

40:14B-1 et al

LEGISLATIVE HISTORY CHECKLIST

(Permits construction and operation of solid waste facilities by county and municipal utilities authorities)

NJSA 40:14B-1 et al

Laws of 1977 Chapter 384

BILL No. S3141

Sponsor(s) McGahn

Date Introduced February 17

Committee: Assembly Energy & Environment

Senate Energy & Environment

Amended during passage Yes ~~box~~ Amendments during passage denoted by asterisks

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Following statements are attached if available:

Sponsor statement Yes ~~xxx~~

Committee Statement: Assembly ~~Yes~~ No

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Fiscal Note ~~Yes~~ No

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Reports ~~Yes~~ No

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CHAPTER 384 LAWS OF N. J. 1977
APPROVED 2-10-77

[OFFICIAL COPY REPRINT]
SENATE, No. 3141

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 17, 1977

By Senator McGAHN

Referred to Committee on Energy and Environment

AN ACT to amend the title of "An Act relating to the authorization, acquisition, financing and operation of water systems and sewage disposal systems by or on behalf of any county or any one or more municipalities, providing for the creation and the establishment of the powers of authorities as public bodies corporate and politic to undertake the same, for the issuance of bonds and other obligations therefor, and for service charges and other means to meet the expense thereof, and supplementing Title 40 of the Revised Statutes," approved August 22, 1957 (P. L. 1957, c. 183) so that the same shall read "An Act relating to the authorization, acquisition, financing and operation of water systems, *solid waste systems* and sewage disposal systems by or on behalf of any county or any one or more municipalities, providing for the creation and the establishment of the powers of authorities as public bodies corporate and politic to undertake the same, for the issuance of bonds and other obligations therefor, and for service charges and other means to meet the expense thereof, and supplementing Title 40 of the Revised Statutes," *amending and supplementing said act, and repealing parts of the statutory law.*

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

1 1. The title of P. L. 1957, c. 183 is amended to read as follows:

2 "An Act relating to the authorization, acquisition, financing and
3 operation of water systems, *solid waste systems and sewage dis-*
4 *posal systems* by or on behalf of any county or any one or more
5 municipalities, providing for the creation and the establishment of
6 the powers of authorities as public bodies corporate and politic
7 to undertake the same, for the issuance of bonds and other obliga-
8 tions therefor, and for service charges and other means to meet

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

9 the expense thereof, and supplementing Title 40 of the Revised
10 Statutes.”

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

3 1. This act shall be known and may be cited as the “municipal
4 *and county* utilities authorities law.”

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

3 2. It is hereby declared to be in the public interest and to be the
4 policy of the State to foster and promote by all reasonable means
5 the provision and distribution of an adequate supply of water for
6 the public and private uses of counties and municipalities and their
7-9 inhabitants, *the collection, disposal and recycling of solid waste,*
10 *including sewage sludge, in an environmentally sound manner,* and
11 the relief of *lands and waters* in or bordering the State from pollu-
12 tion, *from domestic, industrial and other sources, including pollu-*
13 *tion derived from chemical and hazardous wastes,* and thus the
14 reduction and ultimate abatement of the menace to the public
15 health resulting from such pollution. It is the purpose and object
16 of this act to further and implement such policy by

17 (1) Authorizing counties, or municipalities either separately or
18 in combination with other municipalities, by means and through
19 the agency of a municipal authority, to acquire, construct, maintain,
20 operate or improve works for the accumulation, supply or distribu-
21 tion of water, *works for the collection, treatment, recycling, and*
22 *disposal of solid wastes,* and works for the collection, treatment,
23 purification or disposal of sewage or other wastes;

24 (2) Authorizing service charges to occupants or owners of
25 property for direct or indirect connection with and the use,
26 products or services of such works, and providing for the estab-
27 lishment, collection and enforcement of such charges;

28 (3) Creating as bodies corporate and politic municipal authori-
29 ties to have full responsibility and powers with respect to such
30 works and the establishment, collection, enforcement, use and dis-
31 position of all such service charges;

32 (4) Providing for the financing of such works, for the issuance of
33 bonds therefor, and for the payment and security of such bonds;
34 and

35 (5) In general, granting to counties and municipalities and to
36 such municipal authorities discretionary powers to provide for
37 utility services designed to provide or distribute such a supply of
38 water, *to recycle or dispose of solid waste,* or to relieve pollution
39 of such waters in or bordering the State at the expense of the users

40 of such services or of counties or municipalities or other persons
41 contracting for or with respect to the same.

1 4. Section 3 of P. L. 1957, c. 183 (C. 40:14B-3) is amended to
2 read as follows:

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

5 (1) "Municipality" shall mean any city of any class, any bor-
6 ough, village, town, township, or any other municipality other than
7 a county or a school district, and except when used in sections 4, 5,
8 6, 11, 12, 13, 42 or 45 of this act, any agency thereof or any two
9 or more thereof acting jointly or any joint meeting or other agency
10 of any two or more thereof;

11 (2) "County" shall mean any county of any class;

12 (3) "Governing body" shall mean, in the case of a county, the
13 board of chosen freeholders, **or in the case of those counties*
14 *organized pursuant to the provisions of the "Optional County*
15 *Charter Law" (P. L. 1972, c. 154; C. 40:41A-1 et seq.), the board*
15A *of chosen freeholders and the county executive, the county super-*
15B *visor or the county manager, as appropriate,** and, in the case of a
15C municipality, the commission, council, board or body, by whatever
15D name it may be known, having charge of the finances of the
15E municipality;

16 (4) "Person" shall mean any person, association, corporation,
17 nation, State or any agency or subdivision thereof, other than a
18 county or municipality of the State or a municipal authority;

19 (5) "Municipal authority" shall mean a public body created or
20 organized pursuant to section 4, 5 or 6 of this act *and shall include*
21 *a municipal utilities authority created by one or more municipi-*
22 *palities and a county utilities authority created by a county;*

23 (6) Subject to the exceptions provided in section 10, 11 or 12 of
24 this act, "district" shall mean the area within the territorial
25 boundaries of the county, or of the municipality or municipalities,
26 which created or joined in or caused the creation or organization of
27 a municipal authority;

28 (7) "Local unit" shall mean the county, or any municipality,
29 which created or joined in or caused the creation or organization
30 of a municipal authority;

31 (8) "Water system" shall mean the plants, structures and other
32 real and personal property acquired, constructed or operated or
33 to be acquired, constructed or operated by a municipal authority
34 for the purposes of the municipal authority, including reservoirs,
35 basins, dams, canals, aqueducts, standpipes, conduits, pipelines,

36 mains, pumping stations, water distribution systems, compensating
37 reservoirs, waterworks or sources of water supply, wells, purifica-
38 tion or filtration plants or other plants and works, connections,
39 rights of flowage or division, and other plants, structures, boats,
40 conveyances, and other real and personal property, and rights
41 therein, and appurtenances necessary or useful and convenient for
42-43 the accumulation, supply or distribution of water;

44 (9) "Sewerage system" shall mean the plants, structures and
45 other real and personal property acquired, constructed or operated
46 or to be acquired, constructed or operated by a municipal authority
47 for the purposes of the municipal authority, including sewers,
48 conduits, pipelines, mains, pumping and ventilating stations, sew-
49 age treatment or disposal systems, plants and works, connections,
50 outfalls, compensating reservoirs, and other plants, structures,
51 boats, conveyances, and other real and personal property, and
52 rights therein, and appurtenances necessary or useful and con-
53 venient for the collection, treatment, purification or disposal in a
54 sanitary manner of any sewage, liquid or solid wastes, night soil
55 or industrial wastes;

56 (10) "Utility system" shall mean a water system, *solid waste*
57 *system* or a sewerage system, or [a water system and sewerage
58 system] *any combination of such systems*, acquired, constructed or
59 operated or to be acquired, constructed or operated by a municipal
60 authority;

61 (11) "Cost" shall mean, in addition to the usual connotations
62 thereof, the cost of acquisition or construction of all or any part
63 of a utility system and of all or any property, rights, easements,
64 privileges, agreements and franchises deemed by the municipal
65 authority to be necessary or useful and convenient therefor or in
66 connection therewith, including interest or discount on bonds, cost
67 of issuance of bonds, engineering and inspection costs and legal
68 expenses, cost of financial, professional and other estimates and
69 advice, organization, administrative, operating and other expenses
70 of the municipal authority prior to and during such acquisition or
71 construction, and all such other expenses as may be necessary or
72 incident to the financing, acquisition, construction and completion
73 of said utility system or part thereof and the placing of the same in
74 operation, and also such provision or reserves for working capital,
75 operating, maintenance or replacement expenses or for payment or
76 security of principal of or interest on bonds during or after such
77 acquisition or construction as the municipal authority may deter-
78 mine, and also reimbursements to the municipal authority or any
79 county, municipality or other person of any moneys theretofore

80 expended for the purposes of the municipal authority or to any
81 county or municipality of any moneys theretofore expended for or
82 in connection with water supply, *solid waste*, water distribution or
83 sanitation facilities;

84 (12) "Real property" shall mean lands both within or without
85 the State, and improvements thereof or thereon, or any rights or
86 interests therein;

87 (13) "Construct" and "construction" shall connote and include
88 acts of construction, reconstruction, replacement, extension, im-
89 provement and betterment of a utility system;

90 (14) "Industrial wastes" shall mean liquid or other wastes
91 resulting from any processes of industry, manufacture, trade or
92 business or from the development of any natural resource, *and*
93 *shall include any chemical wastes or hazardous wastes*;

94 (15) "Sewage" shall mean the water-carried wastes created in
95 and carried, or to be carried, away from residences, hotels, apart-
96 ments, schools, hospitals, industrial establishments, or any other
97 public or private building, together with such surface or ground
98 water and industrial wastes *and leachate* as may be present;

99 (16) "Pollution" means the condition of water resulting from
100 the introduction therein of substances of a kind and in quantities
101 rendering it detrimental or immediately or potentially dangerous
102 to the public health, or unfit for public or commercial use;

103 (17) "Bonds" shall mean bonds or other obligations issued pur-
104 suant to this act;

105 (18) "Service charges" shall mean water service charges **[or]**,
106 *solid waste service charges*, sewer service charges, or **[water**
107 **service charges and sewer service charges]** *any combination of such*
108 *charges*, as said terms are defined in section 21 or 22 of this act;

109 (19) "Compensating reservoir" shall mean the structures, facili-
110 ties and appurtenances for the impounding, transportation and
111 release of water for the replenishment in periods of drought or at
112 other necessary times of all or a part of waters in or bordering the
113 State diverted into a utility system operated by a municipal
114 authority;

115 (20) "Sewerage authority" shall mean a public body created
116 pursuant to the Sewerage Authorities Law (P. L. 1946, c. 138) or
117 the acts amendatory thereof or supplemental thereto; **[and]**

118 (21) "County sewer authority" shall mean a sanitary sewer
119 district authority created pursuant to the act entitled "An act
120 relating to the establishment of sewerage districts in first- and
121 second-class counties, the creation of Sanitary Sewer District
122 Authorities by the establishing of such districts, prescribing the
123 powers and duties of any such authority and of other public bodies

124 in connection with the construction of sewers and sewage disposal
125 facilities in any such district, and providing the ways and means
126 for paying the costs of construction and operation thereof,"
127 approved April 23, 1946 (P. L. 1946, c. 123), or the acts amendatory
128 thereof or supplemental thereto;

129 (22) "*Chemical waste*" shall mean a material normally generated
130 by or used in chemical, petrochemical, plastic, pharmaceutical, bio-
131 chemical or microbiological manufacturing processes or petroleum
132 refining processes, which has been selected for waste disposal and
133 which is known to hydrolize, ionize or decompose, which is soluble,
134 burns or oxidizes, or which may react with any of the waste
135 materials which are introduced into the landfill, or which is buoyant
136 on water, or which has a viscosity less than that of water or which
137 produces a foul odor. Chemical waste may be either hazardous or
138 nonhazardous;

139 (23) "*Effluent*" shall mean liquids which are treated in and dis-
140 charged by sewage treatment plants;

141 (24) "*Hazardous wastes*" shall mean any waste or combination
142 of waste which poses a present or potential threat to human health,
143 living organisms or the environment. "*Hazardous waste*" shall
144 include, but not be limited to, waste material that is toxic, corrosive,
145 irritating, sensitizing, radioactive, biologically infectious, explosive
146 or flammable;

147 (25) "*Leachate*" shall mean a liquid that has been in contact
148 with solid waste and contains dissolved or suspended materials from
149 that solid waste;

150 (26) "*Recycling*" shall mean the separation, collection, process-
151 ing or recovery of metals, glass, paper and other materials for
152 reuse or for energy production and shall include resource recovery;

153 (27) "*Sludge*" shall mean any solid, semisolid, or liquid waste
154 generated from a municipal, industrial or other sewage treatment
155 plant, water supply treatment plant, or air pollution control facility,
156 or any other such waste having similar characteristics and effects;
157 "*Sludge*" shall not include effluent;

158 (28) "*Solid waste*" shall mean garbage, refuse, and other dis-
159 carded materials resulting from industrial, commercial and agri-
160 cultural operations, and from domestic and community activities,
161 and shall include all other waste materials including sludge, chem-
162 ical waste, hazardous wastes and liquids, except for liquids which
163 are treated in public sewage treatment plants and except for solid
164 animal and vegetable wastes collected by swine producers licensed
165 by the State Department of Agriculture to collect, prepare and
166 feed such wastes to swine on their own farms;

167 (29) "Solid waste system" shall mean and include the plants,
 168 structures and other real and personal property acquired, con-
 169 structed or operated or to be acquired, constructed or operated by
 170 an authority pursuant to the provisions of this act, including
 171 transfer stations, incinerators, recycling facilities, sanitary land-
 172 fill facilities or other property or plants for the collection, recycling
 173 or disposal of solid waste and all vehicles, equipment and other real
 174 and personal property and rights thereon and appurtenances
 175 necessary or useful and convenient for the collection, recycling, or
 176 disposal of solid waste in a sanitary manner.

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

3 4. a. Any governing body may, in the case of a county by resolu-
 4 tion **or ordinance** duly adopted, or in the case of a municipality by
 5 ordinance duly adopted, create a public body corporate and politic
 6 under the name and style of "the _____ municipal utilities
 7 authority," or of "the _____ county utilities au-
 8 thority," with [all or any significant part of] the name of said
 9 county or municipality inserted. Said body shall consist of the 5
 10 members thereof, who shall be appointed by **[resolution of]** the
 11 governing body as hereinafter in this section provided, and it shall
 12 constitute the municipal authority contemplated and provided for
 13 in this act and an agency and instrumentality of said county or
 14 municipality. After the taking effect of the resolution or ordinance
 15 for the creation of said body and the filing of a certified copy
 16 thereof as in section 7 of this act provided, 5 persons shall be
 17 appointed as the members of the municipal authority. The members
 18 first appointed shall, by the resolution of appointment, be desig-
 19 nated to serve for terms respectively expiring on the first days
 20 of the first, second, third, fourth and fifth Februarys next ensuing
 21 after the date of their appointment. On or after January 1 in
 22 each year after such first appointments, 1 person shall be appointed
 23 as a member of the municipal authority to serve for a term com-
 24 mencing on February 1 in such year and expiring on February 1
 25 in the fifth year after such year. In the event of a vacancy in the
 26 membership of the municipal authority occurring during an un-
 27 expired term of office, a person shall be appointed as a member of
 28 the municipal authority to serve for such unexpired term.

29 b. Any **[board of chosen freeholders]** **county governing body**
 30 may provide by resolution **or ordinance as appropriate** that the
 31 municipal authority created by it shall consist of seven members.
 32 The two additional members first appointed pursuant to said resolu-
 33 tion **or ordinance** shall be designated to serve for terms respec-
 34 tively expiring on the first days of the fourth and fifth Februarys

35 next ensuing after the date of their appointment. On or after
36 January 1 in the year in which expires the term of said additional
37 member first appointed and in every fifth year thereafter, one
38 person shall be appointed as a member of the municipal authority
39 by said *~~board of chosen freeholders~~* *county governing body*
40 as a successor to such additional members, to serve for a term com-
40A mencing on February 1 of such year and expiring on February 1
40B in the fifth year after such year.

41 c. Whenever the municipal authority of any county shall certify
42 to the governing body of any county that it has entered into a
43 contract pursuant to section 49 of this act (C. 40:14B-49) with one
44 or more municipalities situate within any other county one ad-
45 ditional member of the municipal authority for each such other
46 county shall be appointed by *~~resolution of~~* the governing body
47 of such other county as in this section provided. The additional mem-
48 ber so appointed for any such other county, and his successors shall
49 be a resident of one of said municipalities situate within such
50 other county. The additional member first appointed or to be
51 first appointed for such other county shall serve for a term expir-
52 ing on the first day of the fifth February next ensuing after the
53 date of such appointment, and on or after January 1 in the year
54 in which expires the term of the said additional member first ap-
55 pointed, and in every fifth year thereafter, one person shall be
56 appointed by said governing body as a member of the municipal
57 authority as successor to said additional member, to serve for a
58 term commencing on February 1 in such year and expiring on
59 February 1 in the fifth year after such year. If after such appoint-
60 ment of an additional member for such other county the municipal
61 authority shall certify to said governing body of such other county
62 that it is no longer a party to a contract entered into pursuant to
63 section 49 of this act (C. 40:14B-49) with any municipality situate
64 within such other county, the term of office of such additional mem-
65 ber shall thereupon cease and expire and no additional member
66 for such other county shall thereafter be appointed.

67 d. In any county wherein a county sewer authority is reorganized
68 as a municipal authority pursuant to section 6. of this act
69 (C. 40:14B-6), its governing body shall, by resolution *or ordinance
70 as appropriate,* the existing members of the authority to terms
71 corresponding to terms of members first appointed to a municipal
72 authority pursuant to subsection a. of this section; provided, how-
73 ever, that, if said county sewer authority has seven members, then
74 the existing members shall be reappointed to the reorganized muni-
75 cipal authority pursuant to subsections a. and b. of this section.

1 6. Section 6 of P. L. 1957, c. 183 (C. 40:14B-6) is amended to
2 read as follows:

3 6. *a.* The governing body of any municipality which shall have
4 created a sewerage authority may, by ordinance duly adopted,
5 provide and determine that said sewerage authority shall be
6 reorganized as a municipal authority and thereupon and thereby
7 cause said sewerage authority to be organized as a public body
8 corporate and politic existing under and by virtue of this act.

9 *b.* *In any county which has created a sewerage authority or a*
10 *county sewer authority or authorities each such authority shall be*
11 *reorganized as a county utilities authority and shall be continued*
12 *as a public body corporate and politic existing under and by virtue*
13 *of the municipal authorities law, P. L. 1957, c. 183 (C. 40:14B-1*
14 *et seq).* *The governing body of any county wherein a sewerage*
15 *authority or a county sewer authority or authorities was reorga-*
16 *nized pursuant to this section shall record such reorganization by*
17 *resolution and file such resolution with the Secretary of State*
18 *pursuant to section 7 of this act (C. 40:14B-7).*

19 *c.* *No authority reorganized pursuant to this section shall*
20 *acquire, construct, maintain, operate or improve a water system*
21 *or a solid waste system until such time as the governing body*
22 *authorizes such action by ordinance in the case of a municipality,*
23 *or by resolution in the case of a county.*

24 *d.* Said body shall consist of the members of said sewerage
25 authority *or of said county sewer authority* holding office at the
26 time of such organization together with successors in such member-
27 ship appointed as if said sewerage authority *or county sewer*
28 *authority* had originally been created pursuant to section 4 of this
29 act, and, upon the *passage of this amendatory and supplementary*
30 *act or upon the taking effect of such ordinance and the filing of*
31 *a certified copy thereof as in section 7 of this act provided, said*
32 *body shall constitute a municipal authority contemplated and*
33 *provided for in this act and an agency and instrumentality of said*
34 *municipality, or county.* Said body as such municipal authority
35 shall have all of the rights and powers granted and be subject
36 to all of the duties and obligations imposed by this act and, subject
37 to the rights (if any) of the holders of any bonds or other obliga-
38 tions of said sewerage authority *or county sewer authority* there-
39 tofore issued, said body shall be the successor in all respects to
40 said sewerage authority *or county sewer authority* and forthwith
41 succeed to all of the rights, property, assets and franchises of said
42 sewerage authority, *or county sewer authority* and the said bonds

43 or other obligations of said sewerage authority *or county sewer*
 44 *authority* shall be assumed by and become the obligations of said
 45 municipal authority, and the property of said sewerage authority
 46 *or county sewer authority* shall be vested in said municipal
 47 authority. Said body may at any time, by resolution duly adopted,
 48 change its corporate name and adopt the name and style of "the
 49 municipal utilities authority" with [all
 50 or any significant part of] the name of said municipality *or county*
 51 inserted.

1 7. Section 7 of P. L. 1957, c. 183 (C. 40:14B-7) is amended to
 2 read as follows:

3 7. A copy of each resolution or ordinance for the creation of a
 4 municipal authority *or resolution or ordinance for the reorganiza-*
 5 *tion of a sewerage authority or a county sewer authority* as a
 6 municipal authority adopted pursuant to this act, duly certified
 7 by the appropriate officer of the local unit, shall be filed in the office
 8 of the Secretary of State. Upon proof of such filing of a certified
 9 copy of the resolution or ordinance or of certified copies of the
 10 parallel ordinances for the creation of a municipal authority as
 11 aforesaid or of a certified copy of the *resolution or ordinance for*
 12 *the reorganization of a sewerage authority or a county sewer*
 13 *authority* as a municipal authority as aforesaid, the municipal
 14 authority therein referred to shall, in any suit, action or proceeding
 15 involving the validity or enforcement of, or relating to, any
 16 contract or obligation or act of the municipal authority, be con-
 17 clusively deemed to have been lawfully and properly created,
 18 organized and established and authorized to transact business and
 19 exercise its powers under this act. A copy of any such certified
 20 resolution or ordinance, duly certified by or on behalf of the
 21 Secretary of State, shall be admissible in evidence in any suit,
 22 action or proceeding and shall be conclusive evidence of due and
 23 proper filing thereof as aforesaid.

1 8. Section 9 of P. L. 1957, c. 183 (C. 40:14B-9) is amended to
 2 read as follows:

3 9. No governing body of any county which may create any
 4 municipal authority pursuant to this act *or which records* * [by reso-
 5 lution]* *the reorganization of any preexisting sewerage authority*
 6 *or county sewer authority as a municipal authority pursuant to this*
 7 *act*, shall thereafter create any other municipal authority or a
 8 sewerage authority [or a county sewer authority]. No governing
 9 body (1) of any county which shall have created any sewerage
 10 authority or any county sewer authority, or (2) of any municipi-

11 pality constituting the whole or any part of the district of a
12 municipal authority or of the district of a sewerage authority, or
13 (3) of any municipality constituting the whole or any part of the
14 sewerage district of a county sewer authority which shall have
15 entered into a contract or contracts with such municipality, shall
16 create or join in the creation of a municipal authority or a
17 sewerage authority except subject to the rights (if any) of the
18 holders of any bonds or other obligations of such other authority
19 then outstanding and upon the written consent of such other
20 authority and in accordance with the terms and conditions of such
21 consent, and in the event such consent be given and a municipal
22 authority or sewerage authority be created pursuant thereto, the
23 terms and conditions of such consent shall thereafter be in all
24 respects binding upon the municipal authority or sewerage autho-
25 rity so created and the county or municipality creating or joining
26 in the creation of the same, and any water supply or distribution
27 system, *solid waste system* or system of sewers or sewage disposal
28 plants constructed or maintained in conformity with the terms and
29 conditions of such consent by the municipal authority or sewerage
30 authority so created shall be deemed not to be competitive with the
31 utility system of the said other authority giving such consent.

1 9. Section 19 of P. L. 1957, c. 183 (C. 40:14B-19) is amended to
2 read as follows:

3 19. (a) The purposes of every municipal authority shall be (1)
4 the provision and distribution of an adequate supply of water for
5 the public and private uses of the local units, and their inhabitants,
6 within the district, and (2) the relief of waters in or bordering the
7 State from pollution arising from causes within the district and
8 the relief of waters in, bordering or entering the district from
9 pollution or threatened pollution, and the consequent improvement
10 of conditions affecting the public health, (3) the provision of
11 sewage collection and disposal service within or without the district,
12 and (4) the provision of water supply and distribution service in
13 such areas without the district as are permitted by the provisions
14 of this act, and (5) *the provision of solid waste services and*
15 *facilities within or without the district in a manner consistent with*
16 *the Solid Waste Management Act, P. L. 1970, c. 39 (C. 13:1E-1*
17 *et seq.) and in conformance with the solid waste management plans*
18 *adopted by the solid waste management districts created therein,*
19 *and (6) the operation and maintenance of utility systems owned by*
20 *other governments located within the district through contracts*
21 *with said governments.*

22 (b) Every municipal authority is hereby authorized, subject to
23 the limitations of this act, to acquire, in its own name but for the
24 local unit or units, by purchase, gift, condemnation or otherwise,
25 lease as lessee, and, notwithstanding the provisions of any charter,
26 ordinance or resolution of any county or municipality to the con-
27 trary, to construct, maintain, operate and use such reservoirs,
28 basins, dams, canals, aqueducts, standpipes, conduits, pipelines,
29 mains, pumping and ventilating stations, treatment, purification
30 and filtration plants or works, trunk, intercepting and outlet
31 sewers, water distribution systems, waterworks, sources of water
32 supply and wells at such places within or without the district, such
33 compensating reservoirs within a county in which any part of the
34 district lies, and such other plants, structures, boats and convey-
35 ances, as in the judgment of the municipal authority will provide
36 an effective and satisfactory method for promoting purposes of the
37 municipal authority.

38 (c) Every municipal authority is hereby authorized and directed,
39 when in its judgment its sewerage system or any part thereof will
40 permit, to collect from any and all public systems within the
41 district all sewage and treat and dispose of the same in such manner
42 as to promote purposes of the municipal authority.

1 10. Section 23 of P. L. 1957, c. 183 (C. 40:14B-23) is amended to
2 read as follows:

3 23. Every municipal authority shall prescribe and from time to
4 time when necessary revise a schedule of all its service charges,
5 which may provide a single rent, rate, fee or charge for [both
6 water service charges and sewerage service charges] *any of its*
7 *utility charges* and which shall comply with the terms of any con-
8 tract of the municipal authority and may be such that the revenues
9 of the municipal authority will at all times be adequate to pay the
10 expenses of operation and maintenance of the utility system, in-
11 cluding reserves, insurance, extensions, and replacements, and to
12 pay the principal of and interest on any bonds and to maintain
13 such reserves or sinking funds therefor as may be required by the
14 terms of any contract of the municipal authority or as may be
15 deemed necessary or desirable by the municipal authority. Said
16 schedule shall thus be prescribed and from time to time revised
17 by the municipal authority after public hearing thereon which shall
18 be held by the municipal authority at least 7 days after such
19 published notice as the municipal authority may determine to be
20 reasonable. The municipal authority shall likewise fix and deter-
21 mine the time or times when and the place or places where such
22 service charges shall be due and payable and may require that such

23 service charges shall be paid in advance for periods of not more
24 than 1 year. A copy of such schedule of service charges in effect
25 shall at all times be kept on file at the principal office of the munic-
26 pal authority and shall at all reasonable times be open to public
27 inspection.

1 11. Section 24 of P. L. 1957, c. 183 (C. 40:14B-24) is amended to
2 read as follows:

3 24. a. Any local unit shall have power, in the discretion of its
4 governing body, to appropriate moneys for the purposes of the
5 municipal authority, and to loan or donate such moneys to the
6 municipal authority in such installments and upon such terms as
7 may be agreed upon between such local unit and the municipal
8 authority.

9 b. Subject to section 61 of this act (C. 40:14B-60), any local unit
10 shall have the power to authorize as a general improvement or, in
11 the case of a local unit which is a municipality, as a local improve-
12 ment the construction and financing of any facilities for the collec-
13 tion, treatment and disposal of sewage *or for the collection recycl-*
14 *ing or disposal of solid waste within the district* arising within a
15 district, or any facilities for the distribution of water within a
16 district. Subject to the consent and approval of the municipal au-
17 thority, such facilities may be operated by the local unit and the
18 local unit may fix rates and charges for the use thereof, in addition
19 to the payment of any special assessments levied by a municipality
20 against lands and real estate specially benefited by such improve-
21 ments. As provided in section 48 of this act (C. 40:14B-48), such
22 facilities may be acquired and operated by the municipal authority
23 as a part of the utility system, notwithstanding that special assess-
24 ments may be or may have been levied for such improvements by
25 a municipality.

1 12. Section 34 of P. L. 1957, c. 183 (C. 40:14B-34) is amended to
2 read as follows:

3 34. Every municipal authority is hereby empowered, in its own
4 name but for the local unit or units, to acquire by purchase, gift,
5 grant or devise and to take for public use real property, within or
6 without the district, which may be deemed by the municipal au-
7 thority necessary for its purposes, including public lands, waters,
8 parks, roads, playgrounds, reservations and public or private
9 rights in waters within or without the district, and any property
10 within or without the district owned by or in which any county,
11 municipality or political subdivision of the State, or public body or
12 agency of such political subdivision, has any right, title or interest.
13 Such municipal authority is hereby empowered to acquire and take

14 such real property, including any such public property or such
15 public interests therein, by condemnation, in the manner provided
16 [by chapter 1 of Title 20, Eminent Domain, of the Revised Statutes
17 (R. S. 20:1-1 et seq.)] in P. L. 1971, c. 361 (C. 20:3-1 et seq.) and,
18 to that end, may invoke and exercise in the manner or mode of pro-
19 cedure prescribed in said chapter, either in its own name or in the
20 name of any local unit or units, all of the powers of such local unit
21 or units to acquire or take property for public use; provided, how-
22 ever, that, notwithstanding the foregoing or any other provision
23 of this act, no municipal authority shall acquire or take, by con-
24 demnation, any real property owned by the State or in which the
25 State has any right, title or interest or real property in use as part
26 of any system of water supply or distribution actually serving 50
27 or more parcels of real property *or real property owned by a*
28 *municipal or county government or any agency thereof which is*
29 *utilized as part of an utility system thereby*; and provided, further
30 that, notwithstanding the foregoing or any other provision of this
31 act, no municipal authority shall acquire or take, by condemnation,
32 any real property situate without the district owned or occupied
33 by any county, municipality or other political subdivision of the
34 State, except rights-of-way or easements for the location, construc-
35 tion, maintenance, renewal, relocation and removal of collecting,
36 distribution and transmission pipes, mains, conduits, manholes,
37 gatehouses, appurtenances and other like facilities, and for access
38 thereto.

1 13. Section 49 of P. L. 1957, c. 183 (C. 40:14B-49) is amended
2 to read as follows:

3 49. Any municipal authority for the carrying out and effectua-
4 tion of its purposes, and (a) any of the local units (b) any other
5 municipality whether within or without the district and (c) any
6 other municipal authority, any sewerage authority or any other
7 public body of the State empowered to treat or dispose of sewage
8 *or solid waste* (all such local units, municipalities, other municipal
9 authorities, sewerage authorities and other bodies being herein-
10 after referred to individually as a "governmental unit") for
11 fostering the relief of waters in, bordering or entering the terri-
12 torial area of the governmental unit from pollution or threatened
13 pollution or assisting the municipal authority in carrying out and
14 effectuating its purposes, may enter into a contract or contracts
15 providing for or relating to the collection, treatment and disposal
16 of sewage *or solid waste* originating in the district or received by
17 the municipal authority, or originating in the territorial area of
18 or collected by the governmental unit, by means of the sewerage

19 *or solid waste* system or any sewerage *or solid waste* facilities of
20 the governmental unit or both, and the cost and expense of such
21 collection, treatment and disposal. Any municipal authority for
22 the carrying out and effectuation of its purposes, and (a) any of
23 the local units (b) any other municipality whether within or with-
24 out the district and (c) any other municipal authority, any sewer-
25 age authority or any other public body of the State empowered
26 to sell and supply water (all such local units, municipalities, other
27 municipal authorities, sewerage authorities and other bodies being
28 hereinafter referred to individually as a "governmental unit")
29 for fostering the provision and distribution of an adequate supply
30 of water within the territorial area of the governmental unit or
31 assisting the municipal authority in carrying out and effectuating
32 its purposes may enter into a contract or contracts providing for
33 or relating to the sale or supplying of water to such municipal
34 authority or to the governmental unit or to persons or properties
35 within the district or the governmental unit, and the cost and ex-
36 pense of such sale or supplying of water. Any such contract may
37 provide for the payment to the municipal authority by the govern-
38 mental unit annually or otherwise of such sum or sums of money,
39 computed at fixed amounts or by a formula based on any factors
40 or other matters described in section 21 or section 22 of this act
41 or in any other manner, as said contract or contracts may provide,
42 and may provide that the sum or sums so payable to the municipal
43 authority shall be in lieu of all or any part of the service charges
44 which would otherwise be charged and collected by the municipal
45 authority with regard to persons or real property within the terri-
46 torial area of the governmental unit. Such contract or contracts
47 may also contain provisions as to the financing and payment of
48 expenses to be incurred by the municipal authority and determined
49 by it to be necessary for its purposes prior to the placing in opera-
50 tion of a sewerage, *solid waste* or water supply and distribution
51 system and may provide for the payment by the governmental
52 unit to the municipal authority for application to such expenses
53 or indebtedness therefor such sum or sums of money, computed
54 as said contract or contracts may provide and as the governing
55 body (hereinafter described) of the governmental unit shall, by
56 virtue of its authorization of and entry into said contract or con-
57 tracts, determine to be necessary for the purposes of the sewerage
58 authority. Every such contract shall be authorized and entered into
59 under and pursuant to a resolution adopted by the authority in the
60 case of a municipal or other authority, an ordinance of the govern-

61 ing body in the case of a municipality, a resolution **or ordinance**
62 of the governing body in the case of a county, and, in the case of any
63 other public body, a resolution of the commission, council, board or
64 body by whatever name it may be known (in this section sometimes
65 referred to as "governing body") having charge of the finances of
66 such public body, but the terms or text of said contract need not be
67 set forth in full or stated in any such resolution or ordinance if the
68 form of said contract is on file in the office of the clerk or other
69 recording officer of the governmental unit or its governing body
70 and the place and fact of such filing is described in the resolution or
71 ordinance. Any such contract may be made with or without con-
72 sideration and for a specified or an unlimited time and on any terms
73 and conditions which may be approved by or on behalf of the gov-
74 ernmental unit and which may be agreed to by the municipal au-
75 thority in conformity with its contracts with the holders of any
76 bonds, and shall be valid whether or not an appropriation with
77 respect thereto is made by the governmental unit prior to authoriza-
78 tion or execution thereof. Every such governmental unit is hereby
79 authorized and directed to do and perform any and all acts or things
80 necessary, convenient or desirable to carry out and perform every
81 such contract and to provide for the payment or discharge of any
82 obligation thereunder in the same manner as other obligations of
83 such governmental unit. Subject to any such contracts with the
84 holders of bonds, the municipal authority is hereby authorized to
85 do and perform any and all acts or things necessary, convenient or
86 desirable to carry out and perform every such contract and, in
87 accordance with any such contract, to waive, modify, suspend or
88 reduce the service charges which would otherwise be charged and
89 collected by the municipal authority with regard to persons or real
90 property within the territorial area of the governmental unit, but
91 nothing in this section or any such contract shall prevent the
92 municipal authority from charging and collecting, as if such con-
93 tract had not been made, service charges with regard to such
94 persons and real property sufficient to meet any default or deficiency
95 in any payments agreed in such contract to be made by such
96 governmental unit.

1 14. Section 60 of P. L. 1957, c. 183 (C. 40:14B-60) is amended
2 to read as follows:

3 60. (a) No county, municipality or person shall discharge or
4 suffer to be discharged directly or indirectly into any waters in or
5 bordering a district any sewage which may or will cause or con-
6 tribute to the pollution of such waters; provided, that this prohibi-
7 tion shall be applicable only to such part or parts of such waters

8 as are in an area of the district bounded and described in a notice,
9 inserted at least once in a newspaper published or circulating in
10 the district, to the effect that the municipal authority has provided
11 facilities reasonably sufficient in its opinion for the treatment and
12 disposal of sewage which by discharge into such waters might
13 cause or contribute to pollution of such waters, and that pollution
14 of such waters is forbidden by law. Such a notice shall constitute
15 prima facie evidence of the existence of facilities sufficient for the
16 treatment and disposal of all such sewage.

17 (b) No county, municipality or person shall discharge or suffer
18 to be discharged directly or indirectly into the sewage system
19 *or the solid waste system* of any municipal authority any matter
20 or thing which is or may be injurious or deleterious to such sewer-
21 age system *or solid waste system* or to its efficient operation.

22 (c) No county, municipality or person shall discharge or suffer
23 to be discharged directly or indirectly into the water system of
24 any municipal authority or on any lands or into any waters tribu-
25 tary to such water system any matter or thing which is or may be
26 injurious or deleterious to such water system or to its efficient
27 operation or may or will cause or contribute to a danger to the
28 health of the public in the district.

29 (d) Any county, municipality or person may be restrained, en-
30 joined or otherwise prevented from violating or continuing the
31 violation of any provision of this section in a proceeding in lieu of
32 prerogative writ, or other appropriate proceeding, or in an action
33 for injunctive or other relief instituted by a municipal authority
34 or by any county prosecutor.

35 (e) No violation of any provision of this section shall be deemed
36 to have occurred by reason of the discharge of sewage from any
37 boat or vessel while afloat or on a marine railway in drydock.

1 15. (New section) Every municipal authority is hereby autho-
2 rized to charge and collect rents, rates, fees or other charges (in
3 this act sometimes referred to as "solid waste service charges")
4 for the use or services of the solid waste system. Such solid waste
5 service charges may be charged to and collected from any municipi-
6 pality or any person contracting for such use or services or from
7 the owner or occupant, or both of them, of any real property from
8 or on which originates or has originated any solid waste to be
9 treated by the solid waste system of the authority, and the owner
10 of any such real property shall be liable for and shall pay such
11 solid waste service charges to the municipal authority at the time
12 when and place where such solid waste service charges are due

13 and payable. Such rents, rates, fees and charges, being in the
14 nature of use or service charges, shall as nearly as the authority
15 shall deem practicable and equitable be uniform throughout the
16 county for the same type, class and amount of use or service of
17 the solid waste system, and may be based or computed on any
18 factors determining the type, class and amount of use or service
19 of the solid waste system, and may give weight to the characteris-
20 tics of the solid waste and any other special matter affecting the
21 cost of treatment and disposal of the same.

1 16. The following are repealed:

2 P. L. 1946, c. 123 (C. 40:36A-1 to 40:36A-63);

3 P. L. 1953, c. 389 (C. 40:36A-23.1 and 40:36A-23.2);

4 P. L. 1957, c. 183, ss. 35 to 39 (C. 40:14B-35 to 40:14B-39);

5 P. L. 1971, c. 442, s. 2 (C. 40:14B-70).

1 17. This act shall take effect immediately.

- 1 16. The following are repealed:
2 P. L. 1946, c. 123 (C. 40:36A-1 to 40:36A-63);
3 P. L. 1953, c. 389 (C. 40:36A-23.1 and 40:36A-23.2);
4 P. L. 1957, c. 183, ss. 35 to 39 (C. 40:14B-35 to 40:14B-39);
5 P. L. 1971, c. 442, s. 2 (C. 40:14B-70).
1 17. This act shall take effect immediately.

STATEMENT

This bill enables municipal and county utilities authorities to construct and operate solid waste facilities in addition to the sewage facilities and water supply facilities they are now enabled to construct and operate. Any such solid waste services or facilities shall be provided in a manner consistent with the Solid Waste Management Act and in conformance with the solid waste management plans adopted by the solid waste management districts created therein. Said facilities may include resource recovery facilities and facilities for the treatment of sewage sludge and chemical and hazardous waste.

The several sewerage authorities created by counties pursuant to P. L. 1946, c. 138 (C. 40:14A-1 et seq.) and the county sewer authorities created pursuant to P. L. 1946, c. 123 (C. 40:36A-1 et seq.) are reorganized, as county utilities authorities (P. L. 1957, c. 183; C. 40:14B-1 et seq.), by this bill. No such reorganized authority shall, however, acquire, construct, maintain, operate or improve a water system or a solid waste system until such time as the governing body authorizes such action.

The members of such a reorganized authority shall consist of the members of said authority holding office at the time of such reorganization. Every board of chosen freeholders is authorized to provide, by resolution, that the municipal authority created by it consist of seven members, rather than five. The existing seven-member county sewer authorities also becomes seven-member municipal authorities pursuant to this section.

This bill is entirely permissive. It does not require anyone to do anything. It authorizes existing agencies to undertake new functions, once certain conditions are met.

This bill preserves the rights of those municipalities located in a county served by a county utilities authority to withdraw from or to remain outside the district of the county utilities authority through continuation, without amendment of sections 10 through 12 of P. L. 1957, c. 183 (C. 40:14B-10 through 12). The bill also removes the power of any authority created pursuant to this act to utilize the power of eminent domain to take over any property utilized as part of a utility system by any other local government.

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FEBRUARY 10, 1978

FOR FURTHER INFORMATION

ANNE BURNS

Governor Brendan Byrne today signed the following bills into law:

S-3137, sponsored by former Senator Herbert Buehler, (D-Monmouth), which provides that income generated from properties owned by the Commuter Operating Agency since April 1, 1976 be collected by the agency and used for authorized public transportation purposes.

The Commuter Operating Agency purchased nine commuter rail properties between March 31 and April 30, 1976. A number of these properties generate income. Through this legislation, the Commuter Operating Agency will be able to use this income to help pay for the maintenance, repair and operation of these properties.

The bill also amends the Fiscal Year 1978 General Appropriations Act to appropriate this income for the agency's use.

S-3141, sponsored by former Senator Joseph McGahn, (D-Atlantic), which enables municipal and county utilities authorities to construct and operate solid waste facilities in addition to the sewage facilities and water supply facilities already authorized by current law.

The sewerage authorities created by counties under P.L. 1946, c.138 and the county sewer authorities created under P.L. 1946, c.123 are reorganized as county utilities authorities by this bill.

The members of the reorganized authority shall consist of the members of the existing authority holding office at the time of the reorganization.

S-3183, sponsored by Senator Matthew Feldman, (D-Bergen), which permits the repair of damaged structures in flood hazard areas.

The bill provides that no rule or regulation adopted under the Flood Plains Act may prevent the repair or rebuilding within a flood hazard area of any lawful preexisting structure which was damaged by flood or other means.

* * * * *