

40:37A-96

LEGISLATIVE HISTORY CHECKLIST

NJSA 40:37A-96 (County improvement authorities...acquire land)

Laws of 1968 Chapter 66

Bill No. A750

Sponsor(s) Merlino & others

Date Introduced May 13, 1968

Committee: Assembly County & Municipal Gov't.

Senate -

Amended during passage Yes No Amendments during passage denoted by asterisks.

Date of passage: Assembly May 27

Senate June 17

Date of approval June 18, 1968

Following statements are attached if available:

Sponsor statement Yes Below No

Committee Statement: Assembly Yes No

Senate Yes No

Fiscal Note Yes No

Veto message Yes No

Message on signing Yes No

Following were printed:

Reports Yes No

Hearings Yes No

Sponsor's statement:

This bill would authorize county improvement authorities to acquire and operate public transportation facilities.

10/4/76

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ASSEMBLY BILL
2-18-68

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ASSEMBLY, No. 750

STATE OF NEW JERSEY

INTRODUCED MAY 13, 1968

By Assemblymen MERLINO, WOODSON and HORN

Referred to Committee on County and Municipal Government

AN ACT to amend and supplement the "County Improvement Authorities Law," approved January 18, 1961 (P. L. 1960, c. 183).

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

1 1. Section 2 of the act of which this act is amendatory
2 (C. 40:37A-45) is amended to read as follows:

3 2. As used in this act, unless a different meaning clearly ap-
4 pears from the context:

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

7 (b) "Bond resolution" shall have the meaning ascribed thereto
8 in section 16 of this act;

9 (c) "Bonds" shall mean bonds, notes or other obligations is-
10 sued pursuant to this act;

11 (d) "Construct" and "construction" shall connote and include
12 acts of clearance, demolition, construction, development or re-
13 development, reconstruction, replacement, extension, improvement
14 and betterment;

15 (e) "Cost" shall mean, in addition to the usual connotations
16 thereof, the cost of planning, acquisition or construction of all
17 or any part of any public facility or facilities of an authority
18 and of all or any property, rights, easements, privileges, agree-
19 ments and franchises deemed by the authority to be necessary or
20 useful and convenient therefor or in connection therewith, includ-
21 ing interest or discount on bonds, cost of issuance of bonds, archi-
22 tectural, engineering and inspection costs and legal expenses, cost
23 of financial, professional and other estimates and advice, organi-
24 zation, administrative, operating and other expenses of the au-
25 thority prior to and during such acquisition or construction, 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.

26 all such other expenses as may be necessary or incident to the
27 financing, acquisition, construction and completion of such public
28 facility or facilities or part thereof and the placing of the same
29 fully in operation or the disposition of the same, and also such
30 provision or reserves for working capital, operating, maintenance
31 or replacement expenses or for payment or security of principal
31A of or interest on bonds during or after such acquisition or con-
32 struction as the authority may determine, and also reimburse-
33 ments to the authority or any governmental unit or person of any
34 moneys theretofore expended for the purposes of the authority;

35 (f) The term "county" shall mean any county of any class of
36 the State, and the term "the county" shall mean the county which
37 created an authority pursuant to this act;

38 (g) "Development project" shall mean any lands, structures, or
39 property or facilities acquired or constructed or to be acquired
40 or constructed by an authority for the purposes of the authority
41 described in clause (d) of section 11 of this act;

42 (h) "Facility charges" shall have the meaning ascribed to said
43 term in section 14 of this act;

44 (i) "Facility revenues" shall have the meaning ascribed to said
45 term in section 20 (e) of this act;

46 (j) "Governing body" shall mean, in the case of a county, the
47 board of chosen freeholders, and, in the case of a municipality,
48 the commission, council, board or body, by whatever name it may
49 be known, having charge of the finances of the municipality;

50 (k) "Governmental unit" shall mean the United States of Amer-
51 ica or the State or any county or municipality or any subdivision,
52 department, agency, or instrumentality heretofore or hereafter
53 created, designated or established by or for the United States
54 of America or the State or any county or municipality;

55 (l) "Local bond law" shall mean chapter 2 of Title 40A, Mu-
56 nicipalities and Counties, of the New Jersey Statutes (N. J. S.)
57 as amended and supplemented;

58 (m) "Municipality" shall mean any city, borough, village, town,
59 or township of the State but not a county or a school district;

60 (n) "Person" shall mean any person, partnership, association,
61 corporation or entity other than a nation, State, county or munici-
62 pality or any subdivision, department, agency or instrumentality
63 thereof;

64 (o) "Project" shall have the meaning ascribed to said term in
65 section 16 of this act;

66 (p) "Public facility" shall mean any lands, structures, *fran-*
67 *chises, equipment,* or other property or facilities acquired or con-

68 structed or to be acquired or constructed by an authority for its
 69 purposes and either (i) operated or to be operated by the author-
 70 ity or by any governmental unit or person under a lease or other
 71 agreement by or with the authority or (ii) constituting a develop-
 72 ment project; and

73 (q) "Real property" shall mean lands within or without the
 74 State, above or below water, and improvements thereof or thereon,
 75 or any riparian or other rights or interests therein.

1 2. Section 11 of the act of which this act is amendatory
 2 *[(C. 37A:54)]* *(C. 40:37A-54)* is amended to read as follows:

3 11. The purposes of every authority shall be (a) provision
 4 within the county of public buildings for use by the State, the
 5 county, or any municipality in the county, or any 2 or more or
 6 any subdivisions, departments, agencies or instrumentalities of any
 7 of the foregoing, including buildings for use by any municipality
 8 bordering on the Atlantic ocean as enlargements or parts of or
 9 supplements to any municipal convention hall maintained by it,
 10 (b) provision within the county of structures, *franchises, equip-*
 11 *ment* and facilities for *operation of* public transportation or for
 12 terminal purposes, including development and improvement of
 13 port terminal structures, facilities and equipment for public use
 14 in counties in, along or through which a navigable river flows, (c)
 15 provision within the county of structures or other facilities used
 16 or operated by the authority or any governmental unit in connec-
 17 tion with, or relative to development and improvement of, aviation
 18 for military or civilian purposes, including research in connection
 19 therewith, and including structures or other facilities for the
 20 accommodation of passengers, (d) acquisition of any real property
 21 within the county, with or without the improvements thereof or
 22 thereon or personal property appurtenant or incidental thereto,
 23 from the United States of America or any department, agency
 24 or instrumentality heretofore or hereafter created, designated or
 25 established by or for it, and the clearance, development or rede-
 26 velopment, improvement, use or disposition of the acquired lands
 27 and premises in accordance with the provisions and for the pur-
 28 poses stated in this act, including the construction, reconstruction,
 29 demolition, rehabilitation, conversion, repair or alteration of im-
 30 provements on or to said lands and premises, and structures and
 31 facilities incidental to the foregoing as may be necessary, con-
 32 venient or desirable, and (e) any combination or combinations of
 33 the foregoing.

1 3. Section 14 of the act of which this act is amendatory
 2 (C. 40:37A-57) is amended to read as follows:

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

1 4. Section 20 of the act of which this act is amendatory
2 (C. 40:37A-63) is amended to read as follows:

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

9 (a) The custody, security, use, expenditure or application of
10 the proceeds of the bonds;

11 (b) The construction and completion, or replacement, of any
12 public facility or facilities;

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

17 (d) Payment of the principal of or interest on the bonds, or any
18 other obligations, and the sources and methods thereof, the rank
19 or priority of any such bonds or obligations as to any lien or secur-
20 ity, or the acceleration of the maturity of any such bonds or
21 obligations;

22 (e) The use and disposition of any moneys of the authority,
23 including revenues (in this act sometimes called "facility reve-
24 nues") derived or to be derived from the operation of any public
25 facility or facilities, including any parts thereof theretofore con-
26 structed or acquired and any parts, extensions, replacements or
27 improvements thereof thereafter constructed or acquired;

28 (f) Pledging, setting aside, depositing or trusteeing all or any
29 part of the facility revenues or other moneys of the authority to
30 secure the payment of the principal of or interest on the bonds or
31 any other obligations or the payment of expenses of operation or
32 maintenance of any public facility or facilities, and the powers
33 and duties of any trustee with regard thereto;

34 (g) The setting aside out of the facility revenues or other
35 moneys of the authority of reserves and sinking funds, and the
36 source, custody, security, regulation, application and disposition
37 thereof;

38 (h) Determination or definition of the facility revenues or of
39 the expenses of operation and maintenance of a public facility or
40 facilities;

41 (i) The rents, rates, *fares*, fees, or other charges in connection
42 with, or for the use or services of, or otherwise relating to any
43 public facility or facilities, including any parts thereof theretofore
44 constructed or acquired and any parts, extensions, replacements or
45 improvements thereof thereafter constructed or acquired, and the
46 fixing, establishment, collection and enforcement of the same, the
47 amount or amounts of facility revenues to be produced thereby, and
48 the disposition and application of the amounts charged or collected;

49 (j) The assumption or payment or discharge of any indebted-
50 ness, liens or other claims relating to any part of any public facility
51 or facilities or any obligations having or which may have a lien on
52 any part of the facility revenues;

53 (k) Limitations on the issuance of additional bonds or any other
54 obligations or on the incurrence of indebtedness of the authority;

55 (l) Limitations on the powers of the authority to construct,
56 acquire or operate any structures, facilities or properties which
57 may compete or tend to compete with any of its public facilities;

58 (m) Vesting in a trustee or trustees within or without the State
59 such property, rights, powers and duties in trust as the authority
60 may determine which may include any or all of the rights, powers
61 and duties of the trustee appointed by the holders of bonds pur-
62 suant to section 21 of this act, and limiting or abrogating the right
63 of such holders to appoint a trustee pursuant to section 21 of this
64 act or limiting the rights, duties and powers of such trustee;

65 (n) Payment of the costs or expenses incident to the enforce-
66 ment of the bonds or of the provisions of the bond resolution or
67 of any covenant or agreement of the authority with the holders
68 of bonds;

69 (o) The procedure, if any, by which the terms of any covenant
70 or agreement with, or duty to, the holders of bonds may be
71 amended or abrogated, the amount of bonds the holders of which
72 must consent thereto, and the manner in which such consent may be
73 given or evidenced; or

74 (p) Any other matter or course of conduct which, by recital in
75 the bond resolution, is declared to further secure the payment of
76 the principal of or interest on bonds and to be part of any covenant

77 or agreement with the holders of bonds.

78 All such provisions of said bond resolution and all such cove-
79 nants and agreements shall constitute valid and legally binding
80 contracts between the authority and the several holders of the
81 bonds, regardless of the time of issuance of such bonds, and shall
82 be enforceable by any such holder or holders by appropriate action
83 or proceeding in any court of competent jurisdiction, including a
84 proceeding in lieu of prerogative writ.

1 *5. Section 26 of the act of which this act is amendatory (C.
2 40:37A-69) is amended to read as follows:

3 26. Every authority is hereby empowered, in its own name but
4 for the county, to acquire by purchase, gift, grant or devise and
5 to take for public use real property, within or without the county,
6 or any interest therein which may be deemed by the authority
7 necessary for its purposes, including public lands owned by or in
8 which any municipality within the county has a right, title or in-
9 terest. Such authority is hereby empowered to acquire and take
10 such real property including such public property or interests
11 therein, by condemnation, in the manner provided by chapter 1 of
12 Title 20, Eminent Domain, of the Revised Statutes (R. S. 20:1-1
13 et seq.) and, to that end, may invoke and exercise in the manner
14 or mode of procedure prescribed in said chapter, either in its own
15 name or in the name of the county, all of the powers of such county
16 to acquire or take property for public use; provided, however, that,
17 notwithstanding the foregoing or any other provision of this act,
18 no authority shall take, by condemnation, any real property except
19 upon consent thereto by the county which created the authority
20 given by resolution adopted by its governing body and further
21 provided, in the case of authorities operating a public transporta-
22 tion facility, every taking by condemnation in connection with such
23 powers, shall be subject to the provisions of sections 48, 49 and 63
24 of P. L. 1962, c. 198 (C. 48:3-17.6 to 48:3-17.8).

1 6. Section 47 of the act of which this act is amendatory (C.
2 40:37A-90) is amended to read as follows:

3 47. This act shall be construed liberally to effectuate the legis-
4 lative intent and as complete and independent authority for the
5 performance of each and every act and thing herein authorized,
6 and an authority shall not constitute or be deemed to be a county
7 or municipality or agency or component of a municipality for the
8 purposes of any other law, and shall not be subject to regulation
9 as to its facility charges by any officer, board, agency, commission
10 or other office of the State; provided, however, that no authority,

11 *other than an authority created in a county of the second class*
 12 *having a population in excess of 265,000, but less than 550,000 in-*
 13 *habitants or in a county of the fifth class having a population in*
 14 *excess of 150,000, but less than 300,000 inhabitants, shall exercise*
 15 *the powers of a common carrier, and, except as hereinabove in this*
 16 *section set forth, nothing contained in this act shall in any way*
 17 *affect or limit the jurisdiction, rights, powers or duties of any State*
 18 *regulatory agencies.*

1 *7. Employees of a public transportation facility operated by any*
 2 *county improvement authority shall have the right to self-organi-*
 3 *zation, to form, join or assist labor organizations and to bargain*
 4 *collectively through representatives of their own choosing. It shall*
 5 *be the obligation of such authority to recognize and bargain ex-*
 6 *clusively with a labor organization representing a majority of its*
 7 *employees in an appropriate unit with respect to wages, salaries,*
 8 *hours, working conditions and welfare and pension and retirement*
 9 *provisions, and, upon reaching agreement with such labor organi-*
 10 *zation, to enter into and execute a written contract incorporating*
 11 *therein the agreements so reached. No agreement relating to hours*
 12 *of employment shall require or permit employees to work a num-*
 13 *ber of hours per day or per week in excess of such hours as may*
 14 *be provided by Federal or State laws relating to similar employ-*
 15 *ment in private industry.*

1 *8. If there is a question whether a labor organization represents*
 2 *a majority of employees in the appropriate unit such question shall*
 3 *be submitted by either the county improvement authority operating*
 4 *the public transportation facility or the labor organization to an*
 5 *election conducted under the auspices of the New Jersey State*
 6 *Board of Mediation, which shall have authority to conduct such*
 7 *an election and to certify the result thereof. If there is a question*
 8 *as to whether the proposed unit is appropriate, that matter shall*
 9 *be referred to arbitration as hereinafter set forth. In determining*
 10 *the unit or units appropriate for the purposes of collective bar-*
 11 *gaining, the arbitrator shall be guided by the standards developed*
 12 *under the Federal labor laws in determining unit questions and*
 13 *applied to comparable industries.**

1 **[5.]* *9.* Whenever a county improvement authority shall*
 2 *acquire an existing privately-owned transportation *[facility]**
 3 **system* pursuant to authorization by the board of chosen free-*
 4 *holders, such acquisition may be subject to the assumption by the*
 5 *authority of all contracts and agreements of every kind and nature*
 6 *of the privately-owned transportation *[facility]* *system* ac-*

7 quired [including the undertaking of continuation of employee
8 pension and retirement funds or benefits]. *All of the employees
9 of such system except executive or supervisory officers and em-
10 ployees, shall be transferred to the employment of such authority
11 with all employment rights, privileges and benefits which they pre-
12 viously enjoyed in such transportation system, including sick leave,
13 seniority, vacation and pension credits. Such employees and former
14 employees who are members or beneficiaries of any pension or
15 other benefit plan or arrangement shall be entitled to a continua-
16 tion of all benefits with respect to welfare, sickness, vacations,
17 pension or retirement benefits as they previously enjoyed prior to
18 the acquisition by such authority. The authority shall assume the
19 obligations of any transportation system acquired by it with re-
20 gard to wages, salary, hours, working conditions, sick leave, health
21 and welfare and pension or retirement provisions or employees.
22 It shall assume the provisions of any collective bargaining agree-
23 ment between such acquired transportation system and the repre-
24 sentatives of its employees. No employee of any acquired trans-
25 portation system who is transferred to a position with such
26 authority, shall, by reason of such transfer, be placed in any lesser
27 or adverse position with respect to workmen's compensation, pen-
28 sion, seniority, wages, sick leave, vacation, health and welfare,
29 insurance or any other benefits that he enjoyed as an employee
30 of such acquired transportation system, unless the employee shall
31 consent thereto in writing or that such conditions of employment,
32 benefits or rights are incorporated in a collective bargaining agree-
33 ment entered into between the authority and the labor organization
34 representing a majority of its employees.

1 10. No county improvement authority authorized to operate
2 a public transportation facility shall acquire any existing trans-
3 portation system or part thereof whether by purchase, lease,
4 condemnation or otherwise, nor shall the authority dispose of or
5 lease any transportation system or part thereof, nor merge, con-
6 solidate, or co-ordinate any transportation system or part thereof,
7 nor substitute any type of equipment on any such system or part
8 thereof for the then existing equipment, or reduce or limit the lines
9 or service of any such existing system, or of its system, unless it
10 shall first have made adequate provision for any employees who
11 are or may be displaced, or whose wages, hours, place, or condi-
12 tions of employment are or may be adversely affected. The terms
13 and conditions of such provisions shall be a proper subject of
14 collective bargaining with the labor organizations that represent

15 such employees. In no event, however, shall such protective con-
16 ditions and benefits for any employee be less than those established
17 pursuant to section 10(c) of the Urban Mass Transportation Act
18 of 1964 (49 U.S.C. 1609(c), 78 Stat. 307).

1 11. In the case of any labor dispute between a county improve-
2 ment authority operating a public transportation facility and its
3 employees where collective bargaining does not result in agree-
4 ment, irrespective of whether such dispute relates to the making
5 or maintaining of collective bargaining agreements, the terms to be
6 included in such agreements, the interpretation or application of
7 such agreements, the adjustment of any grievance or any difference
8 or any question that may arise between the authority and the labor
9 organization representing its employees concerning wages, salaries,
10 hours, working conditions or benefits including health and welfare,
11 sick leave, insurance, or pension or retirement provisions, the au-
12 thority shall offer to submit such dispute to final and binding arbi-
13 tration by a single arbitrator or by a tripartite board of arbitrators.
14 Upon acceptance by the labor organization of such arbitration pro-
15 posal, if the dispute is referred to a single arbitrator, such arbi-
16 trator shall be one who may be agreed upon by the authority and
17 the labor organization involved, and, in the event that said parties
18 cannot agree upon the identity of the arbitrator then such arbi-
19 trator shall be selected through the use of the New Jersey State
20 Board of Mediation in accordance with its usual procedure and
21 rules relating to the selection of arbitrators in labor disputes.
22 Should the matter be referred to a tripartite board, the authority
23 shall designate one such arbitrator, the labor organization shall
24 designate one such arbitrator and the third, impartial arbitrator,
25 who shall be the chairman of the board, shall be selected by the 2
26 arbitrators thus designated; in the event of their inability to select
27 such third arbitrator they shall seek the appointment of the third
28 arbitrator by use of the New Jersey State Board of Mediation
29 which shall proceed to select such arbitrator in the manner pro-
30 vided by the rules and practices of said State Board of Mediation
31 with respect to arbitrators of labor disputes. The cost of arbitra-
32 tion shall be borne equally by both parties except that in the event
33 that a tripartite board is sued, the services of the arbitrator des-
34 ignated by each party shall be paid for by such party. The arbi-
35 tration proceeding shall take place in the manner provided by the
36 rules of the New Jersey State Board of Mediation applicable to
37 arbitration of labor disputes and the decision of the arbitrator or
38 board of arbitrators shall be final and binding upon the parties.

1 12. County improvement authorities operating a public trans-
2 portation facility shall have the following authority and power:

3 (1) To execute a collective bargaining agreement requiring, as
4 a condition of employment on or after the thirtieth day following
5 the beginning of employment or the effective date of the agreement,
6 whichever is the later, membership in good standing of all em-
7 ployees within the bargaining unit in the labor organization repre-
8 senting a majority of the employees in such unit.

9 (2) To enter into a collective bargaining agreement under which
10 it will withhold union dues, fees or assessments from the wages of
11 the employees and pay the same on behalf of said employees to the
12 labor organization.

13 (3) To agree to pay and to pay contributions for the establish-
14 ment or maintenance of any health and welfare plan or any pension
15 or retirement plan.

16 (4) To make deductions from wages of employees, upon authori-
17 zation of such employees for any purposes for which any private
18 employer may make such deductions.

1 13. Any county improvement authority may engage in the busi-
2 ness of operation of public transportation facilities for the trans-
3 portation of passengers and property on scheduled routes, within
4 the territorial limits of the county and beyond the territorial limits
5 of the county, with the consent of the governing bodies of the mu-
6 nicipalities into which such operation is extended, and on non-
7 scheduled routes, by contract. A copy of each contract for charter
8 or operation on a nonscheduled route shall be maintained in the
9 office of the authority as a public record available for inspection
10 during normal business hours.

11 Any county improvement authority which establishes or acquires
12 public transportation facilities may contract with any person or
13 corporation for the operation thereof upon such terms and condi-
14 tions as the authority shall determine.

1 14. A county improvement authority engaged in the operation
2 of a public transportation facility shall be deemed to be a public
3 utility and its powers and operations shall be subject to the pro-
4 visions of Title 48 of the Revised Statutes and the regulation and
5 control of the Board of Public Utility Commissioners.*

1 ***[6.]*** *15.* This act shall take effect immediately.