

40:37A-54

LEGISLATIVE HISTORY CHECKLIST
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(County improvement authorities)

NJSA: 40:37A-54

LAWS OF: 1994 **CHAPTER:** 110

BILL NO: A701

SPONSOR(S): Kelly

DATE INTRODUCED: Pre-filed

COMMITTEE: **ASSEMBLY:** Independent Authorities
SENATE: Community Affairs

AMENDED DURING PASSAGE: Yes
Second reprint enacted

DATE OF PASSAGE: **ASSEMBLY:** February 17, 1994 Re-enacted 8-29-94
SENATE: May 12, 1994 Re-enacted 9-19-94

DATE OF APPROVAL: September 20, 1994

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: Yes

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

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[SECOND REPRINT]

ASSEMBLY, No. 701

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1994 SESSION

By Assemblyman KELLY

1 AN ACT providing an additional purpose for county improvement
2 authorities and amending P.L.1960, c.183.

3

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

6 1. Section 11 of P.L.1960, c.183 (C.40:37A-54) is amended to
7 read as follows:

8 11. The purposes of every authority shall be (a) provision
9 within the county of public facilities for use by the State, the
10 county, or any municipality in the county, or any two or more or
11 any subdivisions, departments, agencies or instrumentalities of
12 any of the foregoing for any of their respective governmental
13 purposes, (b) provision within the county of public facilities for
14 use as convention halls, or the rehabilitation, improvement or
15 enlargement of any convention hall, including appropriate and
16 desirable appurtenances located within the convention hall or
17 near, adjacent to or over it within boundaries determined at the
18 discretion of the authority, including but not limited to office
19 facilities, commercial facilities, community service facilities,
20 parking facilities, hotel facilities and other facilities for the
21 accommodation and entertainment of tourists and visitors, (c)
22 provision within the county of structures, franchises, equipment
23 and facilities for operation of public transportation or for
24 terminal purposes, including development and improvement of
25 port terminal structures, facilities and equipment for public use
26 in counties in, along or through which a navigable river flows, (d)
27 provision within the county of structures or other facilities used
28 or operated by the authority or any governmental unit in
29 connection with, or relative to development and improvement of,
30 aviation for military or civilian purposes, including research in
31 connection therewith, and including structures or other facilities
32 for the accommodation of passengers, (e) provision within the
33 county of a public facility for a combination of governmental and
34 nongovernmental uses; provided that not more than 50% of the
35 usable space in any such facility shall be made available for
36 nongovernmental use under a lease or other agreement by or with
37 the authority, (f) acquisition of any real property within the
38 county, with or without the improvements thereof or thereon or
39 personal property appurtenant or incidental thereto, from the
40 United States of America or any department, agency of
41 instrumentality heretofore or hereafter created, designated or
42 established by or for it, and the clearance, development or

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SCO committee amendments adopted March 10, 1994.

² Assembly amendments adopted in accordance with Governor's
recommendations August 1, 1994.

1 redevelopment, improvement, use or disposition of the acquired
2 lands and premises in accordance with the provisions and for the
3 purposes stated in this act, including the construction,
4 reconstruction, demolition, rehabilitation, conversion, repair or
5 alteration of improvements on or to said lands and premises, and
6 structures and facilities incidental to the foregoing as may be
7 necessary, convenient or desirable, (g) acquisition, construction,
8 maintenance and operation of garbage and solid waste disposal
9 systems for the purpose of collecting and disposing of garbage,
10 solid waste or refuse matter, whether owned or operated by any
11 person, the authority or any other governmental unit, within or
12 without the county, (h) the improvement, furtherance and
13 promotion of the tourist industries and recreational
14 attractiveness of the county through the planning, acquisition,
15 construction, improvement, maintenance and operation of
16 facilities for the recreation and entertainment of the public,
17 which facilities may include, without being limited to, a center
18 for the performing and visual arts, (i) provision of loans and other
19 financial assistance and technical assistance for the construction,
20 reconstruction, demolition, rehabilitation, conversion, repair or
21 alteration of buildings or facilities designed to provide decent,
22 safe and sanitary dwelling units for persons of low and moderate
23 income in need of housing, including the acquisition of land,
24 equipment or other real or personal properties which the
25 authority determines to be necessary, convenient or desirable
26 appurtenances, all in accordance with the provisions of this act,
27 as amended and supplemented, (j) planning, initiating and carrying
28 out redevelopment projects for the elimination, and for the
29 prevention of the development or spread of blighted, deteriorated
30 or deteriorating areas and the disposition, for uses in accordance
31 with the objectives of the redevelopment project, of any property
32 or part thereof acquired in the area of such project, ¹[and]¹ (k)
33 any combination or combinations of the foregoing or following,
34 and (l) ¹subject to the prior approval of the Local Finance
35 Board,¹ the planning, design, acquisition, construction,
36 improvement, renovation, installation, maintenance and operation
37 of facilities or any other type of real or personal property within
38 the county for a corporation or other person organized for any
39 one or more of the purposes described in subsection a. of
40 N.J.S.15A:2-1 ²except those facilities or any other type of real
41 or personal property which can be financed pursuant to the
42 provisions of P.L.1972, c.29 (C.26:2I-1 et seq.) as amended².
43 (cf: P.L.1982, c.113, s.7)

44 2. This act shall take effect immediately.

45

46

47

48

49 Permits county improvement authorities to participate in
50 planning and construction of certain non-profit facilities.

1 redevelopment, improvement, use or disposition of the acquired
2 lands and premises in accordance with the provisions and for the
3 purposes stated in this act, including the construction,
4 reconstruction, demolition, rehabilitation, conversion, repair or
5 alteration of improvements on or to said lands and premises, and
6 structures and facilities incidental to the foregoing as may be
7 necessary, convenient or desirable, (g) acquisition, construction,
8 maintenance and operation of garbage and solid waste disposal
9 systems for the purpose of collecting and disposing of garbage,
10 solid waste or refuse matter, whether owned or operated by any
11 person, the authority or any other governmental unit, within or
12 without the county, (h) the improvement, furtherance and
13 promotion of the tourist industries and recreational
14 attractiveness of the county through the planning, acquisition,
15 construction, improvement, maintenance and operation of
16 facilities for the recreation and entertainment of the public,
17 which facilities may include, without being limited to, a center
18 for the performing and visual arts, (i) provision of loans and other
19 financial assistance and technical assistance for the construction,
20 reconstruction, demolition, rehabilitation, conversion, repair or
21 alteration of buildings or facilities designed to provide decent,
22 safe and sanitary dwelling units for persons of low and moderate
23 income in need of housing, including the acquisition of land,
24 equipment or other real or personal properties which the
25 authority determines to be necessary, convenient or desirable
26 appurtenances, all in accordance with the provisions of this act,
27 as amended and supplemented, (j) planning, initiating and carrying
28 out redevelopment projects for the elimination, and for the
29 prevention of the development or spread of blighted, deteriorated
30 or deteriorating areas and the disposition, for uses in accordance
31 with the objectives of the redevelopment project, of any property
32 or part thereof acquired in the area of such project, and (k) any
33 combination or combinations of the foregoing or following, and (l)
34 the planning, design, acquisition, construction, improvement,
35 renovation, installation, maintenance and operation of facilities
36 or any other type of real or personal property within the county
37 for a corporation or other person organized for any one or more
38 of the purposes described in subsection a. of N.J.S.15A:2-1.
39 (cf: P.L.1982, c.113, s.7)

40 2. This act shall take effect immediately.

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43 STATEMENT

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45 This bill would permit county improvement authorities to
46 participate in the planning, design, acquisition, construction,
47 improvement, renovation, installation, maintenance and operation
48 of facilities or any other type of real or personal property within
49 the county for a corporation or other person organized for any
50 one of the purposes described in subsection a. of N.J.S. 15A:2-1.
51 The purposes described in this section are generally charitable,
52 religious, educational and cooperative.

53 The sponsor intends that this bill will permit county
54 improvement authorities to serve as a conduit financier for

1 non-profit organizations in a simpler way than is possible under
2 current law. Improvement authorities may currently serve in
3 such capacity to a great degree, either because the non-profit
4 purpose fits one of the existing purposes within improvement
5 authority law or through the use of the redevelopment powers of
6 the authority.

7 In certain cases however, the sponsor believes that the current
8 statutory scheme is inefficient, in that it may require an overly
9 cumbersome approval process, particularly when the
10 redevelopment powers are being used solely to authorize the
11 financing. In addition, certain other desirable services of
12 improvement authorities, such as the provision of pooled capital
13 leasing programs, cannot easily be made available to non-profit
14 organizations, a situation that denies non-profit organizations the
15 opportunity to enjoy substantial savings in the acquisition of
16 needed equipment and facilities.

17 With the change proposed in this bill, the sponsor believes that
18 non-profit organizations would be able to enjoy the same benefits
19 now available to municipalities and school districts. Rather than
20 having that availability unnecessarily restricted by statute, the
21 change would make the desirability of such financing dependent
22 primarily on federal tax law limitations and the willingness of the
23 market place to purchase the bonds. To the extent that
24 improvement authorities issued such bonds as a conduit, such
25 financing would not affect the financial status of the issuing
26 authority.

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31 Permits county improvement authorities to participate in
32 planning and construction of certain non-profit facilities.

ASSEMBLY INDEPENDENT AUTHORITIES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 701

STATE OF NEW JERSEY

DATED: JANUARY 24, 1994

The Assembly Independent Authorities Committee reports favorably Assembly Bill No. 701.

This bill would permit county improvement authorities to participate in the planning, design, acquisition, construction, improvement, renovation, installation, maintenance and operation of facilities or any other type of real or personal property within the county for a corporation or other person organized for any one of the purposes described in subsection a. of N.J.S. 15A:2-1. The purposes described in this section are generally charitable, religious, educational and cooperative.

According to the sponsor's statement, the sponsor intends that this bill will permit county improvement authorities to serve as a conduit financier for non-profit organizations in a simpler way than is possible under current law. Improvement authorities may currently serve in such capacity to a great degree, either because the non-profit purpose fits one of the existing purposes within improvement authority law or through the use of the redevelopment powers of the authority.

In certain cases however, as stated in the sponsor's statement, the sponsor believes that the current statutory scheme is inefficient, in that it may require an overly cumbersome approval process, particularly when the redevelopment powers are being used solely to authorize the financing. In addition, certain other desirable services of improvement authorities, such as the provision of pooled capital leasing programs, cannot easily be made available to non-profit organizations, a situation that denies non-profit organizations the opportunity to enjoy substantial savings in the acquisition of needed equipment and facilities.

With the change proposed in this bill, as stated in the sponsor's statement, the sponsor believes that non-profit organizations would be able to enjoy the same benefits now available to municipalities and school districts. Rather than having that availability unnecessarily restricted by statute, the change would make the desirability of such financing dependent primarily on federal tax law limitations and the willingness of the market place to purchase the bonds. To the extent that improvement authorities issued such bonds as a conduit, such financing would not affect the financial status of the issuing authority.

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

SENATE COMMUNITY AFFAIRS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 701

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 10, 1994

The Senate Community Affairs Committee reports favorably and with committee amendments Assembly Bill No. 701.

As amended by the committee, this bill would add as a purpose of every county improvement authority the planning, design, acquisition, construction, improvement, renovation, installation, maintenance and operation of facilities or any other type of real or personal property within the county for a corporation or other person organized for any one or more of the purposes described in subsection a. of N.J.S.15A:2-1 subject to the prior approval of the Local Finance Board.

N.J.S.15A:2-1a. sets forth the purposes for which nonprofit corporations may be organized. That section states that a nonprofit corporation may be organized for any lawful purpose other than for pecuniary profit including, without being limited to, any one of the following purposes: charitable; benevolent; eleemosynary; educational; cemetery; civic; patriotic; political; religious; social; fraternal; literary; cultural; athletic; scientific; agricultural; horticultural; animal husbandry; volunteer fire company; ambulance, first aid or rescue; professional, commercial, industrial or trade association; and labor union and cooperative purposes.

The committee amended the bill at the request of the Department of Community Affairs in order to require a county improvement authority to obtain the approval of the Local Finance Board before the authority may plan, design, acquire, construct, improve, renovate, install, maintain or operate a facility or any other type of real or personal property within the county for a nonprofit corporation.

As reported by the committee, this bill is identical to Senate Bill No. 512 which was also reported by the committee with amendments on March 10, 1994.

ASSEMBLY BILL NO. 701

(First Reprint)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 701 (First Reprint) with my recommendations for reconsideration.

This bill would permit county improvement authorities to participate in the planning, design, acquisition, construction, improvement, renovation, installation, maintenance and operation of facilities for corporations or other persons organized as not-for-profit entities under New Jersey law (specifically, subsection a. of N.J.S.A. 15A:2-1). The intent of the bill is to permit county improvement authorities to serve as conduit financiers for nonprofit organizations.

While I strongly agree with the goal of the bill, I believe that its reach should be narrowed to exclude certain kinds of financing of nonprofit hospitals and other nonprofit health care facilities. New Jersey has an agency, the New Jersey Health Care Facilities Financing Authority ("HCFFA"), responsible for assuring responsible financing for the State's not-for-profit health care facilities. The agency issues bonds, coordinates debt structuring, and monitors the financial well-being of every hospital in the State on a quarterly basis. To date, the agency has issued over \$4 billion in bonds, and has yet to experience a single failure. The State is well-served by a centralized agency authorized to issue bonds on behalf of health-care providers. A proliferation of authorities empowered to incur such indebtedness may lead to market uncertainties and potential disparities in the provision of health-care services.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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For these reasons, I herewith return Assembly Bill No. 701
(First Reprint) and recommend that it be amended as follows:

Page 2, Section 1, Line 40: After "N.J.S. 15A:2-1" add "except those facilities or any other type of real or personal property which can be financed pursuant to the provisions of P.L. 1972, c.29, N.J.S. 26:2I-1 et seq., as amended."

Respectfully,

/s/ Christine Todd Whitman

GOVERNOR

[seal]

Attest:

/s/ Peter Verniero

Chief Counsel to the Governor