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FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

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end

Title 40A.
Chapter 66 (New)
Municipal Shared
Services Energy
Authorities.
§§ 1-27, 30 -
C.40A:66-1 to
40A:66-28

P.L.2015, CHAPTER 129, *approved November 9, 2015*
Assembly, No. 2385 (*First Reprint*)

1 AN ACT authorizing the creation of a municipal shared services
2 energy authority to provide for shared facilities, powers and
3 services, amending P.L.1971, c.198 and supplementing Title 40A
4 of the ¹**【Revised】** New Jersey¹ Statutes.

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

8
9 1. (New section) This act shall be known and may be cited as
10 the "Municipal Shared Services Energy Authority ¹**【Law】** Act¹."

11
12 2. (New section) The Legislature finds and declares that for
13 many years, municipalities in the State have had the power to
14 construct and maintain facilities for the generation ¹and
15 distribution¹ of electricity; that nine municipalities and one rural
16 electric cooperative presently own and operate electric utility
17 systems for the benefit of their residents and businesses; and that
18 the generation and distribution of electricity has evolved from a
19 local and statewide endeavor into a national marketplace and
20 ¹**【such】** this¹ evolution has resulted in a system where the size and
21 sophistication of the market participants influence the ability to
22 efficiently compete in the marketplace.

23 The Legislature further finds and declares that the ability to
24 reserve sufficient electric capacity at reasonable prices to ensure
25 safe, reliable^{1,1} and efficient electrical power to local businesses
26 and residents is paramount in the present marketplace, and ¹**【such】**
27 the¹ ability is contingent on the power to contract for the generation
28 or delivery of a sufficient quantity of wholesale power and to act as
29 a contracting partner in long term, short term, and spot market
30 wholesale power supply contracts; ¹and¹ that given this evolution of
31 the electric supply marketplace, the municipal electric utilities

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:

¹Assembly ATU committee amendments adopted February 20, 2014.

1 operating in New Jersey ~~1~~**1** ~~2~~ should¹ be authorized to act
2 jointly to achieve greater efficiencies in the procurement and
3 generation of electric power at the wholesale level to benefit the
4 retail customers in the participating municipalities.

5 The Legislature further finds and declares that the operation of
6 electric utility systems by municipalities and the improvement of
7 these systems through joint action in the wholesale procurement of
8 electricity and transmission services, and in the generation,
9 transmission, and distribution of electric power and energy within
10 the corporate limits and franchise areas of the participating
11 municipalities, are in the public interest; ~~1~~**1** and¹ that the
12 establishment of a municipal shared services energy authority by
13 municipalities that currently own or operate electric utility systems
14 will ensure the continued viability and stability of these systems, by
15 enabling ~~1~~**1** the¹ municipalities to act jointly to develop coordinated
16 bulk power and fuel supply programs, ~~1~~**1** and to¹ post collateral ~~1~~¹
17 and act as a market participant in ~~1~~**1** such¹ these¹ programs, thereby
18 providing the means to pursue efficiencies and savings for retail
19 customers within their corporate limits and franchise areas.

20 The Legislature therefore determines that it is in the public
21 interest to permit ~~1~~**1** those¹ existing municipally-owned or operated
22 electric utility systems to act jointly through the voluntary creation
23 of a single municipal shared services energy authority, ~~1~~**1** and¹ to
24 authorize the authority to perform according to standard electric
25 industry practices, in order to aid in promoting the stability and
26 viability of ~~1~~**1** such¹ these¹ systems ~~1~~¹ and to achieve the
27 efficiencies and savings for the retail customers of these utility
28 systems located within the corporate limits and franchise areas of
29 the participating municipalities.

30

31 3. (New section) As used in P.L. , c. (C.) (pending
32 before the Legislature as this bill):

33 "Bonds" means any bonds, interim certificates, notes,
34 debentures, or other obligations issued by the municipal shared
35 services energy authority pursuant to P.L. , c. (C.)
36 (pending before the Legislature as this bill).

37 "Collateral" means cash, letters of credit, or other security of a
38 party to a wholesale power supply contract acceptable to the
39 counterparty, which shall be valued in accordance with the terms of
40 the applicable wholesale power supply contract and which shall be
41 otherwise consistent with electric industry standards in the
42 marketplace, and which shall secure the obligations of the
43 municipal shared services energy authority and its counterparty
44 under a wholesale power supply contract.

45 "Cost" means, in addition to the usual connotations thereof, the
46 cost of acquisition or construction of all or any part of an electric
47 supply project located within the corporate limits and franchise

1 areas of the members and of all or any property, rights, easements,
 2 privileges, agreements, and franchises deemed by the authority to
 3 be necessary or useful and convenient therefor ¹ or in connection
 4 therewith, including interest or discount on bonds, cost of issuance
 5 of bonds, engineering and inspection costs ¹ **["and"]** ¹ legal expenses,
 6 cost of financial, professional ¹ ¹ and other estimates and advice,
 7 organization, administrative, operating, and other expenses of the
 8 municipal shared services energy authority prior to and during
 9 **["such"]** ¹ acquisition or construction, and all **["such"]** ¹ other
 10 expenses as may be necessary or incident to the financing,
 11 acquisition, construction, and completion of an electric supply
 12 project or part thereof, and the placing of **["such"]** ¹ a project in
 13 operation, and **["also such"]** ¹ the ¹ provision or reserves for working
 14 capital, operating, maintenance ¹ **["or"]** ¹ replacement expenses ¹ **["or**
 15 **for"]** ¹ payment or security of principal of, or interest on, bonds
 16 during or after **["such"]** ¹ acquisition or construction as the authority
 17 may determine, and **["also"]** ¹ reimbursements to the authority or any
 18 county, municipality, or other person of any **["moneys"]** monies ¹
 19 theretofore expended for the purposes of the authority or to any
 20 county or municipality of any **["moneys"]** monies ¹ theretofore
 21 expended for or in connection with electric utility systems and
 22 facilities.

23 "Electric supply project" or "project" means **["(1)"]** a. ¹ any
 24 plant, works, system, facility, and real and personal property of any
 25 nature whatsoever, together with all parts thereof and appurtenances
 26 thereto, located within the corporate limits and franchise areas of
 27 the members, that are used or useful in the generation, production,
 28 transmission, distribution, purchase, sale, exchange, or interchange
 29 of electric power and energy, in whole or in part **["(2)"]** b. ¹ the
 30 acquisition or transportation of fuel of any kind for the generation
 31 or production of electric power and energy within the corporate
 32 limits and franchise areas of the members **["(3)"]** c. ¹ the storage
 33 or reprocessing of **["such"]** that ¹ fuel within the corporate limits and
 34 franchise areas of the members for the generation or production of
 35 electric power and energy within **["those"]** the ¹ corporate limits and
 36 franchise areas of the members **["(4)"]** d. ¹ any conservation
 37 measures, for the benefit of the members, including the utilization
 38 of renewable capacity and energy, or any interest therein or right to
 39 capacity thereof that occurs within the corporate limits and
 40 franchise areas of the members.

41 "Energy" means **["(1)"]** a. ¹ the output of an electric supply
 42 project measured in megawatt hours or kilowatt hours **["(2)"]** b. ¹
 43 that portion of a wholesale power supply contract
 44 measured in megawatt hours or kilowatt hours.

45 "Inter-municipal agreement" means an agreement as provided in
 46 section 5 of P.L. , c. (C.) (pending before the Legislature as

1 this bill), adopted by the members creating the municipal shared
 2 services energy authority and defining the rights and responsibilities
 3 of the authority and its members, as may be amended as provided
 4 herein ¹,¹ to, among other things, add a rural electric cooperative
 5 that exists in the State on the effective date of P.L. , c. (C.)
 6 (pending before the Legislature as this bill), as a member.

7 "Local Finance Board" means the Local Finance Board in the
 8 Division of Local Government Services in the Department of
 9 Community Affairs.

10 "Member" means a municipality or a rural electric cooperative
 11 that, on the effective date of P.L. , c. (C.) (pending before the
 12 Legislature as this bill), provides electric service to customers
 13 within the State and that enters into an initial or amended inter-
 14 municipal agreement of a municipal shared services energy
 15 authority.

16 "Member municipality" means a municipality that, on the
 17 effective date of P.L. , c. (C.) (pending before the Legislature
 18 as this bill), operates a retail electric distribution system pursuant to
 19 R.S.40:62-12 et seq., that joins with other member municipalities to
 20 create or join the municipal shared services energy authority
 21 pursuant to section 4 of P.L. , c. (C.) (pending before the
 22 Legislature as this bill).

23 "Municipal shared services energy authority" or "authority"
 24 means the authority created pursuant to section 4 of P.L. , c. (C.)
 25 (pending before the Legislature as this bill).

26 ¹["Person" means a natural person, a public agency, cooperative
 27 or private corporation, association, firm, statutory trust, partnership,
 28 or business trust of any nature whatsoever, organized and existing
 29 under the laws of any state.]¹

30 "Power supply contract" means ¹["a contractual arrangement (1)
 31 : a. a contractual arrangement¹ between the authority and another
 32 person for the purchase of wholesale electric power and energy and
 33 component goods and services related thereto by the authority for
 34 its members; ¹["(2)"] b. a contractual arrangement¹ between the
 35 authority and its members for the wholesale sale of electric power
 36 and energy produced by the authority's generation facilities; or
 37 ¹["(3)"] c. a contractual arrangement¹ between the authority and any
 38 other person for the wholesale sale of excess electric power and
 39 energy purchased or produced by the authority that is not needed to
 40 serve the load within the corporate limits and franchise areas of the
 41 members ¹["], but"] . A power supply contract¹ shall not include a
 42 contract for the sale of excess power by the authority to any other
 43 municipality.

44 "Public agency" means any municipality or other municipal
 45 corporation, political subdivision, government unit ¹,¹ or public
 46 corporation created under the laws of this State ¹["or of"] ¹,¹ another
 47 state ¹,¹ or ¹["of the United States"] under federal law¹ , ¹["and"]¹ any

1 state, ¹["and"]¹ the United States, and any person, board ¹,¹ or other
2 body declared by ¹["the laws of any state or the United States"] State
3 or federal law¹ to be a department, agency or instrumentality
4 thereof.

5 "Rural electric cooperative" means a non-profit ¹["utility"]
6 cooperative¹ in existence on the effective date of P.L. , c. (C.)
7 (pending before the Legislature as this bill), that serves customers
8 within the State and that is exclusively owned and controlled by the
9 customers it serves, and which is exempt from ¹the jurisdiction of
10 the¹ Board of Public Utilities ¹["jurisdiction"]¹ pursuant to section 1
11 of P.L.1983, c.78 (C.48:2-13.1).

12

13 4. (New section) a. Any combination of three or more
14 municipalities that, on the effective date of P.L. , c. (C.)
15 (pending before the Legislature as this bill), operate retail electric
16 distribution systems pursuant to R.S.40:62-12 et seq. may, by
17 adoption of parallel ordinances approving an inter-municipal
18 agreement, establish a separate legal entity to be known as the
19 "municipal shared services energy authority" to be used by its
20 members to effect joint development of electric energy resources or
21 production, distribution, and transmission of electric power and
22 energy, including the utilization of renewable capacity and energy,
23 in whole or in part, for the benefit of its members. Notwithstanding
24 any other law to the contrary, following approval by the Local
25 Finance Board ¹["within the Division of Local Government Services
26 in the Department of Community Affairs"]¹ pursuant to subsection
27 b. of this section, the final adoption by the municipalities of the
28 parallel ordinances, and due execution by the municipalities, the
29 inter-municipal agreement shall have a term as provided by the
30 inter-municipal agreement. The member municipalities that enter
31 into the inter-municipal agreement may thereafter amend the inter-
32 municipal agreement as provided in subsection e. of this section.

33 Only one municipal shared services energy authority may be
34 established pursuant to P.L. , c. (C.) (pending before the
35 Legislature as this bill).

36 b. Upon the introduction of the parallel ordinances by each
37 municipality seeking to create the authority, but before final
38 adoption of the ordinances, copies of the ordinances, together with
39 the proposed inter-municipal agreement, shall be submitted to the
40 Local Finance Board for approval. If, upon submission of a
41 complete application for approval of the proposed inter-municipal
42 agreement, the Local Finance Board does not approve the
43 agreement, it shall specify the reason or reasons therefor, and shall
44 file its statement with the clerk of each member municipality. If the
45 Local Finance Board does not act upon the application for approval
46 of the proposed inter-municipal agreement within 60 days after
47 receipt of the submission of a complete application, then the

1 ordinances and proposed inter-municipal agreement shall be
2 deemed approved and the municipalities may proceed to adopt the
3 proposed ordinances.

4 c. Once the authority has been legally established pursuant to
5 the provisions of P.L. , c. (C.) (pending before the Legislature
6 as this bill), only those municipalities that operate a retail electric
7 distribution system pursuant to R.S.40:62-12 et seq. on the effective
8 date of P.L. , c. (C.) (pending before the Legislature as this bill)
9 may join the authority as provided ¹in paragraphs (1) and (2) of ¹
10 this subsection.

11 (1) A municipality requesting to become a member of the
12 authority shall negotiate an amended inter-municipal agreement on
13 terms and conditions acceptable to the members. Once an amended
14 inter-municipal agreement has been agreed to, it shall be submitted
15 for approval to the board of commissioners of the authority.
16 Adoption of an amended inter-municipal agreement shall require
17 ¹the approval by a two-thirds majority vote of the full membership
18 of the board of commissioners, approval by the Local Finance
19 Board of the proposed amended agreement, and final adoption by
20 each member municipality of an ordinance approving the proposed
21 agreement, as provided in subsection e. of this section.

22 (2) The municipality requesting to become a member of the
23 authority shall introduce an ordinance approving the amended inter-
24 municipal agreement as approved by the board of commissioners of
25 the authority. Upon the introduction of the ordinance, but before
26 final adoption of ¹such ¹the ordinance, copies of the ordinance,
27 together with the proposed amended inter-municipal agreement,
28 shall be submitted to the Local Finance Board for approval. If,
29 upon submission of a complete application for approval of the
30 proposed amended inter-municipal agreement, the Local Finance
31 Board does not approve the agreement, it shall specify the reason or
32 reasons, therefor, and shall file its statement with the clerk of each
33 member municipality. If the Local Finance Board does not
34 disapprove the application for approval of the proposed amended
35 inter-municipal agreement within 60 days after receipt of a
36 complete application, then the ordinance and proposed amended
37 inter-municipal agreement shall be deemed approved and the
38 municipality may proceed to adopt the proposed ordinance.

39 d. Once the authority has been established, it may add a rural
40 electric cooperative that exists on the effective date of P.L. , c.
41 (C.) (pending before the Legislature as this bill) as a member as
42 provided in ¹paragraphs (1) and (2) of ¹ this subsection.

43 (1) A rural electric cooperative requesting to become a member
44 of the authority and the board of commissioners of the authority
45 shall negotiate an amended inter-municipal agreement on terms and
46 conditions acceptable to the parties. Once an amended inter-
47 municipal agreement has been agreed to, it shall be submitted for
48 approval by the board of commissioners. Adoption of an amended

1 inter-municipal agreement shall require approval by a two-thirds
2 majority vote of the full membership of the board of commissioners
3 and approval by ordinance of each member municipality as
4 provided in subsection e. of this section.

5 (2) The authority shall submit the proposed amended inter-
6 municipal agreement for approval to the Local Finance Board. If,
7 upon submission of a complete application for approval of the
8 proposed amended inter-municipal agreement, the Local Finance
9 Board does not approve the agreement, it shall specify the reason or
10 reasons, therefor, and shall file its statement with the clerk of each
11 member municipality. If the Local Finance Board does not act upon
12 the application for approval of the proposed amended inter-
13 municipal agreement within 60 days after receipt of a complete
14 application, then the proposed amended inter-municipal agreement
15 shall be deemed approved.

16 e. Upon approval by the board of commissioners of an
17 amended inter-municipal agreement, each member municipality
18 shall introduce an ordinance approving the amended inter-municipal
19 agreement. Before final adoption of the ordinances, copies of the
20 ordinances, together with the proposed amended inter-municipal
21 agreement, shall be submitted to the Local Finance Board for
22 approval. If, upon submission of a complete application for
23 approval of the proposed amended inter-municipal agreement, the
24 Local Finance Board does not approve the agreement, it shall
25 specify the reason or reasons, therefor, and shall file its statement
26 with the clerk of each member municipality. If the Local Finance
27 Board does not act upon the application for approval of the
28 proposed amended inter-municipal agreement within 60 days after
29 receipt of the submission of a complete application, then the
30 ordinances and proposed amended inter-municipal agreement shall
31 be deemed approved and the municipalities may proceed to adopt
32 the proposed ordinances.

33

34 5. (New section) The inter-municipal agreement establishing
35 the municipal shared services energy authority pursuant to
36 P.L. , c. (C.) (pending before the Legislature as this bill)
37 shall provide:

38 a. The name and purpose of the authority and the functions or
39 services to be provided by the authority;

40 b. The establishment and organization of a governing board for
41 the authority which shall be a board of commissioners in which the
42 powers of the authority are vested. The inter-municipal agreement
43 may provide for the creation by the board of commissioners of an
44 executive committee to which the power and duties may be
45 delegated as the board shall specify;

46 c. The number of commissioners, the manner of their
47 appointment, the terms of office, if any, and the procedure for
48 filling vacancies on the board. Commissioners shall receive no

- 1 compensation for their service on the board. Each member shall
2 have the power to appoint one member to the board of
3 commissioners and shall be entitled to remove that member at will;
- 4 d. The manner of selection of the executive director and staff
5 of the authority and their duties;
- 6 e. The voting requirements for action by the board; but, unless
7 specifically provided otherwise, a majority of commissioners shall
8 constitute a quorum and a majority of the quorum shall be necessary
9 for any action taken by the board;
- 10 f. The duties of the board, which shall include the obligation to
11 comply with the "Local Authorities Fiscal Control Law," P.L.1983,
12 c.313 (C.40A:5A-1 et seq.) except as otherwise provided in P.L. ,
13 c. (C.) (pending before the Legislature as this bill), and the laws
14 of this State and, in addition, with every provision in the inter-
15 municipal agreement creating the authority on its part to be kept or
16 performed;
- 17 g. The manner in which additional municipalities and rural
18 electric cooperatives as authorized pursuant to section 4 of P.L. , c.
19 (C.) (pending before the Legislature as this bill) may become
20 parties to the inter-municipal agreement by amendment;
- 21 h. The manner in which members may withdraw from
22 participation in the inter-municipal agreement, which shall include
23 a defeasance of ¹["such"] the¹ member's pro-rata share of any bonds
24 issued by the authority;
- 25 i. Provisions for the disposition, division ¹,¹ or distribution of
26 any property or assets of the authority on dissolution;
- 27 j. The term of the inter-municipal agreement, which may be a
28 definite period or until rescinded or terminated, and the method, if
29 any, by which the inter-municipal agreement may be rescinded or
30 terminated, but the inter-municipal agreement may not be rescinded
31 or terminated so long as the authority has bonds outstanding, unless
32 provision for full payment of ¹["such"] the¹ bonds, by escrow or
33 otherwise, has been made pursuant to the terms of the bonds or the
34 resolution, trust indenture ¹,¹ or security instrument securing the
35 bonds; and
- 36 k. The terms for payment to the authority of funds for
37 commodities to be procured and services to be rendered by the
38 authority, including ¹the¹ authority to enter into purchase
39 agreements between the members and the authority for the purchase
40 of wholesale electric power and energy whereby the member is
41 obligated to make payments or provide collateral in amounts which
42 shall be sufficient to enable the authority to meet its expenses,
43 interest ¹,¹ and principal payments, whether at maturity or upon
44 sinking fund redemption, for its bonds, reasonable reserves for debt
45 service, operation ¹,¹ and maintenance and renewals and
46 replacements and the requirements of any rate covenant with
47 respect to debt service coverage contained in any resolution, trust

1 indenture ^{1,1} or other security instrument. ¹**[Such]** The¹ purchase
2 agreements between the members and the authority may contain
3 ¹**[such]**¹ other terms and conditions as the authority and the
4 members may determine, including provisions whereby a member is
5 obligated to pay for electric power and energy irrespective of
6 whether electric power and energy is produced or delivered to the
7 member or whether any electric supply project contemplated by
8 ¹**[any such]** the¹ agreement is completed, operable or operating,
9 and notwithstanding suspension, interruption, interference,
10 reduction, or curtailment of the output of ¹**[such]** the¹ electric
11 supply project. The inter-municipal agreement may further provide
12 that, if one or more of the members defaults in the payment of its
13 obligations under ¹**[any such]** a¹ purchase agreement, the
14 remaining members, which also have ¹**[such]** purchase¹
15 agreements, shall be required to accept and pay for, and shall be
16 entitled proportionately to use or otherwise dispose of, the power
17 and energy to be purchased by the defaulting purchaser. For ¹the¹
18 purposes of this section, "purchase of electric power and energy"
19 includes the purchase of any right to capacity, or interest in, any
20 electric supply project.

21

22 6. (New section) Nothing in P.L. , c. (C.) (pending
23 before the Legislature as this bill) shall be construed to restrict the
24 right of a person to form a rural electric cooperative or a
25 municipality to engage in functions authorized pursuant to
26 R.S.40:62-12 et seq.

27

28 7. (New section) ¹**[No]** A¹ commissioner, officer, or
29 employee of the municipal shared services energy authority shall
30 ¹not¹ have or acquire any interest, direct or indirect, in any contract
31 or proposed contract or property related to the provision of
32 wholesale electric power, transmission, generation, materials,
33 services ^{1,1} or supplies to be furnished ^{1,1} to or used by ^{1,1} the
34 authority or any of its members.

35

36 8. (New section) The municipal shared services energy
37 authority shall be a public body politic and corporate, established as
38 an instrumentality exercising public and essential governmental
39 functions to provide for the public health and welfare. The authority
40 shall have the duties, privileges, immunities, rights, liabilities, and
41 disabilities of a public body politic and corporate but shall not have
42 taxing power. The authority shall be a "contracting unit" for
43 purposes of the "Local Public Contracts Law," P.L.1971, c.198
44 (C.40A:11-1 et seq.), shall have perpetual succession, and, to meet
45 the electric power or energy needs of its members, shall have the
46 following powers:

- 1 a. To adopt and have a common seal and to alter the same at
2 pleasure;
- 3 b. To sue and be sued;
- 4 c. To acquire, own, rent, hold, lease, as lessor or lessee, use
5 and sell or otherwise dispose of, mortgage, pledge, or grant a
6 security in, any real or personal property, commodity ¹/₂ or service
7 or interest therein;
- 8 d. To hold or place collateral with a counterparty to a
9 wholesale power supply contract and to account for ¹['**.,**'] value
10 ¹['**.,**'] and use ¹['**such**'] collateral as provided in the power supply
11 contract ¹/₂ notwithstanding any other law or regulation to the
12 contrary;
- 13 e. To plan, develop, acquire, construct, reconstruct, operate,
14 manage, dispose of, participate in, maintain, repair, extend, or
15 improve one or more electric supply projects within the corporate
16 limits and franchise areas of the members, and act as agent, or
17 designate one or more other persons participating in an electric
18 supply project to act as its agent, in connection with the planning,
19 acquisition, construction, operation, maintenance, repair, extension,
20 or improvement of ¹['**such**'] the¹ electric supply project for
21 generation, production, transmission, and provision to the members
22 of the authority of electrical power and energy at wholesale, to meet
23 the electric power or energy needs of the members, provided that
24 the authority shall not sell electric power or energy at the retail
25 level;
- 26 f. To enter into franchises, exchange, interchange, pooling,
27 wheeling, or transmission agreements with any person, firm, entity,
28 or public agency in order to purchase wholesale electric power and
29 energy for the members, or to sell excess power and energy
30 purchased or produced by the members' generation assets and not
31 needed to serve ¹the¹ load within the corporate limits and franchise
32 areas of the members, and to negotiate for, and buy fuels necessary
33 for the production of electric power and energy within the corporate
34 limits and franchise areas of the members, to develop bulk power
35 and fuel supply programs, and to implement energy conservation
36 measures within the corporate limits and franchise areas of the
37 members as necessary or appropriate, to meet the electric power or
38 energy needs of its members;
- 39 g. To negotiate and enter into power supply contracts pursuant
40 to section 19 of P.L. , c. (C.) (pending before the Legislature
41 as this bill) and to take ¹['**such**'] actions as are necessary to remain
42 in compliance with the terms of ¹['**such**'] those¹ contracts;
- 43 h. To make and execute ¹['**such**'] additional contracts and other
44 instruments necessary or convenient to the exercise of its powers;
- 45 i. To employ agents and employees;
- 46 j. To contract with any person, entity ¹/₂ or public agency
47 within or outside the State of New Jersey for the construction of any

1 electric supply project within the corporate limits and franchise area
2 of its members or for the purchase, sale ¹ or transmission of
3 electric power and energy generated by any electric supply project
4 located within the corporate limits and franchise area of its
5 members, in whole or in part, for the benefit of its members, or for
6 any interest or share therein, or any right to capacity thereof, on
7 **['such']** terms and for **['such'] a** period of time as its board shall
8 determine, provided that the authority shall not enter into any
9 contract that speculates in the energy markets and the authority
10 shall not construct or contract for the construction of any electric
11 supply project that, when added to the existing authority-owned or
12 co-owned generation assets, will produce more than **['105 %'] 105**
13 percent¹ of the power and energy requirements of the members;

14 k. To purchase and sell, exchange ¹ or transmit electric power
15 and energy at wholesale within and outside the State **['of New**
16 **Jersey']**¹, consistent with federal law, in **['such']** amounts as it
17 shall determine to be necessary or appropriate to make the most
18 effective use of its powers and to meet its responsibilities, to sell,
19 exchange, or transmit excess electric power purchased or produced
20 by electric generation facilities within the corporate limits and
21 franchise areas of its members that is not needed to serve ¹the¹ load
22 within those corporate limits and franchise areas;

23 l. To co-own an electric generating facility project initiated by
24 any person and constructed outside the corporate limits and
25 franchise area of the members, provided that **['.']**¹ (1) the share of
26 authority co-ownership shall be restricted to supply the electric and
27 power needs of the members of the authority **['.']**¹ and (2) when
28 added to the aggregate of existing authority-owned or member-
29 owned generation facilities together with co-ownership of facilities
30 outside of the corporate limits and franchise areas of the members,
31 the aggregate produces no more than **['105%'] 105 percent**¹ of the
32 power and energy needs of the members;

33 m. To provide for and secure the payment of any bonds and the
34 rights of the holders thereof, and to purchase, hold, and dispose of
35 any bonds;

36 n. To accept gifts or grants of real or personal property, money,
37 material, labor, or supplies solely for the purposes and exclusive use
38 and benefit of the municipal shared services energy authority, and
39 to make and perform **['such'] those**¹ agreements and contracts as
40 may be necessary or convenient in connection with the procuring,
41 acceptance, or disposition of the gifts or grants;

42 o. To make and enforce by-laws or rules and regulations for the
43 management and regulation of its business and affairs and for the
44 use, maintenance, and operation of its properties and to amend
45 **['the'] its**¹ by-laws;

46 p. To do and perform any acts and things authorized by P.L. ,
47 c. (C.) (pending before the Legislature as this bill), through or

1 by means of its own officers, agents, and employees, or by contract
2 with any person;

3 q. To enter into any and all contracts, execute any and all
4 instruments, and do and perform any and all things or acts
5 necessary, convenient, or desirable for the purposes of the
6 municipal shared services energy authority, or to carry out any
7 power expressly authorized under P.L. , c. (C.) (pending
8 before the Legislature as this bill);

9 r. To exercise **'[such]'** powers **'[as] which'** are granted to
10 municipalities under R.S.40:62-12 et seq.;

11 s. To join organizations, including private or trade
12 organizations, which the board of commissioners has deemed to be
13 beneficial to the accomplishment of the authority's purposes;

14 t. To enter into a power supply contract, lease, operation
15 contract, or contract for management of electric generation within
16 the corporate limits and franchise areas of **'[the] its'** members, or
17 for the purchase of fuel for electric generation within the corporate
18 limits and franchise areas of the members, to meet the electric
19 power or energy needs of **'[the] its'** members, for a term not to
20 exceed 40 years; and

21 u. To invest any funds held in reserve or sinking funds, or any
22 funds not required for immediate disbursement, including the
23 proceeds from the sale of any bonds, in **'[such] those'** obligations,
24 securities, and other investments as the authority deems to be
25 proper and as the **'[constituent]'** members of the authority are
26 authorized pursuant to law.

27

28 9. (New section) a. In order to meet the electric power needs
29 of its members, the municipal shared services energy authority shall
30 have the power to authorize or provide for the issuance of bonds
31 pursuant to P.L. , c. (C.) (pending before the Legislature as
32 this bill) for the purpose of raising funds to pay the cost of any part
33 of an electric supply project, to fulfill the terms of a power supply
34 contract, including any provision for collateral or related
35 performance security measures, and to fund or refund any bonds.

36 b. The municipal shared services energy authority shall adopt a
37 bond resolution which shall:

38 (1) describe in brief and general terms sufficient for reasonable
39 identification the electric supply project or part thereof, to be
40 constructed or acquired, or describe the bonds which are to be
41 funded or refunded, if any;

42 (2) state the cost or estimated cost of the project, if any; and

43 (3) provide for the issuance of the bonds in accordance with
44 sections 10 through 18 of P.L. , c. (C.) (pending before the
45 Legislature as this bill).

46

1 10. (New section) Upon adoption of a bond resolution, the
2 municipal shared services energy authority shall have power to
3 incur indebtedness, borrow money ¹₂ and issue its bonds for the
4 purpose of financing a project to meet the electric power needs of
5 its members or of funding or refunding the bonds issued pursuant to
6 P.L. , c. (C.) (pending before the Legislature as this bill).
7 **1**[Such] **The**¹ bonds shall be authorized by the bond resolution and
8 may be issued in one or more series and shall bear **1**[such] **the**¹ date
9 or dates, mature at **1**[such] **a**¹ time or times not exceeding 40 years
10 from the date thereof, bear interest at a rate or rates within **1**[such]
11 **a**¹ maximum rate as permitted by law, be in **1**[such] **a**¹
12 denomination or denominations, be in **1**[such] **a**¹ form, either
13 coupon or registered, carry **1**[such] **a**¹ conversion or registration
14 privileges, have **1**[such] **a**¹ rank or priority, be executed in **1**[such]
15 **a**¹ manner, be payable from **1**[such]¹ sources in **1**[such] **a**¹ medium
16 of payment at **1**[such] **a**¹ place or places within or without the
17 State, and be subject to **1**[such] **the**¹ terms of redemption, with or
18 without a premium, as the bond resolution may provide.

19

20 11. (New section) Bonds of the municipal shared services
21 energy authority may be sold by the municipal shared services
22 energy authority at public or private sale, and at **1**[such] **a**¹ price or
23 prices **1**[as]¹ the municipal shared services energy authority shall
24 determine subject to the provisions of **1**the “Local Authorities Fiscal
25 Control Law,”¹ P.L.1983, c. 313 (C.40A:5A-1 et seq.).

26

27 12. (New section) The municipal shared services energy
28 authority may cause a copy of any bond resolution adopted by it to
29 be filed for public inspection in its office and in the office of the
30 clerk of the governing body of each member municipality, and may
31 thereupon cause to be published, in a newspaper published or
32 circulating in each member's community, a notice stating the fact
33 and date of this adoption and the places where the bond resolution
34 has been filed for public inspection **1**[and also] ¹₂ the date of the
35 first publication of the notice ¹₂ and **1**[also]¹ that any action or
36 proceeding **1**[of any kind or nature]¹ in any court questioning the
37 validity or proper authorization of bonds provided for by the bond
38 resolution, or the validity of any covenants, agreements ¹₂ or
39 contract provided for by the bond resolution ¹₂ shall be commenced
40 within 20 days after the first publication of the notice. If the notice
41 shall at any time be published and if no action or proceeding
42 questioning the validity of the establishment of the municipal
43 shared services energy authority or the validity or proper
44 authorization of bonds provided for by the bond resolution referred
45 to in the notice, or the validity of any covenants, agreements ¹₂ or
46 contract provided for by the bond resolution shall be commenced or

1 instituted within 20 days after the first publication of the notice,
 2 then all residents and taxpayers and owners of property in each of
 3 the member municipalities, and all other persons whatsoever, shall
 4 be forever barred and foreclosed from instituting or commencing
 5 any action or proceeding in any court, or from pleading any defense
 6 to any action or proceedings, questioning the validity of the
 7 establishment of the municipal shared services energy authority,
 8 **1[or]** the validity or proper authorization of the bonds, or the
 9 validity of the covenants, agreements ¹₂ or contracts, and the
 10 municipal shared services energy authority shall be conclusively
 11 deemed to have been validly established and to be authorized to
 12 transact business and exercise powers as an authority pursuant to
 13 P.L. , c. (C.) (pending before the Legislature as this bill),
 14 and the bonds, covenants, agreements ¹₂ and contracts shall be
 15 conclusively deemed to be valid and binding obligations in
 16 accordance with their terms and tenor.

17

18 13. (New section) **1[Any provision]** The provisions¹ of any law
 19 ¹, rule, or regulation¹ to the contrary notwithstanding, any bond or
 20 other obligation issued pursuant to P.L. , c. (C.) (pending
 21 before the Legislature as this bill) shall be fully negotiable **1[within**
 22 the meaning and]¹ for **1[all]** the¹ purposes of the negotiable
 23 instruments law **1[of this State]** under Title 12A of the New Jersey
 24 Statutes¹ , and each holder or owner of **1[such]**¹ a bond or other
 25 obligation, or of any coupon appurtenant thereto, by accepting
 26 **1[such]** the¹ bond or coupon shall be conclusively deemed to have
 27 agreed that **1[such]** the¹ bond, obligation ¹₂ or coupon is and shall
 28 be fully negotiable **1[within the meaning and]**¹ for **1[all]** the¹
 29 purposes of the **1[State's]**¹ negotiable instruments law under Title
 30 12A of the New Jersey Statutes.

31

32 14. (New section) Neither the members of the municipal shared
 33 services energy authority nor any person executing bonds issued
 34 pursuant to P.L. , c. (C.) (pending before the Legislature as
 35 this bill) shall be liable personally on the bonds by reason of the
 36 issuance thereof. Bonds or other obligations issued pursuant to
 37 P.L. , c. (C.) (pending before the Legislature as this bill)
 38 shall not be in any way a debt or liability of the State, and bonds or
 39 other obligations issued by the municipal shared services energy
 40 authority pursuant to P.L. , c. (C.) (pending before the
 41 Legislature as this bill) shall not be in any way a debt or liability of
 42 the State **1[or]** ¹₂ of any local unit **1[or]** ¹₂ of any county ¹₂ or ¹of
 43 any¹ municipality, except for member municipalities guaranteeing
 44 **1[such]** the¹ bonds in accordance with the provisions of section 18
 45 of P.L. , c. (C.) (pending before the Legislature as this bill),
 46 and shall not create or constitute any indebtedness, liability ¹₂ or

1 obligation of the State **1** ~~or~~ of **1** of any **1** ~~such~~ **1** local unit, of
2 any **1** county **1** ¹ or of any **1** municipality, either legal, moral, or
3 otherwise, and nothing in P.L. , c. (C.) (pending before the
4 Legislature as this bill) **1** ~~contained~~ **1** shall be construed to
5 authorize the municipal shared services energy authority to incur
6 any indebtedness on behalf of **1** ¹ or in any way **1** ¹ to obligate the
7 State or any county or municipality.

8
9 15. (New section) Any bond resolution of the municipal shared
10 services energy authority providing for or authorizing the issuance
11 of any bonds may contain provisions, and the municipal shared
12 services energy authority shall, in order to secure the payment of
13 the bonds in addition to its other powers, have the power by the
14 provisions in the bond resolution to covenant and agree with the
15 several holders of the bonds, as to:

16 a. The custody, security, use, expenditure, or application of the
17 proceeds of the bonds;

18 b. The construction and completion, or replacement, of all or
19 any part of an electric supply project of the municipal shared
20 services energy authority or its system;

21 c. The use, regulation, operation, maintenance, insurance, or
22 disposition of all or any part of an electric supply project of the
23 municipal shared services energy authority, or its system, or
24 restrictions on the exercise of the powers of the municipal shared
25 services energy authority to dispose of, limit, or regulate the use of
26 all or any part of the electric supply project or system;

27 d. **1** ~~Payment~~ **1** The payment **1** of the principal of, or interest on,
28 the bonds, or any other obligations, and the sources and methods
29 thereof, the rank or priority of the bonds or obligations as to any
30 lien or security, or the acceleration of the maturity of the bonds or
31 obligations;

32 e. The use and disposition of any monies of the municipal
33 shared services energy authority, including any of the authority's
34 revenues, derived or to be derived from the operation of all or any
35 part of one or more electric supply projects of the municipal shared
36 services energy authority or systems thereof, including any parts
37 thereof that are thereafter constructed or acquired as any of the
38 project's parts, extensions, replacements, or improvements
39 thereafter constructed or acquired;

40 f. **1** ~~Pledging~~ **1** The pledging **1** , setting aside, depositing, or
41 acting as trustee for all or any part of the system revenues or other
42 monies of the municipal shared services energy authority to secure
43 the payment of the principal of, or interest on, the bonds or any
44 other obligations, or the payment of expenses of operation or
45 maintenance of one or more electric supply projects of the
46 municipal shared services energy authority or its system, and the
47 powers and duties of any trustee with regard thereto;

- 1 g. The setting aside out of the system revenues or other monies
2 of the municipal shared services energy authority including its
3 reserves and sinking funds, and the source, custody, security,
4 regulation, application, and disposition thereof;
- 5 h. **1** **【Determination】** The determination or definition of the
6 system revenues or of the expenses of operation and maintenance of
7 the system or one or more of its electric supply projects;
- 8 i. The rents, rates, fees ¹₂ ¹ or other charges in connection with
9 the use, products, or services of one or more electric supply projects
10 of the municipal shared services energy authority or its system,
11 including any of the parts, extensions, replacements, or
12 improvements of the project or its system thereafter constructed or
13 acquired, and the fixing, establishment, collection ¹₂ ¹ and
14 enforcement of **1** **【the same】** those charges ¹, the amount of electric
15 supply project revenues or system revenues to be produced thereby,
16 and the disposition and application of the amounts charged or
17 collected;
- 18 j. The assumption or payment or discharge of any
19 indebtedness, liens, or other claims relating to the whole or any part
20 of one or more electric supply projects of the municipal shared
21 services energy authority or of its system for any obligations having
22 or which may have a lien on any part of the system of the municipal
23 shared services energy authority;
- 24 k. **1** **【Limitations】** The limitations ¹ on the issuance of additional
25 bonds or any other obligations or on the incurrence of indebtedness
26 of the municipal shared services energy authority;
- 27 1. **1** **【Limitations】** The limitations ¹ on the powers of the
28 municipal shared services energy authority to construct, acquire or
29 operate, or to permit the construction, acquisition ¹₂ ¹ or operation
30 of, any plants, structures, facilities ¹₂ ¹ or properties which may
31 compete or tend to compete with one or more of the municipal
32 shared services energy authority's electric supply projects or any
33 part of its system;
- 34 m. **1** **【Vesting】** The vesting ¹ in a trustee or trustees within or
35 without the State **1** **【such】** any ¹ property, rights, powers, and duties
36 in trust as the municipal shared services energy authority may
37 determine, which may include any or all of the rights, powers, and
38 duties of the trustee appointed by the holders of bonds, and limiting
39 or abrogating the right of the holders to appoint a trustee or limiting
40 the rights, duties, and powers of the trustee;
- 41 n. **1** **【Payment】** The payment ¹ of costs or expenses incident to
42 the enforcement of the bonds or of the provisions of the bond
43 resolutions or of any covenant or contract with the holders of the
44 bonds;
- 45 o. The procedure, if any, by which the terms of any covenant or
46 contract with, or duty to, the holders of the bonds may be amended
47 or abrogated, the amount of bonds that the holders of which must

1 consent thereto, and the manner in which the consent may be given
2 or evidenced; and

3 p. Any other matter or course of conduct which, by recital in
4 the bond resolution, is declared to further secure the payment of the
5 principal of, or interest on, the bonds.

6 The provisions of the bond resolution and the covenants and
7 agreements relative thereto shall constitute valid and legally binding
8 contracts between the municipal shared services energy authority
9 and the several holders of the bonds, regardless of the time of
10 issuance of the bonds, and shall be enforceable by any holder or
11 holders by appropriate suit, action ¹,¹ or proceeding in any court of
12 competent jurisdiction, or by proceeding in lieu of prerogative writ.

13
14 16. (New section) a. If the bond resolution of the municipal
15 shared services energy authority authorizing or providing for the
16 issuance of a series of its bonds shall provide in substance that the
17 holders of the bonds of ¹~~the~~ ¹~~the~~ series shall be entitled to the
18 benefits of this section, then, in the event that there shall be a
19 default in the payment of ¹~~the~~ ¹ principal of, or interest on, any
20 bonds of ¹~~the~~ ¹ series after the ¹~~same~~ ¹ bonds shall become
21 due, whether at maturity or upon call for redemption, and ¹~~the~~ ¹
22 default shall continue for a period of 30 days, or in the event
23 that the municipal shared services energy authority shall fail or
24 refuse to comply with the provisions of P.L. , c. (C.)
25 (pending before the Legislature as this bill) or shall fail or refuse to
26 carry out and perform the terms of any contract with the holders of
27 ¹~~any such~~ ¹ those bonds, and ¹~~such~~ ¹ that failure or refusal shall
28 continue for a period of 30 days after written notice to the
29 municipal shared services energy authority of its existence and
30 nature, the holders of 25 percent in aggregate principal amount of
31 the bonds and ¹~~the~~ ¹ series then outstanding by instrument or
32 instruments filed in the office of the Secretary of State and proved
33 or acknowledged in the same manner as a deed to be recorded, may
34 appoint a trustee to represent the holders of the bonds of ¹~~the~~ ¹
35 series for the purposes provided in this section.

36 b. ¹~~Such~~ ¹ The trustee ¹, appointed pursuant to subsection a.
37 of this section, ¹ may and upon written request of the holders of 25
38 percent in aggregate principal amount of the bonds of ¹~~the~~ ¹
39 series then outstanding shall, in the trustee's or its own name:

40 (1) by any action, writ, proceeding in lieu of prerogative writ, or
41 other proceeding, enforce all rights of the holders of ¹~~the~~ ¹
42 bonds, including the right to require the municipal shared services
43 energy authority to charge and collect service charges adequate to
44 carry out any contract as to, or pledge of, system revenues, and to
45 require the municipal shared services energy authority to carry out
46 and perform the terms of any contract with the holders of ¹~~the~~ ¹

1 the¹ bonds or its duties under P.L. , c. (C.) (pending before
2 the Legislature as this bill);

3 (2) bring an action upon all or any part of ¹**[such]** the¹ bonds or
4 interest coupons or claims appurtenant thereto;

5 (3) by action, require the municipal shared services energy
6 authority to account as if it were the trustee of an express trust for
7 the holders of ¹**[such]** the¹ bonds;

8 (4) by action, enjoin any acts or things which may be unlawful
9 or in violation of the rights of the holders of ¹**[such]** the¹ bonds;
10 and

11 (5) declare all ¹**[such]** the¹ bonds due and payable, whether or
12 not in advance of maturity, upon 30 days' prior notice in writing to
13 the municipal shared services energy authority and, if all defaults
14 shall be made good, then with the consent of the holders of 25
15 percent of the principal amount of ¹**[such]** the¹ bonds then
16 outstanding, annul ¹**[such]** the¹ declaration and its consequences.

17 c. The trustee shall, in addition to the powers set forth in
18 subsections a. and b. of this section, ¹**[have and]**¹ possess all of the
19 powers necessary ¹**[or appropriate]**¹ for the exercise of the
20 functions specifically set forth herein or incident to the general
21 representation of the holders of bonds of ¹**[such]** the¹ series in the
22 enforcement and protection of their rights.

23 d. In any action or proceeding by the trustee, the fees, counsel
24 fees and expenses of the trustee and of the receiver, if any,
25 appointed pursuant to P.L. , c. (C.) (pending before the
26 Legislature as this bill), shall constitute taxable costs and
27 disbursements, and all costs and disbursements, allowed by the
28 court, shall be a first charge upon any service charges and system
29 revenues of the municipal shared services energy authority pledged
30 for the payment or security of bonds of ¹**[such]** the¹ series.
31

32 17. (New section) If the bond resolution of the municipal shared
33 services energy authority authorizing or providing for the issuance
34 of a series of its bonds shall provide ¹**[in substance]**¹ that the
35 holders of the bonds of ¹**[such]** the¹ series shall be entitled to the
36 benefits of section 15 of P.L. , c. (C.) (pending before the
37 Legislature as this bill), and shall further provide ¹**[in substance]**¹
38 that any trustee appointed pursuant to that section or having the
39 powers of **[such]** a trustee shall have the powers provided by this
40 section, then ¹**[such]** the¹ trustee, whether or not all of the bonds of
41 ¹**[such]** the¹ series ¹**[shall]**¹ have been declared due and payable,
42 shall be entitled as of right to the appointment of a receiver of the
43 assets of the authority, and the receiver may enter upon and take
44 possession of the assets of the authority and, subject to any pledge
45 or contract with the holders of ¹**[such]** the¹ bonds, shall take
46 possession of all ¹**[moneys]** monies¹ and other property derived

1 from or applicable to the acquisition, construction, operation,
2 maintenance, or reconstruction of the assets of the authority, and
3 proceed with ¹ ~~such~~ the ¹ acquisition, construction, operation,
4 maintenance, or reconstruction which the municipal shared services
5 energy authority is under any obligation to do, and operate,
6 maintain ¹ ₁ and reconstruct the utility system and fix, charge,
7 collect, enforce, and receive the service charges and all system
8 revenues thereafter arising subject to any pledge thereof or contract
9 with the holders of the bonds relating thereto and perform the
10 public duties and carry out the contracts and obligations of the
11 municipal shared services energy authority in the same manner as
12 the municipal shared services energy authority itself might do ¹ ₁
13 and under the direction of the court.

14
15 18. (New section) For the purpose of aiding the municipal
16 shared services energy authority in the planning, undertaking,
17 acquisition, construction, financing ¹ ₁ or operation of any electric
18 supply project authorized pursuant to P.L. ¹ ₁, c. ¹ ₁ (C. ¹ ₁)
19 (pending before the Legislature as this bill), a member municipality
20 may, by ordinance of its governing body, in the manner provided
21 for adoption of a bond ordinance as provided in ¹ ~~any local bond~~
22 ~~law~~ the “Local Bond Law,” N.J.S.40A:2-1 et seq. ¹ and with or
23 without consideration and upon ¹ ~~such~~ those ¹ terms and
24 conditions as may be agreed to by and between the member
25 municipality and the authority, unconditionally guaranty the
26 punctual payment of the principal of, and interest on, all or a
27 portion of any bonds of the authority. Any guaranty of the bonds of
28 the authority made pursuant to this section shall be evidenced by
29 endorsement thereof on the bonds, executed in the name of the
30 member municipality and on its behalf by ¹ ~~such~~ the ¹ officer
31 thereof as may be designated in the ordinance authorizing ¹ ~~such~~
32 the ¹ guaranty, and the municipality shall ¹ ~~thereupon and~~
33 ~~thereafter~~ ¹ be obligated to pay the principal of, and interest on,
34 ¹ ~~said~~ the ¹ bonds in the same manner and ¹ ~~to the same~~ ¹ extent
35 as in the case of bonds issued by it. Any ordinance authorizing
36 ¹ ~~such~~ the ¹ guaranty shall be treated as a security agreement and
37 shall be subject to the provisions of ¹ the “Local Authorities Fiscal
38 Control Law,” ¹ P.L.1983, c.313 (C.40A:5A-1 et seq.). Any
39 ¹ ~~such~~ ¹ guaranty of bonds of the authority may be made, and any
40 ordinance authorizing ¹ ~~such~~ the ¹ guaranty may be adopted,
41 notwithstanding any statutory debt or other limitations, including
42 particularly any limitation or requirement under or pursuant to
43 ¹ ~~any local bond law~~ the “Local Bond Law,” N.J.S.40A:2-1 et
44 seq. ¹, but the principal amount of the bonds so guaranteed, shall,
45 after their issuance, be included in the gross debt of the member
46 municipality for the purpose of determining the indebtedness of the

1 municipality under or pursuant to **1** ~~any local bond law~~ **1** the “Local
 2 Bond Law,” N.J.S.40A:2-1 et seq.¹ . The principal amount of the
 3 bonds **1** ~~so~~ **1** guaranteed and included in gross debt shall be
 4 deducted and **1** ~~is hereby~~ **1** declared to be **1** ~~and to constitute~~ **1** a
 5 deduction from **1** ~~the~~ **1** gross debt under **1** ~~and for all the purposes~~
 6 of any local bond law **1** the “Local Bond Law,” N.J.S.40A:2-1 et
 7 seq.¹ :

8 a. **1** ~~from and after the time of~~ **1** after the **1** issuance of the bonds
 9 until the end of the fiscal year beginning next after the completion
 10 of acquisition or construction of the facility to be financed from the
 11 proceeds of the bonds; and

12 b. in any annual debt statement filed pursuant to **1** ~~any local~~
 13 bond law **1** the “Local Bond Law,” N.J.S.40A:2-1 et seq.¹ as of the
 14 end of the fiscal year or any subsequent fiscal year if the revenues
 15 or other receipts or **1** ~~moneys~~ **1** monies **1** of the authority in that year
 16 are sufficient to pay its expenses of operation and maintenance in
 17 the year ¹,¹ and all amounts payable in the year on account of the
 18 principal of, and interest on, all **1** ~~the~~ **1** guaranteed bonds, and all
 19 bonds of the authority issued under P.L. , c. (C.) (pending
 20 before the Legislature as this bill).

21
 22 19. (New section) a. The municipal shared services energy
 23 authority may enter into ¹a¹ wholesale power supply **1** ~~contracts~~
 24 contract¹ with any person **1** ~~within or outside the State of New~~
 25 Jersey **1** to meet the electric power or energy needs of its members,
 26 for the purchase or sale of electric power or energy, or **1** ~~for~~ **1** both
 27 **1** ~~the purchase and sale of electric power and energy to supply~~
 28 electric power or energy to its members ¹,¹ and for the wholesale
 29 sale of any excess electric power or energy. **1** ~~The~~ **1** A¹ power
 30 supply **1** ~~contracts~~ **1** contract¹ shall be for a term not to exceed 40
 31 years and shall provide for payment to or from the **1** ~~municipal~~
 32 shared services energy **1** authority of funds for commodities to be
 33 procured, and services to be rendered by or to the **1** ~~municipal~~
 34 shared services energy **1** authority. The **1** ~~municipal shared~~
 35 services energy **1** authority may enter into ¹a¹ power supply
 36 **1** ~~contracts~~ **1** contract¹ with persons for the purchase or sale of
 37 electric power and energy, or **1** ~~for~~ **1** both **1** ~~the purchase and sale~~
 38 of electric power and energy **1**, whereby the purchaser is obligated
 39 to make payments in amounts which shall be sufficient to enable the
 40 **1** ~~municipal shared services energy~~ **1** authority to meet its expenses,
 41 interest ¹,¹ and principal payments, whether at maturity or upon
 42 sinking fund redemption, for its bonds, reasonable reserves for debt
 43 service, operation and maintenance, renewals and replacements, and
 44 the requirements of any rate covenant with respect to debt service
 45 coverage contained in any resolution, trust indenture, or other

1 security instrument. ¹**[Power]** A power¹ supply ¹**[contracts]**
 2 contract¹ may contain ¹**[such]**¹ other terms and conditions as the
 3 municipal shared services energy authority and the purchasers may
 4 determine, including provisions whereby the purchaser is obligated
 5 to pay for ¹electric¹ power irrespective of whether energy is
 6 produced or delivered to the purchaser, or whether any electric
 7 supply project contemplated by the ¹**[agreement]** power supply
 8 contract¹ is completed, operable, or operating, and notwithstanding
 9 suspension, interruption, interference, reduction, or curtailment of
 10 the output of the electric supply project. The power ¹**[purchase**
 11 **agreement]** supply contract¹ may provide that if one or more of the
 12 purchasers defaults in the payment of its obligations under the
 13 ¹**[purchase agreement]** power supply contract¹, the remaining
 14 purchasers which also have ¹**[such agreements]** a power supply
 15 contract¹ shall be required to accept and pay for the electric power
 16 and energy to be purchased by the defaulting purchaser, and shall
 17 be entitled proportionately to use or otherwise dispose of the
 18 electric power and energy to be purchased by the defaulting
 19 purchaser. For purposes of this subsection ¹₂ the ¹**[phrase]** term¹
 20 “purchase ¹or sale¹ of electric power and energy” includes the
 21 purchase of any right to capacity of, or interest in, any electric
 22 supply project located within the corporate limits and franchise
 23 areas of the members.

24 b. The obligations of a member municipality under a power
 25 supply contract with the ¹**[municipal shared services energy]**¹
 26 authority, or arising out of the default by any other member with
 27 respect to a power supply contract, shall not be construed to
 28 constitute a debt of the municipality. To the extent provided in the
 29 ¹**[purchase agreement]** power supply contract¹, these obligations
 30 shall constitute special obligations of the municipality, payable
 31 solely from the revenues and other ¹**[moneys]** monies¹ derived by
 32 the municipality from its municipal electric utility and shall be
 33 treated as expenses of operating a municipal electric utility.

34 c. The ¹power supply¹ contract may also provide for payments
 35 in the form of collateral, contributions to defray the cost of any
 36 purpose set forth in the contract ¹₂ and as advances for ¹**[any such]**
 37 a¹ purpose subject to repayment by the municipal shared services
 38 energy authority.

39 d. ¹**[Such agreements]** A power supply contract¹ may be for a
 40 term covering the life of an electric supply project, for the
 41 anticipated output period of the electric supply project, or for any
 42 other term not exceeding 40 years.

43

44 20. (New section) The ¹**[municipal shared services energy]**
 45 authority formed pursuant to P.L. , c. (C.) (pending before
 46 the Legislature as this bill) shall comply with the provisions of

1 P.L. , c. (C.) (pending before the Legislature as this bill) and
2 all applicable federal and State laws. Nothing in P.L. , c. (C.)
3 (pending before the Legislature as this bill) shall be construed to
4 require regulation of **1**【a municipal shared services energy】 an¹
5 authority or its members as an electric public utility as defined
6 under R.S.48:2-13. Wholesale sales and purchases by the
7 **1**【municipal shared services energy】 authority shall not subject the
8 **1**【municipal shared services energy】¹ authority or its members to
9 the jurisdiction of the Board of Public Utilities as a public utility
10 **1**【as set forth in R.S.48:2-13 et seq】 pursuant to Title 48 of the
11 Revised Statutes¹. A municipality that is a member of the
12 **1**【municipal shared services energy】 authority shall continue to be
13 subject to all laws of the State.
14

15 21. (New section) All property of the **1**【municipal shared
16 services energy】¹ authority within the corporate limits and
17 franchise areas of the members shall be exempt from levy and sale
18 by virtue of an execution of a court of competent jurisdiction and no
19 execution or other judicial process shall issue against the **1**【same】
20 authority¹ nor shall any judgment against the **1**【municipal shared
21 services energy】¹ authority be a charge or lien upon its property,
22 provided, however, that nothing in this section shall apply to or
23 limit the rights of the holder of any bonds to pursue any remedy for
24 the enforcement of any pledge or lien given by the **1**【municipal
25 shared services energy】¹ authority on its system, revenues, or other
26 monies.
27

28 22. (New section) Notwithstanding any restriction contained in
29 any other law, the State and all public officers, municipalities,
30 counties, political subdivisions of public bodies, and agencies
31 thereof, all banks, bankers, trust companies, savings banks and
32 institutions, building and loan associations, savings and loan
33 associations, investment companies, and other persons carrying on a
34 banking business, all insurance companies, insurance associations,
35 and other persons carrying on an insurance business, and all
36 executors, administrators, guardians, trustees ^{1,1} and other
37 fiduciaries, may legally invest any sinking funds, monies, or other
38 funds belonging to them or within their control, in any bonds of the
39 **1**【municipal shared services energy】¹ authority, and the bonds shall
40 be authorized security for any and all public deposits.
41

42 23. (New section) Every electric supply project or facility
43 within the corporate limits and franchise areas of the members that
44 **1**【are】 is¹ owned by the **1**【municipal shared services energy】¹
45 authority, including any pro rata share of any property within the
46 corporate limits and franchise areas of the members that **1**【are】 is¹

1 owned by the ¹【municipal shared services energy】¹ authority in
2 conjunction with any other person or public agency and used in
3 connection with the generation, transmission ^{1,1} and production of
4 electric power and energy, and all other property of the ¹【municipal
5 shared services energy】¹ authority within the corporate limits and
6 franchise areas of the members, is hereby declared to be public
7 property and devoted to an essential public and governmental
8 function and purpose, and the property within the corporate limits
9 and franchise areas of the members, the ¹【municipal shared services
10 energy】¹ authority and its income shall be exempt from all taxes
11 and special assessments of the State or any subdivision of the State.
12 All bonds of the ¹【municipal shared services energy】¹ authority are
13 hereby declared to be issued by a political subdivision of the State
14 and for an essential public and governmental purpose and to be a
15 public instrumentality in the bonds, and the interest thereon and the
16 income therefrom and all service charges, funds, revenues, and
17 other monies pledged or available to pay or secure the payment of
18 the bonds, or interest thereon, shall at all times be exempt from
19 taxation except for transfer, inheritance and estate taxes, and taxes
20 on transfers by or in contemplation of death.

21

22 24. (New section) The State of New Jersey does hereby pledge
23 to and covenant and agree with the holders of any bonds issued
24 pursuant to a bond resolution of the ¹【municipal shared services
25 energy】¹ authority, that the State will not limit or alter the rights
26 hereby vested in the municipal shared services energy authority to
27 acquire, construct, operate, and participate in one or more electric
28 supply projects and facilities for the generation, production, and
29 transmission of electric power and energy at wholesale, to fix,
30 establish, charge, and collect charges, fees, and payments, and to
31 fulfill the terms of any agreement made with the holders of the
32 bonds or other obligations, ¹【and】¹ will not in any way impair the
33 rights or remedies of these holders, and will not modify in any way
34 the exemptions from taxation provided for in P.L. , c. (C.)
35 (pending before the Legislature as this bill) until the bonds, together
36 with interest thereon, with interest on any unpaid installments of
37 interest, and all costs and expenses in connection with any action or
38 proceeding by or on behalf of these holders, are fully met and
39 discharged.

40

41 25. (New section) All banks, bankers, trust companies, savings
42 banks, investment companies, and other persons carrying on a
43 banking business are hereby authorized to give to the municipal
44 shared services energy authority a good and sufficient undertaking
45 with ¹【such】 those¹ sureties as shall be approved by the
46 ¹【municipal shared services energy】¹ authority to the effect that
47 ¹【this】 the¹ bank or banking institution shall faithfully keep and

1 pay over to the order of or upon the warrant of the '【municipal
 2 shared services energy】' authority or its authorized agent, all
 3 '【such】' funds as may be deposited with it by the '【municipal
 4 shared services energy】' authority and agreed interest thereon, at
 5 '【such】' times or upon '【such】' demands as may be agreed with
 6 the '【municipal shared services energy】' authority or in lieu of
 7 these sureties, deposit with the '【municipal shared services
 8 energy】' authority or its agent or any trustee therefor or for the
 9 holders of any bonds, as collateral, '【such】 the' securities as the
 10 '【municipal shared services energy】' authority may approve. The
 11 deposits of the '【municipal shared services energy】' authority may
 12 be evidenced or secured by a depository collateral agreement in
 13 '【such】 a' form and upon '【such】' terms and conditions as may be
 14 agreed upon by the '【municipal shared services energy】' authority
 15 and the bank or banking institution.

16

17 26. (New section) The municipal shared services energy
 18 authority shall cause an annual audit of its accounts to be made, and
 19 for this purpose shall employ a certified public accountant licensed
 20 pursuant to the laws of the State '【of New Jersey】' . The audit
 21 shall be completed and filed with the '【municipal shared services
 22 energy】' authority within four months after the close of its fiscal
 23 year and a certified duplicate thereof shall be filed with the Director
 24 of the Division of Local Government Services in the Department of
 25 Community Affairs within five days after the original report is filed
 26 with the '【municipal shared services energy】' authority.

27

28 27. (New section) The municipal shared services energy
 29 authority shall file a copy of each bond resolution adopted by it
 30 with the Director of the Division of Local Government Services in
 31 the Department of Community Affairs, together with a summary of
 32 the dates, amounts, maturities, and interest rates of all bonds issued
 33 pursuant thereto.

34

35 28. Section 5 of P.L.1971, c.198 (C.40A:11-5) is amended to
 36 read as follows:

37 5. Any contract the amount of which exceeds the bid threshold,
 38 may be negotiated and awarded by the governing body without
 39 public advertising for bids and bidding therefor and shall be
 40 awarded by resolution of the governing body if:

41 (1) The subject matter thereof consists of:

42 (a) (i) Professional services. The governing body shall in each
 43 instance state supporting reasons for its action in the resolution
 44 awarding each contract and shall forthwith cause to be printed once,
 45 in the official newspaper, a brief notice stating the nature, duration,
 46 service and amount of the contract, and that the resolution and

1 contract are on file and available for public inspection in the office
2 of the clerk of the county or municipality, or, in the case of a
3 contracting unit created by more than one county or municipality, of
4 the counties or municipalities creating ¹【such】 the¹ contracting
5 unit; or (ii) Extraordinary unspecifiable services. The application
6 of this exception shall be construed narrowly in favor of open
7 competitive bidding, whenever possible, and the Division of Local
8 Government Services is authorized to adopt and promulgate rules
9 and regulations after consultation with the Commissioner of
10 Education limiting the use of this exception in accordance with the
11 intention herein expressed. The governing body shall in each
12 instance state supporting reasons for its action in the resolution
13 awarding each contract and shall forthwith cause to be printed, in
14 the manner set forth in subsection (1) (a) (i) of this section, a brief
15 notice of the award of ¹【such】 the¹ contract;

16 (b) The doing of any work by employees of the contracting unit;

17 (c) The printing of legal briefs, records ^{1,1} and appendices to be
18 used in any legal proceeding in which the contracting unit may be a
19 party;

20 (d) The furnishing of a tax map or maps for the contracting unit;

21 (e) The purchase of perishable foods as a subsistence supply;

22 (f) The supplying of any product or the rendering of any service
23 by a public utility, which is subject to the jurisdiction of the Board
24 of Public Utilities or the Federal Energy Regulatory Commission or
25 its successor, in accordance with tariffs and schedules of charges
26 made, charged or exacted, filed with the board or commission;

27 (g) The acquisition, subject to prior approval of the Attorney
28 General, of special equipment for confidential investigation;

29 (h) The printing of bonds and documents necessary to the
30 issuance and sale thereof by a contracting unit;

31 (i) Equipment repair service if in the nature of an extraordinary
32 unspecifiable service and necessary parts furnished in connection
33 with ¹【such】 the¹ service, which exception shall be in accordance
34 with the requirements for extraordinary unspecifiable services;

35 (j) The publishing of legal notices in newspapers as required by
36 law;

37 (k) The acquisition of artifacts or other items of unique intrinsic,
38 artistic or historical character;

39 (l) Those goods and services necessary or required to prepare
40 and conduct an election;

41 (m) Insurance, including the purchase of insurance coverage and
42 consultant services, which exception shall be in accordance with the
43 requirements for extraordinary unspecifiable services;

44 (n) The doing of any work by handicapped persons employed by
45 a sheltered workshop;

46 (o) The provision of any goods or services including those of a
47 commercial nature, attendant upon the operation of a restaurant by

- 1 any nonprofit, duly incorporated, historical society at or on any
2 historical preservation site;
- 3 (p) (Deleted by amendment, P.L.1999, c.440.)
- 4 (q) Library and educational goods and services;
- 5 (r) (Deleted by amendment, P.L.2005, c.212).
- 6 (s) The marketing of recyclable materials recovered through a
7 recycling program, or the marketing of any product intentionally
8 produced or derived from solid waste received at a resource
9 recovery facility or recovered through a resource recovery program,
10 including, but not limited to, refuse-derived fuel, compost materials,
11 methane gas, and other similar products;
- 12 (t) (Deleted by amendment, P.L.1999, c.440.)
- 13 (u) Contracting unit towing and storage contracts, provided that
14 all **'[such] of the'** contracts shall be pursuant to reasonable non-
15 exclusionary and non-discriminatory terms and conditions, which
16 may include the provision of **'[such] the'** services on a rotating
17 basis, at the rates and charges set by the municipality pursuant to
18 section 1 of P.L.1979, c.101 (C.40:48-2.49). All contracting unit
19 towing and storage contracts for services to be provided at rates and
20 charges other than those established pursuant to the terms of this
21 paragraph shall only be awarded to the lowest responsible bidder in
22 accordance with the provisions of the "Local Public Contracts Law"
23 and without regard for the value of the contract therefor;
- 24 (v) The purchase of steam or electricity from, or the rendering
25 of services directly related to the purchase of **'[such]'** steam or
26 electricity from a qualifying small power production facility or a
27 qualifying cogeneration facility as defined pursuant to 16 U.S.C.
28 s.796;
- 29 (w) The purchase of electricity or administrative or dispatching
30 services directly related to the transmission of **'[such]'** purchased
31 electricity by a contracting unit engaged in the generation of
32 electricity;
- 33 (x) The printing of municipal ordinances or other services
34 necessarily incurred in connection with the revision and
35 codification of municipal ordinances;
- 36 (y) An agreement for the purchase of an equitable interest in a
37 water supply facility or for the provision of water supply services
38 entered into pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or
39 an agreement entered into pursuant to P.L.1989, c.109
40 (N.J.S.40A:31-1 et al.), so long as **'[such] the'** agreement is
41 entered into no later than six months after the effective date of
42 P.L.1993, c.381;
- 43 (z) A contract for the provision of water supply services entered
44 into pursuant to P.L.1995, c.101 (C.58:26-19 et al.);
- 45 (aa) The cooperative marketing of recyclable materials recovered
46 through a recycling program;

- 1 (bb) A contract for the provision of wastewater treatment
2 services entered into pursuant to P.L.1995, c.216 (C.58:27-19 et
3 al.);
- 4 (cc) Expenses for travel and conferences;
- 5 (dd) The provision or performance of goods or services for the
6 support or maintenance of proprietary computer hardware and
7 software, except that this provision shall not be utilized to acquire
8 or upgrade non-proprietary hardware or to acquire or update non-
9 proprietary software;
- 10 (ee) The management or operation of an airport owned by the
11 contracting unit pursuant to R.S.40:8-1 et seq.;
- 12 (ff) Purchases of goods and services at rates set by the Universal
13 Service Fund administered by the Federal Communications
14 Commission;
- 15 (gg) A contract for the provision of water supply services or
16 wastewater treatment services entered into pursuant to section 2 of
17 P.L.2002, c.47 (C.40A:11-5.1), or the designing, financing,
18 construction, operation, or maintenance, or any combination
19 thereof, of a water supply facility as defined in subsection (16) of
20 section 15 of P.L.1971, c.198 (C.40A:11-15) or a wastewater
21 treatment system as defined in subsection (19) of section 15 of
22 P.L.1971, c.198 (C.40A:11-15), or any component part or parts
23 thereof, including a water filtration system as defined in subsection
24 (16) of section 15 of P.L.1971, c.198 (C.40A:11-15); ¹or¹
- 25 (hh) The purchase of electricity generated from a power
26 production facility that is fueled by methane gas extracted from a
27 landfill in the county of the contracting unit.
- 28 (2) It is to be made or entered into with the United States of
29 America, the State of New Jersey, county ¹₂¹ or municipality ¹₂¹ or
30 any board, body, officer, agency ¹₂¹ or authority thereof ¹₂¹ or any
31 other state or subdivision thereof.
- 32 (3) Bids have been advertised pursuant to section 4 of P.L.1971,
33 c.198 (C.40A:11-4) on two occasions and (a) no bids have been
34 received on both occasions in response to the advertisement, or (b)
35 the governing body has rejected ¹**[such]** the¹ bids on two occasions
36 because it has determined that they are not reasonable as to price,
37 on the basis of cost estimates prepared for or by the contracting
38 agent prior to the advertising therefor, or have not been
39 independently arrived at in open competition, or (c) on one occasion
40 no bids were received pursuant to (a) and on one occasion all bids
41 were rejected pursuant to (b), in whatever sequence; ¹**[any such]** a¹
42 contract may then be negotiated and may be awarded upon adoption
43 of a resolution by a two-thirds affirmative vote of the authorized
44 membership of the governing body authorizing ¹**[such]** the¹
45 contract; provided, however, that:
- 46 (i) A reasonable effort is first made by the contracting agent to
47 determine that the same or equivalent goods or services, at a cost

1 which is lower than the negotiated price, are not available from an
2 agency or authority of the United States, the State of New Jersey or
3 of the county in which the contracting unit is located, or any
4 municipality in close proximity to the contracting unit;

5 (ii) The terms, conditions, restrictions ¹₂ and specifications set
6 forth in the negotiated contract are not substantially different from
7 those which were the subject of competitive bidding pursuant to
8 section 4 of P.L.1971, c.198 (C.40A:11-4); and

9 (iii) Any minor amendment or modification of any of the terms,
10 conditions, restrictions ¹₂ and specifications, which were the
11 subject of competitive bidding pursuant to section 4 of P.L.1971,
12 c.198 (C.40A:11-4), shall be stated in the resolution awarding
13 **1** ~~the~~ ¹ contract; provided further, however, that if on the
14 second occasion the bids received are rejected as unreasonable as to
15 price, the contracting agent shall notify each responsible bidder
16 submitting bids on the second occasion of its intention to negotiate,
17 and afford each bidder a reasonable opportunity to negotiate, but
18 the governing body shall not award **1** ~~the~~ ¹ contract unless the
19 negotiated price is lower than the lowest rejected bid price
20 submitted on the second occasion by a responsible bidder, is the
21 lowest negotiated price offered by any responsible vendor, and is a
22 reasonable price for **1** ~~such~~ ¹ goods or services.

23 Whenever a contracting unit shall determine that a bid was not
24 arrived at independently in open competition pursuant to subsection
25 (3) of this section it shall thereupon notify the county prosecutor of
26 the county in which the contracting unit is located and the Attorney
27 General of the facts upon which its determination is based, and
28 when appropriate, it may institute appropriate proceedings in any
29 State or federal court of competent jurisdiction for a violation of
30 any State or federal antitrust law or laws relating to the unlawful
31 restraint of trade.

32 (4) The contracting unit has solicited and received at least three
33 quotations on materials, supplies ¹₂ or equipment for which a State
34 contract has been issued pursuant to section 12 of P.L.1971, c.198
35 (C.40A:11-12), and the lowest responsible quotation is at least
36 **1** ~~10%~~ ¹ 10 percent less than the price the contracting unit would
37 be charged for the identical materials, supplies ¹₂ or equipment, in
38 the same quantities, under the State contract. **1** ~~Any such~~ ¹ A
39 contract entered into pursuant to this subsection may be awarded
40 only upon adoption of a resolution by the affirmative vote of two-
41 thirds of the full membership of the governing body of the
42 contracting unit at a meeting thereof authorizing **1** ~~such a~~ ¹ the
43 contract. A copy of the purchase order relating to **1** ~~any such~~ ¹ the
44 contract, the requisition for purchase order, if applicable, and
45 documentation identifying the price of the materials, supplies or
46 equipment under the State contract and the State contract number
47 shall be filed with the director within five working days of the

1 award of ¹["any such"] the¹ contract by the contracting unit. The
2 director shall notify the contracting unit of receipt of the material
3 and shall make the material available to the State Treasurer. The
4 contracting unit shall make available to the director upon request
5 any other documents relating to the solicitation and award of the
6 contract, including, but not limited to, quotations, requests for
7 quotations, and resolutions. The director periodically shall review
8 material submitted by contracting units to determine the impact of
9 ¹["such"] the¹ contracts on local contracting and shall consult with
10 the State Treasurer on the impact of ¹["such"] the¹ contracts on the
11 State procurement process. The director may, after consultation
12 with the State Treasurer, adopt rules in accordance with the
13 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
14 seq.) to limit the use of this subsection, after considering the impact
15 of contracts awarded under this subsection on State and local
16 contracting, or after considering the extent to which the award of
17 contracts pursuant to this subsection is consistent with and in
18 furtherance of the purposes of the public contracting laws.

19 (5) Notwithstanding any provision of law, rule ¹₁ or regulation
20 to the contrary, the subject matter consists of the combined
21 collection and marketing, or the cooperative combined collection
22 and marketing of recycled material recovered through a recycling
23 program, or any product intentionally produced or derived from
24 solid waste received at a resource recovery facility or recovered
25 through a resource recovery program including, but not limited to,
26 refuse-derived fuel, compost materials, methane gas, and other
27 similar products, provided that in lieu of engaging in ¹["such"]¹
28 public advertising for bids and the bidding therefor, the contracting
29 unit shall, prior to commencing the procurement process, submit for
30 approval to the Director of the Division of Local Government
31 Services, a written detailed description of the process to be
32 followed in securing ¹["said"] the¹ services. Within 30 days after
33 receipt of the written description the director shall, if the director
34 finds that the process provides for fair competition and integrity in
35 the negotiation process, approve, in writing, the description
36 submitted by the contracting unit. If the director finds that the
37 process does not provide for fair competition and integrity in the
38 negotiation process, the director shall advise the contracting unit of
39 the deficiencies that must be remedied. If the director fails to
40 respond in writing to the contracting unit within 30 days, the
41 procurement process as described shall be deemed approved. As
42 used in this section, "collection" means the physical removal of
43 recyclable materials from curbside or any other location selected by
44 the contracting unit.

45 (6) Notwithstanding any provision of law, rule ¹₁ or regulation
46 to the contrary, the contract is for the provision of electricity by a
47 contracting unit engaged in the distribution of electricity for retail

1 sale, for the provision of wholesale electricity by a municipal
2 shared services energy authority as defined pursuant to section 3 of
3 P.L. , c. (C.) (pending before the Legislature as this bill), or
4 for the provision of administrative or dispatching services related to
5 the transmission of '【such】' electricity, provided that in lieu of
6 engaging in public advertising for bids and the bidding therefor, the
7 contracting unit shall, prior to commencing the procurement
8 process, submit for approval to the Director of the Division of Local
9 Government Services, a written detailed description of the process
10 to be followed in securing '【such】 these' services. '【Such】 The'
11 process shall be designed in a way that is appropriate to and
12 commensurate with industry practices, and the integrity of the
13 government contracting process. Within 30 days after receipt of the
14 written description, the director shall, if the director finds that the
15 process provides for fair competition and integrity in the
16 negotiation process, approve, in writing, the description submitted
17 by the contracting unit. If the director finds that the process does
18 not provide for fair competition and integrity in the negotiation
19 process, the director shall advise the contracting unit of the
20 deficiencies that must be remedied. If the director fails to respond
21 in writing to the contracting unit within 30 days, the procurement
22 process, as submitted to the director pursuant to this section, shall
23 be deemed approved.

24 (cf: P.L.2005, c.296, s.1)

25

26 29. Section 15 of P.L.1971, c.198 (C.40A:11-15) is amended to
27 read as follows:

28 15. All contracts for the provision or performance of goods or
29 services shall be awarded for a period not to exceed 24 consecutive
30 months, except that contracts for professional services pursuant to
31 subparagraph (i) of paragraph (a) of subsection (1) of section 5 of
32 P.L.1971, c.198 (C.40A:11-5) shall be awarded for a period not to
33 exceed 12 consecutive months. Contracts may be awarded for
34 longer periods of time as follows:

35 (1) Supplying of:

36 (a) (Deleted by amendment, P.L.1996, c.113.)

37 (b) (Deleted by amendment, P.L.1996, c.113.)

38 (c) Thermal energy produced by a cogeneration facility, for use
39 for heating or air conditioning or both, for any term not exceeding
40 40 years, when the contract is approved by the Board of Public
41 Utilities. For the purposes of this paragraph, "cogeneration" means
42 the simultaneous production in one facility of electric power and
43 other forms of useful energy such as heating or process steam;

44 (2) (Deleted by amendment, P.L.1977, c.53.)

45 (3) The collection and disposal of municipal solid waste, the
46 collection and disposition of recyclable material, or the disposal of
47 sewage sludge, for any term not exceeding in the aggregate, five
48 years;

1 (4) The collection and recycling of methane gas from a sanitary
2 landfill facility, for any term not exceeding 25 years, when ¹**[such]**
3 the¹ contract is in conformance with a district solid waste
4 management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1
5 et seq.), and with the approval of the Division of Local Government
6 Services in the Department of Community Affairs and the
7 Department of Environmental Protection. The contracting unit shall
8 award the contract to the highest responsible bidder,
9 notwithstanding that the contract price may be in excess of the
10 amount of any necessarily related administrative expenses; except
11 that if the contract requires the contracting unit to expend funds
12 only, the contracting unit shall award the contract to the lowest
13 responsible bidder. The approval by the Division of Local
14 Government Services of public bidding requirements shall not be
15 required for those contracts exempted therefrom pursuant to section
16 5 of P.L.1971, c.198 (C.40A:11-5);

17 (5) Data processing service, for any term of not more than seven
18 years;

19 (6) Insurance, including the purchase of insurance coverages,
20 insurance consulting or administrative services, claims
21 administration services and including participation in a joint self-
22 insurance fund, risk management program or related services
23 provided by a contracting unit insurance group, or participation in
24 an insurance fund established by a local unit pursuant to
25 N.J.S.40A:10-6, or a joint insurance fund established pursuant to
26 P.L.1983, c.372 (C.40A:10-36 et seq.), for any term of not more
27 than three years;

28 (7) Leasing or servicing of (a) automobiles, motor vehicles,
29 machinery ^{1,1} and equipment of every nature and kind, for a period
30 not to exceed five years, or (b) machinery and equipment used in
31 the generation of electricity by a municipal shared services energy
32 authority established pursuant to section 4 of P.L. , c. (C.)
33 (pending before the Legislature as this bill), or a contracting unit
34 engaged in the generation of electricity, for a period not to exceed
35 20 years; provided, however, ¹**[such contracts]** a contract¹ shall be
36 awarded only subject to and in accordance with the rules and
37 regulations promulgated by the Director of the Division of Local
38 Government Services in the Department of Community Affairs;

39 (8) The supplying of any product or the rendering of any service
40 by a company providing voice, data, transmission ^{1,1} or switching
41 services for a term not exceeding five years;

42 (9) Any single project for the construction, reconstruction ^{1,1}
43 rehabilitation of any public building, structure ^{1,1} or facility, or any
44 public works project, including the retention of the services of any
45 architect or engineer in connection therewith, for the length of time
46 authorized and necessary for the completion of the actual
47 construction;

- 1 (10) The providing of food services for any term not exceeding
2 three years;
- 3 (11) On-site inspections and plan review services undertaken by
4 private agencies pursuant to the "State Uniform Construction Code
5 Act," P.L.1975, c.217 (C.52:27D-119 et seq.) for any term of not
6 more than three years;
- 7 (12) (Deleted by amendment, P.L.2009, c.4).
- 8 (13) (Deleted by amendment, P.L.1999, c.440.)
- 9 (14) (Deleted by amendment, P.L.1999, c.440.)
- 10 (15) Leasing of motor vehicles, machinery ^{1,1} and other
11 equipment primarily used to fight fires, for a term not to exceed ten
12 years, when the contract includes an option to purchase, subject to
13 and in accordance with rules and regulations promulgated by the
14 Director of the Division of Local Government Services in the
15 Department of Community Affairs;
- 16 (16) The provision of water supply services or the designing,
17 financing, construction, operation, or maintenance, or any
18 combination thereof, of a water supply facility, or any component
19 part or parts thereof, including a water filtration system, for a period
20 not to exceed 40 years, when the contract for these services is
21 approved by the Division of Local Government Services in the
22 Department of Community Affairs, the Board of Public Utilities,
23 and the Department of Environmental Protection pursuant to
24 P.L.1985, c.37 (C.58:26-1 et al.), except that no ¹["such"]¹ approvals
25 shall be required for those contracts otherwise exempted pursuant to
26 subsection (30), (31), (34), (35) or (43) of this section. For the
27 purposes of this subsection, "water supply services" means any
28 service provided by a water supply facility; "water filtration
29 system" means any equipment, plants, structures, machinery,
30 apparatus, or land, or any combination thereof, acquired, used,
31 constructed, rehabilitated, or operated for the collection,
32 impoundment, storage, improvement, filtration, or other treatment
33 of drinking water for the purposes of purifying and enhancing water
34 quality and insuring its portability prior to the distribution of the
35 drinking water to the general public for human consumption,
36 including plants and works, and other personal property and
37 appurtenances necessary for their use or operation; and "water
38 supply facility" means and refers to the real property and the plants,
39 structures, ¹or¹ interconnections between existing water supply
40 facilities, machinery and equipment and other property, real,
41 personal ^{1,1} and mixed, acquired, constructed ^{1,1} or operated, or to
42 be acquired, constructed ^{1,1} or operated, in whole or in part by or on
43 behalf of a political subdivision of the State or any agency thereof,
44 for the purpose of augmenting the natural water resources of the
45 State and making available an increased supply of water for all
46 uses, or of conserving existing water resources, and any and all
47 appurtenances necessary, useful ^{1,1} or convenient for the collecting,

1 impounding, storing, improving, treating, filtering, conserving ^{1,1} or
2 transmitting of water and for the preservation and protection of
3 these resources and facilities and providing for the conservation and
4 development of future water supply resources;

5 (17) The provision of resource recovery services by a qualified
6 vendor, the disposal of the solid waste delivered for disposal which
7 cannot be processed by a resource recovery facility or the residual
8 ash generated at a resource recovery facility, including hazardous
9 waste and recovered metals and other materials for reuse, or the
10 design, financing, construction, operation ^{1,1} or maintenance of a
11 resource recovery facility for a period not to exceed 40 years when
12 the contract is approved by the Division of Local Government
13 Services in the Department of Community Affairs, and the
14 Department of Environmental Protection pursuant to P.L.1985, c.38
15 (C.13:1E-136 et al.); and when the resource recovery facility is in
16 conformance with a district solid waste management plan approved
17 pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.). For the purposes of
18 this subsection, "resource recovery facility" means a solid waste
19 facility constructed and operated for the incineration of solid waste
20 for energy production and the recovery of metals and other
21 materials for reuse; or a mechanized composting facility, or any
22 other facility constructed or operated for the collection, separation,
23 recycling, and recovery of metals, glass, paper, and other materials
24 for reuse or for energy production; and "residual ash" means the
25 bottom ash, fly ash, or any combination thereof, resulting from the
26 combustion of solid waste at a resource recovery facility;

27 (18) The sale of electricity or thermal energy, or both, produced
28 by a resource recovery facility for a period not to exceed 40 years
29 when the contract is approved by the Board of Public Utilities, and
30 when the resource recovery facility is in conformance with a district
31 solid waste management plan approved pursuant to P.L.1970, c.39
32 (C.13:1E-1 et seq.). For the purposes of this subsection, "resource
33 recovery facility" means a solid waste facility constructed and
34 operated for the incineration of solid waste for energy production
35 and the recovery of metals and other materials for reuse; or a
36 mechanized composting facility, or any other facility constructed or
37 operated for the collection, separation, recycling, and recovery of
38 metals, glass, paper, and other materials for reuse or for energy
39 production;

40 (19) The provision of wastewater treatment services or the
41 designing, financing, construction, operation, or maintenance, or
42 any combination thereof, of a wastewater treatment system, or any
43 component part or parts thereof, for a period not to exceed 40 years,
44 when the contract for these services is approved by the Division of
45 Local Government Services in the Department of Community
46 Affairs and the Department of Environmental Protection pursuant to
47 P.L.1985, c.72 (C.58:27-1 et al.), except that no ¹["such"]¹ approvals
48 shall be required for those contracts otherwise exempted pursuant to

1 subsection (36) or (43) of this section. For the purposes of this
2 subsection, "wastewater treatment services" means any services
3 provided by a wastewater treatment system, and "wastewater
4 treatment system" means equipment, plants, structures, machinery,
5 apparatus, or land, or any combination thereof, acquired, used,
6 constructed, or operated for the storage, collection, reduction,
7 recycling, reclamation, disposal, separation, or other treatment of
8 wastewater or sewage sludge, or for the final disposal of residues
9 resulting from the treatment of wastewater, including, but not
10 limited to, pumping and ventilating stations, facilities, plants and
11 works, connections, outfall sewers, interceptors, trunk lines, and
12 other personal property and appurtenances necessary for their
13 operation;

14 (20) The supplying of goods or services for the purpose of
15 lighting public streets, for a term not to exceed five years;

16 (21) The provision of emergency medical services for a term not
17 to exceed five years;

18 (22) Towing and storage contracts, awarded pursuant to
19 paragraph u. of subsection (1) of section 5 of P.L.1971, c.198
20 (C.40A:11-5) for any term not exceeding three years;

21 (23) Fuel for the purpose of generating electricity for a term not
22 to exceed eight years;

23 (24) The purchase of electricity or administrative or dispatching
24 services related to the transmission of ¹**[such]**¹ electricity, from a
25 supplier of electricity subject to the jurisdiction of a federal
26 regulatory agency, from a qualifying small power producing facility
27 or qualifying cogeneration facility, as defined by 16 U.S.C. s.796,
28 or from any supplier of electricity within any regional transmission
29 organization or independent system operator or from ¹**[such]** an¹
30 organization or operator or their successors, by a contracting unit
31 engaged in the generation of electricity for retail sale, as of May 24,
32 1991, for a term not to exceed 40 years, or by a contracting unit
33 engaged solely in the distribution of electricity for retail sale for a
34 term not to exceed ten years, except that a contract with a
35 contracting unit, engaged solely in the distribution of electricity for
36 retail sale, in excess of ten years, shall require the written approval
37 of the Director of the Division of Local Government Services. If
38 the director fails to respond in writing to the contracting unit within
39 10 business days, the contract shall be deemed approved;

40 (25) Basic life support services, for a period not to exceed five
41 years. For the purposes of this subsection, "basic life support"
42 means a basic level of prehospital care, which includes but need not
43 be limited to patient stabilization, airway clearance,
44 cardiopulmonary resuscitation, hemorrhage control, initial wound
45 care ^{1,1} and fracture stabilization;

46 (26) (Deleted by amendment, P.L.1999, c.440.)

1 (27) The provision of transportation services to ¹an¹ elderly
2 ¹person¹ , ¹**[disabled]** an individual with a disability,¹ or ¹an¹
3 indigent ¹**[persons]** person¹ for any term of not more than three
4 years. For the purposes of this subsection, "elderly ¹**[persons]**
5 person¹ " means ¹**[persons]** a person¹ who ¹**[are]** is¹ 60 years of
6 age or older. ¹**["Disabled persons"]** "Individual with a disability"¹
7 means ¹**[persons]** a person¹ of any age who, by reason of illness,
8 injury, age, congenital malfunction, or other permanent or
9 temporary incapacity or disability, are unable, without special
10 facilities or special planning or design to utilize mass transportation
11 facilities and services as effectively as persons who are not so
12 affected. "Indigent ¹**[persons]** person¹ " means ¹**[persons]** a
13 person¹ of any age whose income does not exceed 100 percent of
14 the poverty level, adjusted for family size, established and adjusted
15 under section 673(2) of subtitle B, the "Community Services Block
16 Grant Act," Pub.L.97-35 (42 U.S.C. s.9902 (2));

17 (28) The supplying of liquid oxygen or other chemicals, for a
18 term not to exceed five years, when the contract includes the
19 installation of tanks or other storage facilities by the supplier, on or
20 near the premises of the contracting unit;

21 (29) The performance of patient care services by contracted
22 medical staff at county hospitals, correction facilities ¹₂¹ and long
23 term care facilities, for any term of not more than three years;

24 (30) The acquisition of an equitable interest in a water supply
25 facility pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or a
26 contract entered into pursuant to the "County and Municipal Water
27 Supply Act," N.J.S.40A:31-1 et seq., if the contract is entered into
28 no later than January 7, 1995, for any term of not more than forty
29 years;

30 (31) The provision of water supply services or the financing,
31 construction, operation ¹₂¹ or maintenance or any combination
32 thereof, of a water supply facility or any component part or parts
33 thereof, by a partnership or copartnership established pursuant to a
34 contract authorized under section 2 of P.L.1993, c.381 (C.58:28-2),
35 for a period not to exceed 40 years;

36 (32) Laundry service and the rental, supply ¹₂¹ and cleaning of
37 uniforms for any term of not more than three years;

38 (33) The supplying of any product or the rendering of any
39 service, including consulting services, by a cemetery management
40 company for the maintenance and preservation of a municipal
41 cemetery operating pursuant to the "New Jersey Cemetery Act,"
42 N.J.S.8A:1-1 et seq., for a term not exceeding 15 years;

43 (34) A contract between a public entity and a private firm
44 pursuant to P.L.1995, c.101 (C.58:26-19 et al.) for the provision of
45 water supply services may be entered into for any term which, when
46 all optional extension periods are added, may not exceed 40 years;

- 1 (35) A contract for the purchase of a supply of water from a
2 public utility company subject to the jurisdiction of the Board of
3 Public Utilities in accordance with tariffs and schedules of charges
4 made, charged or exacted or contracts filed with the Board of Public
5 Utilities, for any term of not more than 40 years;
- 6 (36) A contract between a public entity and a private firm or
7 public authority pursuant to P.L.1995, c.216 (C.58:27-19 et al.) for
8 the provision of wastewater treatment services may be entered into
9 for any term of not more than 40 years, including all optional
10 extension periods;
- 11 (37) The operation and management of a facility under a license
12 issued or permit approved by the Department of Environmental
13 Protection, including a wastewater treatment system or a water
14 supply or distribution facility, as the case may be, for any term of
15 not more than ten years. For the purposes of this subsection,
16 "wastewater treatment system" refers to facilities operated or
17 maintained for the storage, collection, reduction, disposal, or other
18 treatment of wastewater or sewage sludge, remediation of
19 groundwater contamination, stormwater runoff, or the final disposal
20 of residues resulting from the treatment of wastewater; and "water
21 supply or distribution facility" refers to facilities operated or
22 maintained for augmenting the natural water resources of the State,
23 increasing the supply of water, conserving existing water resources,
24 or distributing water to users;
- 25 (38) Municipal solid waste collection from facilities owned by a
26 contracting unit, for any term of not more than three years;
- 27 (39) Fuel for heating purposes, for any term of not more than
28 three years;
- 29 (40) Fuel or oil for use in motor vehicles for any term of not
30 more than three years;
- 31 (41) Plowing and removal of snow and ice for any term of not
32 more than three years;
- 33 (42) Purchases made under a contract awarded by the Director of
34 the Division of Purchase and Property in the Department of the
35 Treasury for use by counties, municipalities ^{1,1} or other contracting
36 units pursuant to section 3 of P.L.1969, c.104 (C.52:25-16.1), for a
37 term not to exceed the term of that contract;
- 38 (43) A contract between the governing body of a city of the first
39 class and a duly incorporated nonprofit association for the provision
40 of water supply services as defined in subsection (16) of this
41 section, or wastewater treatment services as defined in subsection
42 (19) of this section, may be entered into for a period not to exceed
43 40 years;
- 44 (44) The purchase of electricity generated through class I
45 renewable energy or from a power production facility that is fueled
46 by methane gas extracted from a landfill in the county of the
47 contacting unit for any term not exceeding 25 years;

1 (45) The provision or performance of goods or services for the
2 purpose of producing class I renewable energy or class II renewable
3 energy, as those terms are defined in section 3 of P.L.1999, c.23
4 (C.48:3-51), at, or adjacent to, buildings owned by, or operations
5 conducted by, the contracting unit, the entire price of which is to be
6 established as a percentage of the resultant savings in energy costs,
7 for a term not to exceed 15 years; provided, however, that ¹【such
8 contracts】 a contract¹ shall be entered into only subject to and in
9 accordance with guidelines promulgated by the Board of Public
10 Utilities establishing a methodology for computing energy cost
11 savings and energy generation costs 【.】; and

12 (46) A power supply contract, as defined pursuant to section
13 3 of P.L. , c. (C.) (pending before the Legislature as this
14 bill), between a member municipality as defined pursuant to section
15 3 of P.L. , c. (C.) (pending before the Legislature as this
16 bill), and the municipal shared services energy authority established
17 pursuant to the provisions of P.L. , c. (C.) (pending before
18 the Legislature as this bill) to meet the electric power needs of its
19 members, for the lease, operation, or management of electric
20 generation within a member municipality's corporate limits and
21 franchise area or the purchase of electricity, or the purchase of fuel
22 for generating units for a term not to exceed 40 years.

23 Any contract for services other than professional services, the
24 statutory length of which contract is for three years or less, may
25 include provisions for no more than one two-year, or two one-year,
26 extensions, subject to the following limitations: a. The contract
27 shall be awarded by resolution of the governing body upon a
28 finding by the governing body that the services are being performed
29 in an effective and efficient manner; b. No ¹【such】¹ contract shall
30 be extended so that it runs for more than a total of five consecutive
31 years; c. Any price change included as part of an extension shall be
32 based upon the price of the original contract as cumulatively
33 adjusted pursuant to any previous adjustment or extension and shall
34 not exceed the change in the index rate for the 12 months preceding
35 the most recent quarterly calculation available at the time the
36 contract is renewed; and d. The terms and conditions of the
37 contract remain substantially the same.

38 All multiyear leases and contracts entered into pursuant to this
39 section, including any two-year or one-year extensions, except
40 contracts involving the supplying of electricity for the purpose of
41 lighting public streets and contracts for thermal energy authorized
42 pursuant to subsection (1) above, construction contracts authorized
43 pursuant to subsection (9) above, contracts for the provision or
44 performance of goods or services or the supplying of equipment to
45 promote energy conservation through the production of class I
46 renewable energy or class II renewable energy authorized pursuant
47 to subsection (45) above, contracts for water supply services or for
48 a water supply facility, or any component part or parts thereof

1 authorized pursuant to subsection (16), (30), (31), (34), (35), (37)
 2 ¹ or (43) above, contracts for resource recovery services or a
 3 resource recovery facility authorized pursuant to subsection (17)
 4 above, contracts for the sale of energy produced by a resource
 5 recovery facility authorized pursuant to subsection (18) above,
 6 contracts for wastewater treatment services or for a wastewater
 7 treatment system or any component part or parts thereof authorized
 8 pursuant to subsection (19), (36), (37) ¹ or (43) above, and
 9 contracts for the purchase of electricity or administrative or
 10 dispatching services related to the transmission of ¹ **[such]**
 11 electricity authorized pursuant to subsection (24) above **[and]**,
 12 contracts for the purchase of electricity generated from a power
 13 production facility that is fueled by methane gas authorized
 14 pursuant to subsection (44) above, and power supply contracts
 15 authorized pursuant to subsection (46) respectively, shall contain a
 16 clause making them subject to the availability and appropriation
 17 annually of sufficient funds as may be required to meet the
 18 extended obligation, or contain an annual cancellation clause.

19 The Division of Local Government Services in the Department
 20 of Community Affairs shall adopt and promulgate rules and
 21 regulations concerning the methods of accounting for all contracts
 22 that do not coincide with the fiscal year.

23 All contracts shall cease to have effect at the end of the
 24 contracted period and shall not be extended by any mechanism or
 25 provision, unless in conformance with the "Local Public Contracts
 26 Law," P.L.1971, c.198 (C.40A:11-1 et seq.), except that a contract
 27 may be extended by mutual agreement of the parties to the contract
 28 when a contracting unit has commenced rebidding prior to the time
 29 the contract expires or when the awarding of a contract is pending
 30 at the time the contract expires.

31 (cf: P.L.2009, c.4, s.8)

32

33 30. (New section) The powers granted under P.L. ,
 34 c. (C.) (pending before the Legislature as this bill) shall not
 35 limit the powers of ¹ **[municipalities]** a municipality¹ to enter into
 36 ¹ a¹ shared service ¹ **[agreements]** agreement¹ or ¹ **[contracts]** or
 37 contract¹, or to establish ¹ a¹ separate legal ¹ **[entities]** entity¹
 38 pursuant to State law or otherwise to carry out their powers under
 39 applicable statutory provisions, nor shall the powers granted under
 40 P.L. , c. (C.) (pending before the Legislature as this bill)
 41 limit the powers reserved to ¹ **[municipalities]** a municipality¹ by
 42 State law.

43

44 31. This act shall take effect immediately.

1

2

3 Authorizes rural electric cooperative and certain municipalities

4 to establish municipal shared services authority.

ASSEMBLY, No. 2385

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED FEBRUARY 6, 2014

Sponsored by:

Assemblyman UPENDRA J. CHIVUKULA

District 17 (Middlesex and Somerset)

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

Assemblyman PATRICK J. DIEGNAN, JR.

District 18 (Middlesex)

Assemblywoman MILA M. JASEY

District 27 (Essex and Morris)

Co-Sponsored by:

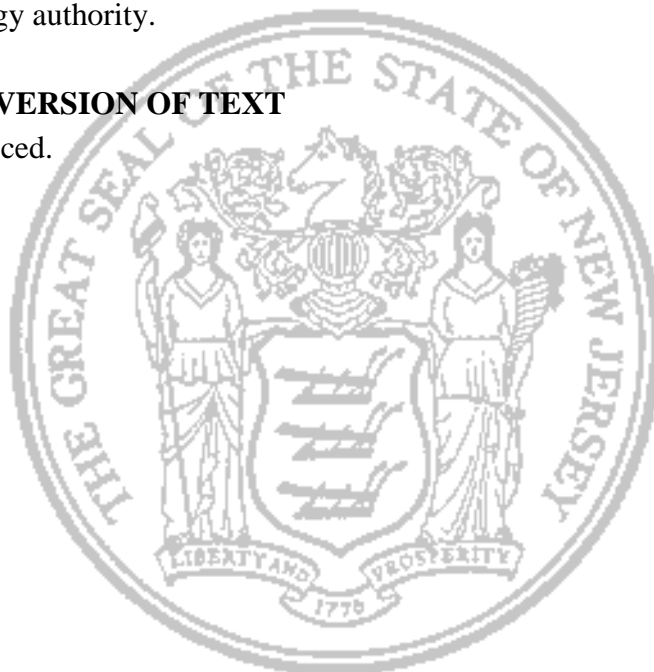
Assemblyman Fiocchi

SYNOPSIS

Authorizes those municipalities and a rural electric cooperative that currently provide electric service at retail to establish a municipal shared services energy authority.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/21/2014)

1 AN ACT authorizing the creation of a municipal shared services
2 energy authority to provide for shared facilities, powers and
3 services, amending P.L.1971, c.198 and supplementing Title 40A
4 of the Revised Statutes.

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

8
9 1. (New section) This act shall be known and may be cited as
10 the "Municipal Shared Services Energy Authority Law."

11
12 2. (New section) The Legislature finds and declares that for
13 many years, municipalities in the State have had the power to
14 construct and maintain facilities for the generation of electricity;
15 that nine municipalities and one rural electric cooperative presently
16 own and operate electric utility systems for the benefit of their
17 residents and businesses; and that the generation and distribution of
18 electricity has evolved from a local and statewide endeavor into a
19 national marketplace and such evolution has resulted in a system
20 where the size and sophistication of the market participants
21 influence the ability to efficiently compete in the marketplace.

22 The Legislature further finds and declares that the ability to
23 reserve sufficient electric capacity at reasonable prices to ensure
24 safe, reliable and efficient electrical power to local businesses and
25 residents is paramount in the present marketplace, and such ability
26 is contingent on the power to contract for the generation or delivery
27 of a sufficient quantity of wholesale power and to act as a
28 contracting partner in long term, short term, and spot market
29 wholesale power supply contracts; that given this evolution of the
30 electric supply marketplace, the municipal electric utilities
31 operating in New Jersey must be authorized to act jointly to achieve
32 greater efficiencies in the procurement and generation of electric
33 power at the wholesale level to benefit the retail customers in the
34 participating municipalities.

35 The Legislature further finds and declares that the operation of
36 electric utility systems by municipalities and the improvement of
37 these systems through joint action in the wholesale procurement of
38 electricity and transmission services, and in the generation,
39 transmission, and distribution of electric power and energy within
40 the corporate limits and franchise areas of the participating
41 municipalities, are in the public interest; that the establishment of a
42 municipal shared services energy authority by municipalities that
43 currently own or operate electric utility systems will ensure the
44 continued viability and stability of these systems, by enabling the
45 municipalities to act jointly to develop coordinated bulk power and

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 fuel supply programs, and to post collateral and act as a market
2 participant in such programs, thereby providing the means to pursue
3 efficiencies and savings for retail customers within their corporate
4 limits and franchise areas.

5 The Legislature therefore determines that it is in the public
6 interest to permit those existing municipally-owned or operated
7 electric utility systems to act jointly through the voluntary creation
8 of a single municipal shared services energy authority, and to
9 authorize the authority to perform according to standard electric
10 industry practices, in order to aid in promoting the stability and
11 viability of such systems and to achieve the efficiencies and savings
12 for the retail customers of these utility systems located within the
13 corporate limits and franchise areas of the participating
14 municipalities.

15

16 3. (New section) As used in P.L. , c. (C.) (pending
17 before the Legislature as this bill):

18 "Bonds" means any bonds, interim certificates, notes,
19 debentures, or other obligations issued by the municipal shared
20 services energy authority pursuant to P.L. , c. (C.)
21 (pending before the Legislature as this bill).

22 "Collateral" means cash, letters of credit, or other security of a
23 party to a wholesale power supply contract acceptable to the
24 counterparty, which shall be valued in accordance with the terms of
25 the applicable wholesale power supply contract and which shall be
26 otherwise consistent with electric industry standards in the
27 marketplace, and which shall secure the obligations of the
28 municipal shared services energy authority and its counterparty
29 under a wholesale power supply contract.

30 "Cost" means, in addition to the usual connotations thereof, the
31 cost of acquisition or construction of all or any part of an electric
32 supply project located within the corporate limits and franchise
33 areas of the members and of all or any property, rights, easements,
34 privileges, agreements, and franchises deemed by the authority to
35 be necessary or useful and convenient therefor or in connection
36 therewith, including interest or discount on bonds, cost of issuance
37 of bonds, engineering and inspection costs and legal expenses, cost
38 of financial, professional and other estimates and advice,
39 organization, administrative, operating, and other expenses of the
40 municipal shared services energy authority prior to and during such
41 acquisition or construction, and all such other expenses as may be
42 necessary or incident to the financing, acquisition, construction, and
43 completion of an electric supply project or part thereof, and the
44 placing of such a project in operation, and also such provision or
45 reserves for working capital, operating, maintenance or replacement
46 expenses or for payment or security of principal of, or interest on,
47 bonds during or after such acquisition or construction as the
48 authority may determine, and also reimbursements to the authority

1 or any county, municipality, or other person of any moneys
2 theretofore expended for the purposes of the authority or to any
3 county or municipality of any moneys theretofore expended for or
4 in connection with electric utility systems and facilities.

5 "Electric supply project" or "project" means (1) any plant,
6 works, system, facility, and real and personal property of any nature
7 whatsoever, together with all parts thereof and appurtenances
8 thereto, located within the corporate limits and franchise areas of
9 the members, that are used or useful in the generation, production,
10 transmission, distribution, purchase, sale, exchange, or interchange
11 of electric power and energy, in whole or in part, (2) the acquisition
12 or transportation of fuel of any kind for the generation or
13 production of electric power and energy within the corporate limits
14 and franchise areas of the members, (3) the storage or reprocessing
15 of such fuel within the corporate limits and franchise areas of the
16 members for the generation or production of electric power and
17 energy within those corporate limits and franchise areas of the
18 members, or (4) any conservation measures, for the benefit of the
19 members, including the utilization of renewable capacity and
20 energy, or any interest therein or right to capacity thereof that
21 occurs within the corporate limits and franchise areas of the
22 members.

23 "Energy" means (1) the output of an electric supply project
24 measured in megawatt hours or kilowatt hours, or (2) that portion
25 of a wholesale power supply contract measured in megawatt hours
26 or kilowatt hours.

27 "Inter-municipal agreement" means an agreement as provided in
28 section 5 of P.L. , c. (C.) (pending before the Legislature as
29 this bill), adopted by the members creating the municipal shared
30 services energy authority and defining the rights and responsibilities
31 of the authority and its members, as may be amended as provided
32 herein to, among other things, add a rural electric cooperative that
33 exists in the State on the effective date of P.L. , c. (C.)
34 (pending before the Legislature as this bill), as a member.

35 "Local Finance Board" means the Local Finance Board in the
36 Division of Local Government Services in the Department of
37 Community Affairs.

38 "Member" means a municipality or a rural electric cooperative
39 that, on the effective date of P.L. , c. (C.) (pending before the
40 Legislature as this bill), provides electric service to customers
41 within the State and that enters into an initial or amended inter-
42 municipal agreement of a municipal shared services energy
43 authority.

44 "Member municipality" means a municipality that, on the
45 effective date of P.L. , c. (C.) (pending before the Legislature
46 as this bill), operates a retail electric distribution system pursuant to
47 R.S.40:62-12 et seq., that joins with other member municipalities to
48 create or join the municipal shared services energy authority

1 pursuant to section 4 of P.L. , c. (C.) (pending before the
2 Legislature as this bill).

3 "Municipal shared services energy authority" or "authority"
4 means the authority created pursuant to section 4 of P.L. , c. (C.)
5 (pending before the Legislature as this bill).

6 "Person" means a natural person, a public agency, cooperative or
7 private corporation, association, firm, statutory trust, partnership, or
8 business trust of any nature whatsoever, organized and existing
9 under the laws of any state.

10 "Power supply contract" means a contractual arrangement (1)
11 between the authority and another person for the purchase of
12 wholesale electric power and energy and component goods and
13 services related thereto by the authority for its members; (2)
14 between the authority and its members for the wholesale sale of
15 electric power and energy produced by the authority's generation
16 facilities; or (3) between the authority and any other person for the
17 wholesale sale of excess electric power and energy purchased or
18 produced by the authority that is not needed to serve the load within
19 the corporate limits and franchise areas of the members, but shall
20 not include a contract for the sale of excess power by the authority
21 to any other municipality.

22 "Public agency" means any municipality or other municipal
23 corporation, political subdivision, government unit or public
24 corporation created under the laws of this State or of another state
25 or of the United States, and any state, and the United States, and
26 any person, board or other body declared by the laws of any state or
27 the United States to be a department, agency or instrumentality
28 thereof.

29 "Rural electric cooperative" means a non-profit utility in
30 existence on the effective date of P.L. , c. (C.) (pending before
31 the Legislature as this bill), that serves customers within the State
32 and that is exclusively owned and controlled by the customers it
33 serves, and which is exempt from Board of Public Utilities
34 jurisdiction pursuant to section 1 of P.L.1983, c.78 (C.48:2-13.1).

35
36 4. (New section) a. Any combination of three or more
37 municipalities that, on the effective date of P.L. , c. (C.)
38 (pending before the Legislature as this bill), operate retail electric
39 distribution systems pursuant to R.S.40:62-12 et seq. may, by
40 adoption of parallel ordinances approving an inter-municipal
41 agreement, establish a separate legal entity to be known as the
42 "municipal shared services energy authority" to be used by its
43 members to effect joint development of electric energy resources or
44 production, distribution, and transmission of electric power and
45 energy, including the utilization of renewable capacity and energy,
46 in whole or in part, for the benefit of its members. Notwithstanding
47 any other law to the contrary, following approval by the Local
48 Finance Board within the Division of Local Government Services in

1 the Department of Community Affairs pursuant to subsection b. of
2 this section, the final adoption by the municipalities of the parallel
3 ordinances, and due execution by the municipalities, the inter-
4 municipal agreement shall have a term as provided by the inter-
5 municipal agreement. The member municipalities that enter into the
6 inter-municipal agreement may thereafter amend the inter-
7 municipal agreement as provided in subsection e. of this section.

8 Only one municipal shared services energy authority may be
9 established pursuant to P.L. , c. (C.) (pending before the
10 Legislature as this bill).

11 b. Upon the introduction of the parallel ordinances by each
12 municipality seeking to create the authority, but before final
13 adoption of the ordinances, copies of the ordinances, together with
14 the proposed inter-municipal agreement, shall be submitted to the
15 Local Finance Board for approval. If, upon submission of a
16 complete application for approval of the proposed inter-municipal
17 agreement, the Local Finance Board does not approve the
18 agreement, it shall specify the reason or reasons therefor, and shall
19 file its statement with the clerk of each member municipality. If the
20 Local Finance Board does not act upon the application for approval
21 of the proposed inter-municipal agreement within 60 days after
22 receipt of the submission of a complete application, then the
23 ordinances and proposed inter-municipal agreement shall be
24 deemed approved and the municipalities may proceed to adopt the
25 proposed ordinances.

26 c. Once the authority has been legally established pursuant to
27 the provisions of P.L. , c. (C.) (pending before the Legislature
28 as this bill), only those municipalities that operate a retail electric
29 distribution system pursuant to R.S.40:62-12 et seq. on the effective
30 date of P.L. , c. (C.) (pending before the Legislature as this bill)
31 may join the authority as provided in paragraphs (1) and (2) of this
32 subsection.

33 (1) A municipality requesting to become a member of the
34 authority shall negotiate an amended inter-municipal agreement on
35 terms and conditions acceptable to the members. Once an amended
36 inter-municipal agreement has been agreed to, it shall be submitted
37 for approval to the board of commissioners of the authority.
38 Adoption of an amended inter-municipal agreement shall require
39 approval by a two-thirds majority vote of the full membership of the
40 board of commissioners, approval by the Local Finance Board of
41 the proposed amended agreement, and final adoption by each
42 member municipality of an ordinance approving the proposed
43 agreement, as provided in subsection e. of this section.

44 (2) The municipality requesting to become a member of the
45 authority shall introduce an ordinance approving the amended inter-
46 municipal agreement as approved by the board of commissioners of
47 the authority. Upon the introduction of the ordinance, but before
48 final adoption of such ordinance, copies of the ordinance, together

1 with the proposed amended inter-municipal agreement, shall be
2 submitted to the Local Finance Board for approval. If, upon
3 submission of a complete application for approval of the proposed
4 amended inter-municipal agreement, the Local Finance Board does
5 not approve the agreement, it shall specify the reason or reasons,
6 therefor, and shall file its statement with the clerk of each member
7 municipality. If the Local Finance Board does not disapprove the
8 application for approval of the proposed amended inter-municipal
9 agreement within 60 days after receipt of a complete application,
10 then the ordinance and proposed amended inter-municipal
11 agreement shall be deemed approved and the municipality may
12 proceed to adopt the proposed ordinance.

13 d. Once the authority has been established, it may add a rural
14 electric cooperative that exists on the effective date of P.L. , c.
15 (C.) (pending before the Legislature as this bill) as a member as
16 provided in paragraphs (1) and (2) of this subsection.

17 (1) A rural electric cooperative requesting to become a member
18 of the authority and the board of commissioners of the authority
19 shall negotiate an amended inter-municipal agreement on terms and
20 conditions acceptable to the parties. Once an amended inter-
21 municipal agreement has been agreed to, it shall be submitted for
22 approval by the board of commissioners. Adoption of an amended
23 inter-municipal agreement shall require approval by a two-thirds
24 majority vote of the full membership of the board of commissioners
25 and approval by ordinance of each member municipality as
26 provided in subsection e. of this section.

27 (2) The authority shall submit the proposed amended inter-
28 municipal agreement for approval to the Local Finance Board. If,
29 upon submission of a complete application for approval of the
30 proposed amended inter-municipal agreement, the Local Finance
31 Board does not approve the agreement, it shall specify the reason or
32 reasons, therefor, and shall file its statement with the clerk of each
33 member municipality. If the Local Finance Board does not act upon
34 the application for approval of the proposed amended inter-
35 municipal agreement within 60 days after receipt of a complete
36 application, then the proposed amended inter-municipal agreement
37 shall be deemed approved.

38 e. Upon approval by the board of commissioners of an
39 amended inter-municipal agreement, each member municipality
40 shall introduce an ordinance approving the amended inter-municipal
41 agreement. Before final adoption of the ordinances, copies of the
42 ordinances, together with the proposed amended inter-municipal
43 agreement, shall be submitted to the Local Finance Board for
44 approval. If, upon submission of a complete application for
45 approval of the proposed amended inter-municipal agreement, the
46 Local Finance Board does not approve the agreement, it shall
47 specify the reason or reasons, therefor, and shall file its statement
48 with the clerk of each member municipality. If the Local Finance

1 Board does not act upon the application for approval of the
2 proposed amended inter-municipal agreement within 60 days after
3 receipt of the submission of a complete application, then the
4 ordinances and proposed amended inter-municipal agreement shall
5 be deemed approved and the municipalities may proceed to adopt
6 the proposed ordinances.

7
8 5. (New section) The inter-municipal agreement establishing
9 the municipal shared services energy authority pursuant to
10 P.L. , c. (C.) (pending before the Legislature as this bill)
11 shall provide:

12 a. The name and purpose of the authority and the functions or
13 services to be provided by the authority;

14 b. The establishment and organization of a governing board for
15 the authority which shall be a board of commissioners in which the
16 powers of the authority are vested. The inter-municipal agreement
17 may provide for the creation by the board of commissioners of an
18 executive committee to which the power and duties may be
19 delegated as the board shall specify;

20 c. The number of commissioners, the manner of their
21 appointment, the terms of office, if any, and the procedure for
22 filling vacancies on the board. Commissioners shall receive no
23 compensation for their service on the board. Each member shall
24 have the power to appoint one member to the board of
25 commissioners and shall be entitled to remove that member at will;

26 d. The manner of selection of the executive director and staff
27 of the authority and their duties;

28 e. The voting requirements for action by the board; but, unless
29 specifically provided otherwise, a majority of commissioners shall
30 constitute a quorum and a majority of the quorum shall be necessary
31 for any action taken by the board;

32 f. The duties of the board, which shall include the obligation to
33 comply with the "Local Authorities Fiscal Control Law," P.L.1983,
34 c.313 (C.40A:5A-1 et seq.) except as otherwise provided in P.L. ,
35 c. (C.) (pending before the Legislature as this bill), and the laws
36 of this State and, in addition, with every provision in the inter-
37 municipal agreement creating the authority on its part to be kept or
38 performed;

39 g. The manner in which additional municipalities and rural
40 electric cooperatives as authorized pursuant to section 4 of P.L. , c.
41 (C.) (pending before the Legislature as this bill) may become
42 parties to the inter-municipal agreement by amendment;

43 h. The manner in which members may withdraw from
44 participation in the inter-municipal agreement, which shall include
45 a defeasance of such member's pro-rata share of any bonds issued
46 by the authority;

47 i. Provisions for the disposition, division or distribution of any
48 property or assets of the authority on dissolution;

1 j. The term of the inter-municipal agreement, which may be a
2 definite period or until rescinded or terminated, and the method, if
3 any, by which the inter-municipal agreement may be rescinded or
4 terminated, but the inter-municipal agreement may not be rescinded
5 or terminated so long as the authority has bonds outstanding, unless
6 provision for full payment of such bonds, by escrow or otherwise,
7 has been made pursuant to the terms of the bonds or the resolution,
8 trust indenture or security instrument securing the bonds; and

9 k. The terms for payment to the authority of funds for
10 commodities to be procured and services to be rendered by the
11 authority, including authority to enter into purchase agreements
12 between the members and the authority for the purchase of
13 wholesale electric power and energy whereby the member is
14 obligated to make payments or provide collateral in amounts which
15 shall be sufficient to enable the authority to meet its expenses,
16 interest and principal payments, whether at maturity or upon
17 sinking fund redemption, for its bonds, reasonable reserves for debt
18 service, operation and maintenance and renewals and replacements
19 and the requirements of any rate covenant with respect to debt
20 service coverage contained in any resolution, trust indenture or
21 other security instrument. Such purchase agreements between the
22 members and the authority may contain such other terms and
23 conditions as the authority and the members may determine,
24 including provisions whereby a member is obligated to pay for
25 electric power and energy irrespective of whether electric power
26 and energy is produced or delivered to the member or whether any
27 electric supply project contemplated by any such agreement is
28 completed, operable or operating, and notwithstanding suspension,
29 interruption, interference, reduction, or curtailment of the output of
30 such electric supply project. The inter-municipal agreement may
31 further provide that, if one or more of the members defaults in the
32 payment of its obligations under any such purchase agreement, the
33 remaining members, which also have such agreements, shall be
34 required to accept and pay for, and shall be entitled proportionately
35 to use or otherwise dispose of, the power and energy to be
36 purchased by the defaulting purchaser. For purposes of this section,
37 "purchase of electric power and energy" includes the purchase of
38 any right to capacity, or interest in, any electric supply project.

39
40 6. (New section) Nothing in P.L. , c. (C.) (pending
41 before the Legislature as this bill) shall be construed to restrict the
42 right of a person to form a rural electric cooperative or a
43 municipality to engage in functions authorized pursuant to
44 R.S.40:62-12 et seq.

45
46 7. (New section) No commissioner, officer, or employee of the
47 municipal shared services energy authority shall have or acquire
48 any interest, direct or indirect, in any contract or proposed contract

1 or property related to the provision of wholesale electric power,
2 transmission, generation, materials, services or supplies to be
3 furnished to or used by the authority or any of its members.

4
5 8. (New section) The municipal shared services energy
6 authority shall be a public body politic and corporate, established as
7 an instrumentality exercising public and essential governmental
8 functions to provide for the public health and welfare. The authority
9 shall have the duties, privileges, immunities, rights, liabilities, and
10 disabilities of a public body politic and corporate but shall not have
11 taxing power. The authority shall be a "contracting unit" for
12 purposes of the "Local Public Contracts Law," P.L.1971, c.198
13 (C.40A:11-1 et seq.), shall have perpetual succession, and, to meet
14 the electric power or energy needs of its members, shall have the
15 following powers:

16 a. To adopt and have a common seal and to alter the same at
17 pleasure;

18 b. To sue and be sued;

19 c. To acquire, own, rent, hold, lease, as lessor or lessee, use
20 and sell or otherwise dispose of, mortgage, pledge, or grant a
21 security in, any real or personal property, commodity or service or
22 interest therein;

23 d. To hold or place collateral with a counterparty to a
24 wholesale power supply contract and to account for, value, and use
25 such collateral as provided in the power supply contract
26 notwithstanding any other law or regulation to the contrary;

27 e. To plan, develop, acquire, construct, reconstruct, operate,
28 manage, dispose of, participate in, maintain, repair, extend, or
29 improve one or more electric supply projects within the corporate
30 limits and franchise areas of the members, and act as agent, or
31 designate one or more other persons participating in an electric
32 supply project to act as its agent, in connection with the planning,
33 acquisition, construction, operation, maintenance, repair, extension,
34 or improvement of such electric supply project for generation,
35 production, transmission, and provision to the members of the
36 authority of electrical power and energy at wholesale, to meet the
37 electric power or energy needs of the members, provided that the
38 authority shall not sell electric power or energy at the retail level;

39 f. To enter into franchises, exchange, interchange, pooling,
40 wheeling, or transmission agreements with any person, firm, entity,
41 or public agency in order to purchase wholesale electric power and
42 energy for the members, or to sell excess power and energy
43 purchased or produced by the members' generation assets and not
44 needed to serve load within the corporate limits and franchise areas
45 of the members, and to negotiate for, and buy fuels necessary for
46 the production of electric power and energy within the corporate
47 limits and franchise areas of the members, to develop bulk power
48 and fuel supply programs, and to implement energy conservation

- 1 measures within the corporate limits and franchise areas of the
2 members as necessary or appropriate, to meet the electric power or
3 energy needs of its members;
- 4 g. To negotiate and enter into power supply contracts pursuant
5 to section 19 of P.L. , c. (C.) (pending before the Legislature
6 as this bill) and to take such actions as are necessary to remain in
7 compliance with the terms of such contracts;
- 8 h. To make and execute such additional contracts and other
9 instruments necessary or convenient to the exercise of its powers;
- 10 i. To employ agents and employees;
- 11 j. To contract with any person, entity or public agency within
12 or outside the State of New Jersey for the construction of any
13 electric supply project within the corporate limits and franchise area
14 of its members or for the purchase, sale or transmission of electric
15 power and energy generated by any electric supply project located
16 within the corporate limits and franchise area of its members, in
17 whole or in part, for the benefit of its members, or for any interest
18 or share therein, or any right to capacity thereof, on such terms and
19 for such period of time as its board shall determine, provided that
20 the authority shall not enter into any contract that speculates in the
21 energy markets and the authority shall not construct or contract for
22 the construction of any electric supply project that, when added to
23 the existing authority-owned or co-owned generation assets, will
24 produce more than 105% of the power and energy requirements of
25 the members;
- 26 k. To purchase and sell, exchange or transmit electric power
27 and energy at wholesale within and outside the State of New Jersey,
28 consistent with federal law, in such amounts as it shall determine to
29 be necessary or appropriate to make the most effective use of its
30 powers and to meet its responsibilities, to sell, exchange, or
31 transmit excess electric power purchased or produced by electric
32 generation facilities within the corporate limits and franchise areas
33 of its members that is not needed to serve load within those
34 corporate limits and franchise areas;
- 35 l. To co-own an electric generating facility project initiated by
36 any person and constructed outside the corporate limits and
37 franchise area of the members, provided that, (1) the share of
38 authority co-ownership shall be restricted to supply the electric and
39 power needs of the members of the authority, and (2) when added
40 to the aggregate of existing authority-owned or member- owned
41 generation facilities together with co-ownership of facilities outside
42 of the corporate limits and franchise areas of the members, the
43 aggregate produces no more than 105% of the power and energy
44 needs of the members;
- 45 m. To provide for and secure the payment of any bonds and the
46 rights of the holders thereof, and to purchase, hold, and dispose of
47 any bonds;

- 1 n. To accept gifts or grants of real or personal property, money,
2 material, labor, or supplies solely for the purposes and exclusive use
3 and benefit of the municipal shared services energy authority, and
4 to make and perform such agreements and contracts as may be
5 necessary or convenient in connection with the procuring,
6 acceptance, or disposition of the gifts or grants;
- 7 o. To make and enforce by-laws or rules and regulations for the
8 management and regulation of its business and affairs and for the
9 use, maintenance, and operation of its properties and to amend the
10 by-laws;
- 11 p. To do and perform any acts and things authorized by P.L. ,
12 c. (C.) (pending before the Legislature as this bill), through or
13 by means of its own officers, agents, and employees, or by contract
14 with any person;
- 15 q. To enter into any and all contracts, execute any and all
16 instruments, and do and perform any and all things or acts
17 necessary, convenient, or desirable for the purposes of the
18 municipal shared services energy authority, or to carry out any
19 power expressly authorized under P.L. , c. (C.) (pending
20 before the Legislature as this bill);
- 21 r. To exercise such powers as are granted to municipalities
22 under R.S.40:62-12 et seq.;
- 23 s. To join organizations, including private or trade
24 organizations, which the board of commissioners has deemed to be
25 beneficial to the accomplishment of the authority's purposes;
- 26 t. To enter into a power supply contract, lease, operation
27 contract, or contract for management of electric generation within
28 the corporate limits and franchise areas of the members, or for the
29 purchase of fuel for electric generation within the corporate limits
30 and franchise areas of the members, to meet the electric power or
31 energy needs of its members, for a term not to exceed 40 years; and
- 32 u. To invest any funds held in reserve or sinking funds, or any
33 funds not required for immediate disbursement, including the
34 proceeds from the sale of any bonds, in such obligations, securities,
35 and other investments as the authority deems to be proper and as the
36 constituent members of the authority are authorized pursuant to law.
37
- 38 9. (New section) a. In order to meet the electric power needs
39 of its members, the municipal shared services energy authority shall
40 have the power to authorize or provide for the issuance of bonds
41 pursuant to P.L. , c. (C.) (pending before the Legislature as
42 this bill) for the purpose of raising funds to pay the cost of any part
43 of an electric supply project, to fulfill the terms of a power supply
44 contract, including any provision for collateral or related
45 performance security measures, and to fund or refund any bonds.
- 46 b. The municipal shared services energy authority shall adopt a
47 bond resolution which shall:

1 (1) describe in brief and general terms sufficient for reasonable
2 identification the electric supply project or part thereof, to be
3 constructed or acquired, or describe the bonds which are to be
4 funded or refunded, if any;

5 (2) state the cost or estimated cost of the project, if any; and

6 (3) provide for the issuance of the bonds in accordance with
7 sections 10 through 18 of P.L. , c. (C.) (pending before the
8 Legislature as this bill).

9
10 10. (New section) Upon adoption of a bond resolution, the
11 municipal shared services energy authority shall have power to
12 incur indebtedness, borrow money and issue its bonds for the
13 purpose of financing a project to meet the electric power needs of
14 its members or of funding or refunding the bonds issued pursuant to
15 P.L. , c. (C.) (pending before the Legislature as this bill).
16 Such bonds shall be authorized by the bond resolution and may be
17 issued in one or more series and shall bear such date or dates,
18 mature at such time or times not exceeding 40 years from the date
19 thereof, bear interest at a rate or rates within such maximum rate as
20 permitted by law, be in such denomination or denominations, be in
21 such form, either coupon or registered, carry such conversion or
22 registration privileges, have such rank or priority, be executed in
23 such manner, be payable from such sources in such medium of
24 payment at such place or places within or without the State, and be
25 subject to such terms of redemption, with or without a premium, as
26 the bond resolution may provide.

27
28 11. (New section) Bonds of the municipal shared services
29 energy authority may be sold by the municipal shared services
30 energy authority at public or private sale, and at such price or prices
31 as the municipal shared services energy authority shall determine
32 subject to the provisions of P.L.1983, c. 313 (C.40A:5A-1 et seq.).

33
34 12. (New section) The municipal shared services energy
35 authority may cause a copy of any bond resolution adopted by it to
36 be filed for public inspection in its office and in the office of the
37 clerk of the governing body of each member municipality, and may
38 thereupon cause to be published, in a newspaper published or
39 circulating in each member's community, a notice stating the fact
40 and date of this adoption and the places where the bond resolution
41 has been filed for public inspection and also the date of the first
42 publication of the notice and also that any action or proceeding of
43 any kind or nature in any court questioning the validity or proper
44 authorization of bonds provided for by the bond resolution, or the
45 validity of any covenants, agreements or contract provided for by
46 the bond resolution shall be commenced within 20 days after the
47 first publication of the notice. If the notice shall at any time be
48 published and if no action or proceeding questioning the validity of

1 the establishment of the municipal shared services energy authority
2 or the validity or proper authorization of bonds provided for by the
3 bond resolution referred to in the notice, or the validity of any
4 covenants, agreements or contract provided for by the bond
5 resolution shall be commenced or instituted within 20 days after the
6 first publication of the notice, then all residents and taxpayers and
7 owners of property in each of the member municipalities, and all
8 other persons whatsoever, shall be forever barred and foreclosed
9 from instituting or commencing any action or proceeding in any
10 court, or from pleading any defense to any action or proceedings,
11 questioning the validity of the establishment of the municipal
12 shared services energy authority, or the validity or proper
13 authorization of the bonds, or the validity of the covenants,
14 agreements or contracts, and the municipal shared services energy
15 authority shall be conclusively deemed to have been validly
16 established and to be authorized to transact business and exercise
17 powers as an authority pursuant to P.L. , c. (C.) (pending
18 before the Legislature as this bill), and the bonds, covenants,
19 agreements and contracts shall be conclusively deemed to be valid
20 and binding obligations in accordance with their terms and tenor.

21

22 13. (New section) Any provision of any law to the contrary
23 notwithstanding, any bond or other obligation issued pursuant to
24 P.L. , c. (C.) (pending before the Legislature as this bill)
25 shall be fully negotiable within the meaning and for all purposes of
26 the negotiable instruments law of this State, and each holder or
27 owner of such a bond or other obligation, or of any coupon
28 appurtenant thereto, by accepting such bond or coupon shall be
29 conclusively deemed to have agreed that such bond, obligation or
30 coupon is and shall be fully negotiable within the meaning and for
31 all purposes of the State's negotiable instruments law under Title
32 12A of the New Jersey Statutes.

33

34 14. (New section) Neither the members of the municipal shared
35 services energy authority nor any person executing bonds issued
36 pursuant to P.L. , c. (C.) (pending before the Legislature as
37 this bill) shall be liable personally on the bonds by reason of the
38 issuance thereof. Bonds or other obligations issued pursuant to
39 P.L. , c. (C.) (pending before the Legislature as this bill)
40 shall not be in any way a debt or liability of the State, and bonds or
41 other obligations issued by the municipal shared services energy
42 authority pursuant to P.L. , c. (C.) (pending before the
43 Legislature as this bill) shall not be in any way a debt or liability of
44 the State or of any local unit or of any county or municipality,
45 except for member municipalities guaranteeing such bonds in
46 accordance with the provisions of section 18 of P.L. ,
47 c. (C.) (pending before the Legislature as this bill), and shall
48 not create or constitute any indebtedness, liability or obligation of

1 the State or of any such local unit, county or municipality, either
2 legal, moral, or otherwise, and nothing in P.L. , c. (C.)
3 (pending before the Legislature as this bill) contained shall be
4 construed to authorize the municipal shared services energy
5 authority to incur any indebtedness on behalf of or in any way to
6 obligate the State or any county or municipality.

7
8 15. (New section) Any bond resolution of the municipal shared
9 services energy authority providing for or authorizing the issuance
10 of any bonds may contain provisions, and the municipal shared
11 services energy authority shall, in order to secure the payment of
12 the bonds in addition to its other powers, have the power by the
13 provisions in the bond resolution to covenant and agree with the
14 several holders of the bonds, as to:

15 a. The custody, security, use, expenditure, or application of the
16 proceeds of the bonds;

17 b. The construction and completion, or replacement, of all or
18 any part of an electric supply project of the municipal shared
19 services energy authority or its system;

20 c. The use, regulation, operation, maintenance, insurance, or
21 disposition of all or any part of an electric supply project of the
22 municipal shared services energy authority, or its system, or
23 restrictions on the exercise of the powers of the municipal shared
24 services energy authority to dispose of, limit, or regulate the use of
25 all or any part of the electric supply project or system;

26 d. Payment of the principal of, or interest on, the bonds, or any
27 other obligations, and the sources and methods thereof, the rank or
28 priority of the bonds or obligations as to any lien or security, or the
29 acceleration of the maturity of the bonds or obligations;

30 e. The use and disposition of any monies of the municipal
31 shared services energy authority, including any of the authority's
32 revenues, derived or to be derived from the operation of all or any
33 part of one or more electric supply projects of the municipal shared
34 services energy authority or systems thereof, including any parts
35 thereof that are thereafter constructed or acquired as any of the
36 project's parts, extensions, replacements, or improvements
37 thereafter constructed or acquired;

38 f. Pledging, setting aside, depositing, or acting as trustee for all
39 or any part of the system revenues or other monies of the municipal
40 shared services energy authority to secure the payment of the
41 principal of, or interest on, the bonds or any other obligations, or
42 the payment of expenses of operation or maintenance of one or
43 more electric supply projects of the municipal shared services
44 energy authority or its system, and the powers and duties of any
45 trustee with regard thereto;

46 g. The setting aside out of the system revenues or other monies
47 of the municipal shared services energy authority including its

- 1 reserves and sinking funds, and the source, custody, security,
2 regulation, application, and disposition thereof;
- 3 h. Determination or definition of the system revenues or of the
4 expenses of operation and maintenance of the system or one or
5 more of its electric supply projects;
- 6 i. The rents, rates, fees or other charges in connection with the
7 use, products, or services of one or more electric supply projects of
8 the municipal shared services energy authority or its system,
9 including any of the parts, extensions, replacements, or
10 improvements of the project or its system thereafter constructed or
11 acquired, and the fixing, establishment, collection and enforcement
12 of the same, the amount of electric supply project revenues or
13 system revenues to be produced thereby, and the disposition and
14 application of the amounts charged or collected;
- 15 j. The assumption or payment or discharge of any
16 indebtedness, liens, or other claims relating to the whole or any part
17 of one or more electric supply projects of the municipal shared
18 services energy authority or of its system for any obligations having
19 or which may have a lien on any part of the system of the municipal
20 shared services energy authority;
- 21 k. Limitations on the issuance of additional bonds or any other
22 obligations or on the incurrence of indebtedness of the municipal
23 shared services energy authority;
- 24 1. Limitations on the powers of the municipal shared services
25 energy authority to construct, acquire or operate, or to permit the
26 construction, acquisition or operation of, any plants, structures,
27 facilities or properties which may compete or tend to compete with
28 one or more of the municipal shared services energy authority's
29 electric supply projects or any part of its system;
- 30 m. Vesting in a trustee or trustees within or without the State
31 such property, rights, powers, and duties in trust as the municipal
32 shared services energy authority may determine, which may include
33 any or all of the rights, powers, and duties of the trustee appointed
34 by the holders of bonds, and limiting or abrogating the right of the
35 holders to appoint a trustee or limiting the rights, duties, and powers
36 of the trustee;
- 37 n. Payment of costs or expenses incident to the enforcement of
38 the bonds or of the provisions of the bond resolutions or of any
39 covenant or contract with the holders of the bonds;
- 40 o. The procedure, if any, by which the terms of any covenant or
41 contract with, or duty to, the holders of the bonds may be amended
42 or abrogated, the amount of bonds that the holders of which must
43 consent thereto, and the manner in which the consent may be given
44 or evidenced; and
- 45 p. Any other matter or course of conduct which, by recital in
46 the bond resolution, is declared to further secure the payment of the
47 principal of, or interest on, the bonds.

1 The provisions of the bond resolution and the covenants and
2 agreements relative thereto shall constitute valid and legally binding
3 contracts between the municipal shared services energy authority
4 and the several holders of the bonds, regardless of the time of
5 issuance of the bonds, and shall be enforceable by any holder or
6 holders by appropriate suit, action or proceeding in any court of
7 competent jurisdiction, or by proceeding in lieu of prerogative writ.

8
9 16. (New section) a. If the bond resolution of the municipal
10 shared services energy authority authorizing or providing for the
11 issuance of a series of its bonds shall provide in substance that the
12 holders of the bonds of such series shall be entitled to the benefits
13 of this section, then, in the event that there shall be a default in the
14 payment of principal of, or interest on, any bonds of such series
15 after the same shall become due, whether at maturity or upon call
16 for redemption, and such default shall continue for a period of 30
17 days, or in the event that the municipal shared services energy
18 authority shall fail or refuse to comply with the provisions of
19 P.L. , c. (C.) (pending before the Legislature as this bill) or
20 shall fail or refuse to carry out and perform the terms of any
21 contract with the holders of any such bonds, and such failure or
22 refusal shall continue for a period of 30 days after written notice to
23 the municipal shared services energy authority of its existence and
24 nature, the holders of 25 percent in aggregate principal amount of
25 the bonds and such series then outstanding by instrument or
26 instruments filed in the office of the Secretary of State and proved
27 or acknowledged in the same manner as a deed to be recorded, may
28 appoint a trustee to represent the holders of the bonds of such series
29 for the purposes provided in this section.

30 b. Such trustee may and upon written request of the holders of
31 25 percent in aggregate principal amount of the bonds of such series
32 then outstanding shall, in the trustee's or its own name:

33 (1) by any action, writ, proceeding in lieu of prerogative writ, or
34 other proceeding, enforce all rights of the holders of such bonds,
35 including the right to require the municipal shared services energy
36 authority to charge and collect service charges adequate to carry out
37 any contract as to, or pledge of, system revenues, and to require the
38 municipal shared services energy authority to carry out and perform
39 the terms of any contract with the holders of such bonds or its
40 duties under P.L. , c. (C.) (pending before the Legislature
41 as this bill);

42 (2) bring an action upon all or any part of such bonds or interest
43 coupons or claims appurtenant thereto;

44 (3) by action, require the municipal shared services energy
45 authority to account as if it were the trustee of an express trust for
46 the holders of such bonds;

47 (4) by action, enjoin any acts or things which may be unlawful
48 or in violation of the rights of the holders of such bonds; and

1 (5) declare all such bonds due and payable, whether or not in
2 advance of maturity, upon 30 days' prior notice in writing to the
3 municipal shared services energy authority and, if all defaults shall
4 be made good, then with the consent of the holders of 25 percent of
5 the principal amount of such bonds then outstanding, annul such
6 declaration and its consequences.

7 c. The trustee shall, in addition to the powers set forth in
8 subsections a. and b. of this section, have and possess all of the
9 powers necessary or appropriate for the exercise of the functions
10 specifically set forth herein or incident to the general representation
11 of the holders of bonds of such series in the enforcement and
12 protection of their rights.

13 d. In any action or proceeding by the trustee, the fees, counsel
14 fees and expenses of the trustee and of the receiver, if any,
15 appointed pursuant to P.L. , c. (C.) (pending before the
16 Legislature as this bill), shall constitute taxable costs and
17 disbursements, and all costs and disbursements, allowed by the
18 court, shall be a first charge upon any service charges and system
19 revenues of the municipal shared services energy authority pledged
20 for the payment or security of bonds of such series.

21
22 17. (New section) If the bond resolution of the municipal shared
23 services energy authority authorizing or providing for the issuance
24 of a series of its bonds shall provide in substance that the holders of
25 the bonds of such series shall be entitled to the benefits of section
26 15 of P.L. , c. (C.) (pending before the Legislature as this
27 bill), and shall further provide in substance that any trustee
28 appointed pursuant to that section or having the powers of such a
29 trustee shall have the powers provided by this section, then such
30 trustee, whether or not all of the bonds of such series shall have
31 been declared due and payable, shall be entitled as of right to the
32 appointment of a receiver of the assets of the authority, and the
33 receiver may enter upon and take possession of the assets of the
34 authority and, subject to any pledge or contract with the holders of
35 such bonds, shall take possession of all moneys and other property
36 derived from or applicable to the acquisition, construction,
37 operation, maintenance, or reconstruction of the assets of the
38 authority, and proceed with such acquisition, construction,
39 operation, maintenance, or reconstruction which the municipal
40 shared services energy authority is under any obligation to do, and
41 operate, maintain and reconstruct the utility system and fix, charge,
42 collect, enforce, and receive the service charges and all system
43 revenues thereafter arising subject to any pledge thereof or contract
44 with the holders of the bonds relating thereto and perform the
45 public duties and carry out the contracts and obligations of the
46 municipal shared services energy authority in the same manner as
47 the municipal shared services energy authority itself might do and
48 under the direction of the court.

1 18. (New section) For the purpose of aiding the municipal
2 shared services energy authority in the planning, undertaking,
3 acquisition, construction, financing or operation of any electric
4 supply project authorized pursuant to P.L. , c. (C.)
5 (pending before the Legislature as this bill), a member municipality
6 may, by ordinance of its governing body, in the manner provided
7 for adoption of a bond ordinance as provided in any local bond law
8 and with or without consideration and upon such terms and
9 conditions as may be agreed to by and between the member
10 municipality and the authority, unconditionally guaranty the
11 punctual payment of the principal of, and interest on, all or a
12 portion of any bonds of the authority. Any guaranty of the bonds of
13 the authority made pursuant to this section shall be evidenced by
14 endorsement thereof on the bonds, executed in the name of the
15 member municipality and on its behalf by such officer thereof as
16 may be designated in the ordinance authorizing such guaranty, and
17 the municipality shall thereupon and thereafter be obligated to pay
18 the principal of, and interest on, said bonds in the same manner and
19 to the same extent as in the case of bonds issued by it. Any
20 ordinance authorizing such guaranty shall be treated as a security
21 agreement and shall be subject to the provisions of P.L.1983, c.313
22 (C.40A:5A-1 et seq.). Any such guaranty of bonds of the authority
23 may be made, and any ordinance authorizing such guaranty may be
24 adopted, notwithstanding any statutory debt or other limitations,
25 including particularly any limitation or requirement under or
26 pursuant to any local bond law, but the principal amount of the
27 bonds so guaranteed, shall, after their issuance, be included in the
28 gross debt of the member municipality for the purpose of
29 determining the indebtedness of the municipality under or pursuant
30 to any local bond law. The principal amount of the bonds so
31 guaranteed and included in gross debt shall be deducted and is
32 hereby declared to be and to constitute a deduction from the gross
33 debt under and for all the purposes of any local bond law:

34 a. from and after the time of issuance of the bonds until the end
35 of the fiscal year beginning next after the completion of acquisition
36 or construction of the facility to be financed from the proceeds of
37 the bonds; and

38 b. in any annual debt statement filed pursuant to any local bond
39 law as of the end of the fiscal year or any subsequent fiscal year if
40 the revenues or other receipts or moneys of the authority in that
41 year are sufficient to pay its expenses of operation and maintenance
42 in the year and all amounts payable in the year on account of the
43 principal of, and interest on, all the guaranteed bonds, and all bonds
44 of the authority issued under P.L. , c. (C.) (pending before
45 the Legislature as this bill).

46
47 19. (New section) a. The municipal shared services energy
48 authority may enter into wholesale power supply contracts with any

1 person within or outside the State of New Jersey to meet the electric
2 power or energy needs of its members, for the purchase or sale of
3 electric power or energy, or for both the purchase and sale of
4 electric power and energy to supply electric power or energy to its
5 members and for the wholesale sale of any excess electric power or
6 energy. The power supply contracts shall be for a term not to
7 exceed 40 years and shall provide for payment to or from the
8 municipal shared services energy authority of funds for
9 commodities to be procured, and services to be rendered by or to
10 the municipal shared services energy authority. The municipal
11 shared services energy authority may enter into power supply
12 contracts with persons for the purchase or sale of electric power and
13 energy, or for both the purchase and sale of electric power and
14 energy, whereby the purchaser is obligated to make payments in
15 amounts which shall be sufficient to enable the municipal shared
16 services energy authority to meet its expenses, interest and principal
17 payments, whether at maturity or upon sinking fund redemption, for
18 its bonds, reasonable reserves for debt service, operation and
19 maintenance, renewals and replacements, and the requirements of
20 any rate covenant with respect to debt service coverage contained in
21 any resolution, trust indenture, or other security instrument. Power
22 supply contracts may contain such other terms and conditions as the
23 municipal shared services energy authority and the purchasers may
24 determine, including provisions whereby the purchaser is obligated
25 to pay for power irrespective of whether energy is produced or
26 delivered to the purchaser, or whether any electric supply project
27 contemplated by the agreement is completed, operable, or
28 operating, and notwithstanding suspension, interruption,
29 interference, reduction, or curtailment of the output of the electric
30 supply project. The power purchase agreement may provide that if
31 one or more of the purchasers defaults in the payment of its
32 obligations under the purchase agreement, the remaining purchasers
33 which also have such agreements shall be required to accept and
34 pay for the electric power and energy to be purchased by the
35 defaulting purchaser, and shall be entitled proportionately to use or
36 otherwise dispose of the electric power and energy to be purchased
37 by the defaulting purchaser. For purposes of this subsection the
38 phrase "purchase of electric power and energy" includes the
39 purchase of any right to capacity of, or interest in, any electric
40 supply project located within the corporate limits and franchise
41 areas of the members.

42 b. The obligations of a member municipality under a power
43 supply contract with the municipal shared services energy authority,
44 or arising out of the default by any other member with respect to a
45 power supply contract, shall not be construed to constitute a debt of
46 the municipality. To the extent provided in the purchase agreement,
47 these obligations shall constitute special obligations of the
48 municipality, payable solely from the revenues and other moneys

1 derived by the municipality from its municipal electric utility and
2 shall be treated as expenses of operating a municipal electric utility.

3 c. The contract may also provide for payments in the form of
4 collateral, contributions to defray the cost of any purpose set forth
5 in the contract and as advances for any such purpose subject to
6 repayment by the municipal shared services energy authority.

7 d. Such agreements may be for a term covering the life of an
8 electric supply project, for the anticipated output period of the
9 electric supply project, or for any other term not exceeding 40
10 years.

11

12 20. (New section) The municipal shared services energy
13 authority formed pursuant to P.L. , c. (C.) (pending before
14 the Legislature as this bill) shall comply with the provisions of
15 P.L. , c. (C.) (pending before the Legislature as this bill) and
16 all applicable federal and State laws. Nothing in P.L. , c. (C.)
17 (pending before the Legislature as this bill) shall be construed to
18 require regulation of a municipal shared services energy authority
19 or its members as an electric public utility as defined under
20 R.S.48:2-13. Wholesale sales and purchases by the municipal
21 shared services energy authority shall not subject the municipal
22 shared services energy authority or its members to the jurisdiction
23 of the Board of Public Utilities as a public utility as set forth in
24 R.S.48:2-13 et seq. A municipality that is a member of the
25 municipal shared services energy authority shall continue to be
26 subject to all laws of the State.

27

28 21. (New section) All property of the municipal shared services
29 energy authority within the corporate limits and franchise areas of
30 the members shall be exempt from levy and sale by virtue of an
31 execution of a court of competent jurisdiction and no execution or
32 other judicial process shall issue against the same nor shall any
33 judgment against the municipal shared services energy authority be
34 a charge or lien upon its property, provided, however, that nothing
35 in this section shall apply to or limit the rights of the holder of any
36 bonds to pursue any remedy for the enforcement of any pledge or
37 lien given by the municipal shared services energy authority on its
38 system, revenues, or other monies.

39

40 22. (New section) Notwithstanding any restriction contained in
41 any other law, the State and all public officers, municipalities,
42 counties, political subdivisions of public bodies, and agencies
43 thereof, all banks, bankers, trust companies, savings banks and
44 institutions, building and loan associations, savings and loan
45 associations, investment companies, and other persons carrying on a
46 banking business, all insurance companies, insurance associations,
47 and other persons carrying on an insurance business, and all
48 executors, administrators, guardians, trustees and other fiduciaries,

1 may legally invest any sinking funds, monies, or other funds
2 belonging to them or within their control, in any bonds of the
3 municipal shared services energy authority, and the bonds shall be
4 authorized security for any and all public deposits.

5
6 23. (New section) Every electric supply project or facility
7 within the corporate limits and franchise areas of the members that
8 are owned by the municipal shared services energy authority,
9 including any pro rata share of any property within the corporate
10 limits and franchise areas of the members that are owned by the
11 municipal shared services energy authority in conjunction with any
12 other person or public agency and used in connection with the
13 generation, transmission and production of electric power and
14 energy, and all other property of the municipal shared services
15 energy authority within the corporate limits and franchise areas of
16 the members, is hereby declared to be public property and devoted
17 to an essential public and governmental function and purpose, and
18 the property within the corporate limits and franchise areas of the
19 members, the municipal shared services energy authority and its
20 income shall be exempt from all taxes and special assessments of
21 the State or any subdivision of the State. All bonds of the municipal
22 shared services energy authority are hereby declared to be issued by
23 a political subdivision of the State and for an essential public and
24 governmental purpose and to be a public instrumentality in the
25 bonds, and the interest thereon and the income therefrom and all
26 service charges, funds, revenues, and other monies pledged or
27 available to pay or secure the payment of the bonds, or interest
28 thereon, shall at all times be exempt from taxation except for
29 transfer, inheritance and estate taxes, and taxes on transfers by or in
30 contemplation of death.

31
32 24. (New section) The State of New Jersey does hereby pledge
33 to and covenant and agree with the holders of any bonds issued
34 pursuant to a bond resolution of the municipal shared services
35 energy authority, that the State will not limit or alter the rights
36 hereby vested in the municipal shared services energy authority to
37 acquire, construct, operate, and participate in one or more electric
38 supply projects and facilities for the generation, production, and
39 transmission of electric power and energy at wholesale, to fix,
40 establish, charge, and collect charges, fees, and payments, and to
41 fulfill the terms of any agreement made with the holders of the
42 bonds or other obligations, and will not in any way impair the rights
43 or remedies of these holders, and will not modify in any way the
44 exemptions from taxation provided for in P.L. , c. (C.)
45 (pending before the Legislature as this bill) until the bonds, together
46 with interest thereon, with interest on any unpaid installments of
47 interest, and all costs and expenses in connection with any action or

1 proceeding by or on behalf of these holders, are fully met and
2 discharged.

3
4 25. (New section) All banks, bankers, trust companies, savings
5 banks, investment companies, and other persons carrying on a
6 banking business are hereby authorized to give to the municipal
7 shared services energy authority a good and sufficient undertaking
8 with such sureties as shall be approved by the municipal shared
9 services energy authority to the effect that this bank or banking
10 institution shall faithfully keep and pay over to the order of or upon
11 the warrant of the municipal shared services energy authority or its
12 authorized agent, all such funds as may be deposited with it by the
13 municipal shared services energy authority and agreed interest
14 thereon, at such times or upon such demands as may be agreed with
15 the municipal shared services energy authority or in lieu of these
16 sureties, deposit with the municipal shared services energy
17 authority or its agent or any trustee therefor or for the holders of
18 any bonds, as collateral, such securities as the municipal shared
19 services energy authority may approve. The deposits of the
20 municipal shared services energy authority may be evidenced or
21 secured by a depository collateral agreement in such form and upon
22 such terms and conditions as may be agreed upon by the municipal
23 shared services energy authority and the bank or banking
24 institution.

25
26 26. (New section) The municipal shared services energy
27 authority shall cause an annual audit of its accounts to be made, and
28 for this purpose shall employ a certified public accountant licensed
29 pursuant to the laws of the State of New Jersey. The audit shall be
30 completed and filed with the municipal shared services energy
31 authority within four months after the close of its fiscal year and a
32 certified duplicate thereof shall be filed with the Director of the
33 Division of Local Government Services in the Department of
34 Community Affairs within five days after the original report is filed
35 with the municipal shared services energy authority.

36
37 27. (New section) The municipal shared services energy
38 authority shall file a copy of each bond resolution adopted by it
39 with the Director of the Division of Local Government Services in
40 the Department of Community Affairs, together with a summary of
41 the dates, amounts, maturities, and interest rates of all bonds issued
42 pursuant thereto.

43
44 28. Section 5 of P.L.1971, c.198 (C.40A:11-5) is amended to
45 read as follows:

46 5. Any contract the amount of which exceeds the bid threshold,
47 may be negotiated and awarded by the governing body without

- 1 public advertising for bids and bidding therefor and shall be
2 awarded by resolution of the governing body if:
- 3 (1) The subject matter thereof consists of:
- 4 (a) (i) Professional services. The governing body shall in each
5 instance state supporting reasons for its action in the resolution
6 awarding each contract and shall forthwith cause to be printed once,
7 in the official newspaper, a brief notice stating the nature, duration,
8 service and amount of the contract, and that the resolution and
9 contract are on file and available for public inspection in the office
10 of the clerk of the county or municipality, or, in the case of a
11 contracting unit created by more than one county or municipality, of
12 the counties or municipalities creating such contracting unit; or (ii)
13 Extraordinary unspecifiable services. The application of this
14 exception shall be construed narrowly in favor of open competitive
15 bidding, whenever possible, and the Division of Local Government
16 Services is authorized to adopt and promulgate rules and regulations
17 after consultation with the Commissioner of Education limiting the
18 use of this exception in accordance with the intention herein
19 expressed. The governing body shall in each instance state
20 supporting reasons for its action in the resolution awarding each
21 contract and shall forthwith cause to be printed, in the manner set
22 forth in subsection (1) (a) (i) of this section, a brief notice of the
23 award of such contract;
- 24 (b) The doing of any work by employees of the contracting unit;
- 25 (c) The printing of legal briefs, records and appendices to be
26 used in any legal proceeding in which the contracting unit may be a
27 party;
- 28 (d) The furnishing of a tax map or maps for the contracting unit;
- 29 (e) The purchase of perishable foods as a subsistence supply;
- 30 (f) The supplying of any product or the rendering of any service
31 by a public utility, which is subject to the jurisdiction of the Board
32 of Public Utilities or the Federal Energy Regulatory Commission or
33 its successor, in accordance with tariffs and schedules of charges
34 made, charged or exacted, filed with the board or commission;
- 35 (g) The acquisition, subject to prior approval of the Attorney
36 General, of special equipment for confidential investigation;
- 37 (h) The printing of bonds and documents necessary to the
38 issuance and sale thereof by a contracting unit;
- 39 (i) Equipment repair service if in the nature of an extraordinary
40 unspecifiable service and necessary parts furnished in connection
41 with such service, which exception shall be in accordance with the
42 requirements for extraordinary unspecifiable services;
- 43 (j) The publishing of legal notices in newspapers as required by
44 law;
- 45 (k) The acquisition of artifacts or other items of unique intrinsic,
46 artistic or historical character;
- 47 (l) Those goods and services necessary or required to prepare
48 and conduct an election;

- 1 (m) Insurance, including the purchase of insurance coverage and
2 consultant services, which exception shall be in accordance with the
3 requirements for extraordinary unspecifiable services;
- 4 (n) The doing of any work by handicapped persons employed by
5 a sheltered workshop;
- 6 (o) The provision of any goods or services including those of a
7 commercial nature, attendant upon the operation of a restaurant by
8 any nonprofit, duly incorporated, historical society at or on any
9 historical preservation site;
- 10 (p) (Deleted by amendment, P.L.1999, c.440.)
- 11 (q) Library and educational goods and services;
- 12 (r) (Deleted by amendment, P.L.2005, c.212).
- 13 (s) The marketing of recyclable materials recovered through a
14 recycling program, or the marketing of any product intentionally
15 produced or derived from solid waste received at a resource
16 recovery facility or recovered through a resource recovery program,
17 including, but not limited to, refuse-derived fuel, compost materials,
18 methane gas, and other similar products;
- 19 (t) (Deleted by amendment, P.L.1999, c.440.)
- 20 (u) Contracting unit towing and storage contracts, provided that
21 all such contracts shall be pursuant to reasonable non-exclusionary
22 and non-discriminatory terms and conditions, which may include
23 the provision of such services on a rotating basis, at the rates and
24 charges set by the municipality pursuant to section 1 of P.L.1979,
25 c.101 (C.40:48-2.49). All contracting unit towing and storage
26 contracts for services to be provided at rates and charges other than
27 those established pursuant to the terms of this paragraph shall only
28 be awarded to the lowest responsible bidder in accordance with the
29 provisions of the "Local Public Contracts Law" and without regard
30 for the value of the contract therefor;
- 31 (v) The purchase of steam or electricity from, or the rendering
32 of services directly related to the purchase of such steam or
33 electricity from a qualifying small power production facility or a
34 qualifying cogeneration facility as defined pursuant to 16
35 U.S.C.s.796;
- 36 (w) The purchase of electricity or administrative or dispatching
37 services directly related to the transmission of such purchased
38 electricity by a contracting unit engaged in the generation of
39 electricity;
- 40 (x) The printing of municipal ordinances or other services
41 necessarily incurred in connection with the revision and
42 codification of municipal ordinances;
- 43 (y) An agreement for the purchase of an equitable interest in a
44 water supply facility or for the provision of water supply services
45 entered into pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or
46 an agreement entered into pursuant to P.L.1989, c.109
47 (N.J.S.40A:31-1 et al.), so long as such agreement is entered into no
48 later than six months after the effective date of P.L.1993, c.381;

- 1 (z) A contract for the provision of water supply services entered
2 into pursuant to P.L.1995, c.101 (C.58:26-19 et al.);
- 3 (aa) The cooperative marketing of recyclable materials recovered
4 through a recycling program;
- 5 (bb) A contract for the provision of wastewater treatment
6 services entered into pursuant to P.L.1995, c.216 (C.58:27-19 et
7 al.);
- 8 (cc) Expenses for travel and conferences;
- 9 (dd) The provision or performance of goods or services for the
10 support or maintenance of proprietary computer hardware and
11 software, except that this provision shall not be utilized to acquire
12 or upgrade non-proprietary hardware or to acquire or update non-
13 proprietary software;
- 14 (ee) The management or operation of an airport owned by the
15 contracting unit pursuant to R.S.40:8-1 et seq.;
- 16 (ff) Purchases of goods and services at rates set by the Universal
17 Service Fund administered by the Federal Communications
18 Commission;
- 19 (gg) A contract for the provision of water supply services or
20 wastewater treatment services entered into pursuant to section 2 of
21 P.L.2002, c.47 (C.40A:11-5.1), or the designing, financing,
22 construction, operation, or maintenance, or any combination
23 thereof, of a water supply facility as defined in subsection (16) of
24 section 15 of P.L.1971, c.198 (C.40A:11-15) or a wastewater
25 treatment system as defined in subsection (19) of section 15 of
26 P.L.1971, c.198 (C.40A:11-15), or any component part or parts
27 thereof, including a water filtration system as defined in subsection
28 (16) of section 15 of P.L.1971, c.198 (C.40A:11-15);
- 29 (hh) The purchase of electricity generated from a power
30 production facility that is fueled by methane gas extracted from a
31 landfill in the county of the contracting unit.
- 32 (2) It is to be made or entered into with the United States of
33 America, the State of New Jersey, county or municipality or any
34 board, body, officer, agency or authority thereof or any other state
35 or subdivision thereof.
- 36 (3) Bids have been advertised pursuant to section 4 of P.L.1971,
37 c.198 (C.40A:11-4) on two occasions and (a) no bids have been
38 received on both occasions in response to the advertisement, or (b)
39 the governing body has rejected such bids on two occasions because
40 it has determined that they are not reasonable as to price, on the
41 basis of cost estimates prepared for or by the contracting agent prior
42 to the advertising therefor, or have not been independently arrived
43 at in open competition, or (c) on one occasion no bids were received
44 pursuant to (a) and on one occasion all bids were rejected pursuant
45 to (b), in whatever sequence; any such contract may then be
46 negotiated and may be awarded upon adoption of a resolution by a
47 two-thirds affirmative vote of the authorized membership of the
48 governing body authorizing such contract; provided, however, that:

1 (i) A reasonable effort is first made by the contracting agent to
2 determine that the same or equivalent goods or services, at a cost
3 which is lower than the negotiated price, are not available from an
4 agency or authority of the United States, the State of New Jersey or
5 of the county in which the contracting unit is located, or any
6 municipality in close proximity to the contracting unit;

7 (ii) The terms, conditions, restrictions and specifications set forth
8 in the negotiated contract are not substantially different from those
9 which were the subject of competitive bidding pursuant to section 4
10 of P.L.1971, c.198 (C.40A:11-4); and

11 (iii) Any minor amendment or modification of any of the terms,
12 conditions, restrictions and specifications, which were the subject of
13 competitive bidding pursuant to section 4 of P.L.1971, c.198
14 (C.40A:11-4), shall be stated in the resolution awarding such
15 contract; provided further, however, that if on the second occasion
16 the bids received are rejected as unreasonable as to price, the
17 contracting agent shall notify each responsible bidder submitting
18 bids on the second occasion of its intention to negotiate, and afford
19 each bidder a reasonable opportunity to negotiate, but the governing
20 body shall not award such contract unless the negotiated price is
21 lower than the lowest rejected bid price submitted on the second
22 occasion by a responsible bidder, is the lowest negotiated price
23 offered by any responsible vendor, and is a reasonable price for
24 such goods or services.

25 Whenever a contracting unit shall determine that a bid was not
26 arrived at independently in open competition pursuant to subsection
27 (3) of this section it shall thereupon notify the county prosecutor of
28 the county in which the contracting unit is located and the Attorney
29 General of the facts upon which its determination is based, and
30 when appropriate, it may institute appropriate proceedings in any
31 State or federal court of competent jurisdiction for a violation of
32 any State or federal antitrust law or laws relating to the unlawful
33 restraint of trade.

34 (4) The contracting unit has solicited and received at least three
35 quotations on materials, supplies or equipment for which a State
36 contract has been issued pursuant to section 12 of P.L.1971, c.198
37 (C.40A:11-12), and the lowest responsible quotation is at least 10%
38 less than the price the contracting unit would be charged for the
39 identical materials, supplies or equipment, in the same quantities,
40 under the State contract. Any such contract entered into pursuant to
41 this subsection may be awarded only upon adoption of a resolution
42 by the affirmative vote of two-thirds of the full membership of the
43 governing body of the contracting unit at a meeting thereof
44 authorizing such a contract. A copy of the purchase order relating
45 to any such contract, the requisition for purchase order, if
46 applicable, and documentation identifying the price of the materials,
47 supplies or equipment under the State contract and the State
48 contract number shall be filed with the director within five working

1 days of the award of any such contract by the contracting unit. The
2 director shall notify the contracting unit of receipt of the material
3 and shall make the material available to the State Treasurer. The
4 contracting unit shall make available to the director upon request
5 any other documents relating to the solicitation and award of the
6 contract, including, but not limited to, quotations, requests for
7 quotations, and resolutions. The director periodically shall review
8 material submitted by contracting units to determine the impact of
9 such contracts on local contracting and shall consult with the State
10 Treasurer on the impact of such contracts on the State procurement
11 process. The director may, after consultation with the State
12 Treasurer, adopt rules in accordance with the "Administrative
13 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to limit the
14 use of this subsection, after considering the impact of contracts
15 awarded under this subsection on State and local contracting, or
16 after considering the extent to which the award of contracts
17 pursuant to this subsection is consistent with and in furtherance of
18 the purposes of the public contracting laws.

19 (5) Notwithstanding any provision of law, rule or regulation to
20 the contrary, the subject matter consists of the combined collection
21 and marketing, or the cooperative combined collection and
22 marketing of recycled material recovered through a recycling
23 program, or any product intentionally produced or derived from
24 solid waste received at a resource recovery facility or recovered
25 through a resource recovery program including, but not limited to,
26 refuse-derived fuel, compost materials, methane gas, and other
27 similar products, provided that in lieu of engaging in such public
28 advertising for bids and the bidding therefor, the contracting unit
29 shall, prior to commencing the procurement process, submit for
30 approval to the Director of the Division of Local Government
31 Services, a written detailed description of the process to be
32 followed in securing said services. Within 30 days after receipt of
33 the written description the director shall, if the director finds that
34 the process provides for fair competition and integrity in the
35 negotiation process, approve, in writing, the description submitted
36 by the contracting unit. If the director finds that the process does
37 not provide for fair competition and integrity in the negotiation
38 process, the director shall advise the contracting unit of the
39 deficiencies that must be remedied. If the director fails to respond
40 in writing to the contracting unit within 30 days, the procurement
41 process as described shall be deemed approved. As used in this
42 section, "collection" means the physical removal of recyclable
43 materials from curbside or any other location selected by the
44 contracting unit.

45 (6) Notwithstanding any provision of law, rule or regulation to
46 the contrary, the contract is for the provision of electricity by a
47 contracting unit engaged in the distribution of electricity for retail
48 sale, for the provision of wholesale electricity by a municipal

1 shared services energy authority as defined pursuant to section 3 of
2 P.L. , c. (C.) (pending before the Legislature as this bill), or
3 for the provision of administrative or dispatching services related to
4 the transmission of such electricity, provided that in lieu of
5 engaging in public advertising for bids and the bidding therefor, the
6 contracting unit shall, prior to commencing the procurement
7 process, submit for approval to the Director of the Division of Local
8 Government Services, a written detailed description of the process
9 to be followed in securing such services. Such process shall be
10 designed in a way that is appropriate to and commensurate with
11 industry practices, and the integrity of the government contracting
12 process. Within 30 days after receipt of the written description, the
13 director shall, if the director finds that the process provides for fair
14 competition and integrity in the negotiation process, approve, in
15 writing, the description submitted by the contracting unit. If the
16 director finds that the process does not provide for fair competition
17 and integrity in the negotiation process, the director shall advise the
18 contracting unit of the deficiencies that must be remedied. If the
19 director fails to respond in writing to the contracting unit within 30
20 days, the procurement process, as submitted to the director pursuant
21 to this section, shall be deemed approved.

22 (cf: P.L.2005, c.296, s.1)

23

24 29. Section 15 of P.L.1971, c.198 (C.40A:11-15) is amended to
25 read as follows:

26 15. All contracts for the provision or performance of goods or
27 services shall be awarded for a period not to exceed 24 consecutive
28 months, except that contracts for professional services pursuant to
29 subparagraph (i) of paragraph (a) of subsection (1) of section 5 of
30 P.L.1971, c.198 (C.40A:11-5) shall be awarded for a period not to
31 exceed 12 consecutive months. Contracts may be awarded for
32 longer periods of time as follows:

33 (1) Supplying of:

34 (a) (Deleted by amendment, P.L.1996, c.113.)

35 (b) (Deleted by amendment, P.L.1996, c.113.)

36 (c) Thermal energy produced by a cogeneration facility, for use
37 for heating or air conditioning or both, for any term not exceeding
38 40 years, when the contract is approved by the Board of Public
39 Utilities. For the purposes of this paragraph, "cogeneration" means
40 the simultaneous production in one facility of electric power and
41 other forms of useful energy such as heating or process steam;

42 (2) (Deleted by amendment, P.L.1977, c.53.)

43 (3) The collection and disposal of municipal solid waste, the
44 collection and disposition of recyclable material, or the disposal of
45 sewage sludge, for any term not exceeding in the aggregate, five
46 years;

47 (4) The collection and recycling of methane gas from a sanitary
48 landfill facility, for any term not exceeding 25 years, when such

1 contract is in conformance with a district solid waste management
2 plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.), and
3 with the approval of the Division of Local Government Services in
4 the Department of Community Affairs and the Department of
5 Environmental Protection. The contracting unit shall award the
6 contract to the highest responsible bidder, notwithstanding that the
7 contract price may be in excess of the amount of any necessarily
8 related administrative expenses; except that if the contract requires
9 the contracting unit to expend funds only, the contracting unit shall
10 award the contract to the lowest responsible bidder. The approval
11 by the Division of Local Government Services of public bidding
12 requirements shall not be required for those contracts exempted
13 therefrom pursuant to section 5 of P.L.1971, c.198 (C.40A:11-5);

14 (5) Data processing service, for any term of not more than seven
15 years;

16 (6) Insurance, including the purchase of insurance coverages,
17 insurance consulting or administrative services, claims
18 administration services and including participation in a joint self-
19 insurance fund, risk management program or related services
20 provided by a contracting unit insurance group, or participation in
21 an insurance fund established by a local unit pursuant to
22 N.J.S.40A:10-6, or a joint insurance fund established pursuant to
23 P.L.1983, c.372 (C.40A:10-36 et seq.), for any term of not more
24 than three years;

25 (7) Leasing or servicing of (a) automobiles, motor vehicles,
26 machinery and equipment of every nature and kind, for a period not
27 to exceed five years, or (b) machinery and equipment used in the
28 generation of electricity by a municipal shared services energy
29 authority established pursuant to section 4 of P.L. , c. (C.)
30 (pending before the Legislature as this bill), or a contracting unit
31 engaged in the generation of electricity, for a period not to exceed
32 20 years; provided, however, such contracts shall be awarded only
33 subject to and in accordance with the rules and regulations
34 promulgated by the Director of the Division of Local Government
35 Services in the Department of Community Affairs;

36 (8) The supplying of any product or the rendering of any service
37 by a company providing voice, data, transmission or switching
38 services for a term not exceeding five years;

39 (9) Any single project for the construction, reconstruction or
40 rehabilitation of any public building, structure or facility, or any
41 public works project, including the retention of the services of any
42 architect or engineer in connection therewith, for the length of time
43 authorized and necessary for the completion of the actual
44 construction;

45 (10) The providing of food services for any term not exceeding
46 three years;

47 (11) On-site inspections and plan review services undertaken by
48 private agencies pursuant to the "State Uniform Construction Code

1 Act," P.L.1975, c.217 (C.52:27D-119 et seq.) for any term of not
2 more than three years;

3 (12) (Deleted by amendment, P.L.2009, c.4).

4 (13) (Deleted by amendment, P.L.1999, c.440.)

5 (14) (Deleted by amendment, P.L.1999, c.440.)

6 (15) Leasing of motor vehicles, machinery and other equipment
7 primarily used to fight fires, for a term not to exceed ten years,
8 when the contract includes an option to purchase, subject to and in
9 accordance with rules and regulations promulgated by the Director
10 of the Division of Local Government Services in the Department of
11 Community Affairs;

12 (16) The provision of water supply services or the designing,
13 financing, construction, operation, or maintenance, or any
14 combination thereof, of a water supply facility, or any component
15 part or parts thereof, including a water filtration system, for a period
16 not to exceed 40 years, when the contract for these services is
17 approved by the Division of Local Government Services in the
18 Department of Community Affairs, the Board of Public Utilities,
19 and the Department of Environmental Protection pursuant to
20 P.L.1985, c.37 (C.58:26-1 et al.), except that no such approvals
21 shall be required for those contracts otherwise exempted pursuant to
22 subsection (30), (31), (34), (35) or (43) of this section. For the
23 purposes of this subsection, "water supply services" means any
24 service provided by a water supply facility; "water filtration
25 system" means any equipment, plants, structures, machinery,
26 apparatus, or land, or any combination thereof, acquired, used,
27 constructed, rehabilitated, or operated for the collection,
28 impoundment, storage, improvement, filtration, or other treatment
29 of drinking water for the purposes of purifying and enhancing water
30 quality and insuring its portability prior to the distribution of the
31 drinking water to the general public for human consumption,
32 including plants and works, and other personal property and
33 appurtenances necessary for their use or operation; and "water
34 supply facility" means and refers to the real property and the plants,
35 structures, interconnections between existing water supply facilities,
36 machinery and equipment and other property, real, personal and
37 mixed, acquired, constructed or operated, or to be acquired,
38 constructed or operated, in whole or in part by or on behalf of a
39 political subdivision of the State or any agency thereof, for the
40 purpose of augmenting the natural water resources of the State and
41 making available an increased supply of water for all uses, or of
42 conserving existing water resources, and any and all appurtenances
43 necessary, useful or convenient for the collecting, impounding,
44 storing, improving, treating, filtering, conserving or transmitting of
45 water and for the preservation and protection of these resources and
46 facilities and providing for the conservation and development of
47 future water supply resources;

1 (17) The provision of resource recovery services by a qualified
2 vendor, the disposal of the solid waste delivered for disposal which
3 cannot be processed by a resource recovery facility or the residual
4 ash generated at a resource recovery facility, including hazardous
5 waste and recovered metals and other materials for reuse, or the
6 design, financing, construction, operation or maintenance of a
7 resource recovery facility for a period not to exceed 40 years when
8 the contract is approved by the Division of Local Government
9 Services in the Department of Community Affairs, and the
10 Department of Environmental Protection pursuant to P.L.1985, c.38
11 (C.13:1E-136 et al.); and when the resource recovery facility is in
12 conformance with a district solid waste management plan approved
13 pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.). For the purposes of
14 this subsection, "resource recovery facility" means a solid waste
15 facility constructed and operated for the incineration of solid waste
16 for energy production and the recovery of metals and other
17 materials for reuse; or a mechanized composting facility, or any
18 other facility constructed or operated for the collection, separation,
19 recycling, and recovery of metals, glass, paper, and other materials
20 for reuse or for energy production; and "residual ash" means the
21 bottom ash, fly ash, or any combination thereof, resulting from the
22 combustion of solid waste at a resource recovery facility;

23 (18) The sale of electricity or thermal energy, or both, produced
24 by a resource recovery facility for a period not to exceed 40 years
25 when the contract is approved by the Board of Public Utilities, and
26 when the resource recovery facility is in conformance with a district
27 solid waste management plan approved pursuant to P.L.1970, c.39
28 (C.13:1E-1 et seq.). For the purposes of this subsection, "resource
29 recovery facility" means a solid waste facility constructed and
30 operated for the incineration of solid waste for energy production
31 and the recovery of metals and other materials for reuse; or a
32 mechanized composting facility, or any other facility constructed or
33 operated for the collection, separation, recycling, and recovery of
34 metals, glass, paper, and other materials for reuse or for energy
35 production;

36 (19) The provision of wastewater treatment services or the
37 designing, financing, construction, operation, or maintenance, or
38 any combination thereof, of a wastewater treatment system, or any
39 component part or parts thereof, for a period not to exceed 40 years,
40 when the contract for these services is approved by the Division of
41 Local Government Services in the Department of Community
42 Affairs and the Department of Environmental Protection pursuant to
43 P.L.1985, c.72 (C.58:27-1 et al.), except that no such approvals
44 shall be required for those contracts otherwise exempted pursuant to
45 subsection (36) or (43) of this section. For the purposes of this
46 subsection, "wastewater treatment services" means any services
47 provided by a wastewater treatment system, and "wastewater
48 treatment system" means equipment, plants, structures, machinery,

1 apparatus, or land, or any combination thereof, acquired, used,
2 constructed, or operated for the storage, collection, reduction,
3 recycling, reclamation, disposal, separation, or other treatment of
4 wastewater or sewage sludge, or for the final disposal of residues
5 resulting from the treatment of wastewater, including, but not
6 limited to, pumping and ventilating stations, facilities, plants and
7 works, connections, outfall sewers, interceptors, trunk lines, and
8 other personal property and appurtenances necessary for their
9 operation;

10 (20) The supplying of goods or services for the purpose of
11 lighting public streets, for a term not to exceed five years;

12 (21) The provision of emergency medical services for a term not
13 to exceed five years;

14 (22) Towing and storage contracts, awarded pursuant to
15 paragraph u. of subsection (1) of section 5 of P.L.1971, c.198
16 (C.40A:11-5) for any term not exceeding three years;

17 (23) Fuel for the purpose of generating electricity for a term not
18 to exceed eight years;

19 (24) The purchase of electricity or administrative or dispatching
20 services related to the transmission of such electricity, from a
21 supplier of electricity subject to the jurisdiction of a federal
22 regulatory agency, from a qualifying small power producing facility
23 or qualifying cogeneration facility, as defined by 16 U.S.C.s.796, or
24 from any supplier of electricity within any regional transmission
25 organization or independent system operator or from such
26 organization or operator or their successors, by a contracting unit
27 engaged in the generation of electricity for retail sale, as of May 24,
28 1991, for a term not to exceed 40 years, or by a contracting unit
29 engaged solely in the distribution of electricity for retail sale for a
30 term not to exceed ten years, except that a contract with a
31 contracting unit, engaged solely in the distribution of electricity for
32 retail sale, in excess of ten years, shall require the written approval
33 of the Director of the Division of Local Government Services. If
34 the director fails to respond in writing to the contracting unit within
35 10 business days, the contract shall be deemed approved;

36 (25) Basic life support services, for a period not to exceed five
37 years. For the purposes of this subsection, "basic life support"
38 means a basic level of prehospital care, which includes but need not
39 be limited to patient stabilization, airway clearance,
40 cardiopulmonary resuscitation, hemorrhage control, initial wound
41 care and fracture stabilization;

42 (26) (Deleted by amendment, P.L.1999, c.440.)

43 (27) The provision of transportation services to elderly, disabled
44 or indigent persons for any term of not more than three years. For
45 the purposes of this subsection, "elderly persons" means persons
46 who are 60 years of age or older. "Disabled persons" means
47 persons of any age who, by reason of illness, injury, age, congenital
48 malfunction, or other permanent or temporary incapacity or

1 disability, are unable, without special facilities or special planning
2 or design to utilize mass transportation facilities and services as
3 effectively as persons who are not so affected. "Indigent persons"
4 means persons of any age whose income does not exceed 100
5 percent of the poverty level, adjusted for family size, established
6 and adjusted under section 673(2) of subtitle B, the "Community
7 Services Block Grant Act," Pub.L.97-35 (42 U.S.C.s.9902 (2));

8 (28) The supplying of liquid oxygen or other chemicals, for a
9 term not to exceed five years, when the contract includes the
10 installation of tanks or other storage facilities by the supplier, on or
11 near the premises of the contracting unit;

12 (29) The performance of patient care services by contracted
13 medical staff at county hospitals, correction facilities and long term
14 care facilities, for any term of not more than three years;

15 (30) The acquisition of an equitable interest in a water supply
16 facility pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or a
17 contract entered into pursuant to the "County and Municipal Water
18 Supply Act," N.J.S.40A:31-1 et seq., if the contract is entered into
19 no later than January 7, 1995, for any term of not more than forty
20 years;

21 (31) The provision of water supply services or the financing,
22 construction, operation or maintenance or any combination thereof,
23 of a water supply facility or any component part or parts thereof, by
24 a partnership or copartnership established pursuant to a contract
25 authorized under section 2 of P.L.1993, c.381 (C.58:28-2), for a
26 period not to exceed 40 years;

27 (32) Laundry service and the rental, supply and cleaning of
28 uniforms for any term of not more than three years;

29 (33) The supplying of any product or the rendering of any
30 service, including consulting services, by a cemetery management
31 company for the maintenance and preservation of a municipal
32 cemetery operating pursuant to the "New Jersey Cemetery Act,"
33 N.J.S.8A:1-1 et seq., for a term not exceeding 15 years;

34 (34) A contract between a public entity and a private firm
35 pursuant to P.L.1995, c.101 (C.58:26-19 et al.) for the provision of
36 water supply services may be entered into for any term which, when
37 all optional extension periods are added, may not exceed 40 years;

38 (35) A contract for the purchase of a supply of water from a
39 public utility company subject to the jurisdiction of the Board of
40 Public Utilities in accordance with tariffs and schedules of charges
41 made, charged or exacted or contracts filed with the Board of Public
42 Utilities, for any term of not more than 40 years;

43 (36) A contract between a public entity and a private firm or
44 public authority pursuant to P.L.1995, c.216 (C.58:27-19 et al.) for
45 the provision of wastewater treatment services may be entered into
46 for any term of not more than 40 years, including all optional
47 extension periods;

1 (37) The operation and management of a facility under a license
2 issued or permit approved by the Department of Environmental
3 Protection, including a wastewater treatment system or a water
4 supply or distribution facility, as the case may be, for any term of
5 not more than ten years. For the purposes of this subsection,
6 "wastewater treatment system" refers to facilities operated or
7 maintained for the storage, collection, reduction, disposal, or other
8 treatment of wastewater or sewage sludge, remediation of
9 groundwater contamination, stormwater runoff, or the final disposal
10 of residues resulting from the treatment of wastewater; and "water
11 supply or distribution facility" refers to facilities operated or
12 maintained for augmenting the natural water resources of the State,
13 increasing the supply of water, conserving existing water resources,
14 or distributing water to users;

15 (38) Municipal solid waste collection from facilities owned by a
16 contracting unit, for any term of not more than three years;

17 (39) Fuel for heating purposes, for any term of not more than
18 three years;

19 (40) Fuel or oil for use in motor vehicles for any term of not
20 more than three years;

21 (41) Plowing and removal of snow and ice for any term of not
22 more than three years;

23 (42) Purchases made under a contract awarded by the Director of
24 the Division of Purchase and Property in the Department of the
25 Treasury for use by counties, municipalities or other contracting
26 units pursuant to section 3 of P.L.1969, c.104 (C.52:25-16.1), for a
27 term not to exceed the term of that contract;

28 (43) A contract between the governing body of a city of the first
29 class and a duly incorporated nonprofit association for the provision
30 of water supply services as defined in subsection (16) of this
31 section, or wastewater treatment services as defined in subsection
32 (19) of this section, may be entered into for a period not to exceed
33 40 years;

34 (44) The purchase of electricity generated through class I
35 renewable energy or from a power production facility that is fueled
36 by methane gas extracted from a landfill in the county of the
37 contacting unit for any term not exceeding 25 years;

38 (45) The provision or performance of goods or services for the
39 purpose of producing class I renewable energy or class II renewable
40 energy, as those terms are defined in section 3 of P.L.1999, c.23
41 (C.48:3-51), at, or adjacent to, buildings owned by, or operations
42 conducted by, the contracting unit, the entire price of which is to be
43 established as a percentage of the resultant savings in energy costs,
44 for a term not to exceed 15 years; provided, however, that such
45 contracts shall be entered into only subject to and in accordance
46 with guidelines promulgated by the Board of Public Utilities
47 establishing a methodology for computing energy cost savings and
48 energy generation costs~~].~~ and

1 (46) A power supply contract, as defined pursuant to section
2 3 of P.L. , c. (C.) (pending before the Legislature as this
3 bill), between a member municipality as defined pursuant to section
4 3 of P.L. , c. (C.) (pending before the Legislature as this
5 bill), and the municipal shared services energy authority established
6 pursuant to the provisions of P.L. , c. (C.) (pending before
7 the Legislature as this bill) to meet the electric power needs of its
8 members, for the lease, operation, or management of electric
9 generation within a member municipality's corporate limits and
10 franchise area or the purchase of electricity, or the purchase of fuel
11 for generating units for a term not to exceed 40 years.

12 Any contract for services other than professional services, the
13 statutory length of which contract is for three years or less, may
14 include provisions for no more than one two-year, or two one-year,
15 extensions, subject to the following limitations: a. The contract
16 shall be awarded by resolution of the governing body upon a
17 finding by the governing body that the services are being performed
18 in an effective and efficient manner; b. No such contract shall be
19 extended so that it runs for more than a total of five consecutive
20 years; c. Any price change included as part of an extension shall be
21 based upon the price of the original contract as cumulatively
22 adjusted pursuant to any previous adjustment or extension and shall
23 not exceed the change in the index rate for the 12 months preceding
24 the most recent quarterly calculation available at the time the
25 contract is renewed; and d. The terms and conditions of the
26 contract remain substantially the same.

27 All multiyear leases and contracts entered into pursuant to this
28 section, including any two-year or one-year extensions, except
29 contracts involving the supplying of electricity for the purpose of
30 lighting public streets and contracts for thermal energy authorized
31 pursuant to subsection (1) above, construction contracts authorized
32 pursuant to subsection (9) above, contracts for the provision or
33 performance of goods or services or the supplying of equipment to
34 promote energy conservation through the production of class I
35 renewable energy or class II renewable energy authorized pursuant
36 to subsection (45) above, contracts for water supply services or for
37 a water supply facility, or any component part or parts thereof
38 authorized pursuant to subsection (16), (30), (31), (34), (35), (37) or
39 (43) above, contracts for resource recovery services or a resource
40 recovery facility authorized pursuant to subsection (17) above,
41 contracts for the sale of energy produced by a resource recovery
42 facility authorized pursuant to subsection (18) above, contracts for
43 wastewater treatment services or for a wastewater treatment system
44 or any component part or parts thereof authorized pursuant to
45 subsection (19), (36), (37) or (43) above, and contracts for the
46 purchase of electricity or administrative or dispatching services
47 related to the transmission of such electricity authorized pursuant to
48 subsection (24) above **[and]**, contracts for the purchase of

1 electricity generated from a power production facility that is fueled
2 by methane gas authorized pursuant to subsection (44) above, and
3 power supply contracts authorized pursuant to subsection (46)
4 respectively, shall contain a clause making them subject to the
5 availability and appropriation annually of sufficient funds as may
6 be required to meet the extended obligation, or contain an annual
7 cancellation clause.

8 The Division of Local Government Services in the Department
9 of Community Affairs shall adopt and promulgate rules and
10 regulations concerning the methods of accounting for all contracts
11 that do not coincide with the fiscal year.

12 All contracts shall cease to have effect at the end of the
13 contracted period and shall not be extended by any mechanism or
14 provision, unless in conformance with the "Local Public Contracts
15 Law," P.L.1971, c.198 (C.40A:11-1 et seq.), except that a contract
16 may be extended by mutual agreement of the parties to the contract
17 when a contracting unit has commenced rebidding prior to the time
18 the contract expires or when the awarding of a contract is pending
19 at the time the contract expires.

20 (cf: P.L.2009, c.4, s.8)

21

22 30. (New section) The powers granted under P.L. ,
23 c. (C.) (pending before the Legislature as this bill) shall not
24 limit the powers of municipalities to enter into shared service
25 agreements or contracts, or to establish separate legal entities
26 pursuant to State law or otherwise to carry out their powers under
27 applicable statutory provisions, nor shall the powers granted under
28 P.L. , c. (C.) (pending before the Legislature as this bill)
29 limit the powers reserved to municipalities by State law.

30

31 31. This act shall take effect immediately.

32

33

34

STATEMENT

35

36 This bill would authorize three or more municipalities that
37 currently operate retail electric distribution systems to establish a
38 municipal shared services energy authority ("authority"). Once
39 established, the bill would authorize a rural electric cooperative in
40 existence on the effective date of the bill to become a member of
41 the authority.

42 The bill would authorize the authority to purchase, sell, exchange
43 or transmit at wholesale, electric power or energy. The authority
44 would be authorized to enter into wholesale power supply contracts
45 for the purchase or sale of electric power or energy to meet the
46 electric power or energy needs of its members and for the wholesale
47 sale of any excess power. The bill authorizes such power supply
48 contracts to extend for a term not to exceed 40 years. In addition,

1 the authority would have the power to develop, finance, construct,
2 own, operate, manage, or repair electric supply projects within the
3 corporate limits and franchise areas of its members, for the
4 generation and transmission of electrical power and energy at
5 wholesale, to meet the energy needs of the members of the
6 authority. The authority would have the power to purchase, sell,
7 lease, and make other arrangements, contractual and otherwise, with
8 respect to generation, transmission, pooling, and provision of
9 electric power and energy at wholesale.

10 The bill authorizes the authority to issue bonds to finance any
11 project authorized under the bill, to pay the cost of any part of an
12 electric supply project, to fulfill the terms of a power supply
13 contract, or to provide for collateral or performance security
14 measures.

15 The bill would also amend the "Local Public Contracts Law,"
16 P.L.1971, c.198 (C.40A:11-1 et seq.) to: (1) exempt from public
17 bidding requirements contracts for the provision of electricity by a
18 municipal shared services energy authority; (2) extend the
19 authorized duration to 20 years of any contract for the leasing or
20 servicing of machinery or equipment used in the generation of
21 electricity by a contracting unit; and (3) allow any power supply
22 contract between a contracting unit and a municipal shared services
23 energy authority for the lease, operation, or management of electric
24 generation or the purchase of electricity, or the purchase of fuel for
25 generating units to extend for a term of up to 40 years.

ASSEMBLY TELECOMMUNICATIONS AND UTILITIES
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 2385

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 20, 2014

The Assembly Telecommunications and Utilities Committee reports favorably and with committee amendments Assembly Bill No. 2385.

As amended and reported, this bill authorizes three or more municipalities that currently operate retail electric distribution systems to establish a municipal shared services energy authority (authority). Once established, the bill authorizes a rural electric cooperative in existence on the effective date of the bill to become a member of the authority.

The bill authorizes the authority to purchase, sell, exchange, or transmit at wholesale, electric power or energy. The authority is to be authorized to enter into wholesale power supply contracts for the purchase or sale of electric power or energy to meet the electric power or energy needs of its members and for the wholesale sale of any excess power. The bill authorizes the formation of power supply contracts for a term not to exceed 40 years. In addition, the authority is authorized to develop, finance, construct, own, operate, manage, or repair electric supply projects within the corporate limits and franchise areas of its members for the generation and transmission of electrical power and energy at wholesale to meet the energy needs of the members of the authority. The authority is authorized to purchase, sell, lease, and make other arrangements, contractual, and otherwise, with respect to generation, transmission, pooling, and the provision of electric power and energy at wholesale.

The bill authorizes the authority to issue bonds to finance any project authorized under the bill, to pay the cost of any part of an electric supply project, to fulfill the terms of a power supply contract, or to provide for collateral or performance security measures.

The bill amends the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) to: (1) exempt from public bidding requirements contracts for the provision of electricity by a municipal shared services energy authority; (2) extend the authorized duration to 20 years of any contract for the leasing or servicing of machinery or

equipment used in the generation of electricity by a contracting unit; and (3) allow any power supply contract between a contracting unit and a municipal shared services energy authority for the lease, operation, the management of electric generation, the purchase of electricity, or the purchase of fuel for generating units to extend for a term of up to 40 years.

COMMITTEE AMENDMENTS:

The committee amended the bill to correct citation, grammar, punctuation, and to update preferred style and usage.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 2385

STATE OF NEW JERSEY 216th LEGISLATURE

DATED: MARCH 27, 2014

SUMMARY

- Synopsis:** Authorizes rural electric cooperative and certain municipalities to establish municipal shared services energy authority.
- Type of Impact:** Possible savings in contract expenses and a resulting reduction in electricity costs for municipal electric utility customers.
- Agencies Affected:** Municipalities operating retail electric distribution systems.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost		none	
Local Savings	\$6.57 million to \$67.71 million for municipal electric utilities- See comments below		

- The Office of Legislative Service (OLS) estimates that if all nine municipalities and the rural electric cooperative joined the municipal shared services energy authority, they could realize a total savings between \$6.57 million to \$67.71 million in energy prices compared with wholesale purchase in the marketplace as individual buyers.
- Customers of the municipal electric utilities could eventually realize a savings of between 0.5 cents and four cents per kilowatt hour on their electric bills for an annual household savings between \$55 to \$440 per year based upon the national average of 11 megawatt hours (MWh) of annual household consumption.
- It is not known, at this time, which of the nine municipal electric utilities or the cooperative eligible to form the authority would choose to join, and how much, if any, of the 360 megawatt (MW) in potential total capacity the authority would choose to produce on its own.

BILL DESCRIPTION

Assembly Bill No. 2385 (1R) of 2014 authorizes three or more municipalities that operate retail electric distribution systems to establish a municipal shared services energy authority (authority). Once established, the bill would authorize a rural electric cooperative (cooperative), in existence as of the effective date of the bill, to become a member of the authority. The bill authorizes the authority to enter into contracts with municipal electric utilities, other public agencies, and private entities for the purchase and sale at wholesale of electricity inside and outside of New Jersey, consistent with federal law. Under current law, the joint operation of municipal electric facilities under a joint meeting arrangement is not permitted under the "Uniform Shared Services and Consolidation Act," P.L.2007, c.63 (C.40A:65-1 through C.40A:65-35).

The purpose of the authority is to develop safe, reliable electric energy resources for the generation and transmission of electric power and energy, including the utilization of renewable capacity and energy, at wholesale for the benefit of the customers of municipal electric utility systems and rural electric cooperatives in New Jersey.

The authority is empowered to plan, finance, develop, acquire, construct, reconstruct, improve, own, operate, and participate in, as joint or sole owner, electric supply projects, and be able to purchase, sell, lease, and make other arrangements, contractual and otherwise, of every kind and description, with respect to the generation, transmission, pooling, and provision of electric power and energy at wholesale. The authority would be able to develop generation projects using fuel sources generated by other public agencies, such as garbage, trash and other waste materials, and using renewable resources, such as solar energy, wind power, and geothermal energy, as well as traditional fossil fuel resources.

The bill also provides for the authority to have bonding powers, and other general powers related to that of an independent legal entity. The bill amends the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) to: (1) exempt from public bidding requirements contracts for the provision of electricity by an authority; (2) extend the authorized duration to 20 years of any contract for the leasing or servicing of machinery or equipment used in the generation of electricity by a contracting unit; and (3) allow any power supply contract between a contracting unit and an authority for the lease, operation, or management of electric generation or the purchase of electricity, or the purchase of fuel for generating units to extend for a term of up to 40 years.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The proposed bill will impact the nine municipalities that have retail electric distribution systems (municipal utilities), i.e., Butler, Lavallette, Madison, Milltown, Park Ridge, Pemberton, Seaside Heights, South River, and Vineland, and will also impact the Sussex Rural Electric Cooperative. According to the U.S. Energy Information Administration, the nine municipal utilities provided electric power to 63,467 customers in 2008, of which 54,971 were residential

customers. This amounts to 1.6 percent of total residential electric power customers in the State. In 2008, these nine municipal utilities generated \$178.6 million in revenue on sales of 1.2 million MWh of electric power. This results in an average retail cost to municipal utility consumers of 14.85 cents per kilowatt hour (KWh) of electric power, compared with a State-wide average cost for residential customers in 2008 of 15.66 cents per KWh.

Based upon the municipal utilities distribution of 1.2 million MWh of electric power in 2008, a change of one cent in the retail price of electric power is expected to result in a \$12 million change in total electric prices paid by their customers. This would amount to roughly \$189 per year for an electric power customer, which includes some non-residential customers. The 2008 average U.S. household consumption of electric power was 11.04 MWh per year. A one cent change in electric power prices for the average U.S. household would amount to \$110 per year. The average savings of a household served by the municipality is likely closer to \$110 per year.

The OLS finds that the market for wholesale energy is volatile and that variance in the price of wholesale electricity could be greater than the savings that can be realized through this bill in the form of greater scale and purchasing power for the municipal utilities and cooperative. This makes any concrete estimate of savings from scale very difficult because shifts in the market may obscure any savings attributable to the bill. Market timing and luck may have a greater impact on the electric power price received at wholesale auction than the size of the authority. Despite this issue, over a long period of time and correcting for the volatility of market prices, OLS finds that the municipal utilities could realize an indeterminate, but small positive impact on the wholesale price of electric power that they purchase solely due to increase in scale by buying and selling in the wholesale market as a single entity.

The bill also provides the authority with bonding powers and the ability to develop its own electric power generation projects. While it is not yet possible to know whether the authority would choose to develop generation projects, it is clear that the combined financial strength of the municipalities which create the authority provides the scale necessary to undertake generation projects that would not be financially feasible for municipalities operating independently of each other. By operating as a combined entity, the authority would have access to lower borrowing rates and higher borrowing capacity. It is also the case that any project undertaken would likely allow the authority to generate and distribute electric power at a lower price than if the individual municipalities purchased the electric power at auction.

When purchasing electric power, there are two markets in which municipalities must participate. The first is the Reliability Pricing Model (RPM) market for peak capacity established by PJM Interconnection, the regional power pool serving New Jersey. The RPM market operates by taking bids from each electric power producer in the region. The market will then accept the bids from lowest to highest until the full peak demand need is met. The market then charges all buyers at the market price of the highest bid, and distributes those bids to the sellers at the price of the highest accepted bid. As a result, the price of peak capacity on the RPM market is set at the highest marginal cost of production in the entire region. This is essentially the amount paid to power plants to maintain standby production capacity so that the grid can avoid brownouts and other supply shortages.

The nine municipalities eligible to form the authority purchase roughly 360 MW of peak energy. A consultant's report that the Board of Public Utilities commissioned for the Long-Term Capacity Agreement Pilot Program, projected over the next 10 years that the cost per MW on the RPM market will average roughly \$300 per MW. Based on estimates provided by Vineland, which is already in the advanced stages of securing additional production capacity through a natural gas-fired power plant, it appears that Vineland will be able to supply 30 MW of its own peak demand at a price of roughly \$150 per MW. The OLS agrees with Vineland's assessment that the additional capacity could be produced at a cost of \$150 per MW. Their estimate is

confirmed by the 2008 New Jersey Energy Master Plan (master plan) which found that among different power plant types, gas turbine power plants have the lowest construction cost, and lowest fixed operation cost, while having among the highest marginal costs. That means that a gas turbine power plant similar to what Vineland is constructing would be expensive in terms of per unit of production basis, but would be relatively affordable to build and relatively easy to start up and shut down in response to market prices, allowing them to achieve cost savings in peak periods by producing at lower cost than the market price, and then to shut the plant down and take advantage of market prices in lower demand periods, and finally to avoid the RPM peak capacity market altogether by having their own power plant capacity.

The OLS estimates that on the RPM peak capacity market, the authority could provide 360 MW of its own peak demand at a price between \$150/MW and \$250/MW. The \$150/MW savings estimate is based upon the current cost estimates of Vineland which is confident enough in its numbers that it has already begun construction of a new 30 MW power plant that is being used at the basis for these estimates. The master plan identifies the 2005 operating cost for power plants around the State and the range of operating costs in 2005 for gas power plants was between \$75/MW and \$150/MW. The most expensive plants are likely older and less efficient plants which were constructed in the past. Operating costs for newly constructed plants could reasonably be expected to have a lower operation cost. Based upon the master plan estimates for the cost of constructing a gas turbine power plant, it is reasonable to expect financing costs at roughly double the operating costs. Based on this information, OLS estimates a cost of operating a new plant of roughly \$75/MW to \$125/MW and then estimates that financing costs would roughly double the operating estimate for a total cost of \$150/MW to \$250/MW. At \$150/MWday compared with an average market price of \$300/MW day over the next 20 years for the municipalities, total savings per year would be \$19.71 million ($\$150 \text{ savings} \times 365 \text{ days} \times 360 \text{ MW}$). At \$250/MW day the savings would be \$6.57 million ($\$50 \text{ savings} \times 365 \text{ days} \times 360 \text{ MW}$). This is the range of annual savings that the authority would realize through the construction of its own power plants to handle peak demand, rather than purchasing the demand at market. The construction of these power plants is made possible by the lower cost of borrowing and the increased financial resources at the disposal of the municipalities as a single power authority rather than operating on their own.

The second market that a municipality participates in is the wholesale spot energy market in which electric power is purchased per KWh for the actual electric power consumed by retail customers. The rates at this market can vary widely by time and location depending upon the electric power demand placed on the grid at any point and the distance between the electric power production and the electric public utility customer. While calculating the financial viability of constructing its new power plant, Vineland anticipated that it could save approximately 25 percent compared with purchasing electric power on the spot market by using the power plant approximately 4,000 hours per year during the times in which spot prices are the highest, for a total savings of \$5 million per year for a single natural-gas fired power plant with a capacity of 30 MW. The estimate of 25 percent is reasonable when compared with the master plan estimates of generation costs for different types of newly constructed power plants, which again would be more cost effective than older power plants of the same type currently contributing to market prices. The new plants would also be providing power in the towns they are located, substantially decreasing the energy loss from moving the power long distances over power lines from places such as Pennsylvania or Maryland, which currently happens with the more expensive market rate electric power that the municipal utilities must purchase currently. The master plan estimates that a new gas turbine plant will have a maximum marginal cost of \$6/MWh of variable operating costs and \$8.50/KW-year in fixed operating costs, compared with minimum cost estimates of \$6.50 and \$35 for integrated gas combined cycle power plants; \$4

and \$30 for combined heat and power plants without chillers; and \$2 and \$50 for biomass power plants. All of these plant types are also more expensive than gas turbine plants to construct. Given these costs estimates for new power plants, it is more than reasonable to estimate that the authority could achieve savings in the range of 25 percent by running gas plants during the peak periods in which the spot market prices would reflect the cost of buying energy from these plant types rather than the much more affordable base load supplied by coal or nuclear power plants.

The OLS finds that the estimate of Vineland for its power plant is a relatively optimal scenario, considering the amount of time that they believe they can produce at a lower cost than the market price of 4,000 hours per year. For the entire 360 MW generated by the municipal utilities, it may be possible to save an average of \$4 million per 30 MW plant. Some plants may save more while others would realize lower savings, due to differing market prices by location in the State and the current market rate prices being paid by each of the nine municipal utilities. A pessimistic scenario would result in no savings on the spot market, if the production cost at the plants was greater than or equal to the spot market price for electric power. In the capacity market there will always be a savings though, as simply having the power plant capacity available allows the authority to avoid participating in the capacity market, and the authority is estimated to be able to produce its own capacity for the market at least \$50/MW more cheaply than the 20-year estimated RPM market price. If the \$4 million average savings is extended for a single 30 MW power plant over the entire 360 MW generated by the authority, the total potential savings compared with buying power at the spot market would be up to \$48 million per year under the optimal scenario.

This means that the total savings would range from \$0 at spot market and \$6.57 million RPM capacity market on the low side and \$48 million spot market and \$19.71 million RPM capacity market on the high side for a range of savings between \$6.57 million and \$67.71 million to the municipal utilities which would mostly be passed along to customers of the authority. This would likely result in a per kilowatt hour savings to residential customers in the nine municipalities of roughly 0.5 cents to four cents per kilowatt hour. At a national average of 11 MWh per year of household consumption, that would result in \$55 to \$440 per year in savings to a household. All of this assumes that all nine municipalities and the Sussex Rural Electric Cooperative join the authority and that the authority installs 360 MW of its own generating capacity.

Section: Authorities, Utilities, Transportation and Communications

*Analyst: Patrick Brennan
Associate Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2385

STATE OF NEW JERSEY

DATED: JUNE 23, 2015

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 2385 (1R).

This bill authorizes three or more municipalities that currently operate retail electric distribution systems to establish a municipal shared services energy authority (authority). Once established, the bill authorizes a rural electric cooperative in existence on the effective date of the bill to become a member of the authority. Under the bill, only one authority may be established.

The bill may impact the nine municipalities that have retail electric distribution systems (municipal utilities), i.e., Butler, Lavallette, Madison, Milltown, Park Ridge, Pemberton, Seaside Heights, South River, and Vineland, and will also impact the Sussex Rural Electric Cooperative.

The bill authorizes the authority to purchase, sell, exchange, or transmit at wholesale, electric power or energy. The authority is to be authorized to enter into wholesale power supply contracts for the purchase or sale of electric power or energy to meet the electric power or energy needs of its members and for the wholesale sale of any excess power. The bill authorizes the formation of power supply contracts for a term not to exceed 40 years. In addition, the authority is authorized to develop, finance, construct, own, operate, manage, or repair electric supply projects within the corporate limits and franchise areas of its members for the generation and transmission of electrical power and energy at wholesale to meet the energy needs of the members of the authority. The authority is authorized to purchase, sell, lease, and make other arrangements, contractual, and otherwise, with respect to generation, transmission, pooling, and the provision of electric power and energy at wholesale.

The bill authorizes the authority to issue bonds to finance any project authorized under the bill, to pay the cost of any part of an electric supply project, to fulfill the terms of a power supply contract, or to provide for collateral or performance security measures.

The bill amends the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) to: (1) exempt from public bidding requirements contracts for the provision of electricity by the authority;

(2) extend the authorized duration to 20 years of any contract for the leasing or servicing of machinery or equipment used in the generation of electricity by a contracting unit; and (3) allow any power supply contract between a contracting unit and the authority for the lease, operation, the management of electric generation, the purchase of electricity, or the purchase of fuel for generating units to extend for a term of up to 40 years.

As reported, Assembly Bill No. 2385 (1R) is identical to Senate Bill No. 944 (1R), which was amended and reported by the committee on this date.

FISCAL IMPACT:

The Office of Legislative Service (OLS) estimates that if all nine municipalities and the rural electric cooperative joined the municipal shared services energy authority, they could realize a total savings of between \$6.57 million and \$67.71 million in energy prices compared with wholesale purchase in the marketplace as individual buyers. Customers of the municipal electric utilities could eventually realize a savings of between 0.5 cents and four cents per kilowatt hour on their electric bills for an annual household savings of between \$55 and \$440 per year based upon the national average of 11 megawatt (MW) hours of annual household consumption. It is not known, at this time, which of the nine municipal electric utilities or the cooperative eligible to form the authority would choose to join, and how much, if any, of the 360 MW in potential total capacity the authority would choose to produce on its own.

SENATE, No. 944

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED JANUARY 16, 2014

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator RICHARD J. CODEY

District 27 (Essex and Morris)

Co-Sponsored by:

Senator Pennacchio

SYNOPSIS

Authorizes those municipalities and a rural electric cooperative that currently provide electric service at retail to establish a municipal shared services energy authority.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/28/2014)

1 AN ACT authorizing the creation of a municipal shared services
2 energy authority to provide for shared facilities, powers and
3 services, amending P.L.1971, c.198 and supplementing Title 40A
4 of the Revised Statutes.

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

8
9 1. (New section) This act shall be known and may be cited as
10 the "Municipal Shared Services Energy Authority Law."

11
12 2. (New section) The Legislature finds and declares that for
13 many years, municipalities in the State have had the power to
14 construct and maintain facilities for the generation of electricity;
15 that nine municipalities and one rural electric cooperative presently
16 own and operate electric utility systems for the benefit of their
17 residents and businesses; and that the generation and distribution of
18 electricity has evolved from a local and statewide endeavor into a
19 national marketplace and such evolution has resulted in a system
20 where the size and sophistication of the market participants
21 influence the ability to efficiently compete in the marketplace.

22 The Legislature further finds and declares that the ability to
23 reserve sufficient electric capacity at reasonable prices to ensure
24 safe, reliable and efficient electrical power to local businesses and
25 residents is paramount in the present marketplace, and such ability
26 is contingent on the power to contract for the generation or delivery
27 of a sufficient quantity of wholesale power and to act as a
28 contracting partner in long term, short term, and spot market
29 wholesale power supply contracts; that given this evolution of the
30 electric supply marketplace, the municipal electric utilities
31 operating in New Jersey must be authorized to act jointly to achieve
32 greater efficiencies in the procurement and generation of electric
33 power at the wholesale level to benefit the retail customers in the
34 participating municipalities.

35 The Legislature further finds and declares that the operation of
36 electric utility systems by municipalities and the improvement of
37 these systems through joint action in the wholesale procurement of
38 electricity and transmission services, and in the generation,
39 transmission, and distribution of electric power and energy within
40 the corporate limits and franchise areas of the participating
41 municipalities, are in the public interest; that the establishment of a
42 municipal shared services energy authority by municipalities that
43 currently own or operate electric utility systems will ensure the
44 continued viability and stability of these systems, by enabling the
45 municipalities to act jointly to develop coordinated bulk power and

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 fuel supply programs, and to post collateral and act as a market
2 participant in such programs, thereby providing the means to pursue
3 efficiencies and savings for retail customers within their corporate
4 limits and franchise areas.

5 The Legislature therefore determines that it is in the public
6 interest to permit those existing municipally-owned or operated
7 electric utility systems to act jointly through the voluntary creation
8 of a single municipal shared services energy authority, and to
9 authorize the authority to perform according to standard electric
10 industry practices, in order to aid in promoting the stability and
11 viability of such systems and to achieve the efficiencies and savings
12 for the retail customers of these utility systems located within the
13 corporate limits and franchise area of the participating
14 municipalities.

15

16 3. (New section) As used in P.L. , c. (C.) (pending
17 before the Legislature as this bill):

18 "Bonds" means any bonds, interim certificates, notes,
19 debentures, or other obligations issued by the municipal shared
20 services energy authority pursuant to P.L. , c. (C.)
21 (pending before the Legislature as this bill).

22 "Collateral" means cash, letters of credit, or other security of a
23 party to a wholesale power supply contract acceptable to the
24 counterparty, which shall be valued in accordance with the terms of
25 the applicable wholesale power supply contract and which shall be
26 otherwise consistent with electric industry standards in the
27 marketplace, and which shall secure the obligations of the
28 municipal shared services energy authority and its counterparty
29 under a wholesale power supply contract.

30 "Cost" means, in addition to the usual connotations thereof, the
31 cost of acquisition or construction of all or any part of an electric
32 supply project located within the corporate limits and franchise
33 areas of the members and of all or any property, rights, easements,
34 privileges, agreements, and franchises deemed by the authority to
35 be necessary or useful and convenient therefor or in connection
36 therewith, including interest or discount on bonds, cost of issuance
37 of bonds, engineering and inspection costs and legal expenses, cost
38 of financial, professional and other estimates and advice,
39 organization, administrative, operating, and other expenses of the
40 municipal shared services energy authority prior to and during such
41 acquisition or construction, and all such other expenses as may be
42 necessary or incident to the financing, acquisition, construction, and
43 completion of an electric supply project or part thereof, and the
44 placing of such a project in operation, and also such provision or
45 reserves for working capital, operating, maintenance or replacement
46 expenses or for payment or security of principal of, or interest on,
47 bonds during or after such acquisition or construction as the
48 authority may determine, and also reimbursements to the authority

1 or any county, municipality, or other person of any moneys
2 theretofore expended for the purposes of the authority or to any
3 county or municipality of any moneys theretofore expended for or
4 in connection with electric utility systems and facilities.

5 "Electric supply project" or "project" means (1) any plant,
6 works, system, facility, and real and personal property of any nature
7 whatsoever, together with all parts thereof and appurtenances
8 thereto, located within the corporate limits and franchise areas of
9 the members, that are used or useful in the generation, production,
10 transmission, distribution, purchase, sale, exchange, or interchange
11 of electric power and energy, in whole or in part, (2) the acquisition
12 of fuel of any kind for the generation or production within the
13 corporate limits and franchise areas of the members, of electric
14 power and energy, or (3) the transportation, storage, or reprocessing
15 of such fuel, or any conservation measures, for the benefit of the
16 members, including the utilization of renewable capacity and
17 energy, or any interest therein or right to capacity thereof that
18 occurs within the corporate limits and franchise areas of the
19 members.

20 "Energy" means (1) the output of an electric supply project
21 measured in megawatt hours or kilowatt hours, or (2) that portion
22 of a wholesale power supply contract measured in megawatt hours
23 or kilowatt hours.

24 "Inter-municipal agreement" means an agreement as provided in
25 section 5 of P.L. , c. (C.) (pending before the Legislature as
26 this bill), adopted by the members creating the municipal shared
27 services energy authority and defining the rights and responsibilities
28 of the authority and its members, as may be amended as provided
29 herein to, among other things, add a rural electric cooperative that
30 exists in the State on the effective date of P.L. , c. (C.)
31 (pending before the Legislature as this bill), as a member.

32 "Local Finance Board" means the Local Finance Board in the
33 Division of Local Government Services in the Department of
34 Community Affairs.

35 "Member" means a municipality or a rural electric cooperative
36 that, on the effective date of P.L. , c. (C.) (pending before the
37 Legislature as this bill), provides electric service to customers
38 within the State and that enters into an initial or amended inter-
39 municipal agreement of a municipal shared services energy
40 authority.

41 "Member municipality" means a municipality that, on the
42 effective date of P.L. , c. (C.) (pending before the Legislature
43 as this bill), operates a retail electric distribution system pursuant to
44 R.S.40:62-12 et seq., that joins with other member municipalities to
45 create or join the municipal shared services energy authority
46 pursuant to section 4 of P.L. , c. (C.) (pending before the
47 Legislature as this bill).

1 "Municipal shared services energy authority" or "authority"
2 means the authority created pursuant to section 4 of P.L. , c. (C.)
3 (pending before the Legislature as this bill).

4 "Person" means a natural person, a public agency, cooperative or
5 private corporation, association, firm, statutory trust, partnership, or
6 business trust of any nature whatsoever, organized and existing
7 under the laws of any state.

8 "Power supply contract" means a contractual arrangement (1)
9 between the authority and another person for the purchase of
10 wholesale electric power and energy by the authority for its
11 members; (2) between the authority and its members for the sale of
12 wholesale sale of electric power and energy produced by the
13 authority's generation facilities; or (3) between the authority and
14 any other person for the wholesale sale of excess electric power and
15 energy purchased or produced by the authority that is not needed to
16 serve the load within the corporate limits and franchise areas of the
17 members, but shall not include a contract for the sale of excess
18 power by the authority to any other municipality.

19 "Public agency" means any municipality or other municipal
20 corporation, political subdivision, government unit or public
21 corporation created under the laws of this State or of another state
22 or of the United States, and any state, and the United States, and
23 any person, board or other body declared by the laws of any state or
24 the United States to be a department, agency or instrumentality
25 thereof.

26 "Rural electric cooperative" means a non-profit utility in
27 existence on the effective date of P.L. , c. (C.) (pending before
28 the Legislature as this bill), that serves customers within the State
29 and that is exclusively owned and controlled by the customers it
30 serves, and which is exempt from Board of Public Utilities
31 jurisdiction pursuant to section 1 of P.L.1983, c.78 (C.48:2-13.1).

32
33 4. (New section) a. Any combination of three or more
34 municipalities that, on the effective date of P.L. , c. (C.)
35 (pending before the Legislature as this bill), operate retail electric
36 distribution systems pursuant to R.S.40:62-12 et seq. may, by
37 adoption of parallel ordinances approving an inter-municipal
38 agreement, establish a separate legal entity to be known as the
39 "municipal shared services energy authority" to be used by its
40 members to effect joint development of electric energy resources or
41 production, distribution, and transmission of electric power and
42 energy, including the utilization of renewable capacity and energy,
43 in whole or in part, for the benefit of its members. Notwithstanding
44 any other law to the contrary, following approval by the Local
45 Finance Board within the Division of Local Government Services in
46 the Department of Community Affairs pursuant to subsection b. of
47 this section, the final adoption by the municipalities of the parallel
48 ordinances, and due execution by the municipalities, the inter-

1 municipal agreement shall have a term as provided by the inter-
2 municipal agreement. The member municipalities that enter into the
3 inter-municipal agreement may thereafter amend the inter-
4 municipal agreement as provided in subsection e. of this section.

5 Only one municipal shared services energy authority may be
6 established pursuant to P.L. , c. (C.) (pending before the
7 Legislature as this bill).

8 b. Upon the introduction of the parallel ordinances by each
9 municipality seeking to create the authority, but before final
10 adoption of the ordinances, copies of the ordinances, together with
11 the proposed inter-municipal agreement, shall be submitted to the
12 Local Finance Board for approval. If, upon submission of a
13 complete application for approval of the proposed inter-municipal
14 agreement, the Local Finance Board does not approve the
15 agreement, it shall specify the reason or reasons therefor, and shall
16 file its statement with the clerk of each member municipality. If the
17 Local Finance Board does not act upon the application for approval
18 of the proposed inter-municipal agreement within 60 days after
19 receipt of the submission of a complete application, then the
20 ordinances and proposed inter-municipal agreement shall be
21 deemed approved and the municipalities may proceed to adopt the
22 proposed ordinances.

23 c. Once the authority has been legally established pursuant to
24 the provisions of P.L. , c. (C.) (pending before the Legislature
25 as this bill), only those municipalities that operate a retail electric
26 distribution system pursuant to R.S.40:62-12 et seq. on the effective
27 date of P.L. , c. (C.) (pending before the Legislature as this bill)
28 may join the authority as provided in paragraphs (1) and (2) of this
29 subsection.

30 (1) A municipality requesting to become a member of the
31 authority shall negotiate an amended inter-municipal agreement on
32 terms and conditions acceptable to the members. Once an amended
33 inter-municipal agreement has been agreed to, it shall be submitted
34 for approval to the board of commissioners of the authority.
35 Adoption of an amended inter-municipal agreement shall require
36 approval by a two-thirds majority vote of the full membership of the
37 board of commissioners, approval by the Local Finance Board of
38 the proposed amended agreement, and final adoption by each
39 member municipality of an ordinance approving the proposed
40 agreement, as provided in subsection e. of this section.

41 (2) The municipality requesting to become a member of the
42 authority shall introduce an ordinance approving the amended inter-
43 municipal agreement as approved by the board of commissioners of
44 the authority. Upon the introduction of the ordinance, but before
45 final adoption of such ordinance, copies of the ordinance, together
46 with the proposed amended inter-municipal agreement, shall be
47 submitted to the Local Finance Board for approval. If, upon
48 submission of a complete application for approval of the proposed

1 amended inter-municipal agreement, the Local Finance Board does
2 not approve the agreement, it shall specify the reason or reasons,
3 therefor, and shall file its statement with the clerk of each member
4 municipality. If the Local Finance Board does not disapprove the
5 application for approval of the proposed amended inter-municipal
6 agreement within 60 days after receipt of a complete application,
7 then the ordinance and proposed amended inter-municipal
8 agreement shall be deemed approved and the municipality may
9 proceed to adopt the proposed ordinance.

10 d. Once the authority has been established, it may add a rural
11 electric cooperative that exists on the effective date of P.L. , c.
12 (C.) (pending before the Legislature as this bill) as a member as
13 provided in paragraphs (1) and (2) of this subsection.

14 (1) A rural electric cooperative requesting to become a member
15 of the authority and the board of commissioners of the authority
16 shall negotiate an amended inter-municipal agreement on terms and
17 conditions acceptable to the parties. Once an amended inter-
18 municipal agreement has been agreed to, it shall be submitted for
19 approval by the board of commissioners. Adoption of an amended
20 inter-municipal agreement shall require approval by a two-thirds
21 majority vote of the full membership of the board of commissioners
22 and approval by ordinance of each member municipality as
23 provided in subsection e. of this section.

24 (2) The authority shall submit the proposed amended inter-
25 municipal agreement for approval to the Local Finance Board. If,
26 upon submission of a complete application for approval of the
27 proposed amended inter-municipal agreement, the Local Finance
28 Board does not approve the agreement, it shall specify the reason or
29 reasons, therefor, and shall file its statement with the clerk of each
30 member municipality. If the Local Finance Board does not act upon
31 the application for approval of the proposed amended inter-
32 municipal agreement within 60 days after receipt of a complete
33 application, then the proposed amended inter-municipal agreement
34 shall be deemed approved.

35 e. Upon approval by the board of commissioners of an
36 amended inter-municipal agreement, each member municipality
37 shall introduce an ordinance approving the amended inter-municipal
38 agreement. Before final adoption of the ordinances, copies of the
39 ordinances, together with the proposed amended inter-municipal
40 agreement, shall be submitted to the Local Finance Board for
41 approval. If, upon submission of a complete application for
42 approval of the proposed amended inter-municipal agreement, the
43 Local Finance Board does not approve the agreement, it shall
44 specify the reason or reasons, therefor, and shall file its statement
45 with the clerk of each member municipality. If the Local Finance
46 Board does not act upon the application for approval of the
47 proposed amended inter-municipal agreement within 60 days after
48 receipt of the submission of a complete application, then the

1 ordinances and proposed amended inter-municipal agreement shall
2 be deemed approved and the municipalities may proceed to adopt
3 the proposed ordinances.

4

5 5. (New section) The inter-municipal agreement establishing
6 the municipal shared services energy authority pursuant to
7 P.L. , c. (C.) (pending before the Legislature as this bill)
8 shall provide:

9 a. The name and purpose of the authority and the functions or
10 services to be provided by the authority;

11 b. The establishment and organization of a governing board for
12 the authority which shall be a board of commissioners in which the
13 powers of the authority are vested. The inter-municipal agreement
14 may provide for the creation by the board of commissioners of an
15 executive committee to which the power and duties may be
16 delegated as the board shall specify;

17 c. The number of commissioners, the manner of their
18 appointment, the terms of office, if any, and the procedure for
19 filling vacancies on the board. Commissioners shall receive no
20 compensation for their service on the board. Each member shall
21 have the power to appoint one member to the board of
22 commissioners and shall be entitled to remove that member at will;

23 d. The manner of selection of the executive director and staff
24 of the authority and their duties;

25 e. The voting requirements for action by the board; but, unless
26 specifically provided otherwise, a majority of commissioners shall
27 constitute a quorum and a majority of the quorum shall be necessary
28 for any action taken by the board;

29 f. The duties of the board, which shall include the obligation to
30 comply with the "Local Authorities Fiscal Control Law," P.L.1983,
31 c.313 (C.40A:5A-1 et seq.) except as otherwise provided in P.L. ,
32 c. (C.) (pending before the Legislature as this bill), and the laws
33 of this State and, in addition, with every provision in the inter-
34 municipal agreement creating the authority on its part to be kept or
35 performed;

36 g. The manner in which additional municipalities and rural
37 electric cooperatives as authorized pursuant to section 4 of P.L. , c.
38 (C.) (pending before the Legislature as this bill) may become
39 parties to the inter-municipal agreement by amendment;

40 h. The manner in which members may withdraw from
41 participation in the inter-municipal agreement, which shall include
42 a defeasance of such member's pro-rata share of any bonds issued
43 by the authority;

44 i. Provisions for the disposition, division or distribution of any
45 property or assets of the authority on dissolution;

46 j. The term of the inter-municipal agreement, which may be a
47 definite period or until rescinded or terminated, and the method, if
48 any, by which the inter-municipal agreement may be rescinded or

1 terminated, but the inter-municipal agreement may not be rescinded
2 or terminated so long as the authority has bonds outstanding, unless
3 provision for full payment of such bonds, by escrow or otherwise,
4 has been made pursuant to the terms of the bonds or the resolution,
5 trust indenture or security instrument securing the bonds; and

6 k. The terms for payment to the authority of funds for
7 commodities to be procured and services to be rendered by the
8 authority, including authority to enter into purchase agreements
9 between the members and the authority for the purchase of
10 wholesale electric power and energy whereby the member is
11 obligated to make payments or provide collateral in amounts which
12 shall be sufficient to enable the authority to meet its expenses,
13 interest and principal payments, whether at maturity or upon
14 sinking fund redemption, for its bonds, reasonable reserves for debt
15 service, operation and maintenance and renewals and replacements
16 and the requirements of any rate covenant with respect to debt
17 service coverage contained in any resolution, trust indenture or
18 other security instrument. Such purchase agreements between the
19 members and the authority may contain such other terms and
20 conditions as the authority and the members may determine,
21 including provisions whereby a member is obligated to pay for
22 electric power and energy irrespective of whether electric power
23 and energy is produced or delivered to the member or whether any
24 electric supply project contemplated by any such agreement is
25 completed, operable or operating, and notwithstanding suspension,
26 interruption, interference, reduction, or curtailment of the output of
27 such electric supply project. The inter-municipal agreement may
28 further provide that, if one or more of the members defaults in the
29 payment of its obligations under any such purchase agreement, the
30 remaining members, which also have such agreements, shall be
31 required to accept and pay for, and shall be entitled proportionately
32 to use or otherwise dispose of, the power and energy to be
33 purchased by the defaulting purchaser. For purposes of this section,
34 “purchase of electric power and energy” includes the purchase of
35 any right to capacity, or interest in, any electric supply project.

36
37 6. (New section) Nothing in P.L. , c. (C.) (pending
38 before the Legislature as this bill) shall be construed to restrict the
39 right of a person to form a rural electric cooperative or a
40 municipality to engage in functions authorized pursuant to
41 R.S.40:62-12 et seq.

42
43 7. (New section) No commissioner, officer, or employee of the
44 municipal shared services energy authority shall have or acquire
45 any interest, direct or indirect, in any contract or proposed contract
46 or property related to the provision of wholesale electric power,
47 transmission, generation, materials, services or supplies to be
48 furnished to or used by the authority or any of its members.

1 8. (New section) The municipal shared services energy
2 authority shall be a public body politic and corporate, established as
3 an instrumentality exercising public and essential governmental
4 functions to provide for the public health and welfare. The authority
5 shall have the duties, privileges, immunities, rights, liabilities, and
6 disabilities of a public body politic and corporate but shall not have
7 taxing power. The authority shall be a "contracting unit" for
8 purposes of the "Local Public Contracts Law," P.L.1971, c.198
9 (C.40A:11-1 et seq.), shall have perpetual succession, and, to meet
10 the electric power or energy needs of its members, shall have the
11 following powers:

12 a. To adopt and have a common seal and to alter the same at
13 pleasure;

14 b. To sue and be sued;

15 c. To acquire, own, rent, hold, lease, as lessor or lessee, use
16 and sell or otherwise dispose of, mortgage, pledge, or grant a
17 security in, any real or personal property, commodity or service or
18 interest therein;

19 d. To hold or place collateral with a counterparty to a
20 wholesale power supply contract and to account for, value, and use
21 such collateral as provided in the power supply contract
22 notwithstanding any other law or regulation to the contrary;

23 e. To plan, develop, acquire, construct, reconstruct, operate,
24 manage, dispose of, participate in, maintain, repair, extend, or
25 improve one or more electric supply projects within the corporate
26 limits and franchise areas of the members, and act as agent, or
27 designate one or more other persons participating in an electric
28 supply project to act as its agent, in connection with the planning,
29 acquisition, construction, operation, maintenance, repair, extension,
30 or improvement of such electric supply project for generation,
31 production, transmission, and provision to the members of the
32 authority of electrical power and energy at wholesale, to meet the
33 electric power or energy needs of the members, provided that the
34 authority shall not sell electric power or energy at the retail level;

35 f. To enter into franchises, exchange, interchange, pooling,
36 wheeling, or transmission agreements with any person, firm, entity,
37 or public agency in order to purchase wholesale electric power and
38 energy for the members, or to sell excess power and energy
39 purchased or produced by the members' generation assets and not
40 needed to serve load within the corporate limits and franchise areas
41 of the members, and to negotiate for, and buy fuels necessary for
42 the production of electric power and energy within the corporate
43 limits and franchise areas of the members, to develop bulk power
44 and fuel supply programs, and to implement energy conservation
45 measures within the corporate limits and franchise areas of the
46 members as necessary or appropriate, to meet the electric power or
47 energy needs of its members;

- 1 g. To negotiate and enter into power supply contracts pursuant
2 to section 19 of P.L. , c. (C.) (pending before the Legislature
3 as this bill) and to take such actions as are necessary to remain in
4 compliance with the terms of such contracts;
- 5 h. To make and execute such additional contracts and other
6 instruments necessary or convenient to the exercise of its powers;
- 7 i. To employ agents and employees;
- 8 j. To contract with any person, entity or public agency within
9 or outside the State of New Jersey for the construction of any
10 electric supply project within the corporate limits and franchise area
11 of its members or for the purchase, sale or transmission of electric
12 power and energy generated by any electric supply project located
13 within the corporate limits and franchise area of its members, in
14 whole or in part, for the benefit of its members, or for any interest
15 or share therein, or any right to capacity thereof, on such terms and
16 for such period of time as its board shall determine, provided that
17 the authority shall not enter into any contract that speculates in the
18 energy markets and the authority shall not construct or contract for
19 the construction of any electric supply project that, when added to
20 the existing authority-owned or co-owned generation assets, will
21 produce more than 105% of the power and energy requirements of
22 the members;
- 23 k. To purchase and sell, exchange or transmit electric power
24 and energy at wholesale within and outside the State of New Jersey,
25 consistent with federal law, in such amounts as it shall determine to
26 be necessary or appropriate to make the most effective use of its
27 powers and to meet its responsibilities, to sell, exchange, or
28 transmit excess electric power purchased or produced by electric
29 generation facilities within the corporate limits and franchise areas
30 of its members that is not needed to serve load within those
31 corporate limits and franchise areas;
- 32 l. To co-own an electric generating facility project initiated by
33 any person and constructed outside the corporate limits and
34 franchise area of the members, provided that, (1) the share of
35 authority co-ownership shall be restricted to supply the electric and
36 power needs of the members of the authority, and (2) when added
37 to the aggregate of existing authority-owned or member- owned
38 generation facilities together with co-ownership of facilities outside
39 of the corporate limits and franchise areas of the members, the
40 aggregate produces no more than 105% of the power and energy
41 needs of the members;
- 42 m. To provide for and secure the payment of any bonds and the
43 rights of the holders thereof, and to purchase, hold, and dispose of
44 any bonds;
- 45 n. To accept gifts or grants of real or personal property, money,
46 material, labor, or supplies solely for the purposes and exclusive use
47 and benefit of the municipal shared services energy authority, and
48 to make and perform such agreements and contracts as may be

- 1 necessary or convenient in connection with the procuring,
2 acceptance, or disposition of the gifts or grants;
- 3 o. To make and enforce by-laws or rules and regulations for the
4 management and regulation of its business and affairs and for the
5 use, maintenance, and operation of its properties and to amend the
6 by-laws;
- 7 p. To do and perform any acts and things authorized by P.L. ,
8 c. (C.) (pending before the Legislature as this bill), through or
9 by means of its own officers, agents, and employees, or by contract
10 with any person;
- 11 q. To enter into any and all contracts, execute any and all
12 instruments, and do and perform any and all things or acts
13 necessary, convenient, or desirable for the purposes of the
14 municipal shared services energy authority, or to carry out any
15 power expressly authorized under P.L. , c. (C.) (pending
16 before the Legislature as this bill);
- 17 r. To exercise such powers as are granted to municipalities
18 under R.S.40:62-12 et seq.;
- 19 s. To join organizations, including private or trade
20 organizations, which the board of commissioners has deemed to be
21 beneficial to the accomplishment of the authority's purposes;
- 22 t. To enter into a power supply contract, lease, operation
23 contract, or contract for management of electric generation within
24 the corporate limits and franchise areas of the members, or for the
25 purchase of fuel for electric generation within the corporate limits
26 and franchise areas of the members, to meet the electric power or
27 energy needs of its members, for a term not to exceed 40 years; and
- 28 u. To invest any funds held in reserve or sinking funds, or any
29 funds not required for immediate disbursement, including the
30 proceeds from the sale of any bonds, in such obligations, securities,
31 and other investments as the authority deems to be proper and as the
32 constituent members of the authority are authorized pursuant to law.
33
- 34 9. (New section) a. In order to meet the electric power needs
35 of its members, the municipal shared services energy authority shall
36 have the power to authorize or provide for the issuance of bonds
37 pursuant to P.L. , c. (C.) (pending before the Legislature as
38 this bill) for the purpose of raising funds to pay the cost of any part
39 of an electric supply project, to fulfill the terms of a power supply
40 contract, including any provision for collateral or related
41 performance security measures, and to fund or refund any bonds.
- 42 b. The municipal shared services energy authority shall adopt a
43 bond resolution which shall:
- 44 (1) describe in brief and general terms sufficient for reasonable
45 identification the electric supply project or part thereof, to be
46 constructed or acquired, or describe the bonds which are to be
47 funded or refunded, if any;
- 48 (2) state the cost or estimated cost of the project, if any; and

1 (3) provide for the issuance of the bonds in accordance with
2 sections 10 through 18 of P.L. , c. (C.) (pending before the
3 Legislature as this bill).

4
5 10. (New section) Upon adoption of a bond resolution, the
6 municipal shared services energy authority shall have power to
7 incur indebtedness, borrow money and issue its bonds for the
8 purpose of financing a project to meet the electric power needs of
9 its members or of funding or refunding the bonds issued pursuant to
10 P.L. , c. (C.) (pending before the Legislature as this bill).
11 Such bonds shall be authorized by the bond resolution and may be
12 issued in one or more series and shall bear such date or dates,
13 mature at such time or times not exceeding 40 years from the date
14 thereof, bear interest at a rate or rates within such maximum rate as
15 permitted by law, be in such denomination or denominations, be in
16 such form, either coupon or registered, carry such conversion or
17 registration privileges, have such rank or priority, be executed in
18 such manner, be payable from such sources in such medium of
19 payment at such place or places within or without the State, and be
20 subject to such terms of redemption, with or without a premium, as
21 the bond resolution may provide.

22
23 11. (New section) Bonds of the municipal shared services
24 energy authority may be sold by the municipal shared services
25 energy authority at public or private sale, and at such price or prices
26 as the municipal shared services energy authority shall determine
27 subject to the provisions of P.L.1983, c. 313 (C.40A:5A-1 et seq.).

28
29 12. (New section) The municipal shared services energy
30 authority may cause a copy of any bond resolution adopted by it to
31 be filed for public inspection in its office and in the office of the
32 clerk of the governing body of each member municipality, and may
33 thereupon cause to be published, in a newspaper published or
34 circulating in each member's community, a notice stating the fact
35 and date of this adoption and the places where the bond resolution
36 has been filed for public inspection and also the date of the first
37 publication of the notice and also that any action or proceeding of
38 any kind or nature in any court questioning the validity or proper
39 authorization of bonds provided for by the bond resolution, or the
40 validity of any covenants, agreements or contract provided for by
41 the bond resolution shall be commenced within 20 days after the
42 first publication of the notice. If the notice shall at any time be
43 published and if no action or proceeding questioning the validity of
44 the establishment of the municipal shared services energy authority
45 or the validity or proper authorization of bonds provided for by the
46 bond resolution referred to in the notice, or the validity of any
47 covenants, agreements or contract provided for by the bond
48 resolution shall be commenced or instituted within 20 days after the

1 first publication of the notice, then all residents and taxpayers and
2 owners of property in each of the member municipalities, and all
3 other persons whatsoever, shall be forever barred and foreclosed
4 from instituting or commencing any action or proceeding in any
5 court, or from pleading any defense to any action or proceedings,
6 questioning the validity of the establishment of the municipal
7 shared services energy authority, or the validity or proper
8 authorization of the bonds, or the validity of the covenants,
9 agreements or contracts, and the municipal shared services energy
10 authority shall be conclusively deemed to have been validly
11 established and to be authorized to transact business and exercise
12 powers as an authority pursuant to P.L. , c. (C.) (pending
13 before the Legislature as this bill), and the bonds, covenants,
14 agreements and contracts shall be conclusively deemed to be valid
15 and binding obligations in accordance with their terms and tenor.

16

17 13. (New section) Any provision of any law to the contrary
18 notwithstanding, any bond or other obligation issued pursuant to
19 P.L. , c. (C.) (pending before the Legislature as this bill)
20 shall be fully negotiable within the meaning and for all purposes of
21 the negotiable instruments law of this State, and each holder or
22 owner of such a bond or other obligation, or of any coupon
23 appurtenant thereto, by accepting such bond or coupon shall be
24 conclusively deemed to have agreed that such bond, obligation or
25 coupon is and shall be fully negotiable within the meaning and for
26 all purposes of the State's negotiable instruments law under Title
27 12A of the New Jersey Statutes.

28

29 14. (New section) Neither the members of the municipal shared
30 services energy authority nor any person executing bonds issued
31 pursuant to P.L. , c. (C.) (pending before the Legislature as
32 this bill) shall be liable personally on the bonds by reason of the
33 issuance thereof. Bonds or other obligations issued pursuant to
34 P.L. , c. (C.) (pending before the Legislature as this bill)
35 shall not be in any way a debt or liability of the State, and bonds or
36 other obligations issued by the municipal shared services energy
37 authority pursuant to P.L. , c. (C.) (pending before the
38 Legislature as this bill) shall not be in any way a debt or liability of
39 the State or of any local unit or of any county or municipality,
40 except for member municipalities guaranteeing such bonds in
41 accordance with the provisions of section 18 of P.L. ,
42 c. (C.) (pending before the Legislature as this bill), and shall
43 not create or constitute any indebtedness, liability or obligation of
44 the State or of any such local unit, county or municipality, either
45 legal, moral, or otherwise, and nothing in P.L. , c. (C.)
46 (pending before the Legislature as this bill) contained shall be
47 construed to authorize the municipal shared services energy

1 authority to incur any indebtedness on behalf of or in any way to
2 obligate the State or any county or municipality.

3

4 15. (New section) Any bond resolution of the municipal shared
5 services energy authority providing for or authorizing the issuance
6 of any bonds may contain provisions, and the municipal shared
7 services energy authority shall, in order to secure the payment of
8 the bonds in addition to its other powers, have the power by the
9 provisions in the bond resolution to covenant and agree with the
10 several holders of the bonds, as to:

11 a. The custody, security, use, expenditure, or application of the
12 proceeds of the bonds;

13 b. The construction and completion, or replacement, of all or
14 any part of an electric supply project of the municipal shared
15 services energy authority or its system;

16 c. The use, regulation, operation, maintenance, insurance, or
17 disposition of all or any part of an electric supply project of the
18 municipal shared services energy authority, or its system, or
19 restrictions on the exercise of the powers of the municipal shared
20 services energy authority to dispose of, limit, or regulate the use of
21 all or any part of the electric supply project or system;

22 d. Payment of the principal of, or interest on, the bonds, or any
23 other obligations, and the sources and methods thereof, the rank or
24 priority of the bonds or obligations as to any lien or security, or the
25 acceleration of the maturity of the bonds or obligations;

26 e. The use and disposition of any monies of the municipal
27 shared services energy authority, including any of the authority's
28 revenues, derived or to be derived from the operation of all or any
29 part of one or more electric supply projects of the municipal shared
30 services energy authority or systems thereof, including any parts
31 thereof that are thereafter constructed or acquired as any of the
32 project's parts, extensions, replacements, or improvements
33 thereafter constructed or acquired;

34 f. Pledging, setting aside, depositing, or acting as trustee for all
35 or any part of the system revenues or other monies of the municipal
36 shared services energy authority to secure the payment of the
37 principal of, or interest on, the bonds or any other obligations, or
38 the payment of expenses of operation or maintenance of one or
39 more electric supply projects of the municipal shared services
40 energy authority or its system, and the powers and duties of any
41 trustee with regard thereto;

42 g. The setting aside out of the system revenues or other monies
43 of the municipal shared services energy authority including its
44 reserves and sinking funds, and the source, custody, security,
45 regulation, application, and disposition thereof;

46 h. Determination or definition of the system revenues or of the
47 expenses of operation and maintenance of the system or one or
48 more of its electric supply projects;

- 1 i. The rents, rates, fees or other charges in connection with the
2 use, products, or services of one or more electric supply projects of
3 the municipal shared services energy authority or its system,
4 including any of the parts, extensions, replacements, or
5 improvements of the project or its system thereafter constructed or
6 acquired, and the fixing, establishment, collection and enforcement
7 of the same, the amount of electric supply project revenues or
8 system revenues to be produced thereby, and the disposition and
9 application of the amounts charged or collected;
- 10 j. The assumption or payment or discharge of any
11 indebtedness, liens, or other claims relating to the whole or any part
12 of one or more electric supply projects of the municipal shared
13 services energy authority or of its system for any obligations having
14 or which may have a lien on any part of the system of the municipal
15 shared services energy authority;
- 16 k. Limitations on the issuance of additional bonds or any other
17 obligations or on the incurrence of indebtedness of the municipal
18 shared services energy authority;
- 19 1. Limitations on the powers of the municipal shared services
20 energy authority to construct, acquire or operate, or to permit the
21 construction, acquisition or operation of, any plants, structures,
22 facilities or properties which may compete or tend to compete with
23 one or more of the municipal shared services energy authority's
24 electric supply projects or any part of its system;
- 25 m. Vesting in a trustee or trustees within or without the State
26 such property, rights, powers, and duties in trust as the municipal
27 shared services energy authority may determine, which may include
28 any or all of the rights, powers, and duties of the trustee appointed
29 by the holders of bonds, and limiting or abrogating the right of the
30 holders to appoint a trustee or limiting the rights, duties, and powers
31 of the trustee;
- 32 n. Payment of costs or expenses incident to the enforcement of
33 the bonds or of the provisions of the bond resolutions or of any
34 covenant or contract with the holders of the bonds;
- 35 o. The procedure, if any, by which the terms of any covenant or
36 contract with, or duty to, the holders of the bonds may be amended
37 or abrogated, the amount of bonds that the holders of which must
38 consent thereto, and the manner in which the consent may be given
39 or evidenced; and
- 40 p. Any other matter or course of conduct which, by recital in
41 the bond resolution, is declared to further secure the payment of the
42 principal of, or interest on, the bonds.
- 43 The provisions of the bond resolution and the covenants and
44 agreements relative thereto shall constitute valid and legally binding
45 contracts between the municipal shared services energy authority
46 and the several holders of the bonds, regardless of the time of
47 issuance of the bonds, and shall be enforceable by any holder or

1 holders by appropriate suit, action or proceeding in any court of
2 competent jurisdiction, or by proceeding in lieu of prerogative writ.

3
4 16. (New section) a. If the bond resolution of the municipal
5 shared services energy authority authorizing or providing for the
6 issuance of a series of its bonds shall provide in substance that the
7 holders of the bonds of such series shall be entitled to the benefits
8 of this section, then, in the event that there shall be a default in the
9 payment of principal of, or interest on, any bonds of such series
10 after the same shall become due, whether at maturity or upon call
11 for redemption, and such default shall continue for a period of 30
12 days, or in the event that the municipal shared services energy
13 authority shall fail or refuse to comply with the provisions of
14 P.L. , c. (C.) (pending before the Legislature as this bill) or
15 shall fail or refuse to carry out and perform the terms of any
16 contract with the holders of any such bonds, and such failure or
17 refusal shall continue for a period of 30 days after written notice to
18 the municipal shared services energy authority of its existence and
19 nature, the holders of 25 percent in aggregate principal amount of
20 the bonds and such series then outstanding by instrument or
21 instruments filed in the office of the Secretary of State and proved
22 or acknowledged in the same manner as a deed to be recorded, may
23 appoint a trustee to represent the holders of the bonds of such series
24 for the purposes provided in this section.

25 b. Such trustee may and upon written request of the holders of
26 25 percent in aggregate principal amount of the bonds of such series
27 then outstanding shall, in the trustee's or its own name:

28 (1) by any action, writ, proceeding in lieu of prerogative writ, or
29 other proceeding, enforce all rights of the holders of such bonds,
30 including the right to require the municipal shared services energy
31 authority to charge and collect service charges adequate to carry out
32 any contract as to, or pledge of, system revenues, and to require the
33 municipal shared services energy authority to carry out and perform
34 the terms of any contract with the holders of such bonds or its
35 duties under P.L. , c. (C.) (pending before the Legislature
36 as this bill);

37 (2) bring an action upon all or any part of such bonds or interest
38 coupons or claims appurtenant thereto;

39 (3) by action, require the municipal shared services energy
40 authority to account as if it were the trustee of an express trust for
41 the holders of such bonds;

42 (4) by action, enjoin any acts or things which may be unlawful
43 or in violation of the rights of the holders of such bonds; and

44 (5) declare all such bonds due and payable, whether or not in
45 advance of maturity, upon 30 days' prior notice in writing to the
46 municipal shared services energy authority and, if all defaults shall
47 be made good, then with the consent of the holders of 25 percent of

1 the principal amount of such bonds then outstanding, annul such
2 declaration and its consequences.

3 c. The trustee shall, in addition to the powers set forth in
4 subsections a. and b. of this section, have and possess all of the
5 powers necessary or appropriate for the exercise of the functions
6 specifically set forth herein or incident to the general representation
7 of the holders of bonds of such series in the enforcement and
8 protection of their rights.

9 d. In any action or proceeding by the trustee, the fees, counsel
10 fees and expenses of the trustee and of the receiver, if any,
11 appointed pursuant to P.L. , c. (C.) (pending before the
12 Legislature as this bill), shall constitute taxable costs and
13 disbursements, and all costs and disbursements, allowed by the
14 court, shall be a first charge upon any service charges and system
15 revenues of the municipal shared services energy authority pledged
16 for the payment or security of bonds of such series.

17

18 17. (New section) If the bond resolution of the municipal shared
19 services energy authority authorizing or providing for the issuance
20 of a series of its bonds shall provide in substance that the holders of
21 the bonds of such series shall be entitled to the benefits of section
22 15 of P.L. , c. (C.) (pending before the Legislature as this
23 bill), and shall further provide in substance that any trustee
24 appointed pursuant to that section or having the powers of such a
25 trustee shall have the powers provided by this section, then such
26 trustee, whether or not all of the bonds of such series shall have
27 been declared due and payable, shall be entitled as of right to the
28 appointment of a receiver of the assets of the authority, and the
29 receiver may enter upon and take possession of the assets of the
30 authority and, subject to any pledge or contract with the holders of
31 such bonds, shall take possession of all moneys and other property
32 derived from or applicable to the acquisition, construction,
33 operation, maintenance, or reconstruction of the assets of the
34 authority, and proceed with such acquisition, construction,
35 operation, maintenance, or reconstruction which the municipal
36 shared services energy authority is under any obligation to do, and
37 operate, maintain and reconstruct the utility system and fix, charge,
38 collect, enforce, and receive the service charges and all system
39 revenues thereafter arising subject to any pledge thereof or contract
40 with the holders of the bonds relating thereto and perform the
41 public duties and carry out the contracts and obligations of the
42 municipal shared services energy authority in the same manner as
43 the municipal shared services energy authority itself might do and
44 under the direction of the court.

45

46 18. (New section) For the purpose of aiding the municipal
47 shared services energy authority in the planning, undertaking,
48 acquisition, construction, financing or operation of any electric

1 supply project authorized pursuant to P.L. , c. (C.)
2 (pending before the Legislature as this bill), a member municipality
3 may, by ordinance of its governing body, in the manner provided
4 for adoption of a bond ordinance as provided in any local bond law
5 and with or without consideration and upon such terms and
6 conditions as may be agreed to by and between the member
7 municipality and the authority, unconditionally guaranty the
8 punctual payment of the principal of, and interest on, all or a
9 portion of any bonds of the authority. Any guaranty of the bonds of
10 the authority made pursuant to this section shall be evidenced by
11 endorsement thereof on the bonds, executed in the name of the
12 member municipality and on its behalf by such officer thereof as
13 may be designated in the ordinance authorizing such guaranty, and
14 the municipality shall thereupon and thereafter be obligated to pay
15 the principal of, and interest on, said bonds in the same manner and
16 to the same extent as in the case of bonds issued by it. Any
17 ordinance authorizing such guaranty shall be treated as a security
18 agreement and shall be subject to the provisions of P.L.1983, c.313
19 (C.40A:5A-1 et seq.). Any such guaranty of bonds of the authority
20 may be made, and any ordinance authorizing such guaranty may be
21 adopted, notwithstanding any statutory debt or other limitations,
22 including particularly any limitation or requirement under or
23 pursuant to any local bond law, but the principal amount of the
24 bonds so guaranteed, shall, after their issuance, be included in the
25 gross debt of the member municipality for the purpose of
26 determining the indebtedness of the municipality under or pursuant
27 to any local bond law. The principal amount of the bonds so
28 guaranteed and included in gross debt shall be deducted and is
29 hereby declared to be and to constitute a deduction from the gross
30 debt under and for all the purposes of any local bond law:

31 a. from and after the time of issuance of the bonds until the end
32 of the fiscal year beginning next after the completion of acquisition
33 or construction of the facility to be financed from the proceeds of
34 the bonds; and

35 b. in any annual debt statement filed pursuant to any local bond
36 law as of the end of the fiscal year or any subsequent fiscal year if
37 the revenues or other receipts or moneys of the authority in that
38 year are sufficient to pay its expenses of operation and maintenance
39 in the year and all amounts payable in the year on account of the
40 principal of, and interest on, all the guaranteed bonds, and all bonds
41 of the authority issued under P.L. , c. (C.) (pending before
42 the Legislature as this bill).

43
44 19. (New section) a. The municipal shared services energy
45 authority may enter into wholesale power supply contracts with any
46 person within or outside the State of New Jersey to meet the electric
47 power or energy needs of its members, for the purchase or sale of
48 electric power or energy, or for both the purchase and sale of

1 electric power and energy to supply electric power or energy to its
2 members and for the wholesale sale of any excess electric power or
3 energy. The power supply contracts shall be for a term not to
4 exceed 40 years and shall provide for payment to or from the
5 municipal shared services energy authority of funds for
6 commodities to be procured, and services to be rendered by or to
7 the municipal shared services energy authority. The municipal
8 shared services energy authority may enter into power supply
9 contracts with persons for the purchase or sale of electric power and
10 energy, or for both the purchase and sale of electric power and
11 energy, whereby the purchaser is obligated to make payments in
12 amounts which shall be sufficient to enable the municipal shared
13 services energy authority to meet its expenses, interest and principal
14 payments, whether at maturity or upon sinking fund redemption, for
15 its bonds, reasonable reserves for debt service, operation and
16 maintenance, renewals and replacements, and the requirements of
17 any rate covenant with respect to debt service coverage contained in
18 any resolution, trust indenture, or other security instrument. Power
19 supply contracts may contain such other terms and conditions as the
20 municipal shared services energy authority and the purchasers may
21 determine, including provisions whereby the purchaser is obligated
22 to pay for power irrespective of whether energy is produced or
23 delivered to the purchaser, or whether any electric supply project
24 contemplated by the agreement is completed, operable, or
25 operating, and notwithstanding suspension, interruption,
26 interference, reduction, or curtailment of the output of the electric
27 supply project. The power purchase agreement may provide that if
28 one or more of the purchasers defaults in the payment of its
29 obligations under the purchase agreement, the remaining purchasers
30 which also have such agreements shall be required to accept and
31 pay for the electric power and energy to be purchased by the
32 defaulting purchaser, and shall be entitled proportionately to use or
33 otherwise dispose of the electric power and energy to be purchased
34 by the defaulting purchaser. For purposes of this subsection the
35 phrase "purchase of electric power and energy" includes the
36 purchase of any right to capacity of, or interest in, any electric
37 supply project located within the corporate limits and franchise
38 areas of the members.

39 b. The obligations of a member municipality under a power
40 supply contract with the municipal shared services energy authority,
41 or arising out of the default by any other member with respect to a
42 power supply contract, shall not be construed to constitute a debt of
43 the municipality. To the extent provided in the purchase agreement,
44 these obligations shall constitute special obligations of the
45 municipality, payable solely from the revenues and other moneys
46 derived by the municipality from its municipal electric utility and
47 shall be treated as expenses of operating a municipal electric utility.

1 c. The contract may also provide for payments in the form of
2 collateral, contributions to defray the cost of any purpose set forth
3 in the contract and as advances for any such purpose subject to
4 repayment by the municipal shared services energy authority.

5 d. Such agreements may be for a term covering the life of an
6 electric supply project, for the anticipated output period of the
7 electric supply project, or for any other term not exceeding 40
8 years.

9
10 20. (New section) The municipal shared services energy
11 authority formed pursuant to P.L. , c. (C.) (pending before
12 the Legislature as this bill) shall comply with the provisions of
13 P.L. , c. (C.) (pending before the Legislature as this bill) and
14 all applicable federal and State laws. Nothing in P.L. , c. (C.)
15 (pending before the Legislature as this bill) shall be construed to
16 require regulation of a municipal shared services energy authority
17 or its members as an electric public utility as defined under
18 R.S.48:2-13. Wholesale sales and purchases by the municipal
19 shared services energy authority shall not subject the municipal
20 shared services energy authority or its members to the jurisdiction
21 of the Board of Public Utilities as a public utility as set forth in
22 R.S.48:2-13 et seq. A municipality that is a member of the
23 municipal shared services energy authority shall continue to be
24 subject to all laws of the State.

25
26 21. (New section) All property of the municipal shared services
27 energy authority within the corporate limits and franchise areas of
28 the members shall be exempt from levy and sale by virtue of an
29 execution of a court of competent jurisdiction and no execution or
30 other judicial process shall issue against the same nor shall any
31 judgment against the municipal shared services energy authority be
32 a charge or lien upon its property, provided, however, that nothing
33 in this section shall apply to or limit the rights of the holder of any
34 bonds to pursue any remedy for the enforcement of any pledge or
35 lien given by the municipal shared services energy authority on its
36 system, revenues, or other monies.

37
38 22. (New section) Notwithstanding any restriction contained in
39 any other law, the State and all public officers, municipalities,
40 counties, political subdivisions of public bodies, and agencies
41 thereof, all banks, bankers, trust companies, savings banks and
42 institutions, building and loan associations, savings and loan
43 associations, investment companies, and other persons carrying on a
44 banking business, all insurance companies, insurance associations,
45 and other persons carrying on an insurance business, and all
46 executors, administrators, guardians, trustees and other fiduciaries,
47 may legally invest any sinking funds, monies, or other funds
48 belonging to them or within their control, in any bonds of the

1 municipal shared services energy authority, and the bonds shall be
2 authorized security for any and all public deposits.

3
4 23. (New section) Every electric supply project or facility
5 within the corporate limits and franchise areas of the members that
6 are owned by the municipal shared services energy authority,
7 including any pro rata share of any property within the corporate
8 limits and franchise areas of the members that are owned by the
9 municipal shared services energy authority in conjunction with any
10 other person or public agency and used in connection with the
11 generation, transmission and production of electric power and
12 energy, and all other property of the municipal shared services
13 energy authority within the corporate limits and franchise areas of
14 the members, is hereby declared to be public property and devoted
15 to an essential public and governmental function and purpose, and
16 the property within the corporate limits and franchise areas of the
17 members, the municipal shared services energy authority and its
18 income shall be exempt from all taxes and special assessments of
19 the State or any subdivision of the State. All bonds of the municipal
20 shared services energy authority are hereby declared to be issued by
21 a political subdivision of the State and for an essential public and
22 governmental purpose and to be a public instrumentality in the
23 bonds, and the interest thereon and the income therefrom and all
24 service charges, funds, revenues, and other monies pledged or
25 available to pay or secure the payment of the bonds, or interest
26 thereon, shall at all times be exempt from taxation except for
27 transfer, inheritance and estate taxes, and taxes on transfers by or in
28 contemplation of death.

29
30 24. (New section) The State of New Jersey does hereby pledge
31 to and covenant and agree with the holders of any bonds issued
32 pursuant to a bond resolution of the municipal shared services
33 energy authority, that the State will not limit or alter the rights
34 hereby vested in the municipal shared services energy authority to
35 acquire, construct, operate, and participate in one or more electric
36 supply projects and facilities for the generation, production, and
37 transmission of electric power and energy at wholesale, to fix,
38 establish, charge, and collect charges, fees, and payments, and to
39 fulfill the terms of any agreement made with the holders of the
40 bonds or other obligations, and will not in any way impair the rights
41 or remedies of these holders, and will not modify in any way the
42 exemptions from taxation provided for in P.L. , c. (C.)
43 (pending before the Legislature as this bill) until the bonds, together
44 with interest thereon, with interest on any unpaid installments of
45 interest, and all costs and expenses in connection with any action or
46 proceeding by or on behalf of these holders, are fully met and
47 discharged.

1 25. (New section) All banks, bankers, trust companies, savings
2 banks, investment companies, and other persons carrying on a
3 banking business are hereby authorized to give to the municipal
4 shared services energy authority a good and sufficient undertaking
5 with such sureties as shall be approved by the municipal shared
6 services energy authority to the effect that this bank or banking
7 institution shall faithfully keep and pay over to the order of or upon
8 the warrant of the municipal shared services energy authority or its
9 authorized agent, all such funds as may be deposited with it by the
10 municipal shared services energy authority and agreed interest
11 thereon, at such times or upon such demands as may be agreed with
12 the municipal shared services energy authority or in lieu of these
13 sureties, deposit with the municipal shared services energy
14 authority or its agent or any trustee therefor or for the holders of
15 any bonds, as collateral, such securities as the municipal shared
16 services energy authority may approve. The deposits of the
17 municipal shared services energy authority may be evidenced or
18 secured by a depository collateral agreement in such form and upon
19 such terms and conditions as may be agreed upon by the municipal
20 shared services energy authority and the bank or banking
21 institution.

22
23 26. (New section) The municipal shared services energy
24 authority shall cause an annual audit of its accounts to be made, and
25 for this purpose shall employ a certified public accountant licensed
26 pursuant to the laws of the State of New Jersey. The audit shall be
27 completed and filed with the municipal shared services energy
28 authority within four months after the close of its fiscal year and a
29 certified duplicate thereof shall be filed with the Director of the
30 Division of Local Government Services in the Department of
31 Community Affairs within five days after the original report is filed
32 with the municipal shared services energy authority.

33
34 27. (New section) The municipal shared services energy
35 authority shall file a copy of each bond resolution adopted by it
36 with the Director of the Division of Local Government Services in
37 the Department of Community Affairs, together with a summary of
38 the dates, amounts, maturities, and interest rates of all bonds issued
39 pursuant thereto.

40
41 28. Section 5 of P.L.1971, c.198 (C.40A:11-5) is amended to
42 read as follows:

43 5. Any contract the amount of which exceeds the bid threshold,
44 may be negotiated and awarded by the governing body without
45 public advertising for bids and bidding therefor and shall be
46 awarded by resolution of the governing body if:

47 (1) The subject matter thereof consists of:

1 (a) (i) Professional services. The governing body shall in each
2 instance state supporting reasons for its action in the resolution
3 awarding each contract and shall forthwith cause to be printed once,
4 in the official newspaper, a brief notice stating the nature, duration,
5 service and amount of the contract, and that the resolution and
6 contract are on file and available for public inspection in the office
7 of the clerk of the county or municipality, or, in the case of a
8 contracting unit created by more than one county or municipality, of
9 the counties or municipalities creating such contracting unit; or (ii)
10 Extraordinary unspecifiable services. The application of this
11 exception shall be construed narrowly in favor of open competitive
12 bidding, whenever possible, and the Division of Local Government
13 Services is authorized to adopt and promulgate rules and regulations
14 after consultation with the Commissioner of Education limiting the
15 use of this exception in accordance with the intention herein
16 expressed. The governing body shall in each instance state
17 supporting reasons for its action in the resolution awarding each
18 contract and shall forthwith cause to be printed, in the manner set
19 forth in subsection (1) (a) (i) of this section, a brief notice of the
20 award of such contract;

21 (b) The doing of any work by employees of the contracting unit;

22 (c) The printing of legal briefs, records and appendices to be
23 used in any legal proceeding in which the contracting unit may be a
24 party;

25 (d) The furnishing of a tax map or maps for the contracting unit;

26 (e) The purchase of perishable foods as a subsistence supply;

27 (f) The supplying of any product or the rendering of any service
28 by a public utility, which is subject to the jurisdiction of the Board
29 of Public Utilities or the Federal Energy Regulatory Commission or
30 its successor, in accordance with tariffs and schedules of charges
31 made, charged or exacted, filed with the board or commission;

32 (g) The acquisition, subject to prior approval of the Attorney
33 General, of special equipment for confidential investigation;

34 (h) The printing of bonds and documents necessary to the
35 issuance and sale thereof by a contracting unit;

36 (i) Equipment repair service if in the nature of an extraordinary
37 unspecifiable service and necessary parts furnished in connection
38 with such service, which exception shall be in accordance with the
39 requirements for extraordinary unspecifiable services;

40 (j) The publishing of legal notices in newspapers as required by
41 law;

42 (k) The acquisition of artifacts or other items of unique intrinsic,
43 artistic or historical character;

44 (l) Those goods and services necessary or required to prepare
45 and conduct an election;

46 (m) Insurance, including the purchase of insurance coverage and
47 consultant services, which exception shall be in accordance with the
48 requirements for extraordinary unspecifiable services;

- 1 (n) The doing of any work by handicapped persons employed by
2 a sheltered workshop;
- 3 (o) The provision of any goods or services including those of a
4 commercial nature, attendant upon the operation of a restaurant by
5 any nonprofit, duly incorporated, historical society at or on any
6 historical preservation site;
- 7 (p) (Deleted by amendment, P.L.1999, c.440.)
- 8 (q) Library and educational goods and services;
- 9 (r) (Deleted by amendment, P.L.2005, c.212).
- 10 (s) The marketing of recyclable materials recovered through a
11 recycling program, or the marketing of any product intentionally
12 produced or derived from solid waste received at a resource
13 recovery facility or recovered through a resource recovery program,
14 including, but not limited to, refuse-derived fuel, compost materials,
15 methane gas, and other similar products;
- 16 (t) (Deleted by amendment, P.L.1999, c.440.)
- 17 (u) Contracting unit towing and storage contracts, provided that
18 all such contracts shall be pursuant to reasonable non-exclusionary
19 and non-discriminatory terms and conditions, which may include
20 the provision of such services on a rotating basis, at the rates and
21 charges set by the municipality pursuant to section 1 of P.L.1979,
22 c.101 (C.40:48-2.49). All contracting unit towing and storage
23 contracts for services to be provided at rates and charges other than
24 those established pursuant to the terms of this paragraph shall only
25 be awarded to the lowest responsible bidder in accordance with the
26 provisions of the "Local Public Contracts Law" and without regard
27 for the value of the contract therefor;
- 28 (v) The purchase of steam or electricity from, or the rendering
29 of services directly related to the purchase of such steam or
30 electricity from a qualifying small power production facility or a
31 qualifying cogeneration facility as defined pursuant to 16
32 U.S.C.s.796;
- 33 (w) The purchase of electricity or administrative or dispatching
34 services directly related to the transmission of such purchased
35 electricity by a contracting unit engaged in the generation of
36 electricity;
- 37 (x) The printing of municipal ordinances or other services
38 necessarily incurred in connection with the revision and
39 codification of municipal ordinances;
- 40 (y) An agreement for the purchase of an equitable interest in a
41 water supply facility or for the provision of water supply services
42 entered into pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or
43 an agreement entered into pursuant to P.L.1989, c.109
44 (N.J.S.40A:31-1 et al.), so long as such agreement is entered into no
45 later than six months after the effective date of P.L.1993, c.381;
- 46 (z) A contract for the provision of water supply services entered
47 into pursuant to P.L.1995, c.101 (C.58:26-19 et al.);

- 1 (aa) The cooperative marketing of recyclable materials recovered
2 through a recycling program;
- 3 (bb) A contract for the provision of wastewater treatment
4 services entered into pursuant to P.L.1995, c.216 (C.58:27-19 et
5 al.);
- 6 (cc) Expenses for travel and conferences;
- 7 (dd) The provision or performance of goods or services for the
8 support or maintenance of proprietary computer hardware and
9 software, except that this provision shall not be utilized to acquire
10 or upgrade non-proprietary hardware or to acquire or update non-
11 proprietary software;
- 12 (ee) The management or operation of an airport owned by the
13 contracting unit pursuant to R.S.40:8-1 et seq.;
- 14 (ff) Purchases of goods and services at rates set by the Universal
15 Service Fund administered by the Federal Communications
16 Commission;
- 17 (gg) A contract for the provision of water supply services or
18 wastewater treatment services entered into pursuant to section 2 of
19 P.L.2002, c.47 (C.40A:11-5.1), or the designing, financing,
20 construction, operation, or maintenance, or any combination
21 thereof, of a water supply facility as defined in subsection (16) of
22 section 15 of P.L.1971, c.198 (C.40A:11-15) or a wastewater
23 treatment system as defined in subsection (19) of section 15 of
24 P.L.1971, c.198 (C.40A:11-15), or any component part or parts
25 thereof, including a water filtration system as defined in subsection
26 (16) of section 15 of P.L.1971, c.198 (C.40A:11-15);
- 27 (hh) The purchase of electricity generated from a power
28 production facility that is fueled by methane gas extracted from a
29 landfill in the county of the contracting unit.
- 30 (2) It is to be made or entered into with the United States of
31 America, the State of New Jersey, county or municipality or any
32 board, body, officer, agency or authority thereof or any other state
33 or subdivision thereof.
- 34 (3) Bids have been advertised pursuant to section 4 of P.L.1971,
35 c.198 (C.40A:11-4) on two occasions and (a) no bids have been
36 received on both occasions in response to the advertisement, or (b)
37 the governing body has rejected such bids on two occasions because
38 it has determined that they are not reasonable as to price, on the
39 basis of cost estimates prepared for or by the contracting agent prior
40 to the advertising therefor, or have not been independently arrived
41 at in open competition, or (c) on one occasion no bids were received
42 pursuant to (a) and on one occasion all bids were rejected pursuant
43 to (b), in whatever sequence; any such contract may then be
44 negotiated and may be awarded upon adoption of a resolution by a
45 two-thirds affirmative vote of the authorized membership of the
46 governing body authorizing such contract; provided, however, that:
- 47 (i) A reasonable effort is first made by the contracting agent to
48 determine that the same or equivalent goods or services, at a cost

1 which is lower than the negotiated price, are not available from an
2 agency or authority of the United States, the State of New Jersey or
3 of the county in which the contracting unit is located, or any
4 municipality in close proximity to the contracting unit;

5 (ii) The terms, conditions, restrictions and specifications set forth
6 in the negotiated contract are not substantially different from those
7 which were the subject of competitive bidding pursuant to section 4
8 of P.L.1971, c.198 (C.40A:11-4); and

9 (iii) Any minor amendment or modification of any of the terms,
10 conditions, restrictions and specifications, which were the subject of
11 competitive bidding pursuant to section 4 of P.L.1971, c.198
12 (C.40A:11-4), shall be stated in the resolution awarding such
13 contract; provided further, however, that if on the second occasion
14 the bids received are rejected as unreasonable as to price, the
15 contracting agent shall notify each responsible bidder submitting
16 bids on the second occasion of its intention to negotiate, and afford
17 each bidder a reasonable opportunity to negotiate, but the governing
18 body shall not award such contract unless the negotiated price is
19 lower than the lowest rejected bid price submitted on the second
20 occasion by a responsible bidder, is the lowest negotiated price
21 offered by any responsible vendor, and is a reasonable price for
22 such goods or services.

23 Whenever a contracting unit shall determine that a bid was not
24 arrived at independently in open competition pursuant to subsection
25 (3) of this section it shall thereupon notify the county prosecutor of
26 the county in which the contracting unit is located and the Attorney
27 General of the facts upon which its determination is based, and
28 when appropriate, it may institute appropriate proceedings in any
29 State or federal court of competent jurisdiction for a violation of
30 any State or federal antitrust law or laws relating to the unlawful
31 restraint of trade.

32 (4) The contracting unit has solicited and received at least three
33 quotations on materials, supplies or equipment for which a State
34 contract has been issued pursuant to section 12 of P.L.1971, c.198
35 (C.40A:11-12), and the lowest responsible quotation is at least 10%
36 less than the price the contracting unit would be charged for the
37 identical materials, supplies or equipment, in the same quantities,
38 under the State contract. Any such contract entered into pursuant to
39 this subsection may be awarded only upon adoption of a resolution
40 by the affirmative vote of two-thirds of the full membership of the
41 governing body of the contracting unit at a meeting thereof
42 authorizing such a contract. A copy of the purchase order relating
43 to any such contract, the requisition for purchase order, if
44 applicable, and documentation identifying the price of the materials,
45 supplies or equipment under the State contract and the State
46 contract number shall be filed with the director within five working
47 days of the award of any such contract by the contracting unit. The
48 director shall notify the contracting unit of receipt of the material

1 and shall make the material available to the State Treasurer. The
2 contracting unit shall make available to the director upon request
3 any other documents relating to the solicitation and award of the
4 contract, including, but not limited to, quotations, requests for
5 quotations, and resolutions. The director periodically shall review
6 material submitted by contracting units to determine the impact of
7 such contracts on local contracting and shall consult with the State
8 Treasurer on the impact of such contracts on the State procurement
9 process. The director may, after consultation with the State
10 Treasurer, adopt rules in accordance with the "Administrative
11 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to limit the
12 use of this subsection, after considering the impact of contracts
13 awarded under this subsection on State and local contracting, or
14 after considering the extent to which the award of contracts
15 pursuant to this subsection is consistent with and in furtherance of
16 the purposes of the public contracting laws.

17 (5) Notwithstanding any provision of law, rule or regulation to
18 the contrary, the subject matter consists of the combined collection
19 and marketing, or the cooperative combined collection and
20 marketing of recycled material recovered through a recycling
21 program, or any product intentionally produced or derived from
22 solid waste received at a resource recovery facility or recovered
23 through a resource recovery program including, but not limited to,
24 refuse-derived fuel, compost materials, methane gas, and other
25 similar products, provided that in lieu of engaging in such public
26 advertising for bids and the bidding therefor, the contracting unit
27 shall, prior to commencing the procurement process, submit for
28 approval to the Director of the Division of Local Government
29 Services, a written detailed description of the process to be
30 followed in securing said services. Within 30 days after receipt of
31 the written description the director shall, if the director finds that
32 the process provides for fair competition and integrity in the
33 negotiation process, approve, in writing, the description submitted
34 by the contracting unit. If the director finds that the process does
35 not provide for fair competition and integrity in the negotiation
36 process, the director shall advise the contracting unit of the
37 deficiencies that must be remedied. If the director fails to respond
38 in writing to the contracting unit within 30 days, the procurement
39 process as described shall be deemed approved. As used in this
40 section, "collection" means the physical removal of recyclable
41 materials from curbside or any other location selected by the
42 contracting unit.

43 (6) Notwithstanding any provision of law, rule or regulation to
44 the contrary, the contract is for the provision of electricity by a
45 contracting unit engaged in the distribution of electricity for retail
46 sale, for the provision of wholesale electricity by a municipal
47 shared services energy authority as defined pursuant to section 3 of
48 P.L. , c. (C.) (pending before the Legislature as this bill), or

1 for the provision of administrative or dispatching services related to
2 the transmission of such electricity, provided that in lieu of
3 engaging in public advertising for bids and the bidding therefor, the
4 contracting unit shall, prior to commencing the procurement
5 process, submit for approval to the Director of the Division of Local
6 Government Services, a written detailed description of the process
7 to be followed in securing such services. Such process shall be
8 designed in a way that is appropriate to and commensurate with
9 industry practices, and the integrity of the government contracting
10 process. Within 30 days after receipt of the written description, the
11 director shall, if the director finds that the process provides for fair
12 competition and integrity in the negotiation process, approve, in
13 writing, the description submitted by the contracting unit. If the
14 director finds that the process does not provide for fair competition
15 and integrity in the negotiation process, the director shall advise the
16 contracting unit of the deficiencies that must be remedied. If the
17 director fails to respond in writing to the contracting unit within 30
18 days, the procurement process, as submitted to the director pursuant
19 to this section, shall be deemed approved.

20 (cf: P.L.2005, c.296, s.1)

21

22 29. Section 15 of P.L.1971, c.198 (C.40A:11-15) is amended to
23 read as follows:

24 15. All contracts for the provision or performance of goods or
25 services shall be awarded for a period not to exceed 24 consecutive
26 months, except that contracts for professional services pursuant to
27 subparagraph (i) of paragraph (a) of subsection (1) of section 5 of
28 P.L.1971, c.198 (C.40A:11-5) shall be awarded for a period not to
29 exceed 12 consecutive months. Contracts may be awarded for
30 longer periods of time as follows:

31 (1) Supplying of:

32 (a) (Deleted by amendment, P.L.1996, c.113.)

33 (b) (Deleted by amendment, P.L.1996, c.113.)

34 (c) Thermal energy produced by a cogeneration facility, for use
35 for heating or air conditioning or both, for any term not exceeding
36 40 years, when the contract is approved by the Board of Public
37 Utilities. For the purposes of this paragraph, "cogeneration" means
38 the simultaneous production in one facility of electric power and
39 other forms of useful energy such as heating or process steam;

40 (2) (Deleted by amendment, P.L.1977, c.53.)

41 (3) The collection and disposal of municipal solid waste, the
42 collection and disposition of recyclable material, or the disposal of
43 sewage sludge, for any term not exceeding in the aggregate, five
44 years;

45 (4) The collection and recycling of methane gas from a sanitary
46 landfill facility, for any term not exceeding 25 years, when such
47 contract is in conformance with a district solid waste management
48 plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.), and

1 with the approval of the Division of Local Government Services in
2 the Department of Community Affairs and the Department of
3 Environmental Protection. The contracting unit shall award the
4 contract to the highest responsible bidder, notwithstanding that the
5 contract price may be in excess of the amount of any necessarily
6 related administrative expenses; except that if the contract requires
7 the contracting unit to expend funds only, the contracting unit shall
8 award the contract to the lowest responsible bidder. The approval
9 by the Division of Local Government Services of public bidding
10 requirements shall not be required for those contracts exempted
11 therefrom pursuant to section 5 of P.L.1971, c.198 (C.40A:11-5);

12 (5) Data processing service, for any term of not more than seven
13 years;

14 (6) Insurance, including the purchase of insurance coverages,
15 insurance consulting or administrative services, claims
16 administration services and including participation in a joint self-
17 insurance fund, risk management program or related services
18 provided by a contracting unit insurance group, or participation in
19 an insurance fund established by a local unit pursuant to
20 N.J.S.40A:10-6, or a joint insurance fund established pursuant to
21 P.L.1983, c.372 (C.40A:10-36 et seq.), for any term of not more
22 than three years;

23 (7) Leasing or servicing of (a) automobiles, motor vehicles,
24 machinery and equipment of every nature and kind, for a period not
25 to exceed five years, or (b) machinery and equipment used in the
26 generation of electricity by a municipal share services energy
27 authority established pursuant to section 4 of P.L. , c. (C.)
28 (pending before the Legislature as this bill), or a contracting unit
29 engaged in the generation of electricity, for a period not to exceed
30 20 years; provided, however, such contracts shall be awarded only
31 subject to and in accordance with the rules and regulations
32 promulgated by the Director of the Division of Local Government
33 Services in the Department of Community Affairs;

34 (8) The supplying of any product or the rendering of any service
35 by a company providing voice, data, transmission or switching
36 services for a term not exceeding five years;

37 (9) Any single project for the construction, reconstruction or
38 rehabilitation of any public building, structure or facility, or any
39 public works project, including the retention of the services of any
40 architect or engineer in connection therewith, for the length of time
41 authorized and necessary for the completion of the actual
42 construction;

43 (10) The providing of food services for any term not exceeding
44 three years;

45 (11) On-site inspections and plan review services undertaken by
46 private agencies pursuant to the "State Uniform Construction Code
47 Act," P.L.1975, c.217 (C.52:27D-119 et seq.) for any term of not
48 more than three years;

1 (12) (Deleted by amendment, P.L.2009, c.4).

2 (13) (Deleted by amendment, P.L.1999, c.440.)

3 (14) (Deleted by amendment, P.L.1999, c.440.)

4 (15) Leasing of motor vehicles, machinery and other equipment
5 primarily used to fight fires, for a term not to exceed ten years,
6 when the contract includes an option to purchase, subject to and in
7 accordance with rules and regulations promulgated by the Director
8 of the Division of Local Government Services in the Department of
9 Community Affairs;

10 (16) The provision of water supply services or the designing,
11 financing, construction, operation, or maintenance, or any
12 combination thereof, of a water supply facility, or any component
13 part or parts thereof, including a water filtration system, for a period
14 not to exceed 40 years, when the contract for these services is
15 approved by the Division of Local Government Services in the
16 Department of Community Affairs, the Board of Public Utilities,
17 and the Department of Environmental Protection pursuant to
18 P.L.1985, c.37 (C.58:26-1 et al.), except that no such approvals
19 shall be required for those contracts otherwise exempted pursuant to
20 subsection (30), (31), (34), (35) or (43) of this section. For the
21 purposes of this subsection, "water supply services" means any
22 service provided by a water supply facility; "water filtration
23 system" means any equipment, plants, structures, machinery,
24 apparatus, or land, or any combination thereof, acquired, used,
25 constructed, rehabilitated, or operated for the collection,
26 impoundment, storage, improvement, filtration, or other treatment
27 of drinking water for the purposes of purifying and enhancing water
28 quality and insuring its portability prior to the distribution of the
29 drinking water to the general public for human consumption,
30 including plants and works, and other personal property and
31 appurtenances necessary for their use or operation; and "water
32 supply facility" means and refers to the real property and the plants,
33 structures, interconnections between existing water supply facilities,
34 machinery and equipment and other property, real, personal and
35 mixed, acquired, constructed or operated, or to be acquired,
36 constructed or operated, in whole or in part by or on behalf of a
37 political subdivision of the State or any agency thereof, for the
38 purpose of augmenting the natural water resources of the State and
39 making available an increased supply of water for all uses, or of
40 conserving existing water resources, and any and all appurtenances
41 necessary, useful or convenient for the collecting, impounding,
42 storing, improving, treating, filtering, conserving or transmitting of
43 water and for the preservation and protection of these resources and
44 facilities and providing for the conservation and development of
45 future water supply resources;

46 (17) The provision of resource recovery services by a qualified
47 vendor, the disposal of the solid waste delivered for disposal which
48 cannot be processed by a resource recovery facility or the residual

1 ash generated at a resource recovery facility, including hazardous
2 waste and recovered metals and other materials for reuse, or the
3 design, financing, construction, operation or maintenance of a
4 resource recovery facility for a period not to exceed 40 years when
5 the contract is approved by the Division of Local Government
6 Services in the Department of Community Affairs, and the
7 Department of Environmental Protection pursuant to P.L.1985, c.38
8 (C.13:1E-136 et al.); and when the resource recovery facility is in
9 conformance with a district solid waste management plan approved
10 pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.). For the purposes of
11 this subsection, "resource recovery facility" means a solid waste
12 facility constructed and operated for the incineration of solid waste
13 for energy production and the recovery of metals and other
14 materials for reuse; or a mechanized composting facility, or any
15 other facility constructed or operated for the collection, separation,
16 recycling, and recovery of metals, glass, paper, and other materials
17 for reuse or for energy production; and "residual ash" means the
18 bottom ash, fly ash, or any combination thereof, resulting from the
19 combustion of solid waste at a resource recovery facility;

20 (18) The sale of electricity or thermal energy, or both, produced
21 by a resource recovery facility for a period not to exceed 40 years
22 when the contract is approved by the Board of Public Utilities, and
23 when the resource recovery facility is in conformance with a district
24 solid waste management plan approved pursuant to P.L.1970, c.39
25 (C.13:1E-1 et seq.). For the purposes of this subsection, "resource
26 recovery facility" means a solid waste facility constructed and
27 operated for the incineration of solid waste for energy production
28 and the recovery of metals and other materials for reuse; or a
29 mechanized composting facility, or any other facility constructed or
30 operated for the collection, separation, recycling, and recovery of
31 metals, glass, paper, and other materials for reuse or for energy
32 production;

33 (19) The provision of wastewater treatment services or the
34 designing, financing, construction, operation, or maintenance, or
35 any combination thereof, of a wastewater treatment system, or any
36 component part or parts thereof, for a period not to exceed 40 years,
37 when the contract for these services is approved by the Division of
38 Local Government Services in the Department of Community
39 Affairs and the Department of Environmental Protection pursuant to
40 P.L.1985, c.72 (C.58:27-1 et al.), except that no such approvals
41 shall be required for those contracts otherwise exempted pursuant to
42 subsection (36) or (43) of this section. For the purposes of this
43 subsection, "wastewater treatment services" means any services
44 provided by a wastewater treatment system, and "wastewater
45 treatment system" means equipment, plants, structures, machinery,
46 apparatus, or land, or any combination thereof, acquired, used,
47 constructed, or operated for the storage, collection, reduction,
48 recycling, reclamation, disposal, separation, or other treatment of

1 wastewater or sewage sludge, or for the final disposal of residues
2 resulting from the treatment of wastewater, including, but not
3 limited to, pumping and ventilating stations, facilities, plants and
4 works, connections, outfall sewers, interceptors, trunk lines, and
5 other personal property and appurtenances necessary for their
6 operation;

7 (20) The supplying of goods or services for the purpose of
8 lighting public streets, for a term not to exceed five years;

9 (21) The provision of emergency medical services for a term not
10 to exceed five years;

11 (22) Towing and storage contracts, awarded pursuant to
12 paragraph u. of subsection (1) of section 5 of P.L.1971, c.198
13 (C.40A:11-5) for any term not exceeding three years;

14 (23) Fuel for the purpose of generating electricity for a term not
15 to exceed eight years;

16 (24) The purchase of electricity or administrative or dispatching
17 services related to the transmission of such electricity, from a
18 supplier of electricity subject to the jurisdiction of a federal
19 regulatory agency, from a qualifying small power producing facility
20 or qualifying cogeneration facility, as defined by 16 U.S.C.s.796, or
21 from any supplier of electricity within any regional transmission
22 organization or independent system operator or from such
23 organization or operator or their successors, by a contracting unit
24 engaged in the generation of electricity for retail sale, as of May 24,
25 1991, for a term not to exceed 40 years, or by a contracting unit
26 engaged solely in the distribution of electricity for retail sale for a
27 term not to exceed ten years, except that a contract with a
28 contracting unit, engaged solely in the distribution of electricity for
29 retail sale, in excess of ten years, shall require the written approval
30 of the Director of the Division of Local Government Services. If
31 the director fails to respond in writing to the contracting unit within
32 10 business days, the contract shall be deemed approved;

33 (25) Basic life support services, for a period not to exceed five
34 years. For the purposes of this subsection, "basic life support"
35 means a basic level of prehospital care, which includes but need not
36 be limited to patient stabilization, airway clearance,
37 cardiopulmonary resuscitation, hemorrhage control, initial wound
38 care and fracture stabilization;

39 (26) (Deleted by amendment, P.L.1999, c.440.)

40 (27) The provision of transportation services to elderly, disabled
41 or indigent persons for any term of not more than three years. For
42 the purposes of this subsection, "elderly persons" means persons
43 who are 60 years of age or older. "Disabled persons" means
44 persons of any age who, by reason of illness, injury, age, congenital
45 malfunction, or other permanent or temporary incapacity or
46 disability, are unable, without special facilities or special planning
47 or design to utilize mass transportation facilities and services as
48 effectively as persons who are not so affected. "Indigent persons"

1 means persons of any age whose income does not exceed 100
2 percent of the poverty level, adjusted for family size, established
3 and adjusted under section 673(2) of subtitle B, the "Community
4 Services Block Grant Act," Pub.L.97-35 (42 U.S.C.s.9902 (2));

5 (28) The supplying of liquid oxygen or other chemicals, for a
6 term not to exceed five years, when the contract includes the
7 installation of tanks or other storage facilities by the supplier, on or
8 near the premises of the contracting unit;

9 (29) The performance of patient care services by contracted
10 medical staff at county hospitals, correction facilities and long term
11 care facilities, for any term of not more than three years;

12 (30) The acquisition of an equitable interest in a water supply
13 facility pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or a
14 contract entered into pursuant to the "County and Municipal Water
15 Supply Act," N.J.S.40A:31-1 et seq., if the contract is entered into
16 no later than January 7, 1995, for any term of not more than forty
17 years;

18 (31) The provision of water supply services or the financing,
19 construction, operation or maintenance or any combination thereof,
20 of a water supply facility or any component part or parts thereof, by
21 a partnership or copartnership established pursuant to a contract
22 authorized under section 2 of P.L.1993, c.381 (C.58:28-2), for a
23 period not to exceed 40 years;

24 (32) Laundry service and the rental, supply and cleaning of
25 uniforms for any term of not more than three years;

26 (33) The supplying of any product or the rendering of any
27 service, including consulting services, by a cemetery management
28 company for the maintenance and preservation of a municipal
29 cemetery operating pursuant to the "New Jersey Cemetery Act,"
30 N.J.S.8A:1-1 et seq., for a term not exceeding 15 years;

31 (34) A contract between a public entity and a private firm
32 pursuant to P.L.1995, c.101 (C.58:26-19 et al.) for the provision of
33 water supply services may be entered into for any term which, when
34 all optional extension periods are added, may not exceed 40 years;

35 (35) A contract for the purchase of a supply of water from a
36 public utility company subject to the jurisdiction of the Board of
37 Public Utilities in accordance with tariffs and schedules of charges
38 made, charged or exacted or contracts filed with the Board of Public
39 Utilities, for any term of not more than 40 years;

40 (36) A contract between a public entity and a private firm or
41 public authority pursuant to P.L.1995, c.216 (C.58:27-19 et al.) for
42 the provision of wastewater treatment services may be entered into
43 for any term of not more than 40 years, including all optional
44 extension periods;

45 (37) The operation and management of a facility under a license
46 issued or permit approved by the Department of Environmental
47 Protection, including a wastewater treatment system or a water
48 supply or distribution facility, as the case may be, for any term of

1 not more than ten years. For the purposes of this subsection,
2 "wastewater treatment system" refers to facilities operated or
3 maintained for the storage, collection, reduction, disposal, or other
4 treatment of wastewater or sewage sludge, remediation of
5 groundwater contamination, stormwater runoff, or the final disposal
6 of residues resulting from the treatment of wastewater; and "water
7 supply or distribution facility" refers to facilities operated or
8 maintained for augmenting the natural water resources of the State,
9 increasing the supply of water, conserving existing water resources,
10 or distributing water to users;

11 (38) Municipal solid waste collection from facilities owned by a
12 contracting unit, for any term of not more than three years;

13 (39) Fuel for heating purposes, for any term of not more than
14 three years;

15 (40) Fuel or oil for use in motor vehicles for any term of not
16 more than three years;

17 (41) Plowing and removal of snow and ice for any term of not
18 more than three years;

19 (42) Purchases made under a contract awarded by the Director of
20 the Division of Purchase and Property in the Department of the
21 Treasury for use by counties, municipalities or other contracting
22 units pursuant to section 3 of P.L.1969, c.104 (C.52:25-16.1), for a
23 term not to exceed the term of that contract;

24 (43) A contract between the governing body of a city of the first
25 class and a duly incorporated nonprofit association for the provision
26 of water supply services as defined in subsection (16) of this
27 section, or wastewater treatment services as defined in subsection
28 (19) of this section, may be entered into for a period not to exceed
29 40 years;

30 (44) The purchase of electricity generated through class I
31 renewable energy or from a power production facility that is fueled
32 by methane gas extracted from a landfill in the county of the
33 contacting unit for any term not exceeding 25 years;

34 (45) The provision or performance of goods or services for the
35 purpose of producing class I renewable energy or class II renewable
36 energy, as those terms are defined in section 3 of P.L.1999, c.23
37 (C.48:3-51), at, or adjacent to, buildings owned by, or operations
38 conducted by, the contracting unit, the entire price of which is to be
39 established as a percentage of the resultant savings in energy costs,
40 for a term not to exceed 15 years; provided, however, that such
41 contracts shall be entered into only subject to and in accordance
42 with guidelines promulgated by the Board of Public Utilities
43 establishing a methodology for computing energy cost savings and
44 energy generation costs~~].~~ and

45 (46) A power supply contract, as defined pursuant to section
46 3 of P.L. , c. (C.) (pending before the Legislature as this
47 bill), between a member municipality as defined pursuant to section
48 3 of P.L. , c. (C.) (pending before the Legislature as this

1 bill), and the municipal shared services energy authority established
2 pursuant to the provisions of P.L. _____, c. (C. _____) (pending before
3 the Legislature as this bill) to meet the electric power needs of its
4 members, for the lease, operation, or management of electric
5 generation within a member municipality's corporate limits and
6 franchise area or the purchase of electricity, or the purchase of fuel
7 for generating units for a term not to exceed 40 years.

8 Any contract for services other than professional services, the
9 statutory length of which contract is for three years or less, may
10 include provisions for no more than one two-year, or two one-year,
11 extensions, subject to the following limitations: a. The contract
12 shall be awarded by resolution of the governing body upon a
13 finding by the governing body that the services are being performed
14 in an effective and efficient manner; b. No such contract shall be
15 extended so that it runs for more than a total of five consecutive
16 years; c. Any price change included as part of an extension shall be
17 based upon the price of the original contract as cumulatively
18 adjusted pursuant to any previous adjustment or extension and shall
19 not exceed the change in the index rate for the 12 months preceding
20 the most recent quarterly calculation available at the time the
21 contract is renewed; and d. The terms and conditions of the
22 contract remain substantially the same.

23 All multiyear leases and contracts entered into pursuant to this
24 section, including any two-year or one-year extensions, except
25 contracts involving the supplying of electricity for the purpose of
26 lighting public streets and contracts for thermal energy authorized
27 pursuant to subsection (1) above, construction contracts authorized
28 pursuant to subsection (9) above, contracts for the provision or
29 performance of goods or services or the supplying of equipment to
30 promote energy conservation through the production of class I
31 renewable energy or class II renewable energy authorized pursuant
32 to subsection (45) above, contracts for water supply services or for
33 a water supply facility, or any component part or parts thereof
34 authorized pursuant to subsection (16), (30), (31), (34), (35), (37) or
35 (43) above, contracts for resource recovery services or a resource
36 recovery facility authorized pursuant to subsection (17) above,
37 contracts for the sale of energy produced by a resource recovery
38 facility authorized pursuant to subsection (18) above, contracts for
39 wastewater treatment services or for a wastewater treatment system
40 or any component part or parts thereof authorized pursuant to
41 subsection (19), (36), (37) or (43) above, and contracts for the
42 purchase of electricity or administrative or dispatching services
43 related to the transmission of such electricity authorized pursuant to
44 subsection (24) above **[and]**, contracts for the purchase of
45 electricity generated from a power production facility that is fueled
46 by methane gas authorized pursuant to subsection (44) above, and
47 power supply contracts authorized pursuant to subsection (46)
48 respectively, shall contain a clause making them subject to the

1 availability and appropriation annually of sufficient funds as may
2 be required to meet the extended obligation, or contain an annual
3 cancellation clause.

4 The Division of Local Government Services in the Department
5 of Community Affairs shall adopt and promulgate rules and
6 regulations concerning the methods of accounting for all contracts
7 that do not coincide with the fiscal year.

8 All contracts shall cease to have effect at the end of the
9 contracted period and shall not be extended by any mechanism or
10 provision, unless in conformance with the "Local Public Contracts
11 Law," P.L.1971, c.198 (C.40A:11-1 et seq.), except that a contract
12 may be extended by mutual agreement of the parties to the contract
13 when a contracting unit has commenced rebidding prior to the time
14 the contract expires or when the awarding of a contract is pending
15 at the time the contract expires.

16 (cf: P.L.2009, c.4, s.8)

17

18 30. (New section) The powers granted under P.L. ,
19 c. (C.) (pending before the Legislature as this bill) shall not
20 limit the powers of municipalities to enter into shared service
21 agreements or contracts, or to establish separate legal entities
22 pursuant to State law or otherwise to carry out their powers under
23 applicable statutory provisions, nor shall the powers granted under
24 P.L. , c. (C.) (pending before the Legislature as this bill)
25 limit the powers reserved to municipalities by State law.

26

27 31. This act shall take effect immediately.

28

29

30

STATEMENT

31

32 This bill would authorize three or more municipalities that
33 currently operate retail electric distribution systems to establish a
34 municipal shared services energy authority ("authority"). Once
35 established, the bill would authorize a rural electric cooperative in
36 existence on the effective date of the bill to become a member of
37 the authority.

38 The bill would authorize the authority to purchase, sell, exchange
39 or transmit at wholesale, electric power or energy. The authority
40 would be authorized to enter into wholesale power supply contracts
41 for the purchase or sale of electric power or energy to meet the
42 electric power or energy needs of its members and for the wholesale
43 sale of any excess power. The bill authorizes such power supply
44 contracts to extend for a term not to exceed 40 years. In addition,
45 the authority would have the power to develop, finance, construct,
46 own, operate, manage, or repair electric supply projects within the
47 corporate limits and franchise areas of its members, for the
48 generation and transmission of electrical power and energy at

1 wholesale, to meet the energy needs of the members of the
2 authority. The authority would have the power to purchase, sell,
3 lease, and make other arrangements, contractual and otherwise, with
4 respect to generation, transmission, pooling, and provision of
5 electric power and energy at wholesale.

6 The bill authorizes the authority to issue bonds to finance any
7 project authorized under the bill, to pay the cost of any part of an
8 electric supply project, to fulfill the terms of a power supply
9 contract, or to provide for collateral or performance security
10 measures.

11 The bill would also amend the "Local Public Contracts Law,"
12 P.L.1971, c.198 (C.40A:11-1 et seq.) to: (1) exempt from public
13 bidding requirements contracts for the provision of electricity by a
14 municipal shared services energy authority; (2) extend the
15 authorized duration to 20 years of any contract for the leasing or
16 servicing of machinery or equipment used in the generation of
17 electricity by a contracting unit; and (3) allow any power supply
18 contract between a contracting unit and a municipal shared services
19 energy authority for the lease, operation, or management of electric
20 generation or the purchase of electricity, or the purchase of fuel for
21 generating units to extend for a term of up to 40 years.

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

SENATE, No. 944

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 27, 2014

The Senate Environment and Energy Committee favorably reports Senate Bill No. 944 with committee amendments.

This bill would authorize three or more municipalities that currently operate retail electric distribution systems to establish a municipal shared services energy authority ("authority"). Once the authority is established, the bill would authorize a rural electric cooperative in existence on the effective date of the bill to become a member of the authority. Under the bill, only one authority may be established.

The bill would authorize the authority to purchase, sell, exchange or transmit, at wholesale, electric power or energy. The authority would be authorized to enter into wholesale power supply contracts for the purchase or sale of electric power or energy to meet the electric power or energy needs of its members and for the wholesale sale of any excess power. The bill authorizes such power supply contracts to extend for a term not to exceed 40 years. In addition, the authority would have the power to develop, finance, construct, own, operate, manage, or repair electric supply projects within the corporate limits and franchise areas of its members, for the generation and transmission of electrical power and energy at wholesale, to meet the energy needs of the members of the authority. The authority would have the power to purchase, sell, lease, and make other arrangements, contractual and otherwise, with respect to generation, transmission, pooling, and provision of electric power and energy at wholesale.

The bill authorizes the authority to issue bonds to finance any project authorized under the bill, to pay the cost of any part of an electric supply project, to fulfill the terms of a power supply contract, or to provide for collateral or performance security measures.

The bill would also amend the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) to: (1) exempt from public bidding requirements contracts for the provision of electricity by a municipal shared services energy authority; (2) extend the authorized duration to 20 years of any contract for the leasing or servicing of machinery or equipment used in the generation of electricity by a contracting unit; and (3) allow any power supply contract between a

contracting unit and a municipal shared services energy authority for the lease, operation, or management of electric generation or the purchase of electricity, or the purchase of fuel for generating units, to extend for a term of up to 40 years.

The committee amendments would make technical corrections, and would make clarifying changes to the definition of "electric supply project" to include storage or reprocessing of fuel for the generation or production of electric power and energy only within the corporate limits and franchise areas of the members.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 944

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 23, 2015

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 944 (1R), with committee amendments.

As amended, this bill authorizes three or more municipalities that currently operate retail electric distribution systems to establish a municipal shared services energy authority (authority). Once established, the bill authorizes a rural electric cooperative in existence on the effective date of the bill to become a member of the authority. Under the bill, only one authority may be established.

The bill may impact the nine municipalities that have retail electric distribution systems (municipal utilities), i.e., Butler, Lavallette, Madison, Milltown, Park Ridge, Pemberton, Seaside Heights, South River, and Vineland, and will also impact the Sussex Rural Electric Cooperative.

The bill authorizes the authority to purchase, sell, exchange, or transmit at wholesale, electric power or energy. The authority is to be authorized to enter into wholesale power supply contracts for the purchase or sale of electric power or energy to meet the electric power or energy needs of its members and for the wholesale sale of any excess power. The bill authorizes the formation of power supply contracts for a term not to exceed 40 years. In addition, the authority is authorized to develop, finance, construct, own, operate, manage, or repair electric supply projects within the corporate limits and franchise areas of its members for the generation and transmission of electrical power and energy at wholesale to meet the energy needs of the members of the authority. The authority is authorized to purchase, sell, lease, and make other arrangements, contractual, and otherwise, with respect to generation, transmission, pooling, and the provision of electric power and energy at wholesale.

The bill authorizes the authority to issue bonds to finance any project authorized under the bill, to pay the cost of any part of an electric supply project, to fulfill the terms of a power supply contract, or to provide for collateral or performance security measures.

The bill amends the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) to: (1) exempt from public bidding requirements contracts for the provision of electricity by the authority; (2) extend the authorized duration to 20 years of any contract for the leasing or servicing of machinery or equipment used in the generation of electricity by a contracting unit; and (3) allow any power supply contract between a contracting unit and the authority for the lease, operation, the management of electric generation, the purchase of electricity, or the purchase of fuel for generating units to extend for a term of up to 40 years.

As amended and reported, Senate Bill No. 944 (1R) is identical to Assembly Bill No. 2385 (1R), which was also reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amendments make clarifying changes to the definition of "electric supply project" to include storage or reprocessing of fuel for the generation or production of electric power and energy only within the corporate limits and franchise areas of the members. The committee amendments also correct citation, grammar, punctuation, and update preferred style and usage.

FISCAL IMPACT:

The Office of Legislative Service (OLS) estimates that if all nine municipalities and the rural electric cooperative joined the municipal shared services energy authority, they could realize a total savings of between \$6.57 million and \$67.71 million in energy prices compared with wholesale purchase in the marketplace as individual buyers. Customers of the municipal electric utilities could eventually realize a savings of between 0.5 cents and four cents per kilowatt hour on their electric bills for an annual household savings of between \$55 and \$440 per year based upon the national average of 11 megawatt (MW) hours of annual household consumption. It is not known, at this time, which of the nine municipal electric utilities or the cooperative eligible to form the authority would choose to join, and how much, if any, of the 360 MW in potential total capacity the authority would choose to produce on its own.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 944

STATE OF NEW JERSEY 216th LEGISLATURE

DATED: JUNE 29, 2015

SUMMARY

- Synopsis:** Authorizes rural electric cooperative and certain municipalities to establish municipal shared services energy authority.
- Type of Impact:** Possible savings in contract expenses and a resulting reduction in electricity costs for municipal electric utility customers.
- Agencies Affected:** Municipalities operating retail electric distribution systems.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost		None	
Local Savings	\$6.57 million to \$67.71 million for municipal electric utilities- See comments below		

- The Office of Legislative Service (OLS) estimates that if all nine municipal electric utilities and the rural electric cooperative joined the municipal shared services energy authority, they could realize a total savings between \$6.57 million to \$67.71 million in energy prices compared with wholesale purchase of electricity in the marketplace as individual buyers.
- Customers of the municipal electric utilities and rural electric cooperative could eventually realize a savings of between 0.5 cents and four cents per kilowatt hour on their electric bills for an annual household savings of up to \$55 to \$440 per year based upon the national average of 11 megawatt (Mwh) hours of annual household consumption.
- It is not known, at this time, which of the nine municipal electric utilities or the rural electric cooperative eligible to form the authority would choose to join, and how much, if any, of the 360 MW in potential total capacity the authority would choose to produce on its own.

BILL DESCRIPTION

Senate Bill No. 944 (2R) of 2015 authorizes three or more municipalities that operate retail electric distribution systems to establish a municipal shared services energy authority (authority). Once established, the bill would authorize a rural electric cooperative (cooperative), in existence as of the effective date of the bill, to become a member of the authority. The bill authorizes the authority to enter into contracts with municipal electric utilities, other public agencies, and private entities for the purchase and sale at wholesale of electricity inside and outside of New Jersey, consistent with federal law. Under current law, the joint operation of municipal electric facilities under a joint meeting arrangement is not permitted under the "Uniform Shared Services and Consolidation Act."

The purpose of the authority is to develop safe and reliable electric energy resources for the generation and transmission of electric power and energy, including the utilization of renewable capacity and energy, at wholesale for the benefit of the customers of municipal electric utility systems and rural electric cooperatives in New Jersey.

The authority is empowered to plan, finance, develop, acquire, construct, reconstruct, improve, own, operate, and participate in, as joint or sole owner, electric supply projects, and be able to purchase, sell, lease, and make other arrangements, contractual and otherwise, of every kind and description, with respect to the generation, transmission, pooling, and provision of electric power and energy at wholesale. The authority would be able to develop generation projects using fuel sources generated by other public agencies, such as garbage, trash, and other waste materials, and using renewable resources, such as solar energy, wind power, and geothermal energy, as well as traditional fossil fuel resources.

The bill also provides for the authority to have bonding powers, and other general powers related to that of an independent legal entity. The bill amends the "Local Public Contracts Law," to: (1) exempt from public bidding requirements contracts for the provision of electricity by an authority; (2) extend the authorized duration to 20 years of any contract for the leasing or servicing of machinery or equipment used in the generation of electricity by a contracting unit; and (3) allow any power supply contract between a contracting unit and an authority for the lease, operation, or management of electric generation or the purchase of electricity, or the purchase of fuel for generating units to extend for a term of up to 40 years.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The proposed bill will impact the nine municipalities that have retail electric distribution systems (municipal utilities), i.e., Butler, Lavallette, Madison, Milltown, Park Ridge, Pemberton, Seaside Heights, South River, and Vineland, and will also impact the Sussex Rural Electric Cooperative (cooperative). According to the U.S. Energy Information Administration, the nine municipal utilities provided electric power to 63,467 customers in 2008, of which 54,971 were residential customers. This amounts to 1.6 percent of total residential electric power customers in the State. In 2008, these nine municipal utilities generated \$178.6 million in revenue on sales

of 1.2 million MWh of electric power. This results in an average retail cost to municipal utility consumers of 14.85 cents per kilowatt hour (KWh) of electric power, compared with a State-wide average cost for residential customers in 2008 of 15.66 cents per KWh.

Based upon the municipal utilities distribution of 1.2 million MWh of electric power in 2008, a change of one cent in the retail price of electric power is expected to result in a \$12 million change in total electric prices paid by their customers. This would amount to roughly \$189 per year for an electric power customer, which includes some non-residential customers. The 2008 average U.S. household consumption of electric power was 11.04 MWh per year. A one cent change in electric power prices for the average U.S. household would amount to \$110 per year. The average savings of a household served by the municipality is likely closer to \$110 per year.

The OLS finds that the market for wholesale energy is volatile and that variance in the price of wholesale electricity could be greater than the savings that can be realized through this bill in the form of greater scale and purchasing power for the municipal utilities and the cooperative. This makes any concrete estimate of savings from scale very difficult because shifts in the market may obscure any savings attributable to the bill. Market timing and luck may have a greater impact on the electric power price received at wholesale auction than the size of the authority. Despite this issue, over a long period of time and correcting for the volatility of market prices, OLS finds that the municipal utilities could realize an indeterminate, but small positive impact, on the wholesale price of electric power that they purchase solely due to increase in scale by buying and selling in the wholesale market as a single entity.

The bill also provides the authority with bonding powers and the ability to develop its own electric power generation projects. While it is not yet possible to know whether the authority would choose to develop generation projects, it is clear that the combined financial strength of the municipalities which create the authority provides the scale necessary to undertake generation projects that would not be financially feasible for municipalities operating independently of each other. By operating as a combined entity, the authority would have access to lower borrowing rates and higher borrowing capacity. It is also the case that any project undertaken would likely allow the authority to generate and distribute electric power at a lower price than if the individual municipalities purchased the electric power at auction.

When purchasing electric power, there are two markets in which municipalities must participate. The first is the Reliability Pricing Model (RPM) market for peak capacity established by PJM Interconnection, the regional power pool serving New Jersey. The RPM market operates by taking bids from each electric power producer in the region. The market will then accept the bids from lowest to highest until the full peak demand need is met. The market then charges all buyers at the market price of the highest bid, and distributes those bids to the sellers at the price of the highest accepted bid. As a result, the price of peak capacity on the RPM market is set at the highest marginal cost of production in the entire region. This is essentially the amount paid to power plants to maintain standby production capacity so that the grid can avoid brownouts and other supply shortages.

The nine municipalities eligible to form the authority purchase roughly 360 MW of peak energy. A consultant's report that the Board of Public Utilities commissioned for the Long-Term Capacity Agreement Pilot Program projected over the next 10 years that the cost per MW on the RPM market will average roughly \$300/MW. Based on estimates provided by Vineland, which is already in the advanced stages of securing additional production capacity through a natural gas-fired power plant, it appears that Vineland will be able to supply 30 MW of its own peak demand at a price of roughly \$150/MW. The OLS agrees with Vineland's assessment that the additional capacity could be produced at a cost of \$150/MW. Their estimate is confirmed by the 2008 New Jersey Energy Master Plan (master plan) which found that among different power plant types, gas turbine power plants have the lowest construction cost, and lowest fixed

operation cost, while having among the highest marginal costs. That means that a gas turbine power plant similar to what Vineland is constructing would be expensive in terms of per unit of production basis, but would be relatively affordable to build and relatively easy to start up and shut down in response to market prices, allowing them to achieve cost savings in peak periods by producing at lower cost than the market price, and then to shut the plant down and take advantage of market prices in lower demand periods, and finally to avoid the RPM peak capacity market altogether by having their own power plant capacity.

The OLS estimates that on the RPM peak capacity market, the authority could provide 360 MW of its own peak demand at a price between \$150/MW and \$250/MW. The \$150/MW savings estimate is based upon the current cost estimates of Vineland which is confident enough in its numbers that it has already begun construction of a new 30 MW power plant that is being used as the basis for these estimates. The master plan identifies the 2005 operating cost for power plants around the State and the range of operating costs in 2005 for gas power plants was between \$75/MW and \$150/MW. The most expensive plants are likely older and less efficient plants that were constructed in the past. Operating costs for newly constructed plants could reasonably be expected to have a lower operation cost. Based upon the master plan estimates for the cost of constructing a gas turbine power plant, it is reasonable to expect financing costs at roughly double the operating costs. Based on this information, OLS estimates a cost of operating a new plant of roughly \$75/MW to \$125/MW and then estimates that financing costs would roughly double the operating estimate for a total cost of \$150/MW to \$250/MW. At \$150/MW day compared with an average market price of \$300/MW day over the next 20 years for the municipalities, total savings per year would be \$19.71 million ($\$150 \text{ savings} \times 365 \text{ days} \times 360 \text{ MW}$). At \$250/MW day the savings would be \$6.57 million ($\$50 \text{ savings} \times 365 \text{ days} \times 360 \text{ MW}$). This is the range of annual savings that the authority would realize through the construction of its own power plants to handle peak demand, rather than purchasing the demand at market. The construction of these power plants is made possible by the lower cost of borrowing and the increased financial resources at the disposal of the municipalities and cooperative as a single power authority rather than operating on their own.

The second market that a municipality and cooperative participates in is the wholesale spot energy market in which electric power is purchased per KWh for the actual electric power consumed by retail customers. The rates at this market can vary widely by time and location depending upon the electric power demand placed on the grid at any point and the distance between the electric power production and the electric public utility customer. While calculating the financial viability of constructing its new power plant, Vineland anticipated that it could save approximately 25 percent compared with purchasing electric power on the spot market by using the power plant approximately 4,000 hours per year during the times in which spot prices are the highest, for a total savings of \$5 million per year for a single natural-gas fired power plant with a capacity of 30 MW. The estimate of 25 percent is reasonable when compared with the master plan estimates of generation costs for different types of newly constructed power plants, which again would be more cost effective than older power plants of the same type currently contributing to market prices. The new plants would also be providing power in the towns they are located, substantially decreasing the energy loss from moving the power long distances over power lines from places such as Pennsylvania or Maryland, which currently happens with the more expensive market rate electric power that the municipal utilities must purchase currently. The master plan estimates that a new gas turbine plant will have a maximum marginal cost of \$6/MWh of variable operating costs and \$8.50/KW-year in fixed operating costs, compared with minimum cost estimates of \$6.50 and \$35 for integrated gas combined cycle power plants, \$4 and \$30 for combined heat and power plants without chillers, and \$2 and \$50 for biomass power plants. All of these plant types are also more expensive than gas turbine plants to construct.

Given these costs estimates for new power plants, it is more than reasonable to estimate that the authority could achieve savings in the range of 25 percent by running gas plants during the peak periods in which the spot market prices would reflect the cost of buying energy from these plant types rather than the much more affordable base load supplied by coal or nuclear power plants.

The OLS finds that the estimate of Vineland for its power plant is a relatively optimal scenario, considering the amount of time that they believe they can produce electricity at a lower cost than the market price for 4,000 hours per year. For the entire 360 MW generated by the municipal utilities, it may be possible to save an average of \$4 million per 30 MW plant. Some plants may save more while others would realize lower savings, due to differing market prices by location in the State and the current market rate prices being paid by each of the nine municipal utilities and cooperative. A pessimistic scenario would result in no savings on the spot market, if the production cost at the plants was greater than or equal to the spot market price for electric power. In the capacity market there will always be a savings though, because having the power plant capacity available allows the authority to avoid participating in the capacity market, and the authority is estimated to be able to produce its own capacity for the market at least \$50/MW more cheaply than the 20-year estimated RPM market price. If the \$4 million average savings is extended for a single 30 MW power plant over the entire 360 MW generated by the authority, the total potential savings compared with buying power at the spot market would be up to \$48 million per year under the optimal scenario.

This means that the total savings would range from \$0 at spot market and \$6.57 million RPM capacity market on the low side and \$48 million spot market and \$19.71 million RPM capacity market on the high side for a range of savings between \$6.57 million and \$67.71 million to the municipal utilities which would mostly be passed along to customers of the authority. This would likely result in a per kilowatt hour savings to residential customers in the nine municipalities of roughly 0.5 cents to four cents per kilowatt hour. At a national average of 11 MWh per year of household consumption, that would result in \$55 to \$440 per year in savings to a household. All of this assumes that all nine municipalities and the Sussex Rural Electric Cooperative join the authority and that the authority installs 360 MW of its own generating capacity.

Section: Authorities, Utilities, Transportation and Communications

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

Governor Christie Takes Action On Pending Legislation

Monday, November 9, 2015 Tags: [Bill Action](#)



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Trenton, NJ – Governor Chris Christie today took action on legislation, including a package of five bills intended to address the fiscal stability of Atlantic City.

Understanding both the immediate and long-term obstacles facing Atlantic City and its stabilization, the Governor has consistently highlighted the need for comprehensive reform efforts to confront the city's challenges – both from State and local leaders. The Governor remains committed to bringing about the necessary reforms to stabilize Atlantic City and continue an effective long-term transition to an economy that is diversified beyond its traditional gaming industry.

Continuing in that effort, Governor Christie conditionally vetoed A-3981, establishing a payment-in-lieu-of-taxes (PILOT) program for casinos operating in the City, A-3984, reallocating revenue derived from the casino investment alternative tax from the Casino Reinvestment Development Authority to the City to pay debt service on municipal bonds, and A-3985, repealing the Atlantic City Alliance.

"While I commend the Legislature for attempting to devise measures to stabilize the City's budget and finances, I am concerned that the bills, in their present form, fail to recognize the true path to economic revitalization and fiscal stability in the City," Governor Christie said. "While these bills represent the bipartisan efforts of many to provide important, near-term support to the City's immediate challenges, I do not believe they meet the goal of setting a course toward renewed, long-term prosperity and economic growth. To achieve these goals, we must continue our work and go further to ensure that the next step leads to that economically vibrant future for Atlantic City."

In addition, the Governor signed A- 3983, authorizing supplemental school aid to the Atlantic City school district, and vetoed the fifth bill, A-3982, which would add a costly and unjustified new mandate for casino business operation in the City by requiring each casino, as a condition of licensure, to provide to its full time employees "suitable" health care benefits and "suitable" retirement benefits.

"A-3982 would do nothing to enhance the financial condition of Atlantic City," Governor Christie wrote. "To be sure, this bill would make it more costly for casinos to operate in Atlantic City, thereby impeding the industry's ability to grow and expand."

Governor Christie also vetoed legislation designed to revise certain laws concerning domestic violence and firearms. The Christie Administration has made protecting our most vulnerable residents one of its main priorities and has enacted some of the toughest measures to combat domestic violence. Governor Christie has supported a comprehensive approach to addressing the level of violence within our society and recently signed legislation to further penalize aggravated assault perpetuated against domestic violence victims. This legislation, A-4218 (Mosquera, Greenwald, Lagana, Benson, Lampitt, Vainieri Huttie, Danielsen/Weinberg, Gill, Cruz-Perez), substantially restates New Jersey's existing laws that govern firearms and domestic violence and does not offer new and sensible improvements to those current laws. For that reason, rather than restate existing laws, the Governor is proposing significant amendments that will meaningfully deter future acts of violence.

• **Enhanced Penalties For Domestic Violence.** Governor Christie is proposing enhanced criminal penalties imposed against those who are convicted of domestic violence. To demonstrate society's unconditional condemnation of this conduct, perpetrators would receive the maximum available prison sentence under New Jersey law.

• **Tighter Restrictions On Parole Eligibility For Perpetrators Of Domestic Violence.** The Governor's recommended changes will strengthen penalties for perpetrators of domestic abuse by lengthening periods of parole

ineligibility.

- **Prioritizing Victims Who Seek Firearms For Protection.** The Governor is also recommending an immediate codification in statute of new rules currently being processed, giving expedited processing of firearm license applications for victims of domestic violence so that the victims may better defend themselves against future instances of abuse.

"I urge the Legislature to join with me in a bipartisan manner to broaden this bill's approach to reducing domestic violence while simultaneously empowering victims to protect themselves through lawful means," Governor Christie said. "Together, we can enact a more comprehensive approach and reduce the harm that domestic violence inflicts on victims, families, and our society."

The Governor also took the following action on other pending legislation:

BILL SIGNINGS:

S-2174/A-3364 (Barnes, Holzapfel/Quijano, Mainor, Pinkin) - Prohibits manufacture, sale, or installation of counterfeit or nonfunctional air bags in motor vehicles

A-815/S-852 (Coughlin, Ciattarelli, Diegnan, Pinkin, Giblin/Vitale) - Requires municipalities which license peddlers and solicitors to accept certain background check results from other municipalities

A-1029/S-274 (Benson, Vainieri Huttie, Jasey, Tucker, Wimberly/Greenstein, Ruiz) - Requires training program for school bus drivers and school bus aides on interacting with students with special needs, and requires development and use of student information cards

A-1041/S-2676 (Schaer, Johnson, Vainieri Huttie, Eustace, Mazzeo/Rumana, Gordon, Weinberg) - Exempts Holocaust reparations payments from legal process, and from estate recovery under Medicaid program

A-1102/S-1145 (Vainieri Huttie, Sumter, Spencer, Schaer, Wimberly/Weinberg, Cruz-Perez) - Provides for licensure of dementia care homes by DOH

ACS for A-1662/S-2856 (Johnson, Lagana, Wimberly/Weinberg) - Authorizes the court to order the deletion, sealing, labeling, or correction of certain personal information in government records involving certain victims of identity theft

AS for A-1678/SS for S-1365 (Johnson, Mainor, O'Scanlon, Wilson, Wimberly/Weinberg) - Authorizes court to order submission of DNA evidence to national database to determine whether evidence matches known individual or DNA profile from an unsolved crime

AS for ACS for A-2073/SCS for S-712 (Handlin, Space, Garcia, Pintor Marin/Cruz-Perez, Kyrillos, Lesniak) - Exempts certain offers and sales of securities from registration

A-2385/S-944 (McKeon, Diegnan, Jasey, Andrzejczak/Smith, Codey) - Authorizes rural electric cooperative and certain municipalities to establish municipal shared services authority

ACS for A-2477/SCS for S-1705 (Lampitt, Conaway, Benson, Sumter, Munoz, Pinkin/Vitale, Singer) - Establishes requirements for pharmacists to dispense biological products

A-2714/S-1993 (Giblin, Sumter/Barnes) - Requires continuing education for licensed practicing psychologists

A-2936/S-1957 (Mosquera, Lampitt, Singleton, Wimberly/Singer, Connors) - Requires complaint for guardianship of person receiving services from Division of Developmental Disabilities to include one of documents identified in bill

A-3012/S-2296 (Ciattarelli, Dancer/Bateman) - Criminalizes bestiality

A-3079/S-2766 (Jasey, Diegnan, Mainor, Wimberly, Oliver, DeCrose/Turner, Ruiz) - Prohibits administration of standardized assessments in kindergarten through second grade

A-3153/S-2415 (DeAngelo, Mosquera/Madden, Beach) - Requires UI employer contribution reports and remittances be submitted to the Division of Revenue

A-3248/S-2459 (Conaway, Sumter, Pintor Marin/Singer) - Establishes the Task Force on Chronic Obstructive Pulmonary Disease in DOH

A-3580/S-2846 (Moriarty, Dancer, Coughlin, Mainor, Pinkin, Munoz, Daniels, Wimberly/Madden, Turner) - Prohibits sale of powdered alcohol

A-3636/SCS for S-2393, 2408, 2411 (McKeon, Lagana, Spencer/Scutari, O'Toole, Holzapfel) - Establishes crime-fraud exception to marital and civil union partnership privilege

A-3669/S-2655 (Mazzeo, Burzichelli/Whelan) - Prohibits eligibility for certain sign programs from being conditioned on availability of free drinking water or public telephone

A-3807/S-2619 (Eustace, Greenwald/Whelan) - Permits educational research and services corporations to act as lead procurement agencies for local units and publically supported educational institutions; permits Council of County Colleges to act as lead procurement agency for county colleges

A-3841/S-2540 (Munoz, Gusciora, Angelini, DeCroce/O'Toole, Weinberg) – Upgrades violation of a stalking restraining order to a crime of the third degree

A-3843/S-2735 (Caputo, Giblin, Tucker, Johnson, Mainor, Sumter/Rice) - Permits municipality to enact ordinance allowing voluntary registration of private outdoor video surveillance cameras

A-3983/S-2574 (Mazzeo, Burzichelli, Giblin/Sweeney, Whelan) - Authorizes supplemental State aid to school districts in municipality with significant decrease in commercial property valuation; makes appropriation

A-4008/SCS for S-2334 (Singleton, Mukherji, Pintor Marin, Wimberly, Sumter/Cunningham, Ruiz) - Requires DOC to make reports containing information concerning treatment and reentry initiative participation; requires AOC to establish program that collects recidivism data and make reports concerning adults sentenced to period of probation

A-4013/S-2497 (Greenwald, Lagana, Coughlin/Oroho) - Eliminates mortgage guaranty insurance coverage cap of 25% of outstanding balance of insured loan

A-4073/S-2687 (Schaer, Prieto, Caride, Lagana, Giblin, Wimberly, Rumana/Sarlo, Gill) - Requires installation of carbon monoxide detectors in certain structures; designated as "Korman and Park's Law"

A-4078/S-2686 (Vainieri Huttie, Mosquera, McKeon, Munoz, Benson, Sumter/Pou, Beck) - "Sexual Assault Survivor Protection Act of 2015"; authorizes the court to issue protective orders for victims of certain nonconsensual sexual conduct

A-4089/S-2693 (Coughlin, Ciattarelli/Beach, Singer) - Revises certain provisions of dental service corporation law

A-4143/S-2514 (Lagana, Spencer, Mukherji, Johnson, Rumana, Rodriguez-Gregg, Gusciora, Mazzeo/Barnes, Addiego) - Permits holders of certain alcoholic beverage licenses to be issued amusement game license and updates definition of recognized amusement park

A-4144/S-2755 (Pintor Marin, Spencer, Caride, Quijano, Mukherji/Ruiz, Stack) – Requires insurance producer licensing examination and registration materials to be offered in English and Spanish, and examination instructional materials to be available in Spanish

A-4167/S-2751 (Lagana, Mazzeo, Eustace, Andrzejczak, Vainieri Huttie/Barnes) - Requires DHS to notify enrollees in Programs of All-Inclusive Care for the Elderly of Medicare eligibility

A-4168/S-2750 (Lagana, Mazzeo, Eustace, Andrzejczak, Vainieri Huttie/Barnes) - Requires providers to submit to DHS expenditure details of enrollees in Program of All-Inclusive Care for the Elderly

A-4169/S-2752 (Lagana, Mazzeo, Eustace, Andrzejczak, Vainieri Huttie/Barnes) - Requires DHS to monitor utilization and billing of services for Medicaid home and community-based long-term care

A-4333/S-3020 (Singleton, Gill) - Exempts certain activities of alarm businesses from statutes governing practice of locksmithing

A-4361/S-2891 (Johnson, A.M. Bucco, Garcia, S. Kean/Barnes, A.R. Bucco) - Revises definition of all-terrain vehicles

A-4375/S-3011 (Moriarty, Andrzejczak, Mazzeo, Mosquera, Quijano, Ciattarelli, Wimberly/Van Drew, Bateman) - Upgrades crimes of false public alarm under certain circumstances and establishes reporting requirements concerning crime

A-4485/S-2881 (Diegnan, Jasey, Wimberly, McKeon, Lagana/Gill, Turner) - Prohibits withholding of State school aid based on student participation rate on State assessments

A-4587/S-3049 (Greenwald, Lampitt, McKeon, Holley/Scutari, Cruz-Perez) – Requires facilities providing services to persons with developmental disabilities and schools to adopt policies permitting administration of medical marijuana to qualifying patients

AJR-64/SJR-82 (Schaer, Eustace, Lagana, Spencer, Caride, Mukherji/Pou, Ruiz) - Declares August 16 of each year as "Dominican Restoration Day" in New Jersey

BILLS VETOED:

S-929/A-1908 (Sweeney, Madden/Burzichelli, Riley, Moriarty) – **ABSOLUTE** -Concerns certain workers' compensation supplemental benefits

A-801/S-861 (Coughlin, Wisniewski, Mazzeo/Vitale, Sacco) - **CONDITIONAL** - Directs New Jersey Turnpike Authority and South Jersey Transportation Authority to study and report on potential revenue generating services of rest areas and service plazas

A-947/S-2216 (Singleton, Lagana, Diegnan/Pennacchio, Rice) – **CONDITIONAL** - Requires release of bid list prior to bid date under "Local Public Contracts Law"

A-1468/S-2513 (Diegnan, Lampitt, Caride/Barnes, Ruiz) – **CONDITIONAL** -Establishes Task Force on Engineering Curriculum and Instruction

A-1726/S-308 (Eustace, Lagana, Mosquera, Vainieri Huttie, Wimberly/Gordon) – **CONDITIONAL** - Amends "Flood Hazard Area Control Act" to require DEP to take certain actions concerning delineations of flood hazard areas and

floodplains

A-2579/S-1510 (Mukherji, Pintor Marin, Eustace/Smith, Bateman) – CONDITIONAL - Authorizes municipalities to facilitate private financing of water conservation, storm shelter construction, and flood and hurricane resistance projects through use of voluntary special assessments

A-2771/S-452 (Johnson, Burzichelli, Pintor Marin, Mosquera/Ruiz, Cruz-Perez) – CONDITIONAL - "The New Jersey Social Innovation Act"; establishes social innovation loan pilot program and study commission within EDA

A-2906/S-2926 (Stender, Pinkin, Mazzeo/Whelan, Scutari) – ABSOLUTE - Excludes from gross income compensation paid to members of district boards of election for services rendered in elections

A-3223/S-2056 (Singleton, Lampitt, Quijano, Pintor Marin, Wimberly/Sarlo, Ruiz) – CONDITIONAL - Requires Division of Local Government Services to include certain property tax information on division's web page

A-3393/S-2167 (Spencer, Pintor Marin, Caputo, Tucker/Rice, Ruiz) – CONDITIONAL - Permits Newark to use rental car tax proceeds over three-year period to help reduce its "cash deficit for preceding year" appropriation and operational deficit

A-3421/S-2220 (Dancer, Mukherji/Singer) – CONDITIONAL - Revises the "Self-Funded Multiple Employer Welfare Arrangement Regulation Act"

A-3435/S-2503 (Garcia, Mukherji, Vainieri Huttie, Mainor, Eustace, Mosquera/Stack, Gordon) - CONDITIONAL - "Boys & Girls Clubs Keystone Law"; permits minors to give consent for behavioral health care

A-3500/S-1973 (Andrzejczak, Pinkin, Quijano/Van Drew, Beach) – ABSOLUTE - Requires local recreation departments and youth serving organizations to have defibrillators for youth athletic events

A-3954/S-2981 (Conaway, Singleton, Spencer, McKeon/Greenstein) – CONDITIONAL - Requires maximum contaminant level to be established for 1,2,3-trichloropropane in drinking water

A-3981/S-2572 (Mazzeo, Burzichelli, Andrzejczak/Sweeney, Whelan) - CONDITIONAL - "Casino Property Taxation Stabilization Act"

A-3982/S-2573 (Mazzeo, Burzichelli, Andrzejczak/Sweeney, Whelan) – ABSOLUTE - Requires holder of casino license to provide certain employees with certain health care and retirement benefits

A-3984/S-2575 (Mazzeo, Burzichelli, Giblin/Sweeney, Whelan) – CONDITIONAL - Reallocates casino investment alternative tax to Atlantic City to pay debt service on municipal bonds issued

A-3985/S-2576 (Mazzeo, Burzichelli, Andrzejczak, Giblin/Sweeney, Whelan) – CONDITIONAL - Removes provisions of law relating to Atlantic City Alliance

A-4018/S-2843 (Burzichelli, Caputo, Mazzeo/Sarlo, Whelan) – ABSOLUTE - Authorizes operation of lottery courier services

A-4218/S-2786 (Mosquera, Greenwald, Lagana, Benson, Lampitt, Vainieri Huttie, Danielsen/Weinberg, Gill, Cruz-Perez) - CONDITIONAL - Revises certain laws concerning domestic violence and firearms

A-4265/S-2783 (McKeon, Pintor Marin, Jasey, Caputo, Giblin, Tucker, Spencer, Oliver, Gusciora, Danielson/Codey, Ruiz, Rice) – ABSOLUTE - Permits municipal, county, and regional police and fire forces to establish five-year residency requirement for police officers and firefighters; allows exceptions to requirement under certain circumstances

A-4337/S-3008 (Schaer, Danielsen, Dancer, Sumter/Barnes) – ABSOLUTE - Expands eligibility of inmates for medical parole and requires inmate's enrollment in Medicaid under certain circumstances

A-4476/S-2876 (Conaway/Codey) - CONDITIONAL - Requires certain surgical practices and ambulatory care facilities licensed in this State to be owned by hospital or medical school located in the State

A-4607/S-3106 (Pintor Marin, Schaer, Oliver, Lagana, Johnson, Singleton/Ruiz, Cunningham) – ABSOLUTE - Makes FY 2016 supplemental appropriations of \$6,500,000 and adds language provision

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