

40:37A-55 et al.

LEGISLATIVE HISTORY CHECKLIST

RJSA 40:37A-55 et al. (County Improvement Authorities -- mortgages)

LAWS OF 1977 CHAPTER 291

Bill No. S3464

Sponsor(s) McGahn

Date Introduced Nov. 21, 1977

Committee: Assembly -----

Senate -----

Amended during passage XXX No

Date of Passage: Assembly Dec. 1, 1977

Senate Nov. 28, 1977

Date of approval December 12, 1977

Following statements are attached if available:

Sponsor statement Yes XX (Below)

Committee Statement: Assembly XXX No

Senate XXX No

Fiscal Note XXX No

Veto message XXX No

Message on signing XXX No

Following were printed:

Reports XXX No

Hearings XXX No

Sponsor's Statement:

This legislation contains conforming changes as a comparison to the bill permitting County Improvement Authorities to mortgage real and personal property.

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CHAPTER 291 LAWS OF N. J. 1977
APPROVED 12-12-77

SENATE, No. 3464

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 21, 1977

By Senator McGAHN

(Without Reference)

AN ACT to amend the "county improvement authorities law,"
approved January 18, 1961 (P. L. 1960, c. 183).

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

1 1. Section 12 of P. 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
7 and shall have perpetual succession and, for the effectuation of its
8 purposes, 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

**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 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 mortgage, pledge or assign or otherwise encumber all or*
58 *any portion of its revenues and other income, real and personal*
59 *property, project and facilities for the purpose of securing its*
60 *bonds, notes and other obligations or otherwise in furtherance of*
61 *the purpose of this act; and*

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

1 2. Section 17 of P. L. 1960, c. 183 (C. 40:37A-60) is amended to
2 read as follows:

3 17. Upon adoption of a bond resolution, an authority shall have
4 power to issue its bonds for the purpose of financing the project
5 or of funding or refunding the bonds described therein. Such bonds
6 shall be authorized by the bond resolution and may be issued in
7 one or more series and shall bear such date or dates, mature at
8 such time or times not exceeding 40 years from the date thereof,
9 bear interest at such rate or rates, be in such denomination or
10 denominations, be in such form either coupon or registered, carry
11 such conversion or registration privileges, have such rank or
12 priority, be executed in such manner, be payable from such sources
13 in such medium, of payment at such place or places within or
14 without the State, and be subject to such terms of redemption
15 (with or without premium) as the bond resolution may provide.
16 The authority may issue such types of bonds as it may determine,
17 including (without limiting the generality of the foregoing) bonds
18 on which the principal and interest are payable (a) exclusively
19 from the income and revenues of the project financed with the
20 proceeds of such bonds; (b) exclusively from the income and
21 revenues of certain designated projects whether or not they are
22 financed in whole or in part with the proceeds of such bonds; or
23 (c) from its revenues generally. Any such bonds may be addi-
24 tionally secured by a pledge of any grant or contributions from
25 any governmental unit or person or a pledge of any income or
26 revenues of the authority from any source whatsoever, *or by a*
27 *mortgage or pledge of all or any part of the real or personal prop-*
28 *erty of the authority, including property which is acquired, im-*
29 *proved, constructed, financed or refinanced by the proceeds of such*
30 *bonds.*

1 3. Section 20 of P. L. 1960, c. 183 (C. 40:37A-63) is amended
2 to read as follows:

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

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

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

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

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

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

28 (f) Pledging, setting aside, depositing or trusteeing all or any
29 part of the facility revenues or other moneys of the authority, *and*
30 *mortgaging, pledging or otherwise encumbering all or any part*
31 *of its real or personal property, then owned or thereafter acquired,*
32 to secure the payment of the principal of or interest on the bonds
33 or any other obligations or the payment of expenses of operation
34 or maintenance of any public facility or facilities, and the powers
35 and duties of any trustee with regard thereto;

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

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

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

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

55 (k) Limitations on the issuance of additional bonds or any
56 other obligations or on the incurrence of indebtedness of the au-
57 thority;

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

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

68 (n) Payment of the costs or expenses incident to the enforcement
69 of the bonds or the provisions of the bond resolution or of any
70 covenant or agreement of the authority with the holders of bonds;

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

76 (p) Any other matter or course of conduct which, by recital in
77 the bond resolution, is declared to further secure the payment of
78 the principal of or interest on bonds and to be part of any covenant
79 or agreement with the holders of bonds.

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

1 4. Section 39 of P. L. 1960, c. 183 (C. 40:37A-82) is amended
2 to read as follows:

3 39. All property of an authority shall be exempt from levy and
4 sale by virtue of an execution and no execution or other judicial
5 process shall issue against the same nor shall any judgment against
6 an authority be a charge or lien upon its property; provided, that
7 nothing herein contained shall apply to or limit the rights of the
8 holder of any bonds to pursue any remedy for the enforcement
9 of any pledge, *mortgage* or lien given by an authority on its facility
10 revenues or other moneys, *or on its real or personal property.*

1 5. This act shall take effect immediately.

STATEMENT

This legislation contains conforming changes as a comparison to the bill permitting County Improvement Authorities to mortgage real and personal property.

Governor's statement

Dec. 12, 1977

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A-1500, sponsored by Assemblyman Robert E. Littell (R-Sussex), which permits a court to order the garnishing of wages, debts, earnings, and income from trust funds, or profits in any proceeding brought for failure to make support or maintenance payments.

The bill applies to any defendant who is more than 45 days late in making payment. Once an individual has failed to pay for that period, the Court will also be permitted to order the garnishing of wages to satisfy current support payments as well as those in arrears.

This legislation prohibits the firing of an employee or failure to hire because of an outstanding wage garnishment. It also provides for reciprocity with other states having similar legislation.

The Governor conditionally vetoed this bill on September 26. The bill signed today has been amended to include his recommendations.

A-2125, sponsored by Assemblyman Christopher Jackman (D-Hudson), which permits the designation of the "duly certified majority representative" as the sole recipient of organizational dues deducted automatically from a public employee's salary. This will assure that an employee who has authorized a salary deduction for organization dues will be represented by the majority representative at the bargaining table.

Prior to this legislation employees were permitted to designate any bona fide employee organization as the recipient of dues deducted from their pay. The law did not require that the organization designated be the recognized bargaining representative of the employee. This resulted in some employees having their dues assigned to an organization that did not represent them at the bargaining table.

The bill does not apply to any negotiating unit which includes employees of any local school district or county college.

The Governor conditionally vetoed this legislation on October 17. The bill signed today has been amended to include his recommendations.

S-3464, sponsored by Senator Joseph McGahn (D-Atlantic), which clarifies a provision in the county authorities law. The bill specifies that authorities may

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mortgage all or any part of its real or personal property to secure the payment of principal or interest on bonds.

The bill will permit the Atlantic County Improvement Authority to enter a contract for the expansion of the NAFEC Atlantic City facility.

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