

70-11A-6 4-23

LEGISLATIVE FACT SHEET

on Public contract law - amends.

N.J.R.S. 40:11A-6, 23

40:14B-20, 68

(1975 Amendment)

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LAWS OF 1975

CHAPTER 96 May 16, 1975

SENATE BILL 711

ASSEMBLY BILL

INTRODUCED Feb. 4, 1974

BY Beadleston

SPONSOR'S STATEMENT

YES NO

ASSEMBLY COMMITTEE STATEMENT

YES NO

SENATE COMMITTEE STATEMENT

YES NO

FISCAL NOTE

YES NO

AMENDED DURING PASSAGE

YES NO

HEARING None discovered

VETO

BACKGROUND:

974.90 N.J. Legis. Senate. Committee on Municipal County Gov't.  
1966 Public Hearing on Senate Bill # 3090 (Local Public Contracts  
1975 Law), 1975.

SPONSOR'S STATEMENT to Senate, No. 711

The purpose of this bill is to clarify the existing law and to restate the intention of the Legislature with regard to the impact of the Local Public Contracts Law (C. 40A:11-1 et seq.) on municipal and county authorities. Since the Local Public Contracts Law was adopted, a court has held that despite the provision of the Local Public Contracts Law to the contrary, it did not affect the powers of municipal authorities to enter into contracts in disregard of it. This bill will amend various statutes regulating authorities and subject them specifically to the Local Public Contracts Law.

JA/PC  
11/7/75

SENATE, No. 711

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 4, 1974

By Senator BEADLESTON

Referred to Committee on County and Municipal Government

AN ACT concerning authorities and revising parts of the statutory law.

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

1 1. Section 6 of P. L. 1948, c. 198 (C. 40:11A-6) is amended to read  
2 as follows:

3 6. (1) Every parking authority shall constitute a public body cor-  
4 porate and politic and a political subdivision of the State with the  
5 same territorial boundaries as the boundaries of the municipality  
6 or county creating the authority, exercising public and essential  
7 governmental functions, and having all the powers necessary or  
8 convenient to carry out and effectuate its corporate purposes and  
9 the purposes and provisions of this act.

10 (2) The purposes of every parking authority shall be the con-  
11 struction, provision or operation of offstreet parking projects  
12 within its area of operation and, subject to the provisions of R. S.  
13 39:4-202, shall include, to the extent authorized by the governing  
14 body of the municipality, the management and operation of onstreet  
15 and other parking meters and related facilities and enforcement of  
16 the applicable law, ordinances and regulations as to the parking of  
17 vehicles in such municipality, and the consequent promotion of free  
18 movement of traffic and relief of traffic congestion on the streets of  
19 said area or municipality and improvement of conditions affecting  
20 the public safety and welfare therein.

21 (3) Every parking authority is hereby authorized to plan, de-  
22 sign, construct, reconstruct, enlarge, improve, manage, maintain,  
23 repair, operate and use such parking project or projects as in the  
24 opinion of the authority will provide an effective and satisfactory  
25 method for promoting the purposes of the authority.

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

26 (4) Every parking authority shall have perpetual succession and  
27 have the following powers in addition to any others herein granted:

28 (a) To sue and be sued; to have a seal and to alter the same at  
29 pleasure; to make and execute contracts and other instruments  
30 necessary or convenient to the exercise of the powers of the au-  
31 thority; and to make and from time to time amend and repeal by-  
32 laws, rules and regulations, not inconsistent with this act, to carry  
33 into effect the powers and purposes of the authority.

34 (b) To conduct research respecting parking and the possibility  
35 or necessity of fulfillment of public needs in relation thereto.

36 (c) To acquire by gift, purchase, lease, devise or otherwise and  
37 hold and use, and to construct, improve, maintain, operate, own,  
38 manage, or lease either in a capacity of lessor or lessee parking  
39 projects and any land, franchise, property, real, personal or mixed,  
40 tangible or intangible, or any interest therein, meters, equipment  
41 or facilities to be devoted to the parking or storage of vehicles of  
42 any kind or which in the opinion of the authority are necessary or  
43 useful and convenient in connection therewith or with the promo-  
44 tion of free movement of traffic, subject to the provisions of R. S.  
45 39:4-202.

46 (d) Subject to the provisions of paragraph 5 of this section, to  
47 lease as lessor any real property, parking project or portion or  
48 portions of parking projects for any business, commercial or other  
49 use to any person for such consideration and for such period or  
50 periods of time and upon such other terms and conditions as it may  
51 fix and agree upon. Any such lease may be upon condition that the  
52 lessee shall or may construct or provide any building or buildings  
53 or other facilities on such real property, parking project or projects  
54 or portions thereof, including space for business, commercial or  
55 other uses, all upon such terms and conditions as may be agreed  
56 upon.

57 (e) To sell, transfer and dispose of any property or interest  
58 therein at any time acquired by it upon such terms and conditions  
59 as it may determine, with or without public bidding.

60 (f) To fix, alter, charge and collect rents, rates and other charges  
61 at reasonable rates to be determined exclusively by it, for the use of  
62 the facilities and projects of the authority and for all services sold,  
63 furnished or supplied directly or indirectly by the authority through  
64 said facilities and projects, which shall, together with any grants,  
65 receipts, contributions or income from other sources, be sufficient to  
66 provide for the payment of the expenses of the authority, repair,  
67 maintenance and operation of its facilities and projects, and pay-

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68 ment of the principal of and interest on, and any premiums upo the  
69 redemption of, its bonds and other obligations, and to fulfill the  
70 terms and provisions of any agreements made with the purchasers  
71 or holders of any such bonds or other obligations.

72 (g) To invest any funds held in reserve or sinking funds, or any  
73 funds not required for immediate disbursement, in property or  
74 securities in which savings banks may legally invest funds subject  
75 to their control.

76 (h) To borrow money and accept grants from and to enter into  
77 contracts, leases or other transactions with the State of New Jer-  
78 sey, any Federal agency, any person, or any municipality, county  
79 or other public body.

80 (i) To mortgage, pledge, hypothecate or otherwise encumber all  
81 or any of its property or assets then existing or thereafter acquired  
82 or coming into existence, including real and personal property  
83 donated to it by a municipality or county.

84 (j) To enter into contracts with the State of New Jersey or any  
85 municipality, county or governmental agency for the use of any  
86 project of the authority.

87 (k) To do and perform any acts and things authorized by this  
88 act under, through or by means of its own officers, agents and em-  
89 ployees, or by contract with any person.

90 (l) To enter into and perform any and all contracts, execute any  
91 and all instruments, and do and perform any and all acts and things  
92 necessary or useful and convenient for the purposes of the authority  
93 or to carry out any of the powers expressly granted to it by this act  
94 or any other acts *subject to P. L. 1971, c. 198 "Local Public Con-*  
95 *tracts Law" (C. 40A:11-1 et seq.).*

96 (5) No parking authority shall engage directly in the sale of  
97 gasoline or accessories for, or in the repair or other servicing of,  
98 automobiles and other motor vehicles except in emergency, or shall  
99 engage directly in the sale of any commodity of trade or commerce,  
100 but any authority may include in any parking project, and provide  
101 and lease as lessor, structures, buildings, space or accommodations  
102 (whether constructed by the authority or by a lessee) for any busi-  
103 ness, commercial or other use, including the sale of gasoline or  
104 accessories for, or the repair or other servicing of, automobiles and  
105 other motor vehicles, if, in the opinion of the authority, such in-  
106 clusion, provision and proposed leasing is necessary to assist in  
107 defraying the expenses of the authority and make possible the  
108 operation of the parking facilities of such project at reasonable  
109 rates and will increase the facilities for offstreet parking which can

110 be feasibly included, financed, constructed and operated as part of  
111 such project.

1 2. Section 23 of P. L. 1948, c. 198 (C. 40:11A-23) is amended to  
2 read as follows:

3 23. (1) For the purpose of aiding and co-operating in the plann-  
4 ing, undertaking, construction or operation of parking projects of  
5 an authority, any public body within the territory of which any such  
6 project is located may:

7 (a) Acquire real property in its name for any project or for the  
8 widening of existing roads, streets, parkways, avenues or highways  
9 or for new roads, streets, parkways, avenues or highways to any  
10 project, or partly for such purposes and partly for other municipal  
11 or county purposes, by purchase or condemnation in the manner  
12 provided by law for the acquisition of real property by a munici-  
13 pality or county;

14 (b) Cause water, sewer, lighting and drainage facilities, or other  
15 works which it is otherwise empowered to undertake to be furnished  
16 adjacent to or in connection with parking projects; provided, noth-  
17 ing in this act shall authorize the construction of any public utility  
18 service or facility which would be competitive with any existing  
19 public utility as the same is defined by section R. S. 48:2-13 of the  
20 Title, Public Utilities;

21 (c) Furnish, dedicate, close, pave, install, grade, regard, plan, or  
22 replan streets, roads, roadways, alleys, sidewalks or other places  
23 which it is otherwise empowered to undertake;

24 ~~[(e)]~~ (d) Do any and all things necessary or convenient to aid  
25 and cooperate in the planning, undertaking, construction or opera-  
26 tion of such parking projects, and cause services to be furnished to  
27 the parking authority of the character which such public body is  
28 otherwise empowered to furnish.

29 (2) In connection with any public improvements made by a public  
30 body in exercising the powers herein granted or referred to, such  
31 public body may incur the entire expense thereof. Any law or  
32 statute to the contrary notwithstanding, any sale, lease, loan, grant,  
33 gift, conveyance, contract, pledge or agreement provided for in this  
34 section or in section 22 of this act may be made by a public body  
35 without prior appropriation therefor, or referendum, or appraisal,  
36 or public notice, advertisement or bidding, and without the consent  
37 of any board, officer or other agency of the State, and without regard  
38 to ~~the~~ any provisions of ~~chapter 2 and chapter 50 of~~ Title 40  
39 of the Revised Statutes and of Title 40A of the New Jersey Statutes,  
40 except P. L. 1971, c. 198 "Local Public Contracts Law"  
41 (C. 40A:11-1 et seq.).

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42 (3) An authority shall appoint a treasurer, who may also act as  
 43 secretary of the authority, and all moneys of an authority shall be  
 44 paid to the treasurer of the authority. Such treasurer shall file a  
 45 bond of indemnity with the authority in an amount sufficient to  
 46 cover the moneys from time to time under his control. Such moneys  
 47 shall be deposited in a separate bank account or accounts. The  
 48 moneys in such accounts shall be paid out on checks of the treasurer  
 49 on requisitions of the chairman of the authority or of such other  
 50 person or persons as the authority may authorize to make such  
 51 requisitions. All deposits of such moneys shall, if required by the  
 52 treasurer or the authority, be secured by obligations of the United  
 53 States or of the State of New Jersey of a market value equal at all  
 54 times to the amount of the deposit, and all banks and trust com-  
 55 panies are authorized to give such security for such deposits. The  
 56 treasurer and his legally authorized representatives are authorized  
 57 and empowered from time to time to examine the accounts and books  
 58 of the authority, including its receipts, disbursements, contracts,  
 59 leases, sinking funds, investments and other records and papers  
 60 relating to its financial standing. The authority shall have power,  
 61 notwithstanding the provisions of this paragraph, to contract with  
 62 the holders of any of its bonds as to the custody, collection, securing,  
 63 investment and payment of any moneys of the authority or any  
 64 moneys held in trust or otherwise for the payment of bonds or in  
 65 any way to secure bonds, and to carry out any such contract not-  
 66 withstanding that such contract may be inconsistent with the  
 67 previous provisions of this paragraph. Moneys held in trust or  
 68 otherwise for the payment of bonds or in any way to secure bonds  
 69 and deposits of such moneys may be secured in the same manner as  
 70 moneys of an authority, and all banks and trust companies are  
 71 authorized to give such security for such deposits.

72 (4) A parking authority shall not be subject to, or constitute a  
 73 municipality or agency or component of a municipality subject to,  
 74 [the provisions of chapter 50 or] any [other] provisions of Title 40  
 75 of the Revised Statutes *and of Title 40A of the New Jersey*  
 76 *Statutes, except P.L. 1971, c. 198 "Local Public Contracts Law"*  
 77 *(C. 40A:11-1 et seq.).*

1 3. Section 7 of P. L. 1946, c. 138 (C. 40:14A-7) is amended to read  
 2 as follows:

3 7. Every sewerage authority shall be a public body politic and  
 4 corporate constituting a political subdivision of the State estab-  
 5 lished as an instrumentality exercising public and essential govern-  
 6 mental functions to provide for the public health and welfare and  
 7 shall have perpetual succession and have the following powers:

- 8 (1) To adopt and have a common seal and to alter the same at  
9 pleasure;
- 10 (2) To sue and to be sued;
- 11 (3) In the name of the sewerage authority and on its behalf, to  
12 acquire, hold, use and dispose of its service charges and other  
13 revenues and other moneys;
- 14 (4) In the name of the sewerage authority but for the local unit  
15 or units, to acquire, hold, use and dispose of other personal property  
16 for the purposes of the sewerage authority;
- 17 (5) In the name of the sewerage authority but for the local unit  
18 or units, to acquire by purchase, gift, condemnation or otherwise,  
19 real property and easements therein, necessary or useful and con-  
20 venient for the purposes of the sewerage authority, and subject to  
21 mortgages, deeds of trust or other liens, or otherwise, and to hold  
22 and to use the same, and to dispose of property so acquired no  
23 longer necessary for the purposes of the sewerage authority;
- 24 (6) To provide for and secure the payment of any bonds and the  
25 rights of the holders thereof, and to purchase, hold and dispose of  
26 any bonds;
- 27 (7) To accept gifts or grants of real or personal property,  
28 money, material, labor or supplies for the purposes of the sewerage  
29 authority, and to make and perform such agreements and contracts  
30 as may be necessary or convenient in connection with the procuring,  
31 acceptance or disposition of such gifts or grants;
- 32 (8) To enter on any lands, waters or premises for the purpose of  
33 making surveys, borings, soundings and examinations for the pur-  
34 poses of the sewerage authority;
- 35 (9) To make and enforce bylaws or rules and regulations for the  
36 management and regulation of its business and affairs and for the  
37 use, maintenance and operation of the sewerage system and any  
38 other of its properties, and to amend the same;
- 39 (10) To do and perform any acts and things authorized by this  
40 act under, through or by means of its own officers, agents and em-  
41 ployees, or by contracts with any persons;
- 42 (11) To enter into any and all contracts, execute any and all  
43 instruments, and do and perform any and all acts or things neces-  
44 sary, convenient or desirable for the purposes of the sewerage  
45 authority or to carry out any power expressly given in this act  
46 *subject to P. L. 1971, c. 198 "Local Public Contracts Law"*  
47 *(C. 40A:11-1 et seq.)*; and
- 48 (12) To enter into any and all lease agreements with sewerage  
49 authorities, and municipalities, and counties operating sewerage

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50 systems, for the rental of equipment owned by authority and mu-  
 51 nicipality and/or county, together with the personnel to operate  
 52 said equipment.

1 4. Section 20 of P. L. 1957, c. 183 (C. 40:14B-20) is amended to  
 2 read as follows:

3 20. Every municipal authority shall be a public body politic and  
 4 corporate constituting a political subdivision of the State estab-  
 5 lished as an instrumentality exercising public and essential govern-  
 6 mental functions to provide for the public health and welfare and  
 7 shall have perpetual succession and have the following powers:

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

10 (2) To sue and be sued;

11 (3) In the name of the municipal authority and on its behalf, to  
 12 acquire, hold, use and dispose of its service charges and other  
 13 revenues and other moneys;

14 (4) In the name of the municipal authority but for the local unit  
 15 or units, to acquire, rent, hold, use and dispose of other personal  
 16 property for the purposes of the municipal authority;

17 (5) In the name of the municipal authority but for the local unit  
 18 or units and subject to the limitations of this act, to acquire by  
 19 purchase, gift, condemnation or otherwise, or lease as lessee, real  
 20 property and easements therein, necessary or useful and convenient  
 21 for the purposes of the municipal authority, and subject to  
 22 mortgages, deeds of trusts or other liens, or otherwise, and to hold  
 23 and to use the same, and to dispose of property so acquired no  
 24 longer necessary for the purposes of the municipal authority;

25 (6) To produce, develop, purchase, accumulate, distribute and  
 26 sell water and water services, facilities and products within or with-  
 27 out the district, provided that no water shall be sold at retail in  
 28 any municipality without the district unless the governing body of  
 29 such municipality shall have adopted a resolution requesting the  
 30 municipal authority to sell water at retail in such municipality, and  
 31 the board of public utility commissioners shall have approved such  
 32 resolution as necessary and proper for the public convenience;

33 (7) 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 (8) To accept gifts or grants of real or personal property, money,  
 37 material, labor or supplies for the purposes of the municipal au-  
 38 thority, and to make and perform such agreements and contracts  
 39 as may be necessary or convenient in connection with the procuring,  
 40 acceptance or disposition of such gifts or grants;



41 (9) To enter on any lands, waters or premises for the purpose of  
42 making surveys, borings, soundings and examinations for the pur-  
43 poses of the municipal authority;

44 (10) To make and enforce bylaws or rules and regulations for the  
45 management and regulation of its business and affairs and for the  
46 use, maintenance and operation of the utility system and any other  
47 of its properties, and to amend the same;

48 (11) To do and perform any acts and things authorized by this  
49 act under, through or by means of its own officers, agents and em-  
50 ployees, or by contracts with any person; and

51 (12) To enter into any and all contracts, execute any and all in-  
52 struments, and do and perform any and all acts or things necessary,  
53 convenient or desirable for the purposes of the municipal authority  
54 or to carry out any power expressly given in this act *subject to P. L.*  
55 *1971, c. 198 "Local Public Contracts Law" (C. 40A:11-1 et seq.).*

1 5. Section 68 of P. L. 1957, c. 183 (C. 40:14B-68) is amended to  
2 read as follows:

3 68. This act shall be construed liberally to effectuate the legisla-  
4 tive intent and as complete and independent authority for the per-  
5 formance of each and every act and thing herein authorized, and a  
6 municipal authority shall not be subject to *regulation as to its*  
7 *service charges by any other officer, board, agency, commission or*  
8 *other office of the State*, or constitute a municipality or agency or  
9 component of a municipality subject to, [the provisions of chapter  
10 50 or] any [other] provisions of Title 40 of the Revised Statutes[,  
11 or be subject to regulation as to its service charges by any officer,  
12 board, agency, commission or other office of the State] *and of Title*  
13 *40A of the New Jersey Statutes, except P. L. 1971, c. 198 "Local*  
14 *Public Contracts Law" C. 40A:11-1 et seq.);* provided, however,  
15 that nothing contained in this act shall in any way affect or limit the  
16 jurisdiction, powers or rights of the State Department of Health,  
17 Interstate Sanitation Commission, Interstate Commission on the  
18 Delaware River Basin, Water Policy and Supply Council of the De-  
19 partment of Conservation and Economic Development, North  
20 Jersey District Water Supply Commission, Passaic Valley Sewer-  
21 age Commissioners, or Passaic Valley Water Commission, or impair  
22 the obligations assumed by any municipality included in any district  
23 in any contract made prior to the creation of such district with any  
24 sewerage authority or any county sewer authority or with one or  
25 more other municipalities or with the Passaic Valley Sewerage  
26 Commissioners or with the North Jersey District Water Supply  
27 Commission.

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1 6. Section 12 of J. L. 1960, c. 183 (C. 40:37A-55) is amended to  
2 read as follows:

3 12. Every authority shall be a public body politic and corporate  
4 constituting a political subdivision of the State established as an  
5 instrumentality exercising public and essential governmental func-  
6 tions to provide for the public convenience, benefit and welfare and  
7 shall have perpetual succession and, for the effectuation of its pur-  
8 poses, have the following additional powers:

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

11 (b) To sue and be sued;

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

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

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

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

28 (g) Subject to the provisions of section 13 of this act, to make  
29 agreements of any kind with any governmental unit or person for  
30 the use or operation of all or any part of any public facility for such  
31 consideration and for such period or periods of time and upon such  
32 other terms and conditions as it may fix and agree upon;

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

37 (i) To apply for and to accept gifts or grants of real or personal  
38 property, money, material, labor or supplies for the purposes of the  
39 authority from any governmental unit or person, and to make and  
40 perform agreements and contracts and to do any and all things  
41 necessary or useful and convenient in connection with the procur-  
42 ing, acceptance or disposition of such gifts or grants;

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

47 (k) To make and enforce bylaws or rules and regulations for the  
48 management and regulation of its business and affairs and for the  
49 use, maintenance and operation of any public facility, and to amend  
50 the same;

51 (l) To do and perform any acts and things authorized by this act  
52 under, through or by means of its own officers, agents and em-  
53 ployees, or by contracts with any governmental unit or person;

54 (m) To acquire, purchase, construct, lease, operate, maintain  
55 and undertake any project and to fix and collect facility charges for  
56 the use thereof; and

57 (n) To enter into any and all agreements or contracts, execute  
58 any and all instruments, and do and perform any and all acts or  
59 things necessary, convenient or desirable for the purposes of the  
60 authority or to carry out any power expressly given in this act  
61 *subject to P. L. 1971, c. 198 "Local Public Contracts Law"*  
62 *(C. 40A:11-1 et seq.).*

1 7. Section 12 of P. L. 1967, c. 136 (C. 40:37B-12) is amended to  
2 read as follows:

3 12. Every authority shall be a public body politic and corporate  
4 constituting a political subdivision of the State established as an  
5 instrumentality exercising public and essential governmental func-  
6 tions to provide for the public health and welfare and shall have  
7 perpetual succession and, for the effectuation of its purposes, shall  
8 have the following additional powers:

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

11 (b) To sue and be sued;

12 (c) In its own name to acquire, hold, use and dispose of its  
13 facility charges and other revenues and other moneys;

14 (d) In its own name but for the county to acquire, hold, use and  
15 dispose of other personal property for the uprpose of the authority;

16 (e) In its own name but for the county to acquire by purchase,  
17 gift, condemnation or otherwise or lease as lessee real property and  
18 easements therein, necessary or useful and convenient for the  
19 purposes of the authority whether subject to mortgages, deeds of  
20 trust or other liens, or otherwise, and to hold and use the same and  
21 to dispose of the property so acquired no longer necessary for the  
22 purposes of the authority;

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23 (f) To grant by franchise, lease or otherwise the use of any  
 24 project, facilities or property owned or controlled by it to any per-  
 25 son for such consideration and for any period or periods of time  
 26 and upon such other terms and conditions as it may fix and agree  
 27 upon. Any such grant may be upon condition that the user shall or  
 28 may construct or provide any building or structures or improve-  
 29 ments on such project, facilities or property or portion thereof, all  
 30 upon such terms and conditions as may be agreed upon;

31 (g) To borrow money and issue negotiable bonds or notes or  
 32 other obligations and provide for and secure the payment of any  
 33 bonds and the rights of the holders thereof, and to purchase, hold  
 34 and dispose of any bonds;

35 (h) To apply for and accept gifts or grants of real or personal  
 36 property, money, material, labor or supplies for the purposes of the  
 37 authority from any governmental unit or person and to make and  
 38 perform such agreements or contracts as may be necessary or  
 39 convenient in connection with the procuring, acceptance or disposi-  
 40 tion of such gifts or grants;

41 (i) To enter on any land or premises for the purpose of the  
 42 authority and to determine the location, type and character of any  
 43 public facility and all other matters in connection with all or any  
 44 part of any public facility which it is authorized to own, construct,  
 45 establish, effectuate or control;

46 (j) To make and enforce bylaws or rules and regulations for the  
 47 management and regulation of its business and affairs and for the  
 48 use, maintenance and operation of any public facility, and to amend  
 49 the same;

50 (k) To do and perform any acts and things authorized by this act  
 51 under, through or by means of its own officers and employees, or  
 52 by contract;

53 (l) To acquire, purchase, construct, lease, operate, maintain and  
 54 undertake any project and to make facility charges for the use  
 55 thereof;

56 (m) To invest any funds held in reserve or sinking funds or any  
 57 funds not required for immediate disbursement, in property or  
 58 securities in which savings banks may legally invest funds subject  
 59 to their control; and

60 (n) To enter into any and all contracts, execute any and all in-  
 61 struments and do and perform any and all acts or things necessary,  
 62 convenient or desirable for the purposes of the authority or to carry  
 63 out the powers, duties and functions provided for in this act *subject*  
 64 *to P. L. 1971, c. 198 "Local Public Contracts Law" (C. 40A:11-1*  
 65 *et seq.)*.

1 8. Section 46 of P. L. 1967, c. 136 (C. 40:37B-46) is amended to  
 2 read as follows :

3 46. This act shall be construed liberally to effectuate the legisla-  
 4 tive intent and as complete and independent authority for the per-  
 5 formance of each and every act and thing herein authorized, and an  
 6 authority shall not *be subject to regulation as to its facility charges*  
 7 *by any officer, board, agency, commission or other office of the State,*  
 8 *or constitute or be deemed to be a county or municipality or agency*  
 9 *or component of a municipality* [for the purposes of any other law,  
 10 and shall not be] subject to [regulation as to its facility charges by  
 11 any officer, board, agency, commission or other office of the State]  
 12 *any provisions of Title 40 of the Revised Statutes and of Title 40A*  
 13 *of the New Jersey Statutes, except P. L. 1971, c. 198 "Local Public*  
 14 *Contracts Law" C. 40A:11-1 et seq.);* provided, however, that no  
 15 authority shall exercise the powers of a common carrier, and except  
 16 as hereinabove in this section set forth, nothing contained in this act  
 17 shall in any way affect or limit the jurisdiction, rights, powers or  
 18 duties of any State regulatory agencies.

1 9. Section 5 of P. L. 1964, c. 103 (C. 40:54A-5) is amended to  
 2 read as follows :

3 5. In addition to any other powers conferred upon an authority  
 4 by this act, each authority shall have the following powers :

5 a. To adopt and have a common seal and to alter the same at  
 6 pleasure;

7 b. to sue and be sued;

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

10 d. To acquire, rent, hold, use and dispose of other personal prop-  
 11 erty for the purposes of the authority.

12 e. Subject to the provisions of section 9 of this act, to acquire by  
 13 purchase, gift, condemnation or otherwise, or lease as lessee, real  
 14 property and easements or interests therein necessary or useful and  
 15 convenient for the purposes of the authority, whether subject to  
 16 mortgages, deeds of trust or other liens or otherwise, and to hold  
 17 and to use the same, and to dispose of property so acquired no  
 18 longer necessary for the purposes of the authority;

19 f. Subject to the provisions of section 6 of this act, to lease to any  
 20 person, all or any part of any seaquarium facility for such con-  
 21 sideration and for such period or periods of time and upon such  
 22 other terms and conditions as it may fix and agree upon;

23 g. To borrow money and issue negotiable bonds or notes or other  
 24 obligations and provide for and secure the payment of any bonds

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25 and the rights of the holders thereof, and to purchase, hold and  
26 dispose of any bonds;

27 h. To apply for and to accept gifts or grants of real or personal  
28 property, money, material, labor or supplies for the purposes of the  
29 authority from any governmental unit or person, and to make and  
30 perform agreements and contracts and to do any and all things  
31 necessary or useful and convenient in connection with the procur-  
32 ing, acceptance or disposition of such gifts or grants;

33 i. To determine the location, type and character of any sea-  
34 quarium facility and all other matters in connection with all or any  
35 part of any seaquarium facility which it is authorized to own,  
36 construct, establish, effectuate or control;

37 j. To make and enforce bylaws or rules and regulations for the  
38 management and regulation of its business and affairs and for the  
39 use, maintenance and operation of any seaquarium facility, and to  
40 amend the same;

41 k. To do and perform any acts and things authorized by this act  
42 under, through or by means of its own officers, agents and em-  
43 ployees, or by contracts with any governmental unit or person;

44 l. To acquire, purchase, construct, lease, operate, maintain and  
45 undertake any project and to fix and collect facility charges for the  
46 use thereof; and

47 m. To enter into any and all agreements or contracts, execute any  
48 and all instruments, and do and perform any and all acts or things  
49 necessary, convenient or desirable for the purposes of the authority  
50 or to carry out any power expressly given in this act *subject to P. L.*  
51 *1971, c. 198 "Local Public Contracts Law" (C. 40A:11-1 et seq.).*

52 Before undertaking and proceeding with any action authorized by  
53 this section, the authority shall first secure from the governing  
54 body of the municipality a specific authorization for the taking of  
55 such action. Any such authorization shall be granted by resolution  
56 adopted by the said governing body, and unless and until such a  
57 resolution is so adopted the authority shall not take any such action.

1 10. Section 7 of P. L. 1967, c. 309 (C. 40:54B-7) is amended to  
2 read as follows:

3 7. Each authority shall be a public body corporate and politic  
4 constituting a political subdivision of the State established as an  
5 instrumentality exercising public and essential governmental func-  
6 tions to provide for the public recreation, benefit and welfare and  
7 shall have perpetual succession and, in addition to any other powers  
8 conferred by this act, for the effectuation of its corporate purposes  
9 shall have the following powers:

- 10 a. To adopt and have a common seal and to alter the same at
- 11 pleasure;
- 12 b. To sue and be sued;
- 13 c. To acquire, hold, use and dispose of its facility charges, facility
- 14 revenues and other moneys;
- 15 d. To acquire, rent, hold, use and dispose of other personal prop-
- 16 erty for the purposes of the authority;
- 17 e. To acquire by purchase, gift, condemnation or otherwise, or
- 18 lease as lessee, real property and easements or interests therein
- 19 necessary or useful and convenient for the purposes of the author-
- 20 ity, whether subject to mortgages, deeds of trust or other liens or
- 21 otherwise, and to hold and to use the same, and to dispose of
- 22 property so acquired no longer necessary for the purposes of the
- 23 authority;
- 24 f. To make agreements of any kind with any governmental agency
- 25 or person, partnership or corporation for the use or operation of,
- 26 or to lease to any governmental agency or person, partnership or
- 27 corporation, all or any part of its convention hall or other facilities
- 28 for such consideration and for such period or periods of time and
- 29 upon such other terms and conditions as it may fix and agree upon;
- 30 g. To borrow money and issue negotiable bonds and provide for
- 31 and secure the payment of any bonds and the rights of the holders
- 32 thereof in accordance with this act, and to purchase, hold and dis-
- 33 pose of any bonds;
- 34 h. To apply for and to accept gifts or grants of real or personal
- 35 property, money, material, labor or supplies for the purposes of
- 36 the authority from any governmental agency or person, partnership
- 37 or corporation, and to make and perform agreements and contracts
- 38 and to do any and all things necessary or useful and convenient in
- 39 connection with the procuring, acceptance or disposition of such
- 40 gifts or grants;
- 41 i. To determine the location, type and character of its convention
- 42 hall and other facilities and all other matters in connection with
- 43 all or any part of any convention hall or other facility which it is
- 44 authorized to own, construct, establish, effectuate or control;
- 45 j. To make and enforce bylaws or rules and regulations for the
- 46 management and regulation of its business and affairs and for
- 47 admission to and the use, services, maintenance and operation of
- 48 any convention hall or other facility owned or controlled by it, and
- 49 to amend the same;
- 50 k. To do and perform any acts and things authorized by this act
- 51 under, through or by means of its own officers, agents and em-

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52 ployees, or by contracts with any governmental agency, person,  
53 partnership or corporation;

54 l. To acquire, purchase, construct, lease, operate, maintain and  
55 undertake any convention hall project or other facilities and to fix  
56 and collect facility charges for the use or services thereof or admis-  
57 sion thereto;

58 m. To include in its convention hall or any project, and operate  
59 or provide and lease as lessor, lands, structures, space or accom-  
60 modations (whether constructed by the authority or by a lessee)  
61 for parking of vehicles or any public, business or commercial use  
62 if, in the opinion of the authority, such inclusion, operation, pro-  
63 vision or proposed leasing is necessary to assist in defraying the  
64 expenses of the authority in connection with such convention hall or  
65 project and make possible the operation of the convention hall at  
66 reasonable rates and will increase the convention hall facilities  
67 which can be feasibly financed, constructed, acquired and operated  
68 pursuant to this act; and

69 n. To enter into any and all agreements or contracts, execute any  
70 and all instruments, and do and perform any and all acts or things  
71 necessary, convenient or desirable for the purposes of the authority  
72 or to carry out any power expressly given in this act *subject to P. L.*  
73 *1971, c. 198 "Local Public Contracts Law" (C. 40A:11-1 et seq.).*

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

3 7. Every incinerator authority shall be a public body politic and  
4 corporate constituting a political subdivision of the State estab-  
5 lished as an instrumentality exercising public and essential govern-  
6 mental functions to provide for the public health and welfare and  
7 shall have perpetual succession and have the following powers:

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

10 (2) To sue and to be sued;

11 (3) In the name of the incinerator authority and on its behalf, to  
12 acquire, hold, use and dispose of its service charges and other  
13 revenues and other moneys;

14 (4) In the name of the incinerator authority but for the local unit  
15 or unit, to acquire, hold, use and dispose of other personal property  
16 for the purposes of the incinerator authority;

17 (5) In the name of the incinerator authority but for the local unit  
18 or units, to acquire by purchase, gift, condemnation or otherwise,  
19 real property and easements therein, necessary or useful and con-  
20 venient for the purposes of the incinerator authority, and subject



21 to mortgages, deeds of trust or other liens, or otherwise, and to hold  
22 and to use the same, and to dispose of property so acquired no  
23 longer necessary for the purposes of the incinerator authority;

24 (6) To provide for and secure the payment of any bonds and the  
25 rights of the holders thereof, and to purchase, hold and dispose of  
26 any bonds;

27 (7) To accept gifts or grants of real or personal property,  
28 money, material, labor or supplies for the purpose of the incinerator  
29 authority, and to make and perform such agreements and contracts  
30 as may be necessary or convenient in connection with the procuring,  
31 acceptance or disposition of such gifts or grants;

32 (8) To enter on any lands or premises for the purposes of the  
33 incinerator authority;

34 (9) To make and enforce bylaws or rules and regulations for the  
35 management and regulation of its business and affairs and for the  
36 use, maintenance and operation of the garbage disposal system and  
37 any other of its properties, and to amend the same:

38 (10) To do and perform any acts and things authorized by this  
39 act under, through or by means of its own officers, agents and em-  
40 ployees, or by contracts with any persons; and

41 (11) To enter into any and all contracts, execute any and all in-  
42 struments, and do and perform any and all acts or things necessary,  
43 convenient or desirable for the purpose of the incinerator authority  
44 or to carry out any power expressly given in this act *subject to P. L.*  
45 *1971, c. 198 "Local Public Contracts Law" (C. 40A:11-1 et seq.).*

1 12. Section 4 of P. L. 1970, c. 242 (C. 40:66A-31.4) is amended to  
2 read as follows:

3 4. Any county in the State which may hereafter come under the  
4 provisions of this act as hereinafter provided is hereby authorized  
5 and empowered:

6 (1) To purchase, construct, improve, extend, enlarge or recon-  
7 struct solid waste disposal facilities within such county either alone  
8 or jointly with any municipality, joint meeting or authority located  
9 within such county, and in accordance with applicable law, rules,  
10 regulations or orders, to operate, manage and control all or part  
11 of such solid waste disposal facilities so purchased or constructed  
12 and all properties pertaining thereto, and to furnish and supply  
13 the services of its solid waste disposal facilities to any municipali-  
14 ties within such county. No county shall furnish any of the facilities  
15 provided by this article to any property already being furnished  
16 like facilities by any municipality, joint meeting or authority, with-  
17 out the express consent of such joint meeting or authority or the

18 governing body having general legislative authority in the govern-  
19 ment of such municipality;

20 (2) To issue general obligation bonds of the county to pay all or  
21 part of the cost of such purchase, construction, improvement, ex-  
22 tension, enlargement or reconstruction of such facilities;

23 (3) To fix and collect rates, fees, rents and other charges for the  
24 services and facilities furnished by any such county solid waste  
25 disposal facilities:

26 (4) To receive and accept from the State, Federal Government  
27 or any agency thereof grants for or in aid of the planning, pur-  
28 chase, construction, extension, enlargement or reconstruction, or  
29 financing of any of such facilities and to receive and accept con-  
30 tributions from any source of either money, property, labor, or  
31 other things of value to be held, used and applied only for the  
32 purposes for which such grants and contributions may be made;

33 (5) To acquire in the name of the county by gift, purchase as  
34 hereinafter provided, or by the exercise of the right of eminent  
35 domain, such lands and rights and interests therein, within the  
36 county, other than that owned by any governmental unit or political  
37 subdivision thereof without its express consent, and to acquire such  
38 personal property, as it may deem necessary for the purchase, con-  
39 struction, improvement, extension, enlargement or reconstruction,  
40 or for the efficient operation of any facilities purchased or con-  
41 structed under the provisions of this act and to hold and dispose of  
42 all real and personal property under its control;

43 (6) To make and enter into all contracts and agreements neces-  
44 sary or incidental to the performance of its duties and the execu-  
45 tion of its powers under this act *subject to P. L. 1971, c. 198 "Local*  
46 *Public Contracts Law" (C. 40A:11-1 et seq.)* and to employ such  
47 consulting and other engineers, superintendents, managers,  
48 attorneys, financial or other consultants or experts and such other  
49 employees and agents as it may deem necessary in its judgment and  
50 to fix their compensation;

51 (7) Subject to the provisions and restrictions as may be set forth  
52 in the ordinance hereinafter mentioned authorizing or securing any  
53 bonds issued under the provisions of this act, to enter into contracts  
54 with the government of the United States or any agency or instru-  
55 mentality thereof or with any other county or with any municipality,  
56 private corporation, copartnership, association, or individual pro-  
57 viding for or relating to the collection, treatment and disposal of  
58 solid waste, which contracts may provide for the furnishing of solid  
59 waste disposal facilities either by or to the county, or the joint con-  
60 struction or operation of solid waste disposal facilities;



28 (6) To provide for and secure the payment of any bonds and the  
 29 rights of the holders thereof, and to purchase, hold and dispose of  
 30 any bonds;

31 (7) To accept gifts or grants of real or personal property, money,  
 32 material, labor or supplies for the purpose of the solid waste  
 33 management authority, and to make and perform such agreements  
 34 and contracts as may be necessary or convenient in connection with  
 35 the procuring, acceptance or disposition of such gifts or grants;

36 (8) To enter on any lands or premises for the purposes of the  
 37 solid waste management authority;

38 (9) To make and enforce bylaws or rules and regulations for the  
 39 management and regulation of its business and affairs and for the  
 40 use, maintenance and operation of the garbage and solid wastes  
 41 disposal system and any other of its properties, and to amend the  
 42 same;

43 (10) To do and perform any acts and things authorized by this  
 44 act under, through or by means of its own officers, agents and em-  
 45 ployees, or by contracts with any persons; and

46 (11) To enter into any and all contracts, execute any and all  
 47 instruments, and do and perform any and all acts or things neces-  
 48 sary, convenient or desirable for the purpose of the solid waste  
 49 management authority or to carry out any powers expressly given  
 50 in this act *subject to P. L. 1971, c. 198 "Local Public Contracts*  
 51 *Law" (C. 40A:11-1 et seq.)*.

1 14. Section 7 of P. L. 1948, c. 349 (C. 40:68A-7) is amended to  
 2 read as follows:

3 7. Every port authority shall be a public body politic and corpo-  
 4 rate constituting a political subdivision of the State established as  
 5 an instrumentality exercising public and essential governmental  
 6 functions to provide for the public welfare and shall have perpetual  
 7 succession and have the following powers:

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

10 (2) To sue and to be sued;

11 (3) In the name of the port authority and on its behalf, to acquire,  
 12 hold, use and dispose of its service charges and other revenues and  
 13 other moneys;

14 (4) In the name of the port authority but for the local unit or  
 15 units, to acquire, hold, use and dispose of other personal property  
 16 for the purposes of the port authority;

17 (5) In the name of the port authority but for the local unit or  
 18 units, to acquire by purchase, gift, condemnation or otherwise, real

19 property and easements therein, necessary or useful and convenient  
 20 for the purposes of the port authority, and subject to mortgages,  
 21 deeds of trust or other liens, or otherwise and to hold and to use the  
 22 same, and to dispose of property so acquired no longer necessary  
 23 for the purposes of the port authority;

24 (6) To provide for and secure the payment of any bonds and the  
 25 rights of the holders thereof, and to purchase, hold and dispose of  
 26 any bonds;

27 (7) To accept gifts or grants of real or personal property, money,  
 28 material, labor or supplies for the purposes of the port authority,  
 29 and to make and perform such agreements and contacts as may be  
 30 necessary or convenient in connection with the procuring, accep-  
 31 tance or disposition of such gifts or grants;

32 (8) To enter on any lands or premises for the purposes of the  
 33 port authority;

34 (9) To make and enforce bylaws or rules and regulations for the  
 35 management and regulation of its business and affairs and for the  
 36 use, maintenance and operation of the port facilities and any other  
 37 of its properties, and to amend the same;

38 (10) To do and perform any acts and things authorized by this  
 39 act under, through or by means of its own officers, agents and em-  
 40 ployees, or by contracts with any persons; and

41 (11) To enter into any and all contracts, execute any and all  
 42 instruments, and do and perform any and all acts or things  
 43 necessary, convenient or desirable for the purposes of the port au-  
 44 thority or to carry out any power expressly given in this act *subject*  
 45 *to P. L. 1971, c. 198 "Local Public Contracts Law" (C. 40A:11-1*  
 46 *et seq.)*.

1 15. Section 12 of P. L. 1960, c. 192 (C. 40:68A-40) is amended to  
 2 read as follows:

3 12. Every municipal port authority shall be a public body politic  
 4 and corporate constituting a political subdivision of the State  
 5 established as an instrumentality exercising public and essential  
 6 governmental functions to provide for the public health and welfare  
 7 and shall have perpetual succession and have the following addi-  
 8 tional powers:

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

11 (2) To sue and be sued;

12 (3) In its own name to acquire, hold, use and dispose of its  
 13 charges and other revenues and other moneys;

14 (4) In its own name but for the local unit, to acquire, rent, hold,  
 15 use and dispose of other personal property for the purposes of the

16 municipal port authority, and to acquire by purchase, gift, con-  
17 demnation or otherwise, or lease as lessee, real property and ease-  
18 ments therein, necessary or useful and convenient for the purposes  
19 of the municipal port authority, whether subject to mortgages,  
20 deeds of trust or other liens, or otherwise, and to hold and to use  
21 the same, and is dispose of property so acquired no longer necessary  
22 for the purposes of the municipal port authority;

23 (5) To grant by franchise, lease or otherwise, the use of any  
24 project, facilities or property owned and controlled by it to any  
25 person for such consideration and for such period or periods of time  
26 and upon such other terms and conditions as it may fix and agree  
27 upon. Any such grant may be upon condition that the user shall or  
28 may construct or provide any buildings or structures or improve-  
29 ments on such project, facilities or property, or portions thereof, all  
30 upon such terms and conditions as may be agreed upon;

31 (6) To provide for and secure the payment of any bonds and the  
32 rights of the holders thereof, and to purchase, hold and dispose of  
33 any bonds;

34 (7) To apply for and to accept gifts or grants of real personal  
35 property, money, material, labor or supplies for the purposes of the  
36 municipal port authority, from any person, county or municipality,  
37 including the United States or any agency thereof, and to make and  
38 perform such agreements and contracts and to do any and all things  
39 necessary or desirable in connection with the procuring, acceptance  
40 or disposition of such gifts or grants;

41 (8) To determine the exact location, type and character of and all  
42 matters in connection with all or any part of the port system which  
43 it is authorized to own, construct, establish, effectuate or control and  
44 to enter on any lands, waters or premises for the purpose of making  
45 such surveys, diagrams, maps or plans or for the purpose of making  
46 such soundings or borings as it deems necessary or convenient;

47 (9) To make and enforce bylaws or rules and regulations for the  
48 management and regulation of its business and affairs and for the  
49 use, maintenance and operation of the port system and any other  
50 of its properties, and to amend the same;

51 (10) To do and perform any acts and things authorized by this  
52 act under, through or by means of its own officers, agents and em-  
53 ployees, or by contracts with any person;

54 (11) To acquire, purchase, construct, lease, operate, maintain  
55 and undertake any project and to make service charges for the use  
56 thereof; and

57 (12) To enter into any and all contracts, execute any and all  
58 instruments, and do and perform any and all acts or things neces-  
59 sary, convenient or desirable for the purposes of the municipal port  
60 authority or to carry out any power expressly given in this act  
61 subject to P. L. 1971, c. 198 "Local Public Contracts Law"  
62 C. 40A:11-1 et seq.).

1 16. Section 7 of P. L. 1973, c. 376 (C. 40:37C-7) is amended to  
2 read as follows:

3 7. No authority shall be subject to the provisions of chapters 32  
4 to 36, inclusive, of Title 52 of the Revised Statutes [or the "Local  
5 Public Contracts Law" (P. L. 1971, c. 198) (N. J. S. 40A:11-1,  
6 et seq.)] in the exercise of any of its powers under this act.

1 17. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to clarify the existing law and to restate the intention of the Legislature with regard to the impact of the Local Public Contracts Law (C. 40A:11-1 et seq.) on municipal and county authorities. Since the Local Public Contracts Law was adopted, a court has held that despite the provision of the Local Public Contracts Law to the contrary, it did not affect the powers of municipal authorities to enter into contracts in disregard of it. This bill will amend various statutes regulating authorities and subject them specifically to the Local Public Contracts Law.

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