

27:25-1 to 27:25-24

LEGISLATIVE HISTORY CHECKLIST
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NJSA: 27:25-1 to 27:25-24 ("New Jersey Public Transportation Act of 1979")

LAWS OF: 1979 CHAPTER: 150

BILL NO: S3137

SPONSOR(S): Herbert and others

DATE INTRODUCED: February 26, 1979

COMMITTEE: ASSEMBLY: Transportation and Communications
SENATE: Transportation and Communications

AMENDED DURING PASSAGE: Yes Amendments during passage denoted by asterisks

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SENATE: June 25, 1979

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FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes also: statements to amendments adopted 6-14-79 (2 sets)

COMMITTEE STATEMENT: ASSEMBLY: Yes 6-21-79 and 5-24-79
SENATE: Yes

FISCAL NOTE: Yes

VETO MESSAGE: No

MESSAGE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

REPORTS: Yes

HEARINGS: Yes

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974.90 New Jersey. Legislature. Senate. Transportation and
T764 Communications Committee.
1979k Public hearing, held 3-28-79 and 4-4-79. Trenton.

974.90 New Jersey. Dept. of Transportation.
T764 Bus transportation in NJ, the long term solution:
1979b recommendations of the NJ Dept. of Transportation, 1979.

For approximately 10 years, NJ Dept. of Transportation, private consultants and the Legislature have been studying issues covered in S313 (e.g. bus subsidy, creation of public transportation corporation within the Dept. of Transportation).

See card catalog under: N.J. Transportation and state for hearings and reports during this time period.

See also:

Brendan T. Byrne, Governor of New Jersey.

Fifth annual message, January 9, 1979, p.4 (attached)

KBP:pp

CHAPTER 150 LAWS OF N. J. 1979
APPROVED 7-17-79

[THIRD OFFICIAL COPY REPRINT]

SENATE, No. 3137

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 26, 1979

By Senators HERBERT, ERRICHETTI, LIPMAN, J. RUSSO,
MERLINO and HIRKALA

Referred to Committee on Transportation and Communications

AN ACT creating a public corporation within the Department of Transportation empowered to acquire, operate and contract for the operation of public transportation services and facilities, prescribing its powers and duties 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. This act shall be known and may be cited as the "New Jersey
2 Public Transportation Act of 1979."

1 2. The Legislature hereby finds and declares that:

2 a. The provision of efficient, coordinated, safe and responsive
3 public transportation is an essential public purpose which promotes
4 mobility, serves the needs of the transit dependent, ***[costers]***
5 *fosters* commerce, conserves limited energy resources, protects
6 the environment and promotes sound land use and the revitaliza-
7 tion of our urban centers.

8 b. As a matter of public policy, it is the responsibility of the
9 State to establish and provide for the operation and improvement
10 of a coherent public transportation system in the most efficient
11 and effective manner.

12 c. In the development of public transportation policy and plan-
13 ning, participation by county and municipal governments*, ****[com-**
14 **muters]**** **transit riders** and concerned citizens* should be
14A encouraged.

15 d. In the provision of public transportation services, ***[the State**
16 **should consider, consistent with the purposes of this act, the utili-**
17 **zation of effective private management]*** **it is desirable to encour-*
17A *age to the maximum extent feasible the participation of private*
17B *enterprise and to avoid destructive competition*.*

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

18 e. In furtherance of these findings and declarations, a public
 19 corporation shall be created with the necessary powers to accom-
 20 plish ***[these]*** *the** purposes *and goals set forth in this section**,
 21 including the power to acquire and operate public transportation
 22 assets.

1 3. As used in this act:

2 a. "Corporation" means the New Jersey Transit Corporation.

3 b. "Motorbus regular route service" means and includes the
 4 operation of any motorbus or motorbuses on streets, public high-
 5 ways or other facilities, over a fixed route and between fixed ter-
 6 mini on a regular schedule for the purpose of carrying passengers
 7 for hire or otherwise, in this State or between points in this State
 8 and points in other states.

9 c. "Capital equipment and facilities" means and includes, in
 10 connection with public transportation service, passenger stations,
 11 shelters and terminals, automobile parking facilities, ramps, track
 12 connections, signal systems, power systems, information and com-
 13 munication systems, roadbeds, transit lanes or rights of way,
 14 equipment storage and servicing facilities, bridges, grade crossings,
 15 rail cars, locomotives, motorbus and other motor vehicles, mainte-
 16 nance and garage facilities, revenue handling equipment and any
 17 other equipment, facility or property useful for or related to the
 18 provision of public transportation service.

19 d. "Paratransit services" means and includes any service, other
 20 than motorbus regular route service and charter services, includ-
 21 ing, but not limited to, dial-a-ride, nonregular route, jitney or
 22 community minibus, and shared-ride services such as vanpools,
 23 limousines or taxicabs which are regularly available to the public
 24 ***[and are not]*** *. Paratransit services shall not include limousine*
 25 *or taxicab service** reserved for the private and exclusive use of
 25A individual passengers.

26 e. "Public transportation or public transportation service"
 27 means rail passenger service, motorbus regular route service,
 28 paratransit service, *and** motorbus charter service ***[or rail**
 29 **freight service]***.

30 f. "Motorbus charter service" means and includes subscription,
 31 ***[school bus, charter,]*** tour ***[or]*** *,** other special motorbus
 32 services *or school bus services or charter services as set forth in*
 33 *section 7**.

34 ***[g.** "Rail freight service" means and includes the operation
 35 of a railroad, subway, street, traction or electric railway for the
 36 purpose of carrying freight in this State or between points in this
 37 State and points in other states.**]***

38 ***[h.]*** *g.* "Rail passenger service" means and includes the
 39 operations of a railroad, subway, street, traction or electric rail-
 40 way for the purpose of carrying passengers in this State or be-
 41 tween points in this State and points in other states.

1 4. a. There is hereby established in the Executive Branch of the
 2 State Government the New Jersey Transit Corporation, a body
 3 corporate and politic with corporate succession. For the purpose of
 4 complying with the provisions of Article V, Section IV, paragraph
 5 1 of the New Jersey Constitution, the corporation is hereby allo-
 6 cated within the Department of Transportation, but, notwithstand-
 7 ing said allocation, the corporation shall be independent of any
 8 supervision or control by the department or by any body or officer
 9 thereof. The corporation is hereby constituted as an instru-
 10 mentality of the State exercising public and essential governmental
 11 functions, and the exercise by the corporation of the powers con-
 12 ferred by this act shall be deemed and held to be an essential
 13 governmental function of the State.

14 b. The corporation shall be governed by a board which shall
 15 consist of ***[five]*** *seven* members including the Commissioner
 15A of Transportation and the State Treasurer, who shall be members
 15B ex officio, another member of the Executive Branch to be selected
 16 by the Governor who shall also serve ex officio, and ***[two]*** *four*
 16A other public members who shall ***[serve at the pleasure of]*** *be
 16B appointed by* the Governor*, with the advice and consent of the
 16C Senate, for 4 year staggered terms and until their successors are
 17 appointed and qualified. At least one public member shall be a
 17A ***regular** public transportation **[commuter]** ***rider***. Each
 17B public member may be removed from office by the Governor for
 18 cause. A vacancy in the membership of the board occurring other
 19 than by expiration of term shall be filled in the same manner as the
 19A original appointment, but for the unexpired term only. The first
 19B appointments shall be for 1, 2, 3 and 4 years respectively**,** and
 19C thereafter****[.]**** for terms of 4 years as stated.* ***[The board**
 20 shall designate a secretary who need not be a member.]* *The
 20A board shall ***annually*** designate a vice chairman and secretary.
 20B The secretary need not be a member.**

21 c. Board members other than those serving ex officio shall serve
 22 without compensation, but members shall be reimbursed for actual
 23 expenses necessarily incurred in the performance of their duties.

24 d. The Commissioner of Transportation shall serve as chairman
 25 of the board. He shall chair board meetings and shall have
 26 responsibility for the scheduling and convening of all meetings of
 27 the board. **In his absence, the vice chairman shall chair the board*

28 *meeting.** Each ex officio member of the board may designate *~~one~~
 29 or more]* *two* employees of his department or agency *~~to~~* *,
 30 *one of whom may** represent him at meetings of the board*~~,~~ and
 31 each such]** *. A* designee may lawfully vote and otherwise act
 32 on behalf of the member for whom he constitutes the designee. Any
 33 such designation shall be in writing delivered to the board and
 33A shall continue in effect until revoked or amended by writing de-
 33B livered to the board.

34 e. The powers of the corporation shall be vested in the members
 35 of the board thereof and *~~three~~* *four* members of the board
 36 shall constitute a quorum at any meeting thereof. Actions may be
 37 taken and motions and resolutions adopted by the board at any
 38 meeting thereof by the affirmative vote of at least *~~three~~* *four*
 39 members. No vacancy in the membership of the board shall impair
 40 the right of a quorum to exercise all the rights and perform all the
 41 duties of the board.

42 f. A true copy of the minutes of every meeting of the board shall
 43 be delivered forthwith, by and under the certification of the secre-
 44 tary thereof, to the Governor. No action taken at such meeting by
 45 the board shall have force or effect until approved by the Governor
 46 or until 10 days after such copy of the minutes shall have been
 47 delivered. If, in said 10-day period, the Governor returns such
 48 copy of the minutes with veto of any action taken by the board or
 49 any member thereof at such meeting, such action shall be null and
 50 of no effect. The Governor may approve all or part of the action
 51 taken at such meeting prior to the expiration of the said 10-day
 52 *~~peirod~~* *period*.

53 *g. The board meetings shall be subject to the provisions of the
 54 "Open Public Meetings Act," P. L. 1975, c. 231 (C. 10:4-6 et seq.).*

1 5. In addition to the powers and duties conferred upon it else-
 2 where in this act, the corporation may do all acts necessary and
 3 reasonably incident to carrying out the objectives of this act, in-
 4 cluding but not in limitation thereof the following:

- 5 a. Sue and be sued;
- 6 b. Have an official seal and alter the same at pleasure;
- 7 c. Make and alter bylaws for its organization and internal
 8 management and for the conduct of its affairs and business;
- 9 d. Maintain an office at such place or places within the State
 10 as it may determine;
- 11 e. Adopt, amend and repeal such rules and regulations as it
 12 may deem necessary to effectuate the purposes of this act, which
 13 shall have the force and effect of law; it shall publish the same

14 and file them in accordance with the "Administrative Procedure
15 Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.) with the Director of
16 the Office of Administrative Law;

17 f. Call to its assistance and avail itself of the service of such
18 employees of any Federal, State, county or municipal department
19 or agency as it may require and as may be available to it for said
20 purpose;

21 g. Apply for, accept and expend money from any Federal, State,
22 county or municipal agency or instrumentality and from any
23 private source; comply with Federal statutes, rules and regula-
24 tions, and qualify for and receive all forms of financial assistance
25 available under Federal law to assure the continuance of, or for the
26 support or improvement of public transportation and as may be
27 necessary for that purpose to enter into agreements, including
28 Federally required labor protective agreements;

29 h. Plan, design, construct, equip, operate, improve and maintain,
30 either directly or by contract with any public or private entity,
31 public transportation services, capital equipment and facilities or
32 any parts or functions thereof, and other transportation projects,
33 or any parts or functions thereof, which may be funded under
34 section 3 of the Federal Urban Mass Transportation Act of 1964,
35 P. L. 88-365 (49 U. S. C. § 1602), or any successor or additional
36 Federal act having substantially the same or similar purposes or
37 functions; the operation of the facilities of the corporation, by the
38 corporation or any public or private entity, may include appro-
39 priate and reasonable limitations on competition in order that
40 maximum service may be provided most efficiently to the public;

41 i. Apply for and accept, from appropriate regulatory bodies,
42 authority to operate public transportation services where nec-
43 essary;

44 j. Purchase, lease as lessee, or otherwise acquire, own, hold,
45 improve, use and otherwise deal in and with real or personal prop-
46 erty, or any interest therein, from any public or private entity,
47 wherever situated;

48 k. Lease as lessor, sell or otherwise dispose of on terms which
49 the corporation may prescribe, real and personal property, includ-
50 ing tangible or intangible property and consumable goods, or any
51 interest therein, to any public or private entity, in the exercise of
52 its powers and the performance of its duties under this act. In
53 order to provide or encourage adequate and efficient public trans-
54 portation service, the corporation may lease or otherwise permit
55 the use or occupancy of property without cost or at a nominal
56 rental;

- 57 l. Restrict the rights of persons to enter upon or construct any
58 works in or upon any property owned or leased by the corporation,
59 except under such terms as the corporation may prescribe; perform
60 or contract for the performance of all acts necessary for the man-
61 agement, maintenance and repair of real or personal property
62 leased or otherwise used or occupied pursuant to this act;
- 63 m. Establish one or more operating divisions as deemed nec-
63A essary*. *Upon the establishment of an operating division, there*
63B *shall be established a geographically coincident advisory committee*
63C ***to be appointed by the Governor with the advice and consent of*
63D *the Senate**.* *The committee shall consist of county and municipal*
63E *government representatives**[,]** and concerned citizens**, in*
63F *the number and for such terms as may be fixed by the corporation,***
63G *and shall advise the corporation as to the public transportation*
64 *service provided in the operating division. At least **[one mem-*
64A *ber]** **two members** of each **[the]**** advisory committee*
64B *shall be **[a]**** public transportation **[commuter]**** **riders,*
64C *including but not limited to urban transit users and suburban com-*
64D *muters as appropriate**.* *One public member from the board of*
64E *corporation shall serve as a liaison to each advisory committee*;*
- 65 n. Set and collect fares and determine levels of service for
66 service provided by the corporation either directly or by contract
67 including, but not limited to, such reduced fare programs as deemed
68 appropriate by the corporation; revenues derived from such service
69 may be collected by the corporation and shall be available to the
70 corporation for use in furtherance of any of the purposes of this
71 act;
- 72 o. Set and collect rentals, fees, charges or other payments from
73 the lease, use, occupancy or disposition of properties owned or
74 leased by the corporation; such revenues shall be available to the
75 corporation for use in furtherance of any of the purposes of this
76 act;
- 77 p. Deposit corporate revenues in interest bearing accounts or in
78 the State of New Jersey Cash Management Fund established pur-
79 suant to section 1 of P. L. 1977, c. 28 (C. 52:18A-90.4);
- 80 q. Delegate to subordinate officers of the corporation such
81 powers and duties as the corporation shall deem necessary and
82 proper to carry out the purposes of this act;
- 83 r. Procure and enter into contracts for any type of insurance
84 and indemnify against loss or damage to property from any cause,
85 including loss of use and occupancy, against death or injury of any
86 person, against employees' liability, against any act of any member,
87 officer, employee or servant of the corporation, whether part-time,

88 full-time, compensated or noncompensated, in the performance of
89 the duties of his office or employment or any other insurable risk*.

89A *In addition, the corporation may carry its own liability insurance**;

90 s. Promote the use of public transportation services, coordinate
91 ticket sales and passenger information and sell, lease or otherwise
92 contract for advertising in or on the equipment or facilities of the
93 corporation ***[and]***;

94 **t. Adopt and maintain employee benefit programs for employees*
95 *of the corporation including, but not limited to, pension, deferred*
96 *compensation, medical, disability, and death benefits, and which*
97 *programs may utilize insurance contracts, trust funds, and any*
98 *other appropriate means of providing the stipulated benefits, and*
99 *may involve new plans or the continuation of plans previously es-*
100 *tablished by entities acquired by the corporation;*

101 u. Own, vote, and exercise all other rights incidental to the own-
102 ership of shares of the capital stock of any incorporated entity ac-
103 quired by the corporation pursuant to the powers granted by this
104 act; and,*

105 **[t.]** **v.** Enter into any and all agreements or contracts, exe-
106 cute any and all instruments, and do and perform any and all acts
107 or things necessary, convenient or desirable for the purposes of
108 the corporation, or to carry out any power expressly or implicitly
109 given in this act.

1 6. a. The corporation may enter into contracts with any public
2 or private entity to operate rail passenger **[and rail freight]*** ser-
3 vice or portions or functions thereof. Where appropriate, payments
4 by the corporation for services contracted for under this section
5 shall be determined in accordance with the Federal Regional Rail
6 Reorganization Act of 1973 (45 U. S. C., 701 et seq.), the Federal
7 Rail Passenger Service Act of 1970 (45 U. S. C. 501 et seq.), any
8 other applicable Federal law, and any and all rules, regulations
9 and standards, promulgated thereunder and decisions issued pur-
10 suant thereto. In all other cases, payments shall be by agreement
11 upon such terms and conditions as the corporation shall deem
12 necessary.

13 b. The corporation may enter into contracts with any public or
14 private entity to operate motorbus regular route, paratransit or
15 motorbus charter services or portions or functions thereof. Pay-
16 ments shall be by agreement upon such terms and conditions as
17 the corporation shall deem necessary.

1 7. **a.** The corporation or any public or private entity under
2 contract to the corporation operating regular route motorbus ser-
3 vice may provide motorbus charter service provided that the carrier

4 complies with applicable State and Federal statutes, rules and
 5 regulations with regard to any such operations. **Where the cor-
 6 poration acquires a public or private entity engaged in the provi-
 7 sion of motorbus regular route service and that entity, at the time
 8 of acquisition, provides school bus services or is authorized to
 9 provide motorbus charter services, the corporation or any sub-
 10 sidiary thereof may continue to provide the services only to the
 11 extent that the acquired entity is providing or is authorized to
 12 provide the services.**

13 **b. The corporation shall promulgate rules and regulations re-
 14 garding procedures for hearings before the board of claims of
 15 destructive competition arising from actions of the corporation.
 16 Such claims may be brought by private entities providing motor-
 17 bus regular route service.*

1 *8. a. The corporation or any subsidiary thereof shall not be
 2 considered a public utility as defined in R. S. 48:2-13 and except
 3 with regard to subsection c. of this section the provisions of Title
 4 48 of the Revised Statutes shall not apply to the corporation or any
 5 subsidiary thereof.**

6 **[8. a.]* *b.* The authority hereby given the corporation pur-
 7 suant to **section 6 of** this act with respect to fares and service,
 8 shall be exercised **[by the corporation directly or through con-
 9 tract]** without regard or reference to the jurisdiction vested in
 10 the Department of Transportation by sections 48:2-21, 48:2-24
 11 and 48:4-3 of the Revised Statutes. The Department of Trans-
 12 portation shall resume jurisdiction over service and fares upon
 13 the termination and discontinuance of a contractual relationship
 14 between the corporation and a private or public entity relating to
 15 the provision of public transportation services operated under the
 16 authority of certificates of public convenience and necessity pre-
 17 viously issued by the department or its predecessors; provided,
 18 however, that no private entity shall be required to restore any
 19 service discontinued or any fare changed during the existence of
 20 a contractual relationship with the corporation, unless the Depart-
 21 ment of Transportation shall determine, after notice and hearing,
 22 that the service or fare is required by public convenience and
 23 necessity.*

24 **[b.]* *c.* Notwithstanding any other provisions of this act, all
 25 vehicles used by any public or private entity pursuant to contract
 26 authorized by this act, and all vehicles operated by the corporation
 27 directly, shall be subject to the jurisdiction of the Department of
 28 Transportation with respect to **[insurance,]** maintenance, speci-
 29 fications and safety to the same extent such jurisdiction is con-
 30 ferred upon the department by Title 48 of the Revised Statutes.*

31 ***[c.]*** *d.* Before implementing any fare increase for any
 32 motorbus regular route or rail passenger services, or the *sub-
 33 stantial curtailment or* abandonment of any such services, the
 34 corporation shall hold a public ***[meeting]*** *hearing* in the area
 35 affected during evening hours. Notice of such ***[meetings]*** *hear-
 36 ing* shall be given by the corporation at least ***[10]*** *15* days
 37 prior to such ***[meeting]*** *hearing* to the governing body of each
 38 county whose residents will be affected and to the clerk of each
 39 municipality in the county or counties whose residents will be af-
 40 fected; such notice shall also be posted at least ***[10]*** *15* days
 41 prior to such ***[meeting]*** *hearing* in prominent places on the
 42 railroad cars and buses serving the routes to be affected.

1 9. In any proceeding before the Department of Transportation
 2 for decreasing or abandoning service, any contract payments
 3 offered by the corporation for continuing service shall be considered
 4 as available revenues by the department, in making any determi-
 5 nation on the petition.

1 10. In order to conserve, improve, and promote public trans-
 2 portation service necessary for public use pursuant to the provi-
 3 sions of this act, the corporation may purchase and improve capital
 4 equipment and facilities, including, but not limited to, the design,
 5 planning, acquisition, construction, reconstruction, relocation, in-
 6 stallation, removal, establishment, repair or rehabilitation of such
 7 equipment or facilities. The powers herein granted shall be exer-
 8 cised by the corporation, notwithstanding the provisions to the
 9 contrary of P. L. 1948, c. 92 (C. 52:18A-1 et seq.) and chapters 25,
 10 32, 33, 34 and 35 of Title 52 of the Revised Statutes, and in ac-
 11 cordance with procedures set forth in section 11 of this act.

1 11. a. All purchases, contracts or agreements pursuant to this
 2 act shall be made or awarded directly by the corporation, except
 3 as otherwise provided in this act, only after public advertisement
 4 for bids therefor, in the manner provided in this act, notwithstand-
 5 ing the provisions to the contrary of P. L. 1948, c. 92 (C. 52:18A-1
 6 et seq.) and chapters 25, 32, 33, 34 and 35 of Title 52 of the Revised
 6A Statutes.

7 b. Whenever advertising is required: (1) specifications and
 8 invitations for bids shall permit such full and free competition as
 9 is consistent with the procurement of supplies and services neces-
 10 sary to meet the requirements of the corporation; (2) the adver-
 11 tisement for bids shall be in such newspaper or newspapers selected
 12 by the corporation as will best give notice thereof to bidders and
 13 shall be sufficiently in advance of the purchase or contract to

14 promote competitive bidding; (3) the advertisement shall desig-
15 nate the time and place when and where sealed proposals shall
16 be received and publicly opened and read, the amount of the cash,
17 certified check, cashiers check or bank check, if any, which shall
18 accompany each bid, and such other terms as the corporation may
19 deem proper.

20 c. The corporation may reject any or all bids not in accord with
21 the advertisement of specifications, or may reject any or all bids
22 if the price of the work materials is excessively above the estimate
23 cost or when the corporation shall determine that it is in the public
24 interest to do so. The corporation shall prepare a list of the bids,
25 including any rejected and the cause therefor. The corporation may
26 accept bids containing minor informalities. Awards shall be made
27 by the corporation with reasonable promptness by written notice
28 to the responsible bidder whose bid, conforming to the invitation
29 for bids, will be the most advantageous to the State, price and
30 other factors considered.

31 d. A proposal bond equal to at least 50% of the bid executed by
32 the contractor with such sureties as shall be approved by the
33 corporation in favor of the State of New Jersey, shall accompany
34 each bid and shall be held as security for the faithful performance
35 of the contractor in that, if awarded the contract, the bidder will
36 deliver the contract within 10 working days after the award,
37 properly executed and secured by satisfactory bonds in accordance
38 with the provisions of N. J. S. 2A:44-143 through N. J. S. 2A:44-147
39 and specifications for the project. The corporation may require in
40 addition to the proposal bond such additional evidence of the
41 ability of a contractor to perform the work required by the contract
42 as it may deem necessary and advisable. All proposal bonds which
43 have been delivered with the bids, except those of the two lowest
44 responsible bidders, shall be returned within 30 working days after
45 such bids are received.

46 e. If the bidder fails to provide a satisfactory proposal bond as
47 provided in subsection d. of this section, his bid shall be rejected.

48 f. The corporation shall determine the terms and conditions of
49 the various types of agreements or contracts, including provisions
50 for adequate security, the time and amount or percentage of each
51 payment thereon and the amount to be withheld pending completion
52 of the contract, and it shall issue and publish rules and regulations
53 concerning such terms and conditions, standard contract forms and
54 such other rules and regulations concerning purchasing or procure-
55 ment, not inconsistent with any applicable law, as it may deem
56 advisable to promote competition and to protect the public interest.

57 g. Any purchase, contract or agreement pursuant to subsection a.
 58 hereof may be made, negotiated or awarded by the corporation
 59 without advertising ***[**in any manner which the corporation may
 60 deem effective to promote full and free competition whenever
 61 competition is practicable;**]** * *under the following circumstances:**

61A (1) When the aggregate amount involved does not exceed
 61B \$7,500.00; or

62 (2) In all other cases when the corporation seeks:

63 (a) To acquire **public or private entities engaged in the*
 63A *provision of public transportation service,** used public trans-
 64 portation equipment or existing public transportation facilities
 64A or rights of way; or

65 (b) To acquire subject matter which is that described in
 66 section 4 of P. L. 1954, c. 48 (C. 52:34-9); or

67 (c) To make a purchase or award or make a contract or
 68 agreement under the circumstances described in section 5 of
 69 P. L. 1954, c. 48 (C. 52:34-10) ***[.]*** *; or*

69A *(d) *To contract pursuant to section 6 of this act.**

70 h. The corporation shall require that all persons proposing to
 71 submit bids on improvements to capital facilities and equipment
 72 shall first be classified by the corporation as to the character and
 73 amount of work on which they shall be qualified to submit bids.
 74 Bids shall be accepted only from persons qualified in accordance
 75 with such classification.

1 **12. a. *The corporation shall formulate and abide by an affirma-
 2 tive-action program of equal opportunity whereby it will provide
 3 equal employment opportunity to rehabilitated offenders and mem-
 4 bers of minority groups qualified in all employment categories,
 5 including the handicapped, in accordance with the provisions of the
 6 "Law Against Discrimination," P. L. 1945, c. 169 (C. 10:5-1 et
 7 seq.), except in the case of the mentally handicapped, if it can be
 8 clearly shown that such handicap would prevent such person from
 9 performing a particular job.*

10 b. *Contracts and subcontracts to be awarded by the corporation
 11 in connection with the construction, renovation or reconstruction
 12 of any structure or facility owned or used by the corporation shall
 13 contain appropriate provisions by which contractors and subcon-
 14 tractors or their assignees agree to afford an equal employment
 15 opportunity to all prospective employees and to all actual em-
 16 ployees to be employed by the contractor or subcontractor in
 17 accordance with an affirmative action program consonant with the
 18 provisions of the "Law Against Discrimination" P. L. 1945, c. 169
 19 (C. 10:5-1 et seq.).***

1 *¶12. a. The corporation shall have the power to acquire by pur-
2 chase, condemnation, lease, gift or otherwise, on such terms and
3 conditions and in such manner as it may deem proper, for use by
4 the corporation or for use by any other public or private entity
5 providing public transportation services, all or part of the facility,
6 plant, equipment, property, shares of stock, rights of property, real,
7 personal, tangible, intangible or mixed rights in property, reserve
8 funds, employees pension or retirement funds, special funds, fran-
9 chises, licenses, patents, permits and papers, documents and
10 records of a public or private entity providing public transportation
11 services within the State, subject to any outstanding obligations
12 relating to such items as might be agreed upon by the parties,
13 together with all or any part of the right of way, equipment, fixed
14 facilities and other property of any kind of any such entity ending
15 beyond the boundaries of this State.

16 Such properties upon acquisition by or lease to the corporation
17 shall become and be operated as part of any public transportation
18 services by the corporation or any entity designated by the corpo-
19 ration and the corporation shall have all powers in connection with
20 such properties and such operations as are conferred by this act.

21 b. The corporation shall also have the power to acquire by pur-
22 chase, condemnation, lease, gift or otherwise, on such terms and
23 conditions and in such manner as it may deem proper, any land or
24 interest therein, including land under water and air rights, which
25 it may determine is reasonably necessary for the purposes of the
26 corporation under the provisions of this act and any and all rights,
27 whether for immediate or future use, title and interest in such
28 land and other property, including public lands, parks, playgrounds,
29 reservations, highways or parkways, owned by or in which any
30 county or municipality, borough, town, township, village, or other
31 political subdivision of the State has any right, title or interest, or
32 parts thereof or rights therein and any fee simple absolute or any
33 lesser interest in private property, and any fee simple absolute in,
34 easements upon, or the benefit of restrictions upon, abutting prop-
35 erty to preserve and protect corporation projects.

36 c. The corporation, if it proceeds to acquire any public or private
37 entity engaged in the provision of public transportation service,
38 or any part thereof by condemnation, shall have the power to take
39 control of and operate such entity immediately upon the filing and
40 approval of the complaint for condemnation, if the corporation in
41 its discretion, determines such action to be necessary. This power
42 shall include the possession of all right, title and other powers of
43 ownership in all properties and facilities described in the petition.

44 Such action shall be effective upon service of a copy thereof on
45 the condemnee. In the determination of the fair value of any such
46 entity, there shall not be included any value attributable to expend-
47 itures for improvements or payments made to the entity by the
48 corporation, the Commuter Operating Agency or the Department
49 of Transportation.

50 d. Upon the exercise of the power of eminent domain by the
51 corporation the compensation to be paid thereunder shall be
52 ascertained and paid in the manner provided in the "Eminent
53 Domain Act of 1971," P. L. 1971, c. 361 (C. 20:3-1 et seq.) in so far
54 as the provisions thereof are applicable and not inconsistent with
55 the provisions contained in this act. The corporation may join in
56 separate subdivisions in one petition or complaint the descriptions
57 of any number of tracts or parcels of land or property to be con-
58 demned, and the names of any number of owners and other parties
59 who may have an interest therein and all such land or property
60 included in said petition or complaint may be condemned in a single
61 proceeding; provided, however, that separate awards shall be
62 made for each tract or parcel of land or property; and provided,
63 further, that each of said tracts or parcels of land or property
64 shall be wholly within or have a substantial part of its value be
65 wholly within the same county.

66 e. Upon the filing by the corporation of a complaint in any action
67 to fix the compensation to be paid for any property or at any time
68 thereafter, the corporation may file with the clerk of the county in
69 which such property is located and also with the clerk of the
70 superior court a declaration of taking, signed by the corporation,
71 or such employees of the corporation as may be designated by the
72 corporation, declaring that possession of one or more of the tracts
73 or parcels of land or property described in the complaint is thereby
74 being taken by and for the use of the corporation. The declaration
75 of taking shall be sufficient if it sets forth (1) a description of each
76 tract or parcel of land or property to be taken, (2) a statement of
77 the estate or interest in the property being taken, (3) a statement
78 of the sum of money estimated by the corporation to be just com-
79 pensation for the taking of the estate or interest in each tract or
80 parcel of land or property described in said declaration, and
81 (4) an allegation that, in compliance with the provisions of this act,
82 the corporation has established and is maintaining a trust fund
83 as hereinafter provided.

84 f. Upon the filing by the corporation of a declaration of taking
85 and the depositing with the clerk of the superior court of the amount
86 of the estimated compensation stated in the declaration, the

87 corporation, without other process or proceedings, shall be entitled
88 to the exclusive possession and use of each tract or parcel of land
89 or property described in said declaration and may forthwith enter
90 into and take possession of said land or property, it being the intent
91 of this provision that the action to fix compensation to be paid or
92 any other proceedings relating to the taking of the land or property
93 or interest therein or entering thereon shall not delay the taking of
94 possession thereof and the use thereof by the corporation for the
95 purposes authorized by this act. The corporation shall not abandon
96 any condemnation proceeding subsequent to the date upon which
97 it has taken possession of the land or property as herein provided.

98 g. The corporation shall cause notice of the filing of a declaration
99 of taking of property as provided in this act and of the making of
100 the deposit required by this act with respect thereto to be served
101 upon each party to the action who resides in the State, either
102 personally or by leaving a copy thereof at his residence or business
103 address if known, and upon each such party who resides out of the
104 State, by mailing a copy thereof to him at his residence or
105 business address, if known. In the event that the residence of
106 any such party or the name of such party is unknown, such
106A notice shall be published at least once in a newspaper published
107 or circulating in the county or counties in which the property is
108 located. Such service, mailing or publication shall be made within
109 30 days after filing such declaration. Upon the application of any
110 party in interest and after notice to other parties in interest,
111 including the corporation, the Superior Court may direct that the
112 money deposited with the clerk of the superior court or any part
113 thereof be paid forthwith, without deduction of any fees or com-
114 missions, to the person or persons entitled thereto for or on account
115 of the just compensation to be awarded in said action; provided,
116 that each such person shall have filed with the clerk of the superior
117 court a consent in writing that, in the event the award in the action
118 shall be less than the amount deposited, the court, after such notice
119 as the court prescribes and hearing, may determine the liability,
120 if any, for the return of the difference or any part thereof and
121 enter judgment therefor.

122 If the amount of the award as finally determined shall exceed
123 the amount so deposited, the person or persons to whom the award
124 is payable shall be entitled to recover from the corporation the
125 difference between the amount of the deposit and the amount of
126 the award, with interest at the rate of 6% per annum thereon from
127 the date of making the deposit. If the amount of the award so
128 determined shall be less than the amount so deposited, the clerk

129 of the superior court shall return the difference between the
130 amount of the award and the deposit, including all accrued interest
131 thereon, to the corporation unless the deposit or any part thereof
132 shall have theretofore been distributed, in which event the court,
133 on application of the corporation and notice to all persons interested
134 in the award and affording them an opportunity to be heard, shall
135 enter judgment in favor of the corporation for the difference
136 against the party or parties liable for the return thereof.】*

1 **[*12.]* **13.** a. *The corporation shall have the power to*
2 *acquire by purchase, condemnation, lease, gift or otherwise, on*
3 *terms and conditions and in the manner it deems proper, for use by*
4 *the corporation or for use by any other public or private entity*
5 *providing public transportation services, all or part of the facility,*
6 *plant, equipment, property, shares of stock, rights of property,*
7 *reserve funds, employees pension or retirement funds, special*
8 *funds, franchises, licenses, patents, permits and papers, documents*
9 *and records of a public or private entity providing public trans-*
10 *portation services within the State.*

11 b. *The corporation shall also have the power to acquire by pur-*
12 *chase, condemnation, lease, gift or otherwise, on the terms and*
13 *conditions and in the manner it deems proper, any land or property*
14 *real or personal, tangible or intangible which it may determine is*
15 *reasonably necessary for the purposes of the corporation under*
16 *the provisions of this act.*

17 c. (1) *The corporation, when acquiring property pursuant to*
18 *subsections a. or b. of this section shall exercise its power of emi-*
19 *nent domain in accordance with the provisions of the "Eminent*
20 *Domain Act of 1971," P. L. 1971, c. 361 (C. 20:3-1 et seq.).*

21 (2) *For purposes of this act the definition of property in section*
22 *2 of P. L. 1971, c. 361 (C. 20:3-2) includes all property referred to*
23 *in subsections a. or b. of this section, and the provisions of P. L.*
24 *1971, c. 361 shall apply to that property.*

25 d. (1) *If the corporation shall determine to acquire by condemna-*
26 *tion all outstanding shares of corporate stock of a company and*
27 *the stock is owned by 10 or more individuals or entities the court,*
28 *on application of the corporation, shall appoint a trustee who shall*
29 *act as representative of all stockholders for the purpose of the*
30 *condemnation proceedings. Upon the appointment of a trustee the*
31 *corporation may file a single condemnation action condemning all*
32 *outstanding shares of stock and naming the appointed trustee as*
33 *representative of all defendant owners.*

34 (2) When a trustee has been appointed pursuant to this section
 35 the court may award the trustee a reasonable fee as payment for
 36 services rendered. Other costs, expenses and fees shall be paid
 37 from the proceeds of the condemnation award or settlement if
 38 amicably resolved.

39 e. A State agency, State authority, county, municipality, bistate
 40 authority, or other political subdivision of the State is authorized
 41 to donate, give, transfer or assign any asset or property it now
 42 owns or may hereafter acquire to the corporation which may be
 43 necessary for the furtherance of the objectives of this act.

44 f. Upon the filing of a declaration of taking the corporation shall
 45 be entitled to the immediate possession of all property and assets
 46 named therein; and in the case of a condemnation pursuant to sub-
 47 section d. or the acquisition of the entire assets of any entity, the
 48 corporation shall be entitled to immediate possession and control
 49 of all assets and facilities and shall have exclusive management
 50 authority over the entity taken.

51 g. Prior to the condemnation of any private entity engaged in
 52 the provision of motor bus regular route service, the corporation
 53 shall give 60 days' notice of its intent to the President of the Sen-
 54 ate, the Speaker of the General Assembly, and the ****[Chairman]****
 55 ****chairmen**** of the Senate and Assembly Transportation and Com-
 56 munications Committees. This subsection shall be in effect for 2
 57 years following the enactment of this act.

58 h. Notwithstanding any provision to the contrary, the corpora-
 59 tion shall not acquire ****by condemnation**** any privately owned
 60 entity providing public transportation service, which ****[is not**
 61 **receiving]**** ****during the previous 12 months has not received****
 62 **operating assistance from the corporation **or its predecessor****,
 63 unless the corporation shall transmit a proposal for the acquisition
 64 to the Senate and General Assembly on a day on which both Houses
 65 shall be meeting in the course of a regular or special session, along
 66 with any other information or materials the Legislature may deem
 67 necessary. The provisions of any other law to the contrary not-
 68 withstanding, no such proposal shall take effect if, within 60 days
 69 of the date of its transmittal to the Senate and General Assembly,
 70 the Legislature shall pass a concurrent resolution stating in sub-
 71 stance that the Legislature does not favor such proposed acquisi-
 72 tion ****by condemnation****.

1 ****14. a. As used in this section:**

2 "Employee" means:

3 (1) An employee of the corporation, or

4 (2) An employee of any public or private entity acquired
5 ***[and]*** ***,*** owned ***or operated*** by the corporation.

6 "Employee" does not include an employee ***[or]*** ***of***
7 a public or private entity, other than as provided in ***subsection g.
8 and*** paragraphs (1) and (2) of this subsection, which provides
9 public transportation services pursuant to operating rights
10 granted by a regulatory body or pursuant to authority arising
10A from contractual agreements entered into with the corporation
11 pursuant to section 6 of this act. Except as provided in subsection
12 ***[f.]*** ***h.*** of this section, "employee" does not include a
13 supervisory employee as defined under the "Labor Management
14 Relations Act, 1947" (29 U.S.C. 141 et seq.) or a managerial execu-
15 tive or confidential employee as defined under the "New Jersey
16 Employer-Employee Relations Act," P. L. 1944, c. 100 (C. 34:13A-1
17 et seq.).

18 "Employer" means an employer of an employee.

19 "Acquisition by the corporation of a public or private entity
20 which provides public transportation services," or words of like
21 import, means an acquisition effected by a purchase or condemna-
22 tion of all ***[or a substantial majority]*** of ***or a controlling
23 interest in*** the stock or other equity interest of the entity, or
24 purchase or condemnation of all or substantially all of the assets
24A of the entity.

25 b. In accordance with law, employees of the employer shall
26 have and retain their rights to form, join or assist labor organiza-
27 tions and to negotiate collectively through exclusive representa-
28 tives of their own choosing.

29 c. The enforcement of the rights and duties of the employer and
30 employees shall be governed by the "New Jersey Employer-Em-
31 ployee Relations Act" P. L. 1944, c. 100 (C. 34:13A-1 et seq.)
31A ***and shall be within the jurisdiction of the Public Employment
31B Relations Commission (Commission) established pursuant to that
31C act. In carrying out this function, the Commission shall be guided by
31D the relevant Federal or State labor law and practices, as developed
31E under the "Labor Management Relations Act, 1947" or under the
31F "Railway Labor Act," (45 U.S.C. 151 et seq.), provided however
31G that employees shall not have the right to strike except as provided
31H by the "Railway Labor Act."*** Whenever negotiations between
32 the employer and an exclusive representative concerning the
33 terms and conditions of employment shall reach an impasse,
34 the ***[New Jersey Public Employment Relations]*** Commis-
35 sion shall, upon the request of either party, take such

36 steps as it may deem expedient to effect a voluntary resolution of
 37 the impasse, including the assignment of a mediator. In the event
 38 of a failure to resolve the impasse by mediation, the Commission
 39 shall, at the request of either party, invoke fact finding with recom-
 40 mendations for settlement of all issues in dispute. Fact-finding
 41 shall be limited to those issues that are within the required scope
 42 of negotiations. In the event of a continuing failure to resolve an
 43 impasse by means of the procedure set forth above, and notwith-
 44 standing the fact that such procedures have not been exhausted,
 45 but not later than 30 days prior to the expiration of a collectively
 46 negotiated contract, the procedures set forth in paragraph (2) of
 47 subsection d. of Section 3 and Sections 4 through 8 of C. 85, P. L.
 48 1977 (N. J. S. A. 34:13A-16(d)(2) through 34:13A-21) shall be
 49 the sole method of dispute resolution ***unless the parties mutually
 49A agree upon an alternative form of arbitration***; provided how-
 50 ever, that the cost to the State of the first year portion of any
 51 arbitration award shall not exceed the appropriations permitted
 52 within the provisions of the "State Expenditures Limitation Act",
 53 P. L. 1976, c. 67 (C. 52:9H-5 et seq.) and the arbitrator, in determin-
 54 ing such award, ***[shall take into account]*** ***should con-
 55 sider*** pending supplemental appropriation bills, any pending
 56 salary negotiations for State employees and any sums which have
 57 not yet been appropriated, which would be necessary to fund any
 57A recently concluded agreements.

58 d. The majority representative of employees in an appropriate
 59 unit shall be entitled to act for, and negotiate successor agreements
 60 covering, all employees in the unit and shall be responsible for
 61 representing the interests of those employees without discrimina-
 62 tion. It shall be the mutual obligation of the employer and the
 63 majority representative of any of its employees to negotiate collec-
 64 tively with respect to mandatorily negotiable subjects which inti-
 65 mately and directly affect the work and welfare of employees.
 66 These subjects include wages, hours of work***, the maintenance
 66A of union security and check-off arrangements, pensions,*** and
 67 other terms and conditions of employment. The obligation to nego-
 68 tiate in good faith encompasses the responsibility to meet at reason-
 69 able times and to confer on matters properly presented for negotia-
 70 tions and to execute a written contract containing an agreement
 71 reached, but the obligation does not compel either party to agree
 72 to a proposal or require the making of a concession.

73 ***[e. The acquisition by the corporation of a public or private
 74 entity which provides public transportation services shall not

75 adversely affect, during the period coincident with the remaining
 76 term of an existing collective bargaining agreement, the rights
 77 previously enjoyed by employees of the acquired entity who remain
 78 as or are transferred to and appointed as employees of the em-
 79 ployer, with regard to wages, vacations, seniority, health, welfare,
 80 life insurance and disability benefits provided pursuant to those
 81 agreements and the reemployment rights set forth therein.】***

82 ***e. In acquiring, operating, or contracting for the operation of
 83 public transportation services, the corporation shall make provi-
 84 sion to assure continuing representation for collective negotiations
 85 on behalf of employees, giving due consideration to preserving
 86 established bargaining relationships to the extent consistent with
 87 the purposes of this act. Such relationships may be changed only
 88 in accordance with the principles established under the "Labor
 89 Management Relations Act, 1947" and the "Railway Labor Act."

90 Upon acquisition by the corporation of a public or private entity
 91 which provides public transportation services, the corporation shall
 92 assume and observe all existing labor contracts of such entity for
 93 their remaining term. All of the employees of the acquired entity,
 94 as defined in subsection a., shall be transferred to the employment
 95 of the employer and appointed to comparable positions without
 96 examination subject to all the rights and benefits of this act, and
 97 these employees shall be given sick leave, seniority, vacation, and
 98 pension credits in accordance with the records and labor agreements
 99 of the acquired entity.

100 g. For purposes of this subsection:

101 (1) "Employee" means an employee employed, as of the date of
 102 the first acquisition by the corporation, by any entity acquired,
 103 owned or operated by the corporation or by any other entity which
 104 provides motorbus regular route or paratransit services, but does
 105 not mean supervisory employees, managerial executive and confi-
 106 dential employees;

107 (2) "Action by the corporation" mean acquisition, contracts for
 108 motorbus regular route or paratransit services, mergers, consolida-
 109 tions, coordination and rearrangements of services and work forces,
 110 but does not mean:

111 (a) The setting of fares by contract or otherwise unless such
 112 action results in a substantial diversion of riders; or

113 (b) The discontinuance of motorbus regular route service by
 114 the corporation to the extent that substantially similar public
 115 transportation service does not continue to be provided; or

116 (c) A failure or refusal, by the corporation, to enter into a
117 contract for all or a portion of an entity's motorbus regular
118 route service to the extent that substantially similar public
119 transportation service does not continue to be provided.

120 Except as provided herein, employees whose positions are worsened
121 with regard to wages, hours, seniority and other terms and condi-
122 tions of employment, shall be protected for a period of 5 years from
123 the date of the first acquisition by the corporation. This time limita-
124 tion does not apply to protections afforded to employees whose
125 positions are worsened as a result of acquisitions or contracts which
126 transfer responsibility for the provision of substantially similar
127 motorbus regular route or paratransit service from one entity,
128 including the corporation, to another. With regard to any acquisi-
129 tion or contract transferring service responsibility, only claims
130 arising from actions taken within 18 months therefrom shall be
131 eligible for protection.

132 Protections and procedures to implement such protections shall
133 be provided in accordance with the terms of the agreement entered
134 into between the Commuter Operating Agency and Amalgamated
135 Transit Union on March 2, 1976; except that no protective allow-
136 ances or other benefits shall exceed 3 years duration. Pursuant to
137 this agreement, the employer of the employee shall be considered
138 the "assisted carrier" and actions of the corporation shall consti-
139 tute the "project".***

140 ***[f.]*** **h.*** For purposes of this subsection, "em-
141 ployees" means individuals, including supervisory employees,
142 management executives and confidential employees, who

143 (1) Have terminated their employment with an acquired entity
144 with vested retirement benefits, or

145 (2) Are employed by the corporation or a subsidiary after accru-
146 ing retirement benefits, whether or not vested, while employed by
147 an acquired entity.

148 The corporation, ***[upon]*** **as a condition of*** acquiring
149 a public or private entity which provides public transportation ser-
150 vices, shall ensure that employees' retirement benefits which have
151 accrued on the basis of service to the date of the acquisition are
152 provided for and paid as they come due. These benefits shall be
153 provided for and paid either by the entity so acquired, the former
154 owner or owners of the entity, an affiliate of the entity, the Pension
155 Benefit Guaranty Corporation, another public instrumentality, the
156 corporation itself, any other reasonable means, or any combination
157 of the foregoing. These benefits may be provided for either through

158 *existing plans, new plans, mergers or consolidations of plans, or*
 159 *other appropriate or reasonable means.***

1 **[13.]** **15.** The corporation may appoint an executive
 2 director, directors of operating divisions*[, divisions,]* and other
 3 such additional officers, all of whom need not be members of the
 4 corporation, and may employ consulting architects, engineers,
 5 auditors, accountants, construction, management**,** real estate,
 6 operations and financial experts, supervisors, managers and such
 7 other professional consultants and officers and employees, and may
 8 fix their compensation, as the corporation deems advisable; and may
 9 promote and discharge such officers and employees, all without
 10 regard to the provisions of Title 11 of the Revised Statutes. In
 11 developing an employee compensation schedule, the corporation
 12 shall consult with appropriate authorities of the State and file such
 13 schedule with them upon completion. The corporation shall by
 14 October 31 of each year submit to the Governor and the presiding
 15 officers and the Transportation and Communications Committees of
 16 both Houses of the Legislature**[,]** a list of all full and part-
 17 time officers and employees of the corporation and the salaries,
 18 wages and compensation received by said officers and employees
 19 during the preceding fiscal year.

20 *[Persons holding positions in the classified and unclassified ser-
 21 vice of the State who are presently enrolled in the Public Employ-
 22 ees' Retirement System shall, while employed by the corporation,
 23 continue as members of that retirement system and retain all rights
 24 and protection provided them by said retirement system. Persons
 25 employed by the corporation who are members of a State-admin-
 26 istered retirement system other than the Public Employees' Re-
 27 tirement System shall, upon acceptance of their employment with
 28 the corporation, be required to transfer their membership to the
 29 Public Employees' Retirement System.

30 Employees of the **[corporation]** **corporation** who are
 31 not presently enrolled in any State-administered retirement system
 32 shall be enrolled in the Public Employees' Retirement System if
 33 they are eligible under the terms of section 73 of P. L. 1954, c. 84
 34 (C. 43:15A-73). Employees who are ineligible for enrollment in the
 35 Public Employees' Retirement System shall retain membership in
 36 any non-State retirement system under which they have accrued
 37 benefits or rights or shall be eligible to join such system.]*

38 *The corporation may elect or appoint from among the members
 39 of its board or from its employees some or all of the members of
 40 the board of directors of any incorporated entity of which it owns
 41 part or all of the capital stock.

42 *Employees of the corporation, or any of its subsidiary entities,*
 43 *shall be covered by whatever retirement plan or plans the corpo-*
 44 *ration or subsidiary entity determines from time to time to main-*
 45 *tain for those employees. However, if an individual is a member*
 46 *of the Public Employees' Retirement System or any other State-*
 47 *administered retirement system immediately prior to his initial*
 48 *employment by the corporation, he shall continue as or become,*
 49 *as the case may be, a member of the Public Employees' Retirement*
 50 *System for the duration of his employment by the corporation.**

1 ****[14.]** **16.**** The exercise of the powers granted by this act
 2 shall be in all respects for the benefit of the people of the State, and
 3 since the improvement, operation, and maintenance of public trans-
 4 portation services by the corporation constitute the performance of
 5 essential governmental functions, ****[the corporation shall not be re-**
 6 **quired to pay any taxes or assessments upon any public trans-**
 7 **portation project or any property acquired or used by the**
 8 **corporation under the provisions of this act or upon the income**
 9 **therefrom]**** **neither the corporation nor any wholly owned busi-*
 10 *ness corporation or other entity shall be required to pay taxes or*
 11 *assessments upon any public transportation project or any prop-*
 12 *erty acquired or used under the provisions of this act, including,*
 13 *but not limited to, sales taxes, real property taxes or assessments,*
 14 *corporate franchise taxes or income taxes. However, any property*
 15 *owned by the corporation or any wholly owned business corpora-*
 16 *tion or other entity shall be considered "State" property as de-*
 17 *finied in P. L. 1977, c. 272 (C. 54:4-2.2a), and shall be subject to the*
 18 *in lieu tax payments provided in that act*.*

1 ****[15.]** **17.**** All expenses incurred by the corporation in
 2 carrying out the provisions of this act shall be payable from funds
 3 available to the corporation therefor and no liability or obligation
 4 shall be incurred by the corporation beyond the extent to which
 5 moneys are available. No debt or liability of the corporation shall
 6 be deemed or construed to create or constitute a debt, liability, or a
 7 loan or pledge of the credit of the State.

1 ****[16.]** **18.**** Real property and rolling stock owned or used
 2 by the corporation shall be exempt from all claims of creditors and
 3 from levy, execution or attachment.

1 ****[17.]** **19.**** Notwithstanding any of the provisions of the
 2 "New Jersey Contractual Liability Act" (N. J. S. 59:13-1 et seq.)
 3 to the contrary, contract claims and suits against the corporation
 4 shall be governed by said act.

1 ****[18.]** **20.**** a. The corporation shall, by September 15 of
 2 each year, file with the Commissioner of Transportation a report

3 in such format and detail as the Commissioner may require setting
4 forth the actual, operational, capital and financial results of the
5 previous fiscal year, the operational, capital and financial plan for
6 the current fiscal year and a proposed operational, capital and
7 financial plan for the next ensuing fiscal year.

8 b. On or before October 31 of each year, the corporation shall
9 make an annual report of its activities for the preceding fiscal year
10 to the Governor and to the presiding officers and the Transporta-
11 tion and Communications Committees of both Houses of the Leg-
12 islature. Each such report shall set forth a complete operating
13 and financial statement covering its operations and capital projects
14 during the year.

15 c. All records of minutes, accounts, bills, vouchers, contracts
16 or other papers connected with or used or filed with the corporation
17 or with any officer or employee acting for or in its behalf are hereby
18 declared to be public records and shall be open to public inspection
19 in accordance with P. L. 1963, c. 73 (C. 47:1A-1 et seq.) and regu-
20 lations prescribed by the corporation.

21 d. The corporation shall cause an audit of its books and accounts
22 to be made at least once each year by certified public accountants
23 and the cost thereof may be treated as a cost of operation. The
24 audit shall be filed within 4 months after the close of the fiscal
25 year of the corporation and a certified duplicate copy thereof shall
26 be filed with the Division of Budget and Accounting in the De-
27 partment of Treasury.

28 e. Notwithstanding the provisions of any law to the contrary,
29 the State Auditor or his legally authorized representative may
30 examine the accounts and books of the corporation.

1 ****[19.]**** ****21.**** All real or personal properties purchased
2 heretofore for public transportation purposes in the name of Com-
3 muter Operating Agency, Department of Transportation, its pre-
4 decessors or the Commissioner of Transportation, shall be deemed
5 to have been purchased in the name of the State by and through
6 the corporation and shall henceforth be deemed to be and shall
7 actually be the property of the corporation.

1 ****[20.]**** ****22.**** This act is intended to protect and promote the
2 public health, safety and welfare, and shall be liberally construed
3 to obtain the objectives and effect the purposes thereof.

1 ****[21.]**** ****23.**** If any provision of this act or the application
2 thereof to any person, circumstances, or the exercise of any power,
3 or authority thereunder is held invalid or contrary to law, such
4 holding shall not affect other provisions or applications or affect

5 other exercises of power or authority under said provisions not
6 contrary to law, and to this end, the provisions of this act are
7 declared to be severable.

1 **[22.]** **24.** Section 5 of P. L. 1966, c. 301 (C. 27:1A-5) is
2 amended to read as follows:

3 5. The commissioner, as head of the department, shall have all
4 of the functions, powers and duties heretofore vested in the State
5 Highway Commissioner and shall, in addition to the functions,
6 powers and duties invested in him by this act or by any other law:

7 (a) Develop, from time to time revise and maintain a compre-
8 hensive master plan for all modes of transportation development,
9 with special emphasis on public transportation;

10 (b) Develop and promote programs to foster efficient and eco-
11 nomic transportation services in the State;

12 (c) Prepare plans for the preservation [and], improvement
13 and expansion of the [railroad] public transportation system, with
14 special emphasis on [commuter railroads] the coordination of
15 transit modes and the use of * rail rights of way,* highways and
16 public streets for public transportation purposes;

17 [(d) Develop plans for more efficient public transportation
18 service by railroads and motor bus operators; develop statistics,
19 analyses, and other data of use to railroad and bus operators in the
20 provision of public transportation service; facilitate more effective
21 coordination between bus service and other forms of public trans-
22 portation, particularly the commuter railroads; review petitions
23 for motor bus franchises in areas served by the commuter railroad
24 system and make appropriate recommendations on such petitions.]

25 (d) Enter into contracts with the New Jersey Transit Corpora-
26 tion for the provision and improvement of public transportation
27 services;

28 (e) Coordinate the transportation activities of the department
29 with those of other public agencies and authorities;

30 (f) Cooperate with interstate commissions and authorities, State
31 departments, councils, commissions and other State agencies, with
32 appropriate Federal agencies, and with interested private indi-
33 viduals and **[organiaztions]** **organizations** in the coordina-
34 tion of plans and policies for the development of air commerce and
34a air facilities; [and]

35 (g) Make an annual report to the Governor and the Legislature
36 of the department's operations, and render such other reports as
37 the Governor shall from time to time request or as may be required
38 by law[.]; *[and]*

39 (h) Promulgate regulations providing for the charging of and
 40 setting the amount of fees for certain services performed by and
 41 permits issued by the department, including but not limited to the
 42 following:

- 43 (1) Providing copies of documents prepared by or in the
 44 custody of the department;
 45 (2) Aeronautics permits;
 46 (3) Right-of-way permits;
 47 (4) Traffic signal control systems***[.]*** *; and*

48 *(i) *Plan, design, construct, equip, operate, improve and main-*
 49 *tain a railroad, subway, street, traction or electric railway for the*
 50 *purpose of carrying freight in this State or between points in this*
 51 *State and points in other states.**

1 ****[23.]**** **25.** Section 2 of P. L. 1973, c. 126 (C. 27:1A-65) is
 2 amended to read as follows:

3 2. For the purposes of this act, unless the context clearly in-
 4 dicates otherwise:

5 a. "Commissioner" means the Commissioner of Transportation;
 6 provided, however, that he may delegate any of his powers or duties
 7 under this act to any subordinate division, agency or employee of
 8 the Department of Transportation *or to the New Jersey Transit*
 9 *Corporation.*

10 b. "Carrier" means any individual, copartnership, association,
 11 corporation, joint stock company, public agency, trustee or receiver
 12 operating motor buses or rail passenger service on established
 13 routes within this State or between points in this State and points
 14 in adjacent states.

15 c. "Motor bus" means "autobus" as defined in R. S. 48:4-1, and
 16 includes those autobuses, commonly called jitneys, as defined in
 17 R. S. 48:16-23.

18 d. "Offpeak times" means the hours from 9:30 a.m. to 4 p.m.
 19 and from 7 p.m. to 6 a.m. during the weekdays, and all day on
 20 Saturdays, Sundays and holidays.

21 e. "Senior citizen" means any individual 62 years of age or over.

22 f. "****[Handicaped]**** ***Handicapped*** citizen" means any
 23 individual who, by reason of illness, injury, age, congenital malfunc-
 24 tion, or other permanent or temporary incapacity or disability, is
 25 unable without special facilities or special planning or design to
 26 utilize mass transportation facilities and services as effectively as
 27 persons who are not so affected.

1 ****[24.]**** **26.** Section 73 of P. L. 1954, c. 84 (C. 43:15A-73)
 2 is amended to read as follows:

3 73. a. The Public Employees' Retirement System is hereby
4 authorized and directed to enroll eligible employees of the New
5 Jersey Turnpike Authority, the New Jersey Highway Authority,
6 Palisades Interstate Park Commission, Interstate Sanitation Com-
7 mission, the Delaware River Basin Commission and the Delaware
8 River Joint Toll Bridge Commission.

9 In the case of the Delaware River Joint Toll Bridge Commission,
10 the eligible employees shall be only those who are employed on the
11 free bridges across the Delaware river, under the control of said
12 commission.

13 The said employees shall be subject to the same membership, con-
14 tribution and benefit provisions of the retirement system as State
15 employees.

16 b. The State University of New Jersey, as an instrumentality
17 of the State, shall, for all purposes of this act, be deemed an em-
18 ployer and its eligible employees, both veterans and nonveterans,
19 shall be subject to the same membership, contribution and benefit
20 provisions of the retirement system and to the provisions of chapter
21 3 of Title 43 of the Revised Statutes as are applicable to State em-
22 ployees and for all purposes of this act employment by the State
23 University of New Jersey after April 16, 1945, and for the purposes
24 of chapter 3 of Title 43 of the Revised Statutes any new employ-
25 ment after January 1, 1955, shall be deemed to be and shall be con-
26 strued as service to and employment by the State of New Jersey.

27 c. The Compensation Rating and Inspection Bureau, created and
28 established pursuant to the provisions of R. S. 34:15-89, shall, for
29 all purposes of this act, be deemed an employer and its eligible em-
30 ployees, both veterans and nonveterans, shall be subject to the same
31 membership, contribution and benefit provisions of the retirement
32 system and to the provisions of chapter 3 of Title 43 of the Revised
33 Statutes as both are applicable to State employees.

34 The retirement system shall certify to the Commissioner of In-
35 surance and the Commissioner of Insurance shall direct the Com-
36 pensation Rating and Inspection Bureau to provide the necessary
37 payments to the retirement system in accordance with procedures
38 established by the retirement system. Such payments shall in-
39 clude (1) the contributions and charges, similar to those paid by
40 other public agency employers, to be paid by the Compensation
41 Rating and Inspection Bureau to the retirement system on behalf
42 of its employee members, and (2) the contributions to be paid by
43 the Compensation Rating and Inspection Bureau to provide the

44 past service credits up to June 30, 1965 for these members, both
45 veterans and nonveterans, who enroll before July 1, 1966.

46 d. The New Jersey Sports and Exposition Authority, created
47 and established pursuant to the "New Jersey Sports and Expositi-
48 tion Authority Law," P. L. 1971, c. 137 (C. 5:10-1 et seq.) shall
49 for all purposes of this act, be deemed an employer and its eligible
50 employees both veterans and nonveterans, shall be subject to the
51 same membership, contribution and benefit provisions of the re-
52 tirement system and to the provisions of chapter 3 of Title 43 of
53 the Revised Statutes as are applicable to State employees.

54 (1) Eligible employees as used herein shall not include persons
55 who are not classified as salaried, or who are compensated on an
56 hourly or per diem basis, or whose employment is normally
57 covered by other retirement systems to which the authority makes
58 contributions.

59 (2) Eligible employees previously permitted to enroll in the re-
60 tirement system shall redeposit the contributions previously made
61 by them and all service credit shall then be restored and future
62 contributions made at the date of contribution as originally
63 assigned. The authority shall redeposit the employer payments
64 it had made, with interest to the date of redeposit.

65 e. *The New Jersey Transit Corporation created and established*
66 *pursuant to the "New Jersey Public Transportation ***[Improve-*
67 *ment]*** Act of 1979", P. L. 1979, c. 137 shall for all purposes of*
68 *this act, be deemed an employer and its eligible employees both*
69 *veterans and nonveterans, shall be subject to the same membership,*
70 *contribution and benefit provisions of the retirement system and to*
71 *the provisions of chapter 3 of Title 43 of the Revised Statutes as*
72 *are applicable to State employees. Eligible employees as used*
73 *herein * [shall include persons in management, professional or cleri-*
74 *cal positions but shall not include persons who are not classified as*
75 *salaried or who are compensated on an hourly or per diem basis*
76 *or whose employment is normally covered by other retirement*
77 *systems to which the corporation may make contributions] * * means*
78 *only those individuals who are members of the Public Employees'*
79 *Retirement System or any other State-administered retirement*
80 *system immediately prior to their initial employment by the cor-*
81 *poration*.*

1 **[*25.]** **27.** R. S. 48:3-10 is amended to read as follows:
2 48:3-10. No public utility incorporated under the laws of this
3 State shall sell, nor shall any such public utility make or permit
4 to be made upon its books any transfer of any share or shares of

5 its capital stock, to any other public utility, unless authorized to
 6 do so by the board. Nor shall any public utility incorporated under
 7 the laws of this State sell any share or shares of its capital stock
 8 or make or permit any transfer thereof to be made upon its books,
 9 to any corporation, domestic or foreign, or any person, the result
 10 of which sale or transfer in itself or in connection with other pre-
 11 vious sales or transfers shall be to vest in such corporation or
 12 person a majority in interest of the outstanding capital stock of
 13 such public utility corporation unless authorized to do so by the
 14 board.

15 Every assignment, transfer, contract or agreement for assign-
 16 ment or transfer, by or through any person or corporation to any
 17 corporation or person in violation of any of the provisions hereof
 18 shall be void and of no effect, and no such transfer shall be made
 19 on the books of any public utility corporation. Nothing herein
 20 contained shall be construed to prevent the holding of stock law-
 21 fully acquired before March 5, 1935.

22 Where, by the proposed assignment, transfer, contract, or agree-
 23 ment for assignment or transfer of capital stock as set forth herein,
 24 it appears that the public utility or a wholly owned subsidiary
 25 thereof may be unable to fulfill its obligation to any employees
 26 thereof with respect to pension benefits previously enjoyed, whether
 27 vested or contingent, the board shall not grant its authorization
 28 unless the public utility seeking the board's authorization assumes
 29 such responsibility as will be sufficient to provide that all such
 30 obligations to employees will be satisfied as they become due.

31 *Nothing herein shall require the approval of the Department of*
 32 *Transportation to any sale or transfer by any public utility of any*
 33 *share or shares of its capital stock to the New Jersey Transit Cor-*
 34 *poration or any subsidiary thereof for public use.**

1 *~~[25.]~~* **~~[*26.*]~~** **28.** a. The following are repealed:

2 P. L. 1966, c. 301, § 15-27 (C. 27:1A-15 to 27:1A-27);

3 P. L. 1966, c. 301, § 29-32 (C. 27:1A-29 to 27:1A-32);

4 P. L. 1975, c. 371, § 1, 2 (C. 27:1A-18.1 and 27:1A-18.2);

5 P. L. 1967, c. 138, § 1, 2 (C. 27:1A-24.1 and 27:1A-24.2);

6 P. L. 1976, c. 119, § 1-7 (C. 27:1A-28.7 to 27:1A-28.13)*~~[.]~~* **;

6A *P. L. 1972, c. 210, § 1-3 (C. 48:3-39 to 48:3-41).*

7 b. The repealer of these acts and part of acts shall not in any
 8 way affect any contracts, agreements, determinations, orders,
 9 rules or regulations heretofore made or promulgated, as the case
 10 may be by the Commuter Operating Agency or the Department
 11 of Transportation pursuant to any authority heretofore granted

12 but such contracts, agreements, determinations, orders, rules and
13 regulations shall be continued by the corporation with full force
14 and effect until otherwise amended, repealed or terminated in
15 accordance with the terms thereof or pursuant to the provisions
16 of this act.

1 ***[26.]*** ****[*27.*]**** **29.** Whenever in any law, rule, regula-
2 tion, contract, document, judicial or administrative proceeding or
3 otherwise, reference is made to the New Jersey Commuter Operat-
4 ing Agency, the same shall mean and refer to the New Jersey
5 Transit Corporation.

1 ***[27.]*** ****[*28.*]**** **30.** Until such time as the corporation
2 and its board are legally constituted pursuant to section 4 of this
3 act, the Commuter Operating Agency is authorized to exercise all of
4 the powers granted the corporation by this act. On the date that the
5 corporation and board are legally constituted pursuant to section
6 4 of this act, the Commuter Operating Agency shall no longer
7 exercise any of its powers pursuant to P. L. 1966, c. 301 as amended
8 and supplemented by P. L. 1976, c. 119.

9 Anticipatory actions appropriate and necessary to effect the
10 establishment of the corporation and the implementation of its
11 duties are authorized to be accomplished as promptly as possible by
12 the Commuter Operating Agency in advance of the date that the cor-
13 poration and its board are legally constituted, including the making
14 of authorized appointments and within the limits of applicable
15 appropriations to the Department of Transportation, the expendi-
16 ture of funds for payment of salaries and expenses incident thereto.

1 ***[28.]*** ****[*29.*]**** **31.** This act shall take effect imme-
2 diately, but section ****[25]**** **28** shall remain inoperative for
3 *****[60]***** **180*** days after enactment.

SENATE, No. 3137

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 26, 1979

By Senators HERBERT, ERICCHETTI, LIPMAN, J. RUSSO,
MERLINO and HIRKALA

Referred to Committee on Transportation and Communications

AN ACT creating a public corporation within the Department of Transportation empowered to acquire, operate and contract for the operation of public transportation services and facilities, prescribing its powers and duties 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. This act shall be known and may be cited as the "New Jersey
2 Public Transportation Act of 1979."

1 2. The Legislature hereby finds and declares that:

2 a. The provision of efficient, coordinated, safe and responsive
3 public transportation is an essential public purpose which promotes
4 mobility, serves the needs of the transit dependent, costers com-
5 merce, conserves limited energy resources, protects the environ-
6 ment and promotes sound land use and the revitalization of our
7 urban centers.

8 b. As a matter of public policy, it is the responsibility of the
9 State to establish and provide for the operation and improvement
10 of a coherent public transportation system in the most efficient
11 and effective manner.

12 c. In the development of public transportation policy and plan-
13 ning, participation by county and municipal governments should
14 be encouraged.

15 d. In the provision of public transportation services, the State
16 should consider, consistent with the purposes of this act, the utili-
17 zation of effective private management.

18 e. In furtherance of these findings and declarations, a public
19 corporation shall be created with the necessary powers to accom-
20 plish these purposes, including the power to acquire and operate
21 public transportation assets.

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

1 3. As used in this act:

2 a. "Corporation" means the New Jersey Transit Corporation.

3 b. "Motorbus regular route service" means and includes the
4 operation of any motorbus or motorbuses on streets, public high-
5 ways or other facilities, over a fixed route and between fixed ter-
6 mini on a regular schedule for the purpose of carrying passengers
7 for hire or otherwise, in this State or between points in this State
8 and points in other states.

9 c. "Capital equipment and facilities" means and includes, in
10 connection with public transportation service, passenger stations,
11 shelters and terminals, automobile parking facilities, ramps, track
12 connections, signal systems, power systems, information and com-
13 munication systems, roadbeds, transit lanes or rights of way,
14 equipment storage and servicing facilities, bridges, grade crossings,
15 rail cars, locomotives, motorbus and other motor vehicles, mainte-
16 nance and garage facilities, revenue handling equipment and any
17 other equipment, facility or property useful for or related to the
18 provision of public transportation service.

19 d. "Paratransit services" means and includes any service, other
20 than motorbus regular route service and charter services, includ-
21 ing, but not limited to, dial-a-ride, nonregular route, jitney or
22 community minibus, and shared-ride services such as vanpools,
23 limousines or taxicabs which are regularly available to the public
24 and are not reserved for the private and exclusive use of individual
25 passengers.

26 e. "Public transportation or public transportation service"
27 means rail passenger service, motorbus regular route service,
28 paratransit service, motorbus charter service or rail freight ser-
29 vice.

30 f. "Motorbus charter service" means and includes subscription,
31 school bus, charter, tour or other special motorbus services.

32 g. "Rail freight service" means and includes the operation of
33 a railroad, subway, street, traction or electric railway for the pur-
34 pose of carrying freight in this State or between points in this
35 State and points in other states.

36 h. "Rail passenger service" means and includes the operations
37 of a railroad, subway, street, traction or electric railway for the
38 purpose of carrying passengers in this State or between points
39 in this State and points in other states.

1 4. a. There is hereby established in the Executive Branch of the
2 State Government the New Jersey Transit Corporation, a body
3 corporate and politic with corporate succession. For the purpose of

4 complying with the provisions of Article V, Section IV, paragraph
5 1 of the New Jersey Constitution, the corporation is hereby allo-
6 cated within the Department of Transportation, but, notwithstand-
7 ing said allocation, the corporation shall be independent of any
8 supervision or control by the department or by any body or officer
9 thereof. The corporation is hereby constituted as an instru-
10 mentality of the State exercising public and essential governmental
11 functions, and the exercise by the corporation of the powers con-
12 ferred by this act shall be deemed and held to be an essential
13 governmental function of the State.

14 b. The corporation shall be governed by a board which shall
15 consist of five members including the Commissioner of Transporta-
16 tion and the State Treasurer, who shall be members ex officio,
17 another member of the Executive Branch to be selected by the
18 Governor who shall also serve ex officio, and two other public
19 members who shall serve at the pleasure of the Governor. The
20 board shall designate a secretary who need not be a member.

21 c. Board members other than those serving ex officio shall serve
22 without compensation, but members shall be reimbursed for actual
23 expenses necessarily incurred in the performance of their duties.

24 d. The Commissioner of Transportation shall serve as chairman
25 of the board. He shall chair board meetings and shall have
26 responsibility for the scheduling and convening of all meetings of
27 the board. Each ex officio member of the board may designate one
28 or more employees of his department or agency to represent him
29 at meetings of the board, and each such designee may lawfully vote
30 and otherwise act on behalf of the member for whom he constitutes
31 the designee. Any such designation shall be in writing delivered
32 to the board and shall continue in effect until revoked or amended
33 by writing delivered to the board.

34 e. The powers of the corporation shall be vested in the members
35 of the board thereof and three members of the board shall con-
36 stitute a quorum at any meeting thereof. Actions may be taken and
37 motions and resolutions adopted by the board at any meeting
38 thereof by the affirmative vote of at least three members. No
39 vacancy in the membership of the board shall impair the right of a
40 quorum to exercise all the rights and perform all the duties of the
41 board.

42 f. A true copy of the minutes of every meeting of the board shall
43 be delivered forthwith, by and under the certification of the secre-
44 tary thereof, to the Governor. No action taken at such meeting by
45 the board shall have force or effect until approved by the Governor
46 or until 10 days after such copy of the minutes shall have been

47 delivered. If, in said 10-day period, the Governor returns such
48 copy of the minutes with veto of any action taken by the board or
49 any member thereof at such meeting, such action shall be null and
50 of no effect. The Governor may approve all or part of the action
51 taken at such meeting prior to the expiration of the said 10-day
52 peirod.

1 5. In addition to the powers and duties conferred upon it else-
2 where in this act, the corporation may do all acts necessary and
3 reasonably incident to carrying out the objectives of this act, in-
4 cluding but not in limitation thereof the following:

5 a. Sue and be sued;

6 b. Have an official seal and alter the same at pleasure;

7 c. Make and alter bylaws for its organization and internal
8 management and for the conduct of its affairs and business;

9 d. Maintain an office at such place or places within the State
10 as it may determine;

11 e. Adopt, amend and repeal such rules and regulations as it
12 may deem necessary to effectuate the purposes of this act, which
13 shall have the force and effect of law; it shall publish the same
14 and file them in accordance with the "Administrative Procedure
15 Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.) with the Director of
16 the Office of Administrative Law;

17 f. Call to its assistance and avail itself of the service of such
18 employees of any Federal, State, county or municipal department
19 or agency as it may require and as may be available to it for said
20 purpose;

21 g. Apply for, accept and expend money from any Federal, State,
22 county or municipal agency or instrumentality and from any
23 private source; comply with Federal statutes, rules and regula-
24 tions, and qualify for and receive all forms of financial assistance
25 available under Federal law to assure the continuance of, or for the
26 support or improvement of public transportation and as may be
27 necessary for that purpose to enter into agreements, including
28 Federally required labor protective agreements;

29 h. Plan, design, construct, equip, operate, improve and maintain,
30 either directly or by contract with any public or private entity,
31 public transportation services, capital equipment and facilities or
32 any parts or functions thereof, and other transportation projects,
33 or any parts or functions thereof, which may be funded under
34 section 3 of the Federal Urban Mass Transportation Act of 1964,
35 P. L. 88-365 (49 U. S. C. § 1602), or any successor or additional
36 Federal act having substantially the same or similar purposes or

37 functions; the operation of the facilities of the corporation, by the
38 corporation or any public or private entity, may include appro-
39 priate and reasonable limitations on competition in order that
40 maximum service may be provided most efficiently to the public;

41 i. Apply for and accept, from appropriate regulatory bodies,
42 authority to operate public transportation services where nec-
43 essary;

44 j. Purchase, lease as lessee, or otherwise acquire, own, hold,
45 improve, use and otherwise deal in and with real or personal prop-
46 erty, or any interest therein, from any public or private entity,
47 wherever situated;

48 k. Lease as lessor, sell or otherwise dispose of on terms which
49 the corporation may prescribe, real and personal property, includ-
50 ing tangible or intangible property and consumable goods, or any
51 interest therein, to any public or private entity, in the exercise of
52 its powers and the performance of its duties under this act. In
53 order to provide or encourage adequate and efficient public trans-
54 portation service, the corporation may lease or otherwise permit
55 the use or occupancy of property without cost or at a nominal
56 rental;

57 l. Restrict the rights of persons to enter upon or construct any
58 works in or upon any property owned or leased by the corporation,
59 except under such terms as the corporation may prescribe; perform
60 or contract for the performance of all acts necessary for the man-
61 agement, maintenance and repair of real or personal property
62 leased or otherwise used or occupied pursuant to this act;

63 m. Establish one or more operating divisions as deemed nec-
64 essary;

65 n. Set and collect fares and determine levels of service for
66 service provided by the corporation either directly or by contract
67 including, but not limited to, such reduced fare programs as deemed
68 appropriate by the corporation; revenues derived from such service
69 may be collected by the corporation and shall be available to the
70 corporation for use in furtherance of any of the purposes of this
71 act;

72 o. Set and collect rentals, fees, charges or other payments from
73 the lease, use, occupancy or disposition of properties owned or
74 leased by the corporation; such revenues shall be available to the
75 corporation for use in furtherance of any of the purposes of this
76 act;

77 p. Deposit corporate revenues in interest bearing accounts or in
78 the State of New Jersey Cash Management Fund established pur-
79 suant to section 1 of P. L. 1977, c. 28 (C. 52:18A-90.4);

80 q. Delegate to subordinate officers of the corporation such
81 powers and duties as the corporation shall deem necessary and
82 proper to carry out the purposes of this act;

83 r. Procure and enter into contracts for any type of insurance
84 and indemnify against loss or damage to property from any cause,
85 including loss of use and occupancy, against death or injury of any
86 person, against employees' liability, against any act of any member,
87 officer, employee or servant of the corporation, whether part-time,
88 full-time, compensated or noncompensated, in the performance of
89 the duties of his office or employment or any other insurable risk;

90 s. Promote the use of public transportation services, coordinate
91 ticket sales and passenger information and sell, lease or otherwise
92 contract for advertising in or on the equipment or facilities of the
93 corporation and;

94 t. Enter into any and all agreements or contracts, execute any
95 and all instruments, and do and perform any and all acts or things
96 necessary, convenient or desirable for the purposes of the corpora-
97 tion, or to carry out any power expressly or implicitly given in this
98 act.

1 6. a. The corporation may enter into contracts with any public
2 or private entity to operate rail passenger and rail freight service
3 or portions or functions thereof. Where appropriate, payments
4 by the corporation for services contracted for under this section
5 shall be determined in accordance with the Federal Regional Rail
6 Reorganization Act of 1973 (45 U. S. C., 701 et seq.), the Federal
7 Rail Passenger Service Act of 1970 (45 U. S. C. 501 et seq.), any
8 other applicable Federal law, and any and all rules, regulations
9 and standards, promulgated thereunder and decisions issued pur-
10 suant thereto. In all other cases, payments shall be by agreement
11 upon such terms and conditions as the corporation shall deem
12 necessary.

13 b. The corporation may enter into contracts with any public or
14 private entity to operate motorbus regular route, paratransit or
15 motorbus charter services or portions or functions thereof. Pay-
16 ments shall be by agreement upon such terms and conditions as
17 the corporation shall deem necessary.

1 7. The corporation or any public or private entity under contract
2 to the corporation operating regular route motorbus service may
3 provide motorbus charter service provided that the carrier com-
4 plies with applicable State and Federal statutes, rules and regu-
5 lations with regard to any such operations.

1 8. a. The authority hereby given the corporation pursuant to
2 this act with respect to fares and service, shall be exercised by the
3 corporation directly or through contract without regard or refer-
4 ence to the jurisdiction vested in the Department of Transportation
5 by sections 48:2-21, 48:2-24 and 48:4-3 of the Revised Statutes.
6 The Department of Transportation shall resume jurisdiction over
7 service and fares upon the termination and discontinuance of a
8 contractual relationship between the corporation and a private or
9 public entity relating to the provision of public transportation
10 services operated under the authority of certificates of public con-
11 venience and necessity previously issued by the department or its
12 predecessors; provided, however, that no private entity shall be
13 required to restore any service discontinued or any fare changed
14 during the existence of a contractual relationship with the corpora-
15 tion, unless the Department of Transportation shall determine,
16 after notice and hearing, that the service or fare is required by
17 public convenience and necessity.

18 b. Notwithstanding any other provisions of this act, all vehicles
19 used by any public or private entity pursuant to contract autho-
20 rized by this act, and all vehicles operated by the corporation
21 directly, shall be subject to the jurisdiction of the Department of
22 Transportation with respect to insurance, maintenance, specifica-
23 tions and safety to the same extent such jurisdiction is conferred
24 upon the department by Title 48 of the Revised Statutes.

25 c. Before implementing any fare increase for any motorbus regu-
26 lar route or rail passenger services, or the abandonment of any
27 such services, the corporation shall hold a public meeting in the
28 area affected during evening hours. Notice of such meetings shall
29 be given by the corporation at least 10 days prior to such meeting
30 to the governing body of each county whose residents will be
31 affected and to the clerk of each municipality in the county or
32 counties whose residents will be affected; such notice shall also
33 be posted at least 10 days prior to such meeting in prominent places
34 on the railroad cars and buses serving the routes to be affected.

1 9. In any proceeding before the Department of Transportation
2 for decreasing or abandoning service, any contract payments
3 offered by the corporation for continuing service shall be considered
4 as available revenues by the department, in making any determi-
5 nation on the petition.

1 10. In order to conserve, improve, and promote public trans-
2 portation service necessary for public use pursuant to the provi-
3 sions of this act, the corporation may purchase and improve capital

4 equipment and facilities, including, but not limited to, the design,
5 planning, acquisition, construction, reconstruction, relocation, in-
6 stallation, removal, establishment, repair or rehabilitation of such
7 equipment or facilities. The powers herein granted shall be exer-
8 cised by the corporation, notwithstanding the provisions to the
9 contrary of P. L. 1948, c. 92 (C. 52:18A-1 et seq.) and chapters 25,
10 32, 33, 34 and 35 of Title 52 of the Revised Statutes, and in ac-
11 cordance with procedures set forth in section 11 of this act.

1 11. a. All purchases, contracts or agreements pursuant to this
2 act shall be made or awarded directly by the corporation, except
3 as otherwise provided in this act, only after public advertisement
4 for bids therefor, in the manner provided in this act, notwithstand-
5 ing the provisions to the contrary of P. L. 1948, c. 92 (C. 52:18A-1
6 et seq.) and chapters 25, 32, 33, 34 and 35 of Title 52 of the Revised
6A Statutes.

7 b. Whenever advertising is required: (1) specifications and
8 invitations for bids shall permit such full and free competition as
9 is consistent with the procurement of supplies and services neces-
10 sary to meet the requirements of the corporation; (2) the adver-
11 tisement for bids shall be in such newspaper or newspapers selected
12 by the corporation as will best give notice thereof to bidders and
13 shall be sufficiently in advance of the purchase or contract to
14 promote competitive bidding; (3) the advertisement shall desig-
15 nate the time and place when and where sealed proposals shall
16 be received and publicly opened and read, the amount of the cash,
17 certified check, cashiers check or bank check, if any, which shall
18 accompany each bid, and such other terms as the corporation may
19 deem proper.

20 c. The corporation may reject any or all bids not in accord with
21 the advertisement of specifications, or may reject any or all bids
22 if the price of the work materials is excessively above the estimate
23 cost or when the corporation shall determine that it is in the public
24 interest to do so. The corporation shall prepare a list of the bids,
25 including any rejected and the cause therefor. The corporation may
26 accept bids containing minor informalities. Awards shall be made
27 by the corporation with reasonable promptness by written notice
28 to the responsible bidder whose bid, conforming to the invitation
29 for bids, will be the most advantageous to the State, price and
30 other factors considered.

31 d. A proposal bond equal to at least 50% of the bid executed by
32 the contractor with such sureties as shall be approved by the
33 corporation in favor of the State of New Jersey, shall accompany
34 each bid and shall be held as security for the faithful performance

35 of the contractor in that, if awarded the contract, the bidder will
36 deliver the contract within 10 working days after the award,
37 properly executed and secured by satisfactory bonds in accordance
38 with the provisions of N. J. S. 2A:44-143 through N. J. S. 2A:44-147
39 and specifications for the project. The corporation may require in
40 addition to the proposal bond such additional evidence of the
41 ability of a contractor to perform the work required by the contract
42 as it may deem necessary and advisable. All proposal bonds which
43 have been delivered with the bids, except those of the two lowest
44 responsible bidders, shall be returned within 30 working days after
45 such bids are received.

46 e. If the bidder fails to provide a satisfactory proposal bond as
47 provided in subsection d. of this section, his bid shall be rejected.

48 f. The corporation shall determine the terms and conditions of
49 the various types of agreements or contracts, including provisions
50 for adequate security, the time and amount or percentage of each
51 payment thereon and the amount to be withheld pending completion
52 of the contract, and it shall issue and publish rules and regulations
53 concerning such terms and conditions, standard contract forms and
54 such other rules and regulations concerning purchasing or procure-
55 ment, not inconsistent with any applicable law, as it may deem
56 advisable to promote competition and to protect the public interest.

57 g. Any purchase, contract or agreement pursuant to subsection a.
58 hereof may be made, negotiated or awarded by the corporation
59 without advertising in any manner which the corporation may
60 deem effective to promote full and free competition whenever
61 competition is practicable;

61A (1) When the aggregate amount involved does not exceed
61B \$7,500.00; or

62 (2) In all other cases when the corporation seeks:

63 (a) To acquire used public transportation equipment or
64 existing public transportation facilities or rights of way; or

65 (b) To acquire subject matter which is that described in
66 section 4 of P. L. 1954, c. 48 (C. 52:34-9); or

67 (c) To make a purchase or award or make a contract or
68 agreement under the circumstances described in section 5 of
69 P. L. 1954, c. 48 (C. 52:34-10).

70 h. The corporation shall require that all persons proposing to
71 submit bids on improvements to capital facilities and equipment
72 shall first be classified by the corporation as to the character and
73 amount of work on which they shall be qualified to submit bids.
74 Bids shall be accepted only from persons qualified in accordance
75 with such classification.

1 12. a. The corporation shall have the power to acquire by pur-
2 chase, condemnation, lease, gift or otherwise, on such terms and
3 conditions and in such manner as it may deem proper, for use by
4 the corporation or for use by any other public or private entity
5 providing public transportation services, all or part of the facility,
6 plant, equipment, property, shares of stock, rights of property, real,
7 personal, tangible, intangible or mixed rights in property, reserve
8 funds, employees pension or retirement funds, special funds, fran-
9 chises, licenses, patents, permits and papers, documents and
10 records of a public or private entity providing public transportation
11 services within the State, subject to any outstanding obligations
12 relating to such items as might be agreed upon by the parties,
13 together with all or any part of the right of way, equipment, fixed
14 facilities and other property of any kind of any such entity ending
15 beyond the boundaries of this State.

16 Such properties upon acquisition by or lease to the corporation
17 shall become and be operated as part of any public transportation
18 services by the corporation or any entity designated by the corpo-
19 ration and the corporation shall have all powers in connection with
20 such properties and such operations as are conferred by this act.

21 b. The corporation shall also have the power to acquire by pur-
22 chase, condemnation, lease, gift or otherwise, on such terms and
23 conditions and in such manner as it may deem proper, any land or
24 interest therein, including land under water and air rights, which
25 it may determine is reasonably necessary for the purposes of the
26 corporation under the provisions of this act and any and all rights,
27 whether for immediate or future use, title and interest in such
28 land and other property, including public lands, parks, playgrounds,
29 reservations, highways or parkways, owned by or in which any
30 county or municipality, borough, town, township, village, or other
31 political subdivision of the State has any right, title or interest, or
32 parts thereof or rights therein and any fee simple absolute or any
33 lesser interest in private property, and any fee simple absolute in,
34 easements upon, or the benefit of restrictions upon, abutting prop-
35 erty to preserve and protect corporation projects.

36 c. The corporation, if it proceeds to acquire any public or private
37 entity engaged in the provision of public transportation service,
38 or any part thereof by condemnation, shall have the power to take
39 control of and operate such entity immediately upon the filing and
40 approval of the complaint for condemnation, if the corporation in
41 its discretion, determines such action to be necessary. This power
42 shall include the possession of all right, title and other powers of
43 ownership in all properties and facilities described in the petition.

44 Such action shall be effective upon service of a copy thereof on
45 the condemnee. In the determination of the fair value of any such
46 entity, there shall not be included any value attributable to expend-
47 itures for improvements or payments made to the entity by the
48 corporation, the Commuter Operating Agency or the Department
49 of Transportation.

50 d. Upon the exercise of the power of eminent domain by the
51 corporation the compensation to be paid thereunder shall be
52 ascertained and paid in the manner provided in the "Eminent
53 Domain Act of 1971," P. L. 1971, c. 361 (C. 20:3-1 et seq.) in so far
54 as the provisions thereof are applicable and not inconsistent with
55 the provisions contained in this act. The corporation may join in
56 separate subdivisions in one petition or complaint the descriptions
57 of any number of tracts or parcels of land or property to be con-
58 demned, and the names of any number of owners and other parties
59 who may have an interest therein and all such land or property
60 included in said petition or complaint may be condemned in a single
61 proceeding; provided, however, that separate awards shall be
62 made for each tract or parcel of land or property; and provided,
63 further, that each of said tracts or parcels of land or property
64 shall be wholly within or have a substantial part of its value be
65 wholly within the same county.

66 e. Upon the filing by the corporation of a complaint in any action
67 to fix the compensation to be paid for any property or at any time
68 thereafter, the corporation may file with the clerk of the county in
69 which such property is located and also with the clerk of the
70 superior court a declaration of taking, signed by the corporation,
71 or such employees of the corporation as may be designated by the
72 corporation, declaring that possession of one or more of the tracts
73 or parcels of land or property described in the complaint is thereby
74 being taken by and for the use of the corporation. The declaration
75 of taking shall be sufficient if it sets forth (1) a description of each
76 tract or parcel of land or property to be taken, (2) a statement of
77 the estate or interest in the property being taken, (3) a statement
78 of the sum of money estimated by the corporation to be just com-
79 pensation for the taking of the estate or interest in each tract or
80 parcel of land or property described in said declaration, and
81 (4) an allegation that, in compliance with the provisions of this act,
82 the corporation has established and is maintaining a trust fund
83 as hereinafter provided.

84 f. Upon the filing by the corporation of a declaration of taking
85 and the depositing with the clerk of the superior court of the amount

86 of the estimated compensation stated in the declaration, the
87 corporation, without other process or proceedings, shall be entitled
88 to the exclusive possession and use of each tract or parcel of land
89 or property described in said declaration and may forthwith enter
90 into and take possession of said land or property, it being the intent
91 of this provision that the action to fix compensation to be paid or
92 any other proceedings relating to the taking of the land or property
93 or interest therein or entering thereon shall not delay the taking of
94 possession thereof and the use thereof by the corporation for the
95 purposes authorized by this act. The corporation shall not abandon
96 any condemnation proceeding subsequent to the date upon which
97 it has taken possession of the land or property as herein provided.

98 g. The corporation shall cause notice of the filing of a declaration
99 of taking of property as provided in this act and of the making of
100 the deposit required by this act with respect thereto to be served
101 upon each party to the action who resides in the State, either
102 personally or by leaving a copy thereof at his residence or business
103 address if known, and upon each such party who resides out of the
104 State, by mailing a copy thereof to him at his residence or
105 business address, if known. In the event that the residence of
106 any such party or the name of such party is unknown, such
106A notice shall be published at least once in a newspaper published
107 or circulating in the county or counties in which the property is
108 located. Such service, mailing or publication shall be made within
109 30 days after filing such declaration. Upon the application of any
110 party in interest and after notice to other parties in interest,
111 including the corporation, the Superior Court may direct that the
112 money deposited with the clerk of the superior court or any part
113 thereof be paid forthwith, without deduction of any fees or com-
114 missions, to the person or persons entitled thereto for or on account
115 of the just compensation to be awarded in said action; provided,
116 that each such person shall have filed with the clerk of the superior
117 court a consent in writing that, in the event the award in the action
118 shall be less than the amount deposited, the court, after such notice
119 as the court prescribes and hearing, may determine the liability,
120 if any, for the return of the difference or any part thereof and
121 enter judgment therefor.

122 If the amount of the award as finally determined shall exceed
123 the amount so deposited, the person or persons to whom the award
124 is payable shall be entitled to recover from the corporation the
125 difference between the amount of the deposit and the amount of
126 the award, with interest at the rate of 6% per annum thereon from

127 the date of making the deposit. If the amount of the award so
128 determined shall be less than the amount so deposited, the clerk
129 of the superior court shall return the difference between the
130 amount of the award and the deposit, including all accrued interest
131 thereon, to the corporation unless the deposit or any part thereof
132 shall have theretofore been distributed, in which event the court,
133 on application of the corporation and notice to all persons interested
134 in the award and affording them an opportunity to be heard, shall
135 enter judgment in favor of the corporation for the difference
136 against the party or parties liable for the return thereof.

1 13. The corporation may appoint an executive director, directors
2 of operating divisions, divisions, and other such additional officers,
3 all of whom need not be members of the corporation, and may
4 employ consulting architects, engineers, auditors, accountants,
5 construction, management real estate, operations and financial ex-
6 perts, supervisors, managers and such other professional consult-
7 ants and officers and employees, and may fix their compensation,
8 as the corporation deems advisable; and may promote and dis-
9 charge such officers and employees, all without regard to the pro-
10 visions of Title 11 of the Revised Statutes. In developing an
11 employee compensation schedule, the corporation shall consult
12 with appropriate authorities of the State and file such schedule
13 with them upon completion. The corporation shall by October 31
14 of each year submit to the Governor and the presiding officers and
15 the Transportation and Communications Committees of both
16 Houses of the Legislature, a list of all full and part-time officers
17 and employees of the corporation and the salaries, wages and com-
18 pensation received by said officers and employees during the pre-
19 ceding fiscal year.

20 Persons holding positions in the classified and unclassified service
21 of the State who are presently enrolled in the Public Employees'
22 Retirement System shall, while employed by the corporation, con-
23 tinue as members of that retirement system and retain all rights
24 and protection provided them by said retirement system. Persons
25 employed by the corporation who are members of a State-admin-
26 istered retirement system other than the Public Employees' Re-
27 tirement System shall, upon acceptance of their employment with
28 the corporation, be required to transfer their membership to the
29 Public Employees' Retirement System.

30 Employees of the corporation who are not presently enrolled
31 in any State-administered retirement system shall be enrolled in
32 the Public Employees' Retirement System if they are eligible

33 under the terms of section 73 of P. L. 1954, c. 84 (C. 43:15A-73).
34 Employees who are ineligible for enrollment in the Public Em-
35 ployees' Retirement System shall retain membership in any non-
36 State retirement system under which they have accrued benefits
37 or rights or shall be eligible to join such system.

1 14. The exercise of the powers granted by this act shall be in
2 all respects for the benefit of the people of the State, and since
3 the improvement, operation, and maintenance of public transporta-
4 tion services by the corporation constitute the performance of
5 essential governmental functions, the corporation shall not be re-
6 quired to pay any taxes or assessments upon any public trans-
7 portation project or any property acquired or used by the
8 corporation under the provisions of this act or upon the income
9 therefrom.

1 15. All expenses incurred by the corporation in carrying out
2 the provisions of this act shall be payable from funds available
3 to the corporation therefor and no liability or obligation shall be
4 incurred by the corporation beyond the extent to which moneys
5 are available. No debt or liability of the corporation shall be
6 deemed or construed to create or constitute a debt, liability, or a
7 loan or pledge of the credit of the State.

1 16. Real property and rolling stock owned or used by the cor-
2 poration shall be exempt from all claims of creditors and from
3 levy, execution or attachment.

1 17. Notwithstanding any of the provisions of the "New Jersey
2 Contractual Liability Act" (N. J. S. 59:13-1 et seq.) to the con-
3 trary, contract claims and suits against the corporation shall be
4 governed by said act.

1 18. a. The corporation shall, by September 15 of each year, file
2 with the Commissioner of Transportation a report in such format
3 and detail as the Commissioner may require setting forth the actual,
4 operational, capital and financial results of the previous fiscal year,
5 the operational, capital and financial plan for the current fiscal
6 year and a proposed operational, capital and financial plan for the
7 next ensuing fiscal year.

8 b. On or before October 31 of each year, the corporation shall
9 make an annual report of its activities for the preceding fiscal year
10 to the Governor and to the presiding officers and the Transporta-
11 tion and Communications Committees of both Houses of the Leg-
12 islature. Each such report shall set forth a complete operating
13 and financial statement covering its operations and capital projects
14 during the year.

15 c. All records of minutes, accounts, bills, vouchers, contracts
16 or other papers connected with or used or filed with the corporation
17 or with any officer or employee acting for or in its behalf are hereby
18 declared to be public records and shall be open to public inspection
19 in accordance with P. L. 1963, c. 73 (C. 47:1A-1 et seq.) and regu-
20 lations prescribed by the corporation.

21 d. The corporation shall cause an audit of its books and accounts
22 to be made at least once each year by certified public accountants
23 and the cost thereof may be treated as a cost of operation. The
24 audit shall be filed within 4 months after the close of the fiscal
25 year of the corporation and a certified duplicate copy thereof shall
26 be filed with the Division of Budget and Accounting in the De-
27 partment of Treasury.

28 e. Notwithstanding the provisions of any law to the contrary,
29 the State Auditor or his legally authorized representative may
30 examine the accounts and books of the corporation.

1 19. All real or personal properties purchased heretofore for
2 public transportation purposes in the name of Commuter Operating
3 Agency, Department of Transportation, its predecessors or the
4 Commissioner of Transportation, shall be deemed to have been
5 purchased in the name of the State by and through the corporation
6 and shall henceforth be deemed to be and shall actually be the
7 property of the corporation.

1 20. This act is intended to protect and promote the public health,
2 safety and welfare, and shall be liberally construed to obtain the
3 objectives and effect the purposes thereof.

1 21. If any provision of this act or the application thereof to any
2 person, or circumstances, or the exercise of any power, or authority
3 thereunder is held invalid or contrary to law, such holding shall
4 not affect other provisions or applications or affect other exercises
5 of power or authority under said provisions not contrary to law,
6 and to this end, the provisions of this act are declared to be
7 severable.

1 22. Section 5 of P. L. 1966, c. 301 (C. 27:1A-5) is amended to
2 read as follows:

3 5. The commissioner, as head of the department, shall have all
4 of the functions, powers and duties heretofore vested in the State
5 Highway Commissioner and shall, in addition to the functions,
6 powers and duties invested in him by this act or by any other law:

7 (a) Develop, from time to time revise and maintain a compre-
8 hensive master plan for all modes of transportation development,
9 with special emphasis on public transportation;

10 (b) Develop and promote programs to foster efficient and eco-
11 nomical transportation services in the State;

12 (c) Prepare plans for the preservation **[and]**, improvement
13 *and expansion* of the **[railroad]** *public transportation* system, with
14 special emphasis on **[commuter railroads]** *the coordination of*
15 *transit modes and the use of highways and public streets for public*
16 *transportation purposes;*

17 **[(d)** Develop plans for more efficient public transportation
18 service by railroads and motor bus operators; develop statistics,
19 analyses, and other data of use to railroad and bus operators in the
20 provision of public transportation service; facilitate more effective
21 coordination between bus service and other forms of public trans-
22 portation, particularly the commuter railroads; review petitions
23 for motor bus franchises in areas served by the commuter railroad
24 system and make appropriate recommendations on such petitions.]

25 *(d) Enter into contracts with the New Jersey Transit Corpora-*
26 *tion for the provision and improvement of public transportation*
27 *services;*

28 (e) Coordinate the transportation activities of the department
29 with those of other public agencies and authorities;

30 (f) Cooperate with interstate commissions and authorities, State
31 departments, councils, commissions and other State agencies, with
32 appropriate Federal agencies, and with interested private indi-
33 viduals and organizations in the coordination of plans and policies
34 for the development of air commerce and air facilities; **[and]**

35 (g) Make an annual report to the Governor and the Legislature
36 of the department's operations, and render such other reports as
37 the Governor shall from time to time request or as may be required
38 by law**[.]; and**

39 (h) Promulgate regulations providing for the charging of and
40 setting the amount of fees for certain services performed by and
41 permits issued by the department, including but not limited to the
42 following:

43 (1) Providing copies of documents prepared by or in the
44 custody of the department;

45 (2) Aeronautics permits;

46 (3) Right-of-way permits;

47 (4) Traffic signal control systems.

1 23. Section 2 of P. L. 1973, c. 126 (C. 27:1A-65) is amended to
2 read as follows:

3 2. For the purposes of this act, unless the context clearly in-
4 dicates otherwise:

5 a. "Commissioner" means the Commissioner of Transportation;
6 provided, however, that he may delegate any of his powers or duties
7 under this act to any subordinate division, agency or employee of
8 the Department of Transportation *or to the New Jersey Transit*
9 *Corporation.*

10 b. "Carrier" means any individual, copartnership, association,
11 corporation, joint stock company, public agency, trustee or receiver
12 operating motor buses or rail passenger service on established
13 routes within this State or between points in this State and points
14 in adjacent states.

15 c. "Motor bus" means "autobus" as defined in R. S. 48:4-1, and
16 includes those autobuses, commonly called jitneys, as defined in
17 R. S. 48:16-23.

18 d. "Offpeak times" means the hours from 9:30 a.m. to 4 p.m.
19 and from 7 p.m. to 6 a.m. during the weekdays, and all day on
20 Saturdays, Sundays and holidays.

21 e. "Senior citizen" means any individual 62 years of age or over.

22 f. "Handicaped citizen" means any individual who, by reason
23 of illness, injury, age, congenital malfunction, or other permanent
24 or temporary incapacity or disability, is unable without special
25 facilities or special planning or design to utilize mass transporta-
26 tion facilities and services as effectively as persons who are not so
27 affected.

1 24. Section 73 of P. L. 1954, c. 84 (C. 43:15A-73) is amended to
2 read as follows:

3 73. a. The Public Employees' Retirement System is hereby
4 authorized and directed to enroll eligible employees of the New
5 Jersey Turnpike Authority, the New Jersey Highway Authority,
6 Palisades Interstate Park Commission, Interstate Sanitation Com-
7 mission, the Delaware River Basin Commission and the Delaware
8 River Joint Toll Bridge Commission.

9 In the case of the Delaware River Joint Toll Bridge Commission,
10 the eligible employees shall be only those who are employed on the
11 free bridges across the Delaware river, under the control of said
12 commission.

13 The said employees shall be subject to the same membership, con-
14 tribution and benefit provisions of the retirement system as State
15 employees.

16 b. The State University of New Jersey, as an instrumentality
17 of the State, shall, for all purposes of this act, be deemed an em-
18 ployer and its eligible employees, both veterans and nonveterans,
19 shall be subject to the same membership, contribution and benefit
20 provisions of the retirement system and to the provisions of chapter

21 3 of Title 43 of the Revised Statutes as are applicable to State em-
22 ployees and for all purposes of this act employment by the State
23 University of New Jersey after April 16, 1945, and for the purposes
24 of chapter 3 of Title 43 of the Revised Statutes any new employ-
25 ment after January 1, 1955, shall be deemed to be and shall be con-
26 strued as service to and employment by the State of New Jersey.

27 c. The Compensation Rating and Inspection Bureau, created and
28 established pursuant to the provisions of R. S. 34:15-89, shall, for
29 all purposes of this act, be deemed an employer and its eligible em-
30 ployees, both veterans and nonveterans, shall be subject to the same
31 membership, contribution and benefit provisions of the retirement
32 system and to the provisions of chapter 3 of Title 43 of the Revised
33 Statutes as both are applicable to State employees.

34 The retirement system shall certify to the Commissioner of In-
35 surance and the Commissioner of Insurance shall direct the Com-
36 pensation Rating and Inspection Bureau to provide the necessary
37 payments to the retirement system in accordance with procedures
38 established by the retirement system. Such payments shall in-
39 clude (1) the contributions and charges, similar to those paid by
40 other public agency employers, to be paid by the Compensation
41 Rating and Inspection Bureau to the retirement system on behalf
42 of its employee members, and (2) the contributions to be paid by
43 the Compensation Rating and Inspection Bureau to provide the
44 past service credits up to June 30, 1965 for these members, both
45 veterans and nonveterans, who enroll before July 1, 1966.

46 d. The New Jersey Sports and Exposition Authority, created
47 and established pursuant to the "New Jersey Sports and Exposi-
48 tion Authority Law," P. L. 1971, c. 137 (C. 5:10-1 et seq.) shall
49 for all purposes of this act, be deemed an employer and its eligible
50 employees both veterans and nonveterans, shall be subject to the
51 same membership, contribution and benefit provisions of the re-
52 tirement system and to the provisions of chapter 3 of Title 43 of
53 the Revised Statutes as are applicable to State employees.

54 (1) Eligible employees as used herein shall not include persons
55 who are not classified as salaried, or who are compensated on an
56 hourly or per diem basis, or whose employment is normally
57 covered by other retirement systems to which the authority makes
58 contributions.

59 (2) Eligible employees previously permitted to enroll in the re-
60 tirement system shall redeposit the contributions previously made
61 by them and all service credit shall then be restored and future
62 contributions made at the date of contribution as originally

63 assigned. The authority shall redeposit the employer payments
64 it had made, with interest to the date of redeposit.

65 e. *The New Jersey Transit Corporation created and established*
66 *pursuant to the "New Jersey Public Transportation Improvement*
67 *Act of 1979", P. L. 19 , c. shall for all purposes of this act,*
68 *be deemed an employer and its eligible employees both veterans*
69 *and nonveterans, shall be subject to the same membership, con-*
70 *tribution and benefit provisions of the retirement system and to*
71 *the provisions of chapter 3 of Title 43 of the Revised Statutes as*
72 *are applicable to State employees. Eligible employees as used*
73 *herein shall include persons in management, professional or clerical*
74 *positions but shall not include persons who are not classified as*
75 *salaried or who are compensated on an hourly or per diem basis*
76 *or whose employment is normally covered by other retirement*
77 *systems to which the corporation may make contributions.*

1 25. a. The following are repealed:

2 P. L. 1966, c. 301, § 15-27 (C. 27:1A-15 to 27:1A-27);

3 P. L. 1966, c. 301, § 29-32 (C. 27:1A-29 to 27:1A-32);

4 P. L. 1975, c. 371, § 1, 2 (C. 27:1A-18.1 and 27:1A-18.2);

5 P. L. 1967, c. 138, § 1, 2 (C. 27:1A-24.1 and 27:1A-24.2);

6 P. L. 1976, c. 119, § 1-7 (C. 27:1A-28.7 to 27:1A-28.13).

7 b. The repealer of these acts and part of acts shall not in any
8 way affect any contracts, agreements, determinations, orders,
9 rules or regulations heretofore made or promulgated, as the case
10 may be by the Commuter Operating Agency or the Department
11 of Transportation pursuant to any authority heretofore granted
12 but such contracts, agreements, determinations, orders, rules and
13 regulations shall be continued by the corporation with full force
14 and effect until otherwise amended, repealed or terminated in
15 accordance with the terms thereof or pursuant to the provisions
16 of this act.

1 26. Whenever in any law, rule, regulation, contract, document,
2 judicial or administrative proceeding or otherwise, reference is
3 made to the New Jersey Commuter Operating Agency, the same
4 shall mean and refer to the New Jersey Transit Corporation.

1 27. Until such time as the corporation and its board are legally
2 constituted pursuant to section 4 of this act, the Commuter Operat-
3 ing Agency is authorized to exercise all of the powers granted the
4 corporation by this act. On the date that the corporation and board
5 are legally constituted pursuant to section 4 of this act, the Com-
6 muter Operating Agency shall no longer exercise any of its powers
7 pursuant to P. L. 1966, c. 301 as amended and supplemented by
8 P. L. 1976, c. 119.

9 Anticipatory actions appropriate and necessary to effect the
 10 establishment of the corporation and the implementation of its
 11 duties are authorized to be accomplished as promptly as possible by
 12 the Commuter Operating Agency in advance of the date that the cor-
 13 poration and its board are legally constituted, including the making
 14 of authorized appointments and within the limits of applicable
 15 appropriations to the Department of Transportation, the expendi-
 16 ture of funds for payment of salaries and expenses incident thereto.

1 28. This act shall take effect immediately, but section 25 shall
 2 remain inoperative for 60 days after enactment.

SPONSORS' STATEMENT

Massive public investment in capital and operating assistance to New Jersey's network of predominantly privately owned and operated public transportation services has failed to increase ridership, stabilize fares or substantially rationalize and improve services. The inability of the State to select effective management of public transportation resources has further impeded progress toward these goals. The program of State assistance to private owner-operators was designed 10 years ago as an interim measure and is gravely deficient as the basis of a stable and effective public transportation network for the State.

This bill thus represents a comprehensive effort to replace the "interim" program with a long-term program designed to insure the stable delivery and improvement of public transportation services. It provides for broad authority to effectuate these ends. The existing Commuter Operating Agency is abolished and replaced by a New Jersey Transit Corporation, a public corporation located in the Department of Transportation. The corporation will be directed by a five-member board including the Commissioner of Transportation who shall serve as chairman. The corporation is empowered with extensive authority to own, operate and contract for the provision and improvement of public transportation services, including bus and rail service, paratransit service, and motor-bus charter service. It is also empowered to exercise independent authority to purchase goods, services and property.

Actions of the corporation are subject to the veto of the Governor. An annual report to the Governor and Legislature is required to be submitted by October 31 of each year.

S3137 (1979)

SENATE TRANSPORTATION AND COMMUNICATIONS
COMMITTEE

STATEMENT TO

SENATE, No. 3137

with Senate committee amendments

STATE OF NEW JERSEY

DATED: MAY 24, 1979

This legislation establishes the New Jersey Transit Corporation. The corporation is empowered with the authority to own, operate and contract for the provision of public transportation services. Such services include rail passenger services, motor bus regular route service, paratransit service and motor bus charter service. The corporation shall be governed by a board and its actions are subject to the veto of the Governor.

The legislation was amended to:

1. Increase the size of the board to seven members, to be composed of 3 ex officio and 4 public members. The four public members shall have the advice and consent of the Senate;
 2. Provide for a Vice chairman of the board;
 3. Subject board meetings to the "Open Public Meetings Act";
 4. Require the establishment of advisory committees upon the establishment of operating divisions;
 5. Allow the corporation to carry its own liability insurance;
 6. Adopt and maintain employee benefit programs;
 7. Own shares of stock of any incorporated entity which it acquires;
 8. Provide for 15 days notice of public hearings concerning fare increases or substantial curtailment or abandonment of service;
 9. Limit the corporation's authority to provide school bus or charter service;
 10. Revise the provisions concerning the acquisition of public transportation services;
 11. Provide for an in lieu-of-tax payment program;
 12. Remove rail freight service from the jurisdiction of the corporation;
 13. Have the corporation provide notice to the Legislature of its intent to condemn any private entity engaged in the provision of motor-bus regular route service;
 14. Provide that acquisition of any public transportation service by the corporation, which is not receiving any operating subsidy, shall be subject to the veto of the Legislature.
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SENATE COMMITTEE AMENDMENTS TO
SENATE, No. 3137

STATE OF NEW JERSEY

ADOPTED MAY 24, 1979

Amend page 1, section 2, line 4, omit "costers", insert "fosters".

Amend page 1, section 2, line 13, after "governments", insert "commuters and concerned citizens".

Amend page 1, section 2, lines 15-17, omit "the State" on line 15, all of line 16 and "zation of effective private management" on line 17; insert "it is desirable to encourage to the maximum extent feasible the participation of private enterprise and to avoid destructive competition."

Amend page 1, section 2, line 20, omit "these", insert "the"; after "purposes", insert "and goals set forth in this section".

Amend page 2, section 3, line 24, omit "and are not", insert ". Paratransit services shall not include limousine or taxicab service".

Amend page 2, section 3, lines 28-29, after "paratransit service," insert "and"; after "charter service", omit "or rail freight service".

Amend page 2, section 3, line 31, omit "school bus, charter,"; after "tour", omit "or", insert ","; after "services", insert "or school bus services or charter services as set forth in section 7".

Amend page 2, section 3, lines 32-35, omit.

Amend page 2, section 3, line 36, omit "h.", insert "g."

Amend page 3, section 4, line 15, omit "five", insert "seven".

Amend page 3, section 4, line 18, omit "two", insert "four".

Amend page 3, section 4, line 19, omit "serve at the pleasure of", insert "be appointed by"; after "Governor", insert "with the advice and consent of the Senate, for 4 year staggered terms and until their successors are appointed and qualified. At least one public member shall be a public transportation commuter. Each public member may be removed from office by the Governor for cause. A vacancy in the membership of the board occurring other than by expiration of term shall be filled in the same manner as the original appointment, but for the unexpired term only. The first appointments shall be for 1, 2, 3 and 4 years respectively and thereafter, for terms of 4 years as stated."

Amend page 3, section 4, lines 19-20, omit "The" on line 19 and all of line 20; insert "The board shall designate a vice chairman and secretary. The secretary need not be a member."

Amend page 3, section 4, line 27, after "board.", insert "In his absence, the vice chairman shall chair the board meeting."

Amend page 3, section 4, lines 27-28, after "designate", omit "one or more", insert "two"; omit "to", insert ", one of whom may".

Amend page 3, section 4, line 29, omit ", and each such", insert ". A".

Amend page 3, section 4, line 35, omit "three", insert "four".

Amend page 3, section 4, line 38, omit "three", insert "four".

Amend page 4, section 4, line 52, omit "peirod", insert "period".

Amend page 4, section 4, after line 52, insert new subsection "g." as follows:

"g. The board meetings shall be subject to the provisions of the 'Open Public Meetings Act,' P. L. 1975, c. 231 (C. 10:4-6 et seq.)."

Amend page 5, section 5, line 64, after "essary", insert ". Upon the establishment of an operating division, there shall be established a geographically coincident advisory committee. The committee shall consist of county and municipal government representatives, and concerned citizens and shall advise the corporation as to the public transportation service provided in the operating division. At least one member of each the advisory committee shall be a public transportation commuter. One public member from the board of corporation shall serve as a liaison to each advisory committee".

Amend page 6, section 5, line 89, after "risk", insert ". In addition, the corporation may carry its own liability insurance".

Amend page 6, section 5, line 93, omit "and".

Amend page 6, section 5, after line 93, insert new subsections "t." and "u." as follows:

"t. Adopt and maintain employee benefit programs for employees of the corporation including, but not limited to, pension, deferred compensation, medical, disability, and death benefits, and which programs may utilize insurance contracts, trust funds, and any other appropriate means of providing the stipulated benefits, and may involve new plans or the continuation of plans previously established by entities acquired by the corporation;

u. Own, vote, and exercise all other rights incidental to the ownership of shares of the capital stock of any incorporated entity acquired by the corporation pursuant to the powers granted by this act; and,"

Amend page 6, section 5, line 94, omit "t.", insert "v."

Amend page 6, section 6, line 2, omit "and rail freight".

Amend page 6, section 7, line 1, after "7.", insert "a."

Amend page 6, section 7, line 5, after "operations.", insert "Where the corporation acquires a public or private entity engaged in the provision of motor bus regular route service and that entity, at the time

of acquisition, provides school bus services or is authorized to provide motor bus charter services, the corporation or any subsidiary thereof may continue to provide the services only to the extent that the acquired entity is providing or is authorized to provide the services.”.

Amend page 6, section 7, after line 5, insert a new subsection b. and new section 8, as follows:

“b. The corporation shall promulgate rules and regulations regarding procedures for hearings before the board of claims of destructive competition arising from actions of the corporation. Such claims may be brought by private entities providing motorbus regular route service.

8. a. The corporation or any subsidiary thereof shall not be considered a public utility as defined in R. S. 48:2-13 and except with regard to subsection c. of this section the provisions of Title 48 of the Revised Statutes shall not apply to the corporation or any subsidiary thereof.”.

Amend page 7, section 8, line 1, omit “8. a.”, insert “b.”; after “to”, insert “section 6 of”.

Amend page 7, section 8, lines 2-3, after “exercised”, omit “by the corporation directly or through contract”.

Amend page 7, section 8, line 18, omit “b.”, insert “c.”.

Amend page 7, section 8, line 22, omit “insurance”.

Amend page 7, section 8, line 25, omit “c.”, insert “d.”.

Amend page 7, section 8, line 26, after “the”, insert “substantial curtailment or”.

Amend page 7, section 8, line 27, omit “meeting”, insert “hearing”.

Amend page 7, section 8, line 28, omit “meetings”, insert “hearing”.

Amend page 7, section 8, line 29, omit “10”, insert “15”; omit “meeting”, insert “hearing”.

Amend page 7, section 8, line 33, omit “10”, insert “15”; omit “meeting”, insert “hearing”.

Amend page 9, section 11, line 59, after “advertising”, omit remainder of line 59, all of lines 60 and 61, insert “under the following circumstances:”.

Amend page 9, section 11, line 63, after “acquire”, insert “public or private entities engaged in the provision of public transportation service,”.

Amend page 9, section 11, line 69, after “(C. 52:34-10)”, omit “.”, insert “; or,”.

Amend page 9, section 11, after line 69, insert new subparagraph (d) as follows:

“(d) To contract pursuant to section 6 of this act.”.

Amend pages 10-13, section 12, lines 1-136, omit.

Amend page 13, section 12, after line 136, insert a new section 12 as follows:

“12. a. The corporation shall have the power to acquire by purchase, condemnation, lease, gift or otherwise, on terms and conditions and in the manner it deems proper, for use by the corporation or for use by any other public or private entity providing public transportation services, all or part of the facility, plant, equipment, property, shares of stock, rights of property, reserve funds, employees pension or retirement funds, special funds, franchises, licenses, patents, permits and papers, documents and records of a public or private entity providing public transportation services within the State.

b. The corporation shall also have the power to acquire by purchase, condemnation, lease, gift or otherwise, on the terms and conditions and in the manner it deems proper, any land or property real or personal, tangible or intangible which it may determine is reasonably necessary for the purposes of the corporation under the provisions of this act.

c. (1) The corporation, when acquiring property pursuant to subsections a. or b. of this section shall exercise its power of eminent domain in accordance with the provisions of the ‘Eminent Domain Act of 1971,’ P. L. 1971, c. 361 (C. 20:3-1 et seq.).

(2) For purposes of this act the definition of property in section 2 of P. L. 1971, c. 361 (C. 20:3-2) includes all property referred to in subsections a. or b. of this section, and the provisions of P. L. 1971, c. 361 shall apply to that property.

d. (1) If the corporation shall determine to acquire by condemnation all outstanding shares of corporate stock of a company and the stock is owned by 10 or more individuals or entities the court, on application of the corporation, shall appoint a trustee who shall act as representative of all stockholders for the purpose of the condemnation proceedings. Upon the appointment of a trustee the corporation may file a single condemnation action condemning all outstanding shares of stock and naming the appointed trustee as representative of all defendant owners.

(2) When a trustee has been appointed pursuant to this section the court may award the trustee a reasonable fee as payment for services rendered. Other costs, expenses and fees shall be paid from the proceeds of the condemnation award or settlement if amicably resolved.

e. A State agency, State authority, county, municipality, bistate authority, or other political subdivision of the State is authorized to donate, give, transfer or assign any asset or property it now owns or may hereafter acquire to the corporation which may be necessary for the furtherance of the objectives of this act.

f. Upon the filing of a declaration of taking the corporation shall be entitled to the immediate possession of all property and assets named therein; and in the case of a condemnation pursuant to subsection d. or the acquisition of the entire assets of any entity, the corporation shall be entitled to immediate possession and control of all assets and facilities and shall have exclusive management authority over the entity taken.

g. Prior to the condemnation of any private entity engaged in the provision of motorbus regular route service, the corporation shall give 60 days' notice of its intent to the President of the Senate, the Speaker of the General Assembly, and the Chairman of the Senate and Assembly Transportation and Communications Committees. This subsection shall be in effect for 2 years following the enactment of this act.

h. Notwithstanding any provision to the contrary, the corporation shall not acquire any privately owned entity providing public transportation service, which is not receiving operating assistance from the corporation, unless the corporation shall transmit a proposal for the acquisition to the Senate and General Assembly on a day on which both Houses shall be meeting in the course of a regular or special session, along with any other information or materials the Legislature may deem necessary. The provisions of any other law to the contrary notwithstanding, no such proposal shall take effect if, within 60 days of the date of its transmittal to the Senate and General Assembly, the Legislature shall pass a concurrent resolution stating in substance that the Legislature does not favor such proposed acquisition.''

Amend page 13, section 13, line 2, after "divisions", omit ", divisions,".

Amend pages 13-14, section 13, lines 20-37, omit and insert new paragraphs as follows:

"The corporation may elect or appoint from among the members of its board or from its employees some or all of the members of the board of directors of any incorporated entity of which it owns part or all of the capital stock.

Employees of the corporation, or any of its subsidiary entities, shall be covered by whatever retirement plan or plans the corporation or subsidiary entity determines from time to time to maintain for those employees. However, if an individual is a member of the Public Employees' Retirement System or any other State-administered retirement system immediately prior to his initial employment by the corporation, he shall continue as or become, as the case may be, a member of the Public Employees' Retirement System for the duration of his employment by the corporation.''

Amend page 14, section 14, lines 5-9, after "functions,", omit re-

remainder of line 5, all of lines 6-8, and "therefrom" on line 9; insert "neither the corporation nor any wholly owned business corporation or other entity shall be required to pay taxes or assessments upon any public transportation project or any property acquired or used under the provisions of this act, including, but not limited to, sales taxes, real property taxes or assessments, corporate franchise taxes or income taxes. However, any property owned by the corporation or any wholly owned business corporation or other entity shall be considered 'State' property as defined in P. L. 1977, c. 272 (C. 54:4-2.2a), and shall be subject to the in licu tax payments provided in that act."

Amend page 16, section 22, line 15, after "of", insert "rail rights of way,".

Amend page 16, section 22, line 38, omit "and".

Amend page 16, section 22, line 47, after "systems", omit ".", insert "; and".

Amend page 16, section 22, after line 47, insert a new subsection as follows:

"(i) Plan, design, construct, equip, operate, improve and maintain a railroad, subway, street, traction or electric railway for the purpose of carrying freight in this State or between points in this State and points in other states."

Amend page 19, section 24, lines 73-77, after "herein", omit remainder of line 73, all of lines 74-76, and "systems to which the corporation may make contributions" on line 77; insert "means only those individuals who are members of the Public Employees' Retirement System or any other State-administered retirement system immediately prior to their initial employment by the corporation".

Amend page 19, section 25, after line 77, insert new section 25 as follows:

"25. R. S. 48:3-10 is amended to read as follows:

48:3-10. No public utility incorporated under the laws of this State shall sell, nor shall any such public utility make or permit to be made upon its books any transfer of any share or shares of its capital stock, to any other public utility, unless authorized to do so by the board. Nor shall any public utility incorporated under the laws of this State sell any share or shares of its capital stock or make or permit any transfer thereof to be made upon its books, to any corporation, domestic or foreign, or any person, the result of which sale or transfer in itself or in connection with other previous sales or transfers shall be to vest in such corporation or person a majority in interest of the outstanding capital stock of such public utility corporation unless authorized to do so by the board.

Every assignment, transfer, contract or agreement for assignment or transfer, by or through any person or corporation to any corporation or person in violation of any of the provisions hereof shall be void and of no effect, and no such transfer shall be made on the books of any public utility corporation. Nothing herein contained shall be construed to prevent the holding of stock lawfully acquired before March 5, 1935.

Where, by the proposed assignment, transfer, contract, or agreement for assignment or transfer of capital stock as set forth herein, it appears that the public utility or a wholly owned subsidiary thereof may be unable to fulfill its obligation to any employees thereof with respect to pension benefits previously enjoyed, whether vested or contingent, the board shall not grant its authorization unless the public utility seeking the board's authorization assumes such responsibility as will be sufficient to provide that all such obligations to employees will be satisfied as they become due.

Nothing herein shall require the approval of the Department of Transportation to any sale or transfer by any public utility of any share or shares of its capital stock to the New Jersey Transit Corporation or any subsidiary thereof for public use."

Amend page 19, section 25, line 1, omit "25.", insert "26."

Amend page 19, section 25, line 6, after "(C. 27:1A-28.7 to 27:1A-28.13)", omit ".", insert ";"

Amend page 19, section 25, after line 6, insert "P. L. 1972, c. 210, § 1-3 (C. 48:3-39 to 48:3-41)"

Amend page 19, section 26, line 1, omit "26.", insert "27."

Amend page 19, section 27, line 1, omit "27.", insert "28."

Amend page 20, section 28, line 1, omit "28.", insert "29."

FISCAL NOTE TO
SENATE, No. 3137

STATE OF NEW JERSEY

DATED: JUNE 8, 1979

Senate Bill No. 3137, designated the "New Jersey Public Transportation Act of 1979," creates a public corporation within the Department of Transportation empowered to acquire, operate and contract for the operation of public transportation services and facilities.

The Department of Transportation estimates that if this legislation were enacted, the Public Transit Corporation could operate the public transit system, maintaining the existing level of service, for at least \$5 million less than it would cost under the current system. The Department of Transportation further states that through the elimination of rental fees, the consolidation of management, personnel, purchasing, insurance, maintenance and other services these "savings would be implemented over several years" as the department acquires carriers, implements cost reduction programs and modifies routes and services.

The Department of Transportation would first intend to acquire the Transport of New Jersey and Maplewood Equipment Company. Additional acquisitions could be made later, depending on further evaluation and experience. The current total book value for both of these companies is valued at approximately \$12 million. This does not include the fleet value, estimated by the department to be an additional \$7 million. The actual market value of the physical properties for these two companies might be higher and the department is in the process of having appraisals prepared on the physical assets.

The Department of Transportation indicates that the United States Department of Transportation has contributed as much as 80% of the cost of acquisitions around the Country, and no application for acquiring private companies has been denied. Therefore, it is hopeful that maximum support will be provided for this acquisition.

The Department of Transportation considers another overall cost of this legislation to be the existence of substantial liabilities of the companies. The most significant is the unfunded pension system of Transport of New Jersey. This liability is greater than the Department of Transportation's estimate of Transport of New Jersey's assets. "The existence of such a liability and its final disposition materially affects what compensation will be offered for the Companies," notes the department.

The Office of Legislative Services confirms that any estimate of costs must be speculative, since costs associated with this bill have not been determined by the Department of Transportation or the Division of Budget and Accounting. Its own review indicates that possible costs of the initial takeover could be upwards of \$25 million, and perhaps more than twice that amount, depending on the negotiated terms for acquisition.

The Department of Transportation indicates that the total tangible property values of Transport of New Jersey and Maplewood Equipment Company is \$12 million, plus \$7 million for the fleet value. Appraisals of the properties and the fleet have not been completed. The Department of Transportation agrees that the values of the two companies "might be higher." Court rulings could increase the values of the property and the fleet.

The New Jersey Department of Transportation has not indicated what it considers adequate compensation for the Transport of New Jersey Bus Company. This could also be decided through the condemnation process in the courts.

The Office of Legislative Services further suggests that the U.S. Department of Transportation may contribute up to 80% of the cost of takeover; however, no approvals have been received to date. Additionally there is no indication of the time period for these payments (1 year or spread over several years). No source of State funding associated with this bill is indicated.

The Office of Legislative Services further states that according to Transport of New Jersey pension officials, the unfunded pension liability costs could be as high as \$60 million. (The State's current subsidy to Transport of New Jersey includes some \$5 million annually for employer pension contributions.) This would presumably be subtracted from assets when the costs for the initial takeover of the company are negotiated.

Transport of New Jersey paid \$1,025,000 in property taxes to affected counties and municipalities during 1978. Revenues to municipalities would be guaranteed by the provision for regular in lieu of tax payments by the State on corporation property; this would not be an additional cost, since Transport of New Jersey's property taxes are included in the cost of operations.

In compliance with written request received, there is hereby submitted a fiscal estimate for the above bill, pursuant to P. L. 1962, c. 27.

[OFFICIAL COPY REPRINT]

SENATE, No. 3137

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 26, 1979

By Senators HERBERT, ERRICHETTI, LIPMAN, J. RUSSO,
MERLINO and HIRKALA

Referred to Committee on Transportation and Communications

AN ACT creating a public corporation within the Department of Transportation empowered to acquire, operate and contract for the operation of public transportation services and facilities, prescribing its powers and duties 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. This act shall be known and may be cited as the "New Jersey
2 Public Transportation Act of 1979."

1 2. The Legislature hereby finds and declares that:

2 a. The provision of efficient, coordinated, safe and responsive
3 public transportation is an essential public purpose which promotes
4 mobility, serves the needs of the transit dependent, ***[costers]***
5 **fosters** commerce, conserves limited energy resources, protects
6 the environment and promotes sound land use and the revitaliza-
7 tion of our urban centers.

8 b. As a matter of public policy, it is the responsibility of the
9 State to establish and provide for the operation and improvement
10 of a coherent public transportation system in the most efficient
11 and effective manner.

12 c. In the development of public transportation policy and plan-
13 ning, participation by county and municipal governments*, *com-*
14 *muters and concerned citizens** should be encouraged.

15 d. In the provision of public transportation services, ***[the State**
16 **should consider, consistent with the purposes of this act, the utili-**
17 **zation of effective private management]*** **it is desirable to encour-*
17A *age to the maximum extent feasible the participation of private*
17B *enterprise and to avoid destructive competition*.*

18 e. In furtherance of these findings and declarations, a public
19 corporation shall be created with the necessary powers to accom-

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

20 plish ***[these]*** *the* purposes *and goals set forth in this section*,
 21 including the power to acquire and operate public transportation
 22 assets.

1 3. As used in this act:

2 a. "Corporation" means the New Jersey Transit Corporation.

3 b. "Motorbus regular route service" means and includes the
 4 operation of any motorbus or motorbuses on streets, public high-
 5 ways or other facilities, over a fixed route and between fixed ter-
 6 mini on a regular schedule for the purpose of carrying passengers
 7 for hire or otherwise, in this State or between points in this State
 8 and points in other states.

9 c. "Capital equipment and facilities" means and includes, in
 10 connection with public transportation service, passenger stations,
 11 shelters and terminals, automobile parking facilities, ramps, track
 12 connections, signal systems, power systems, information and com-
 13 munication systems, roadbeds, transit lanes or rights of way,
 14 equipment storage and servicing facilities, bridges, grade crossings,
 15 rail cars, locomotives, motorbus and other motor vehicles, mainte-
 16 nance and garage facilities, revenue handling equipment and any
 17 other equipment, facility or property useful for or related to the
 18 provision of public transportation service.

19 d. "Paratransit services" means and includes any service, other
 20 than motorbus regular route service and charter services, includ-
 21 ing, but not limited to, dial-a-ride, nonregular route, jitney or
 22 community minibus, and shared-ride services such as vanpools,
 23 limousines or taxicabs which are regularly available to the public
 24 ***[and are not]** *Paratransit services shall not include limousine*
 25 *or taxicab service* reserved for the private and exclusive use of
 25A individual passengers.

26 e. "Public transportation or public transportation service"
 27 means rail passenger service, motorbus regular route service,
 28 paratransit service, *and* motorbus charter service ***[or rail**
 29 **freight service]**.

30 f. "Motorbus charter service" means and includes subscription,
 31 ***[school bus, charter,]** tour ***[or]** *other special motorbus*
 32 *services or school bus services or charter services as set forth in*
 33 *section 7*.

34 ***[g.** "Rail freight service" means and includes the operation
 35 of a railroad, subway, street, traction or electric railway for the
 36 purpose of carrying freight in this State or between points in this
 37 State and points in other states.**]**

38 ***[h.]*** *g.* “Rail passenger service” means and includes the
 39 operations of a railroad, subway, street, traction or electric rail-
 40 way for the purpose of carrying passengers in this State or be-
 41 tween points in this State and points in other states.

1 4. a. There is hereby established in the Executive Branch of the
 2 State Government the New Jersey Transit Corporation, a body
 3 corporate and politic with corporate succession. For the purpose of
 4 complying with the provisions of Article V, Section IV, paragraph
 5 1 of the New Jersey Constitution, the corporation is hereby allo-
 6 cated within the Department of Transportation, but, notwithstand-
 7 ing said allocation, the corporation shall be independent of any
 8 supervision or control by the department or by any body or officer
 9 thereof. The corporation is hereby constituted as an instru-
 10 mentality of the State exercising public and essential governmental
 11 functions, and the exercise by the corporation of the powers con-
 12 ferred by this act shall be deemed and held to be an essential
 13 governmental function of the State.

14 b. The corporation shall be governed by a board which shall
 15 consist of ***[five]*** *seven* members including the Commissioner
 15A of Transportation and the State Treasurer, who shall be members
 15B ex officio, another member of the Executive Branch to be selected
 16 by the Governor who shall also serve ex officio, and ***[two]*** *four*
 16A other public members who shall ***[serve at the pleasure of]*** *be
 16B appointed by* the Governor*, with the advice and consent of the
 16C Senate, for 4 year staggered terms and until their successors are
 17 appointed and qualified. At least one public member shall be a
 17A public transportation commuter. Each public member may be re-
 17B moved from office by the Governor for cause. A vacancy in the
 18 membership of the board occurring other than by expiration of
 19 term shall be filled in the same manner as the original appointment,
 19A but for the unexpired term only. The first appointments shall be
 19B for 1, 2, 3 and 4 years respectively and thereafter, for terms of 4
 19C years as stated.* ***[The board shall designate a secretary who need
 20 not be a member.]*** *The board shall designate a vice chairman
 20A and secretary. The secretary need not be a member.*

21 c. Board members other than those serving ex officio shall serve
 22 without compensation, but members shall be reimbursed for actual
 23 expenses necessarily incurred in the performance of their duties.

24 d. The Commissioner of Transportation shall serve as chairman
 25 of the board. He shall chair board meetings and shall have
 26 responsibility for the scheduling and convening of all meetings of
 27 the board. *In his absence, the vice chairman shall chair the board

28 *meeting.** Each ex officio member of the board may designate *~~one~~
 29 or more~~]~~* *two** employees of his department or agency *~~to]~~* *,
 30 *one of whom may** represent him at meetings of the board*~~]~~, and
 31 each such~~]~~* *. *A** designee may lawfully vote and otherwise act
 32 on behalf of the member for whom he constitutes the designee. Any
 33 such designation shall be in writing delivered to the board and
 33A shall continue in effect until revoked or amended by writing de-
 33B livered to the board.

34 e. The powers of the corporation shall be vested in the members
 35 of the board thereof and *~~three]~~* *four** members of the board
 36 shall constitute a quorum at any meeting thereof. Actions may be
 37 taken and motions and resolutions adopted by the board at any
 38 meeting thereof by the affirmative vote of at least *~~three]~~* *four**
 39 members. No vacancy in the membership of the board shall impair
 40 the right of a quorum to exercise all the rights and perform all the
 41 duties of the board.

42 f. A true copy of the minutes of every meeting of the board shall
 43 be delivered forthwith, by and under the certification of the secre-
 44 tary thereof, to the Governor. No action taken at such meeting by
 45 the board shall have force or effect until approved by the Governor
 46 or until 10 days after such copy of the minutes shall have been
 47 delivered. If, in said 10-day period, the Governor returns such
 48 copy of the minutes with veto of any action taken by the board or
 49 any member thereof at such meeting, such action shall be null and
 50 of no effect. The Governor may approve all or part of the action
 51 taken at such meeting prior to the expiration of the said 10-day
 52 *~~peirod]~~* *period**.

53 **g. The board meetings shall be subject to the provisions of the*
 54 *“Open Public Meetings Act,” P. L. 1975, c. 231 (C. 10:4-6 et seq.).**

1 5. In addition to the powers and duties conferred upon it else-
 2 where in this act, the corporation may do all acts necessary and
 3 reasonably incident to carrying out the objectives of this act, in-
 4 cluding but not in limitation thereof the following:

- 5 a. Sue and be sued;
- 6 b. Have an official seal and alter the same at pleasure;
- 7 c. Make and alter bylaws for its organization and internal
 8 management and for the conduct of its affairs and business;
- 9 d. Maintain an office at such place or places within the State
 10 as it may determine;
- 11 e. Adopt, amend and repeal such rules and regulations as it
 12 may deem necessary to effectuate the purposes of this act, which
 13 shall have the force and effect of law; it shall publish the same

14 and file them in accordance with the "Administrative Procedure
15 Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.) with the Director of
16 the Office of Administrative Law;

17 f. Call to its assistance and avail itself of the service of such
18 employees of any Federal, State, county or municipal department
19 or agency as it may require and as may be available to it for said
20 purpose;

21 g. Apply for, accept and expend money from any Federal, State,
22 county or municipal agency or instrumentality and from any
23 private source; comply with Federal statutes, rules and regula-
24 tions, and qualify for and receive all forms of financial assistance
25 available under Federal law to assure the continuance of, or for the
26 support or improvement of public transportation and as may be
27 necessary for that purpose to enter into agreements, including
28 Federally required labor protective agreements;

29 h. Plan, design, construct, equip, operate, improve and maintain,
30 either directly or by contract with any public or private entity,
31 public transportation services, capital equipment and facilities or
32 any parts or functions thereof, and other transportation projects,
33 or any parts or functions thereof, which may be funded under
34 section 3 of the Federal Urban Mass Transportation Act of 1964,
35 P. L. 88-365 (49 U. S. C. § 1602), or any successor or additional
36 Federal act having substantially the same or similar purposes or
37 functions; the operation of the facilities of the corporation, by the
38 corporation or any public or private entity, may include appro-
39 priate and reasonable limitations on competition in order that
40 maximum service may be provided most efficiently to the public;

41 i. Apply for and accept, from appropriate regulatory bodies,
42 authority to operate public transportation services where nec-
43 essary;

44 j. Purchase, lease as lessee, or otherwise acquire, own, hold,
45 improve, use and otherwise deal in and with real or personal prop-
46 erty, or any interest therein, from any public or private entity,
47 wherever situated;

48 k. Lease as lessor, sell or otherwise dispose of on terms which
49 the corporation may prescribe, real and personal property, includ-
50 ing tangible or intangible property and consumable goods, or any
51 interest therein, to any public or private entity, in the exercise of
52 its powers and the performance of its duties under this act. In
53 order to provide or encourage adequate and efficient public trans-
54 portation service, the corporation may lease or otherwise permit
55 the use or occupancy of property without cost or at a nominal
56 rental;

57 l. Restrict the rights of persons to enter upon or construct any
58 works in or upon any property owned or leased by the corporation,
59 except under such terms as the corporation may prescribe; perform
60 or contract for the performance of all acts necessary for the man-
61 agement, maintenance and repair of real or personal property
62 leased or otherwise used or occupied pursuant to this act;

63 m. Establish one or more operating divisions as deemed nec-
63A essary*. *Upon the establishment of an operating division, there*
63B *shall be established a geographically coincident advisory committee.*
63C *The committee shall consist of county and municipal government*
64 *representatives, and concerned citizens and shall advise the cor-*
64A *poration as to the public transportation service provided in the*
64B *operating division. At least one member of each the advisory com-*
64C *mittee shall be a public transportation commuter. One public mem-*
64D *ber from the board of corporation shall serve as a liaison to each*
64E *advisory committee**;

65 n. Set and collect fares and determine levels of service for
66 service provided by the corporation either directly or by contract
67 including, but not limited to, such reduced fare programs as deemed
68 appropriate by the corporation; revenues derived from such service
69 may be collected by the corporation and shall be available to the
70 corporation for use in furtherance of any of the purposes of this
71 act;

72 o. Set and collect rentals, fees, charges or other payments from
73 the lease, use, occupancy or disposition of properties owned or
74 leased by the corporation; such revenues shall be available to the
75 corporation for use in furtherance of any of the purposes of this
76 act;

77 p. Deposit corporate revenues in interest bearing accounts or in
78 the State of New Jersey Cash Management Fund established pur-
79 suant to section 1 of P. L. 1977, c. 28 (C. 52:18A-90.4);

80 q. Delegate to subordinate officers of the corporation such
81 powers and duties as the corporation shall deem necessary and
82 proper to carry out the purposes of this act;

83 r. Procure and enter into contracts for any type of insurance
84 and indemnify against loss or damage to property from any cause,
85 including loss of use and occupancy, against death or injury of any
86 person, against employees' liability, against any act of any member,
87 officer, employee or servant of the corporation, whether part-time,
88 full-time, compensated or noncompensated, in the performance of
89 the duties of his office or employment or any other insurable risk*.
89A *In addition, the corporation may carry its own liability insurance**;

90 s. Promote the use of public transportation services, coordinate
 91 ticket sales and passenger information and sell, lease or otherwise
 92 contract for advertising in or on the equipment or facilities of the
 93 corporation ***[and]*** ;

94 **t. Adopt and maintain employee benefit programs for employees*
 95 *of the corporation including, but not limited to, pension, deferred*
 96 *compensation, medical, disability, and death benefits, and which*
 97 *programs may utilize insurance contracts, trust funds, and any*
 98 *other appropriate means of providing the stipulated benefits, and*
 99 *may involve new plans or the continuation of plans previously es-*
 100 *tablished by entities acquired by the corporation;*

101 u. Own, vote, and exercise all other rights incidental to the own-
 102 ership of shares of the capital stock of any incorporated entity ac-
 103 quired by the corporation pursuant to the powers granted by this
 104 act; and,*

105 ***[t.]* *v.*** Enter into any and all agreements or contracts, exe-
 106 cute any and all instruments, and do and perform any and all acts
 107 or things necessary, convenient or desirable for the purposes of
 108 the corporation, or to carry out any power expressly or implicitly
 109 given in this act.

1 6. a. The corporation may enter into contracts with any public
 2 or private entity to operate rail passenger ***[and rail freight]*** ser-
 3 vice or portions or functions thereof. Where appropriate, payments
 4 by the corporation for services contracted for under this section
 5 shall be determined in accordance with the Federal Regional Rail
 6 Reorganization Act of 1973 (45 U. S. C., 701 et seq.), the Federal
 7 Rail Passenger Service Act of 1970 (45 U. S. C. 501 et seq.), any
 8 other applicable Federal law, and any and all rules, regulations
 9 and standards, promulgated thereunder and decisions issued pur-
 10 suant thereto. In all other cases, payments shall be by agreement
 11 upon such terms and conditions as the corporation shall deem
 12 necessary.

13 b. The corporation may enter into contracts with any public or
 14 private entity to operate motorbus regular route, paratransit or
 15 motorbus charter services or portions or functions thereof. Pay-
 16 ments shall be by agreement upon such terms and conditions as
 17 the corporation shall deem necessary.

1 7. **a.** The corporation or any public or private entity under
 2 contract to the corporation operating regular route motorbus ser-
 3 vice may provide motorbus charter service provided that the carrier
 4 complies with applicable State and Federal statutes, rules and
 5 regulations with regard to any such operations. **Where the cor-*

6 *poration acquires a public or private entity engaged in the provi-*
 7 *sion of motorbus regular route service and that entity, at the time*
 8 *of acquisition, provides school bus services or is authorized to*
 9 *provide motorbus charter services, the corporation or any sub-*
 10 *sidary thereof may continue to provide the services only to the*
 11 *extent that the acquired entity is providing or is authorized to*
 12 *provide the services.**

13 **b. The corporation shall promulgate rules and regulations re-*
 14 *garding procedures for hearings before the board of claims of*
 15 *destructive competition arising from actions of the corporation.*
 16 *Such claims may be brought by private entities providing motor-*
 17 *bus regular route service.*

1 *8. a. The corporation or any subsidiary thereof shall not be*
 2 *considered a public utility as defined in R. S. 48:2-13 and except*
 3 *with regard to subsection c. of this section the provisions of Title*
 4 *48 of the Revised Statutes shall not apply to the corporation or any*
 5 *subsidiary thereof.**

6 **[8. a.]* *b.* The authority hereby given the corporation pur-*
 7 *suant to *section 6 of* this act with respect to fares and service,*
 8 *shall be exercised *[by the corporation directly or through con-*
 9 *tract]* without regard or reference to the jurisdiction vested in*
 10 *the Department of Transportation by sections 48:2-21, 48:2-24*
 11 *and 48:4-3 of the Revised Statutes. The Department of Trans-*
 12 *portation shall resume jurisdiction over service and fares upon*
 13 *the termination and discontinuance of a contractual relationship*
 14 *between the corporation and a private or public entity relating to*
 15 *the provision of public transportation services operated under the*
 16 *authority of certificates of public convenience and necessity pre-*
 17 *viously issued by the department or its predecessors; provided,*
 18 *however, that no private entity shall be required to restore any*
 19 *service discontinued or any fare changed during the existence of*
 20 *a contractual relationship with the corporation, unless the Depart-*
 21 *ment of Transportation shall determine, after notice and hearing,*
 22 *that the service or fare is required by public convenience and*
 23 *necessity.*

24 **[b.]* *c.* Notwithstanding any other provisions of this act, all*
 25 *vehicles used by any public or private entity pursuant to contract*
 26 *authorized by this act, and all vehicles operated by the corporation*
 27 *directly, shall be subject to the jurisdiction of the Department of*
 28 *Transportation with respect to *[insurance,]* maintenance, speci-*
 29 *fications and safety to the same extent such jurisdiction is con-*
 30 *ferred upon the department by Title 48 of the Revised Statutes.*

31 ***[c.]*** *d.* Before implementing any fare increase for any
 32 motorbus regular route or rail passenger services, or the *sub-
 33 stantial curtailment or* abandonment of any such services, the
 34 corporation shall hold a public ***[meeting]*** *hearing* in the area
 35 affected during evening hours. Notice of such ***[meetings]*** *hear-
 36 ing* shall be given by the corporation at least ***[10]*** *15* days
 37 prior to such ***[meeting]*** *hearing* to the governing body of each
 38 county whose residents will be affected and to the clerk of each
 39 municipality in the county or counties whose residents will be af-
 40 fected; such notice shall also be posted at least ***[10]*** *15* days
 41 prior to such ***[meeting]*** *hearing* in prominent places on the
 42 railroad cars and buses serving the routes to be affected.

1 9. In any proceeding before the Department of Transportation
 2 for decreasing or abandoning service, any contract payments
 3 offered by the corporation for continuing service shall be considered
 4 as available revenues by the department, in making any determi-
 5 nation on the petition.

1 10. In order to conserve, improve, and promote public trans-
 2 portation service necessary for public use pursuant to the provi-
 3 sions of this act, the corporation may purchase and improve capital
 4 equipment and facilities, including, but not limited to, the design,
 5 planning, acquisition, construction, reconstruction, relocation, in-
 6 stallation, removal, establishment, repair or rehabilitation of such
 7 equipment or facilities. The powers herein granted shall be exer-
 8 cised by the corporation, notwithstanding the provisions to the
 9 contrary of P. L. 1948, c. 92 (C. 52:18A-1 et seq.) and chapters 25,
 10 32, 33, 34 and 35 of Title 52 of the Revised Statutes, and in ac-
 11 cordance with procedures set forth in section 11 of this act.

1 11. a. All purchases, contracts or agreements pursuant to this
 2 act shall be made or awarded directly by the corporation, except
 3 as otherwise provided in this act, only after public advertisement
 4 for bids therefor, in the manner provided in this act, notwithstand-
 5 ing the provisions to the contrary of P. L. 1948, c. 92 (C. 52:18A-1
 6 et seq.) and chapters 25, 32, 33, 34 and 35 of Title 52 of the Revised
 6A Statutes.

7 b. Whenever advertising is required: (1) specifications and
 8 invitations for bids shall permit such full and free competition as
 9 is consistent with the procurement of supplies and services neces-
 10 sary to meet the requirements of the corporation; (2) the adver-
 11 tisement for bids shall be in such newspaper or newspapers selected
 12 by the corporation as will best give notice thereof to bidders and
 13 shall be sufficiently in advance of the purchase or contract to

14 promote competitive bidding; (3) the advertisement shall desig-
15 nate the time and place when and where sealed proposals shall
16 be received and publicly opened and read, the amount of the cash,
17 certified check, cashiers check or bank check, if any, which shall
18 accompany each bid, and such other terms as the corporation may
19 deem proper.

20 c. The corporation may reject any or all bids not in accord with
21 the advertisement of specifications, or may reject any or all bids
22 if the price of the work materials is excessively above the estimate
23 cost or when the corporation shall determine that it is in the public
24 interest to do so. The corporation shall prepare a list of the bids,
25 including any rejected and the cause therefor. The corporation may
26 accept bids containing minor informalities. Awards shall be made
27 by the corporation with reasonable promptness by written notice
28 to the responsible bidder whose bid, conforming to the invitation
29 for bids, will be the most advantageous to the State, price and
30 other factors considered.

31 d. A proposal bond equal to at least 50% of the bid executed by
32 the contractor with such sureties as shall be approved by the
33 corporation in favor of the State of New Jersey, shall accompany
34 each bid and shall be held as security for the faithful performance
35 of the contractor in that, if awarded the contract, the bidder will
36 deliver the contract within 10 working days after the award,
37 properly executed and secured by satisfactory bonds in accordance
38 with the provisions of N. J. S. 2A:44-143 through N. J. S. 2A:44-147
39 and specifications for the project. The corporation may require in
40 addition to the proposal bond such additional evidence of the
41 ability of a contractor to perform the work required by the contract
42 as it may deem necessary and advisable. All proposal bonds which
43 have been delivered with the bids, except those of the two lowest
44 responsible bidders, shall be returned within 30 working days after
45 such bids are received.

46 e. If the bidder fails to provide a satisfactory proposal bond as
47 provided in subsection d. of this section, his bid shall be rejected.

48 f. The corporation shall determine the terms and conditions of
49 the various types of agreements or contracts, including provisions
50 for adequate security, the time and amount or percentage of each
51 payment thereon and the amount to be withheld pending completion
52 of the contract, and it shall issue and publish rules and regulations
53 concerning such terms and conditions, standard contract forms and
54 such other rules and regulations concerning purchasing or procure-
55 ment, not inconsistent with any applicable law, as it may deem
56 advisable to promote competition and to protect the public interest.

57 g. Any purchase, contract or agreement pursuant to subsection a.
 58 hereof may be made, negotiated or awarded by the corporation
 59 without advertising ***[**in any manner which the corporation may
 60 deem effective to promote full and free competition whenever
 61 competition is practicable;**]** * *under the following circumstances:**

61A (1) When the aggregate amount involved does not exceed
 61B \$7,500.00; or

62 (2) In all other cases when the corporation seeks:

63 (a) To acquire **public or private entities engaged in the*
 63A *provision of public transportation service,** used public trans-
 64 portation equipment or existing public transportation facilities
 64A or rights of way; or

65 (b) To acquire subject matter which is that described in
 66 section 4 of P. L. 1954, c. 48 (C. 52:34-9); or

67 (c) To make a purchase or award or make a contract or
 68 agreement under the circumstances described in section 5 of
 69 P. L. 1954, c. 48 (C. 52:34-10) ***[.]** * *; or*

69A *(d) *To contract pursuant to section 6 of this act.**

70 h. The corporation shall require that all persons proposing to
 71 submit bids on improvements to capital facilities and equipment
 72 shall first be classified by the corporation as to the character and
 73 amount of work on which they shall be qualified to submit bids.
 74 Bids shall be accepted only from persons qualified in accordance
 75 with such classification.

1 ***[**12. a. The corporation shall have the power to acquire by pur-
 2 chase, condemnation, lease, gift or otherwise, on such terms and
 3 conditions and in such manner as it may deem proper, for use by
 4 the corporation or for use by any other public or private entity
 5 providing public transportation services, all or part of the facility,
 6 plant, equipment, property, shares of stock, rights of property, real,
 7 personal, tangible, intangible or mixed rights in property, reserve
 8 funds, employees pension or retirement funds, special funds, fran-
 9 chises, licenses, patents, permits and papers, documents and
 10 records of a public or private entity providing public transportation
 11 services within the State, subject to any outstanding obligations
 12 relating to such items as might be agreed upon by the parties,
 13 together with all or any part of the right of way, equipment, fixed
 14 facilities and other property of any kind of any such entity ending
 15 beyond the boundaries of this State.

16 Such properties upon acquisition by or lease to the corporation
 17 shall become and be operated as part of any public transportation
 18 services by the corporation or any entity designated by the corpo-
 19 ration and the corporation shall have all powers in connection with
 20 such properties and such operations as are conferred by this act.

21 b. The corporation shall also have the power to acquire by pur-
22 chase, condemnation, lease, gift or otherwise, on such terms and
23 conditions and in such manner as it may deem proper, any land or
24 interest therein, including land under water and air rights, which
25 it may determine is reasonably necessary for the purposes of the
26 corporation under the provisions of this act and any and all rights,
27 whether for immediate or future use, title and interest in such
28 land and other property, including public lands, parks, playgrounds,
29 reservations, highways or parkways, owned by or in which any
30 county or municipality, borough, town, township, village, or other
31 political subdivision of the State has any right, title or interest, or
32 parts thereof or rights therein and any fee simple absolute or any
33 lesser interest in private property, and any fee simple absolute in,
34 easements upon, or the benefit of restrictions upon, abutting prop-
35 erty to preserve and protect corporation projects.

36 c. The corporation, if it proceeds to acquire any public or private
37 entity engaged in the provision of public transportation service,
38 or any part thereof by condemnation, shall have the power to take
39 control of and operate such entity immediately upon the filing and
40 approval of the complaint for condemnation, if the corporation in
41 its discretion, determines such action to be necessary. This power
42 shall include the possession of all right, title and other powers of
43 ownership in all properties and facilities described in the petition.
44 Such action shall be effective upon service of a copy thereof on
45 the condemnee. In the determination of the fair value of any such
46 entity, there shall not be included any value attributable to expend-
47 itures for improvements or payments made to the entity by the
48 corporation, the Commuter Operating Agency or the Department
49 of Transportation.

50 d. Upon the exercise of the power of eminent domain by the
51 corporation the compensation to be paid thereunder shall be
52 ascertained and paid in the manner provided in the "Eminent
53 Domain Act of 1971," P. L. 1971, c. 361 (C. 20:3-1 et seq.) in so far
54 as the provisions thereof are applicable and not inconsistent with
55 the provisions contained in this act. The corporation may join in
56 separate subdivisions in one petition or complaint the descriptions
57 of any number of tracts or parcels of land or property to be con-
58 demned, and the names of any number of owners and other parties
59 who may have an interest therein and all such land or property
60 included in said petition or complaint may be condemned in a single
61 proceeding; provided, however, that separate awards shall be
62 made for each tract or parcel of land or property; and provided,
63 further, that each of said tracts or parcels of land or property

64 shall be wholly within or have a substantial part of its value be
65 wholly within the same county.

66 e. Upon the filing by the corporation of a complaint in any action
67 to fix the compensation to be paid for any property or at any time
68 thereafter, the corporation may file with the clerk of the county in
69 which such property is located and also with the clerk of the
70 superior court a declaration of taking, signed by the corporation,
71 or such employees of the corporation as may be designated by the
72 corporation, declaring that possession of one or more of the tracts
73 or parcels of land or property described in the complaint is thereby
74 being taken by and for the use of the corporation. The declaration
75 of taking shall be sufficient if it sets forth (1) a description of each
76 tract or parcel of land or property to be taken, (2) a statement of
77 the estate or interest in the property being taken, (3) a statement
78 of the sum of money estimated by the corporation to be just com-
79 pensation for the taking of the estate or interest in each tract or
80 parcel of land or property described in said declaration, and
81 (4) an allegation that, in compliance with the provisions of this act,
82 the corporation has established and is maintaining a trust fund
83 as hereinafter provided.

84 f. Upon the filing by the corporation of a declaration of taking
85 and the depositing with the clerk of the superior court of the amount
86 of the estimated compensation stated in the declaration, the
87 corporation, without other process or proceedings, shall be entitled
88 to the exclusive possession and use of each tract or parcel of land
89 or property described in said declaration and may forthwith enter
90 into and take possession of said land or property, it being the intent
91 of this provision that the action to fix compensation to be paid or
92 any other proceedings relating to the taking of the land or property
93 or interest therein or entering thereon shall not delay the taking of
94 possession thereof and the use thereof by the corporation for the
95 purposes authorized by this act. The corporation shall not abandon
96 any condemnation proceeding subsequent to the date upon which
97 it has taken possession of the land or property as herein provided.

98 g. The corporation shall cause notice of the filing of a declaration
99 of taking of property as provided in this act and of the making of
100 the deposit required by this act with respect thereto to be served
101 upon each party to the action who resides in the State, either
102 personally or by leaving a copy thereof at his residence or business
103 address if known, and upon each such party who resides out of the
104 State, by mailing a copy thereof to him at his residence or
105 business address, if known. In the event that the residence of

106 any such party or the name of such party is unknown, such
106a notice shall be published at least once in a newspaper published
107 or circulating in the county or counties in which the property is
108 located. Such service, mailing or publication shall be made within
109 30 days after filing such declaration. Upon the application of any
110 party in interest and after notice to other parties in interest,
111 including the corporation, the Superior Court may direct that the
112 money deposited with the clerk of the superior court or any part
113 thereof be paid forthwith, without deduction of any fees or com-
114 missions, to the person or persons entitled thereto for or on account
115 of the just compensation to be awarded in said action; provided,
116 that each such person shall have filed with the clerk of the superior
117 court a consent in writing that, in the event the award in the action
118 shall be less than the amount deposited, the court, after such notice
119 as the court prescribes and hearing, may determine the liability,
120 if any, for the return of the difference or any part thereof and
121 enter judgment therefor.

122 If the amount of the award as finally determined shall exceed
123 the amount so deposited, the person or persons to whom the award
124 is payable shall be entitled to recover from the corporation the
125 difference between the amount of the deposit and the amount of
126 the award, with interest at the rate of 6% per annum thereon from
127 the date of making the deposit. If the amount of the award so
128 determined shall be less than the amount so deposited, the clerk
129 of the superior court shall return the difference between the
130 amount of the award and the deposit, including all accrued interest
131 thereon, to the corporation unless the deposit or any part thereof
132 shall have theretofore been distributed, in which event the court,
133 on application of the corporation and notice to all persons interested
134 in the award and affording them an opportunity to be heard, shall
135 enter judgment in favor of the corporation for the difference
136 against the party or parties liable for the return thereof.¶*

1 *12. a. *The corporation shall have the power to acquire by pur-
2 chase, condemnation, lease, gift or otherwise, on terms and condi-
3 tions and in the manner it deems proper, for use by the corporation
4 or for use by any other public or private entity providing public
5 transportation services, all or part of the facility, plant, equipment,
6 property, shares of stock, rights of property, reserve funds, em-
7 ployees pension or retirement funds, special funds, franchises,
8 licenses, patents, permits and papers, documents and records of a
9 public or private entity providing public transportation services
10 within the State.*

11 *b. The corporation shall also have the power to acquire by pur-*
12 *chase, condemnation, lease, gift or otherwise, on the terms and*
13 *conditions and in the manner it deems proper, any land or property*
14 *real or personal, tangible or intangible which it may determine is*
15 *reasonably necessary for the purposes of the corporation under*
16 *the provisions of this act.*

17 *c. (1) The corporation, when acquiring property pursuant to*
18 *subsections a. or b. of this section shall exercise its power of emi-*
19 *nent domain in accordance with the provisions of the "Eminent*
20 *Domain Act of 1971," P. L. 1971, c. 361 (C. 20:3-1 et seq.).*

21 *(2) For purposes of this act the definition of property in section*
22 *2 of P. L. 1971, c. 361 (C. 20:3-2) includes all property referred to*
23 *in subsections a. or b. of this section, and the provisions of P. L.*
24 *1971, c. 361 shall apply to that property.*

25 *d. (1) If the corporation shall determine to acquire by condemna-*
26 *tion all outstanding shares of corporate stock of a company and*
27 *the stock is owned by 10 or more individuals or entities the court,*
28 *on application of the corporation, shall appoint a trustee who shall*
29 *act as representative of all stockholders for the purpose of the*
30 *condemnation proceedings. Upon the appointment of a trustee the*
31 *corporation may file a single condemnation action condemning all*
32 *outstanding shares of stock and naming the appointed trustee as*
33 *representative of all defendant owners.*

34 *(2) When a trustee has been appointed pursuant to this section*
35 *the court may award the trustee a reasonable fee as payment for*
36 *services rendered. Other costs, expenses and fees shall be paid*
37 *from the proceeds of the condemnation award or settlement if*
38 *amicably resolved.*

39 *e. A State agency, State authority, county, municipality, bistate*
40 *authority, or other political subdivision of the State is authorized*
41 *to donate, give, transfer or assign any asset or property it now*
42 *owns or may hereafter acquire to the corporation which may be*
43 *necessary for the furtherance of the objectives of this act.*

44 *f. Upon the filing of a declaration of taking the corporation shall*
45 *be entitled to the immediate possession of all property and assets*
46 *named therein; and in the case of a condemnation pursuant to sub-*
47 *section d. or the acquisition of the entire assets of any entity, the*
48 *corporation shall be entitled to immediate possession and control*
49 *of all assets and facilities and shall have exclusive management*
50 *authority over the entity taken.*

51 *g. Prior to the condemnation of any private entity engaged in*
52 *the provision of motor bus regular route service, the corporation*

53 shall give 60 days' notice of its intent to the President of the Sen-
54 ate, the Speaker of the General Assembly, and the Chairman of
55 the Senate and Assembly Transportation and Communications
56 Committees. This subsection shall be in effect for 2 years following
57 the enactment of this act.

58 h. Notwithstanding any provision to the contrary, the corpora-
59 tion shall not acquire any privately owned entity providing public
60 transportation service, which is not receiving operating assistance
61 from the corporation, unless the corporation shall transmit a pro-
62 posal for the acquisition to the Senate and General Assembly on
63 a day on which both Houses shall be meeting in the course of a
64 regular or special session, along with any other information or
65 materials the Legislature may deem necessary. The provisions of
66 any other law to the contrary notwithstanding, no such proposal
67 shall take effect if, within 60 days of the date of its transmittal to
68 the Senate and General Assembly, the Legislature shall pass a con-
69 current resolution stating in substance that the Legislature does
70 not favor such proposed acquisition.*

1 13. The corporation may appoint an executive director, directors
2 of operating divisions*~~], divisions,~~* and other such additional offi-
3 cers, all of whom need not be members of the corporation, and may
4 employ consulting architects, engineers, auditors, accountants,
5 construction, management real estate, operations and financial ex-
6 perts, supervisors, managers and such other professional consult-
7 ants and officers and employees, and may fix their compensation,
8 as the corporation deems advisable; and may promote and dis-
9 charge such officers and employees, all without regard to the pro-
10 visions of Title 11 of the Revised Statutes. In developing an
11 employee compensation schedule, the corporation shall consult
12 with appropriate authorities of the State and file such schedule
13 with them upon completion. The corporation shall by October 31
14 of each year submit to the Governor and the presiding officers and
15 the Transportation and Communications Committees of both
16 Houses of the Legislature, a list of all full and part-time officers
17 and employees of the corporation and the salaries, wages and com-
18 pensation received by said officers and employees during the pre-
19 ceding fiscal year.

20 *~~]~~Persons holding positions in the classified and unclassified ser-
21 vice of the State who are presently enrolled in the Public Employ-
22 ees' Retirement System shall, while employed by the corporation,
23 continue as members of that retirement system and retain all rights
24 and protection provided them by said retirement system. Persons
25 employed by the corporation who are members of a State-admin-

26 istered retirement system other than the Public Employees' Re-
27 tirement System shall, upon acceptance of their employment with
28 the corporation, be required to transfer their membership to the
29 Public Employees' Retirement System.

30 Employees of the corporation who are not presently enrolled
31 in any State-administered retirement system shall be enrolled in
32 the Public Employees' Retirement System if they are eligible
33 under the terms of section 73 of P. L. 1954, c. 84 (C. 43:15A-73).
34 Employees who are ineligible for enrollment in the Public Em-
35 ployees' Retirement System shall retain membership in any non-
36 State retirement system under which they have accrued benefits
37 or rights or shall be eligible to join such system.】*

38 **The corporation may elect or appoint from among the members*
39 *of its board or from its employees some or all of the members of*
40 *the board of directors of any incorporated entity of which it owns*
41 *part or all of the capital stock.*

42 *Employees of the corporation, or any of its subsidiary entities,*
43 *shall be covered by whatever retirement plan or plans the corpo-*
44 *ration or subsidiary entity determines from time to time to main-*
45 *tain for those employees. However, if an individual is a member*
46 *of the Public Employees' Retirement System or any other State-*
47 *administered retirement system immediately prior to his initial*
48 *employment by the corporation, he shall continue as or become,*
49 *as the case may be, a member of the Public Employees' Retirement*
50 *System for the duration of his employment by the corporation.**

1 14. The exercise of the powers granted by this act shall be in
2 all respects for the benefit of the people of the State, and since
3 the improvement, operation, and maintenance of public transporta-
4 tion services by the corporation constitute the performance of
5 essential governmental functions, *【the corporation shall not be re-
6 quired to pay any taxes or assessments upon any public trans-
7 portation project or any property acquired or used by the
8 corporation under the provisions of this act or upon the income
9 therefrom】* **neither the corporation nor any wholly owned busi-*
10 *ness corporation or other entity shall be required to pay taxes or*
11 *assessments upon any public transportation project or any prop-*
12 *erty acquired or used under the provisions of this act, including,*
13 *but not limited to, sales taxes, real property taxes or assessments,*
14 *corporate franchise taxes or income taxes. However, any property*
15 *owned by the corporation or any wholly owned business corpora-*
16 *tion or other entity shall be considered "State" property as de-*
17 *defined in P. L. 1977, c. 272 (C. 54:4-2.2a), and shall be subject to the*
18 *in lieu tax payments provided in that act*.*

1 15. All expenses incurred by the corporation in carrying out
2 the provisions of this act shall be payable from funds available
3 to the corporation therefor and no liability or obligation shall be
4 incurred by the corporation beyond the extent to which moneys
5 are available. No debt or liability of the corporation shall be
6 deemed or construed to create or constitute a debt, liability, or a
7 loan or pledge of the credit of the State.

1 16. Real property and rolling stock owned or used by the cor-
2 poration shall be exempt from all claims of creditors and from
3 levy, execution or attachment.

1 17. Notwithstanding any of the provisions of the "New Jersey
2 Contractual Liability Act" (N. J. S. 59:13-1 et seq.) to the con-
3 trary, contract claims and suits against the corporation shall be
4 governed by said act.

1 18. a. The corporation shall, by September 15 of each year, file
2 with the Commissioner of Transportation a report in such format
3 and detail as the Commissioner may require setting forth the actual,
4 operational, capital and financial results of the previous fiscal year,
5 the operational, capital and financial plan for the current fiscal
6 year and a proposed operational, capital and financial plan for the
7 next ensuing fiscal year.

8 b. On or before October 31 of each year, the corporation shall
9 make an annual report of its activities for the preceding fiscal year
10 to the Governor and to the presiding officers and the Transporta-
11 tion and Communications Committees of both Houses of the Leg-
12 islature. Each such report shall set forth a complete operating
13 and financial statement covering its operations and capital projects
14 during the year.

15 c. All records of minutes, accounts, bills, vouchers, contracts
16 or other papers connected with or used or filed with the corporation
17 or with any officer or employee acting for or in its behalf are hereby
18 declared to be public records and shall be open to public inspection
19 in accordance with P. L. 1963, c. 73 (C. 47:1A-1 et seq.) and regu-
20 lations prescribed by the corporation.

21 d. The corporation shall cause an audit of its books and accounts
22 to be made at least once each year by certified public accountants
23 and the cost thereof may be treated as a cost of operation. The
24 audit shall be filed within 4 months after the close of the fiscal
25 year of the corporation and a certified duplicate copy thereof shall
26 be filed with the Division of Budget and Accounting in the De-
27 partment of Treasury.

28 e. Notwithstanding the provisions of any law to the contrary,
29 the State Auditor or his legally authorized representative may
30 examine the accounts and books of the corporation.

1 19. All real or personal properties purchased heretofore for
2 public transportation purposes in the name of Commuter Operating
3 Agency, Department of Transportation, its predecessors or the
4 Commissioner of Transportation, shall be deemed to have been
5 purchased in the name of the State by and through the corporation
6 and shall henceforth be deemed to be and shall actually be the
7 property of the corporation.

1 20. This act is intended to protect and promote the public health,
2 safety and welfare, and shall be liberally construed to obtain the
3 objectives and effect the purposes thereof.

1 21. If any provision of this act or the application thereof to any
2 person, or circumstances, or the exercise of any power, or authority
3 thereunder is held invalid or contrary to law, such holding shall
4 not affect other provisions or applications or affect other exercises
5 of power or authority under said provisions not contrary to law,
6 and to this end, the provisions of this act are declared to be
7 severable.

1 22. Section 5 of P. L. 1966, c. 301 (C. 27:1A-5) is amended to
2 read as follows:

3 5. The commissioner, as head of the department, shall have all
4 of the functions, powers and duties heretofore vested in the State
5 Highway Commissioner and shall, in addition to the functions,
6 powers and duties invested in him by this act or by any other law:

7 (a) Develop, from time to time revise and maintain a compre-
8 hensive master plan for all modes of transportation development,
9 with special emphasis on public transportation;

10 (b) Develop and promote programs to foster efficient and eco-
11 nomical transportation services in the State;

12 (c) Prepare plans for the preservation **[and]**, improvement
13 *and expansion* of the **[railroad]** *public transportation* system, with
14 special emphasis on **[commuter railroads]** *the coordination of*
15 *transit modes and the use of * rail rights of way,* highways and*
16 *public streets for public transportation purposes;*

17 **[(d)** Develop plans for more efficient public transportation
18 service by railroads and motor bus operators; develop statistics,
19 analyses, and other data of use to railroad and bus operators in the
20 provision of public transportation service; facilitate more effective
21 coordination between bus service and other forms of public trans-
22 portation, particularly the commuter railroads; review petitions

23 for motor bus franchises in areas served by the commuter railroad
24 system and make appropriate recommendations on such petitions.】

25 (d) *Enter into contracts with the New Jersey Transit Corpora-*
26 *tion for the provision and improvement of public transportation*
27 *services;*

28 (e) Coordinate the transportation activities of the department
29 with those of other public agencies and authorities;

30 (f) Cooperate with interstate commissions and authorities, State
31 departments, councils, commissions and other State agencies, with
32 appropriate Federal agencies, and with interested private indi-
33 viduals and organizations in the coordination of plans and policies
34 for the development of air commerce and air facilities; 【and】

35 (g) Make an annual report to the Governor and the Legislature
36 of the department's operations, and render such other reports as
37 the Governor shall from time to time request or as may be required
38 by law【.】; *【and】*

39 (h) Promulgate regulations providing for the charging of and
40 setting the amount of fees for certain services performed by and
41 permits issued by the department, including but not limited to the
42 following:

43 (1) Providing copies of documents prepared by or in the
44 custody of the department;

45 (2) Aeronautics permits;

46 (3) Right-of-way permits;

47 (4) Traffic signal control systems*【.】* *; and*

48 *(i) *Plan, design, construct, equip, operate, improve and main-*
49 *tain a railroad, subway, street, traction or electric railway for the*
50 *purpose of carrying freight in this State or between points in this*
51 *State and points in other states.**

1 23. Section 2 of P. L. 1973, c. 126 (C. 27:1A-65) is amended to
2 read as follows:

3 2. For the purposes of this act, unless the context clearly in-
4 dicates otherwise:

5 a. "Commissioner" means the Commissioner of Transportation;
6 provided, however, that he may delegate any of his powers or duties
7 under this act to any subordinate division, agency or employee of
8 the Department of Transportation *or to the New Jersey Transit*
9 *Corporation.*

10 b. "Carrier" means any individual, copartnership, association,
11 corporation, joint stock company, public agency, trustee or receiver
12 operating motor buses or rail passenger service on established
13 routes within this State or between points in this State and points
14 in adjacent states.

15 c. "Motor bus" means "autobus" as defined in R. S. 48:4-1, and
16 includes those autobuses, commonly called jitneys, as defined in
17 R. S. 48:16-23.

18 d. "Offpeak times" means the hours from 9:30 a.m. to 4 p.m.
19 and from 7 p.m. to 6 a.m. during the weekdays, and all day on
20 Saturdays, Sundays and holidays.

21 e. "Senior citizen" means any individual 62 years of age or over.

22 f. "Handicaped citizen" means any individual who, by reason
23 of illness, injury, age, congenital malfunction, or other permanent
24 or temporary incapacity or disability, is unable without special
25 facilities or special planning or design to utilize mass transporta-
26 tion facilities and services as effectively as persons who are not so
27 affected.

1 24. Section 73 of P. L. 1954, c. 84 (C. 43:15A-73) is amended to
2 read as follows:

3 73. a. The Public Employees' Retirement System is hereby
4 authorized and directed to enroll eligible employees of the New
5 Jersey Turnpike Authority, the New Jersey Highway Authority,
6 Palisades Interstate Park Commission, Interstate Sanitation Com-
7 mission, the Delaware River Basin Commission and the Delaware
8 River Joint Toll Bridge Commission.

9 In the case of the Delaware River Joint Toll Bridge Commission,
10 the eligible employees shall be only those who are employed on the
11 free bridges across the Delaware river, under the control of said
12 commission.

13 The said employees shall be subject to the same membership, con-
14 tribution and benefit provisions of the retirement system as State
15 employees.

16 b. The State University of New Jersey, as an instrumentality
17 of the State, shall, for all purposes of this act, be deemed an em-
18 ployer and its eligible employees, both veterans and nonveterans,
19 shall be subject to the same membership, contribution and benefit
20 provisions of the retirement system and to the provisions of chapter
21 3 of Title 43 of the Revised Statutes as are applicable to State em-
22 ployees and for all purposes of this act employment by the State
23 University of New Jersey after April 16, 1945, and for the purposes
24 of chapter 3 of Title 43 of the Revised Statutes any new employ-
25 ment after January 1, 1955, shall be deemed to be and shall be con-
26 strued as service to and employment by the State of New Jersey.

27 c. The Compensation Rating and Inspection Bureau, created and
28 established pursuant to the provisions of R. S. 34:15-89, shall, for
29 all purposes of this act, be deemed an employer and its eligible em-
30 ployees, both veterans and nonveterans, shall be subject to the same

31 membership, contribution and benefit provisions of the retirement
32 system and to the provisions of chapter 3 of Title 43 of the Revised
33 Statutes as both are applicable to State employees.

34 The retirement system shall certify to the Commissioner of In-
35 surance and the Commissioner of Insurance shall direct the Com-
36 pensation Rating and Inspection Bureau to provide the necessary
37 payments to the retirement system in accordance with procedures
38 established by the retirement system. Such payments shall in-
39 clude (1) the contributions and charges, similar to those paid by
40 other public agency employers, to be paid by the Compensation
41 Rating and Inspection Bureau to the retirement system on behalf
42 of its employee members, and (2) the contributions to be paid by
43 the Compensation Rating and Inspection Bureau to provide the
44 past service credits up to June 30, 1965 for these members, both
45 veterans and nonveterans, who enroll before July 1, 1966.

46 d. The New Jersey Sports and Exposition Authority, created
47 and established pursuant to the "New Jersey Sports and Exposi-
48 tion Authority Law," P. L. 1971, c. 137 (C. 5:10-1 et seq.) shall
49 for all purposes of this act, be deemed an employer and its eligible
50 employees both veterans and nonveterans, shall be subject to the
51 same membership, contribution and benefit provisions of the re-
52 tirement system and to the provisions of chapter 3 of Title 43 of
53 the Revised Statutes as are applicable to State employees.

54 (1) Eligible employees as used herein shall not include persons
55 who are not classified as salaried, or who are compensated on an
56 hourly or per diem basis, or whose employment is normally
57 covered by other retirement systems to which the authority makes
58 contributions.

59 (2) Eligible employees previously permitted to enroll in the re-
60 tirement system shall redeposit the contributions previously made
61 by them and all service credit shall then be restored and future
62 contributions made at the date of contribution as originally
63 assigned. The authority shall redeposit the employer payments
64 it had made, with interest to the date of redeposit.

65 e. *The New Jersey Transit Corporation created and established*
66 *pursuant to the "New Jersey Public Transportation Improvement*
67 *Act of 1979", P. L. 1979, c. 119, shall for all purposes of this act,*
68 *be deemed an employer and its eligible employees both veterans*
69 *and nonveterans, shall be subject to the same membership, con-*
70 *tribution and benefit provisions of the retirement system and to*
71 *the provisions of chapter 3 of Title 43 of the Revised Statutes as*
72 *are applicable to State employees. Eligible employees as used*

73 herein **[shall include persons in management, professional or clerical*
 74 *positions but shall not include persons who are not classified as*
 75 *salaried or who are compensated on an hourly or per diem basis*
 76 *or whose employment is normally covered by other retirement*
 77 *systems to which the corporation may make contributions]** *means*
 78 *only those individuals who are members of the Public Employees'*
 79 *Retirement System or any other State-administered retirement*
 80 *system immediately prior to their initial employment by the cor-*
 81 *poration*.*

1 *25. R. S. 48:3-10 is amended to read as follows:

2 48:3-10. No public utility incorporated under the laws of this
 3 State shall sell, nor shall any such public utility make or permit
 4 to be made upon its books any transfer of any share or shares of
 5 its capital stock, to any other public utility, unless authorized to
 6 do so by the board. Nor shall any public utility incorporated under
 7 the laws of this State sell any share or shares of its capital stock
 8 or make or permit any transfer thereof to be made upon its books,
 9 to any corporation, domestic or foreign, or any person, the result
 10 of which sale or transfer in itself or in connection with other pre-
 11 vious sales or transfers shall be to vest in such corporation or
 12 person a majority in interest of the outstanding capital stock of
 13 such public utility corporation unless authorized to do so by the
 14 board.

15 Every assignment, transfer, contract or agreement for assign-
 16 ment or transfer, by or through any person or corporation to any
 17 corporation or person in violation of any of the provisions hereof
 18 shall be void and of no effect, and no such transfer shall be made
 19 on the books of any public utility corporation. Nothing herein
 20 contained shall be construed to prevent the holding of stock law-
 21 fully acquired before March 5, 1935.

22 Where, by the proposed assignment, transfer, contract, or agree-
 23 ment for assignment or transfer of capital stock as set forth herein,
 24 it appears that the public utility or a wholly owned subsidiary
 25 thereof may be unable to fulfill its obligation to any employees
 26 thereof with respect to pension benefits previously enjoyed, whether
 27 vested or contingent, the board shall not grant its authorization
 28 unless the public utility seeking the board's authorization assumes
 29 such responsibility as will be sufficient to provide that all such
 30 obligations to employees will be satisfied as they become due.

31 *Nothing herein shall require the approval of the Department of*
 32 *Transportation to any sale or transfer by any public utility of any*
 33 *share or shares of its capital stock to the New Jersey Transit Cor-*
 34 *poration or any subsidiary thereof for public use.**

1 ***[25.]*** *26.* a. The following are repealed:

2 P. L. 1966, c. 301, § 15-27 (C. 27:1A-15 to 27:1A-27);

3 P. L. 1966, c. 301, § 29-32 (C. 27:1A-29 to 27:1A-32);

4 P. L. 1975, c. 371, § 1, 2 (C. 27:1A-18.1 and 27:1A-18.2);

5 P. L. 1967, c. 138, § 1, 2 (C. 27:1A-24.1 and 27:1A-24.2);

6 P. L. 1976, c. 119, § 1-7 (C. 27:1A-28.7 to 27:1A-28.13) ***[.]*** *;* *

6A *P. L. 1972, c. 210, § 1-3 (C. 48:3-39 to 48:3-41).*

7 b. The repealer of these acts and part of acts shall not in any
8 way affect any contracts, agreements, determinations, orders,
9 rules or regulations heretofore made or promulgated, as the case
10 may be by the Commuter Operating Agency or the Department
11 of Transportation pursuant to any authority heretofore granted
12 but such contracts, agreements, determinations, orders, rules and
13 regulations shall be continued by the corporation with full force
14 and effect until otherwise amended, repealed or terminated in
15 accordance with the terms thereof or pursuant to the provisions
16 of this act.

1 ***[26.]*** *27.* Whenever in any law, rule, regulation, contract,
2 document, judicial or administrative proceeding or otherwise, ref-
3 erence is made to the New Jersey Commuter Operating Agency,
4 the same shall mean and refer to the New Jersey Transit Corpo-
5 ration.

1 ***[27.]*** *28.* Until such time as the corporation and its board
2 are legally constituted pursuant to section 4 of this act, the Com-
3 muter Operating Agency is authorized to exercise all of the powers
4 granted the corporation by this act. On the date that the corpora-
5 tion and board are legally constituted pursuant to section 4 of this
6 act, the Commuter Operating Agency shall no longer exercise any
7 of its powers pursuant to P. L. 1966, c. 301 as amended and sup-
8 plemented by P. L. 1976, c. 119.

9 Anticipatory actions appropriate and necessary to effect the
10 establishment of the corporation and the implementation of its
11 duties are authorized to be accomplished as promptly as possible by
12 the Commuter Operating Agency in advance of the date that the cor-
13 poration and its board are legally constituted, including the making
14 of authorized appointments and within the limits of applicable
15 appropriations to the Department of Transportation, the expendi-
16 ture of funds for payment of salaries and expenses incident thereto.

1 ***[28.]*** *29.* This act shall take effect immediately, but section
2 25 shall remain inoperative for 60 days after enactment.

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SENATE AMENDMENTS TO
SENATE, No. 3137
[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED JUNE 14, 1979

Amend page 1, section 2, lines 13 and 14, omit "commuters", insert "transit riders".

Amend page 3, section 4, line 17, after "a", insert "regular".

Amend page 3, section 4, line 17A, omit "commuter", insert "rider".

Amend page 3, section 4, line 19B, after "respectively", insert ","; after "thereafter", omit ",".

Amend page 3, section 4, line 20, after "shall", insert "annually".

Amend page 6, section 5, line 63B, after "committee", insert "to be appointed by the Governor with the advice and consent of the Senate".

Amend page 6, section 5, line 64, omit ","; after "citizens", insert ", in the number and for such terms as may be fixed by the corporation,".

Amend page 6, section 5, line 64B, omit "one member", insert "two members"; omit "the".

Amend page 6, section 5, line 64c, omit "a"; omit "commuter", insert "riders, including but not limited to urban transit users and suburban commuters as appropriate".

Amend page 16, section 12, line 54, omit "Chairman", insert "chairmen".

Amend page 16, section 12, line 59, after "acquire", insert "by condemnation".

Amend page 16, section 12, line 60, omit "is not receiving", insert "during the previous 12 months has not received".

Amend page 16, section 12, line 61, after "from the corporation", insert "or its predecessor".

Amend page 16, section 12, line 70, after "acquisition", insert "by condemnation".

Amend page 16, section 13, line 5, after "management", insert ",".

Amend page 16, section 13, line 16, omit ",".

Amend page 17, section 13, line 30, omit "corpoproration", insert "corporation".

Amend page 20, section 22, line 33, omit "organiaztions", insert "organizations".

Amend page 21, section 23, line 22, omit "Handicaped", insert "Handicapped".

STATEMENT

These amendments are clarifying in nature. They make the following substantive changes:

—provide that the board “annually” choose its vice-chairman and secretary;

—require transit “riders” to be represented on the corporate board and advisory committees, rather than “commuters” (which connotes users who commute from one municipality to another, suggesting a suburban bias);

—mandate two transit riders rather than one on each commuter advisory board, with representation of both urban transit users and suburban commuters as appropriate (the former, less vocal and organized, might sometimes be overlooked);

—make advisory committee appointments the responsibility of the Governor (with Senate advice and consent), not of the corporation, in order to give them greater standing;

—clarify that the Legislature’s veto power over public acquisitions of profitable companies only cover acquisitions by condemnation (there is no need for the over-60-day delay if the private owner is willing to sell on mutually agreed-upon terms); and

—define an unsubsidized carrier (for purposes of the Legislature’s condemnation veto) as one which has not been receiving a subsidy during the past year.

SENATE AMENDMENTS TO
SENATE, No. 3137
[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED JUNE 14, 1979

Amend page 16, section 12, after line 70, insert a new section 14 as follows:

“14. a. As used in this section:

‘Employee’ means:

- (1) An employee of the corporation, or
- (2) An employee of any public or private entity acquired and owned by the corporation.

‘Employee’ does not include an employee or a public or private entity, other than as provided in paragraphs (1) and (2) of this subsection, which provides public transportation services pursuant to operating rights granted by a regulatory body or pursuant to authority arising from contractual agreements entered into with the corporation pursuant to section 6 of this act. Except as provided in subsection f. of this section, ‘employee’ does not include a supervisory employee as defined under the ‘Labor Management Relations Act, 1947’ (29 U.S.C. 141 et seq.) or a managerial executive or confidential employee as defined under the ‘New Jersey Employer-Employee Relations Act,’ P. L. 1944, c. 100 (C. 34:13A-1 et seq.).

‘Employer’ means an employer of an employee.

‘Acquisition by the corporation of a public or private entity which provides public transportation services,’ or words of like import, means an acquisition effected by a purchase or condemnation of all or a substantial majority of the stock or other equity interest of the entity, or purchase or condemnation of all or substantially all of the assets of the entity.

b. In accordance with law, employees of the employer shall have and retain their rights to form, join or assist labor organizations and to negotiate collectively through exclusive representatives of their own choosing.

c. The enforcement of the rights and duties of the employer and employees shall be governed by the ‘New Jersey Employer-Employee Relations Act’ P. L. 1944, c. 100 (C. 34:13A-1 et seq.). Whenever negotiations between the employer and an exclusive representative concerning the terms and conditions of employment shall reach an

impasse, the New Jersey Public Employment Relations Commission shall, upon the request of either party, take such steps as it may deem expedient to effect a voluntary resolution of the impasse, including the assignment of a mediator. In the event of a failure to resolve the impasse by mediation, the Commission shall, at the request of either party, invoke fact finding with recommendations for settlement of all issues in dispute. Fact-finding shall be limited to those issues that are within the required scope of negotiations. In the event of a continuing failure to resolve an impasse by means of the procedure set forth above, and notwithstanding the fact that such procedures have not been exhausted, but not later than 30 days prior to the expiration of a collectively negotiated contract, the procedures set forth in paragraph (2) of subsection d. of Section 3 and Sections 4 through 8 of C. 85, P. L. 1977 (N. J. S. A. 34:13A-16(d)(2) through 34:13A-21) shall be the sole method of dispute resolution; provided however, that the cost to the State of the first year portion of any arbitration award shall not exceed the appropriations permitted within the provisions of the 'State Expenditures Limitation Act', P. L. 1976, c. 67 (C. 52:9H-5 et seq.) and the arbitrator, in determining such award, shall take into account pending supplemental appropriation bills, any pending salary negotiations for State employees and any sums which have not yet been appropriated, which would be necessary to fund any recently concluded agreements.

d. The majority representative of employees in an appropriate unit shall be entitled to act for, and negotiate successor agreements covering, all employees in the unit and shall be responsible for representing the interests of those employees without discrimination. It shall be the mutual obligation of the employer and the majority representative of any of its employees to negotiate collectively with respect to mandatorily negotiable subjects which intimately and directly affect the work and welfare of employees. These subjects include wages, hours of work and other terms and conditions of employment. The obligation to negotiate in good faith encompasses the responsibility to meet at reasonable times and to confer on matters properly presented for negotiations and to execute a written contract containing an agreement reached, but the obligation does not compel either party to agree to a proposal or require the making of a concession.

e. The acquisition by the corporation of a public or private entity which provides public transportation services shall not adversely affect, during the period coincident with the remaining term of an existing collective bargaining agreement, the rights previously enjoyed by employees of the acquired entity who remain as or are transferred to and appointed as employees of the employer, with regard to wages, vaca-

tions, seniority, health, welfare, life insurance and disability benefits provided pursuant to those agreements and the reemployment rights set forth therein.

f. For purposes of this subsection, 'employees' means individuals, including supervisory employees, management executives and confidential employees, who

(1) Have terminated their employment with an acquired entity with vested retirement benefits, or

(2) Are employed by the corporation or a subsidiary after accruing retirement benefits, whether or not vested, while employed by an acquired entity.

The corporation, upon acquiring a public or private entity which provides public transportation services, shall ensure that employees' retirement benefits which have accrued on the basis of service to the date of the acquisition are provided for and paid as they come due. These benefits shall be provided for and paid either by the entity so acquired, the former owner or owners of the entity, an affiliate of the entity, the Pension Benefit Guaranty Corporation, another public instrumentality, the corporation itself, any other reasonable means, or any combination of the foregoing. These benefits may be provided for either through existing plans, new plans, mergers or consolidations of plans, or other appropriate or reasonable means.''

Amend pages 16-24, sections 13-29, line 1, renumber sections 13 through 29 as 15 through 31.

Amend page 24, section 29, line 2, omit "25.", insert "28.".

STATEMENT

These amendments deal with labor protection. "Employees" is defined as employees of the corporation or any public or private entity acquired and owned by the corporation. It does not include supervisory, managerial executives or confidential employees.

Employees of the corporation or employees of any public or private entity acquired by the corporation shall have the right to join labor organizations and negotiate collectively. The acquisition by the corporation of a public or private entity providing public transportation services shall not adversely affect, during the remaining term of a collective bargaining agreement, the rights and benefits enjoyed by employees of the acquired entity who become employees of the corporation or a subsidiary. The corporation shall ensure that retirement benefits which have accrued on the basis of service to the date of the acquisition, are provided for and paid as they come due. Disputes over new collectively negotiated agreements shall be resolved by fair and final offer arbitration.

[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 3137

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 26, 1979

By Senators HERBERT, ERICCHETTI, LIPMAN, J. RUSSO,
MERLINO and HIRKALA

Referred to Committee on Transportation and Communications

AN ACT creating a public corporation within the Department of Transportation empowered to acquire, operate and contract for the operation of public transportation services and facilities, prescribing its powers and duties 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. This act shall be known and may be cited as the "New Jersey
2 Public Transportation Act of 1979."

1 2. The Legislature hereby finds and declares that:

2 a. The provision of efficient, coordinated, safe and responsive
3 public transportation is an essential public purpose which promotes
4 mobility, serves the needs of the transit dependent, ***[costers]***
5 *fosters* commerce, conserves limited energy resources, protects
6 the environment and promotes sound land use and the revitaliza-
7 tion of our urban centers.

8 b. As a matter of public policy, it is the responsibility of the
9 State to establish and provide for the operation and improvement
10 of a coherent public transportation system in the most efficient
11 and effective manner.

12 c. In the development of public transportation policy and plan-
13 ning, participation by county and municipal governments*, ****[com-**
14 **muters]**** **transit riders** and concerned citizens* should be
14A encouraged.

15 d. In the provision of public transportation services, ***[the State**
16 should consider, consistent with the purposes of this act, the utili-
17 zation of effective private management]* *it is desirable to encour-
17A age to the maximum extent feasible the participation of private
17B enterprise and to avoid destructive competition*.

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

18 e. In furtherance of these findings and declarations, a public
 19 corporation shall be created with the necessary powers to accom-
 20 plish ***[these]*** **the** purposes **and goals set forth in this section**,
 21 including the power to acquire and operate public transportation
 22 assets.

1 3. As used in this act:

2 a. "Corporation" means the New Jersey Transit Corporation.

3 b. "Motorbus regular route service" means and includes the
 4 operation of any motorbus or motorbuses on streets, public high-
 5 ways or other facilities, over a fixed route and between fixed ter-
 6 mini on a regular schedule for the purpose of carrying passengers
 7 for hire or otherwise, in this State or between points in this State
 8 and points in other states.

9 c. "Capital equipment and facilities" means and includes, in
 10 connection with public transportation service, passenger stations,
 11 shelters and terminals, automobile parking facilities, ramps, track
 12 connections, signal systems, power systems, information and com-
 13 munication systems, roadbeds, transit lanes or rights of way,
 14 equipment storage and servicing facilities, bridges, grade crossings,
 15 rail cars, locomotives, motorbus and other motor vehicles, mainte-
 16 nance and garage facilities, revenue handling equipment and any
 17 other equipment, facility or property useful for or related to the
 18 provision of public transportation service.

19 d. "Paratransit services" means and includes any service, other
 20 than motorbus regular route service and charter services, includ-
 21 ing, but not limited to, dial-a-ride, nonregular route, jitney or
 22 community minibus, and shared-ride services such as vanpools,
 23 limousines or taxicabs which are regularly available to the public
 24 ***[and are not]*** **. Paratransit services shall not include limousine*
 25 *or taxicab service** reserved for the private and exclusive use of
 25A individual passengers.

26 e. "Public transportation or public transportation service"
 27 means rail passenger service, motorbus regular route service,
 28 paratransit service, **and** motorbus charter service ***[or rail**
 29 **freight service]***.

30 f. "Motorbus charter service" means and includes subscription,
 31 ***[school bus, charter,]*** tour ***[or]*** **,* other special motorbus*
 32 *services *or school bus services or charter services as set forth in*
 33 *section 7**.

34 ***[g.** "Rail freight service" means and includes the operation
 35 of a railroad, subway, street, traction or electric railway for the
 36 purpose of carrying freight in this State or between points in this
 37 State and points in other states. **]***

38 ***[h.]*** *g.* "Rail passenger service" means and includes the
 39 operations of a railroad, subway, street, traction or electric rail-
 40 way for the purpose of carrying passengers in this State or be-
 41 tween points in this State and points in other states.

1 4. a. There is hereby established in the Executive Branch of the
 2 State Government the New Jersey Transit Corporation, a body
 3 corporate and politic with corporate succession. For the purpose of
 4 complying with the provisions of Article V, Section IV, paragraph
 5 1 of the New Jersey Constitution, the corporation is hereby allo-
 6 cated within the Department of Transportation, but, notwithstand-
 7 ing said allocation, the corporation shall be independent of any
 8 supervision or control by the department or by any body or officer
 9 thereof. The corporation is hereby constituted as an instru-
 10 mentality of the State exercising public and essential governmental
 11 functions, and the exercise by the corporation of the powers con-
 12 ferred by this act shall be deemed and held to be an essential
 13 governmental function of the State.

14 b. The corporation shall be governed by a board which shall
 15 consist of ***[five]*** *seven* members including the Commissioner
 15A of Transportation and the State Treasurer, who shall be members
 15B ex officio, another member of the Executive Branch to be selected
 16 by the Governor who shall also serve ex officio, and ***[two]*** *four*
 16A other public members who shall ***[serve at the pleasure of]*** *be
 16B appointed by* the Governor*, with the advice and consent of the
 16C Senate, for 1 year staggered terms and until their successors are
 17 appointed and qualified. At least one public member shall be a
 17A **regular** public transportation ****[commuter]**** **rider**. Each
 17B public member may be removed from office by the Governor for
 18 cause. A vacancy in the membership of the board occurring other
 19 than by expiration of term shall be filled in the same manner as the
 19A original appointment, but for the unexpired term only. The first
 19B appointments shall be for 1, 2, 3 and 4 years respectively**,** and
 19C thereafter****[,]**** for terms of 4 years as stated.* ***[The board**
 20 shall designate a secretary who need not be a member.]* *The
 20A board shall **annually** designate a vice chairman and secretary.
 20B The secretary need not be a member.*

21 c. Board members other than those serving ex officio shall serve
 22 without compensation, but members shall be reimbursed for actual
 23 expenses necessarily incurred in the performance of their duties.

24 d. The Commissioner of Transportation shall serve as chairman
 25 of the board. He shall chair board meetings and shall have
 26 responsibility for the scheduling and convening of all meetings of
 27 the board. *In his absence, the vice chairman shall chair the board

28 *meeting.** Each ex officio member of the board may designate ***[one**
 29 **or more]*** *two* employees of his department or agency ***[to]*** *,
 30 *one of whom may** represent him at meetings of the board***[,** and
 31 **each such]*** *. *A** designee may lawfully vote and otherwise act
 32 on behalf of the member for whom he constitutes the designee. Any
 33 such designation shall be in writing delivered to the board and
 33A shall continue in effect until revoked or amended by writing de-
 33B livered to the board.

34 e. The powers of the corporation shall be vested in the members
 35 of the board thereof and ***[three]*** *four* members of the board
 36 shall constitute a quorum at any meeting thereof. Actions may be
 37 taken and motions and resolutions adopted by the board at any
 38 meeting thereof by the affirmative vote of at least ***[three]*** *four*
 39 members. No vacancy in the membership of the board shall impair
 40 the right of a quorum to exercise all the rights and perform all the
 41 duties of the board.

42 f. A true copy of the minutes of every meeting of the board shall
 43 be delivered forthwith, by and under the certification of the secre-
 44 tary thereof, to the Governor. No action taken at such meeting by
 45 the board shall have force or effect until approved by the Governor
 46 or until 10 days after such copy of the minutes shall have been
 47 delivered. If, in said 10-day period, the Governor returns such
 48 copy of the minutes with veto of any action taken by the board or
 49 any member thereof at such meeting, such action shall be null and
 50 of no effect. The Governor may approve all or part of the action
 51 taken at such meeting prior to the expiration of the said 10-day
 52 ***[peirod]*** *period*.

53 *g. *The board meetings shall be subject to the provisions of the*
 54 *“Open Public Meetings Act,” P. L. 1975, c. 231 (C. 10:4-6 et seq.).**

1 5. In addition to the powers and duties conferred upon it else-
 2 where in this act, the corporation may do all acts necessary and
 3 reasonably incident to carrying out the objectives of this act, in-
 4 cluding but not in limitation thereof the following:

- 5 a. Sue and be sued;
- 6 b. Have an official seal and alter the same at pleasure;
- 7 c. Make and alter bylaws for its organization and internal
 8 management and for the conduct of its affairs and business;
- 9 d. Maintain an office at such place or places within the State
 10 as it may determine;
- 11 e. Adopt, amend and repeal such rules and regulations as it
 12 may deem necessary to effectuate the purposes of this act, which
 13 shall have the force and effect of law; it shall publish the same

14 and file them in accordance with the "Administrative Procedure
15 Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.) with the Director of
16 the Office of Administrative Law;

17 f. Call to its assistance and avail itself of the service of such
18 employees of any Federal, State, county or municipal department
19 or agency as it may require and as may be available to it for said
20 purpose;

21 g. Apply for, accept and expend money from any Federal, State,
22 county or municipal agency or instrumentality and from any
23 private source; comply with Federal statutes, rules and regula-
24 tions, and qualify for and receive all forms of financial assistance
25 available under Federal law to assure the continuance of, or for the
26 support or improvement of public transportation and as may be
27 necessary for that purpose to enter into agreements, including
28 Federally required labor protective agreements;

29 h. Plan, design, construct, equip, operate, improve and maintain,
30 either directly or by contract with any public or private entity,
31 public transportation services, capital equipment and facilities or
32 any parts or functions thereof, and other transportation projects,
33 or any parts or functions thereof, which may be funded under
34 section 3 of the Federal Urban Mass Transportation Act of 1964,
35 P. L. 88-365 (49 U. S. C. § 1602), or any successor or additional
36 Federal act having substantially the same or similar purposes or
37 functions; the operation of the facilities of the corporation, by the
38 corporation or any public or private entity, may include appro-
39 priate and reasonable limitations on competition in order that
40 maximum service may be provided most efficiently to the public;

41 i. Apply for and accept, from appropriate regulatory bodies,
42 authority to operate public transportation services where nec-
43 essary;

44 j. Purchase, lease as lessee, or otherwise acquire, own, hold,
45 improve, use and otherwise deal in and with real or personal prop-
46 erty, or any interest therein, from any public or private entity,
47 wherever situated;

48 k. Lease as lessor, sell or otherwise dispose of on terms which
49 the corporation may prescribe, real and personal property, includ-
50 ing tangible or intangible property and consumable goods, or any
51 interest therein, to any public or private entity, in the exercise of
52 its powers and the performance of its duties under this act. In
53 order to provide or encourage adequate and efficient public trans-
54 portation service, the corporation may lease or otherwise permit
55 the use or occupancy of property without cost or at a nominal
56 rental;

57 l. Restrict the rights of persons to enter upon or construct any
58 works in or upon any property owned or leased by the corporation,
59 except under such terms as the corporation may prescribe; perform
60 or contract for the performance of all acts necessary for the man-
61 agement, maintenance and repair of real or personal property
62 leased or otherwise used or occupied pursuant to this act;

63 m. Establish one or more operating divisions as deemed nec-
63A essary*. *Upon the establishment of an operating division, there*
63B *shall be established a geographically coincident advisory committee*
63C ***to be appointed by the Governor with the advice and consent of*
63D *the Senate***. *The committee shall consist of county and municipal*
63E *government representatives**[.]** and concerned citizens**, in*
63F *the number and for such terms as may be fixed by the corporation.***
63G *and shall advise the corporation as to the public transportation*
64 *service provided in the operating division. At least **[one mem-*
64A *ber]** **two members** of each **[the]** advisory committee*
64B *shall be **[a]** public transportation **[commuter]** **riders,*
64C *including but not limited to urban transit users and suburban com-*
64D *muters as appropriate***. *One public member from the board of*
64E *corporation shall serve as a liaison to each advisory committee*;*

65 n. Set and collect fares and determine levels of service for
66 service provided by the corporation either directly or by contract
67 including, but not limited to, such reduced fare programs as deemed
68 appropriate by the corporation; revenues derived from such service
69 may be collected by the corporation and shall be available to the
70 corporation for use in furtherance of any of the purposes of this
71 act;

72 o. Set and collect rentals, fees, charges or other payments from
73 the lease, use, occupancy or disposition of properties owned or
74 leased by the corporation; such revenues shall be available to the
75 corporation for use in furtherance of any of the purposes of this
76 act;

77 p. Deposit corporate revenues in interest bearing accounts or in
78 the State of New Jersey Cash Management Fund established pur-
79 suant to section 1 of P. L. 1977, c. 28 (C. 52:18A-90.4);

80 q. Delegate to subordinate officers of the corporation such
81 powers and duties as the corporation shall deem necessary and
82 proper to carry out the purposes of this act;

83 r. Procure and enter into contracts for any type of insurance
84 and indemnify against loss or damage to property from any cause,
85 including loss of use and occupancy, against death or injury of any
86 person, against employees' liability, against any act of any member,
87 officer, employee or servant of the corporation, whether part-time,

88 full-time, compensated or noncompensated, in the performance of
 89 the duties of his office or employment or any other insurable risk*.

89A *In addition, the corporation may carry its own liability insurance** ;

90 s. Promote the use of public transportation services, coordinate
 91 ticket sales and passenger information and sell, lease or otherwise
 92 contract for advertising in or on the equipment or facilities of the
 93 corporation ***[and]*** ;

94 **l. Adopt and maintain employee benefit programs for employees*
 95 *of the corporation including, but not limited to, pension, deferred*
 96 *compensation, medical, disability, and death benefits, and which*
 97 *programs may utilize insurance contracts, trust funds, and any*
 98 *other appropriate means of providing the stipulated benefits, and*
 99 *may involve new plans or the continuation of plans previously es-*
 100 *tablished by entities acquired by the corporation;*

101 u. Own, vote, and exercise all other rights incidental to the own-
 102 ership of shares of the capital stock of any incorporated entity ac-
 103 quired by the corporation pursuant to the powers granted by this
 104 act; and,*

105 ***[t.]*** *v.* Enter into any and all agreements or contracts, exe-
 106 cute any and all instruments, and do and perform any and all acts
 107 or things necessary, convenient or desirable for the purposes of
 108 the corporation, or to carry out any power expressly or implicitly
 109 given in this act.

1 6. a. The corporation may enter into contracts with any public
 2 or private entity to operate rail passenger ***[and rail freight]*** ser-
 3 vice or portions or functions thereof. Where appropriate, payments
 4 by the corporation for services contracted for under this section
 5 shall be determined in accordance with the Federal Regional Rail
 6 Reorganization Act of 1973 (45 U. S. C., 701 et seq.), the Federal
 7 Rail Passenger Service Act of 1970 (45 U. S. C. 501 et seq.), any
 8 other applicable Federal law, and any and all rules, regulations
 9 and standards, promulgated thereunder and decisions issued pur-
 10 suant thereto. In all other cases, payments shall be by agreement
 11 upon such terms and conditions as the corporation shall deem
 12 necessary.

13 b. The corporation may enter into contracts with any public or
 14 private entity to operate motorbus regular route, paratransit or
 15 motorbus charter services or portions or functions thereof. Pay-
 16 ments shall be by agreement upon such terms and conditions as
 17 the corporation shall deem necessary.

1 7. *a.* The corporation or any public or private entity under
 2 contract to the corporation operating regular route motorbus ser-
 3 vice may provide motorbus charter service provided that the carrier

4 complies with applicable State and Federal statutes, rules and
 5 regulations with regard to any such operations. **Where the cor-*
 6 *poration acquires a public or private entity engaged in the provi-*
 7 *sion of motorbus regular route service and that entity, at the time*
 8 *of acquisition, provides school bus services or is authorized to*
 9 *provide motorbus charter services, the corporation or any sub-*
 10 *subsidiary thereof may continue to provide the services only to the*
 11 *extent that the acquired entity is providing or is authorized to*
 12 *provide the services.**

13 **b. The corporation shall promulgate rules and regulations re-*
 14 *garding procedures for hearings before the board of claims of*
 15 *destructive competition arising from actions of the corporation.*
 16 *Such claims may be brought by private entities providing motor-*
 17 *bus regular route service.*

1 *8. a. The corporation or any subsidiary thereof shall not be*
 2 *considered a public utility as defined in R. S. 48:2-13 and except*
 3 *with regard to subsection c. of this section the provisions of Title*
 4 *48 of the Revised Statutes shall not apply to the corporation or any*
 5 *subsidiary thereof.**

6 ***[8. a.]*** **b.** The authority hereby given the corporation pur-
 7 suant to **section 6 of** this act with respect to fares and service,
 8 shall be exercised ***[by the corporation directly or through con-**
 9 **tract]*** without regard or reference to the jurisdiction vested in
 10 the Department of Transportation by sections 48:2-21, 48:2-24
 11 and 48:4-3 of the Revised Statutes. The Department of Trans-
 12 portation shall resume jurisdiction over service and fares upon
 13 the termination and discontinuance of a contractual relationship
 14 between the corporation and a private or public entity relating to
 15 the provision of public transportation services operated under the
 16 authority of certificates of public convenience and necessity pre-
 17 viously issued by the department or its predecessors; provided,
 18 however, that no private entity shall be required to restore any
 19 service discontinued or any fare changed during the existence of
 20 a contractual relationship with the corporation, unless the Depart-
 21 ment of Transportation shall determine, after notice and hearing,
 22 that the service or fare is required by public convenience and
 23 necessity.

24 ***[b.]*** **c.** Notwithstanding any other provisions of this act, all
 25 vehicles used by any public or private entity pursuant to contract
 26 authorized by this act, and all vehicles operated by the corporation
 27 directly, shall be subject to the jurisdiction of the Department of
 28 Transportation with respect to ***[insurance,]*** maintenance, speci-
 29 fications and safety to the same extent such jurisdiction is con-
 30 ferred upon the department by Title 48 of the Revised Statutes.

31 *[c.]* *d.* Before implementing any fare increase for any
 32 motorbus regular route or rail passenger services, or the *sub-*
 33 *stantial curtailment or* abandonment of any such services, the
 34 corporation shall hold a public *[meeting]* *hearing* in the area
 35 affected during evening hours. Notice of such *[meetings]* *hear-*
 36 *ing* shall be given by the corporation at least *[10]* *15* days
 37 prior to such *[meeting]* *hearing* to the governing body of each
 38 county whose residents will be affected and to the clerk of each
 39 municipality in the county or counties whose residents will be af-
 40 fected; such notice shall also be posted at least *[10]* *15* days
 41 prior to such *[meeting]* *hearing* in prominent places on the
 42 railroad cars and buses serving the routes to be affected.

1 9. In any proceeding before the Department of Transportation
 2 for decreasing or abandoning service, any contract payments
 3 offered by the corporation for continuing service shall be considered
 4 as available revenues by the department, in making any determi-
 5 nation on the petition.

1 10. In order to conserve, improve, and promote public trans-
 2 portation service necessary for public use pursuant to the provi-
 3 sions of this act, the corporation may purchase and improve capital
 4 equipment and facilities, including, but not limited to, the design,
 5 planning, acquisition, construction, reconstruction, relocation, in-
 6 stallation, removal, establishment, repair or rehabilitation of such
 7 equipment or facilities. The powers herein granted shall be exer-
 8 cised by the corporation, notwithstanding the provisions to the
 9 contrary of P. L. 1948, c. 92 (C. 52:18A-1 et seq.) and chapters 25,
 10 32, 33, 34 and 35 of Title 52 of the Revised Statutes, and in ac-
 11 cordance with procedures set forth in section 11 of this act.

1 11. a. All purchases, contracts or agreements pursuant to this
 2 act shall be made or awarded directly by the corporation, except
 3 as otherwise provided in this act, only after public advertisement
 4 for bids therefor, in the manner provided in this act, notwithstand-
 5 ing the provisions to the contrary of P. L. 1948, c. 92 (C. 52:18A-1
 6 et seq.) and chapters 25, 32, 33, 34 and 35 of Title 52 of the Revised
 6A Statutes.

7 b. Whenever advertising is required: (1) specifications and
 8 invitations for bids shall permit such full and free competition as
 9 is consistent with the procurement of supplies and services neces-
 10 sary to meet the requirements of the corporation; (2) the adver-
 11 tisement for bids shall be in such newspaper or newspapers selected
 12 by the corporation as will best give notice thereof to bidders and
 13 shall be sufficiently in advance of the purchase or contract to

14 promote competitive bidding; (3) the advertisement shall desig-
15 nate the time and place when and where sealed proposals shall
16 be received and publicly opened and read, the amount of the cash,
17 certified check, cashiers check or bank check, if any, which shall
18 accompany each bid, and such other terms as the corporation may
19 deem proper.

20 c. The corporation may reject any or all bids not in accord with
21 the advertisement of specifications, or may reject any or all bids
22 if the price of the work materials is excessively above the estimate
23 cost or when the corporation shall determine that it is in the public
24 interest to do so. The corporation shall prepare a list of the bids,
25 including any rejected and the cause therefor. The corporation may
26 accept bids containing minor informalities. Awards shall be made
27 by the corporation with reasonable promptness by written notice
28 to the responsible bidder whose bid, conforming to the invitation
29 for bids, will be the most advantageous to the State, price and
30 other factors considered.

31 d. A proposal bond equal to at least 50% of the bid executed by
32 the contractor with such sureties as shall be approved by the
33 corporation in favor of the State of New Jersey, shall accompany
34 each bid and shall be held as security for the faithful performance
35 of the contractor in that, if awarded the contract, the bidder will
36 deliver the contract within 10 working days after the award,
37 properly executed and secured by satisfactory bonds in accordance
38 with the provisions of N. J. S. 2A :44-143 through N. J. S. 2A :44-147
39 and specifications for the project. The corporation may require in
40 addition to the proposal bond such additional evidence of the
41 ability of a contractor to perform the work required by the contract
42 as it may deem necessary and advisable. All proposal bonds which
43 have been delivered with the bids, except those of the two lowest
44 responsible bidders, shall be returned within 30 working days after
45 such bids are received.

46 e. If the bidder fails to provide a satisfactory proposal bond as
47 provided in subsection d. of this section, his bid shall be rejected.

48 f. The corporation shall determine the terms and conditions of
49 the various types of agreements or contracts, including provisions
50 for adequate security, the time and amount or percentage of each
51 payment thereon and the amount to be withheld pending completion
52 of the contract, and it shall issue and publish rules and regulations
53 concerning such terms and conditions, standard contract forms and
54 such other rules and regulations concerning purchasing or procure-
55 ment, not inconsistent with any applicable law, as it may deem
56 advisable to promote competition and to protect the public interest.

57 g. Any purchase, contract or agreement pursuant to subsection a.
 58 hereof may be made, negotiated or awarded by the corporation
 59 without advertising ***[**in any manner which the corporation may
 60 deem effective to promote full and free competition whenever
 61 competition is practicable;**]*** *under the following circumstances:**

61A (1) When the aggregate amount involved does not exceed
 61B \$7,500.00; or

62 (2) In all other cases when the corporation seeks:

63 (a) To acquire **public or private entities engaged in the*
 63A *provision of public transportation service,** used public trans-
 64 portation equipment or existing public transportation facilities
 64A or rights of way; or

65 (b) To acquire subject matter which is that described in
 66 section 4 of P. L. 1954, c. 48 (C. 52:34-9); or

67 (c) To make a purchase or award or make a contract or
 68 agreement under the circumstances described in section 5 of
 69 P. L. 1954, c. 48 (C. 52:34-10)***[.]*** *; *or**

69A **(d) To contract pursuant to section 6 of this act.**

70 h. The corporation shall require that all persons proposing to
 71 submit bids on improvements to capital facilities and equipment
 72 shall first be classified by the corporation as to the character and
 73 amount of work on which they shall be qualified to submit bids.
 74 Bids shall be accepted only from persons qualified in accordance
 75 with such classification.

1 ***12. a. The corporation shall formulate and abide by an affirma-*
 2 *tive-action program of equal opportunity whereby it will provide*
 3 *equal employment opportunity to rehabilitated offenders and mem-*
 4 *bers of minority groups qualified in all employment categories,*
 5 *including the handicapped, in accordance with the provisions of the*
 6 *“Law Against Discrimination,” P. L. 1945, c. 169 (C. 10:5-1 et*
 7 *seq.), except in the case of the mentally handicapped, if it can be*
 8 *clearly shown that such handicap would prevent such person from*
 9 *performing a particular job.*

10 *b. Contracts and subcontracts to be awarded by the corporation*
 11 *in connection with the construction, renovation or reconstruction*
 12 *of any structure or facility owned or used by the corporation shall*
 13 *contain appropriate provisions by which contractors and subcon-*
 14 *tractors or their assignees agree to afford an equal employment*
 15 *opportunity to all prospective employees and to all actual em-*
 16 *ployees to be employed by the contractor or subcontractor in*
 17 *accordance with an affirmative action program consonant with the*
 18 *provisions of the “Law Against Discrimination” P. L. 1945, c. 169*
 19 *(C. 10:5-1 et seq.).***

1 *12. a. The corporation shall have the power to acquire by pur-
2 chase, condemnation, lease, gift or otherwise, on such terms and
3 conditions and in such manner as it may deem proper, for use by
4 the corporation or for use by any other public or private entity
5 providing public transportation services, all or part of the facility,
6 plant, equipment, property, shares of stock, rights of property, real,
7 personal, tangible, intangible or mixed rights in property, reserve
8 funds, employees pension or retirement funds, special funds, fran-
9 chises, licenses, patents, permits and papers, documents and
10 records of a public or private entity providing public transportation
11 services within the State, subject to any outstanding obligations
12 relating to such items as might be agreed upon by the parties,
13 together with all or any part of the right of way, equipment, fixed
14 facilities and other property of any kind of any such entity ending
15 beyond the boundaries of this State.

16 Such properties upon acquisition by or lease to the corporation
17 shall become and be operated as part of any public transportation
18 services by the corporation or any entity designated by the corpo-
19 ration and the corporation shall have all powers in connection with
20 such properties and such operations as are conferred by this act.

21 b. The corporation shall also have the power to acquire by pur-
22 chase, condemnation, lease, gift or otherwise, on such terms and
23 conditions and in such manner as it may deem proper, any land or
24 interest therein, including land under water and air rights, which
25 it may determine is reasonably necessary for the purposes of the
26 corporation under the provisions of this act and any and all rights,
27 whether for immediate or future use, title and interest in such
28 land and other property, including public lands, parks, playgrounds,
29 reservations, highways or parkways, owned by or in which any
30 county or municipality, borough, town, township, village, or other
31 political subdivision of the State has any right, title or interest, or
32 parts thereof or rights therein and any fee simple absolute or any
33 lesser interest in private property, and any fee simple absolute in,
34 easements upon, or the benefit of restrictions upon, abutting prop-
35 erty to preserve and protect corporation projects.

36 c. The corporation, if it proceeds to acquire any public or private
37 entity engaged in the provision of public transportation service,
38 or any part thereof by condemnation, shall have the power to take
39 control of and operate such entity immediately upon the filing and
40 approval of the complaint for condemnation, if the corporation in
41 its discretion, determines such action to be necessary. This power
42 shall include the possession of all right, title and other powers of
43 ownership in all properties and facilities described in the petition.

44 Such action shall be effective upon service of a copy thereof on
45 the condemnee. In the determination of the fair value of any such
46 entity, there shall not be included any value attributable to expend-
47 itures for improvements or payments made to the entity by the
48 corporation, the Commuter Operating Agency or the Department
49 of Transportation.

50 d. Upon the exercise of the power of eminent domain by the
51 corporation the compensation to be paid thereunder shall be
52 ascertained and paid in the manner provided in the "Eminent
53 Domain Act of 1971," P. L. 1971, c. 361 (C. 20:3-1 et seq.) in so far
54 as the provisions thereof are applicable and not inconsistent with
55 the provisions contained in this act. The corporation may join in
56 separate subdivisions in one petition or complaint the descriptions
57 of any number of tracts or parcels of land or property to be con-
58 demned, and the names of any number of owners and other parties
59 who may have an interest therein and all such land or property
60 included in said petition or complaint may be condemned in a single
61 proceeding; provided, however, that separate awards shall be
62 made for each tract or parcel of land or property; and provided,
63 further, that each of said tracts or parcels of land or property
64 shall be wholly within or have a substantial part of its value be
65 wholly within the same county.

66 c. Upon the filing by the corporation of a complaint in any action
67 to fix the compensation to be paid for any property or at any time
68 thereafter, the corporation may file with the clerk of the county in
69 which such property is located and also with the clerk of the
70 superior court a declaration of taking, signed by the corporation,
71 or such employees of the corporation as may be designated by the
72 corporation, declaring that possession of one or more of the tracts
73 or parcels of land or property described in the complaint is thereby
74 being taken by and for the use of the corporation. The declaration
75 of taking shall be sufficient if it sets forth (1) a description of each
76 tract or parcel of land or property to be taken, (2) a statement of
77 the estate or interest in the property being taken, (3) a statement
78 of the sum of money estimated by the corporation to be just com-
79 pensation for the taking of the estate or interest in each tract or
80 parcel of land or property described in said declaration, and
81 (4) an allegation that, in compliance with the provisions of this act,
82 the corporation has established and is maintaining a trust fund
83 as hereinafter provided.

84 f. Upon the filing by the corporation of a declaration of taking
85 and the depositing with the clerk of the superior court of the amount
86 of the estimated compensation stated in the declaration, the

87 corporation, without other process or proceedings, shall be entitled
88 to the exclusive possession and use of each tract or parcel of land
89 or property described in said declaration and may forthwith enter
90 into and take possession of said land or property, it being the intent
91 of this provision that the action to fix compensation to be paid or
92 any other proceedings relating to the taking of the land or property
93 or interest therein or entering thereon shall not delay the taking of
94 possession thereof and the use thereof by the corporation for the
95 purposes authorized by this act. The corporation shall not abandon
96 any condemnation proceeding subsequent to the date upon which
97 it has taken possession of the land or property as herein provided.

98 g. The corporation shall cause notice of the filing of a declaration
99 of taking of property as provided in this act and of the making of
100 the deposit required by this act with respect thereto to be served
101 upon each party to the action who resides in the State, either
102 personally or by leaving a copy thereof at his residence or business
103 address if known, and upon each such party who resides out of the
104 State, by mailing a copy thereof to him at his residence or
105 business address, if known. In the event that the residence of
106 any such party or the name of such party is unknown, such
106A notice shall be published at least once in a newspaper published
107 or circulating in the county or counties in which the property is
108 located. Such service, mailing or publication shall be made within
109 30 days after filing such declaration. Upon the application of any
110 party in interest and after notice to other parties in interest,
111 including the corporation, the Superior Court may direct that the
112 money deposited with the clerk of the superior court or any part
113 thereof be paid forthwith, without deduction of any fees or com-
114 missions, to the person or persons entitled thereto for or on account
115 of the just compensation to be awarded in said action; provided,
116 that each such person shall have filed with the clerk of the superior
117 court a consent in writing that, in the event the award in the action
118 shall be less than the amount deposited, the court, after such notice
119 as the court prescribes and hearing, may determine the liability,
120 if any, for the return of the difference or any part thereof and
121 enter judgment therefor.

122 If the amount of the award as finally determined shall exceed
123 the amount so deposited, the person or persons to whom the award
124 is payable shall be entitled to recover from the corporation the
125 difference between the amount of the deposit and the amount of
126 the award, with interest at the rate of 6% per annum thereon from
127 the date of making the deposit. If the amount of the award so
128 determined shall be less than the amount so deposited, the clerk

129 of the superior court shall return the difference between the
 130 amount of the award and the deposit, including all accrued interest
 131 thereon, to the corporation unless the deposit or any part thereof
 132 shall have theretofore been distributed, in which event the court,
 133 on application of the corporation and notice to all persons interested
 134 in the award and affording them an opportunity to be heard, shall
 135 enter judgment in favor of the corporation for the difference
 136 against the party or parties liable for the return thereof.]*

1 **[*12.]* **13.** a. *The corporation shall have the power to*
 2 *acquire by purchase, condemnation, lease, gift or otherwise, on*
 3 *terms and conditions and in the manner it deems proper, for use by*
 4 *the corporation or for use by any other public or private entity*
 5 *providing public transportation services, all or part of the facility,*
 6 *plant, equipment, property, shares of stock, rights of property,*
 7 *reserve funds, employees pension or retirement funds, special*
 8 *funds, franchises, licenses, patents, permits and papers, documents*
 9 *and records of a public or private entity providing public trans-*
 10 *portation services within the State.*

11 b. *The corporation shall also have the power to acquire by pur-*
 12 *chase, condemnation, lease, gift or otherwise, on the terms and*
 13 *conditions and in the manner it deems proper, any land or property*
 14 *real or personal, tangible or intangible which it may determine is*
 15 *reasonably necessary for the purposes of the corporation under*
 16 *the provisions of this act.*

17 c. (1) *The corporation, when acquiring property pursuant to*
 18 *subsections a. or b. of this section shall exercise its power of emi-*
 19 *nent domain in accordance with the provisions of the "Eminent*
 20 *Domain Act of 1971," P. L. 1971, c. 361 (C. 20:3-1 et seq.).*

21 (2) *For purposes of this act the definition of property in section*
 22 *2 of P. L. 1971, c. 361 (C. 20:3-2) includes all property referred to*
 23 *in subsections a. or b. of this section, and the provisions of P. L.*
 24 *1971, c. 361 shall apply to that property.*

25 d. (1) *If the corporation shall determine to acquire by condemna-*
 26 *tion all outstanding shares of corporate stock of a company and*
 27 *the stock is owned by 10 or more individuals or entities the court,*
 28 *on application of the corporation, shall appoint a trustee who shall*
 29 *act as representative of all stockholders for the purpose of the*
 30 *condemnation proceedings. Upon the appointment of a trustee the*
 31 *corporation may file a single condemnation action condemning all*
 32 *outstanding shares of stock and naming the appointed trustee as*
 33 *representative of all defendant owners.*

34 (2) When a trustee has been appointed pursuant to this section
 35 the court may award the trustee a reasonable fee as payment for
 36 services rendered. Other costs, expenses and fees shall be paid
 37 from the proceeds of the condemnation award or settlement if
 38 amicably resolved.

39 e. A State agency, State authority, county, municipality, bistrate
 40 authority, or other political subdivision of the State is authorized
 41 to donate, give, transfer or assign any asset or property it now
 42 owns or may hereafter acquire to the corporation which may be
 43 necessary for the furtherance of the objectives of this act.

44 f. Upon the filing of a declaration of taking the corporation shall
 45 be entitled to the immediate possession of all property and assets
 46 named therein; and in the case of a condemnation pursuant to sub-
 47 section d. or the acquisition of the entire assets of any entity, the
 48 corporation shall be entitled to immediate possession and control
 49 of all assets and facilities and shall have exclusive management
 50 authority over the entity taken.

51 g. Prior to the condemnation of any private entity engaged in
 52 the provision of motor bus regular route service, the corporation
 53 shall give 60 days' notice of its intent to the President of the Sen-
 54 ate, the Speaker of the General Assembly, and the ****[Chairman]****
 55 ****chairmen**** of the Senate and Assembly Transportation and Com-
 56 munications Committees. This subsection shall be in effect for 2
 57 years following the enactment of this act.

58 h. Notwithstanding any provision to the contrary, the corpora-
 59 tion shall not acquire ****by condemnation**** any privately owned
 60 entity providing public transportation service, which ****[is not**
 61 **receiving]**** ****during the previous 12 months has not received****
 62 **operating assistance from the corporation **or its predecessor****,
 63 unless the corporation shall transmit a proposal for the acquisition
 64 to the Senate and General Assembly on a day on which both Houses
 65 shall be meeting in the course of a regular or special session, along
 66 with any other information or materials the Legislature may deem
 67 necessary. The provisions of any other law to the contrary not-
 68 withstanding, no such proposal shall take effect if, within 60 days
 69 of the date of its transmittal to the Senate and General Assembly,
 70 the Legislature shall pass a concurrent resolution stating in sub-
 71 stance that the Legislature does not favor such proposed acquisi-
 72 tion ****by condemnation****.

1 ****14. a. As used in this section:**

2 "Employee" means:

3 (1) An employee of the corporation, or

4 (2) *An employee of any public or private entity acquired and*
5 *owned by the corporation.*

6 “*Employee*” *does not include an employee or a public or private*
7 *entity, other than as provided in paragraphs (1) and (2) of this*
8 *subsection, which provides public transportation services pursuant*
9 *to operating rights granted by a regulatory body or pursuant to*
10 *authority arising from contractual agreements entered into with the*
11 *corporation pursuant to section 6 of this act. Except as provided*
12 *in subsection f. of this section, “employee” does not include a*
13 *supervisory employee as defined under the “Labor Management*
14 *Relations Act, 1947” (29 U.S.C. 141 et seq.) or a managerial execu-*
15 *tive or confidential employee as defined under the “New Jersey*
16 *Employer-Employee Relations Act,” P. L. 1944, c. 100 (C. 34:13A-1*
17 *et seq.).*

18 “*Employer*” *means an employer of an employee.*

19 “*Acquisition by the corporation of a public or private entity*
20 *which provides public transportation services,” or words of like*
21 *import, means an acquisition effected by a purchase or condemna-*
22 *tion of all or a substantial majority of the stock or other equity*
23 *interest of the entity, or purchase or condemnation of all or sub-*
24 *stantially all of the assets of the entity.*

25 *b. In accordance with law, employees of the employer shall*
26 *have and retain their rights to form, join or assist labor organiza-*
27 *tions and to negotiate collectively through exclusive representa-*
28 *tives of their own choosing.*

29 *c. The enforcement of the rights and duties of the employer and*
30 *employees shall be governed by the “New Jersey Employer-Em-*
31 *ployee Relations Act” P. L. 1944, c. 100 (C. 34:13A-1 et seq.).*
32 *Whenever negotiations between the employer and an exclusive*
33 *representative concerning the terms and conditions of employment*
34 *shall reach an impasse, the New Jersey Public Employment Rela-*
35 *tions Commission shall, upon the request of either party, take such*
36 *steps as it may deem expedient to effect a voluntary resolution of*
37 *the impasse, including the assignment of a mediator. In the event*
38 *of a failure to resolve the impasse by mediation, the Commission*
39 *shall, at the request of either party, invoke fact finding with recom-*
40 *mendations for settlement of all issues in dispute. Fact-finding*
41 *shall be limited to those issues that are within the required scope*
42 *of negotiations. In the event of a continuing failure to resolve an*
43 *impasse by means of the procedure set forth above, and notwith-*
44 *standing the fact that such procedures have not been exhausted,*
45 *but not later than 30 days prior to the expiration of a collectively*
46 *negotiated contract, the procedures set forth in paragraph (2) of*

47 subsection d. of Section 3 and Sections 4 through 8 of C. 85, P. L.
48 1977 (N. J. S. A. 34:13A-16(d)(2) through 34:13A-21) shall be
49 the sole method of dispute resolution; provided however, that the
50 cost to the State of the first year portion of any arbitration award
51 shall not exceed the appropriations permitted within the provisions
52 of the "State Expenditures Limitation Act", P. L. 1976, c. 67
53 (C. 52:9H-5 et seq.) and the arbitrator, in determining such award,
54 shall take into account pending supplemental appropriation bills,
55 any pending salary negotiations for State employees and any sums
56 which have not yet been appropriated, which would be necessary to
57 fund any recently concluded agreements.

58 d. The majority representative of employees in an appropriate
59 unit shall be entitled to act for, and negotiate successor agreements
60 covering, all employees in the unit and shall be responsible for
61 representing the interests of those employees without discrimina-
62 tion. It shall be the mutual obligation of the employer and the
63 majority representative of any of its employees to negotiate collec-
64 tively with respect to mandatorily negotiable subjects which inti-
65 mately and directly affect the work and welfare of employees.
66 These subjects include wages, hours of work and other terms and
67 conditions of employment. The obligation to negotiate in good faith
68 encompasses the responsibility to meet at reasonable times and to
69 confer on matters properly presented for negotiations and to
70 execute a written contract containing an agreement reached, but
71 the obligation does not compel either party to agree to a proposal
72 or require the making of a concession.

73 e. The acquisition by the corporation of a public or private
74 entity which provides public transportation services shall not
75 adversely affect, during the period coincident with the remaining
76 term of an existing collective bargaining agreement, the rights
77 previously enjoyed by employees of the acquired entity who remain
78 as or are transferred to and appointed as employees of the em-
79 ployer, with regard to wages, vacations, seniority, health, welfare,
80 life insurance and disability benefits provided pursuant to those
81 agreements and the reemployment rights set forth therein.

82 f. For purposes of this subsection, "employees" means in-
83 dividuals, including supervisory employees, management execu-
84 tives and confidential employees, who

85 (1) Have terminated their employment with an acquired entity
86 with vested retirement benefits, or

87 (2) Are employed by the corporation or a subsidiary after accru-
88 ing retirement benefits, whether or not vested, while employed by
89 an acquired entity.

90 *The corporation, upon acquiring a public or private entity which*
 91 *provides public transportation services, shall ensure that em-*
 92 *ployees' retirement benefits which have accrued on the basis of*
 93 *service to the date of the acquisition are provided for and paid as*
 94 *they come due. These benefits shall be provided for and paid*
 95 *either by the entity so acquired, the former owner or owners of*
 96 *the entity, an affiliate of the entity, the Pension Benefit Guaranty*
 97 *Corporation, another public instrumentality, the corporation itself,*
 98 *any other reasonable means, or any combination of the foregoing.*
 99 *These benefits may be provided for either through existing plans,*
 100 *new plans, mergers or consolidations of plans, or other appropriate*
 101 *or reasonable means.***

1 **[13.]** **15.** The corporation may appoint an executive
 2 director, directors of operating divisions*[, divisions,]* and other
 3 such additional officers, all of whom need not be members of the
 4 corporation, and may employ consulting architects, engineers,
 5 auditors, accountants, construction, management**, ** real estate,
 6 operations and financial experts, supervisors, managers and such
 7 other professional consultants and officers and employees, and may
 8 fix their compensation, as the corporation deems advisable; and may
 9 promote and discharge such officers and employees, all without
 10 regard to the provisions of Title 11 of the Revised Statutes. In
 11 developing an employee compensation schedule, the corporation
 12 shall consult with appropriate authorities of the State and file such
 13 schedule with them upon completion. The corporation shall by
 14 October 31 of each year submit to the Governor and the presiding
 15 officers and the Transportation and Communications Committees of
 16 both Houses of the Legislature**[,]** a list of all full and part-
 17 time officers and employees of the corporation and the salaries,
 18 wages and compensation received by said officers and employees
 19 during the preceding fiscal year.

20 *[Persons holding positions in the classified and unclassified ser-
 21 vice of the State who are presently enrolled in the Public Employ-
 22 ees' Retirement System shall, while employed by the corporation,
 23 continue as members of that retirement system and retain all rights
 24 and protection provided them by said retirement system. Persons
 25 employed by the corporation who are members of a State-admin-
 26 istered retirement system other than the Public Employees' Re-
 27 tirement System shall, upon acceptance of their employment with
 28 the corporation, be required to transfer their membership to the
 29 Public Employees' Retirement System.

30 Employees of the ****[corporation]**** ***corporation*** who are
 31 not presently enrolled in any State-administered retirement system
 32 shall be enrolled in the Public Employees' Retirement System if
 33 they are eligible under the terms of section 73 of P. L. 1954, c. 84
 34 (C. 43:15A-73). Employees who are ineligible for enrollment in the
 35 Public Employees' Retirement System shall retain membership in
 36 any non-State retirement system under which they have accrued
 37 benefits or rights or shall be eligible to join such system. **]***

38 **The corporation may elect or appoint from among the members
 39 of its board or from its employees some or all of the members of
 40 the board of directors of any incorporated entity of which it owns
 41 part or all of the capital stock.*

42 *Employees of the corporation, or any of its subsidiary entities,
 43 shall be covered by whatever retirement plan or plans the corpo-
 44 ration or subsidiary entity determines from time to time to main-
 45 tain for those employees. However, if an individual is a member
 46 of the Public Employees' Retirement System or any other State-
 47 administered retirement system immediately prior to his initial
 48 employment by the corporation, he shall continue as or become,
 49 as the case may be, a member of the Public Employees' Retirement
 50 System for the duration of his employment by the corporation.**

1 ****[14.]**** ****16.**** The exercise of the powers granted by this act
 2 shall be in all respects for the benefit of the people of the State, and
 3 since the improvement, operation, and maintenance of public trans-
 4 portation services by the corporation constitute the performance of
 5 essential governmental functions, ***[the corporation shall not be re-
 6 quired to pay any taxes or assessments upon any public trans-
 7 portation project or any property acquired or used by the
 8 corporation under the provisions of this act or upon the income
 9 therefrom]*** **neither the corporation nor any wholly owned busi-
 10 ness corporation or other entity shall be required to pay taxes or
 11 assessments upon any public transportation project or any prop-
 12 erty acquired or used under the provisions of this act, including,
 13 but not limited to, sales taxes, real property taxes or assessments,
 14 corporate franchise taxes or income taxes. However, any property
 15 owned by the corporation or any wholly owned business corpora-
 16 tion or other entity shall be considered "State" property as de-
 17 fined in P. L. 1977, c. 272 (C. 54:4-2.2a), and shall be subject to the
 18 in lieu tax payments provided in that act*.*

1 ****[15.]**** ****17.**** All expenses incurred by the corporation in
 2 carrying out the provisions of this act shall be payable from funds
 3 available to the corporation therefor and no liability or obligation
 4 shall be incurred by the corporation beyond the extent to which

5 moneys are available. No debt or liability of the corporation shall
6 be deemed or construed to create or constitute a debt, liability, or a
7 loan or pledge of the credit of the State.

1 ****[16.]** **18.**** Real property and rolling stock owned or used
2 by the corporation shall be exempt from all claims of creditors and
3 from levy, execution or attachment.

1 ****[17.]** **19.**** Notwithstanding any of the provisions of the
2 "New Jersey Contractual Liability Act" (N. J. S. 59:13-1 et seq.)
3 to the contrary, contract claims and suits against the corporation
4 shall be governed by said act.

1 ****[18.]** **20.**** a. The corporation shall, by September 15 of
2 each year, file with the Commissioner of Transportation a report
3 in such format and detail as the Commissioner may require setting
4 forth the actual, operational, capital and financial results of the
5 previous fiscal year, the operational, capital and financial plan for
6 the current fiscal year and a proposed operational, capital and
7 financial plan for the next ensuing fiscal year.

8 b. On or before October 31 of each year, the corporation shall
9 make an annual report of its activities for the preceding fiscal year
10 to the Governor and to the presiding officers and the Transporta-
11 tion and Communications Committees of both Houses of the Leg-
12 islature. Each such report shall set forth a complete operating
13 and financial statement covering its operations and capital projects
14 during the year.

15 c. All records of minutes, accounts, bills, vouchers, contracts
16 or other papers connected with or used or filed with the corporation
17 or with any officer or employee acting for or in its behalf are hereby
18 declared to be public records and shall be open to public inspection
19 in accordance with P. L. 1963, c. 73 (C. 47:1A-1 et seq.) and regu-
20 lations prescribed by the corporation.

21 d. The corporation shall cause an audit of its books and accounts
22 to be made at least once each year by certified public accountants
23 and the cost thereof may be treated as a cost of operation. The
24 audit shall be filed within 4 months after the close of the fiscal
25 year of the corporation and a certified duplicate copy thereof shall
26 be filed with the Division of Budget and Accounting in the De-
27 partment of Treasury.

28 e. Notwithstanding the provisions of any law to the contrary,
29 the State Auditor or his legally authorized representative may
30 examine the accounts and books of the corporation.

1 ****[19.]** **21.**** All real or personal properties purchased
2 heretofore for public transportation purposes in the name of Com-
3 muter Operating Agency, Department of Transportation, its pre-

4 decessors or the Commissioner of Transportation, shall be deemed
 5 to have been purchased in the name of the State by and through
 6 the corporation and shall henceforth be deemed to be and shall
 7 actually be the property of the corporation.

1 ****[20.]**** ****22.**** This act is intended to protect and promote the
 2 public health, safety and welfare, and shall be liberally construed
 3 to obtain the objectives and effect the purposes thereof.

1 ****[21.]**** ****23.**** If any provision of this act or the application
 2 thereof to any person, circumstances, or the exercise of any power,
 3 or authority thereunder is held invalid or contrary to law, such
 4 holding shall not affect other provisions or applications or affect
 5 other exercises of power or authority under said provisions not
 6 contrary to law, and to this end, the provisions of this act are
 7 declared to be severable.

1 ****[22.]**** ****24.**** Section 5 of P. L. 1966, c. 301 (C. 27:1A-5) is
 2 amended to read as follows:

3 5. The commissioner, as head of the department, shall have all
 4 of the functions, powers and duties heretofore vested in the State
 5 Highway Commissioner and shall, in addition to the functions,
 6 powers and duties invested in him by this act or by any other law:

7 (a) Develop, from time to time revise and maintain a compre-
 8 hensive master plan for all modes of transportation development,
 9 with special emphasis on public transportation;

10 (b) Develop and promote programs to foster efficient and eco-
 11 nomical transportation services in the State;

12 (c) Prepare plans for the preservation **[and]**, improvement
 13 *and expansion* of the **[railroad]** *public transportation* system, with
 14 special emphasis on **[commuter railroads]** *the coordination of*
 15 *transit modes and the use of * rail rights of way,* highways and*
 16 *public streets for public transportation purposes;*

17 **[(d)** Develop plans for more efficient public transportation
 18 service by railroads and motor bus operators; develop statistics,
 19 analyses, and other data of use to railroad and bus operators in the
 20 provision of public transportation service; facilitate more effective
 21 coordination between bus service and other forms of public trans-
 22 portation, particularly the commuter railroads; review petitions
 23 for motor bus franchises in areas served by the commuter railroad
 24 system and make appropriate recommendations on such petitions.]

25 (d) *Enter into contracts with the New Jersey Transit Corpora-*
 26 *tion for the provision and improvement of public transportation*
 27 *services;*

28 (e) Coordinate the transportation activities of the department
29 with those of other public agencies and authorities;

30 (f) Cooperate with interstate commissions and authorities, State
31 departments, councils, commissions and other State agencies, with
32 appropriate Federal agencies, and with interested private indi-
33 viduals and ****[organiaztions]**** ***organizations*** in the coordina-
34 tion of plans and policies for the development of air commerce and
34A air facilities; **[and]**

35 (g) Make an annual report to the Governor and the Legislature
36 of the department's operations, and render such other reports as
37 the Governor shall from time to time request or as may be required
38 by law **[.]**; ***[and]***

39 (h) Promulgate regulations providing for the charging of and
40 setting the amount of fees for certain services performed by and
41 permits issued by the department, including but not limited to the
42 following:

43 (1) Providing copies of documents prepared by or in the
44 custody of the department;

45 (2) Aeronautics permits:

46 (3) Right-of-way permits:

47 (4) Traffic signal control systems ***[.]* ***; *and**

48 **(i) Plan, design, construct, equip, operate, improve and main-*
49 *tain a railroad, subway, street, traction or electric railway for the*
50 *purpose of carrying freight in this State or between points in this*
51 *State and points in other states.**

1 ****[23.]** **25.**** Section 2 of P. L. 1973, c. 126 (C. 27:1A-65) is
2 amended to read as follows:

3 2. For the purposes of this act, unless the context clearly in-
4 dicates otherwise:

5 a. "Commissioner" means the Commissioner of Transportation;
6 provided, however, that he may delegate any of his powers or duties
7 under this act to any subordinate division, agency or employee of
8 the Department of Transportation *or to the New Jersey Transit*
9 *Corporation.*

10 b. "Carrier" means any individual, copartnership, association,
11 corporation, joint stock company, public agency, trustee or receiver
12 operating motor buses or rail passenger service on established
13 routes within this State or between points in this State and points
14 in adjacent states.

15 c. "Motor bus" means "autobus" as defined in R. S. 48:4-1, and
16 includes those autobuses, commonly called jitneys, as defined in
17 R. S. 48:16-23.

18 d. "Offpeak times" means the hours from 9:30 a.m. to 4 p.m.
19 and from 7 p.m. to 6 a.m. during the weekdays, and all day on
20 Saturdays, Sundays and holidays.

21 e. "Senior citizen" means any individual 62 years of age or over.

22 f. "***[Handicaped]** ***Handicapped*** citizen" means any
23 individual who, by reason of illness, injury, age, congenital malfunc-
24 tion, or other permanent or temporary incapacity or disability, is
25 unable without special facilities or special planning or design to
26 utilize mass transportation facilities and services as effectively as
27 persons who are not so affected.

1 **[24.]** **26.** Section 73 of P. L. 1954, c. 84 (C. 43:15A-73)
2 is amended to read as follows:

3 73. a. The Public Employees' Retirement System is hereby
4 authorized and directed to enroll eligible employees of the New
5 Jersey Turnpike Authority, the New Jersey Highway Authority,
6 Palisades Interstate Park Commission, Interstate Sanitation Com-
7 mission, the Delaware River Basin Commission and the Delaware
8 River Joint Toll Bridge Commission.

9 In the case of the Delaware River Joint Toll Bridge Commission,
10 the eligible employees shall be only those who are employed on the
11 free bridges across the Delaware river, under the control of said
12 commission.

13 The said employees shall be subject to the same membership, con-
14 tribution and benefit provisions of the retirement system as State
15 employees.

16 b. The State University of New Jersey, as an instrumentality
17 of the State, shall, for all purposes of this act, be deemed an em-
18 ployer and its eligible employees, both veterans and nonveterans,
19 shall be subject to the same membership, contribution and benefit
20 provisions of the retirement system and to the provisions of chapter
21 3 of Title 43 of the Revised Statutes as are applicable to State em-
22 ployees and for all purposes of this act employment by the State
23 University of New Jersey after April 16, 1945, and for the purposes
24 of chapter 3 of Title 43 of the Revised Statutes any new employ-
25 ment after January 1, 1955, shall be deemed to be and shall be con-
26 strued as service to and employment by the State of New Jersey.

27 c. The Compensation Rating and Inspection Bureau, created and
28 established pursuant to the provisions of R. S. 34:15-89, shall, for
29 all purposes of this act, be deemed an employer and its eligible em-
30 ployees, both veterans and nonveterans, shall be subject to the same
31 membership, contribution and benefit provisions of the retirement
32 system and to the provisions of chapter 3 of Title 43 of the Revised
33 Statutes as both are applicable to State employees.

34 The retirement system shall certify to the Commissioner of In-
35 surance and the Commissioner of Insurance shall direct the Com-
36 pensation Rating and Inspection Bureau to provide the necessary
37 payments to the retirement system in accordance with procedures
38 established by the retirement system. Such payments shall in-
39 clude (1) the contributions and charges, similar to those paid by
40 other public agency employers, to be paid by the Compensation
41 Rating and Inspection Bureau to the retirement system on behalf
42 of its employee members, and (2) the contributions to be paid by
43 the Compensation Rating and Inspection Bureau to provide the
44 past service credits up to June 30, 1965 for these members, both
45 veterans and nonveterans, who enroll before July 1, 1966.

46 d. The New Jersey Sports and Exposition Authority, created
47 and established pursuant to the "New Jersey Sports and Exposi-
48 tion Authority Law," P. L. 1971, c. 137 (C. 5:10-1 et seq.) shall
49 for all purposes of this act, be deemed an employer and its eligible
50 employees both veterans and nonveterans, shall be subject to the
51 same membership, contribution and benefit provisions of the re-
52 tirement system and to the provisions of chapter 3 of Title 43 of
53 the Revised Statutes as are applicable to State employees.

54 (1) Eligible employees as used herein shall not include persons
55 who are not classified as salaried, or who are compensated on an
56 hourly or per diem basis, or whose employment is normally
57 covered by other retirement systems to which the authority makes
58 contributions.

59 (2) Eligible employees previously permitted to enroll in the re-
60 tirement system shall redeposit the contributions previously made
61 by them and all service credit shall then be restored and future
62 contributions made at the date of contribution as originally
63 assigned. The authority shall redeposit the employer payments
64 it had made, with interest to the date of redeposit.

65 e. *The New Jersey Transit Corporation created and established*
66 *pursuant to the "New Jersey Public Transportation Improvement*
67 *Act of 1979", P. L. 1979, c. 137 shall for all purposes of this act,*
68 *be deemed an employer and its eligible employees both veterans*
69 *and nonveterans, shall be subject to the same membership, con-*
70 *tribution and benefit provisions of the retirement system and to*
71 *the provisions of chapter 3 of Title 43 of the Revised Statutes as*
72 *are applicable to State employees. Eligible employees as used*
73 *herein shall include persons in management, professional or clerical*
74 *positions but shall not include persons who are not classified as*
75 *salaried or who are compensated on an hourly or per diem basis*
76 *or whose employment is normally covered by other retirement*

77 *systems to which the corporation may make contributions]* * * means
 78 *only those individuals who are members of the Public Employees'*
 79 *Retirement System or any other State-administered retirement*
 80 *system immediately prior to their initial employment by the cor-*
 81 *poration*.*

1 **[*25.]** **27.** R. S. 48:3-10 is amended to read as follows:

2 48:3-10. No public utility incorporated under the laws of this
 3 State shall sell, nor shall any such public utility make or permit
 4 to be made upon its books any transfer of any share or shares of
 5 its capital stock, to any other public utility, unless authorized to
 6 do so by the board. Nor shall any public utility incorporated under
 7 the laws of this State sell any share or shares of its capital stock
 8 or make or permit any transfer thereof to be made upon its books,
 9 to any corporation, domestic or foreign, or any person, the result
 10 of which sale or transfer in itself or in connection with other pre-
 11 vious sales or transfers shall be to vest in such corporation or
 12 person a majority in interest of the outstanding capital stock of
 13 such public utility corporation unless authorized to do so by the
 14 board.

15 Every assignment, transfer, contract or agreement for assign-
 16 ment or transfer, by or through any person or corporation to any
 17 corporation or person in violation of any of the provisions hereof
 18 shall be void and of no effect, and no such transfer shall be made
 19 on the books of any public utility corporation. Nothing herein
 20 contained shall be construed to prevent the holding of stock law-
 21 fully acquired before March 5, 1935.

22 Where, by the proposed assignment, transfer, contract, or agree-
 23 ment for assignment or transfer of capital stock as set forth herein,
 24 it appears that the public utility or a wholly owned subsidiary
 25 thereof may be unable to fulfill its obligation to any employees
 26 thereof with respect to pension benefits previously enjoyed, whether
 27 vested or contingent, the board shall not grant its authorization
 28 unless the public utility seeking the board's authorization assumes
 29 such responsibility as will be sufficient to provide that all such
 30 obligations to employees will be satisfied as they become due.

31 *Nothing herein shall require the approval of the Department of*
 32 *Transportation to any sale or transfer by any public utility of any*
 33 *share or shares of its capital stock to the New Jersey Transit Cor-*
 34 *poration or any subsidiary thereof for public use.**

1 **[*25.]** **[*26.]** **28.** a. The following are repealed:

2 P. L. 1966, c. 301, § 15-27 (C. 27:1A-15 to 27:1A-27);

3 P. L. 1966, c. 301, § 29-32 (C. 27:1A-29 to 27:1A-32);

4 P. L. 1975, c. 371, § 1, 2 (C. 27:1A-18.1 and 27:1A-18.2);

5 P. L. 1967, c. 138, § 1, 2 (C. 27:1A-24.1 and 27:1A-24.2);

6 P. L. 1976, c. 119, § 1-7 (C. 27:1A-28.7 to 27:1A-28.13)***[]*** *;*

6A *P. L. 1972, c. 210, § 1-3 (C. 48:3-39 to 48:3-41).*

7 b. The repealer of these acts and part of acts shall not in any
8 way affect any contracts, agreements, determinations, orders,
9 rules or regulations heretofore made or promulgated, as the case
10 may be by the Commuter Operating Agency or the Department
11 of Transportation pursuant to any authority heretofore granted
12 but such contracts, agreements, determinations, orders, rules and
13 regulations shall be continued by the corporation with full force
14 and effect until otherwise amended, repealed or terminated in
15 accordance with the terms thereof or pursuant to the provisions
16 of this act.

1 ***[26.]*** ****[*27.*]**** **29.** Whenever in any law, rule, regula-
2 tion, contract, document, judicial or administrative proceeding or
3 otherwise, reference is made to the New Jersey Commuter Operat-
4 ing Agency, the same shall mean and refer to the New Jersey
5 Transit Corporation.

1 ***[27.]*** ****[*28.*]**** **30.** Until such time as the corporation
2 and its board are legally constituted pursuant to section 4 of this
3 act, the Commuter Operating Agency is authorized to exercise all of
4 the powers granted the corporation by this act. On the date that the
5 corporation and board are legally constituted pursuant to section
6 4 of this act, the Commuter Operating Agency shall no longer
7 exercise any of its powers pursuant to P. L. 1966, c. 301 as amended
8 and supplemented by P. L. 1976, c. 119.

9 Anticipatory actions appropriate and necessary to effect the
10 establishment of the corporation and the implementation of its
11 duties are authorized to be accomplished as promptly as possible by
12 the Commuter Operating Agency in advance of the date that the cor-
13 poration and its board are legally constituted, including the making
14 of authorized appointments and within the limits of applicable
15 appropriations to the Department of Transportation, the expendi-
16 ture of funds for payment of salaries and expenses incident thereto.

1 ***[28.]*** ****[*29.*]**** **31.** This act shall take effect imme-
2 diately, but section ****[25]**** **28** shall remain inoperative for
3 60 days after enactment.

SENATE AMENDMENTS TO
SENATE, No. 3137
[SECOND OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED JUNE 21, 1979

Amend page 17, section 14, line 4, omit "and", insert ",".

Amend page 17, section 14, line 5, after "owned", insert "or operated".

Amend page 17, section 14, line 6, after "an employee", omit "or", insert "of".

Amend page 17, section 14, line 7, after "in", insert "subsection g. and".

Amend page 17, section 14, line 12, omit "f.", insert "h.".

Amend page 17, section 14, line 22, omit "or a substantial majority", after "of", insert "or a controlling interest in".

Amend page 17, section 14, line 31, after "(C. 34:13A-1 et seq.)", insert "and shall be within the jurisdiction of the Public Employment Relations Commission (Commission) established pursuant to that act. In carrying out this function, the commission shall be guided by the relevant federal or State labor law and practices, as developed under the 'Labor Management Relations Act, 1947' or under the 'Railway Labor Act,' (45 U.S.C. 151 et seq.), provided however that employees shall not have the right to strike except as provided by the 'Railway Labor Act.'".

Amend page 17, section 14, lines 34-35, omit "New Jersey Public Employment Relations".

Amend page 18, section 14, line 49, after "resolution", insert "unless the parties mutually agree upon an alternative form of arbitration".

Amend page 18, section 14, line 54, omit "shall take into account", insert "should consider".

Amend page 18, section 14, line 66, after "work", insert ", the maintenance of union security and check-off arrangements, pensions,".

Amend page 18, section 14, lines 73-81, omit.

Amend page 18, section 14, after line 81, insert new subsections e., f. and g. as follows:

“e. In acquiring, operating, or contracting for the operation of public transportation services, the corporation shall make provision to assure continuing representation for collective negotiations on behalf of employees, giving due consideration to preserving established bargaining relationships to the extent consistent with the purposes of this act. Such relationships may be changed only in accordance with the principles established under the ‘Labor Management Relations Act, 1947’ and the ‘Railway Labor Act.’

f. Upon acquisition by the corporation of a public or private entity which provides public transportation services, the corporation shall assume and observe all existing labor contracts of such entity for their remaining term. All of the employees of the acquired entity, as defined in subsection a., shall be transferred to the employment of the employer and appointed to comparable positions without examination subject to all the rights and benefits of this act, and these employees shall be given sick leave, seniority, vacation, and pension credits in accordance with the records and labor agreements of the acquired entity.

g. For purposes of this subsection:

(1) ‘Employee’ means an employee employed, as of the date of the first acquisition by the corporation, by any entity acquired, owned or operated by the corporation or by any other entity which provides motorbus regular route or paratransit services, but does not mean supervisory employees, managerial executive and confidential employees;

(2) ‘Action by the corporation’ means acquisition, contracts for motorbus regular route or paratransit services, mergers, consolidations, coordination and rearrangements of services and work forces, but does not mean:

(a) The setting of fares by contract or otherwise unless such action results in a substantial diversion of riders; or

(b) The discontinuance of motorbus regular route service by the corporation to the extent that substantially similar public transportation service does not continue to be provided; or

(c) A failure or refusal, by the corporation, to enter into a contract for all or a portion of an entity’s motorbus regular route service to the extent that substantially similar public transportation service does not continue to be provided.

Except as provided herein, employees whose positions are worsened with regard to wages, hours, seniority and other terms and conditions of employment, shall be protected for a period of 5 years from the date of the first acquisition by the corporation. This time limitation does not apply to protections afforded to employees whose positions are worsened as a result of the acquisitions or contracts which transfer responsibility

for the provisions of substantially similar motorbus regular route or para-transit service from one entity, including the corporation, to another. With regard to any acquisitions or contract transferring service responsibility, only claims arising from actions taken within 18 months therefrom shall be eligible for protection.

Protections and procedures to implement such protections shall be provided in accordance with the terms of the agreement entered into between the Commuter Operating Agency and Amalgamated Transit Union on March 2, 1976; except that no protective allowances or other benefits shall exceed 3 years duration. Pursuant to this agreement, the employer of the employee shall be considered the 'assisted carrier' and actions of the corporation shall constitute the 'project'."

Amend page 18, section 14, line 82, omit "f.", insert "h."

Amend page 19, section 14, line 90, omit "upon", insert "as a condition of".

Amend page 25, section 26, line 66, omit "Improvement".

Amend page 27, section 31, line 3, omit "60", insert "180".

STATEMENT

These amendments supplement the labor protection provisions adopted by the Senate on June 14. They effect the following major changes:

PERC jurisdiction over labor issues is explicitly affirmed, guided by relevant Federal and State labor law practices.

The transit corporation and employee representative may agree upon an alternative form of arbitration than "fair and final offer".

The arbitrator "should consider" rather than "shall take into account" pending supplemental appropriations as they affect cap leeway.

The corporation would be required to give due consideration to preserving established bargaining relationships; assume and observe all labor contracts existing at the time of acquisition; protect employees of other companies, as well as its own, who are adversely affected by its actions up to 5 years after the first acquisition, with protective allowances up to 3 years duration.

ASSEMBLY TRANSPORTATION AND COMMUNICATIONS
COMMITTEE

STATEMENT TO

SENATE, No. 3137

[THIRD OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

DATED: JULY 9, 1979

This legislation establishes the New Jersey Transit Corporation. The corporation is empowered with the authority to own, operate and contract for the provision of public transportation services. Such services include rail passenger services, motor bus regular route service, paratransit service and motor bus charter service. The corporation shall be governed by a board and its actions are subject to the veto of the Governor.

The legislation was amended in the Senate to:

1. Increase the size of the board to seven members, to be composed of three ex officio and four public members. The four public members shall have the advice and consent of the Senate;
 2. Provide for a vice chairman of the board;
 3. Subject board meetings to the "Open Public Meetings Act";
 4. Require the establishment of advisory committees upon the establishment of operating divisions;
 5. Allow the corporation to carry its own liability insurance;
 6. Adopt and maintain employee benefit programs;
 7. Own shares of stock of any incorporated entity which it acquires;
 8. Provide for 15 days notice of public hearings concerning fare increases or substantial curtailment or abandonment of service;
 9. Limit the corporation's authority to provide school bus or charter service;
 10. Revise the provisions concerning the acquisition of public transportation services;
 11. Provide for an in-lieu-of-tax payment program;
 12. Remove rail freight service from the jurisdiction of the corporation;
 13. Have the corporation provide notice to the Legislature of its intent to condemn any private entity engaged in the provision of motor-bus regular route service;
 14. Provide that acquisition of any public transportation service by the corporation, which is not receiving any operating subsidy, shall be subject to the veto of the Legislature.
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FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

JULY 17, 1979

KATHRYN FORSYTH

Governor Brendan Byrne today signed the Public Transportation Act of 1979, S-3137, sponsored by Senator Francis X. Herbert (D-Bergen).

The measure establishes the New Jersey Transit Corporation, located within but independent of the New Jersey Department of Transportation, which replaces the Commuter Operating Agency.

Under the bill, the Corporation will have the authority to acquire private transit carriers when such an action is deemed "in the public interest." It may then operate the services either directly, through private contracts with professional transit managers, or through contracts with other unacquired carriers.

The Corporation will be governed by a seven-member Board of Directors, including the Commissioner of Transportation and the State Treasurer, serving ex-officio, another member of the Executive Branch to be appointed by the Governor and also serving ex-officio, and four public members appointed for four-year terms by the Governor with the advice and consent of the Senate.

The first four public members appointed will serve staggered terms of one, two, three and four years. One public member must be a regular public transit rider.

The Commissioner of Transportation will serve as Chairman of the Board, and the Governor will have veto power over the minutes of the Board meetings.

Two regional operating divisions, one in the Northern part of the State and one in the Southern part, will be established.

Each operating division will have an advisory committee composed of county and municipal government representatives and concerned citizens appointed by the Governor with the advice and consent of the Senate. The committees will advise the Corporation as to the public transit systems in their operating divisions, and the number of members and their terms on those committees will be fixed by the Corporation.

As outlined in the measure, the Corporation will maintain a policy of avoiding destructive competition with private unsubsidized carriers.

Under the bill, the Department of Transportation will maintain budgetary control over the Corporation's capital and operating expenses. The Department will also provide long-term planning for the Corporation and continue to regulate private carriers not under contract to the Corporation.

The cost of the acquisition of private carriers is eligible for 80 percent federal funding from the Urban Mass Transit Administration. The funds appropriated in the fiscal year 1980 budget for bus subsidies will be transferred to the Corporation.

Employees of acquired companies will maintain full collective bargaining rights and any unexpired existing contracts will be honored. Retirement benefits accrued to the date of acquisition will be provided for and paid as they come due and the Corporation will utilize PERC for the resolution of disputes.

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The issue in Atlantic City remains one of economic development. Atlantic City will be developed according to promised standards or it will not be developed at all. A year ago, I said I would be a salesman for Atlantic City, and since that time I have met personally with representatives of numerous hotel chains.

As a result, several chains are actively considering investment in what is destined to become an attractive resort city while retaining its family oriented recreational attractions. Numerous applications for casino licenses have been submitted, and new first class hotel rooms in Atlantic City may increase by 3,000 or more.

With this special attention to the cities, the State's urban economy should grow as the State's economy grows.

New Jersey Becomes a Leader in International Trade

New Jersey continues to be attractive to foreign as well as domestic investors.

The State has a strong research and development base. It was in New Jersey 100 years ago that Edison invented the incandescent light bulb. New Jersey this past year was the home of two Nobel Prize winners.

Our location and attributes have made New Jersey a leading state in reverse investment by foreign companies. New Jersey is now third among the states in reverse investment.

This year, however, we must concentrate on expanding the markets for exports of domestic products to foreign countries. New Jersey is now ninth among the states in exports.

Exports can and should be a major part of the State's economic growth. Small and medium-sized businesses can be assisted in developing foreign markets for their products.

As vice chairman of the National Governors' Association Committee on International Trade and Chairman of the Coalition of Northeastern Governors, I will work to influence national policy to facilitate international trade. As Governor of a state with exports to market, I will work personally to assist this important sector of our

economy. Specifically, I shall ask the Department of Labor and Industry to conduct seminars for small and medium size businesses seeking to engage in international trade.

Last month, I formally dedicated a New Jersey International Trade Office in the lobby of One World Trade Center.

At the request of business leaders, I have agreed to lead a trade mission to West Germany this spring. I recognize that a single effort alone may not be sufficient to attract major new foreign capital or develop new export markets. But I also recognize that we must begin to step up international trade promotion to expand our economy and reduce the deficits in the balance of payments.

New Jersey will set the pace for State government outside as well as within the United States.

Transportation

Vital to the strength of the economy is an efficient transportation system: rail and bus, trucking, shipping, and air transportation. These are all major segments of New Jersey's growing economy.

We are completing a missing link in Interstate Route 195 in Ocean County. Also, we have begun construction of the final segment of Route 280 in Hudson County, unplugging the log jam in Newark; and have seen progress on Route 18 in New Brunswick, Route 676 in Camden and Route 169 in Hudson County.

The State Department of Transportation exercised an option to buy 374 miles of railroad right-of-way and 130 station properties to better protect commuter and freight systems. I am awaiting a report on the feasibility of replacing Conrail as the State's railroad operator.

Newark's International Airport continued to experience phenomenal growth in 1978. Some 128,000 flights used the airport, for a five percent increase, and passengers increased 16 percent to 8.5 million.

Progress is anticipated this year on highway access to Trenton, Newark and New Brunswick. We have commitments for major improvements this year at Newark's Penn Station, the key link of a major mass transportation network. The rehabilitation and transformation of

this station into a clean, modern, safe and attractive bus and rail center is essential to the revitalization of one of New Jersey's oldest and most important business centers.

Most importantly, I ask the Legislature for authority to impose rationality and coherence on bus transportation in the State. A balkanized bus system does not serve the public interest.

The present system of antiquated franchises operated on routes that no longer make sense is no system at all. The transfer of the remaining bus and rail supervisory authority in the Board of Public Utilities to the Department of Transportation this past year was an important regulatory step.

But the State must have another option than merely continuing bus subsidies to maintain an inadequate status quo.

The State now owns most of the buses in the State. And it subsidizes the bus industry operations in the amount of 34 cents for every bus ride. But we do not control the management of the bus lines.

We need the option to replace the management when all efforts to improve service and improve efficiency have failed. This will be a major legislative priority for 1979.

We must begin to bring the subsidy program under control by replacing it with one in which the State, acting directly or indirectly through an independent corporation, controls not only the assets it already owns, but the management of those assets as well. I intend to submit legislation for your consideration.

If the State is to bear the responsibility for bus service quality, it must have the power to control service quality!

Energy

Energy is a major factor in our continuing economic growth. Exploration in 1978 for energy reserves in the Baltimore Canyon 75 miles off Atlantic City is encouraging.

The State Energy Department is aggressively seeking onshore support sites for the oil industry in the event the discovery proves economically marketable.

But besides fossil fuels, there must be greater efforts to develop

Governor Byrne: 5th Annual Message
January 9, 1979 p. 4 (attached)