

26:2I-1 et seq.

M. McGuire

LEGISLATIVE FACT SHEET

N.J.R.S. 26:2I-1 et seq. on "Health Care Facilities Financing Authority Law" (Amendment)

LAWS OF 1972

CHAPTER 29 May 25, 1972

SENATE BILL 841 OCR

ASSEMBLY BILL

INTRODUCED March 27, 1972

BY Cuzzolina and 16 others

SPONSOR'S STATEMENT

YES NO

ASSEMBLY COMMITTEE STATEMENT

YES NO

SENATE COMMITTEE STATEMENT

YES NO

FISCAL NOTE

YES NO

AMENDED DURING PASSAGE

YES NO

HEARING April 27, 1972

974,90
4,838
1972 * This public hearing was not transcribed.

VETO

SENATE INSTITUTIONS, HEALTH AND WELFARE COMMITTEE

STATEMENT TO

SENATE, No. 841

Gov'n press release

STATE OF NEW JERSEY

DATED: MAY 4, 1972

This bill would authorize the creation of a new State authority to supplement existing financing mechanisms in providing for capital costs of health care facilities. Health officials have estimated that more than \$500 million should be spent in New Jersey in the next 5 years for new health care facilities and for replacement and modernization of existing hospitals and related institutions.

Currently available sources of capital funds for health care facilities are the federal Hill-Burton Act and FHA programs, and private borrowing. The Federal programs provide funds at lower rates of interest, but limitations on these funds and their particular requirements have forced health care institutions to borrow at higher rates from private sources, according to the Department of Health.

JA/PC
11/7/75

~~Not a health care facility~~
~~services to be provided~~
~~of health care facilities~~
~~in the State of New Jersey~~
~~and the Department of Health~~
~~is hereby authorized.~~

SENATE, No. 841

STATE OF NEW JERSEY

INTRODUCED MARCH 27, 1972

By Senators AZZOLINA, STOUT, DUMONT, TANZMAN, McGAHN, HAGEDORN, WENDEL, TURNER, MARAZITI, THOMAS, MILLER, ITALIANO, LAZZARA, McDERMOTT, MUSTO and HOLLENBECK

Referred to Committee on Institutions, Health and Welfare

AN ACT relating to the financing of health care facilities and equipment; creating the New Jersey Health Care Facilities Financing Authority and prescribing its powers and duties; authorizing the issuance of bonds and notes of the authority and providing for the terms and security thereof.

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

ARTICLE 1. PURPOSE

1 1. Preamble, purpose of act. It is hereby declared that a serious
2 public emergency exists affecting the health, safety and welfare of
3 the people of the State resulting from the fact that many hospitals
4 and other health-care facilities throughout the State are becoming
5 obsolete and are no longer adequate to meet the needs of modern
6 medicine. As a result of rapid technological changes, such facilities
7 require substantial structural or functional changes. Others are
8 unsuited for continued use by virtue of their location and the
9 physical characteristics of their existing plants and should be re-
10 placed. Such inadequate and outmoded facilities deny to the people
11 of the State the benefits of health care of the highest quality,
12 efficiently and promptly provided at a reasonable cost. Their re-
13 placement and modernization is essential to protect and prolong
14 the lives of the State's population and cannot readily be accom-
15 plished by the ordinary unaided operation of private enterprise.
16 Existing hospitals and other health-care facilities must be adapted
17 to accommodate new concepts of medical treatment and provide
18 units for the treatment of alcoholism, narcotics addiction and other
19 social ills.

20 It is the purpose of this act to encourage the timely construction
 21 and modernization, including the equipment, of hospital and other
 22 health-care facilities, which are necessary for the diagnosis or
 23 treatment of human disease, pain, injury, disability, deformity or
 24 physical condition, including mental illness and retardation, and of
 25 facilities incidental or appurtenant thereto to be administered in
 26 accordance with the provisions of the Health Care Facilities Plan-
 27 ning Act, P. L. 1971, c. 136 (C. 26:2H-1 et seq.). It is hereby
 28 declared to be the policy of the State to encourage the provision of
 29 modern, well-equipped health-care facilities, and such provision is
 30 hereby declared to be a public use and purpose.

ARTICLE 2. SHORT TITLE; DEFINITIONS

1 2. Short title. This act shall be known and may be cited as the
 2 "New Jersey Health Care Facilities Financing Authority Law."

1 3. Terms defined. As used in this act, the following words and
 2 terms shall have the following meanings, unless the context indi-
 3 cates or requires another or different meaning or intent:

4 "Authority" means the New Jersey Health Care Facilities
 5 Financing Authority created by this act or any board, body, com-
 6 mission, department or officer succeeding to the principal functions
 7 thereof or to whom the powers conferred upon the authority by this
 8 act shall be given by law.

9 "Bond" means bonds, notes or other evidences of indebtedness
 10 of the authority issued pursuant to this act.

11 "Commissioner" means the State Commissioner of Health.

12 "Hospital facility" means a structure suitable to provide hos-
 13 pitals, hospital related housing facilities, doctors' office buildings
 14 or other health-care facilities for the prevention, diagnosis or treat-
 15 ment of human disease, pain, injury, disability, deformity or physi-
 16 cal condition or mental illness and retardation, and for facilities
 16A incidental or appurtenant thereto.

17 "Participating hospital" means a public hospital or private
 18 hospital which has entered into a regulatory agreement in accord-
 19 ance with this act.

20 "Private hospital" means a hospital or health-care institution,
 21 or an institution for the training of doctors, nurses, paramedical
 22 or other personnel engaged in the provision of health care, other
 23 than a State, county or municipal hospital or health care facility,
 24 or related institution including a health maintenance organization,
 25 public health center, diagnostic center, treatment center, rehabilita-
 26 tion center, extended care facility, skilled nursing home, nursing
 27 home, intermediate care facility, tuberculosis hospital, chronic

28 disease hospital, maternity hospital, special hospital, mental hos-
29 pital, outpatient clinic, dispensary, home health agency, boarding
30 home or other home for sheltered care situated within the State
31 and which is a nonprofit institution providing hospital or health
32 care service to the public.

33 "Public hospital" means a State, county or municipal hospital
34 or health-care facility including health maintenance organization,
35 public health center, diagnostic center, treatment center, rehabilita-
36 tion center, extended care facility, skilled nursing home, nursing
37 home, intermediate care facility, tuberculosis hospital, chronic
38 disease hospital, maternity hospital, mental hospital, outpatient
39 clinic, dispensary, home health care agency, boarding home or other
40 home for sheltered care now or hereafter established or authorized
41 by law.

42 "Project" or "hospital project" means a specific work, includ-
43 ing lands, buildings, improvements, alterations, renovations, en-
44 largements, reconstructions, fixtures and articles of personal prop-
45 erty, acquired, constructed, rehabilitated, owned and operated by
46 a participating hospital pursuant to this act, to provide hospital
47 or health-care facilities or facilities related, required or useful to
48 or for the operation of a hospital facility, and "project" or
49 "hospital project" may include any combination of the foregoing
50 undertaken jointly by any participating hospital with one or more
51 other participating hospitals.

52 "Project cost" or "hospital project cost" means the sum total
53 of all or any part of costs incurred or estimated to be incurred
54 by the authority or by a participating hospital which are reasonable
55 and necessary for carrying out all works and undertakings and
56 providing all necessary equipment for the development of a project,
57 exclusive of the amount of any private or Federal, State or local
58 financial assistance for and received by a participating hospital for
59 the payment of such project cost. Such costs shall include, but are
60 not necessarily limited to, interest prior to, during and for a reason-
61 able period after such development, start-up costs and costs of
62 operation and maintenance during the construction period and for
63 a reasonable additional period thereafter, the cost of necessary
64 studies, surveys, plans and specifications, architectural, engineer-
65 ing, legal or other special services, the cost of acquisition of land,
66 buildings and improvements thereon (including payments for the
67 relocation of persons displaced by such acquisition), site prepara-
68 tion and development, construction, reconstruction, equipment, in-
69 cluding fixtures, equipment, and cost of demolition and removal,
70 and articles of personal property required, the reasonable cost of

71 financing incurred by a participating hospital or the authority in
72 the course of the development of the project, reserves for debt
73 service, the fees imposed upon a participating hospital by the
74 commissioner and by the authority; other fees charged, and neces-
75 sary expenses incurred in connection with the initial occupancy of
76 the project, and the cost of such other items as may be reasonable
77 and necessary for the development of a project. The commission-
78 er's approval of estimated project cost in accordance with section 6
79 of this act shall include his approval, which shall be conclusive, as
80 to the reasonableness or necessity of any item of cost and as to the
81 reasonableness of any period of time in respect of which interest,
82 start-up, operation and maintenance costs have included in project
83 costs.

ARTICLE 3. AUTHORITY; MEMBERSHIP; OFFICERS; EMPLOYEES;
GOVERNOR'S VETO

1 4. Authority created; members; terms; organization meetings;
2 governor's veto power. a. There is hereby established in the State
3 Department of Health, a public body corporate and politic, with
4 corporate succession, to be known as the "New Jersey Health-Care
5 Facilities Financing Authority." The authority shall constitute
6 a political subdivision of the State established as an instrumentality
7 exercising public and essential governmental functions, and the
8 exercise by the authority of the powers conferred by this act shall
9 be deemed and held to be an essential governmental function.
10 b. The authority shall consist of seven members, three of whom
11 shall be the commissioner, who shall be the chairman, the Com-
12 missioner of Insurance, and the Commissioner of the Department
13 of Institutions and Agencies, who shall serve during their terms
14 of office, or when so designated by them, their deputies or other
15 representatives, who shall serve at their pleasure, and four public
16 members who are citizens of the State to be appointed by the
17 Governor, with the advice and consent of the Senate for terms of
18 4 years; provided that the four members first appointed by the
19 Governor shall serve terms expiring on the first, second, third,
20 and fourth, respectively, April 30 ensuing after the enactment of
21 this act. Each member shall hold office for the term of his appoint-
22 ment and until his successor shall have been appointed and quali-
23 fied. Any vacancy among the public members shall be filled by
24 appointment for the unexpired term only.
25 c. Any member of the authority appointed by the Governor may
26 be removed from office by the Governor for cause after a public
27 hearing.

28 d. The members of the authority shall serve without compensa-
29 tion, but the authority may reimburse its members for necessary
30 expenses incurred in the discharge of their official duties.

31 e. The authority, upon the first appointment of its members and
32 thereafter on or after April 30 in each year, shall annually elect
33 from among its members a vice chairman who shall hold office until
34 April 30 next ensuing and shall continue to serve during the term
35 of his successor and until his successor shall have been appointed
36 and qualified. The authority may also appoint, retain and employ,
37 without regard to the provisions of Title 11, Civil Service, of the
38 Revised Statutes, such officers, agents, and employees as it may
39 require, and it shall determine their qualifications, terms of office,
40 duties, services and compensation.

41 f. The powers of the authority shall be vested in the members
42 thereof in office from time to time and a majority of the total
43 authorized membership of the authority shall constitute a quorum
44 at any meeting thereof. Action may be taken and motions and
45 resolutions adopted by the authority at any meeting thereof by
46 the affirmative vote of a majority of the members present, unless
47 in any case the bylaws of the authority shall require a larger
48 number. No vacancy in the membership of the authority shall
49 impair the right of a quorum to exercise all the rights and perform
50 all the duties of the authority.

51 g. Each member and the treasurer of the authority shall execute
52 a bond to be conditioned upon the faithful performance of the
53 duties of such member or treasurer, as the case may be, in such
54 form and amount as may be prescribed by the Attorney General.
55 Such bonds shall be filed in the office of the Secretary of State. At
56 all times thereafter the members and treasurer of the authority
57 shall maintain such bonds in full force and effect. All costs of such
58 bonds shall be borne by the authority.

59 h. Notwithstanding the provisions of P. L. 1971, c. 182
60 (C. 52:13D-12 et seq.), it shall not be a conflict of interest for a
61 trustee, director, officer or employee of a participating hospital to
62 serve as a member of the authority; provided such trustee, director,
63 officer or employee shall abstain from discussion, deliberation,
64 action and vote by the authority under this chapter in respect to
65 such participating hospital of which such member is a trustee,
66 director, officer or employee.

67 i. At least two true copies of the minutes of every meeting of the
68 authority shall be forthwith delivered by and under the certification
69 of the secretary thereof, to the Governor. No action taken at such
70 meeting by the authority shall have force or effect until 10 days,

71 exclusive of Saturdays, Sundays and public holidays, after such
 72 copies of the minutes shall have been so delivered or at such earlier
 73 time as the Governor shall sign a statement of approval thereof.
 74 If, in said 10-day period, the Governor returns a copy of the minutes
 75 with veto of any action taken by the authority or any member
 76 thereof at such meeting, such action shall be null and of no effect.
 77 If the Governor shall not return the minutes within said 10-day
 78 period, any action therein recited shall have force and effect accord-
 79 ing to the wording thereof. At any time prior to the expiration of
 80 the said 10-day period, the Governor may sign a statement of ap-
 81 proval of all or any such action of the authority.

82 The powers conferred in this subsection upon the Governor shall
 83 be exercised with due regard for the rights of the holders of bonds
 84 of the authority at any time outstanding.

ARTICLE 4. POWERS AND DUTIES; BONDS

- 1 5. Powers of authority. The authority shall have power:
- 2 a. To adopt bylaws for the regulation of its affairs and the con-
 3 duct of its business and to alter and revise such bylaws from time
 4 to time at its discretion.
- 5 b. To adopt and have an official seal and alter the same at
 6 pleasure.
- 7 c. To maintain an office at such place or places within the State
 8 as it may designate.
- 9 d. To sue and be sued in its own name.
- 10 e. To borrow money and to issue bonds of the authority and to
 11 provide for the rights of the holders thereof as provided in this
 12 act.
- 13 f. To acquire, lease as lessee or lessor, hold and dispose of real
 14 and personal property or any interest therein, in the exercise of its
 15 powers and the performance of its duties under this act.
- 15A g. To acquire in the name of the authority by purchase or other-
 16 wise, on such terms and conditions and in such manner as it may
 17 deem proper, or by the exercise of the eminent domain except as
 18 against the State or any political subdivision thereof, any land or in-
 19 terest therein and other property which it may determine is reason-
 20 ably necessary for any project; and to hold and use the same and to
 21 sell, convey, lease or otherwise dispose of property so acquired, no
 22 longer necessary for the authority's purposes for fair considera-
 23 tion after public notice.
- 24 h. To receive and accept, from any Federal or other public
 25 agency or governmental entity directly or through the Department
 26 of Health or any other agency of the State or any participating
 27 hospital, grants or loans for or in aid of the acquisition or con-

28 struction of any project, and to receive and accept aid or contri-
29 butions from any other source, of either money, property, labor or
30 other things of value, to be held, used and applied only for the pur-
31 poses for which such grants, loans and contributions may be made.

32 i. To prepare or cause to be prepared plans, specifications, de-
33 signs and estimates of costs for the construction and equipment of
34 hospital projects for participating hospitals under the provisions
35 of this act, and from time to time to modify such plans, specifica-
36 tions, designs or estimates.

37 j. By contract or contracts or by its own employees to construct,
38 acquire, reconstruct, rehabilitate and improve, and furnish and
39 equip, hospital projects for participating hospitals. The authority,
40 in the exercise of its authority to make and enter into contracts and
41 agreements necessary or incidental to the performance of its duties
42 and the execution of its powers, shall adopt standing rules and
43 procedures providing that, except as hereinafter provided, no
44 contract on behalf of the authority shall be entered into for the
45 doing of any work, or for the hiring of equipment or vehicles, where
46 the sum to be expended exceeds the sum of \$2,500.00 unless the
47 authority shall first publicly advertise for bids therefor, and shall
48 award the contract to the lowest responsible bidder; provided, how-
49 ever, that such advertising shall not be required where the con-
50 tract to be entered into is one for the furnishing or performing
51 services of a professional nature or for the supplying of any pro-
52 duct or the rendering of any service by a public utility subject
53 to the jurisdiction of the Public Utilities Commission and tariffs
54 and schedules of the charges, made, charged, or exacted by the pub-
55 lic utility for any such products to be supplied or services to be
56 rendered are filed with said commission. This section shall not
57 prevent the authority from having any work done by its own em-
58 ployees.

59 k. To determine the location and character of any project to be
60 undertaken, subject to the provisions of this act, and subject to
61 State Health and environmental laws, to construct, reconstruct,
62 maintain, repair, operate, lease, as lessee or lessor, and regulate
63 the same; to enter into contracts for any or all such purposes; and
64 to enter into contracts for the management and operation of a
65 project.

66 l. To establish rules and regulations for the use of a project or
67 any portion thereof and to designate a participating hospital as
68 its agent to establish rules and regulations for the use of a project
69 undertaken by such a participating hospital.

70 m. Generally to fix and revise from time to time and to charge
71 and collect rates, rents, fees and other charges for the use of and
72 for the services furnished or to be furnished by a project or any
73 portion thereof and to contract with holders of its bonds and with
74 any other person, party, association, corporation or other body,
75 public or private, in respect thereof, subject to the provisions of the
76 Health Care Facilities Planning Act, P. L. 1971, c. 136 (C. 26:2H-1
77 et seq.).

78 n. To enter into agreements or contracts, execute any and all
79 instruments, and do and perform any and all acts or things neces-
80 sary, convenient or desirable for the purpose of the authority or
81 to carry out any power expressly given in this act.

82 o. To invest any moneys held in reserve or sinking funds, or
83-84 any moneys not required for immediate use or disbursement, at
85 the discretion of the authority, in such obligations as are authorized
86 by resolution of the authority.

87 p. To obtain, or aid in obtaining, from any department or agency
88 of the United States any insurance or guarantee as to, or of or for
89 the payment or repayment of interest or principal, or both, or any
89A part thereof, on any loan or any instrument evidencing or securing
90 the same, made or entered into pursuant to the provisions of this
91 act; and notwithstanding any other provisions of this act to enter
92 into agreement, contract or any other instrument whatsoever with
93 respect to any such insurance or guarantee, and accept payment in
94 such manner and form as provided therein in the event of default
95 by the borrower.

96 q. To obtain from any department or agency of the United
97 States or the State or a private insurance company any insurance
98 or guarantee as to, or of, or for the payment or repayment of in-
99-100 terest or principal, or both, or any part thereof, on any bonds,
101 issued by the authority pursuant to the provisions of this act; and
102 notwithstanding any other provisions of this act to enter into any
103 agreement, contract or any other instrument whatsoever with re-
104 spect to any such insurance or guarantee except to the extent that
105 such action would in any way impair or interfere with the author-
106 ity's ability to perform and fulfill the terms of any agreement made
107 with the holders of the bonds of the authority.

108 r. To receive and accept, from any department or agency of the
109 United States or of the State or from any other entity, any grant,
110 appropriation or other moneys to be used for or applied to any
111 corporate purpose of the authority, including without limitation
112 the meeting of debt service obligations of the authority in respect
113 of its bonds.

1 6. Approval of project costs; regulatory agreements; expenses.
2 Notwithstanding any other provision of this act, the authority shall
3 not acquire or authorize the acquisition, the commencement of con-
4 struction or rehabilitation of any project or hospital facility to be
5 leased to a participating hospital, in respect of any project where
6 such acquisition or work is to be done by the authority, nor advance
7 loan funds to any participating hospital, in respect of a project
8 involving a loan to such hospital, until (i) the estimated project
9 cost shall have been approved by the commissioner and (ii) the
10 participating hospital shall have entered into a regulatory agree-
11 ment with the commissioner. Such regulatory agreement shall
12 contain such provisions as shall be deemed adequate by the com-
13 missioner to assure that the project shall be constructed, maintained
14 and operated in a manner consistent with the purposes of this act
15 and the Health Care Facilities Planning Act, P. L. 1971, c. 136
16 (C. 26:2H-1 et seq.).

17 The requirements of the preceding paragraph shall not preclude
18 the authority from taking actions, and incurring expenses in con-
19 nection therewith, preliminary to the actual acquisition or com-
20 mencement of construction or rehabilitation of facilities or the
21 advancing of loan funds in respect of any proposed project, pro-
22 vided, that all expenses incurred in carrying out the provisions
23 of this act shall be payable solely from funds provided under the
24 authority of this act and no liability or obligation shall be incurred
25 by the authority hereunder beyond the extent to which moneys
26 shall have been provided under the provisions of this act.

1 7. Issuance of bonds authorized; maturity; terms. a. The au-
2 thority is authorized from time to time to issue its bonds for any
3 corporate purpose and to fund and refund the same all as provided
4 in this act. Such bonds may, at the discretion of the authority be
5 designated as "bonds," "notes," "bond anticipation notes" or
6 otherwise.

7 b. Except as may otherwise be expressly provided by the au-
8 thority, every issue of its bonds shall be general obligations of
9 the authority payable from any revenues or moneys of the au-
10 thority, subject only to any agreements with the holders of
11 particular bonds pledging any particular revenues or moneys.
12 Notwithstanding that bonds may be payable from a special fund,
13 they shall be fully negotiable within the meaning of Title 12A,
14 the Uniform Commercial Code, of the New Jersey Statutes, subject
15 only to any provisions of the bonds for registration.

16 c. The bonds may be issued as serial bonds or as term bonds,
17 or the authority, in its discretion, may issue bonds of both types.

18 The bonds shall be authorized by resolution of the members of the
19 authority and shall bear such date or dates, mature at such time
20 or times, not exceeding 50 years from their respective dates, bear
21 interest at such rate or rates, be payable at such time or times,
22 be in such denominations, be in such form, either coupon or
23 registered, carry such registration privileges, be executed in such
24 manner, be payable in lawful money of the United States of America
25 at such place or places, and be subject to such terms of redemption,
26 as such resolution or resolutions may provide. The bonds may be
27 sold at public or private sale for such price or prices as the au-
28 thority shall determine. Pending preparation of the definitive
29 bonds, the authority may issue interim receipts or certificates
30 which shall be exchanged for such definitive bonds.

31 d. Any resolution or resolutions authorizing any bonds or any
32 issue of bonds may contain provisions, which shall be a part of
33 the contract with the holders of the bonds to be authorized, as to:

34 (i) pledging all or any part of the revenues of a project or any
35 revenue producing contract or contracts made by the authority
36 with any individual, partnership, corporation or association or
37 other body, public or private, to secure the payment of the bonds
38 or of any particular issue of bonds, subject to such agreements
39 with bondholders as may then exist;

40 (ii) the rentals, fees and other charges to be charged, and the
41 amounts to be raised in each year thereby, and the use and dis-
42 position of the revenues;

43 (iii) the setting aside of reserves or sinking funds, and the
44 regulation and disposition thereof;

45 (iv) limitations on the right of the authority or its agent to
46 restrict and regulate the use of a project;

47 (v) limitations on the purpose to which the proceeds of sale of
48 any issue of bonds then or thereafter to be issued may be applied
49 and pledging such proceeds to secure the payment of the bonds or
50 any issue of the bonds;

51 (vi) limitations on the issuance of additional bonds, the terms
52 upon which additional bonds may be issued and secured and the
53 refunding of outstanding bonds;

54 (vii) the procedure, if any, by which the terms of any contract
55 with bondholders may be amended or abrogated, the amount of
56 bonds the holders of which must consent thereto, and the manner
57 in which such consent may be given;

58 (viii) limitations on the amount of moneys derived from a project
59 to be expended for operating, administrative or other expenses of
60 the authority; and

61 (ix) defining the acts or omissions to act which shall constitute
62 a default in the duties of the authority to holders of its obligations
63 and providing the rights and remedies of such holders in the event
64 of a default.

65 e. Neither the members of the authority nor any person executing
66 the bonds shall be liable personally on the bonds or be subject to
67 any personal liability or accountability by reason of the issuance
68 thereof.

69 f. The authority shall have power out of any funds available
70 therefor to purchase its bonds. The authority may hold, pledge,
71 cancel or resell such bonds, subject to and in accordance with agree-
72 ments with bondholders.

1 8. Bonds secured by trust agreement. In the discretion of the
2 authority, any bonds issued under the provisions of this act may
3 be secured by a trust agreement by and between the authority and
4 a corporate trustee or trustees, which may be any trust company
5 or bank having the powers of a trust company within or without
6 the State. Such trust agreement or the resolution providing for
7 the issuance of such bonds may pledge or assign the revenues or
8 other moneys or securities to be received or proceeds of any con-
9 tract or contracts pledged. Such trust agreement or resolution
10 providing for the issuance of such bonds may contain such pro-
11 visions for protecting and enforcing the rights and remedies of
12 the bondholders as may be reasonable and proper and not in viola-
13 tion of law, including particularly such provisions as have herein-
14 above been specifically authorized to be included in any resolution
15 or resolutions of the authority authorizing bonds thereof. Any
16 bank or trust company incorporated under the laws of this State
17 which may act as depository of the proceeds of bonds or revenues
18 or other moneys or securities may furnish such indemnifying bonds
19 or pledge such securities as may be required by the authority.
20 Any such trust agreement may set forth the rights and remedies
21 of the bondholders and of the trustee or trustees, and may restrict
22 the individual right of action by bondholders. In addition to the
23 foregoing, any such trust agreement or resolution may contain
24 such other provisions as the authority may deem reasonable and
25 proper for the security of the bondholders. All expenses incurred
26 in carrying out the provisions of such trust agreement or resolu-
27 tion may be treated as project costs.

1 9. Bonds not liability of state or political subdivision. Bonds
2 issued under the provisions of this act shall not be deemed to con-
3 stitute a debt or liability of the State or of any political subdivision
4 thereof other than the authority, nor a pledge of the faith and

5 credit of the State or of any such political subdivision, other than
6 the authority, but shall be payable solely from the funds herein
7 provided. All such bonds shall contain on the face thereof a state-
8 ment to the effect that neither the State of New Jersey nor the
9 authority shall be obligated to pay the same or the interest thereon
10 except from revenues or other moneys of the authority and that
11 neither the faith and credit nor the taxing power of the State of
12 New Jersey or of any political subdivision thereof other than the
13 authority is pledged to the payment of the principal of or the in-
14 terest on such bonds. The issuance of bonds under the provisions of
15 this act shall not directly or indirectly or contingently obligate the
16 State or any political subdivision thereof to levy or to pledge any
17 form of taxation whatever therefor.

1 10. Futher powers of authority. The authority is authorized to
2 fix, revise, charge and collect rates, rents, fees and charges for
3 the use of and for the services furnished or to be furnished by each
4 project and to contract with any person, partnership, association
5 or corporation, or other body, public or private, in respect thereof.
6 Such rates, rents, fees and charges shall be fixed and adjusted in
7 respect of the aggregate of rents, rates, fees and charges from such
8 project so as to provide funds sufficient with other revenues or
9 moneys, if any:

10 a. To pay the cost of maintaining, repairing and operating the
11 project and each and every portion thereof, to the extent that the
12 payment of such cost has not otherwise been adequately provided
13 for.

14 b. To pay the principal of and the interest on outstanding bonds
15 of the authority issued in respect of such project as the same shall
16 become due and payable; and

17 c. To create and maintain reserves required or provided for in
18 any resolution authorizing, or trust agreement securing, such bonds
19 of the authority.

20 Such rates, rents, fees and charges shall not be subject to super-
21 vision or regulation by any department, commission, board, body,
22 bureau or agency of this State other than the authority and the pro-
23 visions of the Health Care Facilities Planning Act, P. L. 1971,
24 c. 136 (C. 26:2H-1 et seq.). A sufficient amount of the revenues
25 derived in respect of a project, except such part of such revenues
26 as may be necessary to pay the cost of maintenance, re-
27 pair and operation and to provide reserves for renewals, replace-
28 ments, extensions, enlargements and improvements as may be pro-
29 vided for in the resolution authorizing the issuance of any bonds
30 of the authority or in the trust agreement securing the same, shall

31 be set aside at such regular intervals as may be provided in such
32 resolution or trust agreement in a sinking or other similar fund
33 which is hereby pledged to, and charged with, the payment of the
34 principal of and the interest on such bonds as the same shall become
35 due, and the redemption price or the purchase price of bonds re-
36 tired by call or purchase as therein provided. Such pledge shall
37 be valid and binding from the time when the pledge is made; the
38 rates, rents, fees and charges and other revenues or other moneys
39 or securities so pledged and thereafter received by the authority
40 shall immediately be subject to the lieu of such pledge without any
41 physical delivery thereof or further act, and the lien of any such
42 pledge shall be valid and binding as against all parties having
43 claims of any kind in tort, contract or otherwise against the author-
44 ity, irrespective of whether such parties have notice thereof.
45 Neither the resolution nor any trust agreement by which a pledge
46 is created need be filed or recorded except in the records of the
47 authority. The use and disposition of moneys to the credit of such
48 sinking or other similar fund shall be subject to the provisions of
49 the resolution authorizing the issuance of such bonds or of such
50 trust agreement. Except as may otherwise be provided in such
51 resolution or such trust agreement, such sinking or other similar
52 fund shall be a fund for all such bonds issued to finance projects of
53 a participating hospital without distinction or priority of one over
54 another; provided the authority in any such resolution or trust
55 agreement may provide that such sinking or other similar fund
56 shall be the fund for a particular project at a participating hospital
57 and for the bonds issued to finance a particular project and may,
58 additionally, permit and provide for the issuance of bonds hav-
59 ing a subordinate lien in respect of the security herein authorized
60 to other bonds of the authority and, in such case, the authority may
61 create separate sinking or other similar funds in respect of such
62 subordinate lien bonds.

1 11. Moneys of authority; trust funds. All moneys received
2 pursuant to the authority of this act whether as proceeds from the
3 sale of bonds or as revenues, shall be deemed to be trust funds to
4 be held and applied solely as provided in this act. Any officer with
5 whom, or any bank or trust company with which, such moneys shall
6 be deposited shall act as trustee of such moneys and shall hold
7 and apply the same for the purposes hereof, subject to such regula-
8 tions as this act and the resolution authorizing the bonds of any
9 issue or the trust agreement securing such bonds may provide.

1 12. Bondholders; enforcement of rights. Any holder of bonds
2 issued under the provisions of this act or any of the coupons

3 appertaining thereto, and the trustee or trustees under any trust
4 agreement, except to the extent the rights herein given may be
5 restricted by any resolution authorizing the issuance of, or any
6 such trust agreement securing, such bonds, may, either at law or in
7 equity, by suit, action, proceeding in lieu of prerogative writ, or
8 other proceedings, protect and enforce any and all rights under the
9 laws of the state or granted hereunder or under such resolution or
10 trust agreement, and may enforce and compel the performance of
11 all duties required by this act or by such resolution or trust agree-
12 ment to be performed by the authority or by any officer, employee
13 or agent thereof, including the fixing, charging and collecting of
14 the rates, rents, fees, and charges herein authorized and required
15 by the provisions of such resolution or trust agreement to be fixed,
16 established and collected.

1 13. Refunding bonds; additional purposes. a. The authority
2 is hereby authorized to provide for the issuance of bonds of the
3 authority for the purpose of refunding any bonds of the authority
4 then outstanding, including the payment of any redemption pre-
5 mium thereon and any interest accrued or to accrue to the earliest
6 or subsequent date of redemption, purchase or maturity of such
7 bonds, and, if deemed advisable by the authority, for the additional
8 purpose of paying all or any part of the cost of constructing and
9 acquiring additions, improvements, extensions or enlargements of
10 a project or any portion thereof and for making payments to reserve
11 funds therefor.

12 b. The proceeds of any such bonds issued for the purpose of
13 refunding outstanding bonds may, in the discretion of the authority,
14 be applied to the purchase or retirement at maturity or redemption
15 of such outstanding bonds either on their earliest or any subsequent
16 redemption date or upon the purchase or at the maturity thereof
17 and may, pending such application, be placed in escrow to be applied
18 to such purchase or retirement at maturity or redemption on such
19 date as may be determined by the authority.

20 c. Any such escrowed proceeds, pending such use, may be in-
21 vested and reinvested as permitted by the applicable resolution
22 or trust agreement. The interest, income and profits, if any, earned
23 or realized on any such investment may also be applied to the pay-
24 ment of outstanding bonds to be refunded. After the terms of the
25 escrow have been fully satisfied and carried out, any balance of such
26 proceeds and interest, income and profits, if any, earned or realized
27 on the investments thereof may be returned to the authority for
28 use by it in any lawful manner.

29-30 d. All such bonds shall be subject to the provisions of this act
31 in the same manner and to the same extent as other bonds issued
32 pursuant to this act.

33 14. Bonds as legal investments. Bonds and notes issued by the
34 authority under the provisions of this act are hereby made securi-
35 ties in which the State and all political subdivisions of the State,
36 their officers, boards, commissions, departments or other agencies,
37 all banks, bankers, savings banks, trust compies, savings and loan
38 associations, investment companies and other persons carrying on
39 a banking business, all insurance companies, insurance associations,
40 and other persons carrying on an insurance business, and all admin-
41 istrators, executors, guardians, trustees and other fiduciaries, and
42 all other persons whatsoever who now are or may hereafter be au-
43 thorized to invest in bonds or other obligations of the State, may
44 properly and legally invest any funds, including capital belonging to
45 them or within their control; and said bonds, notes or other secur-
46 ities or obligations are hereby made securities which may properly
47 and legally be deposited with and received by any State or municipi-
48 pal officers or agency of the State for any purpose for which the de-
49 posit of bonds or other obligations of the State is now or may
50 hereafter be authorized by law.

1 15. Act complete authority for issuance of bonds. Bonds may
2 be issued under the provisions of this act without obtaining the con-
3 sent of any department, division, commission, board, bureau,
4 agency or officer of the State, and without any other proceedings
5 or the happening of any other conditions or things than those pro-
6 ceedings, conditions and things which are specifically required by
7 this act.

1 16. Exemptions from taxes; bonds; property. The exercise of
2 the powers granted by this act will be in all respects for the bene-
3 fit of the people of this State, for the increase of their commerce,
4 welfare and prosperity, and for the improvement of their health
5 and living conditions, and as the operation and maintenance of a
6 project by the authority or its agent will constitute the performance
6A of an essential public function, neither the authority nor its agent
7 shall be required to pay any taxes or assessments upon or in re-
8 spect of a project or any property acquired or used by the authority
9 or its agent under the provisions of this act or upon the income
10 therefrom, and any bonds issued under the provisions of this act,
11 their transfer and the income therefrom, including any profit made
12 on the sale thereof, shall at all times be free from taxation of every
13 kind by the State and by the municipalities and other political sub-
14 divisions in the State.

1 17. Restriction on alteration of powers. The State of New Jersey
 2 does pledge to and agree with the holders of the bonds issued pur-
 3 suant to authority contained in this act, and with those parties who
 4 may enter into contracts with the authority pursuant to the pro-
 5 visions of this act, that the State will not limit, alter or restrict the
 6 rights hereby vested in the authority and the participating hospital
 7 to maintain, construct, reconstruct and operate any project as de-
 8 fined in this act or to establish and collect such rents, fees, receipts
 9 or other charges as may be convenient or necessary to produce
 10 sufficient revenues to meet the expenses of maintenance and opera-
 11 tion thereof and to fulfill the terms of any agreements made with
 12 the holders of bonds authorized by this act, and with the parties
 13 who may enter into contracts with the authority pursuant to the pro-
 14 visions of this act, or in any way impair the rights or remedies of
 15 the holders of such bonds or such parties until the bonds, together
 16 with interest thereon, are fully paid and discharged and such con-
 17 tracts are fully performed on the part of the authority. The author-
 18 ity as a public body corporate and politic shall have the right to
 19 include the pledge herein made in its bonds and contracts.

1 18. Annual report and audit. On or before March 31 in each year,
 2 the authority shall make an annual report of its activities for the
 3 preceding calender year to the Governor and the Legislature. Each
 4 such report shall set forth a complete operating and financial state-
 5 ment covering the authority's operations during the year. The
 6 authority shall cause an audit of its books and accounts to be made
 7 at least once in each year by certified public accountants and cause
 8 a copy thereof to be filed with the Secretary of State and the Comp-
 9 trolled of the Treasury.

ARTICLE 5. CONFLICT OF INTEREST

1 19. Contracts; conflict of interest. Except as otherwise expressly
 2 provided in this act, any member, officer, agent or employee of the
 3 authority, or member of the immediate family thereof, who is
 4 interested, either directly or indirectly, in any contract or trans-
 5 action of another with the authority, or in the purchase sale or
 6 lease of any property, either real or personal, to or from the author-
 7 ity, shall be guilty of a misdemeanor.

ARTICLE 6. EXAMINATION AND VISITORIAL POWERS OF STATE; ASSISTANCE OF STATE EMPLOYEES

1 20. Comptroller of Treasury; powers of examination. The
 2 Comptroller of the Treasury and his legally authorized representa-
 3 tives are hereby authorized and empowered from time to time to
 4 examine the accounts, books and records of the authority, including

5 its receipts, disbursements, contracts, sinking funds, investments
6 and any other matters relating thereto and to its financial standing.

1 21. Visitorial powers; department of health; commissioner. The
2 Department of Health, or the commissioner or their representa-
3 tives, may visit, examine into and inspect, the authority and may
4 require, as often as desired, duly verified reports therefrom giving
5 such information and in such form as such department or commis-
6 sioner shall prescribe.

1 22. Services of State departments or agencies. The authority
2 shall be entitled to call to its assistance and avail itself of the
3 services of such employees of any State department or agency as
4 it may require and as may be available to it for said purpose.

ARTICLE 7. POWERS AND DUTIES OF INSTITUTIONS UNDER STATE,
COUNTY AND MUNICIPAL JURISDICTION

1 23. Powers and duties of Department of Health as to institutions
2 under State, county or municipal jurisdiction. In order to provide
3 new hospitals and to enable the construction and financing thereof,
4 to refinance indebtedness hereafter created by the authority for
5 the purpose of providing a hospital or hospitals or additions or
6 improvements thereto or modernization thereof or for any one or
7 more of said purposes but for no other purpose unless authorized
8 by law, each of the following bodies shall have the powers here-
9 after enumerated to be exercised upon such terms and conditions,
10 including the fixing of fair consideration or rental to be paid or
11 received, as it shall determine by resolution as to such property
12 and each shall be subject to the performance of the duties hereafter
13 enumerated, that is to say, the State Department of Health as to
14 such as are located on land owned by, or owned by the State and
15 held for, any State institution or on lands of the institutions under
16 the jurisdiction of the State Department of Health or of the State
17 Department of Institutions and Agencies, or by the authority, the
18 Commissioner of the State Department of Institutions and Agencies
19 as to State institutions operated by that department, the board of
20 trustees or governing body of any public hospital, the board of
21 trustees of the College of Medicine and Dentistry of New Jersey,
22 as to such as are located on land owned by such college, or by the
23 State for such college, the State or by the particular public hospital
24 respectively, namely:

25 a. The power to sell and to convey to the authority title in fee
26 simple in any such land and any existing hospital facilities thereon
27 owned by the State and held for any department thereof or of any
28 of the institutions under the jurisdiction of the State Department
29 of Health or the power to sell and to convey to the authority such

30 title as the State or the public hospital respectively may have in
31 any such land and any existing hospitals thereon.

32 b. The power to lease to the authority any land and any existing
33 hospital facilities thereon so owned for a term or terms not exceed-
34 ing 50 years each.

35 c. The power to lease or sublease from the authority, and to make
36 available, any such land and existing hospitals conveyed or leased
37 to the authority under subsections a. and b. of this section, and
38 any new hospitals erected upon such land or upon any other land
39 owned by the authority.

40 d. The power and duty, upon receipt of notice of any assignment
41 by the authority of any lease or sublease made under subsection c.
42 of this section, or of any of its rights under any such lease or sub-
43 lease, to recognize and give effect to such assignment, and to pay
44 to the assignee thereof rentals or other payments then due or which
45 may become due under any such lease or sublease which has been
46 so assigned by the authority.

1 24. Additional powers and duties as to lands and State and public
2 hospitals. In addition thereto the Commissioner of the State De-
3 partment of Institutions and Agencies as to institutions operated
4 by that department, the chief executive officer and the board of
5 trustees of other State institutions, and the board of trustees or
6 governing body of county and municipal public hospitals shall have
7 the following powers and shall be subject to the following duties
8 as to their lands and hospital facilities:

9 a. The power to pledge and assign all or any part of the revenues
10 derived from the operation of such new hospitals as security for
11 the payment of rentals due and to become due under any lease or
12 sublease of such new hospitals under subsection c. of the preceding
13 section.

14 b. The power to covenant and agree in any lease or sublease of
15 such new hospitals made under subsection c. of the preceding sec-
16 tion to impose fees, rentals or other charges for the use and
17 occupancy or other operation of such new hospitals in an amount
18 calculated to produce net revenues sufficient to pay the rentals due
19 and to become due under such lease or sublease.

20 c. The power to apply all or any part of the revenues derived
21 from the operation of any hospitals to the payment of rentals due
22 and to become due under any lease or sublease made under sub-
23 section c. of the preceding section.

24 d. The power to pledge and assign all or any part of the revenues
25 derived from the operation of any hospitals to the payment of

26 rentals due and to become due under any lease or sublease made
27 under subsection c. of the preceding section.

28 e. The power to covenant and agree in any lease or sublease
29 made under subsection c. of the preceding section to impose fees,
30 rentals or other charges for the use and occupancy or other opera-
31 tion of any hospitals in an amount calculated to produce net
32 revenues sufficient to pay the rentals due and to become due under
33 such lease or sublease.

1 25. Powers and duties, revenue producing facilities. In addition
2 to the powers and duties with respect to hospitals given under
3 sections 23 and 24, the board of trustees or governing body of any
4 State institution or public hospital and the board of trustees of
5 the College of Medicine and Dentistry of New Jersey shall also
6 have the same powers and be subject to the same duties in relation
7 to any conveyance, lease or sublease made under subsections a.,
8 b., or c. of section 24, with respect to revenue producing facilities;
9 that is to say, structures or facilities which produce revenues
10 sufficient to pay the rentals due and to become due under any
11 lease or sublease made under subsection c. of section 24 including,
12 without limitation, extended care and parking facilities.

1 26. Approval of plans, specifications and locations. The State
2 Department of Health shall approve the plans and specifications
3 and location of each hospital undertaken for it or under its control
4 or any public hospital prior to the undertaking thereof by the
5 authority.

1 27. Powers and duties, exercises; instruments, execution. To the
2 extent not otherwise expressly provided under existing law, all
3 powers and duties conferred upon any State institution or the
4 College of Medicine and Dentistry or any county, city or municipal
5 hospital pursuant to this act shall be exercised and performed by
6 resolution of its governing body and all powers and duties conferred
7 upon any of said hospitals pursuant to this act shall be exercised
8 and performed by resolution of its board of trustees or governing
9 body.

ARTICLE 8. PRIVATE HOSPITALS

1 28. Additional powers; private hospitals. In addition to the fore-
2 going powers, the authority with respect to private hospitals shall
3 have power, but only upon approval by the commissioner of a
4 regulatory agreement with such private hospital and subject to
5 the terms and conditions of such agreement; and provided that
6 no project will be undertaken pursuant to this act without the prior
7 issuance of a certificate of need pursuant to P. L. 1971, c. 136
8 (C. 26:2H-1 et seq.):

9 a. Upon application of the participating hospital to construct,
10 acquire or otherwise provide projects for the use and benefit of the
11 participating hospital and the patients, employees and staff of such
12 participating hospital. The participating hospital for which such a
13 project is undertaken by the authority shall approve the plans and
14 specifications of such project.

15 b. To operate and manage any project provided pursuant to this
16 section, or the authority may lease any such project to the par-
17 ticipating hospital for which such project is provided. At such
18 time as the liabilities of the authority incurred for any such project
19 have been met and the bonds of the authority issued therefor have
20 been paid, or such liabilities and bonds have otherwise been dis-
21 charged, the authority shall transfer title to all the real and
22 personal property of such project vested in the authority, to the
23 participating hospital in connection with which such project is
24 then being operated, or to which such project is then leased;
25 provided, however, that if at any time prior thereto such partici-
26 pating hospital ceases to offer hospital or health services, then
27 such title shall vest in the State of New Jersey.

28 Any lease of a project authorized by this section shall be a general
29 obligation of the lessee and may contain provisions, which shall be
30 a part of the contract with the holders of the bonds of the authority
31 issued for such project, as to:

32 (i) pledging all or any part of the moneys, earnings, income and
33 revenues derived by the lessee from such project or any part or
34 parts thereof, or other personal property of the lessee, to secure
35 payments required under the terms of such lease;

36 (ii) the rates, rentals, fees and other charges to be fixed and
37 collected by the lessee, the amounts to be raised in each year
38 thereby, and the use and disposition of such moneys, earning,
39 income and revenues;

40 (iii) the setting aside of reserves and the creation of special
41 funds and the regulation and disposition thereof;

42 (iv) the procedure, if any, by which the terms of such lease may
43 be amended;

44 (v) vesting in a trustee or trustees such specified properties,
45 rights, powers and duties as shall be deemed necessary or desirable
46 for the security of the holders of the bonds of the authority issued
47 for such projects;

48 (vi) the obligations of the lessee with respect to the replacement,
49 reconstruction, maintenance, operation, repairs and insurance of
50 such project;

51 (vii) defining the acts or omissions to act which shall constitute
52 a default in the obligations and duties of the lessee, and providing
53 for the rights and remedies of the authority and of its bondholders
54 in the event of such default;

55 (viii) any other matters, of like or different character, which
56 may be deemed necessary or desirable for the security or protec-
57 tion of the authority or the holders of its bonds.

1 29. Construction loans; terms. The authority also shall have
2 power:

3 a. To make loans to any private hospital for the construction of
4 projects in accordance with a loan agreement and plans and
5 specifications approved by the authority. No such loan shall exceed
6 the total cost of such project and the equipment therefor as
7 determined and approved by the authority. Each such loan shall
8 be promised upon an agreement between the authority and the
9 private hospital as to payment, security, maturity, redemption,
10 interest and other appropriate matters.

11 b. To make loans to any private hospital to refund existing bonds,
12 mortgages or advances given or made by such private hospital for
13 the construction of projects to the extent that this will enable such
14 private hospital to offer greater security for loans for new project
15 construction.

1 30. Power of private hospitals to mortgage. For the purpose of
2 obtaining and securing loans under section 29 every private hospital
3 shall have power to mortgage and pledge any of its real or personal
4 property, and to pledge any of its income from whatever source to
5 repay the principal of and interest on any loan made to it by the
6 authority or to pay the interest on and principal and redemption
7 premium, if any, of any bond or other evidence of indebtedness
8 evidencing the debt created by any such loan; provided that the
9 foregoing shall not be construed to authorized actions in conflict
10 with specific legislation, trusts, endowment, or other agreements
11 relating to specific properties or funds.

1 31. Moneys; separate account. Moneys of the authority received
2 from any private hospital in payment of any sum due to the author-
3 ity pursuant to the terms of any loan or other agreement or any
4 bond, note or other evidence of indebtedness, shall be deposited in
5 account in which only moneys received from private hospitals shall
6 be deposited and shall be kept separate and apart from and not
7 commingled with any other moneys of the authority. Moneys de-
8 posited in such account shall be paid out on checks signed by the
9 chairman of the authority or by such other person or persons as

10 the authority may authorize, and countersigned by one other mem-
11 ber of the authority.

1 32. Authority; construction, operation and management.

2 a. Whenever the authority under section 28 undertakes to con-
3 struct, acquire or otherwise provide and operate and manage a
4 project, the authority shall be responsible for the direct operation
5 and maintenance costs of such projects, but each private hospital
6 in connection with which such a project is provided and operated
7 and managed shall be responsible at its own expense for the overall
8 supervision of each project, for the overhead and general adminis-
9 trative costs of the private hospital which are incurred because of
10 such project and for the integration of each project operation into
11 the institution's hospital program.

12 b. Whenever the authority under section 28 undertakes to con-
13 struct, acquire or otherwise provide a project and to lease the same
14 to a private hospital, the lessee shall be responsible for the direct
15 operation and maintenance costs of such project and, in addition,
16 shall be responsible for the overall supervision of each project, for
17 the overhead and general administrative costs of the lessee which
18 are incurred because of such project and for the integration of each
19 project operation into the lessee's hospital program.

20 c. Whenever the authority under section 29 makes loans for the
21 construction of a project, the private hospital at which such proj-
22 ect is located shall be responsible for the direct operation and
23 maintenance costs of such project and, in addition, shall be respon-
24 sible for the overall supervision of each project, for the overhead
25 and general administrative costs of the private hospital which are
26 incurred because of such project and for the integration of each
27 project operation into the institution's hospital program.

1 33. Private hospitals; pledges. Any pledge of moneys, earnings,
2 income or revenues authorized with respect to private hospitals,
3 pursuant to the provisions of this act, shall be valid and binding
4 from the time when the pledge is made. The moneys, earnings,
5 income or revenues so pledged and thereafter received by the
6 pledgor shall immediately be subject to the lien of such pledge with-
7 out any physical delivery thereof or further act. The lien of any
8 such pledge shall be valid and binding as against all parties having
9 claims of any kind in tort, contract or otherwise against the pledgor
10 irrespective of whether such parties have notice thereof. No instru-
11 ment by which such a pledge is created need be filed or recorded in
12 any manner.

ARTICLE 9. PARTICIPATION IN EXISTING PROJECTS

1 34. Participation in existing projects. Whenever any public or
 2 private hospital has constructed or acquired any work or improve-
 3 ment which would otherwise qualify as a project under the pre-
 4 ceding portions of this act except for the fact that such construc-
 5 tion or acquisition was undertaken and financed without assistance
 6 from the authority, the authority may purchase such work or im-
 7 provement, and lease the same to such hospital, or may lend funds
 8 to such hospital for the purpose of enabling the latter to retire
 9 obligations incurred for such construction or acquisition, provided
 10 that the amount of any such purchase price or loan shall not exceed
 11 the project cost as herein defined, irrespective of such work or im-
 12 provement. All powers, rights, obligations and duties granted to
 13 or imposed upon the authority, hospitals, State departments and
 14 agencies or others by this act in respect of projects shall apply to
 15 the same extent with respect to transactions authorized by this
 16 section, provided that any action otherwise required to be taken at
 17 a particular time in the progression of a project may, where the
 18 circumstances so required in connection with a transaction under
 19 this section be taken nunc pro tunc.

ARTICLE 10. CONSTRUCTION

1 35. Construction of act. This act shall be liberally construed to
 2 effect the purpose thereof.

1 36. No liability or pledge of credit of State. Nothing contained
 2 in this act shall be deemed or construed to create or constitute a
 3 debt, liability, or a loan or pledge of the credit, of the State.

1 37. Powers supplemental and not derogatory. The foregoing
 2 sections of this act shall be deemed to provide an additional and
 3 alternative method for the doing of the things authorized thereby,
 4 and shall be regarded as supplemental and additional to powers
 5 conferred by other laws, and shall not be regarded as in derogation
 6 of any powers now existing; provided, however, that the issuance
 7 of bonds or refunding bonds under the provisions of this act need
 8 not comply with the requirements of any other law applicable to the
 9 issuance of bonds.

1 38. Inconsistent laws inapplicable. All laws, or parts thereof, in-
 2 consistent with this act are hereby declared to be inapplicable to
 3 the provisions of this act, except as otherwise provided, and pro-
 4 vided that no project shall be constructed pursuant to this act which
 5 does not comply with the Health Care Facilities Planning Act,
 6 P. L. 1971, c. 136 (C. 26:2H-1, et seq.).

1 39. Severability. The provisions of this act shall be severable,
2 and if any of the provisions hereof shall be held to be unconstitu-
3 tional or otherwise invalid, such decision shall not affect the validity
4 of any of the remaining provisions of this act.

1 40. This act shall take effect on the first day of the fourth month
2 following enactment.

CORRECTED COPY
SENATE, No. 841

STATE OF NEW JERSEY

INTRODUCED MARCH 27, 1972

By Senators AZZOLINA, STOUT, DUMONT, CRABIEL, TANZMAN,
McGAHN, HAGEDORN, WENDEL, TURNER, MARAZITI,
THOMAS, MILLER, ITALIANO, LAZZARA, McDERMOTT,
MUSTO and HOLLENBECK

Referred to Committee on Institutions, Health and Welfare

AN ACT relating to the financing of health care facilities and equip-
ment; creating the New Jersey Health Care Facilities Financing
Authority and prescribing its powers and duties; authorizing the
issuance of bonds and notes of the authority and providing for
the terms and security thereof.

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

ARTICLE 1. PURPOSE

1 1. Preamble, purpose of act. It is hereby declared that a serious
2 public emergency exists affecting the health, safety and welfare of
3 the people of the State resulting from the fact that many hospitals
4 and other health-care facilities throughout the State are becoming
5 obsolete and are no longer adequate to meet the needs of modern
6 medicine. As a result of rapid technological changes, such facilities
7 require substantial structural or functional changes. Others are
8 unsuited for continued use by virtue of their location and the
9 physical characteristics of their existing plants and should be re-
10 placed. Such inadequate and outmoded facilities deny to the people
11 of the State the benefits of health care of the highest quality,
12 efficiently and promptly provided at a reasonable cost. Their re-
13 placement and modernization is essential to protect and prolong
14 the lives of the State's population and cannot readily be accom-
15 plished by the ordinary unaided operation of private enterprise.
16 Existing hospitals and other health-care facilities must be adapted
17 to accommodate new concepts of medical treatment and provide
18 units for the treatment of alcoholism, narcotics addition and other
19 social ills.

20 It is the purpose of this act to encourage the timely construction
 21 and modernization, including the equipment, of hospital and other
 22 health-care facilities, which are necessary for the diagnosis or
 23 treatment of human disease, pain, injury, disability, deformity or
 24 physical condition, including mental illness and retardation, and of
 25 facilities incidental or appurtenant thereto to be administered in
 26 accordance with the provisions of the Health Care Facilities Plan-
 27 ning Act, P. L. 1971, c. 136 (C. 26:2H-1 et seq.). It is hereby
 28 declared to be the policy of the State to encourage the provision of
 29 modern, well-equipped health-care facilities, and such provision is
 30 hereby declared to be a public use and purpose.

ARTICLE 2. SHORT TITLE; DEFINITIONS

1 2. Short title. This act shall be known and may be cited as the
 2 "New Jersey Health Care Facilities Financing Authority Law."

1 3. Terms defined. As used in this act, the following words and
 2 terms shall have the following meanings, unless the context indi-
 3 cates or requires another or different meaning or intent:

4 "Authority" means the New Jersey Health Care Facilities
 5 Financing Authority created by this act or any board, body, com-
 6 mission, department or officer succeeding to the principal functions
 7 thereof or to whom the powers conferred upon the authority by this
 8 act shall be given by law.

9 "Bond" means bonds, notes or other evidences of indebtedness
 10 of the authority issued pursuant to this act.

11 "Commissioner" means the State Commissioner of Health.

12 "Hospital facility" means a structure suitable to provide hos-
 13 pitals, hospital related housing facilities, doctors' office buildings
 14 or other health-care facilities for the prevention, diagnosis or treat-
 15 ment of human disease, pain, injury, disability, deformity or physi-
 16 cal condition or mental illness and retardation, and for facilities
 16a incidental or appurtenant thereto.

17 "Participating hospital" means a public hospital or private
 18 hospital which has entered into a regulatory agreement in accord-
 19 ance with this act.

20 "Private hospital" means a hospital or health-care institution,
 21 or an institution for the training of doctors, nurses, paramedical
 22 or other personnel engaged in the provision of health care, other
 23 than a State, county or municipal hospital or health care facility,
 24 or related institution including a health maintenance organization,
 25 public health center, diagnostic center, treatment center, rehabilita-
 26 tion center, extended care facility, skilled nursing home, nursing
 27 home, intermediate care facility, tuberculosis hospital, chronic

28 disease hospital, maternity hospital, special hospital, mental hos-
29 pital, outpatient clinic, dispensary, home health agency, boarding
30 home or other home for sheltered care situated within the State
31 and which is a nonprofit institution providing hospital or health
32 care service to the public.

33 "Public hospital" means a State, county or municipal hospital
34 or health-care facility including health maintenance organization,
35 public health center, diagnostic center, treatment center, rehabilita-
36 tion center, extended care facility, skilled nursing home, nursing
37 home, intermediate care facility, tuberculosis hospital, chronic
38 disease hospital, maternity hospital, mental hospital, outpatient
39 clinic, dispensary, home health care agency, boarding home or other
40 home for sheltered care now or hereafter established or authorized
41 by law.

42 "Project" or "hospital project" means a specific work, includ-
43 ing lands, buildings, improvements, alterations, renovations, en-
44 largements, reconstructions, fixtures and articles of personal prop-
45 erty, acquired, constructed, rehabilitated, owned and operated by
46 a participating hospital pursuant to this act, to provide hospital
47 or health-care facilities or facilities related, required or useful to
48 or for the operation of a hospital facility, and "project" or
49 "hospital project" may include any combination of the foregoing
50 undertaken jointly by any participating hospital with one or more
51 other participating hospitals.

52 "Project cost" or "hospital project cost" means the sum total
53 of all or any part of costs incurred or estimated to be incurred
54 by the authority or by a participating hospital which are reasonable
55 and necessary for carrying out all works and undertakings and
56 providing all necessary equipment for the development of a project,
57 exclusive of the amount of any private or Federal, State or local
58 financial assistance for and received by a participating hospital for
59 the payment of such project cost. Such costs shall include, but are
60 not necessarily limited to, interest prior to, during and for a reason-
61 able period after such development, start-up costs and costs of
62 operation and maintenance during the construction period and for
63 a reasonable additional period thereafter, the cost of necessary
64 studies, surveys, plans and specifications, architectural, engineer-
65 ing, legal or other special services, the cost of acquisition of land,
66 buildings and improvements thereon (including payments for the
67 relocation of persons displaced by such acquisition), site prepara-
68 tion and development, construction, reconstruction, equipment, in-
69 cluding fixtures, equipment, and cost of demolition and removal,
70 and articles of personal property required, the reasonable cost of

71 financing incurred by a participating hospital or the authority in
 72 the course of the development of the project, reserves for debt
 73 service, the fees imposed upon a participating hospital by the
 74 commissioner and by the authority; other fees charged, and neces-
 75 sary expenses incurred in connection with the initial occupancy of
 76 the project, and the cost of such other items as may be reasonable
 77 and necessary for the development of a project. The commission-
 78 er's approval of estimated project cost in accordance with section 6
 79 of this act shall include his approval, which shall be conclusive, as
 80 to the reasonableness or necessity of any item of cost and as to the
 81 reasonableness of any period of time in respect of which interest,
 82 start-up, operation and maintenance costs have included in project
 83 costs.

ARTICLE 3. AUTHORITY; MEMBERSHIP; OFFICERS; EMPLOYEES;
 GOVERNOR'S VETO

1 4. Authority created; members; terms; organization meetings;
 2 governor's veto power. a. There is hereby established in the State
 3 Department of Health, a public body corporate and politic, with
 4 corporate succession, to be known as the "New Jersey Health-Care
 5 Facilities Financing Authority." The authority shall constitute
 6 a political subdivision of the State established as an instrumentality
 7 exercising public and essential governmental functions, and the
 8 exercise by the authority of the powers conferred by this act shall
 9 be deemed and held to be an essential governmental function.
 10 b. The authority shall consist of seven members, three of whom
 11 shall be the commissioner, who shall be the chairman, the Com-
 12 missioner of Insurance, and the Commissioner of the Department
 13 of Institutions and Agencies, who shall serve during their terms
 14 of office, or when so designated by them, their deputies or other
 15 representatives, who shall serve at their pleasure, and four public
 16 members who are citizens of the State to be appointed by the
 17 Governor, with the advice and consent of the Senate for terms of
 18 4 years; provided that the four members first appointed by the
 19 Governor shall serve terms expiring on the first, second, third,
 20 and fourth, respectively, April 30 ensuing after the enactment of
 21 this act. Each member shall hold office for the term of his appoint-
 22 ment and until his successor shall have been appointed and quali-
 23 fied. Any vacancy among the public members shall be filled by
 24 appointment for the unexpired term only.
 25 c. Any member of the authority appointed by the Governor may
 26 be removed from office by the Governor for cause after a public
 27 hearing.

28 d. The members of the authority shall serve without compensa-
29 tion, but the authority may reimburse its members for necessary
30 expenses incurred in the discharge of their official duties.

31 e. The authority, upon the first appointment of its members and
32 thereafter on or after April 30 in each year, shall annually elect
33 from among its members a vice chairman who shall hold office until
34 April 30 next ensuing and shall continue to serve during the term
35 of his successor and until his successor shall have been appointed
36 and qualified. The authority may also appoint, retain and employ,
37 without regard to the provisions of Title 11, Civil Service, of the
38 Revised Statutes, such officers, agents, and employees as it may
39 require, and it shall determine their qualifications, terms of office,
40 duties, services and compensation.

41 f. The powers of the authority shall be vested in the members
42 thereof in office from time to time and a majority of the total
43 authorized membership of the authority shall constitute a quorum
44 at any meeting thereof. Action may be taken and motions and
45 resolutions adopted by the authority at any meeting thereof by
46 the affirmative vote of a majority of the members present, unless
47 in any case the bylaws of the authority shall require a larger
48 number. No vacancy in the membership of the authority shall
49 impair the right of a quorum to exercise all the rights and perform
50 all the duties of the authority.

51 g. Each member and the treasurer of the authority shall execute
52 a bond to be conditioned upon the faithful performance of the
53 duties of such member or treasurer, as the case may be, in such
54 form and amount as may be prescribed by the Attorney General.
55 Such bonds shall be filed in the office of the Secretary of State. At
56 all times thereafter the members and treasurer of the authority
57 shall maintain such bonds in full force and effect. All costs of such
58 bonds shall be borne by the authority.

59 h. Notwithstanding the provisions of P. L. 1971, c. 182
60 (C. 52:13D-12 et seq.), it shall not be a conflict of interest for a
61 trustee, director, officer or employee of a participating hospital to
62 serve as a member of the authority; provided such trustee, director,
63 officer or employee shall abstain from discussion, deliberation,
64 action and vote by the authority under this chapter in respect to
65 such participating hospital of which such member is a trustee,
66 director, officer or employee.

67 i. At least two true copies of the minutes of every meeting of the
68 authority shall be forthwith delivered by and under the certification
69 of the secretary thereof, to the Governor. No action taken at such
70 meeting by the authority shall have force or effect until 10 days,

71 exclusive of Saturdays, Sundays and public holidays, after such
 72 copies of the minutes shall have been so delivered or at such earlier
 73 time as the Governor shall sign a statement of approval thereof.
 74 If, in said 10-day period, the Governor returns a copy of the minutes
 75 with veto of any action taken by the authority or any member
 76 thereof at such meeting, such action shall be null and of no effect.
 77 If the Governor shall not return the minutes within said 10-day
 78 period, any action therein recited shall have force and effect accord-
 79 ing to the wording thereof. At any time prior to the expiration of
 80 the said 10-day period, the Governor may sign a statement of ap-
 81 proval of all or any such action of the authority.

82 The powers conferred in this subsection upon the Governor shall
 83 be exercised with due regard for the rights of the holders of bonds
 84 of the authority at any time outstanding.

ARTICLE 4. POWERS AND DUTIES; BONDS

- 1 5. Powers of authority. The authority shall have power:
- 2 a. To adopt bylaws for the regulation of its affairs and the con-
 3 duct of its business and to alter and revise such bylaws from time
 4 to time at its discretion.
- 5 b. To adopt and have an official seal and alter the same at
 6 pleasure.
- 7 c. To maintain an office at such place or places within the State
 8 as it may designate.
- 9 d. To sue and be sued in its own name.
- 10 e. To borrow money and to issue bonds of the authority and to
 11 provide for the rights of the holders thereof as provided in this
 12 act.
- 13 f. To acquire, lease as lessee or lessor, hold and dispose of real
 14 and personal property or any interest therein, in the exercise of its
 15 powers and the performance of its duties under this act.
- 15A g. To acquire in the name of the authority by purchase or other-
 16 wise, on such terms and conditions and in such manner as it may
 17 deem proper, or by the exercise of the eminent domain except as
 18 against the State or any political subdivision thereof, any land or in-
 19 terest therein and other property which it may determine is reason-
 20 ably necessary for any project; and to hold and use the same and to
 21 sell, convey, lease or otherwise dispose of property so acquired, no
 22 longer necessary for the authority's purposes for fair considera-
 23 tion after public notice.
- 24 h. To receive and accept, from any Federal or other public
 25 agency or governmental entity directly or through the Department
 26 of Health or any other agency of the State or any participating
 27 hospital, grants or loans for or in aid of the acquisition or con-

28 construction of any project, and to receive and accept aid or contri-
29 butions from any other source, of either money, property, labor or
30 other things of value, to be held, used and applied only for the pur-
31 poses for which such grants, loans and contributions may be made.

32 i. To prepare or cause to be prepared plans, specifications, de-
33 signs and estimates of costs for the construction and equipment of
34 hospital projects for participating hospitals under the provisions
35 of this act, and from time to time to modify such plans, specifica-
36 tions, designs or estimates.

37 j. By contract or contracts or by its own employees to construct,
38 acquire, reconstruct, rehabilitate and improve, and furnish and
39 equip, hospital projects for participating hospitals. The authority,
40 in the exercise of its authority to make and enter into contracts and
41 agreements necessary or incidental to the performance of its duties
42 and the execution of its powers, shall adopt standing rules and
43 procedures providing that, except as hereinafter provided, no
44 contract on behalf of the authority shall be entered into for the
45 doing of any work, or for the hiring of equipment or vehicles, where
46 the sum to be expended exceeds the sum of \$2,500.00 unless the
47 authority shall first publicly advertise for bids therefor, and shall
48 award the contract to the lowest responsible bidder; provided, how-
49 ever, that such advertising shall not be required where the con-
50 tract to be entered into is one for the furnishing or performing
51 services of a professional nature or for the supplying of any pro-
52 duct or the rendering of any service by a public utility subject
53 to the jurisdiction of the Public Utilities Commission and tariffs
54 and schedules of the charges, made, charged, or exacted by the pub-
55 lic utility for any such products to be supplied or services to be
56 rendered are filed with said commission. This section shall not
57 prevent the authority from having any work done by its own em-
58 ployees.

59 k. To determine the location and character of any project to be
60 undertaken, subject to the provisions of this act, and subject to
61 State Health and environmental laws, to construct, reconstruct,
62 maintain, repair, operate, lease, as lessee or lessor, and regulate
63 the same; to enter into contracts for any or all such purposes; and
64 to enter into contracts for the management and operation of a
65 project.

66 l. To establish rules and regulations for the use of a project or
67 any portion thereof and to designate a participating hospital as
68 its agent to establish rules and regulations for the use of a project
69 undertaken by such a participating hospital.

70 m. Generally to fix and revise from time to time and to charge
71 and collect rates, rents, fees and other charges for the use of and
72 for the services furnished or to be furnished by a project or any
73 portion thereof and to contract with holders of its bonds and with
74 any other person, party, association, corporation or other body,
75 public or private, in respect thereof, subject to the provisions of the
76 Health Care Facilities Planning Act, P. L. 1971, c. 136 (C. 26:2H-1
77 et seq.).

78 n. To enter into agreements or contracts, execute any and all
79 instruments, and do and perform any and all acts or things neces-
80 sary, convenient or desirable for the purpose of the authority or
81 to carry out any power expressly given in this act.

82 o. To invest any moneys held in reserve or sinking funds, or
83-84 any moneys not required for immediate use or disbursement, at
85 the discretion of the authority, in such obligations as are authorized
86 by resolution of the authority.

87 p. To obtain, or aid in obtaining, from any department or agency
88 of the United States any insurance or guarantee as to, or of or for
89 the payment or repayment of interest or principal, or both, or any
89A part thereof, on any loan or any instrument evidencing or securing
90 the same, made or entered into pursuant to the provisions of this
91 act; and notwithstanding any other provisions of this act to enter
92 into agreement, contract or any other instrument whatsoever with
93 respect to any such insurance or guarantee, and accept payment in
94 such manner and form as provided therein in the event of default
95 by the borrower.

96 q. To obtain from any department or agency of the United
97 States or the State or a private insurance company any insurance
98 or guarantee as to, or of, or for the payment or repayment of in-
99-100 terest or principal, or both, or any part thereof, on any bonds,
101 issued by the authority pursuant to the provisions of this act; and
102 notwithstanding any other provisions of this act to enter into any
103 agreement, contract or any other instrument whatsoever with re-
104 spect to any such insurance or guarantee except to the extent that
105 such action would in any way impair or interfere with the author-
106 ity's ability to perform and fulfill the terms of any agreement made
107 with the holders of the bonds of the authority.

108 r. To receive and accept, from any department or agency of the
109 United States or of the State or from any other entity, any grant,
110 appropriation or other moneys to be used for or applied to any
111 corporate purpose of the authority, including without limitation
112 the meeting of debt service obligations of the authority in respect
113 of its bonds.

1 6. Approval of project costs; regulatory agreements; expenses.
2 Notwithstanding any other provision of this act, the authority shall
3 not acquire or authorize the acquisition, the commencement of con-
4 struction or rehabilitation of any project or hospital facility to be
5 leased to a participating hospital, in respect of any project where
6 such acquisition or work is to be done by the authority, nor advance
7 loan funds to any participating hospital, in respect of a project
8 involving a loan to such hospital, until (i) the estimated project
9 cost shall have been approved by the commissioner and (ii) the
10 participating hospital shall have entered into a regulatory agree-
11 ment with the commissioner. Such regulatory agreement shall
12 contain such provisions as shall be deemed adequate by the com-
13 missioner to assure that the project shall be constructed, maintained
14 and operated in a manner consistent with the purposes of this act
15 and the Health Care Facilities Planning Act, P. L. 1971, c. 136
16 (C. 26:2H-1 et seq.).

17 The requirements of the preceding paragraph shall not preclude
18 the authority from taking actions, and incurring expenses in con-
19 nection therewith, preliminary to the actual acquisition or com-
20 mencement of construction or rehabilitation of facilities or the
21 advancing of loan funds in respect of any proposed project, pro-
22 vided, that all expenses incurred in carrying out the provisions
23 of this act shall be payable solely from funds provided under the
24 authority of this act and no liability or obligation shall be incurred
25 by the authority hereunder beyond the extent to which moneys
26 shall have been provided under the provisions of this act.

1 7. Issuance of bonds authorized; maturity; terms. a. The au-
2 thority is authorized from time to time to issue its bonds for any
3 corporate purpose and to fund and refund the same all as provided
4 in this act. Such bonds may, at the discretion of the authority be
5 designated as "bonds," "notes," "bond anticipation notes" or
6 otherwise.

7 b. Except as may otherwise be expressly provided by the au-
8 thority, every issue of its bonds shall be general obligations of
9 the authority payable from any revenues or moneys of the au-
10 thority, subject only to any agreements with the holders of
11 particular bonds pledging any particular revenues or moneys.
12 Notwithstanding that bonds may be payable from a special fund,
13 they shall be fully negotiable within the meaning of Title 12A,
14 the Uniform Commercial Code, of the New Jersey Statutes, subject
15 only to any provisions of the bonds for registration.

16 c. The bonds may be issued as serial bonds or as term bonds,
17 or the authority, in its discretion, may issue bonds of both types.

18 The bonds shall be authorized by resolution of the members of the
19 authority and shall bear such date or dates, mature at such time
20 or times, not exceeding 50 years from their respective dates, bear
21 interest at such rate or rates, be payable at such time or times,
22 be in such denominations, be in such form, either coupon or
23 registered, carry such registration privileges, be executed in such
24 manner, be payable in lawful money of the United States of America
25 at such place or places, and be subject to such terms of redemption,
26 as such resolution or resolutions may provide. The bonds may be
27 sold at public or private sale for such price or prices as the au-
28 thority shall determine. Pending preparation of the definitive
29 bonds, the authority may issue interim receipts or certificates
30 which shall be exchanged for such definitive bonds.

31 d. Any resolution or resolutions authorizing any bonds or any
32 issue of bonds may contain provisions, which shall be a part of
33 the contract with the holders of the bonds to be authorized, as to:

34 (i) pledging all or any part of the revenues of a project or any
35 revenue producing contract or contracts made by the authority
36 with any individual, partnership, corporation or association or
37 other body, public or private, to secure the payment of the bonds
38 or of any particular issue of bonds, subject to such agreements
39 with bondholders as may then exist;

40 (ii) the rentals, fees and other charges to be charged, and the
41 amounts to be raised in each year thereby, and the use and dis-
42 position of the revenues;

43 (iii) the setting aside of reserves or sinking funds, and the
44 regulation and disposition thereof;

45 (iv) limitations on the right of the authority or its agent to
46 restrict and regulate the use of a project;

47 (v) limitations on the purpose to which the proceeds of sale of
48 any issue of bonds then or thereafter to be issued may be applied
49 and pledging such proceeds to secure the payment of the bonds or
50 any issue of the bonds;

51 (vi) limitations on the issuance of additional bonds, the terms
52 upon which additional bonds may be issued and secured and the
53 refunding of outstanding bonds;

54 (vii) the procedure, if any, by which the terms of any contract
55 with bondholders may be amended or abrogated, the amount of
56 bonds the holders of which must consent thereto, and the manner
57 in which such consent may be given;

58 (viii) limitations on the amount of moneys derived from a project
59 to be expended for operating, administrative or other expenses of
60 the authority; and

61 (ix) defining the acts or omissions to act which shall constitute
62 a default in the duties of the authority to holders of its obligations
63 and providing the rights and remedies of such holders in the event
64 of a default.

65 e. Neither the members of the authority nor any person executing
66 the bonds shall be liable personally on the bonds or be subject to
67 any personal liability or accountability by reason of the issuance
68 thereof.

69 f. The authority shall have power out of any funds available
70 therefor to purchase its bonds. The authority may hold, pledge,
71 cancel or resell such bonds, subject to and in accordance with agree-
72 ments with bondholders.

1 8. Bonds secured by trust agreement. In the discretion of the
2 authority, any bonds issued under the provisions of this act may
3 be secured by a trust agreement by and between the authority and
4 a corporate trustee or trustees, which may be any trust company
5 or bank having the powers of a trust company within or without
6 the State. Such trust agreement or the resolution providing for
7 the issuance of such bonds may pledge or assign the revenues or
8 other moneys or securities to be received or proceeds of any con-
9 tract or contracts pledged. Such trust agreement or resolution
10 providing for the issuance of such bonds may contain such pro-
11 visions for protecting and enforcing the rights and remedies of
12 the bondholders as may be reasonable and proper and not in viola-
13 tion of law, including particularly such provisions as have herein-
14 above been specifically authorized to be included in any resolution
15 or resolutions of the authority authorizing bonds thereof. Any
16 bank or trust company incorporated under the laws of this State
17 which may act as depository of the proceeds of bonds or revenues
18 or other moneys or securities may furnish such indemnifying bonds
19 or pledge such securities as may be required by the authority.
20 Any such trust agreement may set forth the rights and remedies
21 of the bondholders and of the trustee or trustees, and may restrict
22 the individual right of action by bondholders. In addition to the
23 foregoing, any such trust agreement or resolution may contain
24 such other provisions as the authority may deem reasonable and
25 proper for the security of the bondholders. All expenses incurred
26 in carrying out the provisions of such trust agreement or resolu-
27 tion may be treated as project costs.

1 9. Bonds not liability of state or political subdivision. Bonds
2 issued under the provisions of this act shall not be deemed to con-
3 stitute a debt or liability of the State or of any political subdivision
4 thereof other than the authority, nor a pledge of the faith and

5 credit of the State or of any such political subdivision, other than
6 the authority, but shall be payable solely from the funds herein
7 provided. All such bonds shall contain on the face thereof a state-
8 ment to the effect that neither the State of New Jersey nor the
9 authority shall be obligated to pay the same or the interest thereon
10 except from revenues or other moneys of the authority and that
11 neither the faith and credit nor the taxing power of the State of
12 New Jersey or of any political subdivision thereof other than the
13 authority is pledged to the payment of the principal of or the in-
14 terest on such bonds. The issuance of bonds under the provisions of
15 this act shall not directly or indirectly or contingently obligate the
16 State or any political subdivision thereof to levy or to pledge any
17 form of taxation whatever therefor.

1 10. Further powers of authority. The authority is authorized to
2 fix, revise, charge and collect rates, rents, fees and charges for
3 the use of and for the services furnished or to be furnished by each
4 project and to contract with any person, partnership, association
5 or corporation, or other body, public or private, in respect thereof.
6 Such rates, rents, fees and charges shall be fixed and adjusted in
7 respect of the aggregate of rents, rates, fees and charges from such
8 project so as to provide funds sufficient with other revenues or
9 moneys, if any:

10 a. To pay the cost of maintaining, repairing and operating the
11 project and each and every portion thereof, to the extent that the
12 payment of such cost has not otherwise been adequately provided
13 for.

14 b. To pay the principal of and the interest on outstanding bonds
15 of the authority issued in respect of such project as the same shall
16 become due and payable; and

17 c. To create and maintain reserves required or provided for in
18 any resolution authorizing, or trust agreement securing, such bonds
19 of the authority.

20 Such rates, rents, fees and charges shall not be subject to super-
21 vision or regulation by any department, commission, board, body,
22 bureau or agency of this State other than the authority and the pro-
23 visions of the Health Care Facilities Planning Act, P. L. 1971,
24 c. 136 (C. 26:2H-1 et seq.). A sufficient amount of the revenues
25 derived in respect of a project, except such part of such revenues
26 as may be necessary to pay the cost of maintenance, re-
27 pair and operation and to provide reserves for renewals, replace-
28 ments, extensions, enlargements and improvements as may be pro-
29 vided for in the resolution authorizing the issuance of any bonds
30 of the authority or in the trust agreement securing the same, shall

31 be set aside at such regular intervals as may be provided in such
32 resolution or trust agreement in a sinking or other similar fund
33 which is hereby pledged to, and charged with, the payment of the
34 principal of and the interest on such bonds as the same shall become
35 due, and the redemption price or the purchase price of bonds re-
36 tired by call or purchase as therein provided. Such pledge shall
37 be valid and binding from the time when the pledge is made; the
38 rates, rents, fees and charges and other revenues or other moneys
39 or securities so pledged and thereafter received by the authority
40 shall immediately be subject to the lieu of such pledge without any
41 physical delivery thereof or further act, and the lien of any such
42 pledge shall be valid and binding as against all parties having
43 claims of any kind in tort, contract or otherwise against the author-
44 ity, irrespective of whether such parties have notice thereof.
45 Neither the resolution nor any trust agreement by which a pledge
46 is created need be filed or recorded except in the records of the
47 authority. The use and disposition of moneys to the credit of such
48 sinking or other similar fund shall be subject to the provisions of
49 the resolution authorizing the issuance of such bonds or of such
50 trust agreement. Except as may otherwise be provided in such
51 resolution or such trust agreement, such sinking or other similar
52 fund shall be a fund for all such bonds issued to finance projects of
53 a participating hospital without distinction or priority of one over
54 another; provided the authority in any such resolution or trust
55 agreement may provide that such sinking or other similar fund
56 shall be the fund for a particular project at a participating hospital
57 and for the bonds issued to finance a particular project and may,
58 additionally, permit and provide for the issuance of bonds hav-
59 ing a subordinate lien in respect of the security herein authorized
60 to other bonds of the authority and, in such case, the authority may
61 create separate sinking or other similar funds in respect of such
62 subordinate lien bonds.

1 11. Moneys of authority; trust funds. All moneys received
2 pursuant to the authority of this act whether as proceeds from the
3 sale of bonds or as revenues, shall be deemed to be trust funds to
4 be held and applied solely as provided in this act. Any officer with
5 whom, or any bank or trust company with which, such moneys shall
6 be deposited shall act as trustee of such moneys and shall hold
7 and apply the same for the purposes hereof, subject to such regula-
8 tions as this act and the resolution authorizing the bonds of any
9 issue or the trust agreement securing such bonds may provide.

1 12. Bondholders; enforcement of rights. Any holder of bonds
2 issued under the provisions of this act or any of the coupons

3 appertaining thereto, and the trustee or trustees under any trust
4 agreement, except to the extent the rights herein given may be
5 restricted by any resolution authorizing the issuance of, or any
6 such trust agreement securing, such bonds, may, either at law or in
7 equity, by suit, action, proceeding in lieu of prerogative writ, or
8 other proceedings, protect and enforce any and all rights under the
9 laws of the state or granted hereunder or under such resolution or
10 trust agreement, and may enforce and compel the performance of
11 all duties required by this act or by such resolution or trust agree-
12 ment to be performed by the authority or by any officer, employee
13 or agent thereof, including the fixing, charging and collecting of
14 the rates, rents, fees, and charges herein authorized and required
15 by the provisions of such resolution or trust agreement to be fixed,
16 established and collected.

1 13. Refunding bonds; additional purposes. a. The authority
2 is hereby authorized to provide for the issuance of bonds of the
3 authority for the purpose of refunding any bonds of the authority
4 then outstanding, including the payment of any redemption pre-
5 mium thereon and any interest accrued or to accrue to the earliest
6 or subsequent date of redemption, purchase or maturity of such
7 bonds, and, if deemed advisable by the authority, for the additional
8 purpose of paying all or any part of the cost of constructing and
9 acquiring additions, improvements, extensions or enlargements of
10 a project or any portion thereof and for making payments to reserve
11 funds therefor.

12 b. The proceeds of any such bonds issued for the purpose of
13 refunding outstanding bonds may, in the discretion of the authority,
14 be applied to the purchase or retirement at maturity or redemption
15 of such outstanding bonds either on their earliest or any subsequent
16 redemption date or upon the purchase or at the maturity thereof
17 and may, pending such application, be placed in escrow to be applied
18 to such purchase or retirement at maturity or redemption on such
19 date as may be determined by the authority.

20 c. Any such escrowed proceeds, pending such use, may be in-
21 vested and reinvested as permitted by the applicable resolution
22 or trust agreement. The interest, income and profits, if any, earned
23 or realized on any such investment may also be applied to the pay-
24 ment of outstanding bonds to be refunded. After the terms of the
25 escrow have been fully satisfied and carried out, any balance of such
26 proceeds and interest, income and profits, if any, earned or realized
27 on the investments thereof may be returned to the authority for
28 use by it in any lawful manner.

29-30 d. All such bonds shall be subject to the provisions of this act
31 in the same manner and to the same extent as other bonds issued
32 pursuant to this act.

33 14. Bonds as legal investments. Bonds and notes issued by the
34 authority under the provisions of this act are hereby made securi-
35 ties in which the State and all political subdivisions of the State,
36 their officers, boards, commissions, departments or other agencies,
37 all banks, bankers, savings banks, trust compies, savings and loan
38 associations, investment companies and other persons carrying on
39 a banking business, all insurance companies, insurance associations,
40 and other persons carrying on an insurance business, and all admin-
41 istrators, executors, guardians, trustees and other fiduciaries, and
42 all other persons whatsoever who now are or may hereafter be au-
43 thorized to invest in bonds or other obligations of the State, may
44 properly and legally invest any funds, including capital belonging to
45 them or within their control; and said bonds, notes or other secur-
46 ities or obligations are hereby made securities which may properly
47 and legally be deposited with and received by any State or municipi-
48 pal officers or agency of the State for any purpose for which the de-
49 posit of bonds or other obligations of the State is now or may
50 hereafter be authorized by law.

1 15. Act complete authority for issuance of bonds. Bonds may
2 be issued under the provisions of this act without obtaining the con-
3 sent of any department, division, commission, board, bureau,
4 agency or officer of the State, and without any other proceedings
5 or the happening of any other conditions or things than those pro-
6 ceedings, conditions and things which are specifically required by
7 this act.

1 16. Exemptions from taxes; bonds; property. The exercise of
2 the powers granted by this act will be in all respects for the bene-
3 fit of the people of this State, for the increase of their commerce,
4 welfare and prosperity, and for the improvement of their health
5 and living conditions, and as the operation and maintenance of a
6 project by the authority or its agent will constitute the performance
6A of an essential public function, neither the authority nor its agent
7 shall be required to pay any taxes or assessments upon or in re-
8 spect of a project or any property acquired or used by the authority
9 or its agent under the provisions of this act or upon the income
10 therefrom, and any bonds issued under the provisions of this act,
11 their transfer and the income therefrom, including any profit made
12 on the sale thereof, shall at all times be free from taxation of every
13 kind by the State and by the municipalities and other political sub-
14 divisions in the State.

1 17. Restriction on alteration of powers. The State of New Jersey
 2 does pledge to and agree with the holders of the bonds issued pur-
 3 suant to authority contained in this act, and with those parties who
 4 may enter into contracts with the authority pursuant to the pro-
 5 visions of this act, that the State will not limit, alter or restrict the
 6 rights hereby vested in the authority and the participating hospital
 7 to maintain, construct, reconstruct and operate any project as de-
 8 fined in this act or to establish and collect such rents, fees, receipts
 9 or other charges as may be convenient or necessary to produce
 10 sufficient revenues to meet the expenses of maintenance and opera-
 11 tion thereof and to fulfill the terms of any agreements made with
 12 the holders of bonds authorized by this act, and with the parties
 13 who may enter into contracts with the authority pursuant to the pro-
 14 visions of this act, or in any way impair the rights or remedies of
 15 the holders of such bonds or such parties until the bonds, together
 16 with interest thereon, are fully paid and discharged and such con-
 17 tracts are fully performed on the part of the authority. The author-
 18 ity as a public body corporate and politic shall have the right to
 19 include the pledge herein made in its bonds and contracts.

1 18. Annual report and audit. On or before March 31 in each year,
 2 the authority shall make an annual report of its activities for the
 3 preceding calender year to the Governor and the Legislature. Each
 4 such report shall set forth a complete operating and financial state-
 5 ment covering the authority's operations during the year. The
 6 authority shall cause an audit of its books and accounts to be made
 7 at least once in each year by certified public accountants and cause
 8 a copy thereof to be filed with the Secretary of State and the Comp-
 9 trolled of the Treasury.

ARTICLE 5. CONFLICT OF INTEREST

1 19. Contracts; conflict of interest. Except as otherwise expressly
 2 provided in this act, any member, officer, agent or employee of the
 3 authority, or member of the immediate family thereof, who is
 4 interested, either directly or indirectly, in any contract or trans-
 5 action of another with the authority, or in the purchase sale or
 6 lease of any property, either real or personal, to or from the author-
 7 ity, shall be guilty of a misdemeanor.

ARTICLE 6. EXAMINATION AND VISITORIAL POWERS OF STATE; ASSISTANCE OF STATE EMPLOYEES

1 20. Comptroller of Treasury; powers of examination. The
 2 Comptroller of the Treasury and his legally authorized representa-
 3 tives are hereby authorized and empowered from time to time to
 4 examine the accounts, books and records of the authority, including

5 its receipts, disbursements, contracts, sinking funds, investments
6 and any other matters relating thereto and to its financial standing.

1 21. Visitorial powers; department of health; commissioner. The
2 Department of Health, or the commissioner or their representa-
3 tives, may visit, examine into and inspect, the authority and may
4 require, as often as desired, duly verified reports therefrom giving
5 such information and in such form as such department or commis-
6 sioner shall prescribe.

1 22. Services of State departments or agencies. The authority
2 shall be entitled to call to its assistance and avail itself of the
3 services of such employees of any State department or agency as
4 it may require and as may be available to it for said purpose.

ARTICLE 7. POWERS AND DUTIES OF INSTITUTIONS UNDER STATE,

COUNTY AND MUNICIPAL JURISDICTION

1 23. Powers and duties of Department of Health as to institutions
2 under State, county or municipal jurisdiction. In order to provide
3 new hospitals and to enable the construction and financing thereof,
4 to refinance indebtedness hereafter created by the authority for
5 the purpose of providing a hospital or hospitals or additions or
6 improvements thereto or modernization thereof or for any one or
7 more of said purposes but for no other purpose unless authorized
8 by law, each of the following bodies shall have the powers here-
9 after enumerated to be exercised upon such terms and conditions,
10 including the fixing of fair consideration or rental to be paid or
11 received, as it shall determine by resolution as to such property
12 and each shall be subject to the performance of the duties hereafter
13 enumerated, that is to say, the State Department of Health as to
14 such as are located on land owned by, or owned by the State and
15 held for, any State institution or on lands of the institutions under
16 the jurisdiction of the State Department of Health or of the State
17 Department of Institutions and Agencies, or by the authority, the
18 Commissioner of the State Department of Institutions and Agencies
19 as to State institutions operated by that department, the board of
20 trustees or governing body of any public hospital, the board of
21 trustees of the College of Medicine and Dentistry of New Jersey,
22 as to such as are located on land owned by such college, or by the
23 State for such college, the State or by the particular public hospital
24 respectively, namely:

25 a. The power to sell and to convey to the authority title in fee
26 simple in any such land and any existing hospital facilities thereon
27 owned by the State and held for any department thereof or of any
28 of the institutions under the jurisdiction of the State Department
29 of Health or the power to sell and to convey to the authority such

30 title as the State or the public hospital respectively may have in
31 any such land and any existing hospitals thereon.

32 b. The power to lease to the authority any land and any existing
33 hospital facilities thereon so owned for a term or terms not exceed-
34 ing 50 years each.

35 c. The power to lease or sublease from the authority, and to make
36 available, any such land and existing hospitals conveyed or leased
37 to the authority under subsections a. and b. of this section, and
38 any new hospitals erected upon such land or upon any other land
39 owned by the authority.

40 d. The power and duty, upon receipt of notice of any assignment
41 by the authority of any lease or sublease made under subsection c.
42 of this section, or of any of its rights under any such lease or sub-
43 lease, to recognize and give effect to such assignment, and to pay
44 to the assignee thereof rentals or other payments then due or which
45 may become due under any such lease or sublease which has been
46 so assigned by the authority.

1 24. Additional powers and duties as to lands and State and public
2 hospitals. In addition thereto the Commissioner of the State De-
3 partment of Institutions and Agencies as to institutions operated
4 by that department, the chief executive officer and the board of
5 trustees of other State institutions, and the board of trustees or
6 governing body of county and municipal public hospitals shall have
7 the following powers and shall be subject to the following duties
8 as to their lands and hospital facilities:

9 a. The power to pledge and assign all or any part of the revenues
10 derived from the operation of such new hospitals as security for
11 the payment of rentals due and to become due under any lease or
12 sublease of such new hospitals under subsection c. of the preceding
13 section.

14 b. The power to covenant and agree in any lease or sublease of
15 such new hospitals made under subsection c. of the preceding sec-
16 tion to impose fees, rentals or other charges for the use and
17 occupancy or other operation of such new hospitals in an amount
18 calculated to produce net revenues sufficient to pay the rentals due
19 and to become due under such lease or sublease.

20 c. The power to apply all or any part of the revenues derived
21 from the operation of any hospitals to the payment of rentals due
22 and to become due under any lease or sublease made under sub-
23 section c. of the preceding section.

24 d. The power to pledge and assign all or any part of the revenues
25 derived from the operation of any hospitals to the payment of

26 rentals due and to become due under any lease or sublease made
27 under subsection c. of the preceding section.

28 e. The power to covenant and agree in any lease or sublease
29 made under subsection c. of the preceding section to impose fees,
30 rentals or other charges for the use and occupancy or other opera-
31 tion of any hospitals in an amount calculated to produce net
32 revenues sufficient to pay the rentals due and to become due under
33 such lease or sublease.

1 25. Powers and duties, revenue producing facilities. In addition
2 to the powers and duties with respect to hospitals given under
3 sections 23 and 24, the board of trustees or governing body of any
4 State institution or public hospital and the board of trustees of
5 the College of Medicine and Dentistry of New Jersey shall also
6 have the same powers and be subject to the same duties in relation
7 to any conveyance, lease or sublease made under subsections a.,
8 b., or c. of section 24, with respect to revenue producing facilities;
9 that is to say, structures or facilities which produce revenues
10 sufficient to pay the rentals due and to become due under any
11 lease or sublease made under subsection c. of section 24 including,
12 without limitation, extended care and parking facilities.

1 26. Approval of plans, specifications and locations. The State
2 Department of Health shall approve the plans and specifications
3 and location of each hospital undertaken for it or under its control
4 or any public hospital prior to the undertaking thereof by the
5 authority.

1 27. Powers and duties, exercises; instruments, execution. To the
2 extent not otherwise expressly provided under existing law, all
3 powers and duties conferred upon any State institution or the
4 College of Medicine and Dentistry or any county, city or municipal
5 hospital pursuant to this act shall be exercised and performed by
6 resolution of its governing body and all powers and duties conferred
7 upon any of said hospitals pursuant to this act shall be exercised
8 and performed by resolution of its board of trustees or governing
9 body.

ARTICLE 8. PRIVATE HOSPITALS

1 28. Additional powers; private hospitals. In addition to the fore-
2 going powers, the authority with respect to private hospitals shall
3 have power, but only upon approval by the commissioner of a
4 regulatory agreement with such private hospital and subject to
5 the terms and conditions of such agreement; and provided that
6 no project will be undertaken pursuant to this act without the prior
7 issuance of a certificate of need pursuant to P. L. 1971, c. 136
8 (C. 26:2H-1 et seq.):

9 a. Upon application of the participating hospital to construct,
10 acquire or otherwise provide projects for the use and benefit of the
11 participating hospital and the patients, employees and staff of such
12 participating hospital. The participating hospital for which such a
13 project is undertaken by the authority shall approve the plans and
14 specifications of such project.

15 b. To operate and manage any project provided pursuant to this
16 section, or the authority may lease any such project to the par-
17 ticipating hospital for which such project is provided. At such
18 time as the liabilities of the authority incurred for any such project
19 have been met and the bonds of the authority issued therefor have
20 been paid, or such liabilities and bonds have otherwise been dis-
21 charged, the authority shall transfer title to all the real and
22 personal property of such project vested in the authority, to the
23 participating hospital in connection with which such project is
24 then being operated, or to which such project is then leased;
25 provided, however, that if at any time prior thereto such partici-
26 pating hospital ceases to offer hospital or health services, then
27 such title shall vest in the State of New Jersey.

28 Any lease of a project authorized by this section shall be a general
29 obligation of the lessee and may contain provisions, which shall be
30 a part of the contract with the holders of the bonds of the authority
31 issued for such project, as to:

32 (i) pledging all or any part of the moneys, earnings, income and
33 revenues derived by the lessee from such project or any part or
34 parts thereof, or other personal property of the lessee, to secure
35 payments required under the terms of such lease;

36 (ii) the rates, rentals, fees and other charges to be fixed and
37 collected by the lessee, the amounts to be raised in each year
38 thereby, and the use and disposition of such moneys, earning,
39 income and revenues;

40 (iii) the setting aside of reserves and the creation of special
41 funds and the regulation and disposition thereof;

42 (iv) the procedure, if any, by which the terms of such lease may
43 be amended;

44 (v) vesting in a trustee or trustees such specified properties,
45 rights, powers and duties as shall be deemed necessary or desirable
46 for the security of the holders of the bonds of the authority issued
47 for such projects;

48 (vi) the obligations of the lessee with respect to the replacement,
49 reconstruction, maintenance, operation, repairs and insurance of
50 such project;

51 (vii) defining the acts or omissions to act which shall constitute
52 a default in the obligations and duties of the lessee, and providing
53 for the rights and remedies of the authority and of its bondholders
54 in the event of such default;

55 (viii) any other matters, of like or different character, which
56 may be deemed necessary or desirable for the security or protec-
57 tion of the authority or the holders of its bonds.

1 29. Construction loans; terms. The authority also shall have
2 power:

3 a. To make loans to any private hospital for the construction of
4 projects in accordance with a loan agreement and plans and
5 specifications approved by the authority. No such loan shall exceed
6 the total cost of such project and the equipment therefor as
7 determined and approved by the authority. Each such loan shall
8 be promised upon an agreement between the authority and the
9 private hospital as to payment, security, maturity, redemption,
10 interest and other appropriate matters.

11 b. To make loans to any private hospital to refund existing bonds,
12 mortgages or advances given or made by such private hospital for
13 the construction of projects to the extent that this will enable such
14 private hospital to offer greater security for loans for new project
15 construction.

1 30. Power of private hospitals to mortgage. For the purpose of
2 obtaining and securing loans under section 29 every private hospital
3 shall have power to mortgage and pledge any of its real or personal
4 property, and to pledge any of its income from whatever source to
5 repay the principal of and interest on any loan made to it by the
6 authority or to pay the interest on and principal and redemption
7 premium, if any, of any bond or other evidence of indebtedness
8 evidencing the debt created by any such loan; provided that the
9 foregoing shall not be construed to authorized actions in conflict
10 with specific legislation, trusts, endowment, or other agreements
11 relating to specific properties or funds.

1 31. Moneys; separate account. Moneys of the authority received
2 from any private hospital in payment of any sum due to the author-
3 ity pursuant to the terms of any loan or other agreement or any
4 bond, note or other evidence of indebtedness, shall be deposited in
5 account in which only moneys received from private hospitals shall
6 be deposited and shall be kept separate and apart from and not
7 commingled with any other moneys of the authority. Moneys de-
8 posited in such account shall be paid out on checks signed by the
9 chairman of the authority or by such other person or persons as

10 the authority may authorize, and countersigned by one other mem-
11 ber of the authority.

1 32. Authority; construction; operation and management.

2 a. Whenever the authority under section 28 undertakes to con-
3 struct, acquire or otherwise provide and operate and manage a
4 project, the authority shall be responsible for the direct operation
5 and maintenance costs of such projects, but each private hospital
6 in connection with which such a project is provided and operated
7 and managed shall be responsible at its own expense for the overall
8 supervision of each project, for the overhead and general adminis-
9 trative costs of the private hospital which are incurred because of
10 such project and for the integration of each project operation into
11 the institution's hospital program.

12 b. Whenever the authority under section 28 undertakes to con-
13 struct, acquire or otherwise provide a project and to lease the same
14 to a private hospital, the lessee shall be responsible for the direct
15 operation and maintenance costs of such project and, in addition,
16 shall be responsible for the overall supervision of each project, for
17 the overhead and general administrative costs of the lessee which
18 are incurred because of such project and for the integration of each
19 project operation into the lessee's hospital program.

20 c. Whenever the authority under section 29 makes loans for the
21 construction of a project, the private hospital at which such proj-
22 ect is located shall be responsible for the direct operation and
23 maintenance costs of such project and, in addition, shall be respon-
24 sible for the overall supervision of each project, for the overhead
25 and general administrative costs of the private hospital which are
26 incurred because of such project and for the integration of each
27 project operation into the institution's hospital program.

1 33. Private hospitals; pledges. Any pledge of moneys, earnings,
2 income or revenues authorized with respect to private hospitals,
3 pursuant to the provisions of this act, shall be valid and binding
4 from the time when the pledge is made. The moneys, earnings,
5 income or revenues so pledged and thereafter received by the
6 pledgor shall immediately be subject to the lien of such pledge with-
7 out any physical delivery thereof or further act. The lien of any
8 such pledge shall be valid and binding as against all parties having
9 claims of any kind in tort, contract or otherwise against the pledgor
10 irrespective of whether such parties have notice thereof. No instru-
11 ment by which such a pledge is created need be filed or recorded in
12 any manner.

ARTICLE 9. PARTICIPATION IN EXISTING PROJECTS

1 34. Participation in existing projects. Whenever any public or
2 private hospital has constructed or acquired any work or improve-
3 ment which would otherwise qualify as a project under the pre-
4 ceding portions of this act except for the fact that such construc-
5 tion or acquisition was undertaken and financed without assistance
6 from the authority, the authority may purchase such work or im-
7 provement, and lease the same to such hospital, or may lend funds
8 to such hospital for the purpose of enabling the latter to retire
9 obligations incurred for such construction or acquisition, provided
10 that the amount of any such purchase price or loan shall not exceed
11 the project cost as herein defined, irrespective of such work or im-
12 provement. All powers, rights, obligations and duties granted to
13 or imposed upon the authority, hospitals, State departments and
14 agencies or others by this act in respect of projects shall apply to
15 the same extent with respect to transactions authorized by this
16 section, provided that any action otherwise required to be taken at
17 a particular time in the progression of a project may, where the
18 circumstances so required in connection with a transaction under
19 this section be taken nunc pro tunc.

ARTICLE 10. CONSTRUCTION

1 35. Construction of act. This act shall be liberally construed to
2 effect the purpose thereof.

1 36. No liability or pledge of credit of State. Nothing contained
2 in this act shall be deemed or construed to create or constitute a
3 debt, liability, or a loan or pledge of the credit, of the State.

1 37. Powers supplemental and not derogatory. The foregoing
2 sections of this act shall be deemed to provide an additional and
3 alternative method for the doing of the things authorized thereby,
4 and shall be regarded as supplemental and additional to powers
5 conferred by other laws, and shall not be regarded as in derogation
6 of any powers now existing; provided, however, that the issuance
7 of bonds or refunding bonds under the provisions of this act need
8 not comply with the requirements of any other law applicable to the
9 issuance of bonds.

1 38. Inconsistent laws inapplicable. All laws, or parts thereof, in-
2 consistent with this act are hereby declared to be inapplicable to
3 the provisions of this act, except as otherwise provided, and pro-
4 vided that no project shall be constructed pursuant to this act which
5 does not comply with the Health Care Facilities Planning Act,
6 P. L. 1971, c. 136 (C. 26:2H-1, et seq.).

1 39. Severability. The provisions of this act shall be severable,
2 and if any of the provisions hereof shall be held to be unconstitu-
3 tional or otherwise invalid, such decision shall not affect the validity
4 of any of the remaining provisions of this act.

1 40. This act shall take effect on the first day of the fourth month
2 following enactment.

SENATE INSTITUTIONS, HEALTH AND WELFARE
COMMITTEE

STATEMENT TO
SENATE, No. 841

STATE OF NEW JERSEY

DATED: MAY 4, 1972.

This bill would authorize the creation of a new State authority to supplement existing financing mechanisms in providing for capital costs of health care facilities. Health officials have estimated that more than \$500 million should be spent in New Jersey in the next 5 years for new health care facilities and for replacement and modernization of existing hospitals and related institutions.

Currently available sources of capital funds for health care facilities are the federal Hill-Burton Act and FHA programs, and private borrowing. The Federal programs provide funds at lower rates of interest, but limitations on these funds and their particular requirements have forced health care institutions to borrow at higher rates from private sources, according to the Department of Health.

The Health Care Facilities Financing Authority proposed in this bill is expected to attract capital for health care facilities at lower rates of interest than those prevailing in private borrowing. Similar authorities in other states have been able to market bonds with lower than usual rates, including agencies in Massachusetts, New Hampshire, New York and Connecticut. These programs have effected these savings because their bonds are tax exempt, and the authorities assure continuity of operations of the health care facilities, thereby offering additional protection to the investors.

The authority would consist of seven members, four public members appointed by the Governor with the advice and consent of the Senate, and the Commissioners of the Departments of Health, Insurance, and Institutions and Agencies. The Commissioner of the Department of Health would serve as chairman of the authority.

The authority would have the power to issue tax exempt bonds for capital project costs of health care facilities, providing that the projects meet the certificate of need requirements of the Health Care Facilities Planning Act, P. L. 1971, c. 136 (C. 26:2H-1 et seq.). The authority would have the power to charge and collect fees for its services and it is anticipated the authority would eventually be a self-sustaining operation.

There is no liability or pledge of credit of the State.

The Senate Committee amendments include these changes in the bill:

1. The condition for authority membership is changed to exclude any trustee, director, officer or employee of a hospital from serving as a member of the authority.

2. Eminent domain is removed from the enumerated list of the authority's powers.

3. The management role of the authority is changed to stipulate that it will operate health care facilities only in the event of default by a participating hospital and that the authority shall conclude its position as an operator of any institution as soon as is practicable.

4. The tax exempt status of the bonds is amended to conform with existing laws by removing the exemptions from transfer, inheritance and estate taxes.

5. An appropriation of \$100,000.00 is provided with the provision that the authority shall repay this sum when it has accumulated sufficient income.

SENATE COMMITTEE AMENDMENTS TO
SENATE, No. 841

STATE OF NEW JERSEY

ADOPTED MAY 4, 1972

Amend page 1, title, line 5, after "thereof", insert ", and making an appropriation therefor".

Amend page 5, section 4, line 59, after "h.", omit rest of line and all of line 60, and insert "No".

Amend page 5, section 4, line 61, after "a", omit "participating".

Amend page 5, section 4, line 61, omit "to", insert "may".

Amend page 5, section 4, line 62, after "authority", omit ";", and insert ".", omit rest of line 62 beginning with "provided", and all of lines 63, 64, 65 and 66.

Amend page 6, section 5, line 17, after "proper," omit the rest of line 17 and "against the State or any political subdivision thereof," on line 18.

Amend page 7, section 5, line 37, after "contracts", omit "or by its own employees", and insert "with and for participating hospitals only,".

Amend page 7, section 5, line 39, after "projects", omit "for participating hospitals".

Amend page 7, section 5, line 46, omit "\$2,500.00", insert "\$5,000.00".

Amend page 7, section 5, line 56, omit "This section shall not", and all of lines 57 and 58.

Amend page 7, section 5, line 62, omit "operate,".

Amend page 7, section 5, line 63, after "same", insert "and operate the same in the event of default by a participating hospital of its obligations and agreements with the authority".

Amend page 7, section 5, line 65, omit "." and insert "in the event of default as herein provided. The authority shall use its best efforts to conclude its position as an operator as herein provided as soon as is practicable.".

Amend page 8, section 5, line 97, omit "or the state".

Amend page 15, section 16, line 12, omit "free", insert "exempt"; omit "of every", and omit all of lines 13 and 14 and insert "except for transfer, inheritance and estate taxes".

Amend page 21, section 29, line 6, omit "and the equipment therefor".

Amend page 24, section 39, after section 39, insert the following:

"40. There is hereby appropriated to the authority from the General State Fund the sum of \$100,000.00, or so much thereof as may be necessary, for the purposes of carrying out its function and duties pursuant to this act. Such appropriation shall be repaid to the General State Fund as soon as practicable out of the proceeds of the first bonds issued by the authority or other available funds."

Amend page 24, section 40, line 1, omit "40.", insert "41.".

CHAPTER 29 LAWS OF N. J. 19 72

APPROVED 5-25-72

[OFFICIAL COPY REPRINT]

SENATE, No. 841

STATE OF NEW JERSEY

INTRODUCED MARCH 27, 1972

By Senators AZZOLINA, STOUT, DUMONT, CRABIEL, TANZMAN,
McGAHN, HAGEDORN, WENDEL, TURNER, MARAZITI,
THOMAS, MILLER, ITALIANO, LAZZARA, McDERMOTT,
MUSTO and HOLLENBECK

Referred to Committee on Institutions, Health and Welfare

AN ACT relating to the financing of health care facilities and equip-
ment; creating the New Jersey Health Care Facilities Financing
Authority and prescribing its powers and duties; authorizing the
issuance of bonds and notes of the authority and providing for
the terms and security thereof*, and making an appropriation
therefor*.

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

ARTICLE 1. PURPOSE

1 1. Preamble, purpose of act. It is hereby declared that a serious
2 public emergency exists affecting the health, safety and welfare of
3 the people of the State resulting from the fact that many hospitals
4 and other health-care facilities throughout the State are becoming
5 obsolete and are no longer adequate to meet the needs of modern
6 medicine. As a result of rapid technological changes, such facilities
7 require substantial structural or functional changes. Others are
8 unsuited for continued use by virtue of their location and the
9 physical characteristics of their existing plants and should be re-
10 placed. Such inadequate and outmoded facilities deny to the people
11 of the State the benefits of health care of the highest quality,
12 efficiently and promptly provided at a reasonable cost. Their re-
13 placement and modernization is essential to protect and prolong
14 the lives of the State's population and cannot readily be accom-
15 plished by the ordinary unaided operation of private enterprise.
16 Existing hospitals and other health-care facilities must be adapted
17 to accommodate new concepts of medical treatment and provide

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 units for the treatment of alcoholism, narcotics addition and other
19 social ills.

20 It is the purpose of this act to encourage the timely construction
21 and modernization, including the equipment, of hospital and other
22 health-care facilities, which are necessary for the diagnosis or
23 treatment of human disease, pain, injury, disability, deformity or
24 physical condition, including mental illness and retardation, and of
25 facilities incidental or appurtenant thereto to be administered in
26 accordance with the provisions of the Health Care Facilities Plan-
27 ning Act, P. L. 1971, c. 136 (C. 26:2H-1 et seq.). It is hereby
28 declared to be the policy of the State to encourage the provision of
29 modern, well-equipped health-care facilities, and such provision is
30 hereby declared to be a public use and purpose.

ARTICLE 2. SHORT TITLE; DEFINITIONS

1 2. Short title. This act shall be known and may be cited as the
2 "New Jersey Health Care Facilities Financing Authority Law."

1 3. Terms defined. As used in this act, the following words and
2 terms shall have the following meanings, unless the context indi-
3 cates or requires another or different meaning or intent:

4 "Authority" means the New Jersey Health Care Facilities
5 Financing Authority created by this act or any board, body, com-
6 mission, department or officer succeeding to the principal functions
7 thereof or to whom the powers conferred upon the authority by this
8 act shall be given by law.

9 "Bond" means bonds, notes or other evidences of indebtedness
10 of the authority issued pursuant to this act.

11 "Commissioner" means the State Commissioner of Health.

12 "Hospital facility" means a structure suitable to provide hos-
13 pitals, hospital related housing facilities, doctors' office buildings
14 or other health-care facilities for the prevention, diagnosis or treat-
15 ment of human disease, pain, injury, disability, deformity or physi-
16 cal condition or mental illness and retardation, and for facilities
16A incidental or appurtenant thereto.

17 "Participating hospital" means a public hospital or private
18 hospital which has entered into a regulatory agreement in accord-
19 ance with this act.

20 "Private hospital" means a hospital or health-care institution,
21 or an institution for the training of doctors, nurses, paramedical
22 or other personnel engaged in the provision of health care, other
23 than a State, county or municipal hospital or health care facility,
24 or related institution including a health maintenance organization,
25 public health center, diagnostic center, treatment center, rehabilita-
26 tion center, extended care facility, skilled nursing home, nursing

27 home, intermediate care facility, tuberculosis hospital, chronic
28 disease hospital, maternity hospital, special hospital, mental hos-
29 pital, outpatient clinic, dispensary, home health agency, boarding
30 home or other home for sheltered care situated within the State
31 and which is a nonprofit institution providing hospital or health
32 care service to the public.

33 "Public hospital" means a State, county or municipal hospital
34 or health-care facility including health maintenance organization,
35 public health center, diagnostic center, treatment center, rehabilita-
36 tion center, extended care facility, skilled nursing home, nursing
37 home, intermediate care facility, tuberculosis hospital, chronic
38 disease hospital, maternity hospital, mental hospital, outpatient
39 clinic, dispensary, home health care agency, boarding home or other
40 home for sheltered care now or hereafter established or authorized
41 by law.

42 "Project" or "hospital project" means a specific work, includ-
43 ing lands, buildings, improvements, alterations, renovations, en-
44 largements, reconstructions, fixtures and articles of personal prop-
45 erty, acquired, constructed, rehabilitated, owned and operated by
46 a participating hospital pursuant to this act, to provide hospital
47 or health-care facilities or facilities related, required or useful to
48 or for the operation of a hospital facility, and "project" or
49 "hospital project" may include any combination of the foregoing
50 undertaken jointly by any participating hospital with one or more
51 other participating hospitals.

52 "Project cost" or "hospital project cost" means the sum total
53 of all or any part of costs incurred or estimated to be incurred
54 by the authority or by a participating hospital which are reasonable
55 and necessary for carrying out all works and undertakings and
56 providing all necessary equipment for the development of a project,
57 exclusive of the amount of any private or Federal, State or local
58 financial assistance for and received by a participating hospital for
59 the payment of such project cost. Such costs shall include, but are
60 not necessarily limited to, interest prior to, during and for a reason-
61 able period after such development, start-up costs and costs of
62 operation and maintenance during the construction period and for
63 a reasonable additional period thereafter, the cost of necessary
64 studies, surveys, plans and specifications, architectural, engineer-
65 ing, legal or other special services, the cost of acquisition of land,
66 buildings and improvements thereon (including payments for the
67 relocation of persons displaced by such acquisition), site prepara-
68 tion and development, construction, reconstruction, equipment, in-
69 cluding fixtures, equipment, and cost of demolition and removal,

70 and articles of personal property required, the reasonable cost of
 71 financing incurred by a participating hospital or the authority in
 72 the course of the development of the project, reserves for debt
 73 service, the fees imposed upon a participating hospital by the
 74 commissioner and by the authority; other fees charged, and neces-
 75 sary expenses incurred in connection with the initial occupancy of
 76 the project, and the cost of such other items as may be reasonable
 77 and necessary for the development of a project. The commission-
 78 er's approval of estimated project cost in accordance with section 6
 79 of this act shall include his approval, which shall be conclusive, as
 80 to the reasonableness or necessity of any item of cost and as to the
 81 reasonableness of any period of time in respect of which interest,
 82 start-up, operation and maintenance costs have included in project
 83 costs.

ARTICLE 3. AUTHORITY; MEMBERSHIP; OFFICERS; EMPLOYEES;
 GOVERNOR'S VETO

1 4. Authority created; members; terms; organization meetings;
 2 governor's veto power. a. There is hereby established in the State
 3 Department of Health, a public body corporate and politic, with
 4 corporate succession, to be known as the "New Jersey Health-Care
 5 Facilities Financing Authority." The authority shall constitute
 6 a political subdivision of the State established as an instrumentality
 7 exercising public and essential governmental functions, and the
 8 exercise by the authority of the powers conferred by this act shall
 9 be deemed and held to be an essential governmental function.

10 b. The authority shall consist of seven members, three of whom
 11 shall be the commissioner, who shall be the chairman, the Com-
 12 missioner of Insurance, and the Commissioner of the Department
 13 of Institutions and Agencies, who shall serve during their terms
 14 of office, or when so designated by them, their deputies or other
 15 representatives, who shall serve at their pleasure, and four public
 16 members who are citizens of the State to be appointed by the
 17 Governor, with the advice and consent of the Senate for terms of
 18 4 years; provided that the four members first appointed by the
 19 Governor shall serve terms expiring on the first, second, third,
 20 and fourth, respectively, April 30 ensuing after the enactment of
 21 this act. Each member shall hold office for the term of his appoint-
 22 ment and until his successor shall have been appointed and quali-
 23 fied. Any vacancy among the public members shall be filled by
 24 appointment for the unexpired term only.

25 c. Any member of the authority appointed by the Governor may
 26 be removed from office by the Governor for cause after a public
 27 hearing.

28 d. The members of the authority shall serve without compensa-
29 tion, but the authority may reimburse its members for necessary
30 expenses incurred in the discharge of their official duties.

31 e. The authority, upon the first appointment of its members and
32 thereafter on or after April 30 in each year, shall annually elect
33 from among its members a vice chairman who shall hold office until
34 April 30 next ensuing and shall continue to serve during the term
35 of his successor and until his successor shall have been appointed
36 and qualified. The authority may also appoint, retain and employ,
37 without regard to the provisions of Title 11, Civil Service, of the
38 Revised Statutes, such officers, agents, and employees as it may
39 require, and it shall determine their qualifications, terms of office,
40 duties, services and compensation.

41 f. The powers of the authority shall be vested in the members
42 thereof in office from time to time and a majority of the total
43 authorized membership of the authority shall constitute a quorum
44 at any meeting thereof. Action may be taken and motions and
45 resolutions adopted by the authority at any meeting thereof by
46 the affirmative vote of a majority of the members present, unless
47 in any case the bylaws of the authority shall require a larger
48 number. No vacancy in the membership of the authority shall
49 impair the right of a quorum to exercise all the rights and perform
50 all the duties of the authority.

51 g. Each member and the treasurer of the authority shall execute
52 a bond to be conditioned upon the faithful performance of the
53 duties of such member or treasurer, as the case may be, in such
54 form and amount as may be prescribed by the Attorney General.
55 Such bonds shall be filed in the office of the Secretary of State. At
56 all times thereafter the members and treasurer of the authority
57 shall maintain such bonds in full force and effect. All costs of such
58 bonds shall be borne by the authority.

59 h. ***[**Notwithstanding the provisions of P. L. 1971, c. 182
60 (C. 52:13D-12 et seq.), it shall not be a conflict of interest for a**]***
61 *No* trustee, director, officer or employee of a ***[**participating**]***
62 hospital ***[**to**]*** *may* serve as a member of the authority***[**; pro-
63 vided such trustee, director, officer or employee shall abstain from
64 discussion, deliberation, action and vote by the authority under this
65 chapter in respect to such participating hospital of which such
65 member is a trustee, director, officer or employee.**]*** *.*

67 i. At least two true copies of the minutes of every meeting of the
68 authority shall be forthwith delivered by and under the certification
69 of the secretary thereof, to the Governor. No action taken at such
70 meeting by the authority shall have force or effect until 10 days,

71 exclusive of Saturdays, Sundays and public holidays, after such
 72 copies of the minutes shall have been so delivered or at such earlier
 73 time as the Governor shall sign a statement of approval thereof.
 74 If, in said 10-day period, the Governor returns a copy of the minutes
 75 with veto of any action taken by the authority or any member
 76 thereof at such meeting, such action shall be null and of no effect.
 77 If the Governor shall not return the minutes within said 10-day
 78 period, any action therein recited shall have force and effect accord-
 79 ing to the wording thereof. At any time prior to the expiration of
 80 the said 10-day period, the Governor may sign a statement of ap-
 81 proval of all or any such action of the authority.

82 The powers conferred in this subsection upon the Governor shall
 83 be exercised with due regard for the rights of the holders of bonds
 84 of the authority at any time outstanding.

ARTICLE 4. POWERS AND DUTIES; BONDS

- 1 5. Powers of authority. The authority shall have power:
- 2 a. To adopt bylaws for the regulation of its affairs and the con-
 3 duct of its business and to alter and revise such bylaws from time
 4 to time at its discretion.
- 5 b. To adopt and have an official seal and alter the same at
 6 pleasure.
- 7 c. To maintain an office at such place or places within the State
 8 as it may designate.
- 9 d. To sue and be sued in its own name.
- 10 e. To borrow money and to issue bonds of the authority and to
 11 provide for the rights of the holders thereof as provided in this
 12 act.
- 13 f. To acquire, lease as lessee or lessor, hold and dispose of real
 14 and personal property or any interest therein, in the exercise of its
 15 powers and the performance of its duties under this act.
- 15A g. To acquire in the name of the authority by purchase or other-
 16 wise, on such terms and conditions and in such manner as it may
 17 deem proper, ***[**or by the exercise of the eminent domain except as
 18 against the State or any political subdivision thereof,**]*** any land or
 19 interest therein and other property which it may determine is
 20 reasonably necessary for any project; and to hold and use the same
 21 and to sell, convey, lease or otherwise dispose of property so ac-
 22 quired, no longer necessary for the authority's purposes for fair
 23 consideration after public notice.
- 24 h. To receive and accept, from any Federal or other public
 25 agency or governmental entity directly or through the Department
 26 of Health or any other agency of the State or any participating
 27 hospital, grants or loans for or in aid of the acquisition or con-

28 construction of any project, and to receive and accept aid or contri-
29 butions from any other source, of either money, property, labor or
30 other things of value, to be held, used and applied only for the pur-
31 poses for which such grants, loans and contributions may be made.

32 i. To prepare or cause to be prepared plans, specifications, de-
33 signs and estimates of costs for the construction and equipment of
34 hospital projects for participating hospitals under the provisions
35 of this act, and from time to time to modify such plans, specifica-
36 tions, designs or estimates.

37 j. By contract or contracts ***[or by its own employees]*** **with*
38 *and for participating hospitals only,** to construct, acquire, recon-
39 struct, rehabilitate and improve, and furnish and equip, hospital
40 projects ***[for participating hospitals]***. The authority, in the
40A exercise of its authority to make and enter into contracts and
41 agreements necessary or incidental to the performance of its duties
42 and the execution of its powers, shall adopt standing rules and
43 procedures providing that, except as hereinafter provided, no
44 contract on behalf of the authority shall be entered into for the
45 doing of any work, or for the hiring of equipment or vehicles, where
46 the sum to be expended exceeds the sum of ***[\$2,500.00]*** **\$5,000.00**
47 unless the authority shall first publicly advertise for bids therefor,
48 and shall award the contract to the lowest responsible bidder; pro-
49 vided, however, that such advertising shall not be required where
50 the contract to be entered into is one for the furnishing or perform-
51 ing services of a professional nature or for the supplying of any
52 product or the rendering of any service by a public utility subject
53 to the jurisdiction of the Public Utilities Commission and tariffs
54 and schedules of the charges, made, charged, or exacted by the pub-
55 lic utility for any such products to be supplied or services to be
56 rendered are filed with said commission. ***[This section shall not**
57 **prevent the authority from having any work done by its own em-**
58 **ployees.]***

59 k. To determine the location and character of any project to be
60 undertaken, subject to the provisions of this act, and subject to
61 State Health and environmental laws, to construct, reconstruct,
62 maintain, repair, ***[operate,]*** lease, as lessee or lessor, and regu-
63 late the same **and operate the same in the event of default by a par-*
64 *ticipating hospital of its obligations and agreements with the*
65 *authority**; to enter into contracts for any or all such purposes; and
65A to enter into contracts for the management and operation of a
65B project **in the event of default as herein provided. The authority*
65C *shall use its best efforts to conclude its position as an operator as*
65D *herein provided as soon as is practicable*.*

66 l. To establish rules and regulations for the use of a project or
67 any portion thereof and to designate a participating hospital as
68 its agent to establish rules and regulations for the use of a project
69 undertaken by such a participating hospital.

70 m. Generally to fix and revise from time to time and to charge
71 and collect rates, rents, fees and other charges for the use of and
72 for the services furnished or to be furnished by a project or any
73 portion thereof and to contract with holders of its bonds and with
74 any other person, party, association, corporation or other body,
75 public or private, in respect thereof, subject to the provisions of the
76 Health Care Facilities Planning Act, P. L. 1971, c. 136 (C. 26:2H-1
77 et seq.).

78 n. To enter into agreements or contracts, execute any and all
79 instruments, and do and perform any and all acts or things neces-
80 sary, convenient or desirable for the purpose of the authority or
81 to carry out any power expressly given in this act.

82 o. To invest any moneys held in reserve or sinking funds, or
83-84 any moneys not required for immediate use or disbursement, at
85 the discretion of the authority, in such obligations as are authorized
86 by resolution of the authority.

87 p. To obtain, or aid in obtaining, from any department or agency
88 of the United States any insurance or guarantee as to, or of or for
89 the payment or repayment of interest or principal, or both, or any
89A part thereof, on any loan or any instrument evidencing or securing
90 the same, made or entered into pursuant to the provisions of this
91 act; and notwithstanding any other provisions of this act to enter
92 into agreement, contract or any other instrument whatsoever with
93 respect to any such insurance or guarantee, and accept payment in
94 such manner and form as provided therein in the event of default
95 by the borrower.

96 q. To obtain from any department or agency of the United
97 States *~~or the State~~* or a private insurance company any insur-
98 ance or guarantee as to, or of, or for the payment or repayment of
99-100 interest or principal, or both, or any part thereof, on any bonds,
101 issued by the authority pursuant to the provisions of this act; and
102 notwithstanding any other provisions of this act to enter into any
103 agreement, contract or any other instrument whatsoever with re-
104 spect to any such insurance or guarantee except to the extent that
105 such action would in any way impair or interfere with the author-
106 ity's ability to perform and fulfill the terms of any agreement made
107 with the holders of the bonds of the authority.

108 r. To receive and accept, from any department or agency of the
109 United States or of the State or from any other entity, any grant,

110 appropriation or other moneys to be used for or applied to any
111 corporate purpose of the authority, including without limitation
112 the meeting of debt service obligations of the authority in respect
113 of its bonds.

1 6. Approval of project costs; regulatory agreements; expenses.
2 Notwithstanding any other provision of this act, the authority shall
3 not acquire or authorize the acquisition, the commencement of con-
4 struction or rehabilitation of any project or hospital facility to be
5 leased to a participating hospital, in respect of any project where
6 such acquisition or work is to be done by the authority, nor advance
7 loan funds to any participating hospital, in respect of a project
8 involving a loan to such hospital, until (i) the estimated project
9 cost shall have been approved by the commissioner and (ii) the
10 participating hospital shall have entered into a regulatory agree-
11 ment with the commissioner. Such regulatory agreement shall
12 contain such provisions as shall be deemed adequate by the com-
13 missioner to assure that the project shall be constructed, maintained
14 and operated in a manner consistent with the purposes of this act
15 and the Health Care Facilities Planning Act, P. L. 1971, c. 136
16 (C. 26:2H-1 et seq.).

17 The requirements of the preceding paragraph shall not preclude
18 the authority from taking actions, and incurring expenses in con-
19 nection therewith, preliminary to the actual acquisition or com-
20 mencement of construction or rehabilitation of facilities or the
21 advancing of loan funds in respect of any proposed project, pro-
22 vided, that all expenses incurred in carrying out the provisions
23 of this act shall be payable solely from funds provided under the
24 authority of this act and no liability or obligation shall be incurred
25 by the authority hereunder beyond the extent to which moneys
26 shall have been provided under the provisions of this act.

1 7. Issuance of bonds authorized; maturity; terms. a. The au-
2 thority is authorized from time to time to issue its bonds for any
3 corporate purpose and to fund and refund the same all as provided
4 in this act. Such bonds may, at the discretion of the authority be
5 designated as "bonds," "notes," "bond anticipation notes" or
6 otherwise.

7 b. Except as may otherwise be expressly provided by the au-
8 thority, every issue of its bonds shall be general obligations of
9 the authority payable from any revenues or moneys of the au-
10 thority, subject only to any agreements with the holders of
11 particular bonds pledging any particular revenues or moneys.
12 Notwithstanding that bonds may be payable from a special fund,
13 they shall be fully negotiable within the meaning of Title 12A,

14 the Uniform Commercial Code, of the New Jersey Statutes, subject
15 only to any provisions of the bonds for registration.

16 c. The bonds may be issued as serial bonds or as term bonds,
17 or the authority, in its discretion, may issue bonds of both types.
18 The bonds shall be authorized by resolution of the members of the
19 authority and shall bear such date or dates, mature at such time
20 or times, not exceeding 50 years from their respective dates, bear
21 interest at such rate or rates, be payable at such time or times,
22 be in such denominations, be in such form, either coupon or
23 registered, carry such registration privileges, be executed in such
24 manner, be payable in lawful money of the United States of America
25 at such place or places, and be subject to such terms of redemption,
26 as such resolution or resolutions may provide. The bonds may be
27 sold at public or private sale for such price or prices as the au-
28 thority shall determine. Pending preparation of the definitive
29 bonds, the authority may issue interim receipts or certificates
30 which shall be exchanged for such definitive bonds.

31 d. Any resolution or resolutions authorizing any bonds or any
32 issue of bonds may contain provisions, which shall be a part of
33 the contract with the holders of the bonds to be authorized, as to:

34 (i) pledging all or any part of the revenues of a project or any
35 revenue producing contract or contracts made by the authority
36 with any individual, partnership, corporation or association or
37 other body, public or private, to secure the payment of the bonds
38 or of any particular issue of bonds, subject to such agreements
39 with bondholders as may then exist;

40 (ii) the rentals, fees and other charges to be charged, and the
41 amounts to be raised in each year thereby, and the use and dis-
42 position of the revenues;

43 (iii) the setting aside of reserves or sinking funds, and the
44 regulation and disposition thereof;

45 (iv) limitations on the right of the authority or its agent to
46 restrict and regulate the use of a project;

47 (v) limitations on the purpose to which the proceeds of sale of
48 any issue of bonds then or thereafter to be issued may be applied
49 and pledging such proceeds to secure the payment of the bonds or
50 any issue of the bonds;

51 (vi) limitations on the issuance of additional bonds, the terms
52 upon which additional bonds may be issued and secured and the
53 refunding of outstanding bonds;

54 (vii) the procedure, if any, by which the terms of any contract
55 with bondholders may be amended or abrogated, the amount of

56 bonds the holders of which must consent thereto, and the manner
57 in which such consent may be given;

58 (viii) limitations on the amount of moneys derived from a project
59 to be expended for operating, administrative or other expenses of
60 the authority; and

61 (ix) defining the acts or omissions to act which shall constitute
62 a default in the duties of the authority to holders of its obligations
63 and providing the rights and remedies of such holders in the event
64 of a default.

65 e. Neither the members of the authority nor any person executing
66 the bonds shall be liable personally on the bonds or be subject to
67 any personal liability or accountability by reason of the issuance
68 thereof.

69 f. The authority shall have power out of any funds available
70 therefor to purchase its bonds. The authority may hold, pledge,
71 cancel or resell such bonds, subject to and in accordance with agree-
72 ments with bondholders.

1 8. Bonds secured by trust agreement. In the discretion of the
2 authority, any bonds issued under the provisions of this act may
3 be secured by a trust agreement by and between the authority and
4 a corporate trustee or trustees, which may be any trust company
5 or bank having the powers of a trust company within or without
6 the State. Such trust agreement or the resolution providing for
7 the issuance of such bonds may pledge or assign the revenues or
8 other moneys or securities to be received or proceeds of any con-
9 tract or contracts pledged. Such trust agreement or resolution
10 providing for the issuance of such bonds may contain such pro-
11 visions for protecting and enforcing the rights and remedies of
12 the bondholders as may be reasonable and proper and not in viola-
13 tion of law, including particularly such provisions as have herein-
14 above been specifically authorized to be included in any resolution
15 or resolutions of the authority authorizing bonds thereof. Any
16 bank or trust company incorporated under the laws of this State
17 which may act as depository of the proceeds of bonds or revenues
18 or other moneys or securities may furnish such indemnifying bonds
19 or pledge such securities as may be required by the authority.
20 Any such trust agreement may set forth the rights and remedies
21 of the bondholders and of the trustee or trustees, and may restrict
22 the individual right of action by bondholders. In addition to the
23 foregoing, any such trust agreement or resolution may contain
24 such other provisions as the authority may deem reasonable and
25 proper for the security of the bondholders. All expenses incurred

26 in carrying out the provisions of such trust agreement or resolu-
27 tion may be treated as project costs.

1 9. Bonds not liability of state or political subdivision. Bonds
2 issued under the provisions of this act shall not be deemed to con-
3 stitute a debt or liability of the State or of any political subdivision
4 thereof other than the authority, nor a pledge of the faith and
5 credit of the State or of any such political subdivision, other than
6 the authority, but shall be payable solely from the funds herein
7 provided. All such bonds shall contain on the face thereof a state-
8 ment to the effect that neither the State of New Jersey nor the
9 authority shall be obligated to pay the same or the interest thereon
10 except from revenues or other moneys of the authority and that
11 neither the faith and credit nor the taxing power of the State of
12 New Jersey or of any political subdivision thereof other than the
13 authority is pledged to the payment of the principal of or the in-
14 terest on such bonds. The issuance of bonds under the provisions of
15 this act shall not directly or indirectly or contingently obligate the
16 State or any political subdivision thereof to levy or to pledge any
17 form of taxation whatever therefor.

1 10. Further powers of authority. The authority is authorized to
2 fix, revise, charge and collect rates, rents, fees and charges for
3 the use of and for the services furnished or to be furnished by each
4 project and to contract with any person, partnership, association
5 or corporation, or other body, public or private, in respect thereof.
6 Such rates, rents, fees and charges shall be fixed and adjusted in
7 respect of the aggregate of rents, rates, fees and charges from such
8 project so as to provide funds sufficient with other revenues or
9 moneys, if any:

10 a. To pay the cost of maintaining, repairing and operating the
11 project and each and every portion thereof, to the extent that the
12 payment of such cost has not otherwise been adequately provided
13 for.

14 b. To pay the principal of and the interest on outstanding bonds
15 of the authority issued in respect of such project as the same shall
16 become due and payable; and

17 c. To create and maintain reserves required or provided for in
18 any resolution authorizing, or trust agreement securing, such bonds
19 of the authority.

20 Such rates, rents, fees and charges shall not be subject to super-
21 vision or regulation by any department, commission, board, body,
22 bureau or agency of this State other than the authority and the pro-
23 visions of the Health Care Facilities Planning Act, P. L. 1971,
24 c. 136 (C. 26:2H-1 et seq.). A sufficient amount of the revenues

25 derived in respect of a project, except such part of such revenues
26 as may be necessary to pay the cost of maintenance, re-
27 pair and operation and to provide reserves for renewals, replace-
28 ments, extensions, enlargements and improvements as may be pro-
29 vided for in the resolution authorizing the issuance of any bonds
30 of the authority or in the trust agreement securing the same, shall
31 be set aside at such regular intervals as may be provided in such
32 resolution or trust agreement in a sinking or other similar fund
33 which is hereby pledged to, and charged with, the payment of the
34 principal of and the interest on such bonds as the same shall become
35 due, and the redemption price or the purchase price of bonds re-
36 tired by call or purchase as therein provided. Such pledge shall
37 be valid and binding from the time when the pledge is made; the
38 rates, rents, fees and charges and other revenues or other moneys
39 or securities so pledged and thereafter received by the authority
40 shall immediately be subject to the lieu of such pledge without any
41 physical delivery thereof or further act, and the lien of any such
42 pledge shall be valid and binding as against all parties having
43 claims of any kind in tort, contract or otherwise against the author-
44 ity, irrespective of whether such parties have notice thereof.
45 Neither the resolution nor any trust agreement by which a pledge
46 is created need be filed or recorded except in the records of the
47 authority. The use and disposition of moneys to the credit of such
48 sinking or other similar fund shall be subject to the provisions of
49 the resolution authorizing the issuance of such bonds or of such
50 trust agreement. Except as may otherwise be provided in such
51 resolution or such trust agreement, such sinking or other similar
52 fund shall be a fund for all such bonds issued to finance projects of
53 a participating hospital without distinction or priority of one over
54 another; provided the authority in any such resolution or trust
55 agreement may provide that such sinking or other similar fund
56 shall be the fund for a particular project at a participating hospital
57 and for the bonds issued to finance a particular project and may,
58 additionally, permit and provide for the issuance of bonds hav-
59 ing a subordinate lien in respect of the security herein authorized
60 to other bonds of the authority and, in such case, the authority may
61 create separate sinking or other similar funds in respect of such
62 subordinate lien bonds.

1 11. Moneys of authority; trust funds. All moneys received
2 pursuant to the authority of this act whether as proceeds from the
3 sale of bonds or as revenues, shall be deemed to be trust funds to
4 be held and applied solely as provided in this act. Any officer with
5 whom, or any bank or trust company with which, such moneys shall

6 be deposited shall act as trustee of such moneys and shall hold
7 and apply the same for the purposes hereof, subject to such regula-
8 tions as this act and the resolution authorizing the bonds of any
9 issue or the trust agreement securing such bonds may provide.

1 12. Bondholders; enforcement of rights. Any holder of bonds
2 issued under the provisions of this act or any of the coupons
3 appertaining thereto, and the trustee or trustees under any trust
4 agreement, except to the extent the rights herein given may be
5 restricted by any resolution authorizing the issuance of, or any
6 such trust agreement securing, such bonds, may, either at law or in
7 equity, by suit, action, proceeding in lieu of prerogative writ, or
8 other proceedings, protect and enforce any and all rights under the
9 laws of the state or granted hereunder or under such resolution or
10 trust agreement, and may enforce and compel the performance of
11 all duties required by this act or by such resolution or trust agree-
12 ment to be performed by the authority or by any officer, employee
13 or agent thereof, including the fixing, charging and collecting of
14 the rates, rents, fees, and charges herein authorized and required
15 by the provisions of such resolution or trust agreement to be fixed,
16 established and collected.

1 13. Refunding bonds; additional purposes. a. The authority
2 is hereby authorized to provide for the issuance of bonds of the
3 authority for the purpose of refunding any bonds of the authority
4 then outstanding, including the payment of any redemption pre-
5 mium thereon and any interest accrued or to accrue to the earliest
6 or subsequent date of redemption, purchase or maturity of such
7 bonds, and, if deemed advisable by the authority, for the additional
8 purpose of paying all or any part of the cost of constructing and
9 acquiring additions, improvements, extensions or enlargements of
10 a project or any portion thereof and for making payments to reserve
11 funds therefor.

12 b. The proceeds of any such bonds issued for the purpose of
13 refunding outstanding bonds may, in the discretion of the authority,
14 be applied to the purchase or retirement at maturity or redemption
15 of such outstanding bonds either on their earliest or any subsequent
16 redemption date or upon the purchase or at the maturity thereof
17 and may, pending such application, be placed in escrow to be applied
18 to such purchase or retirement at maturity or redemption on such
19 date as may be determined by the authority.

20 c. Any such escrowed proceeds, pending such use, may be in-
21 vested and reinvested as permitted by the applicable resolution
22 or trust agreement. The interest, income and profits, if any, earned
23 or realized on any such investment may also be applied to the pay-

24 ment of outstanding bonds to be refunded. After the terms of the
25 escrow have been fully satisfied and carried out, any balance of such
26 proceeds and interest, income and profits, if any, earned or realized
27 on the investments thereof may be returned to the authority for
28 use by it in any lawful manner.

29-30 d. All such bonds shall be subject to the provisions of this act
31 in the same manner and to the same extent as other bonds issued
32 pursuant to this act.

33 14. Bonds as legal investments. Bonds and notes issued by the
34 authority under the provisions of this act are hereby made securi-
35 ties in which the State and all political subdivisions of the State,
36 their officers, boards, commissions, departments or other agencies,
37 all banks, bankers, savings banks, trust compies, savings and loan
38 associations, investment companies and other persons carrying on
39 a banking business, all insurance companies, insurance associations,
40 and other persons carrying on an insurance business, and all admin-
41 istrators, executors, guardians, trustees and other fiduciaries, and
42 all other persons whatsoever who now are or may hereafter be au-
43 thorized to invest in bonds or other obligations of the State, may
44 properly and legally invest any funds, including capital belonging to
45 them or within their control; and said bonds, notes or other secur-
46 ities or obligations are hereby made securities which may properly
47 and legally be deposited with and received by any State or municipi-
48 pal officers or agency of the State for any purpose for which the de-
49 posit of bonds or other obligations of the State is now or may
50 hereafter be authorized by law.

1 15. Act complete authority for issuance of bonds. Bonds may
2 be issued under the provisions of this act without obtaining the con-
3 sent of any department, division, commission, board, bureau,
4 agency or officer of the State, and without any other proceedings
5 or the happening of any other conditions or things than those pro-
6 ceedings, conditions and things which are specifically required by
7 this act.

1 16. Exemptions from taxes; bonds; property. The exercise of
2 the powers granted by this act will be in all respects for the bene-
3 fit of the people of this State, for the increase of their commerce,
4 welfare and prosperity, and for the improvement of their health
5 and living conditions, and as the operation and maintenance of a
6 project by the authority or its agent will constitute the performance
6A of an essential public function, neither the authority nor its agent
7 shall be required to pay any taxes or assessments upon or in re-
8 spect of a project or any property acquired or used by the authority
9 or its agent under the provisions of this act or upon the income

10 therefrom, and any bonds issued under the provisions of this act,
11 their transfer and the income therefrom, including any profit made
12 on the sale thereof, shall at all times be ***[free]*** **exempt** from
13 taxation ***[of every kind by the State and by the municipalities and**
14 **other political subdivisions in the State]*** **except for transfer,*
15 *inheritance and estate taxes*.*

1 17. Restriction on alteration of powers. The State of New Jersey
2 does pledge to and agree with the holders of the bonds issued pur-
3 suant to authority contained in this act, and with those parties who
4 may enter into contracts with the authority pursuant to the pro-
5 visions of this act, that the State will not limit, alter or restrict the
6 rights hereby vested in the authority and the participating hospital
7 to maintain, construct, reconstruct and operate any project as de-
8 fined in this act or to establish and collect such rents, fees, receipts
9 or other charges as may be convenient or necessary to produce
10 sufficient revenues to meet the expenses of maintenance and opera-
11 tion thereof and to fulfill the terms of any agreements made with
12 the holders of bonds authorized by this act, and with the parties
13 who may enter into contracts with the authority pursuant to the pro-
14 visions of this act, or in any way impair the rights or remedies of
15 the holders of such bonds or such parties until the bonds, together
16 with interest thereon, are fully paid and discharged and such con-
17 tracts are fully performed on the part of the authority. The author-
18 ity as a public body corporate and politic shall have the right to
19 include the pledge herein made in its bonds and contracts.

1 18. Annual report and audit. On or before March 31 in each year,
2 the authority shall make an annual report of its activities for the
3 preceding calender year to the Governor and the Legislature. Each
4 such report shall set forth a complete operating and financial state-
5 ment covering the authority's operations during the year. The
6 authority shall cause an audit of its books and accounts to be made
7 at least once in each year by certified public accountants and cause
8 a copy thereof to be filed with the Secretary of State and the Comp-
9 trolled of the Treasury.

ARTICLE 5. CONFLICT OF INTEREST

1 19. Contracts; conflict of interest. Except as otherwise expressly
2 provided in this act, any member, officer, agent or employee of the
3 authority, or member of the immediate family thereof, who is
4 interested, either directly or indirectly, in any contract or trans-
5 action of another with the authority, or in the purchase sale or
6 lease of any property, either real or personal, to or from the author-
7 ity, shall be guilty of a misdemeanor.

ARTICLE 6. EXAMINATION AND VISITORIAL POWERS OF STATE;
ASSISTANCE OF STATE EMPLOYEES

1 20. Comptroller of Treasury; powers of examination. The
2 Comptroller of the Treasury and his legally authorized representa-
3 tives are hereby authorized and empowered from time to time to
4 examine the accounts, books and records of the authority, including
5 its receipts, disbursements, contracts, sinking funds, investments
6 and any other matters relating thereto and to its financial standing.

1 21. Visitorial powers; department of health; commissioner. The
2 Department of Health, or the commissioner or their representa-
3 tives, may visit, examine into and inspect, the authority and may
4 require, as often as desired, duly verified reports therefrom giving
5 such information and in such form as such department or commis-
6 sioner shall prescribe.

1 22. Services of State departments or agencies. The authority
2 shall be entitled to call to its assistance and avail itself of the
3 services of such employees of any State department or agency as
4 it may require and as may be available to it for said purpose.

ARTICLE 7. POWERS AND DUTIES OF INSTITUTIONS UNDER STATE,
COUNTY AND MUNICIPAL JURISDICTION

1 23. Powers and duties of Department of Health as to institutions
2 under State, county or municipal jurisdiction. In order to provide
3 new hospitals and to enable the construction and financing thereof,
4 to refinance indebtedness hereafter created by the authority for
5 the purpose of providing a hospital or hospitals or additions or
6 improvements thereto or modernization thereof or for any one or
7 more of said purposes but for no other purpose unless authorized
8 by law, each of the following bodies shall have the powers here-
9 after enumerated to be exercised upon such terms and conditions,
10 including the fixing of fair consideration or rental to be paid or
11 received, as it shall determine by resolution as to such property
12 and each shall be subject to the performance of the duties hereafter
13 enumerated, that is to say, the State Department of Health as to
14 such as are located on land owned by, or owned by the State and
15 held for, any State institution or on lands of the institutions under
16 the jurisdiction of the State Department of Health or of the State
17 Department of Institutions and Agencies, or by the authority, the
18 Commissioner of the State Department of Institutions and Agencies
19 as to State institutions operated by that department, the board of
20 trustees or governing body of any public hospital, the board of
21 trustees of the College of Medicine and Dentistry of New Jersey,
22 as to such as are located on land owned by such college, or by the

23 State for such college, the State or by the particular public hospital
24 respectively, namely:

25 a. The power to sell and to convey to the authority title in fee
26 simple in any such land and any existing hospital facilities thereon
27 owned by the State and held for any department thereof or of any
28 of the institutions under the jurisdiction of the State Department
29 of Health or the power to sell and to convey to the authority such
30 title as the State or the public hospital respectively may have in
31 any such land and any existing hospitals thereon.

32 b. The power to lease to the authority any land and any existing
33 hospital facilities thereon so owned for a term or terms not exceed-
34 ing 50 years each.

35 c. The power to lease or sublease from the authority, and to make
36 available, any such land and existing hospitals conveyed or leased
37 to the authority under subsections a. and b. of this section, and
38 any new hospitals erected upon such land or upon any other land
39 owned by the authority.

40 d. The power and duty, upon receipt of notice of any assignment
41 by the authority of any lease or sublease made under subsection c.
42 of this section, or of any of its rights under any such lease or sub-
43 lease, to recognize and give effect to such assignment, and to pay
44 to the assignee thereof rentals or other payments then due or which
45 may become due under any such lease or sublease which has been
46 so assigned by the authority.

1 24. Additional powers and duties as to lands and State and public
2 hospitals. In addition thereto the Commissioner of the State De-
3 partment of Institutions and Agencies as to institutions operated
4 by that department, the chief executive officer and the board of
5 trustees of other State institutions, and the board of trustees or
6 governing body of county and municipal public hospitals shall have
7 the following powers and shall be subject to the following duties
8 as to their lands and hospital facilities:

9 a. The power to pledge and assign all or any part of the revenues
10 derived from the operation of such new hospitals as security for
11 the payment of rentals due and to become due under any lease or
12 sublease of such new hospitals under subsection c. of the preceding
13 section.

14 b. The power to covenant and agree in any lease or sublease of
15 such new hospitals made under subsection c. of the preceding sec-
16 tion to impose fees, rentals or other charges for the use and
17 occupancy or other operation of such new hospitals in an amount
18 calculated to produce net revenues sufficient to pay the rentals due
19 and to become due under such lease or sublease.

20 c. The power to apply all or any part of the revenues derived
21 from the operation of any hospitals to the payment of rentals due
22 and to become due under any lease or sublease made under sub-
23 section c. of the preceding section.

24 d. The power to pledge and assign all or any part of the revenues
25 derived from the operation of any hospitals to the payment of
26 rentals due and to become due under any lease or sublease made
27 under subsection c. of the preceding section.

28 e. The power to covenant and agree in any lease or sublease
29 made under subsection c. of the preceding section to impose fees,
30 rentals or other charges for the use and occupancy or other opera-
31 tion of any hospitals in an amount calculated to produce net
32 revenues sufficient to pay the rentals due and to become due under
33 such lease or sublease.

1 25. Powers and duties, revenue producing facilities. In addition
2 to the powers and duties with respect to hospitals given under
3 sections 23 and 24, the board of trustees or governing body of any
4 State institution or public hospital and the board of trustees of
5 the College of Medicine and Dentistry of New Jersey shall also
6 have the same powers and be subject to the same duties in relation
7 to any conveyance, lease or sublease made under subsections a.,
8 b., or c. of section 24, with respect to revenue producing facilities;
9 that is to say, structures or facilities which produce revenues
10 sufficient to pay the rentals due and to become due under any
11 lease or sublease made under subsection c. of section 24 including,
12 without limitation, extended care and parking facilities.

1 26. Approval of plans, specifications and locations. The State
2 Department of Health shall approve the plans and specifications
3 and location of each hospital undertaken for it or under its control
4 or any public hospital prior to the undertaking thereof by the
5 authority.

1 27. Powers and duties, exercises; instruments, execution. To the
2 extent not otherwise expressly provided under existing law, all
3 powers and duties conferred upon any State institution or the
4 College of Medicine and Dentistry or any county, city or municipal
5 hospital pursuant to this act shall be exercised and performed by
6 resolution of its governing body and all powers and duties conferred
7 upon any of said hospitals pursuant to this act shall be exercised
8 and performed by resolution of its board of trustees or governing
9 body.

ARTICLE 8. PRIVATE HOSPITALS

1 28. Additional powers; private hospitals. In addition to the fore-
2 going powers, the authority with respect to private hospitals shall
3 have power, but only upon approval by the commissioner of a
4 regulatory agreement with such private hospital and subject to
5 the terms and conditions of such agreement; and provided that
6 no project will be undertaken pursuant to this act without the prior
7 issuance of a certificate of need pursuant to P. L. 1971, c. 136

8 (C. 26:2H-1 et seq.):

9 a. Upon application of the participating hospital to construct,
10 acquire or otherwise provide projects for the use and benefit of the
11 participating hospital and the patients, employees and staff of such
12 participating hospital. The participating hospital for which such a
13 project is undertaken by the authority shall approve the plans and
14 specifications of such project.

15 b. To operate and manage any project provided pursuant to this
16 section, or the authority may lease any such project to the par-
17 ticipating hospital for which such project is provided. At such
18 time as the liabilities of the authority incurred for any such project
19 have been met and the bonds of the authority issued therefor have
20 been paid, or such liabilities and bonds have otherwise been dis-
21 charged, the authority shall transfer title to all the real and
22 personal property of such project vested in the authority, to the
23 participating hospital in connection with which such project is
24 then being operated, or to which such project is then leased;
25 provided, however, that if at any time prior thereto such partici-
26 pating hospital ceases to offer hospital or health services, then
27 such title shall vest in the State of New Jersey.

28 Any lease of a project authorized by this section shall be a general
29 obligation of the lessee and may contain provisions, which shall be
30 a part of the contract with the holders of the bonds of the authority
31 issued for such project, as to:

32 (i) pledging all or any part of the moneys, earnings, income and
33 revenues derived by the lessee from such project or any part or
34 parts thereof, or other personal property of the lessee, to secure
35 payments required under the terms of such lease;

36 (ii) the rates, rentals, fees and other charges to be fixed and
37 collected by the lessee, the amounts to be raised in each year
38 thereby, and the use and disposition of such moneys, earning,
39 income and revenues;

40 (iii) the setting aside of reserves and the creation of special
41 funds and the regulation and disposition thereof;

42 (iv) the procedure, if any, by which the terms of such lease may
43 be amended;

44 (v) vesting in a trustee or trustees such specified properties,
45 rights, powers and duties as shall be deemed necessary or desirable
46 for the security of the holders of the bonds of the authority issued
47 for such projects;

48 (vi) the obligations of the lessee with respect to the replacement,
49 reconstruction, maintenance, operation, repairs and insurance of
50 such project;

51 (vii) defining the acts or omissions to act which shall constitute
52 a default in the obligations and duties of the lessee, and providing
53 for the rights and remedies of the authority and of its bondholders
54 in the event of such default;

55 (viii) any other matters, of like or different character, which
56 may be deemed necessary or desirable for the security or protec-
57 tion of the authority or the holders of its bonds.

1 29. Construction loans; terms. The authority also shall have
2 power:

3 a. To make loans to any private hospital for the construction of
4 projects in accordance with a loan agreement and plans and
5 specifications approved by the authority. No such loan shall exceed
6 the total cost of such project ***[and the equipment therefor]*** as
7 determined and approved by the authority. Each such loan shall
8 be promised upon an agreement between the authority and the
9 private hospital as to payment, security, maturity, redemption,
10 interest and other appropriate matters.

11 b. To make loans to any private hospital to refund existing bonds,
12 mortgages or advances given or made by such private hospital for
13 the construction of projects to the extent that this will enable such
14 private hospital to offer greater security for loans for new project
15 construction.

1 30. Power of private hospitals to mortgage. For the purpose of
2 obtaining and securing loans under section 29 every private hospital
3 shall have power to mortgage and pledge any of its real or personal
4 property, and to pledge any of its income from whatever source to
5 repay the principal of and interest on any loan made to it by the
6 authority or to pay the interest on and principal and redemption
7 premium, if any, of any bond or other evidence of indebtedness
8 evidencing the debt created by any such loan; provided that the
9 foregoing shall not be construed to authorized actions in conflict
10 with specific legislation, trusts, endowment, or other agreements
11 relating to specific properties or funds.

1 31. Moneys; separate account. Moneys of the authority received
2 from any private hospital in payment of any sum due to the author-
3 ity pursuant to the terms of any loan or other agreement or any
4 bond, note or other evidence of indebtedness, shall be deposited in
5 account in which only moneys received from private hospitals shall
6 be deposited and shall be kept separate and apart from and not
7 commingled with any other moneys of the authority. Moneys de-
8 posited in such account shall be paid out on checks signed by the
9 chairman of the authority or by such other person or persons as
10 the authority may authorize, and countersigned by one other mem-
11 ber of the authority.

1 32. Authority; construction, operation and management.
2 a. Whenever the authority under section 28 undertakes to con-
3 struct, acquire or otherwise provide and operate and manage a
4 project, the authority shall be responsible for the direct operation
5 and maintenance costs of such projects, but each private hospital
6 in connection with which such a project is provided and operated
7 and managed shall be responsible at its own expense for the overall
8 supervision of each project, for the overhead and general adminis-
9 trative costs of the private hospital which are incurred because of
10 such project and for the integration of each project operation into
11 the institution's hospital program.

12 b. Whenever the authority under section 28 undertakes to con-
13 struct, acquire or otherwise provide a project and to lease the same
14 to a private hospital, the lessee shall be responsible for the direct
15 operation and maintenance costs of such project and, in addition,
16 shall be responsible for the overall supervision of each project, for
17 the overhead and general administrative costs of the lessee which
18 are incurred because of such project and for the integration of each
19 project operation into the lessee's hospital program.

20 c. Whenever the authority under section 29 makes loans for the
21 construction of a project, the private hospital at which such proj-
22 ect is located shall be responsible for the direct operation and
23 maintenance costs of such project and, in addition, shall be respon-
24 sible for the overall supervision of each project, for the overhead
25 and general administrative costs of the private hospital which are
26 incurred because of such project and for the integration of each
27 project operation into the institution's hospital program.

1 33. Private hospitals; pledges. Any pledge of moneys, earnings,
2 income or revenues authorized with respect to private hospitals,
3 pursuant to the provisions of this act, shall be valid and binding
4 from the time when the pledge is made. The moneys, earnings,
5 income or revenues so pledged and thereafter received by the

6 pledgor shall immediately be subject to the lien of such pledge with-
 7 out any physical delivery thereof or further act. The lien of any
 8 such pledge shall be valid and binding as against all parties having
 9 claims of any kind in tort, contract or otherwise against the pledgor
 10 irrespective of whether such parties have notice thereof. No instru-
 11 ment by which such a pledge is created need be filed or recorded in
 12 any manner.

ARTICLE 9. PARTICIPATION IN EXISTING PROJECTS

1 34. Participation in existing projects. Whenever any public or
 2 private hospital has constructed or acquired any work or improve-
 3 ment which would otherwise qualify as a project under the pre-
 4 ceding portions of this act except for the fact that such construc-
 5 tion or acquisition was undertaken and financed without assistance
 6 from the authority, the authority may purchase such work or im-
 7 provement, and lease the same to such hospital, or may lend funds
 8 to such hospital for the purpose of enabling the latter to retire
 9 obligations incurred for such construction or acquisition, provided
 10 that the amount of any such purchase price or loan shall not exceed
 11 the project cost as herein defined, irrespective of such work or im-
 12 provement. All powers, rights, obligations and duties granted to
 13 or imposed upon the authority, hospitals, State departments and
 14 agencies or others by this act in respect of projects shall apply to
 15 the same extent with respect to transactions authorized by this
 16 section, provided that any action otherwise required to be taken at
 17 a particular time in the progression of a project may, where the
 18 circumstances so required in connection with a transaction under
 19 this section be taken nunc pro tunc.

ARTICLE 10. CONSTRUCTION

1 35. Construction of act. This act shall be liberally construed to
 2 effect the purpose thereof.

1 36. No liability or pledge of credit of State. Nothing contained
 2 in this act shall be deemed or construed to create or constitute a
 3 debt, liability, or a loan or pledge of the credit, of the State.

1 37. Powers supplemental and not derogatory. The foregoing
 2 sections of this act shall be deemed to provide an additional and
 3 alternative method for the doing of the things authorized thereby,
 4 and shall be regarded as supplemental and additional to powers
 5 conferred by other laws, and shall not be regarded as in derogation
 6 of any powers now existing; provided, however, that the issuance
 7 of bonds or refunding bonds under the provisions of this act need

8 not comply with the requirements of any other law applicable to the
9 issuance of bonds.

1 38. Inconsistent laws inapplicable. All laws, or parts thereof, in-
2 consistent with this act are hereby declared to be inapplicable to
3 the provisions of this act, except as otherwise provided, and pro-
4 vided that no project shall be constructed pursuant to this act which
5 does not comply with the Health Care Facilities Planning Act,
6 P. L. 1971, c. 136 (C. 26:2H-1, et seq.).

1 39. Severability. The provisions of this act shall be severable,
2 and if any of the provisions hereof shall be held to be unconstitu-
3 tional or otherwise invalid, such decision shall not affect the validity
4 of any of the remaining provisions of this act.

1 *40. *There is hereby appropriated to the authority from the*
2 *General State Fund the sum of \$100,000.00, or so much thereof as*
3 *may be necessary, for the purposes of carrying out its function and*
4 *duties pursuant to this act. Such appropriation shall be repaid to*
5 *the General State Fund as soon as practicable out of the proceeds*
6 *of the first bonds issued by the authority or other available funds.**

1 ***[40.]*** *41.* This act shall take effect on the first day of the
2 fourth month following enactment.

FROM THE OFFICE OF THE GOVERNOR

May 25, 1972

FOR RELEASE:
IMMEDIATE

Governor William T. Cahill today signed an administration bill (S-841) to create a Health Care Facilities Financing Authority. The bill was sponsored by Senator Joseph Azzolina (R., Monmouth). The purpose of the Authority is to assist in the financing of needed health care facilities. The legislation had the enthusiastic support of Commissioner James Cowan and the State Department of Health.

This legislation implements one of the Governor's proposals in his Second Annual Message where he observed, "It is obvious that many of our hospitals and health care facilities are becoming obsolete and no longer are adequate to meet the needs of modern medicine. Their replacement and modernization are essential to protect and prolong life. Yet, soaring costs have made it clear that this can no longer be accomplished by private enterprise."

The new legislation creates a seven-member authority consisting of the Commissioners of Health, Insurance and Institutions and Agencies, and four public members to be appointed by the Governor. The Governor indicated that this legislation was intended to supplement the Health Care Facilities Planning Act, which was enacted last year. The certificate of need requirements and other regulatory criteria under that act must be met before a project could be financed. The authority has the capacity to issue tax exempt bonds to finance construction and modernization of health care facilities.

Governor Cahill stated, "This legislation certainly demonstrates the commitment of this Administration and the Legislature to provide modern, properly located and equipped facilities to afford highest quality health care for our citizens.

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