

40:14A-4

LEGISLATIVE HISTORY CHECKLIST
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(Sewerage & incinerator
authorities--increase membership)

NJSA: 40:14A-4

LAWS OF: 1994 **CHAPTER:** 85

BILL NO: A705

SPONSOR(S): Kelly

DATE INTRODUCED: Pre-filed

COMMITTEE: **ASSEMBLY:** Independent Authorities
SENATE: ---

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** March 10, 1994
SENATE: June 20, 1994

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FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: No

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

P.L.1994, CHAPTER 85, approved August 3, 1994

1994 Assembly No. 705

1 AN ACT increasing the membership of certain authorities in
2 certain municipalities and amending P.L.1948, c.138 and
3 P.L.1948, c.348.

4
5 BE IT ENACTED by the Senate and General Assembly of the
6 State of New Jersey:

7 1. Section 4 of P.L.1948, c.138 (C.40:14A-4) is amended to
8 read as follows:

9 4. (a) The governing body of any county may, by resolution
10 duly adopted, create a public body corporate and politic under the
11 name and style of "the sewerage authority," with all or any
12 significant part of the name of such county inserted. Said body
13 shall consist of the five members thereof, who shall be appointed
14 by resolution of the governing body as hereinafter in this section
15 provided, together with the additional members thereof, if any,
16 appointed as hereinafter in subsection (i) of this section provided,
17 and it shall constitute the sewerage authority contemplated and
18 provided for in this act and an agency and instrumentality of said
19 county. After the taking effect of the resolution for the creation
20 of said body and the filing of a certified copy thereof as in
21 subsection (d) of this section provided, five persons shall be
22 appointed as the members of the sewerage authority. The
23 members first appointed shall, by the resolution of appointment,
24 be designated to serve for terms respectively expiring on the first
25 days of the first, second, third, fourth and fifth Februarys next
26 ensuing after the dates of their appointments. On or after
27 January 1 in each year after such first appointments, one person
28 shall be appointed as a member of the sewerage authority to
29 serve for a term commencing on February 1 in such year and
30 expiring on February 1 in the fifth year after such year. In the
31 event of a vacancy in the membership of the sewerage authority
32 occurring during an unexpired term of office, a person shall be
33 appointed as a member of the sewerage authority to serve for
34 such unexpired term.

35 (b) The governing body of any municipality may, by ordinance
36 duly adopted, create a public body corporate and politic under the
37 name and style of "the sewerage authority," with all or any
38 significant part of the name of such municipality inserted. [Said
39 body] A sewerage authority created pursuant to this section by a
40 municipality other than a city of the first class shall consist of
41 five members [thereof], [who] and a sewerage authority created
42 pursuant to this section by a municipality which is a city of the

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

Matter underlined thus is new matter.

1 first class shall consist of five or seven members, as determined
2 by the governing body. Members of the sewerage authority shall
3 be appointed by resolution of the governing body as hereinafter in
4 this section provided, and [it] the authority shall constitute the
5 sewerage authority contemplated and provided for in this act and
6 an agency and instrumentality of said municipality. After the
7 taking effect of such ordinance and the filing of a certified copy
8 thereof as in subsection (d) of this section provided, [five persons
9 shall be appointed as] the members of the sewerage authority
10 shall be appointed. The members first appointed shall, by the
11 resolution of appointment, be designated to serve for terms
12 respectively expiring as follows: the terms of the first four
13 members shall expire in turn on each of the first days of the first,
14 second, third[,] and fourth [and fifth] Februarys next ensuing
15 after the dates of their appointments, and the remaining
16 members shall be designated to serve for terms expiring on the
17 first day of the fifth February next ensuing after the date of
18 their appointment. On or after January 1 in each year after such
19 first appointments, one person shall be appointed or reappointed
20 as a member of the sewerage authority to succeed each member
21 whose term is expiring, and shall serve for a term commencing on
22 February 1 in such year and expiring on February 1 in the fifth
23 year after such year. In the event of a vacancy in the
24 membership of the sewerage authority occurring during an
25 unexpired term of office, a person shall be appointed as a
26 member of the sewerage authority to serve for such unexpired
27 term.

28 The governing body of a municipality which is a city of the
29 first class may increase the membership of its sewerage authority
30 to seven members from five members. The two additional
31 members shall be appointed to serve five-year terms,
32 commencing on the February 1 next following their appointment
33 and expiring on February 1 in the fifth year after their
34 appointment.

35 (c) The governing bodies of any two or more municipalities or
36 any two or more counties, the areas of which together comprise
37 an integral body of territory, may, by parallel ordinances, or in
38 the case of counties, by parallel resolutions, duly adopted by each
39 of such governing bodies within any single calendar year, create a
40 public body corporate and politic under the name and style of
41 "the sewerage authority," with all or any significant part
42 of the name of each such municipality or county or some
43 identifying geographical phrase inserted. Said body shall consist
44 of the members thereof, in an aggregate number determined as
45 hereinafter in this subsection provided, who shall be appointed by
46 resolutions of the several governing bodies as hereinafter in this
47 section provided, and it shall constitute the sewerage authority
48 contemplated and provided for in this act and an agency and
49 instrumentality of the said municipalities or counties. The
50 number of members of the sewerage authority to be appointed at
51 any time for full terms of office by the governing body of any
52 such municipality or county shall be as may be stated in said
53 ordinances or resolutions, which shall be not less than one nor
54 more than three. After the taking effect of the said ordinances

1 or resolutions of all such municipalities or counties and after the
2 filing of certified copies thereof as in subsection (d) of this
3 section provided, the appropriate number of persons shall be
4 appointed as members of the sewerage authority by the governing
5 body of each municipality or county. In the case of municipalities
6 or counties which by ordinance or resolution are entitled to
7 appoint only one member of the authority, the total number of
8 members, if five or more, shall be divided into five classes as
9 nearly equal as possible, except that if there are less than five
10 members, each member shall constitute a class. The members
11 initially appointed shall be appointed for such terms that the
12 terms of one class shall expire on the first day of each of the
13 first, second, third, fourth and fifth Februarys next ensuing the
14 date of appointment. In the event the several municipalities or
15 counties cannot agree on the terms of the respective
16 representatives, such terms shall be determined by lot. On or
17 after January 1 in each year after such appointments, the
18 expiring terms shall be filled by the appointment for terms
19 commencing February 1 in such year and expiring on the first day
20 of the fifth February next ensuing.

21 Upon the expiration of the terms of office of members, in
22 office on July 1, 1970, of sewerage authorities created by two or
23 more municipalities or counties, where only one member is
24 appointed by any participating municipality or county, their
25 immediate successors, except for appointments to fill vacancies,
26 shall be appointed for designated terms of one, two, three, four
27 or five years in the same manner as in this subsection (c) provided
28 as to initial appointees.

29 In municipalities or counties entitled to appoint three
30 members, the appointing authority shall designate one of the
31 initial appointees to serve for a term of three years, one for four
32 years and one for five years. In municipalities or counties
33 entitled to appoint two members, the appointing authority shall
34 designate one of the initial appointees to serve for a term of five
35 years and one for four years. On or after January 1 in the year in
36 which expire the terms of the said members first appointed and in
37 every fifth year thereafter, the appropriate number of persons
38 shall be appointed as members of the sewerage authority by the
39 governing body of each municipality or county, to serve for terms
40 commencing on February 1 in such year and expiring on February
41 1 in the fifth year after such year. In the event of a vacancy in
42 the membership of the sewerage authority occurring during the
43 unexpired term of office, a person shall be appointed as a
44 member of the sewerage authority to serve for such unexpired
45 term by the governing body which made the original appointment
46 for such unexpired term.

47 Upon the expiration of the terms of office of members, in
48 office on July 1, 1967, of sewerage authorities created by two or
49 more municipalities or counties, where more than one member is
50 appointed by any participating municipality or county, their
51 immediate successors, except for appointments to fill vacancies,
52 shall be appointed for designated terms of three, four or five
53 years in the same manner as in this subsection (c) provided as to
54 initial appointees.

1 (d) A copy of each resolution or ordinance for the creation of a
2 sewerage authority adopted pursuant to this section, duly
3 certified by the appropriate officer of the local unit, shall be
4 filed in the office of the Secretary of State. Upon proof of such
5 filing of a certified copy of the resolution or ordinance or of
6 certified copies of the parallel ordinances for the creation of a
7 sewerage authority as aforesaid, the sewerage authority therein
8 referred to shall, in any suit, action or proceeding involving the
9 validity or enforcement of, or relating to, any contract or
10 obligation or act of the sewerage authority, be conclusively
11 deemed to have been lawfully and properly created and
12 established and authorized to transact business and exercise its
13 powers under this act. A copy of any such certified resolution or
14 ordinance, duly certified by or on behalf of the Secretary of
15 State, shall be admissible in evidence in any suit, action or
16 proceeding.

17 (e) A copy of each resolution appointing any member of a
18 sewerage authority adopted pursuant to this section, duly
19 certified by the appropriate officer of the local unit, shall be
20 filed in the office of the Secretary of State. A copy of such
21 certified resolution, duly certified by or on behalf of the
22 Secretary of State, shall be admissible in evidence in any suit,
23 action or proceeding and, except in a suit, action or proceeding
24 directly questioning such appointment, shall be conclusive
25 evidence of the due and proper appointment of the member or
26 members named therein.

27 (f) The governing body of a county which may create or join in
28 the creation of any sewerage authority pursuant to this section
29 shall not thereafter create or join in the creation of any other
30 sewerage authority. No governing body of any municipality
31 constituting the whole or any part of a district shall create or
32 join in the creation of any sewerage authority except upon the
33 written consent of the sewerage authority and in accordance with
34 the terms and conditions of such consent, and in the event such
35 consent be given and a sewerage authority be created pursuant
36 thereto, the terms and conditions of such consent shall thereafter
37 be in all respects binding upon such municipality and the
38 sewerage authority so created, and any system of sewers or
39 sewage disposal plants constructed or maintained in conformity
40 with the terms and conditions of such consent by the sewerage
41 authority so created shall be deemed not to be competitive with
42 the sewerage systems of the sewerage authority giving such
43 consent. In the event that prior to the creation of a sewerage
44 authority of a county the governing body of any municipality
45 located in said county shall have created or joined in the creation
46 of a sewerage authority, the area within the territorial limits of
47 such municipality shall not be part of the district of the sewerage
48 authority of said county.

49 (g) Within 10 days after the filing in the office of the
50 Secretary of State of a certified copy of a resolution for the
51 creation of a sewerage authority adopted by the governing body
52 of any county pursuant to this section, a copy of such resolution,
53 duly certified by the appropriate officer of the county, shall be
54 filed in the office of the clerk of each municipality within the

1 county. In the event that the governing body of any such
2 municipality shall, within 60 days after such filing in the office of
3 the Secretary of State, adopt a resolution determining that such
4 municipality shall not be a part of the district of such sewerage
5 authority and file a copy thereof, duly certified by its clerk, in
6 the office of the Secretary of State, the area within the
7 territorial limits of such municipality shall not thereafter be part
8 of such district, but at any time after the adoption of such
9 resolution, the governing body of such municipality may, by
10 ~~ordinance duly adopted, determine that such area shall again be a~~
11 part of such district, and if thereafter a copy of such ordinance,
12 duly certified by the appropriate officer of such municipality,
13 together with a certified copy of a resolution of such sewerage
14 authority approving such ordinance, shall be filed in the office of
15 the Secretary of State, then from and after such filing the area
16 within the territorial limits of such municipality shall forever be
17 part of such district.

18 (h) The governing body of any local unit which has created a
19 sewerage authority pursuant to subsection (a) or subsection (b) of
20 this section may, in the case of a county by resolution duly
21 adopted or in the case of a municipality by ordinance duly
22 adopted, dissolve such sewerage authority on the conditions set
23 forth in this subsection. The governing bodies of two or more
24 local units which have created a sewerage authority pursuant to
25 subsection (c) of this section may, by parallel ordinances duly
26 adopted by each of such governing bodies within any single
27 calendar year, dissolve such sewerage authority on the conditions
28 set forth in this subsection. Such a sewerage authority may be
29 dissolved on condition that (1) either the members of such
30 authority have not been appointed or the sewerage authority, by
31 resolution duly adopted, consents to such dissolution, and (2) the
32 sewerage authority has no debts or obligations outstanding. Upon
33 the dissolution of any sewerage authority in the manner provided
34 in this subsection, the governing body or bodies dissolving such
35 sewerage authority shall be deemed never to have created or
36 joined in the creation of a sewerage authority. A copy of each
37 resolution or ordinance for the dissolution of a sewerage
38 authority adopted pursuant to this subsection, duly certified by
39 the appropriate officer of the local unit, shall be filed in the
40 office of the Secretary of State. Upon proof of such filing of a
41 certified copy of the resolution or ordinance or of certified
42 copies of the parallel ordinances for the dissolution of a sewerage
43 authority as aforesaid and upon proof that such sewerage
44 authority had no debts or obligations outstanding at the time of
45 the adoption of such resolution, ordinance or ordinances, the
46 sewerage authority therein referred to shall be conclusively
47 deemed to have been lawfully and properly dissolved and the
48 property of the sewerage authority shall be vested in the local
49 unit or units. A copy of any such certified resolution or
50 ordinance, duly certified by or on behalf of the Secretary of
51 State, shall be admissible in evidence in any suit, action or
52 proceeding.

53 (i) Whenever the sewerage authority of any county shall
54 certify to the governing body of any county that it has entered

1 into a contract pursuant to section 23 of this act with one or
2 more municipalities situate within any other county, one
3 additional member of the sewerage authority for each such other
4 county shall be appointed by resolution of the governing body of
5 such other county as in this section provided. The additional
6 member so appointed for any such other county, and his
7 successors, shall be a resident of one of said municipalities
8 situate within such other county. The additional member first
9 appointed or to be first appointed for any such other county shall
10 serve for a term expiring on the first day of the fifth February
11 next ensuing after the date of such appointment, and on or after
12 January 1 in the year in which expires the term of the said
13 additional member first appointed and in every fifth year
14 thereafter, one person shall be appointed by said governing body
15 as a member of the sewerage authority as successor to said
16 additional member, to serve for a term commencing on February
17 1 in such year and expiring on February 1 in the fifth year after
18 such year. If after such appointment of an additional member for
19 any such other county the sewerage authority shall certify to said
20 governing body of such other county that it is no longer a party to
21 a contract entered into pursuant to section 23 of this act with
22 any municipality situate within such other county, the term of
23 office of such additional member shall thereupon cease and
24 expire and no additional member for such other county shall
25 thereafter be appointed.

26 (j) If a municipality, the governing body of which has created a
27 sewerage authority pursuant to subsection (b) of this section, has
28 been or shall be consolidated with another municipality, the
29 governing body of the new consolidated municipality may, by
30 ordinance duly adopted, provide that the members of the
31 sewerage authority shall thereafter be appointed by the governing
32 body of such new consolidated municipality, which shall make
33 appointment of members of the sewerage authority by resolution
34 as hereinafter in this subsection provided. On or after the taking
35 effect of such ordinance, one person shall be appointed as a
36 member of the sewerage authority for a term commencing on
37 February 1 in each year, if any, after the date of consolidation, in
38 which has or shall have expired the term of a member of the
39 sewerage authority theretofore appointed by the governing body
40 of the municipality which has been or shall be so consolidated,
41 and expiring on February 1 in the fifth year after such year.
42 Thereafter, on or after January 1 in each year, one person shall
43 be appointed as a member of the sewerage authority to serve for
44 a term commencing on February 1 in such year and expiring
45 February 1 in the fifth year after such year. In the event of a
46 vacancy in the membership of the sewerage authority occurring
47 during an unexpired term of office, a person shall be appointed as
48 a member of the sewerage authority to serve for such unexpired
49 term. Each member of the sewerage authority appointed by the
50 governing body of a municipality which has been or shall be so
51 consolidated shall continue in office until his successor has been
52 appointed as in this subsection provided and has qualified.

53 (k) If a municipality, the governing body of which has created
54 a sewerage authority pursuant to subsection (b) of this section,

1 has been or shall be consolidated with another municipality, the
2 governing body of the new consolidated municipality, subject to
3 the rights of the holders, if any, of bonds issued by the sewerage
4 authority, and upon receipt of the sewerage authority's written
5 consent thereto, may provide, by ordinance duly adopted, that the
6 area within the territorial boundaries of the new consolidated
7 municipality shall constitute the district of the sewerage
8 authority, and upon the taking effect of such ordinance, such area
9 shall constitute the district of the sewerage authority. Until the
10 taking effect of such ordinance, the district of the sewerage
11 authority shall be the area within the territorial boundaries, as
12 they existed at the date of the consolidation, of the municipality
13 the governing body of which created the sewerage authority.

14 (l) Whenever, with the approval of any sewerage authority
15 created by the governing bodies of two or more municipalities,
16 any other municipality not constituting part of the district shall
17 convey to the sewerage authority all or any part of a system of
18 main, lateral or other sewers or other sewerage facilities located
19 within the district and theretofore owned and operated by such
20 other municipality, then, if so provided in the instruments of such
21 conveyance, one additional member of the sewerage authority for
22 such other municipality shall be appointed by resolution of its
23 governing body as in this section provided. The additional
24 member so appointed for such municipality, and his successors,
25 shall be residents of such municipality. The additional member
26 first appointed or to be first appointed for such municipality shall
27 serve for a term expiring on the first day of the fifth February
28 next ensuing after the date of such appointment, and on or after
29 January 1 in the year in which expires the term of the said
30 additional member first appointed and in every fifth year
31 thereafter, one person shall be appointed by said governing body
32 as a member of the sewerage authority as successor to said
33 additional member, to serve for a term commencing on February
34 1 in such year and expiring on February 1 in the fifth year after
35 such year. If at any time after such conveyance of sewers or
36 sewerage facilities by a municipality its governing body shall
37 adopt a resolution determining not thereafter to be represented
38 in the membership of the sewerage authority and shall file a copy
39 thereof duly certified by its clerk in the office of the sewerage
40 authority, the term of office of any such additional member
41 theretofore appointed for such municipality shall thereupon cease
42 and expire and no additional member for such municipality shall
43 thereafter be appointed.

44 (m)(i) The governing body of any municipality which is
45 contiguous to the district of a sewerage authority created by the
46 governing bodies of two or more other municipalities may at any
47 time by ordinance duly adopted, propose that the whole or any
48 part of the area herein referred to as "service area" within the
49 territorial limits of such municipality shall be a part of said
50 contiguous district. Such ordinance shall (1) state the number of
51 members of the sewerage authority, not less than one nor more
52 than three, thereafter to be appointed for full terms of office by
53 the governing body of such municipality, and (2) determine that,
54 after the filing of a certified copy thereof and of a resolution of

1 the sewerage authority in accordance with this subsection, such
2 service area shall be a part of said contiguous district. If
3 thereafter a copy of such ordinance duly certified by the
4 appropriate officer of such municipality, together with a
5 certified copy of a resolution of said sewerage authority
6 approving such ordinance, shall be filed in the office of the
7 Secretary of State, then from and after such filing the service
8 area shall forever be part of said contiguous district and said
9 sewerage authority shall consist of the members thereof acting or
10 appointed as in this section provided and constitute an agency and
11 instrumentality of such municipality, as well as such other
12 municipalities. The governing body of the said municipality so
13 becoming part of said contiguous district shall thereupon appoint
14 members of the sewerage authority in the number stated in such
15 ordinance, for periods and in the manner provided for the first
16 appointment of members of a sewerage authority under
17 subsection (c) of this section.

18 (ii) If the service area of such municipality shall then be part of
19 the district of any other sewerage authority or municipal
20 authority, such other authority shall, by resolution adopted not
21 more than one year prior to the adoption of such ordinance,
22 consent to the inclusion of the service area in the district of said
23 contiguous district, and the service area shall become part of said
24 contiguous district as aforesaid and shall no longer be part of the
25 district of such other authority for sewerage purposes. If only
26 part of the area within the territorial limits of such municipality
27 shall constitute the service area to become part of said
28 contiguous district, the service area shall be that so designated or
29 shown on a map thereof bearing legend or reference to this
30 section and filed in the office of the clerk of such municipality
31 and in the office of the secretary of each authority referred to in
32 this section, and such map shall be incorporated by a reference
33 thereto in such ordinance and resolution as or for a description of
34 the service area. For all the purposes of this act, such sewerage
35 authority shall be deemed to have been created by the governing
36 body of such municipality jointly with the other municipalities
37 (the territorial areas of which constitute the district of such
38 contiguous authority), and such municipality shall have all
39 powers, duties, rights and obligations provided for by this act or
40 any other law for or with respect to such sewerage authority or
41 any other sewerage authority or municipal authority,
42 notwithstanding that only a part of the area within the territorial
43 limits of such municipality shall become part of said contiguous
44 district.

45 (n) The governing body of a county or municipality may
46 provide, in the ordinance or resolution creating the sewerage
47 authority, for not more than two alternate members. Alternate
48 members shall be designated by the governing body as "Alternate
49 No. 1" and "Alternate No. 2" and shall serve during the absence
50 or disqualification of any regular member or members. The
51 governing body of the county or municipality shall provide by
52 ordinance or resolution for the order in which the alternates shall
53 serve. The term of each alternate member shall be five years
54 commencing on February 1 of the year of appointment; provided,

1 however, that in the event two alternate members are appointed
2 their initial terms shall be four and five years, respectively. The
3 terms of the first alternate members appointed pursuant to this
4 amendatory act shall commence on the dates of their
5 appointments and shall expire on the fourth or fifth January 31
6 next ensuing after the dates of their appointments, as the case
7 may be. Alternate members may participate in discussions of the
8 proceedings but may not vote, except in the absence or
9 disqualification of a regular member. A vote shall not be delayed
10 in order that a regular member may vote instead of an alternate
11 member.

12 (o) Whenever any sewerage authority has entered into a
13 contract for the treatment or disposal of sewage originating in
14 the district, pursuant to section 23 of P.L.1946, c.138
15 (C.40:14A-23), with any contiguous sewerage authority, then,
16 with the approval of the contiguous sewerage authority, the
17 sewerage authority may appoint, by resolution duly adopted, two
18 additional members to the contiguous sewerage authority, as
19 provided in this subsection. The additional members shall be
20 either residents of the district of the sewerage authority or
21 members or the executive director of the sewerage authority.
22 The additional members shall serve five year terms, except that
23 the additional members first appointed shall serve for terms
24 respectively expiring on the first days of the fourth and fifth
25 Februarys next ensuing after the dates of their appointments. On
26 or after January 1 in the years in which the terms of the
27 additional members expire, one person shall be appointed by the
28 sewerage authority as a member of the contiguous sewerage
29 authority as successor to the additional member, to serve for a
30 term commencing on February 1 of that year. Vacancies shall be
31 filled in the manner of the original appointments but for the
32 unexpired terms only. If a sewerage authority has entered into a
33 contract with a contiguous sewerage authority for the treatment
34 or disposal of sewage, and thereafter adopts a resolution
35 determining not to be represented in the membership of the
36 contiguous sewerage authority and files a copy thereof, duly
37 certified by its secretary, in the office of the contiguous
38 sewerage authority, the terms of office of any additional
39 members shall cease and no additional members shall be
40 appointed thereafter.

41 (cf: P.L.1986, c.182, s.1)

42 2. Section 4 of P.L.1948, c.348 (C.40:66A-4) is amended to
43 read as follows:

44 4. (a) The governing body of any municipality may, by
45 ordinance duly adopted, create a public body corporate and
46 politic under the name and style of "the incinerator authority"
47 with all or any significant part of the name of such municipality
48 inserted. [Said body] An incinerator authority created pursuant
49 to this section by a municipality other than a city of the first
50 class shall consist of [the] five members [thereof], [who] and an
51 incinerator authority created pursuant to this section by a
52 municipality which is a city of the first class shall consist of five
53 or seven members, as determined by the governing body.
54 Members of the incinerator authority shall be appointed by

1 resolution of the governing body as hereinafter in this section
2 provided, and (it) the authority shall constitute the incinerator
3 authority contemplated and provided for in this act and an agency
4 and instrumentality of said municipality. After the taking effect
5 of such ordinance and the filing of a certified copy thereof as in
6 subsection (c) of this section provided, [five persons shall be
7 appointed as] the members of the incinerator authority shall be
8 appointed. The members first appointed shall, by the resolution
9 of appointment, be designated to serve for terms respectively
10 expiring as follows: the terms of the first four members shall
11 expire in turn on each of the first days of the first, second,
12 third[,] and fourth [and fifth] Februarys next ensuing after the
13 date of their appointment, and the remaining members shall be
14 designated to serve for terms expiring on the first day of the
15 fifth February next ensuing after the date of their appointment.
16 On or after the first day of January in each year after such first
17 appointments, one person shall be appointed or reappointed as a
18 member of the incinerator authority to succeed each member
19 whose term is expiring, and shall serve for a term commencing on
20 the first day of February in such year and expiring on the first
21 day of February in the fifth year after such year. In the event of
22 a vacancy in the membership of the incinerator authority
23 occurring during an unexpired term of office, a person shall be
24 appointed as a member of the incinerator authority to serve for
25 such unexpired term.

26 The governing body of a municipality which is a city of the
27 first class may increase the membership of its incinerator
28 authority to seven members from five members. The two
29 additional members shall be appointed to serve five-year terms,
30 commencing on the February 1 next following their appointment
31 and expiring on February 1 in the fifth year after their
32 appointment.

33 (b) The governing bodies of any two or more municipalities,
34 whether or not the areas of such municipalities comprise an
35 integral body of territory, may, by parallel ordinances duly
36 adopted by each of such governing bodies within any single
37 calendar year, create a public body corporate and politic under
38 the name and style of "the incinerator authority" with all or any
39 significant part of the name of each such municipality or some
40 identifying geographical phrase inserted. Said body shall consist
41 of the members thereof, in an aggregate number determined as
42 hereinafter in this subsection provided, who shall be appointed by
43 resolution of the several governing bodies as hereinafter in this
44 section provided, and it shall constitute the incinerator authority
45 contemplated and provided for in this act and an agency and
46 instrumentality of the said municipalities. The number of
47 members of the incinerator authority to be appointed at any time
48 for full terms of office by the governing body of any such
49 municipality, shall be as may be stated in said ordinances which
50 shall be not less than one nor more than three. After the taking
51 effect of the said ordinances of all such municipalities and after
52 the filing of certified copies thereof as in subsection (c) of this
53 section provided, the appropriate number of persons shall be
54 appointed as members of the incinerator authority by the

1 governing body of each municipality. The members first
2 appointed or to be first appointed shall serve for terms expiring
3 on the first day of the fifth February next ensuing after the date
4 of the first appointment of any member. On or after the first
5 day of January in the year in which expires the terms of the said
6 members first appointed and in every fifth year thereafter, the
7 appropriate number of persons shall be appointed as members of
8 the incinerator authority by the governing body of each
9 municipality, to serve for terms commencing on the first day of
10 February in such year and expiring on the first day of February in
11 the fifth year after such year. In the event of a vacancy in the
12 membership of the incinerator authority occurring during an
13 unexpired term of office, a person shall be appointed as a
14 member of the incinerator authority to serve for such unexpired
15 term by the governing body which made the original appointment
16 for such unexpired term.

17 (c) A copy of each ordinance for the creation of an incinerator
18 authority adopted pursuant to this section, duly certified by the
19 appropriate officer of the local unit, shall be filed in the office of
20 the Secretary of State. Upon proof of such filing of a certified
21 copy of the ordinance or of certified copies of the parallel
22 ordinances for the creation of an incinerator authority as
23 aforesaid, the incinerator authority therein referred to shall, in
24 any suit, action or proceeding involving the validity or
25 enforcement of, or relating to, any contract or obligation or act
26 of the incinerator authority, be conclusively deemed to have been
27 lawfully and properly created and established and authorized to
28 transact business and exercise its powers under this act. A copy
29 of any such certified ordinance, duly certified by or on behalf of
30 the Secretary of State, shall be admissible in evidence in any suit,
31 action or proceeding.

32 (d) A copy of each resolution appointing any member of an
33 incinerator authority adopted pursuant to this section, duly
34 certified by the appropriate officer of the local unit, shall be
35 filed in the office of the Secretary of State. A copy of such
36 certified resolution, duly certified by or on behalf of the
37 Secretary of State, shall be admissible in evidence in any suit,
38 action or proceeding and, except in a suit, action or proceeding
39 directly questioning such appointment, shall be conclusive
40 evidence of the due and proper appointment of the members
41 named therein.

42 (e) No governing body which may create or join in the creation
43 of any incinerator authority pursuant to this section shall
44 thereafter create or join in the creation of any other incinerator
45 authority. No governing of any municipality within a district
46 shall create or join in the creation of any incinerator authority
47 except upon the written consent of the incinerator authority and
48 in accordance with the terms and conditions of such consent, and
49 in the event such consent be given and an incinerator authority be
50 created pursuant thereto, the area within the territorial
51 boundaries of such municipality shall not thereafter be part of
52 the district.

53 (cf: P.L.1950, c.265, s.1)

54 3. This act shall take effect immediately.

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3 **Permits appointment of seven members of sewerage and**
4 **incinerator authorities in first class cities.**

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STATEMENT

This bill permits municipalities which are cities of the first class to appoint seven members to the municipal sewerage and incinerator authorities. Current law permits the appointment of only five members to these authorities.

Current census data identifies Newark and Jersey City as the only cities of the first class.

Permits appointment of seven members of sewerage and incinerator authorities in first class cities.

ASSEMBLY INDEPENDENT AUTHORITIES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 705

STATE OF NEW JERSEY

DATED: JANUARY 24, 1994

The Assembly Independent Authorities Committee reports favorably Assembly Bill No. 705.

This bill permits municipalities which are cities of the first class to appoint seven members to the municipal sewerage and incinerator authorities. Current law permits the appointment of only five members to these authorities.

Current census data identifies Newark and Jersey City as the only cities of the first class.

Technical review was performed on this pre-filed bill, as required under Joint Rule 18A of the Senate and General Assembly.