perform sanitation, public works, and environmental services.

**CURRENT VERSION OF TEXT**

As reported by the Senate Community and Urban Affairs Committee with technical review.



S872 CUNNINGHAM

2

1 AN ACT expanding the permissible scope of operation of incinerator  
2 authorities and amending P.L.1948, c.348.

3

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

6

7 1. Section 1 of P.L.1948, c.348 (C.40:66A-1) is amended to  
8 read as follows:

9 1. This act shall be known and may be cited as the "incinerator  
10 or environmental services authorities law."

11 (cf: P.L.1948, c.348, s.1)

12

13 2. Section 2 of P.L.1948, c.348 (C.40:66A-2) is amended to  
14 read as follows:

15 2. It is hereby declared to be in the public interest and to be the  
16 policy of the State to foster and promote by all reasonable means  
17 the health and welfare of the citizens thereof by the proper  
18 collection and disposal of garbage and other refuse matter, as well  
19 as by the performance of various other sanitation, public works and  
20 environmental services necessary to maintain a clean, healthy, and  
21 safe environment for all citizens.

22 (cf: P.L.1948, c.348, s.2)

23

24 3. Section 3 of P.L.1948, c.348 (C.40:66A-3) is amended to  
25 read as follows:

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

28 (1) "Municipality" shall mean any city of any class, any  
29 borough, village, town, township, or any other municipality other  
30 than a county or a school district;

31 (2) "Governing body" shall mean the commission, council,  
32 board or body, by whatever name it may be known, having charge  
33 of the finances of the municipality;

34 (3) "Person" shall mean any person, association, corporation,  
35 nation, State or any agency or subdivision thereof, municipality of  
36 the State or an incinerator authority;

37 (4) "Incinerator authority" or "environmental services authority"  
38 shall mean a public body created pursuant to section four of this act;

39 (5) Subject to the exceptions provided in the section four of this  
40 act, "district" shall mean the area within the territorial boundaries of  
41 the municipality or municipalities which created or joined in the  
42 creation of an incinerator or environmental services authority;

43 (6) "Local unit" shall mean any municipality which created or  
44 joined in the creation of an incinerator or environmental services  
45 authority;

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

Matter underlined thus is new matter.

S872 CUNNINGHAM

1 (7) "Garbage disposal system" shall mean the plants, structures  
2 and other real and personal property acquired, constructed or  
3 operated or to be acquired constructed or operated by an incinerator  
4 or environmental services authority, including incinerators or other  
5 plants for the treatment and disposal of garbage and refuse matter  
6 and all other real and personal and rights therein and appurtenances  
7 necessary or useful and convenient for the collection, treatment or  
8 disposal in a sanitary manner of garbage and refuse matter (but not  
9 including sewage).

10 (8) "Cost" shall mean, in addition to the usual connotations  
11 thereof, the cost of acquisition or construction of all or any part of a  
12 garbage disposal system of all or any property, rights, easements  
13 and franchises deemed by the incinerator or environmental services  
14 authority to be necessary or useful and convenient therefor,  
15 including reimbursements to the incinerator or environmental  
16 services authority or any municipality or other person of any  
17 moneys theretofore expended for the purposes of the incinerator or  
18 environmental services authority and including interest or discount  
19 on bonds to finance such cost, engineering and inspection costs and  
20 legal expenses, the cost of financial, professional and other advice,  
21 and the cost of issuance of any such bonds;

22 (9) "Real property" shall mean lands both within and without  
23 the State, and improvements thereof or thereon, or any rights or  
24 interests therein;

25 (10) "Construct" and "construction" shall connote and include  
26 acts of construction, reconstruction, replacement, extension,  
27 improvement and betterment of a garbage disposal system;

28 (11) "Garbage or refuse matter" shall mean any refuse matter,  
29 trash or garbage from residences, hotels, apartments or any other  
30 public or private building but shall not include water-carried wastes,  
31 industrial waste or the kinds of wastes usually collected, carried  
32 away and disposed of by sewerage system.

33 (12) "Ordinance" means a written act of the governing body of a  
34 municipality adopted and otherwise approved and published in the  
35 manner or mode of procedure prescribed for ordinances tending to  
36 obligate such municipality pecuniarily; **[and]**

37 (13) "Resolution" means a written act of the governing body of a  
38 local unit adopted and otherwise approved in the manner or mode of  
39 procedure prescribed for resolutions tending to obligate such local  
40 unit pecuniarily; and

41 (14) "Environmental services" shall mean any and all services  
42 relative to sanitation, recycling, park and other recreation area  
43 maintenance, demolition, repair or maintenance of unsafe,  
44 unsanitary, or unsound structures, automobile towing and impound,  
45 municipal vehicle maintenance and repair and services related  
46 thereto, street and road safety services, snow removal,  
47 environmental compliance and education, services necessary or

S872 CUNNINGHAM

1 appropriate for neighborhood beautification or environmental  
2 improvement, and any other service relative to maintaining a  
3 sanitary, safe, and healthy environment within a municipality.

4 (cf: P.L.1948, c.348, s. 3)

5

6 4. Section 4 of P.L.1948, c.348 (C.40:66A-4) is amended to  
7 read as follows:

8 4. (a) The governing body of any municipality may, by  
9 ordinance duly adopted, create a public body corporate and politic  
10 under the name and style of "the incinerator authority" with all or  
11 any significant part of the name of such municipality inserted. The  
12 governing body of any municipality may, by ordinance duly  
13 adopted, create a public body corporate and politic under the name  
14 and style of the "environmental services authority" with all or any  
15 significant part of the name of the municipality inserted. An  
16 incinerator or environmental services authority created pursuant to  
17 this section by a municipality other than a city of the first class shall  
18 consist of five members, and an incinerator or environmental  
19 services authority created pursuant to this section by a municipality  
20 which is a city of the first class shall consist of five or seven  
21 members, as determined by the governing body. Members of the  
22 incinerator or environmental services authority shall be appointed  
23 by resolution of the governing body as hereinafter in this section  
24 provided, and the authority shall constitute the incinerator or  
25 environmental services authority contemplated and provided for in  
26 this act and an agency and instrumentality of said municipality.  
27 After the taking effect of such ordinance and the filing of a certified  
28 copy thereof as in subsection (c) of this section provided, the  
29 members of the incinerator or environmental services authority  
30 shall be appointed. The members first appointed shall, by the  
31 resolution of appointment, be designated to serve for terms  
32 respectively expiring as follows: the terms of the first four members  
33 shall expire in turn on each of the first days of the first, second,  
34 third and fourth Februaries next ensuing after the date of their  
35 appointment, and the remaining members shall be designated to  
36 serve for terms expiring on the first day of the fifth February next  
37 ensuing after the date of their appointment. On or after the first day  
38 of January in each year after such first appointments, one person  
39 shall be appointed or reappointed as a member of the incinerator or  
40 environmental services authority to succeed each member whose  
41 term is expiring, and shall serve for a term commencing on the first  
42 day of February in such year and expiring on the first day of  
43 February in the fifth year after such year. In the event of a vacancy  
44 in the membership of the incinerator or environmental services  
45 authority occurring during an unexpired term of office, a person  
46 shall be appointed as a member of the incinerator or environmental  
47 services authority to serve for such unexpired term.

1 The governing body of a municipality which is a city of the first  
2 class may increase the membership of its incinerator or  
3 environmental services authority to seven members from five  
4 members. The two additional members shall be appointed to serve  
5 five-year terms, commencing on the February 1 next following their  
6 appointment and expiring on February 1 in the fifth year after their  
7 appointment.

8 (b) The governing bodies of any two or more municipalities,  
9 whether or not the areas of such municipalities comprise an integral  
10 body of territory, may, by parallel ordinances duly adopted by each  
11 of such governing bodies within any single calendar year, create a  
12 public body corporate and politic under the name and style of "the  
13 incinerator authority" with all or any significant part of the name of  
14 each such municipality or some identifying geographical phrase  
15 inserted. The governing bodies of any two or more municipalities,  
16 whether or not the areas of such municipalities comprise an integral  
17 body of territory, may, by parallel ordinances duly adopted by each  
18 of such governing bodies within any single calendar year, create a  
19 public body corporate and politic under the name and style of "the  
20 environmental services authority" with all or any significant part of  
21 the name of each such municipality or some identifying  
22 geographical phrase inserted. Said body shall consist of the  
23 members thereof, in an aggregate number determined as hereinafter  
24 in this subsection provided, who shall be appointed by resolution of  
25 the several governing bodies as hereinafter in this section provided,  
26 and it shall constitute the incinerator or environmental services  
27 authority contemplated and provided for in this act and an agency  
28 and instrumentality of the said municipalities. The number of  
29 members of the incinerator or environmental services authority to  
30 be appointed at any time for full terms of office by the governing  
31 body of any such municipality or municipalities, as the case may be,  
32 shall be as may be stated in said ordinances which shall be not less  
33 than one nor more than three. After the taking effect of the said  
34 ordinances of all such municipalities and after the filing of certified  
35 copies thereof as in subsection (c) of this section provided, the  
36 appropriate number of persons shall be appointed as members of the  
37 incinerator or environmental services authority by the governing  
38 body of each municipality. The members first appointed or to be  
39 first appointed shall serve for terms expiring on the first day of the  
40 fifth February next ensuing after the date of the first appointment of  
41 any member. On or after the first day of January in the year in  
42 which expires the terms of the said members first appointed and in  
43 every fifth year thereafter, the appropriate number of persons shall  
44 be appointed as members of the incinerator or environmental  
45 services authority by the governing body of each municipality, to  
46 serve for terms commencing on the first day of February in such  
47 year and expiring on the first day of February in the fifth year after

S872 CUNNINGHAM

1 such year. In the event of a vacancy in the membership of the  
2 incinerator or environmental services authority occurring during an  
3 unexpired term of office, a person shall be appointed as a member  
4 of the incinerator or environmental services authority to serve for  
5 such unexpired term by the governing body which made the original  
6 appointment for such unexpired term.

7 (c) A copy of each ordinance for the creation of an incinerator  
8 or environmental services authority adopted pursuant to this  
9 section, duly certified by the appropriate officer of the local unit,  
10 shall be filed in the office of the Secretary of State. Upon proof of  
11 such filing of a certified copy of the ordinance or of certified copies  
12 of the parallel ordinances for the creation of an incinerator or  
13 environmental services authority as aforesaid, the incinerator or  
14 environmental services authority therein referred to shall, in any  
15 suit, action or proceeding involving the validity or enforcement of,  
16 or relating to, any contract or obligation or act of the incinerator or  
17 environmental services authority, be conclusively deemed to have  
18 been lawfully and properly created and established and authorized  
19 to transact business and exercise its powers under this act. A copy  
20 of any such certified ordinance, duly certified by or on behalf of the  
21 Secretary of State, shall be admissible in evidence in any suit,  
22 action or proceeding.

23 (d) A copy of each resolution appointing any member of an  
24 incinerator or environmental services authority adopted pursuant to  
25 this section, duly certified by the appropriate officer of the local  
26 unit, shall be filed in the office of the Secretary of State. A copy of  
27 such certified resolution, duly certified by or on behalf of the  
28 Secretary of State, shall be admissible in evidence in any suit,  
29 action or proceeding and, except in a suit, action or proceeding  
30 directly questioning such appointment, shall be conclusive evidence  
31 of the due and proper appointment of the members named therein.

32 (e) No governing body which may create or join in the creation  
33 of any incinerator or environmental services authority pursuant to  
34 this section shall thereafter create or join in the creation of any  
35 other incinerator or environmental services authority. No governing  
36 of any municipality within a district shall create or join in the  
37 creation of any incinerator or environmental services authority  
38 except upon the written consent of the incinerator or environmental  
39 services authority and in accordance with the terms and conditions  
40 of such consent, and in the event such consent be given and an  
41 incinerator or environmental services authority be created pursuant  
42 thereto, the area within the territorial boundaries of such  
43 municipality shall not thereafter be part of the district.

44 (cf: P.L.1994, c.85, s.2)

45

46 5. Section 5 of P.L.1948, c.348 (C.40:66A-5) is amended to  
47 read as follows:

S872 CUNNINGHAM

1       5. (a) The powers of an incinerator or environmental services  
2 authority shall be vested in the members thereof in office from time  
3 to time. A majority of the entire authorized membership of the  
4 incinerator or environmental services authority shall constitute a  
5 quorum at any meeting thereof. Action may be taken and motions  
6 and resolutions adopted by the incinerator or environmental  
7 services authority at any meeting of the members thereof by vote of  
8 a majority of the members present, unless in any case the by-laws of  
9 the incinerator or environmental services authority shall require a  
10 large number. The incinerator or environmental services authority  
11 may delegate to one or more of its officers, agents or employees  
12 such powers and duties as it may deem proper.

13       (b) Each member of an incinerator or environmental services  
14 authority shall hold office for the term for which he was appointed  
15 and until his successor has been appointed and has qualified.

16       (c) No member, officer or employee of an incinerator or  
17 environmental services authority shall have or acquire any interest,  
18 direct or indirect, in the garbage disposal system in any property  
19 included or planned to be included in the garbage disposal system  
20 or in any contract or proposed contract for materials or services to  
21 be furnished to or used by the incinerator or environmental services  
22 authority, but neither the holding of any officer or employment in  
23 the government of any municipality or under any law of the State  
24 nor the owning of any property within the State shall be deemed a  
25 disqualification for membership in or employment by an incinerator  
26 or environmental services authority. A member of an incinerator or  
27 environmental services authority may be removed only by the  
28 governing body by which he was appointed and only for  
29 inefficiency or neglect of duty or misconduct in office and after he  
30 shall have been given a copy of the charges against him and, not  
31 sooner than ten days thereafter, had opportunity in person or by  
32 counsel to be heard thereon by such governing body.

33       (d) An incinerator or environmental services authority may  
34 reimburse its members for necessary expenses incurred in the  
35 discharge of their duties. The ordinance or parallel ordinances for  
36 the creation of an incinerator or environmental services authority  
37 may provide that the members of the incinerator or environmental  
38 services authority may receive compensation for their services  
39 within an annual and other limitations to be stated in such ordinance  
40 or parallel ordinances, and in that event, each member may receive  
41 from the incinerator or environmental services authority such  
42 compensation for his services as the incinerator or environmental  
43 services authority may determine within the limitations stated in  
44 such ordinance or parallel ordinances. No member of any  
45 incinerator or environmental services authority shall receive any  
46 compensation for his services except as provided in this subsection.

1 (e) Every incinerator or environmental services authority, upon  
2 the first appointment of its members and thereafter on or after the  
3 first day of February in each year, shall annually elect from among  
4 its members a chairman and a vice-chairman who shall hold office,  
5 until the first day of February next ensuing and until their respective  
6 successors have been appointed and have qualified. Every  
7 incinerator or environmental services authority may also appoint  
8 and employ a secretary and such professional and technical advisers  
9 and experts and such other officers, agents and employees as it may  
10 require, and it shall determine their qualifications, duties and  
11 compensation.

12 (cf: P.L.1948, c.348, s.5)

13

14 6. Section 6 of P.L.1948, c.348 (C.40:66A-6) is amended to  
15 read as follows:

16 6. Every incinerator or environmental services authority is  
17 hereby authorized and directed, subject to the limitations of this act,  
18 to acquire, in its own name but for the local unit or units, by  
19 purchase, gift, condemnation or otherwise, and, notwithstanding the  
20 provisions of any charter, ordinance or resolution of any county or  
21 municipality to the contrary, to construct, maintain, operate and use  
22 such incinerators, treatment plants or works at such places, and such  
23 other plants, structures, property and conveyances, as in the  
24 judgment of the incinerator or environmental services authority will  
25 provide an effective and satisfactory method for promoting the  
26 purposes of the incinerator or environmental services authority.

27 (cf: P.L.1948, c.348, s.6)

28

29 7. Section 7 of P.L.1948, c.348 (C.40:66A-7) is amended to  
30 read as follows:

31 7. Every incinerator or environmental services authority shall  
32 be a public body politic and corporate constituting a political  
33 subdivision of the State established as an instrumentality exercising  
34 public and essential governmental functions to provide for the  
35 public health and welfare and shall have perpetual succession and  
36 have the following powers:

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

39 (2) To sue and to be sued;

40 (3) In the name of the incinerator or environmental services  
41 authority and on its behalf, to acquire, hold, use and dispose of its  
42 service charges and other revenues and other moneys;

43 (4) In the name of the incinerator or environmental services  
44 authority but for the local unit or unit, to acquire, hold, use and  
45 dispose of other personal property for the purposes of the  
46 incinerator or environmental services authority;



S872 CUNNINGHAM

1 (5) In the name of the incinerator or environmental services  
2 authority but for the local unit or units, to acquire by purchase, gift,  
3 condemnation or otherwise, real property and easements therein,  
4 necessary or useful and convenient for the purposes of the  
5 incinerator or environmental services authority, and subject to  
6 mortgages, deeds of trust or other liens, or otherwise, and to hold  
7 and to use the same, and to dispose of property so acquired no  
8 longer necessary for the purposes of the incinerator or  
9 environmental services authority;

10 (6) To provide for and secure the payment of any bonds and the  
11 rights of the holders thereof, and to purchase, hold and dispose of  
12 any bonds;

13 (7) To accept gifts or grants of real or personal property, money,  
14 material, labor or supplies for the purpose of the incinerator or  
15 environmental services authority, and to make and perform such  
16 agreements and contracts as may be necessary or convenient in  
17 connection with the procuring, acceptance or disposition of such  
18 gifts or grants;

19 (8) To enter on any lands or premises for the purposes of the  
20 incinerator or environmental services authority;

21 (9) To make and enforce bylaws or rules and regulations for the  
22 management and regulation of its business and affairs and for the  
23 use, maintenance and operation of the garbage disposal system and  
24 any other of its properties, and to amend the same;

25 (10) To do and perform any acts and things authorized by this act  
26 under, through or by means of its own officers, agents and  
27 employees, or by contracts with any persons; and

28 (11) To enter into any and all contracts, execute any and all  
29 instruments, and do and perform any and all acts or things  
30 necessary, convenient or desirable for the purpose of the incinerator  
31 or environmental services authority or to carry out any power  
32 expressly given in this act subject to P.L.1971, c. 198 "Local Public  
33 Contracts Law" (C. 40A:11-1 et seq.).  
34 (cf: P.L.1975, c.96, s.11)

35  
36 8. Section 1 of P.L.1952, c.304 (C.40:66A-7.1) is amended to  
37 read as follows:

38 1. It shall be the duty of every "incinerator or environmental  
39 services authority," created pursuant to the act to which this act is a  
40 supplement, to cause an annual audit of the accounts of the  
41 authority to be made and filed with the authority, and for this  
42 purpose the authority shall employ a registered municipal  
43 accountant of New Jersey or a certified public accountant of New  
44 Jersey. The audit shall be completed and filed with the authority  
45 within four months after the close of the fiscal year of the authority  
46 and a certified duplicate copy thereof shall be filed with the  
47 Director of the Division of Local Government Services in the

1 Department of **the Treasury** Community Affairs within five days  
2 after the original report is filed with the authority.

3 (cf: P.L.1952, c.304, s.1)

4

5 9. Section 2 of P.L.1952, c.304 (C.40:66A-7.2) is amended to  
6 read as follows:

7 2. Every such "incinerator or environmental services authority"  
8 shall file a certified copy of every bond resolution as finally passed  
9 with the Director of the Division of Local Government Services in  
10 the Department of **the Treasury** Community Affairs and in  
11 addition shall file a certified copy of all bond proceedings with the  
12 said director.

13 (cf: P.L.1952, c.304, s.2)

14

15 10. Section 8 of P.L.1948, c.348 (C.40:66A-8) is amended to  
16 read as follows:

17 8. (a) Every incinerator or environmental services authority is  
18 hereby authorized to charge and collect rents, rates, fees or other  
19 charges (in this act sometimes referred to as "service charges") for  
20 the services and facilities of the garbage disposal system.

21 (b) Such rents, rates, fees and charges, being in the nature of use  
22 or service charges, shall as nearly as the incinerator or  
23 environmental services authority shall deem practicable and  
24 equitable be uniform throughout the district for the same type, class  
25 and amount of use or service of the garbage disposal system.

26 (c) The incinerator or environmental services authority shall  
27 prescribe and from time to time when necessary revise the schedule  
28 of such service charges, which in any event shall be such that the  
29 revenues of the incinerator or environmental services authority will  
30 at all times be adequate to pay all expenses of operation and  
31 maintenance of the garbage disposal system, including reserves,  
32 insurance, extensions, and replacements, and to pay punctually the  
33 principal of and interest on any bonds and to maintain such reserves  
34 or sinking funds therefor as may be required by the terms of any  
35 contract of the incinerator or environmental services authority. Said  
36 schedule shall thus be prescribed and from time to time revised by  
37 the incinerator or environmental services authority after public  
38 hearing thereon which shall be held by the incinerator or  
39 environmental services authority at least 7 days after publication of  
40 notice of the proposed adjustment of the service charges and of the  
41 time and place of the public hearing in at least two newspapers of  
42 general circulation in the area serviced by the authority. The  
43 incinerator or environmental services authority shall provide  
44 evidence at the hearing showing that the proposed adjustment of the  
45 service charges is necessary and reasonable, and shall provide the  
46 opportunity for cross-examination of persons offering such  
47 evidence, and a transcript of the hearing shall be made and a copy

1 thereof shall be available upon request to any interested party at a  
2 reasonable fee. The incinerator or environmental services authority  
3 shall likewise fix and determine the time or times when and the  
4 place or places where such service charges shall be due and payable  
5 and may require that such service charges shall be paid in advance  
6 for periods of not more than 1 year. A copy of such schedule of  
7 service charges in effect shall at all times be kept on file at the  
8 principal office of the incinerator or environmental services  
9 authority and shall at all reasonable times be open to public  
10 inspection.

11 (cf: P.L.1981, c.511, s.19)

12

13 11. Section 11 of P.L.1948, c.348 (C.40:66A-9) is amended to  
14 read as follows:

15 9. Any local unit shall have power, in the discretion of its  
16 governing body, to appropriate moneys for the purposes of the  
17 incinerator or environmental services authority, and to loan or  
18 donate such moneys to the incinerator or environmental services  
19 authority in such installments and upon such terms as may be  
20 agreed upon between such local unit and the incinerator or  
21 environmental services authority.

22 (cf: P.L.1948, c.348, s.9)

23

24 12. Section 10 of P.L.1948, c.348 (C.40:66A-10) is amended to  
25 read as follows:

26 10. Revenue bonds may be authorized to be issued under this act  
27 to provide funds to pay the cost of all or any part of the **[garbage**  
28 **disposal]** incinerator or environmental services system, or for the  
29 refunding of any bonds theretofore issued for such purposes. The  
30 purposes for which such revenue bonds may be issued shall include  
31 the payment to the local unit or local units of the reasonable value  
32 of any properties or facilities deemed necessary or desirable for the  
33 purposes of the incinerator or environmental services authority, and  
34 such incinerator or environmental services authorities are hereby  
35 authorized to purchase and acquire such properties or facilities from  
36 such local unit or local units.

37 Such revenue bonds shall be authorized by resolution of the  
38 incinerator or environmental services authority which may be  
39 adopted at the same meeting at which it is introduced by a majority  
40 of all the members thereof then in office, shall take effect  
41 immediately and need not be published or posted. Such revenue  
42 bonds may bear interest at such rate or rates, not exceeding 6% per  
43 annum, may be in **[1]** one or more series, may bear such date or  
44 dates, may mature at such time or times not exceeding 30 years  
45 from their respective dates, may be payable in such medium of  
46 payment at such place or places, may carry such registration  
47 privileges, may be subject to such terms of redemption with or

1 without premium, may be executed in such manner, may contain  
2 such terms, covenants and conditions, and may be in such form,  
3 either coupon or registered, as such resolution or subsequent  
4 resolution may provide. Such revenue bonds may be sold, all at one  
5 time or in blocks from time to time, at public or private sale, or if  
6 refunding bonds may also be delivered in exchange for the  
7 outstanding obligations to be refunded thereby, in such manner as  
8 the incinerator or environmental services authority shall determine  
9 by resolution, and at such price or prices, computed according to  
10 standard tables of bond values, as will yield to the purchasers or the  
11 holders of the obligations surrendered in exchange, income at a rate  
12 not exceeding 6% per annum to the maturity dates of the several  
13 bonds so sold or exchanged on the money paid or the principal  
14 amount of obligations surrendered therefor to the incinerator or  
15 environmental services authority.

16 (cf: P.L.1954, c.185, s.2)

17

18 13. Section 11 of P.L.1948, c.348 (C.40:66A-11) is amended to  
19 read as follows:

20 11. After sale of any revenue bonds pursuant to this act, the  
21 incinerator or environmental services authority shall have power to  
22 authorize the execution and issuance to the purchasers, pending the  
23 preparation of the definitive bonds, of interim certificates therefor  
24 or of temporary bonds or other temporary instruments exchangeable  
25 for the definitive bonds when prepared, executed and ready for  
26 delivery. The holders of such interim certificates, temporary bonds  
27 or other temporary instruments shall have all the rights and  
28 remedies which they would have as holders of the definitive bonds.

29 (cf: P.L.1948, c.348, s.11)

30

31 14. Section 12 of P.L.1948, c.348 (C.40:66A-12) is amended to  
32 read as follows:

33 12. Any incinerator or environmental services authority may  
34 cause to be published in a newspaper published in the district a  
35 notice stating the date of adoption of such bond resolution, the  
36 amount and maturities of the bonds authorized to be issued, and  
37 also stating that any action or proceeding of any kind or nature in  
38 any court questioning the validity of the creation and establishment  
39 of the incinerator or environmental services authority, or the  
40 validity or proper authorization of bonds provided for by the bond  
41 resolution, or the validity of any covenants, agreements or contracts  
42 provided for by the bond resolution shall be commenced within  
43 twenty days after the first publication of such notice. If no such  
44 action or proceeding shall be commenced or instituted within  
45 twenty days after the first publication of such notice, then all  
46 residents and taxpayers and owners of property in the district and  
47 users of the **【garbage disposal】** incinerator or environmental

1 services system and all other persons whatsoever shall be forever  
2 barred and foreclosed from instituting or commencing any action or  
3 proceeding in any court, or from pleading any defense to any action  
4 or proceeding, questioning the validity of the creation and  
5 establishment of the incinerator or environmental services authority,  
6 the validity or proper authorization of such bonds, or the validity of  
7 any such covenants, agreements or contracts, and said bonds,  
8 covenants, agreements and contracts shall be conclusively deemed  
9 to be valid and binding obligations in accordance with their terms  
10 and tenor.

11 (cf: P.L.1948, c.348, s.12)

12

13 15. Section 14 of P.L.1948, c.348 (C.40:66A-14) is amended to  
14 read as follows:

15 14. Any bond resolution of an incinerator or environmental  
16 services authority providing for or authorizing the issuance of any  
17 bonds may contain provisions, and such incinerator or  
18 environmental services authority, in order to secure the payment of  
19 such bonds and in addition to its other powers, shall have power by  
20 provision in the bond resolution to covenant and agree with the  
21 several holders of such bonds, as to:

22 (1) The custody, security, use, expenditure or application of the  
23 proceeds of the bonds;

24 (2) The construction and completion, or replacement, of all or  
25 any part of the garbage disposal system;

26 (3) The use, regulation, operation, maintenance, insurance or  
27 disposition of all or any part of the garbage disposal system, or  
28 restrictions on the exercise of the powers of the incinerator or  
29 environmental services authority to dispose, or to limit or regulate  
30 the use, of all or any part of the garbage disposal system;

31 (4) Payment of the principal of or interest on the bonds, or any  
32 other obligations, and the sources and methods thereof, the rank or  
33 priority of any such bonds as obligations as to any lien or security,  
34 or the acceleration of the maturity of any such bonds or obligations.

35 (5) The use and disposition of any moneys of the incinerator or  
36 environmental services authority, including revenues (in this act  
37 sometimes called "system revenues" ) derived or to be derived from  
38 the operation of all or any part of the garbage disposal system,  
39 including any parts thereof theretofore constructed or acquired;

40 (6) Pledging, setting aside, depositing or trusteeing all or any  
41 part of the system revenues or other moneys of the incinerator or  
42 environmental services authority to secure the payment of the  
43 principal of or interest on the bonds or any other obligations, or the  
44 payment of expenses of operation or maintenance of the garbage  
45 disposal system, and the powers and duties of any trustee with  
46 regard thereto;

- 1 (7) The setting aside out of the system revenues or other moneys  
2 of the incinerator or environmental services authority of reserves  
3 and sinking funds, and the source, custody, security, regulation,  
4 application and disposition thereof;
- 5 (8) Determination or definition of the system revenues or of the  
6 expenses of operation and maintenance of the garbage disposal  
7 system;
- 8 (9) The rents, rates, fees, or other charges for the use of the  
9 services and facilities of the garbage disposal system, including any  
10 parts thereof theretofore constructed or acquired and any parts,  
11 extension, replacements or improvements thereof thereafter  
12 constructed or acquired, and the fixing, establishment, collection  
13 and enforcement of the same, the amount or amounts of system  
14 revenues to be produced thereby, and the disposition and  
15 application of the amounts charged or collected;
- 16 (10) The assumption or payment or discharge of any  
17 indebtedness, liens or other claims relating to any part of the  
18 garbage disposal system or any obligations having or which may  
19 have a lien on any part of the system revenue;
- 20 (11) Limitations on the issuance of additional bonds or any  
21 other obligations or on the incurrence of indebtedness of the  
22 incinerator or environmental services authority;
- 23 (12) Limitations on the powers of the incinerator or  
24 environmental services authority to construct, acquire or operate, or  
25 permit the construction, acquisition, or operation of, any plants,  
26 structures, facilities or properties which may compete or tend to  
27 compete with the garbage disposal system;
- 28 (13) Vesting in a trustee or trustees such property, rights,  
29 powers and duties in trust as the incinerator or environmental  
30 services authority may determine which may include any or all of  
31 the rights, powers and duties of the trustee appointed by the holders  
32 of bonds pursuant to section seventeen of this act, and limiting or  
33 abrogating the right of such holders to appoint a trustee pursuant to  
34 section fifteen of this act or limiting the rights, duties and powers of  
35 such trustee;
- 36 (14) Payment of costs or expenses incident to the enforcement  
37 of the bonds or of the provision of the bond resolution or of any  
38 covenant or contract with the holders of bonds;
- 39 (15) The procedure, if any, by which the terms of any covenant  
40 or contract with, or duty to, the holders of bonds may be amended  
41 or abrogated, the amount of bonds the holders of which must  
42 consent thereto, and the manner in which such consent may be  
43 given or evidenced; or
- 44 (16) Any other matter or course of conduct which by recital in  
45 the bond resolution, is declared to further secure the payment of the  
46 principal of or interest on the bonds.

1 All such provisions of the bond resolution and all such covenants  
2 and agreements shall constitute valid and legally binding contracts  
3 between the incinerator or environmental services authority and the  
4 several holders of the bonds, regardless of the time of issuance of  
5 such bonds, and shall be enforceable by any such holder or holders  
6 by appropriate action or proceeding in any court of competent  
7 jurisdiction.

8 (cf: P.L.1953, c.37, s.232)

9

10 16. Section 15 of P.L.1948, c.348 (C.40:66A-15) is amended to  
11 read as follows:

12 15. In the event that there shall be a default in the payment of  
13 principal of or interest on any bonds after the same shall become  
14 due, whether at maturity or upon call for redemption, and such  
15 default shall continue for a period of thirty days, or in the event that  
16 the incinerator or environmental services authority shall fail or  
17 refuse to comply with the provisions of this act or shall fail or  
18 refuse to carry out and perform the terms of any contract with the  
19 holders of any of such bonds, and such failure or refusal shall  
20 continue for a period of thirty days after written notice to the  
21 incinerator authority of its existence and nature, the holders of  
22 twenty-five per centum (25%) in aggregate principal amount of the  
23 bonds of such series then outstanding, by instruments or instrument  
24 filed in the office of the Secretary of State and proved and  
25 acknowledged in the same manner as a deed to be recorded, may  
26 appoint a trustee to represent the holders of the bonds of such series  
27 for the purposes in this section, and to have the powers provided in  
28 this section.

29 (a) Such trustee may and upon written request of the holders of  
30 twenty-five per centum (25%) in aggregate principal amount of the  
31 bonds of such series then outstanding shall, in his or its own name:

32 (1) By an action or proceeding in a court of competent  
33 jurisdiction, enforce all rights of the holders of such bonds,  
34 including the right to require the incinerator or environmental  
35 services authority to charge and collect service charges adequate to  
36 carry out any contract as to, or pledge of, system revenues, and to  
37 require the incinerator or environmental services authority to carry  
38 out and perform the terms of any contract with the holders of such  
39 bonds or its duties under this act;

40 (2) Bring an action upon all or any part of such bonds or interest  
41 coupons or claims appurtenant thereto;

42 (3) By an action require the incinerator or environmental  
43 services authority to account as if it were the trustee of an express  
44 trust for the holders of such bonds;

45 (4) By an action enjoin any acts or things which may be  
46 unlawful or in violation of the rights of the holders of such bonds;

47 or

1 (5) Declare all such bonds due and payable, whether or not in  
2 advance of maturity, upon thirty days' prior notice in writing to the  
3 incinerator or environmental services authority and, if all defaults  
4 shall be made good, then with the consent of the holders of twenty-  
5 five per centum (25%) of the principal amount of such bonds then  
6 outstanding, annul such declaration and its consequences.

7 (b) Such trustee shall, in addition to the foregoing, have and  
8 possess all of the powers necessary or appropriate for the exercise  
9 of the functions specifically set forth herein or incident to the  
10 general representation of the holders of bonds of such series in the  
11 enforcement and protection of their rights.

12 (c) In any action or proceeding by such trustee, the fees, counsel  
13 fees and expenses of the trustee and of the receiver, if any,  
14 appointed pursuant to this act, may be allowed by the court as  
15 taxable costs and disbursements or otherwise, when so allowed,  
16 shall be a first charge upon any service charges and system  
17 revenues of the incinerator or environmental services authority  
18 pledged for the payment or security of bonds of such series.

19 (d) Such trustee, upon such default referred to in this section,  
20 whether or not all of the bonds of such series shall have been  
21 declared due and payable, shall be entitled as of right to the  
22 appointment of a receiver of the garbage disposal system, and such  
23 receiver may enter upon and take possession of all moneys and  
24 other property derived from or applicable to the acquisition,  
25 construction, operation, maintenance or reconstruction of the  
26 garbage disposal system and proceed with such acquisition,  
27 construction, operation, maintenance or reconstruction which the  
28 incinerator authority is under any obligation to do, and operate,  
29 maintain and reconstruct the garbage disposal system and fix,  
30 charge, collect, enforce and receive the service charges and all  
31 system revenues thereafter arising subject to any pledge thereof or  
32 contract with the holders of such bonds relating thereto and perform  
33 the public duties and carry out the contracts and obligations of the  
34 incinerator or environmental services authority in the same manner  
35 as the incinerator authority itself might do and under the direction  
36 of the court.

37 (cf: P.L.1953, c.37, s.233)

38

39 17. Section 16 of P.L.1948, c.348 (C.40:66A-16) is amended to  
40 read as follows:

41 16. Neither the members of the incinerator or environmental  
42 services authority nor any person executing bonds issued pursuant  
43 to this act shall be liable personally on the bonds by reason of the  
44 issuance pursuant to this act shall not be in any way a debt or  
45 liability of the State, and bonds or other obligations issued by an  
46 incinerator or environmental services authority pursuant to this act



1 shall not be in any way a debt or liability of the State or of any local  
2 unit or municipality.

3 (cf: P.L.1948, c.348, s.16)

4

5 18. Section 17 of P.L.1948, c.348 (C.40:66A-17) is amended to  
6 read as follows:

7 17. Every incinerator or environmental services authority is  
8 hereby empowered, in its own name but for the local unit or units,  
9 to acquire by purchase, gift, grant or devise and to take for public  
10 use real property, within or without the district, which may be  
11 deemed by the incinerator or environmental services authority  
12 necessary for its purposes. Such incinerator authority is hereby  
13 empowered to acquire and take such real property by condemnation,  
14 in the manner provided by chapter one of Title 20, Eminent  
15 Domain, of the Revised Statutes (R.S., section 20:1-1 et seq.) and,  
16 to that end, may invoke and exercise in the manner or mode of  
17 procedure prescribed in said chapter, either in its own name or in  
18 the name of any local unit or units, all of the powers of such local  
19 unit or units to acquire or take property for public use.

20 (cf: P.L.1948, c.348, s.17)

21

22 19. Section 18 of P.L.1948, c.348 (C.40:66A-18) is amended to  
23 read as follows:

24 18. (a) In the event that a service charge of any incinerator or  
25 environmental services authority with regard to any parcel of real  
26 property shall not be paid as and when due, interest shall accrue and  
27 be due to the incinerator or environmental services authority on the  
28 unpaid balance at the rate of one per centum (1%) per month until  
29 such service charge, and the interest thereon, shall be fully paid to  
30 the incinerator or environmental services authority.

31 (b) In the event that a service charge of any incinerator or  
32 environmental services authority with regard to any parcel of real  
33 property owned by any person, firm, corporation or association  
34 shall not be paid as and when due, the unpaid balance thereof and  
35 all interest accruing thereon shall be a lien on such parcel. Such  
36 lien shall be superior and paramount to the interest in such parcel of  
37 any owner, lessee, tenant, mortgagee or other person except the lien  
38 of State, county and municipal taxes and shall be on a parity with  
39 and deemed equal to the lien on such parcel of State, county and  
40 municipal taxes.

41 (c) In the event that a service charge of any incinerator or  
42 environmental services authority with regard to any parcel of real  
43 property shall not be paid as and when due, the incinerator or  
44 environmental services authority may, in its discretion, discontinue  
45 the furnishing of any of the services and facilities of said garbage  
46 disposal system until such service charge and any subsequent  
47 service charge with regard to such parcel and all interest accrued

1 thereon shall be fully paid to the incinerator or environmental  
2 services authority.

3 (d) The collector or other officer of every municipality charged  
4 by law with the duty of enforcing municipal liens on real property  
5 shall enforce, with and as any other municipal lien on real property  
6 in such municipality, all service charges and the lien thereof and  
7 shall pay over to the incinerator or environmental services authority  
8 the sums or a pro rata share of the sums realized upon such  
9 enforcement or upon liquidation of any property acquired by the  
10 municipality by virtue of such enforcement.

11 (e) In the event that any service charge of an incinerator or  
12 environmental services authority shall not be paid as and when due,  
13 the unpaid balance thereof and all interest accrued thereon, together  
14 with attorneys' fees and costs, may be recovered by the incinerator  
15 or environmental services authority in a civil action, and any lien on  
16 real property for such service charge and interest accrued thereon  
17 may be foreclosed or otherwise enforced by the incinerator or  
18 environmental services authority by action or suit in equity as for  
19 the foreclosure of a mortgage on such real property.

20 (f) All rights and remedies granted by this act for the collection  
21 and enforcement of service charges shall be cumulative and  
22 concurrent.

23 (cf: P.L.1948, c.348, s.18)

24  
25 20. Section 19 of P.L.1948, c.348 (C.40:66A-19) is amended to  
26 read as follows:

27 19. Any county, by resolution of its board of chosen freeholders,  
28 or any municipality, by ordinance of its governing body, or any  
29 other person is hereby empowered, without any referendum and  
30 without the consent of any board, officer or other agency of the  
31 State, to sell, lease, lend, grant or convey to any incinerator or  
32 environmental services authority, or to permit any incinerator or  
33 environmental services authority **[in]** to use, maintain or operate as  
34 part of the garbage disposal system, any real or personal property  
35 owned by it, which may be necessary or useful and convenient for  
36 the purposes of the incinerator or environmental services authority  
37 and which may be accepted by the incinerator or environmental  
38 services authority. Any such sale, lease, loan, grant, conveyance or  
39 permit may be made with or without consideration and for a  
40 specified or an unlimited period of time and under any agreement  
41 and in any terms and conditions which may be approved by such  
42 county, municipality or other person and which may be agreed to by  
43 the incinerator or environmental services authority in conformity  
44 with its contracts with the holders of bonds, the incinerator or  
45 environmental services authority may enter into and perform any  
46 and all agreements for the assumption of principal or interest or  
47 both of indebtedness of such county, municipality or other person or

1 of any mortgage or lien existing with respect to such property or for  
2 the operation and maintenance of such property as part of the  
3 garbage disposal system.  
4 (cf: P.L.1948, c.348, s.19)

5  
6 21. Section 20 of P.L.1948, c.348 (C.40:66A-20) is amended to  
7 read as follows:

8 20. Any incinerator or environmental services authority and any  
9 municipality within the district by ordinance of its governing body  
10 may enter into a contract or contracts providing for or relating to  
11 the collection, treatment and disposal of garbage and refuse  
12 originating in the district or in such municipality by means of the  
13 garbage disposal system, and the cost and expense of such  
14 collection, treatment and disposal. Such contract or contracts may  
15 provide for the payment to the incinerator or environmental services  
16 authority by such municipality annually or otherwise of such sum or  
17 sums of money, computed at fixed amounts or by a formula based  
18 on any factors or other matters described in subsection (b) of  
19 section 8 of this act or in any other manner, as said contract or  
20 contracts may provide, and the sum or sums so payable may include  
21 provision for all or any part or a share of the amounts necessary (1)  
22 to pay or provide for the expenses of operation and maintenance of  
23 the garbage disposal system, including without limitation insurance,  
24 extensions, betterments and replacements and the principal of and  
25 interest on any bonds, and (2) to provide for any deficits resulting  
26 from failure to receive sums payable to the incinerator or  
27 environmental services authority by such municipality, any other  
28 municipality, or any person, or from any other cause, and (3) to  
29 maintain such reserves or sinking funds for any of the foregoing as  
30 may be required by the terms of any contract of the incinerator or  
31 environmental services authority or as may be deemed necessary or  
32 desirable by the incinerator or environmental services authority.  
33 Any such contract may provide that the sum or sums so payable to  
34 the incinerator or environmental services authority shall be in lieu  
35 of all or any part of the service charges which would otherwise be  
36 charged and collected by the incinerator or environmental services  
37 authority with regard to persons or real property within such  
38 municipality. Such contract or contracts may also contain  
39 provisions as to the financing and payment of expenses to be  
40 incurred by the incinerator or environmental services authority and  
41 determined by it to be necessary for its purposes prior to the placing  
42 in operation of the garbage disposal system and may provide for the  
43 payment by such municipality to the incinerator or environmental  
44 services authority for application to such expenses or indebtedness  
45 therefor such sum or sums of money, not in the aggregate exceeding  
46 an amount stated or otherwise limited in said contract or contracts  
47 plus interest thereon, as said contract or contracts may provide and

1 as the governing body of said municipality shall, by virtue of its  
2 authorization of and entry into said contract or contracts, determine  
3 to be necessary for the purposes of the incinerator or environmental  
4 services authority. Any such contract may be made with or without  
5 consideration and for a specified or an unlimited time and on any  
6 terms and conditions which may be approved by such municipality  
7 and which may be agreed to by the incinerator or environmental  
8 services authority in conformity with its contracts with the holders  
9 of any bonds, and shall be valid whether or not an appropriation  
10 with respect thereto is made by such municipality prior to  
11 authorization or execution thereof. Subject to any such contracts  
12 with the holders of bonds, such municipality is hereby authorized  
13 and directed to do and perform any and all acts or things necessary,  
14 convenient or desirable to carry out and perform every such  
15 contract and to provide for the payment or discharge of any  
16 obligation thereunder in the same manner as other obligations of  
17 such municipality and, in accordance with any such contract, to  
18 waive, modify, suspend or reduce the service charges which would  
19 otherwise be charged and collected by the incinerator or  
20 environmental services authority with regard to persons or real  
21 property within such municipality. Nothing in this section,  
22 however, shall prevent the incinerator or environmental services  
23 authority from collecting additional fees and charges from the  
24 owners or occupants of all parcels of real estate served by it within  
25 such municipality if for any reason such additional fees or charges  
26 shall be necessary in order for the incinerator or environmental  
27 services authority to pay all operating expenses, debt service and  
28 other payments required pursuant to contracts with bondholders;  
29 and notwithstanding such contracts with such municipalities, the  
30 incinerator or environmental services authority shall at all times  
31 have power and be obligated to collect sufficient additional fees and  
32 charges whenever necessary to pay all operating costs, debt service  
33 and all other payments required by contracts with bondholders.  
34 (cf: P.L.1954, c.185, s.1)

35  
36 22. Section 21 of P.L.1948, c.348 (C.40:66A-21) is amended to  
37 read as follows:

38 21. Each county, municipality and other public body shall  
39 promptly pay to any incinerator or environmental services authority  
40 all service charges which the incinerator or environmental services  
41 authority may charge to it, as owner or occupant of any real  
42 property and shall provide for the payment thereof in the same  
43 manner as other obligations of such county, municipality or public  
44 body.  
45 (cf: P.L.1948, c.348, s.21)

1       23. Section 22 of P.L.1948, c.348 (C.40:66A-22) is amended to  
2 read as follows:

3       22. Neither the incinerator or environmental services authority  
4 nor any local unit shall have power to mortgage, pledge, encumber  
5 or otherwise dispose of any part of the garbage disposal system,  
6 except that the incinerator or environmental services authority may  
7 dispose of such part or parts thereof as may be no longer necessary  
8 for the purposes of the incinerator or environmental services  
9 authority. The provisions of this section shall be deemed to  
10 constitute a part of the contract with the holder of any bonds. All  
11 property of an incinerator or environmental services authority shall  
12 be exempt from levy and sale by virtue of an execution and no  
13 execution or other judicial process shall issue against the same nor  
14 shall any judgment against an incinerator or environmental services  
15 authority be a charge or lien upon its property; provided, that  
16 nothing herein contained shall apply to or limit the rights of the  
17 holder of any bonds to pursue any remedy for the enforcement of  
18 any pledge or lien given by an incinerator or environmental services  
19 authority on its system revenues.

20 (cf: P.L.1948, c.348, s.22)

21

22       24. Section 24 of P.L.1948, c.348 (C.40:66A-24) is amended to  
23 read as follows:

24       24. Every garbage disposal system and all other property of an  
25 incinerator or environmental services authority are hereby declared  
26 to be public property of a political subdivision of the State and  
27 devoted to an essential public and governmental function and  
28 purpose and shall be exempt from all taxes and special assessments  
29 of the State or any subdivision thereof. All bonds issued pursuant  
30 to this act are hereby declared to be issued by a political subdivision  
31 of this State and for an essential public and governmental purpose  
32 and to be a public instrumentality, and such bonds, and the interest  
33 thereon and the income therefrom, and all service charges, funds,  
34 revenues and other moneys pledged or available to pay or secure the  
35 payment of such bonds, or interest thereon, shall at all times be  
36 exempt from taxation except for transfer, inheritance and estate  
37 taxes.

38 (cf: P.L.1948, c.348, s.24)

39

40       25. Section 25 of P.L.1948, c.348 (C.40:66A-25) is amended to  
41 read as follows:

42       25. The State of New Jersey does hereby pledge to and covenant  
43 and agree with the holders of any bonds issued pursuant to this act  
44 that the State will not authorize or permit the construction or  
45 maintenance of any incinerator or garbage disposal system which  
46 will be competitive with the garbage disposal system of the  
47 incinerator or environmental services authority, and will not limit or

1 alter the rights hereby vested in the incinerator or environmental  
2 services authority to acquire, construct, maintain, reconstruct and  
3 operate its garbage disposal system, and to fix, establish, charge and  
4 collect its service charges and to fulfill the terms of any agreement  
5 made with the holders of such bonds or other obligations, and will  
6 not in any way impair the rights or remedies of such holders, and  
7 will not modify in any way the exemptions from taxation provided  
8 for in this act, until such bonds, together with interest thereon, with  
9 interest on any unpaid installments of interest, and all costs and  
10 expenses in connection with any action or proceeding by or on  
11 behalf of such holders, are fully met and discharged.  
12 (cf: P.L.1948, c.348, s.25)

13

14 26. Section 26 of P.L.1948, c.348 (C.40:66A-26) is amended to  
15 read as follows:

16 26. All banks, bankers, trust companies, savings banks,  
17 investment companies and other persons carrying on a banking  
18 business are hereby authorized to give to any incinerator or  
19 environmental services authority a good and sufficient undertaking  
20 with such sureties as shall be approved by the incinerator or  
21 environmental services authority to the effect that such bank or  
22 banking institution as hereinbefore described shall faithfully keep  
23 and pay over to the order of or upon the warrant of the incinerator  
24 or environmental services authority or its authorized agent all such  
25 funds as may be deposited with it by the incinerator or  
26 environmental services authority and agreed interest thereon, at  
27 such times or upon such demands as may be agreed upon with the  
28 authority or, in lieu of such sureties, deposit with the incinerator or  
29 environmental services authority or its authorized agent or any  
30 trustee therefor or for the holders of any bonds, as collateral, such  
31 securities as the incinerator or environmental services authority may  
32 approve; provided, such securities shall consist of obligations in  
33 which public officers and bodies of the State and its municipal  
34 subdivisions, savings institutions, including savings and loan  
35 associations, insurance companies and associations, executors,  
36 administrators, guardians, trustees and other fiduciaries in the State  
37 may properly and legally invest the funds within their control, in  
38 such principal amount, market value or other description as may be  
39 approved by the incinerator or environmental services authority.  
40 The deposits of the incinerator or environmental services authority  
41 may be evidenced by a depository collateral agreement in such form  
42 and upon such terms and conditions as may be agreed upon by the  
43 incinerator or environmental services authority and such bank or  
44 banking institution.  
45 (cf: P.L.1948, c.348, s.26)

1       27. Section 27 of P.L.1948, c.348 (C.40:66A-27) is amended to  
2 read as follows:

3       27. After the creation of an incinerator or environmental  
4 services authority as provided herein, no municipality within the  
5 district shall have power to engage in, grant any license or permit  
6 for, or enter into any contract for, the collection, treatment and  
7 disposal of garbage and refuse; and no such municipality, or any  
8 person, firm, corporation or association shall engage in any  
9 activities within such municipality which would be competitive  
10 with the purposes of the incinerator or environmental services  
11 authority as provided in this act.

12       It is hereby determined and declared that it is necessary for the  
13 health and welfare of the inhabitants of every district within which  
14 an incinerator or environmental services authority is created that the  
15 facilities and services of such incinerator or environmental services  
16 authority shall be used by the owners or occupants of all lands,  
17 buildings and premises within such district, and the incinerator or  
18 environmental services authority may by resolution require the  
19 owners or occupants of all lands, buildings and premises therein to  
20 use the services and facilities of the incinerator or environmental  
21 services authority under such rules and regulations as the  
22 incinerator or environmental services authority shall fix and  
23 establish.

24       The provisions of this section shall not be construed, however, to  
25 affect or impair any contracts entered into prior to the creation of an  
26 incinerator or environmental services authority.

27 (cf: P.L.1948, c.348, s.27)

28

29       28. This act shall take effect immediately.

# SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

## STATEMENT TO

### SENATE, No. 872

# STATE OF NEW JERSEY

DATED: FEBRUARY 27, 2012

The Senate Community and Urban Affairs Committee reports favorably Senate Bill No. 872.

This bill would authorize incinerator authorities to perform sanitation, public works and environmental services. At this time, there is only one incinerator authority in operation – the Jersey City Incinerator Authority. Under current law, the activities of incinerator authorities are limited to the operation of a garbage disposal system. However, apparently, the Jersey City Incinerator Authority functions not only as a collector and disposer of residential waste, but has many other responsibilities: monitoring compliance and enforcing city ordinances relative to solid waste disposal and recycling; educating various city groups and entities about environmental issues; property maintenance through the coordination of cleanups of city and privately owned vacant lots; providing container rentals for the disposal of construction and demolition debris; securing and storing impounded vehicles; providing mechanical street sweeping; removing graffiti; providing snow plowing and removal services; and providing demolition services for unsafe buildings.

This bill would authorize the creation of “environmental services authorities” as an alternative to incinerator authorities. Environmental services, as defined in the bill would mean any and all services relative to sanitation, recycling, park and other recreation area maintenance, demolition, repair or maintenance of unsafe, unsanitary or unsound structures, automobile towing and impound, municipal vehicle maintenance and repair and services related thereto, street and road safety services, snow removal, environmental compliance and education, services necessary or appropriate for neighborhood beautification or environmental improvement, and any other service relative to maintaining a sanitary, safe, and healthy environment within a municipality.

This bill was pre-filed for introduction in the 2012-2013 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.



ASSEMBLY ENVIRONMENT AND SOLID WASTE  
COMMITTEE

STATEMENT TO

**SENATE, No. 872**

with committee amendments

**STATE OF NEW JERSEY**

DATED: JUNE 14, 2012

The Assembly Environment and Solid Waste Committee reports favorably and with committee amendments Senate Bill No. 872.

This bill, as amended by the committee, would authorize certain incinerator authorities to perform sanitation, public works and environmental services. At this time, there is only one incinerator authority in operation – the Jersey City Incinerator Authority. Under current law, the activities of incinerator authorities are limited to the operation of a garbage disposal system. However, apparently, the Jersey City Incinerator Authority functions not only as a collector and disposer of residential waste, but has many other responsibilities: monitoring compliance and enforcing city ordinances relative to solid waste disposal and recycling; educating various city groups and entities about environmental issues; property maintenance through the coordination of cleanups of city and privately owned vacant lots; providing container rentals for the disposal of construction and demolition debris; securing and storing impounded vehicles; providing mechanical street sweeping; removing graffiti; providing snow plowing and removal services; and providing demolition services for unsafe buildings.

This bill would authorize the creation of “environmental services authorities” as an alternative to incinerator authorities. Environmental services, as defined in the bill, would mean any and all services relative to sanitation, recycling, park and other recreation area maintenance, demolition, repair or maintenance of unsafe, unsanitary or unsound structures, automobile towing and impound, municipal vehicle maintenance and repair and services related thereto, street and road safety services, snow removal, environmental compliance and education, services necessary or appropriate for neighborhood beautification or environmental improvement, and any other service relative to maintaining a sanitary, safe, and healthy environment within a municipality.

As amended and reported by the committee, this bill is identical to Assembly Bill No. 2951 as also amended and reported by the committee.

COMMITTEE AMENDMENTS:

The committee amendments to the bill:

1) provide that the bill would apply only to a municipality that has established an incinerator authority prior to the date of enactment of the bill into law;

2) return language in sections 12 and 14 of the bill back to the language of current law to refer to the “garbage disposal” system, rather than to the “incinerator or environmental services” system; and

3) make technical corrections to consistently refer to “incinerator or environmental services authority” and to correct a statutory reference.

# ASSEMBLY, No. 2951

## STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED MAY 14, 2012

**Sponsored by:**

**Assemblyman SEAN CONNORS**

**District 33 (Hudson)**

**Assemblyman PATRICK J. DIEGNAN, JR.**

**District 18 (Middlesex)**

**SYNOPSIS**

Authorizes incinerator authorities to perform sanitation, public works, and environmental services.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT expanding the permissible scope of operation of incinerator  
2 authorities and amending P.L.1948, c.348.

3

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

6

7 1. Section 1 of P.L.1948, c.348 (C.40:66A-1) is amended to  
8 read as follows:

9 1. This act shall be known and may be cited as the "incinerator  
10 or environmental services authorities law."

11 (cf: P.L.1948, c.348, s.1)

12

13 2. Section 2 of P.L.1948, c.348 (C.40:66A-2) is amended to  
14 read as follows:

15 2. It is hereby declared to be in the public interest and to be the  
16 policy of the State to foster and promote by all reasonable means  
17 the health and welfare of the citizens thereof by the proper  
18 collection and disposal of garbage and other refuse matter, as well  
19 as by the performance of various other sanitation, public works and  
20 environmental services necessary to maintain a clean, healthy, and  
21 safe environment for all citizens.

22 (cf: P.L.1948, c.348, s.2)

23

24 3. Section 3 of P.L.1948, c.348 (C.40:66A-3) is amended to  
25 read as follows:

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

28 (1) "Municipality" shall mean any city of any class, any  
29 borough, village, town, township, or any other municipality other  
30 than a county or a school district;

31 (2) "Governing body" shall mean the commission, council,  
32 board or body, by whatever name it may be known, having charge  
33 of the finances of the municipality;

34 (3) "Person" shall mean any person, association, corporation,  
35 nation, State or any agency or subdivision thereof, municipality of  
36 the State or an incinerator authority;

37 (4) "Incinerator authority" or "environmental services authority"  
38 shall mean a public body created pursuant to section four of this act;

39 (5) Subject to the exceptions provided in the section four of this  
40 act, "district" shall mean the area within the territorial boundaries of  
41 the municipality or municipalities which created or joined in the  
42 creation of an incinerator or environmental services authority;

43 (6) "Local unit" shall mean any municipality which created or  
44 joined in the creation of an incinerator or environmental services  
45 authority;

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

**Matter underlined thus is new matter.**

1 (7) "Garbage disposal system" shall mean the plants, structures  
2 and other real and personal property acquired, constructed or  
3 operated or to be acquired constructed or operated by an incinerator  
4 or environmental services authority, including incinerators or other  
5 plants for the treatment and disposal of garbage and refuse matter  
6 and all other real and personal and rights therein and appurtenances  
7 necessary or useful and convenient for the collection, treatment or  
8 disposal in a sanitary manner of garbage and refuse matter (but not  
9 including sewage).

10 (8) "Cost" shall mean, in addition to the usual connotations  
11 thereof, the cost of acquisition or construction of all or any part of a  
12 garbage disposal system of all or any property, rights, easements  
13 and franchises deemed by the incinerator or environmental services  
14 authority to be necessary or useful and convenient therefor,  
15 including reimbursements to the incinerator or environmental  
16 services authority or any municipality or other person of any  
17 moneys theretofore expended for the purposes of the incinerator or  
18 environmental services authority and including interest or discount  
19 on bonds to finance such cost, engineering and inspection costs and  
20 legal expenses, the cost of financial, professional and other advice,  
21 and the cost of issuance of any such bonds;

22 (9) "Real property" shall mean lands both within and without  
23 the State, and improvements thereof or thereon, or any rights or  
24 interests therein;

25 (10) "Construct" and "construction" shall connote and include  
26 acts of construction, reconstruction, replacement, extension,  
27 improvement and betterment of a garbage disposal system;

28 (11) "Garbage or refuse matter" shall mean any refuse matter,  
29 trash or garbage from residences, hotels, apartments or any other  
30 public or private building but shall not include water-carried wastes,  
31 industrial waste or the kinds of wastes usually collected, carried  
32 away and disposed of by sewerage system.

33 (12) "Ordinance" means a written act of the governing body of a  
34 municipality adopted and otherwise approved and published in the  
35 manner or mode of procedure prescribed for ordinances tending to  
36 obligate such municipality pecuniarily; **[and]**

37 (13) "Resolution" means a written act of the governing body of a  
38 local unit adopted and otherwise approved in the manner or mode of  
39 procedure prescribed for resolutions tending to obligate such local  
40 unit pecuniarily; and

41 (14) "Environmental services" shall mean any and all services  
42 relative to sanitation, recycling, park and other recreation area  
43 maintenance, demolition, repair or maintenance of unsafe,  
44 unsanitary, or unsound structures, automobile towing and impound,  
45 municipal vehicle maintenance and repair and services related  
46 thereto, street and road safety services, snow removal,  
47 environmental compliance and education, services necessary or  
48 appropriate for neighborhood beautification or environmental

1 improvement, and any other service relative to maintaining a  
2 sanitary, safe, and healthy environment within a municipality.

3 (cf: P.L.1948, c.348, s. 3)

4

5 4. Section 4 of P.L.1948, c.348 (C.40:66A-4) is amended to  
6 read as follows:

7 4. (a) The governing body of any municipality may, by  
8 ordinance duly adopted, create a public body corporate and politic  
9 under the name and style of "the incinerator authority" with all or  
10 any significant part of the name of such municipality inserted. The  
11 governing body of any municipality may, by ordinance duly  
12 adopted, create a public body corporate and politic under the name  
13 and style of the "environmental services authority" with all or any  
14 significant part of the name of the municipality inserted. An  
15 incinerator or environmental services authority created pursuant to  
16 this section by a municipality other than a city of the first class shall  
17 consist of five members, and an incinerator or environmental  
18 services authority created pursuant to this section by a municipality  
19 which is a city of the first class shall consist of five or seven  
20 members, as determined by the governing body. Members of the  
21 incinerator or environmental services authority shall be appointed  
22 by resolution of the governing body as hereinafter in this section  
23 provided, and the authority shall constitute the incinerator or  
24 environmental services authority contemplated and provided for in  
25 this act and an agency and instrumentality of said municipality.  
26 After the taking effect of such ordinance and the filing of a certified  
27 copy thereof as in subsection (c) of this section provided, the  
28 members of the incinerator or environmental services authority  
29 shall be appointed. The members first appointed shall, by the  
30 resolution of appointment, be designated to serve for terms  
31 respectively expiring as follows: the terms of the first four members  
32 shall expire in turn on each of the first days of the first, second,  
33 third and fourth Februaries next ensuing after the date of their  
34 appointment, and the remaining members shall be designated to  
35 serve for terms expiring on the first day of the fifth February next  
36 ensuing after the date of their appointment. On or after the first day  
37 of January in each year after such first appointments, one person  
38 shall be appointed or reappointed as a member of the incinerator or  
39 environmental services authority to succeed each member whose  
40 term is expiring, and shall serve for a term commencing on the first  
41 day of February in such year and expiring on the first day of  
42 February in the fifth year after such year. In the event of a vacancy  
43 in the membership of the incinerator or environmental services  
44 authority occurring during an unexpired term of office, a person  
45 shall be appointed as a member of the incinerator or environmental  
46 services authority to serve for such unexpired term.

47 The governing body of a municipality which is a city of the first  
48 class may increase the membership of its incinerator or

1 environmental services authority to seven members from five  
2 members. The two additional members shall be appointed to serve  
3 five-year terms, commencing on the February 1 next following their  
4 appointment and expiring on February 1 in the fifth year after their  
5 appointment.

6 (b) The governing bodies of any two or more municipalities,  
7 whether or not the areas of such municipalities comprise an integral  
8 body of territory, may, by parallel ordinances duly adopted by each  
9 of such governing bodies within any single calendar year, create a  
10 public body corporate and politic under the name and style of "the  
11 incinerator authority" with all or any significant part of the name of  
12 each such municipality or some identifying geographical phrase  
13 inserted. The governing bodies of any two or more municipalities,  
14 whether or not the areas of such municipalities comprise an integral  
15 body of territory, may, by parallel ordinances duly adopted by each  
16 of such governing bodies within any single calendar year, create a  
17 public body corporate and politic under the name and style of "the  
18 environmental services authority" with all or any significant part of  
19 the name of each such municipality or some identifying  
20 geographical phrase inserted. Said body shall consist of the  
21 members thereof, in an aggregate number determined as hereinafter  
22 in this subsection provided, who shall be appointed by resolution of  
23 the several governing bodies as hereinafter in this section provided,  
24 and it shall constitute the incinerator or environmental services  
25 authority contemplated and provided for in this act and an agency  
26 and instrumentality of the said municipalities. The number of  
27 members of the incinerator or environmental services authority to  
28 be appointed at any time for full terms of office by the governing  
29 body of any such municipality or municipalities, as the case may be,  
30 shall be as may be stated in said ordinances which shall be not less  
31 than one nor more than three. After the taking effect of the said  
32 ordinances of all such municipalities and after the filing of certified  
33 copies thereof as in subsection (c) of this section provided, the  
34 appropriate number of persons shall be appointed as members of the  
35 incinerator or environmental services authority by the governing  
36 body of each municipality. The members first appointed or to be  
37 first appointed shall serve for terms expiring on the first day of the  
38 fifth February next ensuing after the date of the first appointment of  
39 any member. On or after the first day of January in the year in  
40 which expires the terms of the said members first appointed and in  
41 every fifth year thereafter, the appropriate number of persons shall  
42 be appointed as members of the incinerator or environmental  
43 services authority by the governing body of each municipality, to  
44 serve for terms commencing on the first day of February in such  
45 year and expiring on the first day of February in the fifth year after  
46 such year. In the event of a vacancy in the membership of the  
47 incinerator or environmental services authority occurring during an  
48 unexpired term of office, a person shall be appointed as a member

1 of the incinerator or environmental services authority to serve for  
2 such unexpired term by the governing body which made the original  
3 appointment for such unexpired term.

4 (c) A copy of each ordinance for the creation of an incinerator  
5 or environmental services authority adopted pursuant to this  
6 section, duly certified by the appropriate officer of the local unit,  
7 shall be filed in the office of the Secretary of State. Upon proof of  
8 such filing of a certified copy of the ordinance or of certified copies  
9 of the parallel ordinances for the creation of an incinerator or  
10 environmental services authority as aforesaid, the incinerator or  
11 environmental services authority therein referred to shall, in any  
12 suit, action or proceeding involving the validity or enforcement of,  
13 or relating to, any contract or obligation or act of the incinerator or  
14 environmental services authority, be conclusively deemed to have  
15 been lawfully and properly created and established and authorized  
16 to transact business and exercise its powers under this act. A copy  
17 of any such certified ordinance, duly certified by or on behalf of the  
18 Secretary of State, shall be admissible in evidence in any suit,  
19 action or proceeding.

20 (d) A copy of each resolution appointing any member of an  
21 incinerator or environmental services authority adopted pursuant to  
22 this section, duly certified by the appropriate officer of the local  
23 unit, shall be filed in the office of the Secretary of State. A copy of  
24 such certified resolution, duly certified by or on behalf of the  
25 Secretary of State, shall be admissible in evidence in any suit,  
26 action or proceeding and, except in a suit, action or proceeding  
27 directly questioning such appointment, shall be conclusive evidence  
28 of the due and proper appointment of the members named therein.

29 (e) No governing body which may create or join in the creation  
30 of any incinerator or environmental services authority pursuant to  
31 this section shall thereafter create or join in the creation of any  
32 other incinerator or environmental services authority. No governing  
33 body of any municipality within a district shall create or join in the  
34 creation of any incinerator or environmental services authority  
35 except upon the written consent of the incinerator or environmental  
36 services authority and in accordance with the terms and conditions  
37 of such consent, and in the event such consent be given and an  
38 incinerator or environmental services authority be created pursuant  
39 thereto, the area within the territorial boundaries of such  
40 municipality shall not thereafter be part of the district.

41 (cf: P.L.1994, c.85, s.2)

42

43 5. Section 5 of P.L.1948, c.348 (C.40:66A-5) is amended to  
44 read as follows:

45 5. (a) The powers of an incinerator or environmental services  
46 authority shall be vested in the members thereof in office from time  
47 to time. A majority of the entire authorized membership of the  
48 incinerator or environmental services authority shall constitute a



1 quorum at any meeting thereof. Action may be taken and motions  
2 and resolutions adopted by the incinerator or environmental  
3 services authority at any meeting of the members thereof by vote of  
4 a majority of the members present, unless in any case the by-laws of  
5 the incinerator or environmental services authority shall require a  
6 large number. The incinerator or environmental services authority  
7 may delegate to one or more of its officers, agents or employees  
8 such powers and duties as it may deem proper.

9 (b) Each member of an incinerator or environmental services  
10 authority shall hold office for the term for which he was appointed  
11 and until his successor has been appointed and has qualified.

12 (c) No member, officer or employee of an incinerator or  
13 environmental services authority shall have or acquire any interest,  
14 direct or indirect, in the garbage disposal system in any property  
15 included or planned to be included in the garbage disposal system  
16 or in any contract or proposed contract for materials or services to  
17 be furnished to or used by the incinerator or environmental services  
18 authority, but neither the holding of any officer or employment in  
19 the government of any municipality or under any law of the State  
20 nor the owning of any property within the State shall be deemed a  
21 disqualification for membership in or employment by an incinerator  
22 or environmental services authority. A member of an incinerator or  
23 environmental services authority may be removed only by the  
24 governing body by which he was appointed and only for  
25 inefficiency or neglect of duty or misconduct in office and after he  
26 shall have been given a copy of the charges against him and, not  
27 sooner than ten days thereafter, had opportunity in person or by  
28 counsel to be heard thereon by such governing body.

29 (d) An incinerator or environmental services authority may  
30 reimburse its members for necessary expenses incurred in the  
31 discharge of their duties. The ordinance or parallel ordinances for  
32 the creation of an incinerator or environmental services authority  
33 may provide that the members of the incinerator or environmental  
34 services authority may receive compensation for their services  
35 within an annual and other limitations to be stated in such ordinance  
36 or parallel ordinances, and in that event, each member may receive  
37 from the incinerator or environmental services authority such  
38 compensation for his services as the incinerator or environmental  
39 services authority may determine within the limitations stated in  
40 such ordinance or parallel ordinances. No member of any  
41 incinerator or environmental services authority shall receive any  
42 compensation for his services except as provided in this subsection.

43 (e) Every incinerator or environmental services authority, upon  
44 the first appointment of its members and thereafter on or after the  
45 first day of February in each year, shall annually elect from among  
46 its members a chairman and a vice-chairman who shall hold office,  
47 until the first day of February next ensuing and until their respective  
48 successors have been appointed and have qualified. Every

1 incinerator or environmental services authority may also appoint  
2 and employ a secretary and such professional and technical advisers  
3 and experts and such other officers, agents and employees as it may  
4 require, and it shall determine their qualifications, duties and  
5 compensation.

6 (cf: P.L.1948, c.348, s.5)

7

8 6. Section 6 of P.L.1948, c.348 (C.40:66A-6) is amended to  
9 read as follows:

10 6. Every incinerator or environmental services authority is  
11 hereby authorized and directed, subject to the limitations of this act,  
12 to acquire, in its own name but for the local unit or units, by  
13 purchase, gift, condemnation or otherwise, and, notwithstanding the  
14 provisions of any charter, ordinance or resolution of any county or  
15 municipality to the contrary, to construct, maintain, operate and use  
16 such incinerators, treatment plants or works at such places, and such  
17 other plants, structures, property and conveyances, as in the  
18 judgment of the incinerator or environmental services authority will  
19 provide an effective and satisfactory method for promoting the  
20 purposes of the incinerator or environmental services authority.

21 (cf: P.L.1948, c.348, s.6)

22

23 7. Section 7 of P.L.1948, c.348 (C.40:66A-7) is amended to  
24 read as follows:

25 7. Every incinerator or environmental services authority shall  
26 be a public body politic and corporate constituting a political  
27 subdivision of the State established as an instrumentality exercising  
28 public and essential governmental functions to provide for the  
29 public health and welfare and shall have perpetual succession and  
30 have the following powers:

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

33 (2) To sue and to be sued;

34 (3) In the name of the incinerator or environmental services  
35 authority and on its behalf, to acquire, hold, use and dispose of its  
36 service charges and other revenues and other moneys;

37 (4) In the name of the incinerator or environmental services  
38 authority but for the local unit or unit, to acquire, hold, use and  
39 dispose of other personal property for the purposes of the  
40 incinerator or environmental services authority;

41 (5) In the name of the incinerator or environmental services  
42 authority but for the local unit or units, to acquire by purchase, gift,  
43 condemnation or otherwise, real property and easements therein,  
44 necessary or useful and convenient for the purposes of the  
45 incinerator or environmental services authority, and subject to  
46 mortgages, deeds of trust or other liens, or otherwise, and to hold  
47 and to use the same, and to dispose of property so acquired no

1 longer necessary for the purposes of the incinerator or  
2 environmental services authority;

3 (6) To provide for and secure the payment of any bonds and the  
4 rights of the holders thereof, and to purchase, hold and dispose of  
5 any bonds;

6 (7) To accept gifts or grants of real or personal property, money,  
7 material, labor or supplies for the purpose of the incinerator or  
8 environmental services authority, and to make and perform such  
9 agreements and contracts as may be necessary or convenient in  
10 connection with the procuring, acceptance or disposition of such  
11 gifts or grants;

12 (8) To enter on any lands or premises for the purposes of the  
13 incinerator or environmental services authority;

14 (9) To make and enforce bylaws or rules and regulations for the  
15 management and regulation of its business and affairs and for the  
16 use, maintenance and operation of the garbage disposal system and  
17 any other of its properties, and to amend the same;

18 (10) To do and perform any acts and things authorized by this act  
19 under, through or by means of its own officers, agents and  
20 employees, or by contracts with any persons; and

21 (11) To enter into any and all contracts, execute any and all  
22 instruments, and do and perform any and all acts or things  
23 necessary, convenient or desirable for the purpose of the incinerator  
24 or environmental services authority or to carry out any power  
25 expressly given in this act subject to P.L.1971, c.198 "Local Public  
26 Contracts Law" (C. 40A:11-1 et seq.).

27 (cf: P.L.1975, c.96, s.11)

28

29 8. Section 1 of P.L.1952, c.304 (C.40:66A-7.1) is amended to  
30 read as follows:

31 1. It shall be the duty of every "incinerator or environmental  
32 services authority," created pursuant to the act to which this act is a  
33 supplement, to cause an annual audit of the accounts of the  
34 authority to be made and filed with the authority, and for this  
35 purpose the authority shall employ a registered municipal  
36 accountant of New Jersey or a certified public accountant of New  
37 Jersey. The audit shall be completed and filed with the authority  
38 within four months after the close of the fiscal year of the authority  
39 and a certified duplicate copy thereof shall be filed with the  
40 Director of the Division of Local Government Services in the  
41 Department of **the Treasury** Community Affairs within five days  
42 after the original report is filed with the authority.

43 (cf: P.L.1952, c.304, s.1)

44

45 9. Section 2 of P.L.1952, c.304 (C.40:66A-7.2) is amended to  
46 read as follows:

47 2. Every such "incinerator or environmental services authority"  
48 shall file a certified copy of every bond resolution as finally passed

1 with the Director of the Division of Local Government Services in  
2 the Department of ~~the Treasury~~ Community Affairs and in  
3 addition shall file a certified copy of all bond proceedings with the  
4 said director.

5 (cf: P.L.1952, c.304, s.2)

6  
7 10. Section 8 of P.L.1948, c.348 (C.40:66A-8) is amended to  
8 read as follows:

9 8. (a) Every incinerator or environmental services authority is  
10 hereby authorized to charge and collect rents, rates, fees or other  
11 charges (in this act sometimes referred to as "service charges") for  
12 the services and facilities of the garbage disposal system.

13 (b) Such rents, rates, fees and charges, being in the nature of use  
14 or service charges, shall as nearly as the incinerator or  
15 environmental services authority shall deem practicable and  
16 equitable be uniform throughout the district for the same type, class  
17 and amount of use or service of the garbage disposal system.

18 (c) The incinerator or environmental services authority shall  
19 prescribe and from time to time when necessary revise the schedule  
20 of such service charges, which in any event shall be such that the  
21 revenues of the incinerator or environmental services authority will  
22 at all times be adequate to pay all expenses of operation and  
23 maintenance of the garbage disposal system, including reserves,  
24 insurance, extensions, and replacements, and to pay punctually the  
25 principal of and interest on any bonds and to maintain such reserves  
26 or sinking funds therefor as may be required by the terms of any  
27 contract of the incinerator or environmental services authority. Said  
28 schedule shall thus be prescribed and from time to time revised by  
29 the incinerator or environmental services authority after public  
30 hearing thereon which shall be held by the incinerator or  
31 environmental services authority at least 7 days after publication of  
32 notice of the proposed adjustment of the service charges and of the  
33 time and place of the public hearing in at least two newspapers of  
34 general circulation in the area serviced by the authority. The  
35 incinerator or environmental services authority shall provide  
36 evidence at the hearing showing that the proposed adjustment of the  
37 service charges is necessary and reasonable, and shall provide the  
38 opportunity for cross-examination of persons offering such  
39 evidence, and a transcript of the hearing shall be made and a copy  
40 thereof shall be available upon request to any interested party at a  
41 reasonable fee. The incinerator or environmental services authority  
42 shall likewise fix and determine the time or times when and the  
43 place or places where such service charges shall be due and payable  
44 and may require that such service charges shall be paid in advance  
45 for periods of not more than 1 year. A copy of such schedule of  
46 service charges in effect shall at all times be kept on file at the  
47 principal office of the incinerator or environmental services

1 authority and shall at all reasonable times be open to public  
2 inspection.

3 (cf: P.L.1981, c.511, s.19)

4

5 11. Section 11 of P.L.1948, c.348 (C.40:66A-9) is amended to  
6 read as follows:

7 9. Any local unit shall have power, in the discretion of its  
8 governing body, to appropriate moneys for the purposes of the  
9 incinerator or environmental services authority, and to loan or  
10 donate such moneys to the incinerator or environmental services  
11 authority in such installments and upon such terms as may be  
12 agreed upon between such local unit and the incinerator or  
13 environmental services authority.

14 (cf: P.L.1948, c.348, s.9)

15

16 12. Section 10 of P.L.1948, c.348 (C.40:66A-10) is amended to  
17 read as follows:

18 10. Revenue bonds may be authorized to be issued under this act  
19 to provide funds to pay the cost of all or any part of the [garbage  
20 disposal] incinerator or environmental services system, or for the  
21 refunding of any bonds theretofore issued for such purposes. The  
22 purposes for which such revenue bonds may be issued shall include  
23 the payment to the local unit or local units of the reasonable value  
24 of any properties or facilities deemed necessary or desirable for the  
25 purposes of the incinerator or environmental services authority, and  
26 such incinerator or environmental services authorities are hereby  
27 authorized to purchase and acquire such properties or facilities from  
28 such local unit or local units.

29 Such revenue bonds shall be authorized by resolution of the  
30 incinerator or environmental services authority which may be  
31 adopted at the same meeting at which it is introduced by a majority  
32 of all the members thereof then in office, shall take effect  
33 immediately and need not be published or posted. Such revenue  
34 bonds may bear interest at such rate or rates, not exceeding 6% per  
35 annum, may be in [1] one or more series, may bear such date or  
36 dates, may mature at such time or times not exceeding 30 years  
37 from their respective dates, may be payable in such medium of  
38 payment at such place or places, may carry such registration  
39 privileges, may be subject to such terms of redemption with or  
40 without premium, may be executed in such manner, may contain  
41 such terms, covenants and conditions, and may be in such form,  
42 either coupon or registered, as such resolution or subsequent  
43 resolution may provide. Such revenue bonds may be sold, all at one  
44 time or in blocks from time to time, at public or private sale, or if  
45 refunding bonds may also be delivered in exchange for the  
46 outstanding obligations to be refunded thereby, in such manner as  
47 the incinerator or environmental services authority shall determine  
48 by resolution, and at such price or prices, computed according to

1 standard tables of bond values, as will yield to the purchasers or the  
2 holders of the obligations surrendered in exchange, income at a rate  
3 not exceeding 6% per annum to the maturity dates of the several  
4 bonds so sold or exchanged on the money paid or the principal  
5 amount of obligations surrendered therefor to the incinerator or  
6 environmental services authority.  
7 (cf: P.L.1954, c.185, s.2)

8  
9 13. Section 11 of P.L.1948, c.348 (C.40:66A-11) is amended to  
10 read as follows:

11 11. After sale of any revenue bonds pursuant to this act, the  
12 incinerator or environmental services authority shall have power to  
13 authorize the execution and issuance to the purchasers, pending the  
14 preparation of the definitive bonds, of interim certificates therefor  
15 or of temporary bonds or other temporary instruments exchangeable  
16 for the definitive bonds when prepared, executed and ready for  
17 delivery. The holders of such interim certificates, temporary bonds  
18 or other temporary instruments shall have all the rights and  
19 remedies which they would have as holders of the definitive bonds.  
20 (cf: P.L.1948, c.348, s.11)

21  
22 14. Section 12 of P.L.1948, c.348 (C.40:66A-12) is amended to  
23 read as follows:

24 12. Any incinerator or environmental services authority may  
25 cause to be published in a newspaper published in the district a  
26 notice stating the date of adoption of such bond resolution, the  
27 amount and maturities of the bonds authorized to be issued, and  
28 also stating that any action or proceeding of any kind or nature in  
29 any court questioning the validity of the creation and establishment  
30 of the incinerator or environmental services authority, or the  
31 validity or proper authorization of bonds provided for by the bond  
32 resolution, or the validity of any covenants, agreements or contracts  
33 provided for by the bond resolution shall be commenced within  
34 twenty days after the first publication of such notice. If no such  
35 action or proceeding shall be commenced or instituted within  
36 twenty days after the first publication of such notice, then all  
37 residents and taxpayers and owners of property in the district and  
38 users of the **【garbage disposal】** incinerator or environmental  
39 services system and all other persons whatsoever shall be forever  
40 barred and foreclosed from instituting or commencing any action or  
41 proceeding in any court, or from pleading any defense to any action  
42 or proceeding, questioning the validity of the creation and  
43 establishment of the incinerator or environmental services authority,  
44 the validity or proper authorization of such bonds, or the validity of  
45 any such covenants, agreements or contracts, and said bonds,  
46 covenants, agreements and contracts shall be conclusively deemed

1 to be valid and binding obligations in accordance with their terms  
2 and tenor.

3 (cf: P.L.1948, c.348, s.12)

4

5 15. Section 14 of P.L.1948, c.348 (C.40:66A-14) is amended to  
6 read as follows:

7 14. Any bond resolution of an incinerator or environmental  
8 services authority providing for or authorizing the issuance of any  
9 bonds may contain provisions, and such incinerator or  
10 environmental services authority, in order to secure the payment of  
11 such bonds and in addition to its other powers, shall have power by  
12 provision in the bond resolution to covenant and agree with the  
13 several holders of such bonds, as to:

14 (1) The custody, security, use, expenditure or application of the  
15 proceeds of the bonds;

16 (2) The construction and completion, or replacement, of all or  
17 any part of the garbage disposal system;

18 (3) The use, regulation, operation, maintenance, insurance or  
19 disposition of all or any part of the garbage disposal system, or  
20 restrictions on the exercise of the powers of the incinerator or  
21 environmental services authority to dispose, or to limit or regulate  
22 the use, of all or any part of the garbage disposal system;

23 (4) Payment of the principal of or interest on the bonds, or any  
24 other obligations, and the sources and methods thereof, the rank or  
25 priority of any such bonds as obligations as to any lien or security,  
26 or the acceleration of the maturity of any such bonds or obligations.

27 (5) The use and disposition of any moneys of the incinerator or  
28 environmental services authority, including revenues (in this act  
29 sometimes called "system revenues" ) derived or to be derived from  
30 the operation of all or any part of the garbage disposal system,  
31 including any parts thereof theretofore constructed or acquired;

32 (6) Pledging, setting aside, depositing or trusteeing all or any  
33 part of the system revenues or other moneys of the incinerator or  
34 environmental services authority to secure the payment of the  
35 principal of or interest on the bonds or any other obligations, or the  
36 payment of expenses of operation or maintenance of the garbage  
37 disposal system, and the powers and duties of any trustee with  
38 regard thereto;

39 (7) The setting aside out of the system revenues or other moneys  
40 of the incinerator or environmental services authority of reserves  
41 and sinking funds, and the source, custody, security, regulation,  
42 application and disposition thereof;

43 (8) Determination or definition of the system revenues or of the  
44 expenses of operation and maintenance of the garbage disposal  
45 system;

46 (9) The rents, rates, fees, or other charges for the use of the  
47 services and facilities of the garbage disposal system, including any  
48 parts thereof theretofore constructed or acquired and any parts,

1 extension, replacements or improvements thereof thereafter  
2 constructed or acquired, and the fixing, establishment, collection  
3 and enforcement of the same, the amount or amounts of system  
4 revenues to be produced thereby, and the disposition and  
5 application of the amounts charged or collected;

6 (10) The assumption or payment or discharge of any  
7 indebtedness, liens or other claims relating to any part of the  
8 garbage disposal system or any obligations having or which may  
9 have a lien on any part of the system revenue;

10 (11) Limitations on the issuance of additional bonds or any  
11 other obligations or on the incurrence of indebtedness of the  
12 incinerator or environmental services authority;

13 (12) Limitations on the powers of the incinerator or  
14 environmental services authority to construct, acquire or operate, or  
15 permit the construction, acquisition, or operation of, any plants,  
16 structures, facilities or properties which may compete or tend to  
17 compete with the garbage disposal system;

18 (13) Vesting in a trustee or trustees such property, rights,  
19 powers and duties in trust as the incinerator or environmental  
20 services authority may determine which may include any or all of  
21 the rights, powers and duties of the trustee appointed by the holders  
22 of bonds pursuant to section seventeen of this act, and limiting or  
23 abrogating the right of such holders to appoint a trustee pursuant to  
24 section fifteen of this act or limiting the rights, duties and powers of  
25 such trustee;

26 (14) Payment of costs or expenses incident to the enforcement  
27 of the bonds or of the provision of the bond resolution or of any  
28 covenant or contract with the holders of bonds;

29 (15) The procedure, if any, by which the terms of any covenant  
30 or contract with, or duty to, the holders of bonds may be amended  
31 or abrogated, the amount of bonds the holders of which must  
32 consent thereto, and the manner in which such consent may be  
33 given or evidenced; or

34 (16) Any other matter or course of conduct which by recital in  
35 the bond resolution, is declared to further secure the payment of the  
36 principal of or interest on the bonds.

37 All such provisions of the bond resolution and all such covenants  
38 and agreements shall constitute valid and legally binding contracts  
39 between the incinerator or environmental services authority and the  
40 several holders of the bonds, regardless of the time of issuance of  
41 such bonds, and shall be enforceable by any such holder or holders  
42 by appropriate action or proceeding in any court of competent  
43 jurisdiction.

44 (cf: P.L.1953, c.37, s.232)

45

46 16. Section 15 of P.L.1948, c.348 (C.40:66A-15) is amended to  
47 read as follows:



1       15. In the event that there shall be a default in the payment of  
2 principal of or interest on any bonds after the same shall become  
3 due, whether at maturity or upon call for redemption, and such  
4 default shall continue for a period of thirty days, or in the event that  
5 the incinerator or environmental services authority shall fail or  
6 refuse to comply with the provisions of this act or shall fail or  
7 refuse to carry out and perform the terms of any contract with the  
8 holders of any of such bonds, and such failure or refusal shall  
9 continue for a period of thirty days after written notice to the  
10 incinerator authority of its existence and nature, the holders of  
11 twenty-five per centum (25%) in aggregate principal amount of the  
12 bonds of such series then outstanding, by instruments or instrument  
13 filed in the office of the Secretary of State and proved and  
14 acknowledged in the same manner as a deed to be recorded, may  
15 appoint a trustee to represent the holders of the bonds of such series  
16 for the purposes in this section, and to have the powers provided in  
17 this section.

18       (a) Such trustee may and upon written request of the holders of  
19 twenty-five per centum (25%) in aggregate principal amount of the  
20 bonds of such series then outstanding shall, in his or its own name:

21       (1) By an action or proceeding in a court of competent  
22 jurisdiction, enforce all rights of the holders of such bonds,  
23 including the right to require the incinerator or environmental  
24 services authority to charge and collect service charges adequate to  
25 carry out any contract as to, or pledge of, system revenues, and to  
26 require the incinerator or environmental services authority to carry  
27 out and perform the terms of any contract with the holders of such  
28 bonds or its duties under this act;

29       (2) Bring an action upon all or any part of such bonds or interest  
30 coupons or claims appurtenant thereto;

31       (3) By an action require the incinerator or environmental  
32 services authority to account as if it were the trustee of an express  
33 trust for the holders of such bonds;

34       (4) By an action enjoin any acts or things which may be  
35 unlawful or in violation of the rights of the holders of such bonds;

36 or

37       (5) Declare all such bonds due and payable, whether or not in  
38 advance of maturity, upon thirty days' prior notice in writing to the  
39 incinerator or environmental services authority and, if all defaults  
40 shall be made good, then with the consent of the holders of twenty-  
41 five per centum (25%) of the principal amount of such bonds then  
42 outstanding, annul such declaration and its consequences.

43       (b) Such trustee shall, in addition to the foregoing, have and  
44 possess all of the powers necessary or appropriate for the exercise  
45 of the functions specifically set forth herein or incident to the  
46 general representation of the holders of bonds of such series in the  
47 enforcement and protection of their rights.

1 (c) In any action or proceeding by such trustee, the fees, counsel  
2 fees and expenses of the trustee and of the receiver, if any,  
3 appointed pursuant to this act, may be allowed by the court as  
4 taxable costs and disbursements or otherwise, when so allowed,  
5 shall be a first charge upon any service charges and system  
6 revenues of the incinerator or environmental services authority  
7 pledged for the payment or security of bonds of such series.

8 (d) Such trustee, upon such default referred to in this section,  
9 whether or not all of the bonds of such series shall have been  
10 declared due and payable, shall be entitled as of right to the  
11 appointment of a receiver of the garbage disposal system, and such  
12 receiver may enter upon and take possession of all moneys and  
13 other property derived from or applicable to the acquisition,  
14 construction, operation, maintenance or reconstruction of the  
15 garbage disposal system and proceed with such acquisition,  
16 construction, operation, maintenance or reconstruction which the  
17 incinerator authority is under any obligation to do, and operate,  
18 maintain and reconstruct the garbage disposal system and fix,  
19 charge, collect, enforce and receive the service charges and all  
20 system revenues thereafter arising subject to any pledge thereof or  
21 contract with the holders of such bonds relating thereto and perform  
22 the public duties and carry out the contracts and obligations of the  
23 incinerator or environmental services authority in the same manner  
24 as the incinerator authority itself might do and under the direction  
25 of the court.

26 (cf: P.L.1953, c.37, s.233)

27  
28 17. Section 16 of P.L.1948, c.348 (C.40:66A-16) is amended to  
29 read as follows:

30 16. Neither the members of the incinerator or environmental  
31 services authority nor any person executing bonds issued pursuant  
32 to this act shall be liable personally on the bonds by reason of the  
33 issuance pursuant to this act shall not be in any way a debt or  
34 liability of the State, and bonds or other obligations issued by an  
35 incinerator or environmental services authority pursuant to this act  
36 shall not be in any way a debt or liability of the State or of any local  
37 unit or municipality.

38 (cf: P.L.1948, c.348, s.16)

39  
40 18. Section 17 of P.L.1948, c.348 (C.40:66A-17) is amended to  
41 read as follows:

42 17. Every incinerator or environmental services authority is  
43 hereby empowered, in its own name but for the local unit or units,  
44 to acquire by purchase, gift, grant or devise and to take for public  
45 use real property, within or without the district, which may be  
46 deemed by the incinerator or environmental services authority  
47 necessary for its purposes. Such incinerator authority is hereby  
48 empowered to acquire and take such real property by condemnation,

1 in the manner provided by chapter one of Title 20, Eminent  
2 Domain, of the Revised Statutes (R.S., section 20:1-1 et seq.) and,  
3 to that end, may invoke and exercise in the manner or mode of  
4 procedure prescribed in said chapter, either in its own name or in  
5 the name of any local unit or units, all of the powers of such local  
6 unit or units to acquire or take property for public use.  
7 (cf: P.L.1948, c.348, s.17)

8  
9 19. Section 18 of P.L.1948, c.348 (C.40:66A-18) is amended to  
10 read as follows:

11 18. (a) In the event that a service charge of any incinerator or  
12 environmental services authority with regard to any parcel of real  
13 property shall not be paid as and when due, interest shall accrue and  
14 be due to the incinerator or environmental services authority on the  
15 unpaid balance at the rate of one per centum (1%) per month until  
16 such service charge, and the interest thereon, shall be fully paid to  
17 the incinerator or environmental services authority.

18 (b) In the event that a service charge of any incinerator or  
19 environmental services authority with regard to any parcel of real  
20 property owned by any person, firm, corporation or association  
21 shall not be paid as and when due, the unpaid balance thereof and  
22 all interest accruing thereon shall be a lien on such parcel. Such  
23 lien shall be superior and paramount to the interest in such parcel of  
24 any owner, lessee, tenant, mortgagee or other person except the lien  
25 of State, county and municipal taxes and shall be on a parity with  
26 and deemed equal to the lien on such parcel of State, county and  
27 municipal taxes.

28 (c) In the event that a service charge of any incinerator or  
29 environmental services authority with regard to any parcel of real  
30 property shall not be paid as and when due, the incinerator or  
31 environmental services authority may, in its discretion, discontinue  
32 the furnishing of any of the services and facilities of said garbage  
33 disposal system until such service charge and any subsequent  
34 service charge with regard to such parcel and all interest accrued  
35 thereon shall be fully paid to the incinerator or environmental  
36 services authority.

37 (d) The collector or other officer of every municipality charged  
38 by law with the duty of enforcing municipal liens on real property  
39 shall enforce, with and as any other municipal lien on real property  
40 in such municipality, all service charges and the lien thereof and  
41 shall pay over to the incinerator or environmental services authority  
42 the sums or a pro rata share of the sums realized upon such  
43 enforcement or upon liquidation of any property acquired by the  
44 municipality by virtue of such enforcement.

45 (e) In the event that any service charge of an incinerator or  
46 environmental services authority shall not be paid as and when due,  
47 the unpaid balance thereof and all interest accrued thereon, together  
48 with attorneys' fees and costs, may be recovered by the incinerator

1 or environmental services authority in a civil action, and any lien on  
2 real property for such service charge and interest accrued thereon  
3 may be foreclosed or otherwise enforced by the incinerator or  
4 environmental services authority by action or suit in equity as for  
5 the foreclosure of a mortgage on such real property.

6 (f) All rights and remedies granted by this act for the collection  
7 and enforcement of service charges shall be cumulative and  
8 concurrent.

9 (cf: P.L.1948, c.348, s.18)

10  
11 20. Section 19 of P.L.1948, c.348 (C.40:66A-19) is amended to  
12 read as follows:

13 19. Any county, by resolution of its board of chosen freeholders,  
14 or any municipality, by ordinance of its governing body, or any  
15 other person is hereby empowered, without any referendum and  
16 without the consent of any board, officer or other agency of the  
17 State, to sell, lease, lend, grant or convey to any incinerator or  
18 environmental services authority, or to permit any incinerator or  
19 environmental services authority **[in]** to use, maintain or operate as  
20 part of the garbage disposal system, any real or personal property  
21 owned by it, which may be necessary or useful and convenient for  
22 the purposes of the incinerator or environmental services authority  
23 and which may be accepted by the incinerator or environmental  
24 services authority. Any such sale, lease, loan, grant, conveyance or  
25 permit may be made with or without consideration and for a  
26 specified or an unlimited period of time and under any agreement  
27 and in any terms and conditions which may be approved by such  
28 county, municipality or other person and which may be agreed to by  
29 the incinerator or environmental services authority in conformity  
30 with its contracts with the holders of bonds, the incinerator or  
31 environmental services authority may enter into and perform any  
32 and all agreements for the assumption of principal or interest or  
33 both of indebtedness of such county, municipality or other person or  
34 of any mortgage or lien existing with respect to such property or for  
35 the operation and maintenance of such property as part of the  
36 garbage disposal system.

37 (cf: P.L.1948, c.348, s.19)

38  
39 21. Section 20 of P.L.1948, c.348 (C.40:66A-20) is amended to  
40 read as follows:

41 20. Any incinerator or environmental services authority and any  
42 municipality within the district by ordinance of its governing body  
43 may enter into a contract or contracts providing for or relating to  
44 the collection, treatment and disposal of garbage and refuse  
45 originating in the district or in such municipality by means of the  
46 garbage disposal system, and the cost and expense of such  
47 collection, treatment and disposal. Such contract or contracts may  
48 provide for the payment to the incinerator or environmental services

1 authority by such municipality annually or otherwise of such sum or  
2 sums of money, computed at fixed amounts or by a formula based  
3 on any factors or other matters described in subsection (b) of  
4 section 8 of this act or in any other manner, as said contract or  
5 contracts may provide, and the sum or sums so payable may include  
6 provision for all or any part or a share of the amounts necessary (1)  
7 to pay or provide for the expenses of operation and maintenance of  
8 the garbage disposal system, including without limitation insurance,  
9 extensions, betterments and replacements and the principal of and  
10 interest on any bonds, and (2) to provide for any deficits resulting  
11 from failure to receive sums payable to the incinerator or  
12 environmental services authority by such municipality, any other  
13 municipality, or any person, or from any other cause, and (3) to  
14 maintain such reserves or sinking funds for any of the foregoing as  
15 may be required by the terms of any contract of the incinerator or  
16 environmental services authority or as may be deemed necessary or  
17 desirable by the incinerator or environmental services authority.  
18 Any such contract may provide that the sum or sums so payable to  
19 the incinerator or environmental services authority shall be in lieu  
20 of all or any part of the service charges which would otherwise be  
21 charged and collected by the incinerator or environmental services  
22 authority with regard to persons or real property within such  
23 municipality. Such contract or contracts may also contain  
24 provisions as to the financing and payment of expenses to be  
25 incurred by the incinerator or environmental services authority and  
26 determined by it to be necessary for its purposes prior to the placing  
27 in operation of the garbage disposal system and may provide for the  
28 payment by such municipality to the incinerator or environmental  
29 services authority for application to such expenses or indebtedness  
30 therefor such sum or sums of money, not in the aggregate exceeding  
31 an amount stated or otherwise limited in said contract or contracts  
32 plus interest thereon, as said contract or contracts may provide and  
33 as the governing body of said municipality shall, by virtue of its  
34 authorization of and entry into said contract or contracts, determine  
35 to be necessary for the purposes of the incinerator or environmental  
36 services authority. Any such contract may be made with or without  
37 consideration and for a specified or an unlimited time and on any  
38 terms and conditions which may be approved by such municipality  
39 and which may be agreed to by the incinerator or environmental  
40 services authority in conformity with its contracts with the holders  
41 of any bonds, and shall be valid whether or not an appropriation  
42 with respect thereto is made by such municipality prior to  
43 authorization or execution thereof. Subject to any such contracts  
44 with the holders of bonds, such municipality is hereby authorized  
45 and directed to do and perform any and all acts or things necessary,  
46 convenient or desirable to carry out and perform every such  
47 contract and to provide for the payment or discharge of any  
48 obligation thereunder in the same manner as other obligations of

1 such municipality and, in accordance with any such contract, to  
2 waive, modify, suspend or reduce the service charges which would  
3 otherwise be charged and collected by the incinerator or  
4 environmental services authority with regard to persons or real  
5 property within such municipality. Nothing in this section,  
6 however, shall prevent the incinerator or environmental services  
7 authority from collecting additional fees and charges from the  
8 owners or occupants of all parcels of real estate served by it within  
9 such municipality if for any reason such additional fees or charges  
10 shall be necessary in order for the incinerator or environmental  
11 services authority to pay all operating expenses, debt service and  
12 other payments required pursuant to contracts with bondholders;  
13 and notwithstanding such contracts with such municipalities, the  
14 incinerator or environmental services authority shall at all times  
15 have power and be obligated to collect sufficient additional fees and  
16 charges whenever necessary to pay all operating costs, debt service  
17 and all other payments required by contracts with bondholders.

18 (cf: P.L.1954, c.185, s.1)

19

20 22. Section 21 of P.L.1948, c.348 (C.40:66A-21) is amended to  
21 read as follows:

22 21. Each county, municipality and other public body shall  
23 promptly pay to any incinerator or environmental services authority  
24 all service charges which the incinerator or environmental services  
25 authority may charge to it, as owner or occupant of any real  
26 property and shall provide for the payment thereof in the same  
27 manner as other obligations of such county, municipality or public  
28 body.

29 (cf: P.L.1948, c.348, s.21)

30

31 23. Section 22 of P.L.1948, c.348 (C.40:66A-22) is amended to  
32 read as follows:

33 22. Neither the incinerator or environmental services authority  
34 nor any local unit shall have power to mortgage, pledge, encumber  
35 or otherwise dispose of any part of the garbage disposal system,  
36 except that the incinerator or environmental services authority may  
37 dispose of such part or parts thereof as may be no longer necessary  
38 for the purposes of the incinerator or environmental services  
39 authority. The provisions of this section shall be deemed to  
40 constitute a part of the contract with the holder of any bonds. All  
41 property of an incinerator or environmental services authority shall  
42 be exempt from levy and sale by virtue of an execution and no  
43 execution or other judicial process shall issue against the same nor  
44 shall any judgment against an incinerator or environmental services  
45 authority be a charge or lien upon its property; provided, that  
46 nothing herein contained shall apply to or limit the rights of the  
47 holder of any bonds to pursue any remedy for the enforcement of

1 any pledge or lien given by an incinerator or environmental services  
2 authority on its system revenues.

3 (cf: P.L.1948, c.348, s.22)

4

5 24. Section 24 of P.L.1948, c.348 (C.40:66A-24) is amended to  
6 read as follows:

7 24. Every garbage disposal system and all other property of an  
8 incinerator or environmental services authority are hereby declared  
9 to be public property of a political subdivision of the State and  
10 devoted to an essential public and governmental function and  
11 purpose and shall be exempt from all taxes and special assessments  
12 of the State or any subdivision thereof. All bonds issued pursuant  
13 to this act are hereby declared to be issued by a political subdivision  
14 of this State and for an essential public and governmental purpose  
15 and to be a public instrumentality, and such bonds, and the interest  
16 thereon and the income therefrom, and all service charges, funds,  
17 revenues and other moneys pledged or available to pay or secure the  
18 payment of such bonds, or interest thereon, shall at all times be  
19 exempt from taxation except for transfer, inheritance and estate  
20 taxes.

21 (cf: P.L.1948, c.348, s.24)

22

23 25. Section 25 of P.L.1948, c.348 (C.40:66A-25) is amended to  
24 read as follows:

25 25. The State of New Jersey does hereby pledge to and covenant  
26 and agree with the holders of any bonds issued pursuant to this act  
27 that the State will not authorize or permit the construction or  
28 maintenance of any incinerator or garbage disposal system which  
29 will be competitive with the garbage disposal system of the  
30 incinerator or environmental services authority, and will not limit or  
31 alter the rights hereby vested in the incinerator or environmental  
32 services authority to acquire, construct, maintain, reconstruct and  
33 operate its garbage disposal system, and to fix, establish, charge and  
34 collect its service charges and to fulfill the terms of any agreement  
35 made with the holders of such bonds or other obligations, and will  
36 not in any way impair the rights or remedies of such holders, and  
37 will not modify in any way the exemptions from taxation provided  
38 for in this act, until such bonds, together with interest thereon, with  
39 interest on any unpaid installments of interest, and all costs and  
40 expenses in connection with any action or proceeding by or on  
41 behalf of such holders, are fully met and discharged.

42 (cf: P.L.1948, c.348, s.25)

43

44 26. Section 26 of P.L.1948, c.348 (C.40:66A-26) is amended to  
45 read as follows:

46 26. All banks, bankers, trust companies, savings banks,  
47 investment companies and other persons carrying on a banking  
48 business are hereby authorized to give to any incinerator or

1 environmental services authority a good and sufficient undertaking  
2 with such sureties as shall be approved by the incinerator or  
3 environmental services authority to the effect that such bank or  
4 banking institution as hereinbefore described shall faithfully keep  
5 and pay over to the order of or upon the warrant of the incinerator  
6 or environmental services authority or its authorized agent all such  
7 funds as may be deposited with it by the incinerator or  
8 environmental services authority and agreed interest thereon, at  
9 such times or upon such demands as may be agreed upon with the  
10 authority or, in lieu of such sureties, deposit with the incinerator or  
11 environmental services authority or its authorized agent or any  
12 trustee therefor or for the holders of any bonds, as collateral, such  
13 securities as the incinerator or environmental services authority may  
14 approve; provided, such securities shall consist of obligations in  
15 which public officers and bodies of the State and its municipal  
16 subdivisions, savings institutions, including savings and loan  
17 associations, insurance companies and associations, executors,  
18 administrators, guardians, trustees and other fiduciaries in the State  
19 may properly and legally invest the funds within their control, in  
20 such principal amount, market value or other description as may be  
21 approved by the incinerator or environmental services authority.  
22 The deposits of the incinerator or environmental services authority  
23 may be evidenced by a depository collateral agreement in such form  
24 and upon such terms and conditions as may be agreed upon by the  
25 incinerator or environmental services authority and such bank or  
26 banking institution.

27 (cf: P.L.1948, c.348, s.26)

28

29 27. Section 27 of P.L.1948, c.348 (C.40:66A-27) is amended to  
30 read as follows:

31 27. After the creation of an incinerator or environmental  
32 services authority as provided herein, no municipality within the  
33 district shall have power to engage in, grant any license or permit  
34 for, or enter into any contract for, the collection, treatment and  
35 disposal of garbage and refuse; and no such municipality, or any  
36 person, firm, corporation or association shall engage in any  
37 activities within such municipality which would be competitive  
38 with the purposes of the incinerator or environmental services  
39 authority as provided in this act.

40 It is hereby determined and declared that it is necessary for the  
41 health and welfare of the inhabitants of every district within which  
42 an incinerator or environmental services authority is created that the  
43 facilities and services of such incinerator or environmental services  
44 authority shall be used by the owners or occupants of all lands,  
45 buildings and premises within such district, and the incinerator or  
46 environmental services authority may by resolution require the  
47 owners or occupants of all lands, buildings and premises therein to  
48 use the services and facilities of the incinerator or environmental



1 services authority under such rules and regulations as the  
2 incinerator or environmental services authority shall fix and  
3 establish.

4 The provisions of this section shall not be construed, however, to  
5 affect or impair any contracts entered into prior to the creation of an  
6 incinerator or environmental services authority.  
7 (cf: P.L.1948, c.348, s.27)

8  
9 28. This act shall take effect immediately.

10

11

12

### STATEMENT

13

14 This bill would authorize incinerator authorities to perform  
15 sanitation, public works and environmental services. At this time,  
16 there is only one incinerator authority in operation – the Jersey City  
17 Incinerator Authority. Under current law, the activities of  
18 incinerator authorities are limited to the operation of a garbage  
19 disposal system. However, apparently, the Jersey City Incinerator  
20 Authority functions not only as a collector and disposer of  
21 residential waste, but has many other responsibilities: monitoring  
22 compliance and enforcing city ordinances relative to solid waste  
23 disposal and recycling; educating various city groups and entities  
24 about environmental issues; property maintenance through the  
25 coordination of cleanups of city and privately owned vacant lots;  
26 providing container rentals for the disposal of construction and  
27 demolition debris; securing and storing impounded vehicles;  
28 providing mechanical street sweeping; removing graffiti; providing  
29 snow plowing and removal services; and providing demolition  
30 services for unsafe buildings.

31 This bill would authorize the creation of “environmental services  
32 authorities” as an alternative to incinerator authorities.  
33 Environmental services, as defined in the bill would mean any and  
34 all services relative to sanitation, recycling, park and other  
35 recreation area maintenance, demolition, repair or maintenance of  
36 unsafe, unsanitary or unsound structures, automobile towing and  
37 impound, municipal vehicle maintenance and repair and services  
38 related thereto, street and road safety services, snow removal,  
39 environmental compliance and education, services necessary or  
40 appropriate for neighborhood beautification or environmental  
41 improvement, and any other service relative to maintaining a  
42 sanitary, safe, and healthy environment within a municipality.

ASSEMBLY ENVIRONMENT AND SOLID WASTE  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 2951**

with committee amendments

**STATE OF NEW JERSEY**

DATED: JUNE 14, 2012

The Assembly Environment and Solid Waste Committee reports favorably and with committee amendments Assembly Bill No. 2951.

This bill, as amended by the committee, would authorize certain incinerator authorities to perform sanitation, public works and environmental services. At this time, there is only one incinerator authority in operation – the Jersey City Incinerator Authority. Under current law, the activities of incinerator authorities are limited to the operation of a garbage disposal system. However, apparently, the Jersey City Incinerator Authority functions not only as a collector and disposer of residential waste, but has many other responsibilities: monitoring compliance and enforcing city ordinances relative to solid waste disposal and recycling; educating various city groups and entities about environmental issues; property maintenance through the coordination of cleanups of city and privately owned vacant lots; providing container rentals for the disposal of construction and demolition debris; securing and storing impounded vehicles; providing mechanical street sweeping; removing graffiti; providing snow plowing and removal services; and providing demolition services for unsafe buildings.

This bill would authorize the creation of “environmental services authorities” as an alternative to incinerator authorities. Environmental services, as defined in the bill, would mean any and all services relative to sanitation, recycling, park and other recreation area maintenance, demolition, repair or maintenance of unsafe, unsanitary or unsound structures, automobile towing and impound, municipal vehicle maintenance and repair and services related thereto, street and road safety services, snow removal, environmental compliance and education, services necessary or appropriate for neighborhood beautification or environmental improvement, and any other service relative to maintaining a sanitary, safe, and healthy environment within a municipality.

As amended and reported by the committee, this bill is identical to Senate Bill No. 872 as also amended and reported by the committee.

COMMITTEE AMENDMENTS:

The committee amendments to the bill:

1) provide that the bill would apply only to a municipality that has established an incinerator authority prior to the date of enactment of the bill into law;

2) return language in sections 12 and 14 of the bill back to the language of current law to refer to the “garbage disposal” system, rather than to the “incinerator or environmental services” system; and

3) make technical corrections to consistently refer to “incinerator or environmental services authority” and to correct a statutory reference.