

## MUNICIPAL AND COUNTY UTILITIES AUTHORITIES

### 40:14B-1. Citation

This act shall be known and may be cited as the "municipal and county utilities authorities law."

P.L. 1957, c. 183, § 1, eff. Aug. 22, 1957. Amended by L.1977, c. 384, § 2, eff. Feb. 10, 1978.

### 40:14B-2. Policy

It is hereby declared to be in the public interest and to be the policy of the State to foster and promote by all reasonable means the provision and distribution of an adequate supply of water for the public and private uses of counties and municipalities and their inhabitants, the collection, disposal and recycling of solid waste, including sewage sludge, in an environmentally sound manner, the relief of lands and waters in or bordering the State from pollution, from domestic, industrial and other sources, including pollution derived from chemical and hazardous wastes, and thus the reduction and ultimate abatement of the menace to the public health resulting from such pollution, and the generation of hydroelectric power. It is the purpose and object of this act to further and implement such policy by

(1) Authorizing counties, or municipalities either separately or in combination with other municipalities, by means and through the agency of a municipal authority, to acquire, construct, maintain, operate or improve works for the accumulation, supply or distribution of water, works for the collection, treatment, recycling, and disposal of solid wastes, works for the collection, treatment, purification or disposal of sewage or other wastes, and works for the generation of hydroelectric power;

(2) Authorizing service charges to occupants or owners of property for direct or indirect connection with and the use, products or services of such works, and providing for the establishment, collection and enforcement of such charges;

(3) Creating as bodies corporate and politic municipal authorities to have full responsibility and powers with respect to such works and the establishment, collection, enforcement, use and disposition of all such service charges;

(4) Providing for the financing of such works, for the issuance of bonds therefor, and for the payment and security of such bonds; and

(5) In general, granting to counties and municipalities and to such municipal authorities discretionary powers to provide for utility services designed to provide or distribute such a supply of water, to recycle or dispose of solid waste, to relieve pollution of such waters in or bordering the State at the expense of the users of such services or of counties or municipalities or other persons contracting for or with respect to the same or to generate hydroelectric power.

P.L. 1957, c. 183, § 2, eff. Aug. 22, 1957. Amended by L.1977, c. 384, § 3, eff. Feb. 10, 1978; P.L. 1980, c. 34, § 2, eff. June 6, 1980.

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### 40:14B-3. Definitions

As used in this act, unless a different meaning clearly appears from the context:

(1) "Municipality" shall mean any city of any class, any borough, village, town, township, or any other municipality other than a county or a school district, and except when used in section 4, 5, 6, 11, 12, 13, 42 or 45 of this act, any agency thereof or any two or more thereof acting jointly or any joint meeting or other agency of any two or more thereof;

(2) "County" shall mean any county of any class;

(3) "Governing body" shall mean, in the case of a county, the board of chosen freeholders, or in the case of those counties organized pursuant to the provisions of the "Optional County Charter Law" (P.L. 1972, c. 154; C. 40:41A-1 et seq.), the board of chosen freeholders and the county executive, the county supervisor or the county manager, as appropriate, and, in the case of a municipality, the commission, council, board or body, by whatever name it may be known, having charge of the finances of the municipality;

(4) "Person" shall mean any person, association, corporation, nation, state or any agency or subdivision thereof, other than a county or municipality of the State or a municipal authority;

(5) "Municipal authority" shall mean a public body created or organized pursuant to section 4, 5 or 6 of this act and shall include a municipal utilities authority created by one or more municipalities and a county utilities authority created by a county;

(6) Subject to the exceptions provided in section 10, 11 or 12 of this act, "district" shall mean the area within the territorial boundaries of the county, or of the municipality or municipalities, which created or joined in or caused the creation or organization of a municipal authority;

(7) "Local unit" shall mean the county, or any municipality, which created or joined in or caused the creation or organization of a municipal authority;

(8) "Water system" shall mean the plants, structures and other real and personal property acquired, constructed or operated or to be acquired, constructed or operated by a municipal authority or by any person to whom a municipal authority has extended credit for this purpose for the purposes of the municipal authority, including reservoirs, basins, dams, canals, aqueducts, standpipes, conduits, pipelines, mains, pumping stations, water distribution systems, compensating reservoirs, waterworks or sources of water supply, wells, purification or filtration plants or other plants and works, connections, rights of flowage or division, and other plants, structures, boats, conveyances, and other real and personal property, and rights therein, and appurtenances necessary or useful and convenient for the accumulation, supply or distribution of water;

(9) "Sewerage system" shall mean the plants, structures, on-site wastewater systems and other real and personal property acquired, constructed or operated or to be acquired, constructed, maintained or operated by a municipal authority or by any person

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to whom a municipal authority has extended credit for this purpose for the purposes of the municipal authority, including sewers, conduits, pipelines, mains, pumping and ventilating stations, sewage treatment or disposal systems, plants and works, connections, outfalls, compensating reservoirs, and other plants, structures, boats, conveyances, and other real and personal property, and rights therein, and appurtenances necessary or useful and convenient for the collection, treatment, purification or disposal in a sanitary manner of any sewage, liquid or solid wastes, night soil or industrial wastes;

(10) "Utility system" shall mean a water system, solid waste system, sewerage system, or a hydroelectric system or any combination of such systems, acquired, constructed or operated or to be acquired, constructed or operated by a municipal authority or by any person to whom a municipal authority has extended credit for this purpose;

(11) "Cost" shall mean, in addition to the usual connotations thereof, the cost of acquisition or construction of all or any part of a utility system and of all or any property, rights, easements, privileges, agreements and franchises deemed by the municipal authority to be necessary or useful and convenient therefor or in connection therewith, including interest or discount on bonds, cost of issuance of bonds, engineering and inspection costs and legal expenses, cost of financial, professional and other estimates and advice, organization, administrative, operating and other expenses of the municipal authority prior to and during such acquisition or construction, and all such other expenses as may be necessary or incident to the financing, acquisition, construction and completion of said utility system or part thereof and the placing of the same in operation, and also such provision or reserves for working capital, operating, maintenance or replacement expenses or for payment or security of principal of or interest on bonds during or after such acquisition or construction as the municipal authority may determine, and also reimbursements to the municipal authority or any county, municipality or other person of any moneys theretofore expended for the purposes of the municipal authority or to any county or municipality of any moneys theretofore expended for or in connection with water supply, solid waste, water distribution, sanitation or hydroelectric facilities;

(12) "Real property" shall mean lands both within or without the State, and improvements thereof or thereon, or any rights or interests therein;

(13) "Construct" and "construction" shall connote and include acts of construction, reconstruction, replacement, extension, improvement and betterment of a utility system;

(14) "Industrial wastes" shall mean liquid or other wastes resulting from any processes of industry, manufacture, trade or business or from the development of any natural resource, and shall include any chemical wastes or hazardous wastes;

(15) "Sewage" shall mean the water-carried wastes created in and carried, or to be carried, away from, or to be processed by on-site wastewater systems, residences, hotels, apartments, schools, hospitals, industrial establishments, or any other public or private building, together with such surface or ground water and industrial wastes and leachate as may be present;

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(16) "On-site wastewater system" means any of several facilities, septic tanks or other devices, used to collect, treat, reclaim, or dispose of wastewater or sewage on or adjacent to the property on which the wastewater or sewage is produced, or to convey such wastewater or sewage from said property to such facilities as the authority may establish for its disposal;

(17) "Pollution" means the condition of water resulting from the introduction therein of substances of a kind and in quantities rendering it detrimental or immediately or potentially dangerous to the public health, or unfit for public or commercial use;

(18) "Bonds" shall mean bonds or other obligations issued pursuant to this act;

(19) "Service charges" shall mean water service charges, solid waste service charges, sewer service charges, hydroelectric service charges or any combination of such charges, as said terms are defined in section 21 or 22 of this act or in section 7 of this amendatory and supplementary act;

(20) "Compensating reservoir" shall mean the structures, facilities and appurtenances for the impounding, transportation and release of water for the replenishment in periods of drought or at other necessary times of all or a part of waters in or bordering the State diverted into a utility system operated by a municipal authority;

(21) "Sewage authority" shall mean a public body created pursuant to the Sewerage Authorities Law (P.L. 1946, c. 138) or the acts amendatory thereof or supplemental thereto;

(22) "County sewer authority" shall mean a sanitary sewer district authority created pursuant to the act entitled "An act relating to the establishment of sewerage districts in first- and second-class counties, the creation of Sanitary Sewer District Authorities by the establishing of such districts, prescribing the powers and duties of any such authority and of other public bodies in connection with the construction of sewers and sewage disposal facilities in any such district, and providing the ways and means for paying the costs of construction and operation thereof, " approved April 23, 1946 (P.L. 1946, c. 123), or the acts amendatory thereof or supplemental thereto;

(23) "Chemical waste" shall mean a material normally generated by or used in chemical, petrochemical, plastic, pharmaceutical, biochemical or microbiological manufacturing processes or petroleum refining processes, which has been selected for waste disposal and which is known to hydrolyze, ionize or decompose, which is soluble, burns or oxidizes, or which may react with any of the waste materials which are introduced into the landfill, or which is buoyant on water, or which has a viscosity less than that of water or which produces a foul odor. Chemical waste may be either hazardous or nonhazardous;

(24) "Effluent" shall mean liquids which are treated in and discharged by sewage treatment plants;

(25) "Hazardous wastes" shall mean any waste or combination of waste which poses a present or potential threat to human health, living organisms or the environment. "Hazardous waste" shall include, but not be limited to, waste material that is toxic, corrosive, irritating, sensitizing, radioactive, biologically infectious, explosive or flammable;

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(26) "Leachate" shall mean a liquid that has been in contact with solid waste and contains dissolved or suspended materials from that solid waste;

(27) "Recycling" shall mean the separation, collection, processing or recovery of metals, glass, paper, solid waste and other materials for reuse or for energy production and shall include resource recovery;

(28) "Sludge" shall mean any solid, semisolid, or liquid waste generated from a municipal, industrial or other sewage treatment plant, water supply treatment plant, or air pollution control facility, or any other such waste having similar characteristics and effects; "sludge" shall not include effluent;

(29) "Solid waste" shall mean garbage, refuse, and other discarded materials resulting from industrial, commercial and agricultural operations, and from domestic and community activities, and shall include all other waste materials including sludge, chemical waste, hazardous wastes and liquids, except for liquids which are treated in public sewage treatment plants and except for solid animal and vegetable wastes collected by swine producers licensed by the State Department of Agriculture to collect, prepare and feed such wastes to swine on their own farms;

(30) "Solid waste system" shall mean and include the plants, structures and other real and personal property acquired, constructed or operated or to be acquired, constructed or operated by an authority or by any person to whom a municipal authority has extended credit for this purpose pursuant to the provisions of this act, including transfer stations, incinerators, recycling facilities, including facilities for the generation, transmission and distribution of energy derived from the processing of solid waste, sanitary landfill facilities or other property or plants for the collection, recycling or disposal of solid waste and all vehicles, equipment and other real and personal property and rights thereon and appurtenances necessary or useful and convenient for the collection, recycling, or disposal of solid waste in a sanitary manner;

(31) "Hydroelectric system" shall mean the plants, structures and other real and personal property acquired, constructed or operated or to be acquired, constructed or operated by an authority pursuant to the provisions of this act, including all that which is necessary or useful and convenient for the generation, transmission and sale of hydroelectric power at wholesale;

(32) "Hydroelectric power" shall mean the production of electric current by the energy of moving water;

(33) "Sale of hydroelectric power at wholesale" shall mean any sale of hydroelectric power to any person for purposes of resale of such power.

P.L. 1957, c. 183, § 3, eff. Aug. 22, 1957. Amended by L.1977, c. 384, § 4, eff. Feb. 10, 1978; P.L. 1980, c. 34, § 3, eff. June 6, 1980; L.1980, c. 77, § 3, eff. July 24, 1980; L.1984, c. 178, § 1, eff. Nov. 5, 1984.

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### 40:14B-4. Utilities authorities

a. Any governing body may, in the case of a county by resolution or ordinance duly adopted, or in the case of a municipality by ordinance duly adopted, create a public body corporate and politic under the name and style of "the ..... municipal utilities authority, " or of "the ..... county utilities authority, " with the name of said county or municipality inserted. Said body shall consist of the five members thereof, who, in the case of a county utilities authority, shall be appointed by the county governing body, or by the county executive pursuant to section 37 of P.L. 1972, c.154 (C.40:41A-37), as appropriate. In the case of a municipal utilities authority, the governing body of a municipality which is not organized under the town form of government pursuant to the provisions of N.J.S. 40A:62-5, or the mayor of a municipality organized under the town form of government pursuant to the provisions of N.J.S. 40A:62-5 shall make the appointment. The appointments shall constitute the county or municipal authority contemplated and provided for in this act and an agency and instrumentality of said county or municipality. After the taking effect of the resolution or ordinance for the creation of said body and the filing of a certified copy thereof as in section 7 of this act provided, five persons shall be appointed as the members of the county or municipal authority. The members first appointed shall, by the resolution of appointment, be designated to serve for terms respectively expiring on the first days of the first, second, third, fourth and fifth Februarys next ensuing after the date of their appointment. On or after January 1 in each year after such first appointments, one person shall be appointed as a member of the county or municipal authority to serve for a term commencing on February 1 in such year and expiring on February 1 in the fifth year after such year. In the event of a vacancy in the membership of the county or municipal authority occurring during an unexpired term of office, a person shall be appointed as a member of the county or municipal authority to serve for such unexpired term.

b. (1) Any county governing body may provide by resolution or ordinance as appropriate that the county utilities authority created by it shall consist of seven members. The two additional members first appointed pursuant to the resolution or ordinance shall be designated to serve for terms respectively expiring on the first day of the second and third Februarys next ensuing after the date of their appointment. On or after January 1 in the year in which expires the term of the additional member first appointed and in every fifth year thereafter, one person shall be appointed as a member of the county utilities authority by the county governing body as a successor to such additional member, or reappointment of the additional member, to serve for a term commencing on February 1 of such year and expiring on February 1 in the fifth year after such year.

(2) Any county governing body may provide by resolution or ordinance as appropriate that the county utilities authority created by it shall consist of nine members. The four additional members first appointed pursuant to said resolution or ordinance shall be designated to serve for terms respectively expiring on the first day of the second, third, fourth and fifth Februarys next ensuing after the date of their appointment. On or after January 1 in the year in which expires the term of said additional member first appointed and in every fifth year thereafter, one person shall be appointed as a member of the county utilities authority by said county governing body as a successor to such additional

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member, to serve for a term commencing on February 1 of such year and expiring on February 1 in the fifth year after such year.

c. Whenever the municipal authority of any county shall certify to the governing body of any county that it has entered into a contract pursuant to section 49 of this act (C.40:14B-49) with one or more municipalities situate within any other county one additional member of the municipal authority for each such other county shall be appointed by the governing body of such other county as in this section provided. The additional member so appointed for any such other county, and his successors shall be a resident of one of said municipalities situate within such other county. The additional member first appointed or to be first appointed for such other county shall serve for a term expiring on the first day of the fifth February next ensuing after the date of such appointment, and on or after January 1 in the year in which expires the term of the said additional member first appointed, and in every fifth year thereafter, one person shall be appointed by said governing body as a member of the municipal authority as successor to said additional member, to serve for a term commencing on February 1 in such year and expiring on February 1 in the fifth year after such year. If after such appointment of an additional member for such other county the municipal authority shall certify to said governing body of such other county that it is no longer a party to a contract entered into pursuant to section 49 of this act (C.40:14B-49) with any municipality situate within such other county, the term of office of such additional member shall thereupon cease and expire and no additional member for such other county shall thereafter be appointed.

d. In any county wherein a county sewer authority is reorganized as a municipal authority pursuant to section 6 of this act (C.40:14B-6), its governing body shall, by resolution or ordinance as appropriate, reappoint the existing members of the authority to terms corresponding to terms of members first appointed to a municipal authority pursuant to subsection a. of this section; provided, however, that, if said county sewer authority has seven members, then the existing members shall be reappointed to the reorganized municipal authority pursuant to subsections a. and b. of this section.

e. The governing body of a county or municipality may provide in the ordinance or resolution creating the utilities authority for not more than two alternate members. In the case of a county utilities authority the county governing body, or the county executive pursuant to section 37 of P.L. 1972, c.154 (C.40:41A-37), shall make the appointment. In the case of a municipal utilities authority, the governing body of a municipality which is not organized under the town form of government pursuant to the provisions of N.J.S. 40A:62-5, or the mayor of a municipality organized under the town form of government pursuant to the provisions of N.J.S. 40A:62-5, shall make the appointment. Alternate members shall be designated by the governing body, or mayor, as appropriate, as "Alternate No. 1" and "Alternate No. 2" and shall serve during the absence or disqualification of any regular member or members. The governing body of the county or municipality shall provide by ordinance or resolution for the order in which the alternates shall serve. The term of each alternate member shall be five years commencing on February 1 of the year of appointment; provided, however, that in the event two alternate members are appointed their initial terms shall be four and five years respectively. The terms of the first alternate members appointed pursuant to this amendatory act shall

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commence on the day of their appointment and shall expire on the fourth or fifth January 31 next ensuing after the date of their appointments, as the case may be. Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member.

P.L. 1957, c.183, s.4; amended 1977, c.384, s.5; 1979, c.473; 1981, c.412, s.1; 1987, c.213; 1991, c.10, s.1.

### **40:14B-5. Joint authorities; members; term; vacancies**

The governing bodies of any 2 or more municipalities, the areas of which together comprise an integral body of territory, may, by parallel ordinances duly adopted by each of such governing bodies within any single calendar year, create a public body corporate and politic under the name and style of "the municipal utilities authority, " with all or any significant part of the name of each such municipality or some identifying geographical phrase inserted. Said body shall consist of the members thereof, in an aggregate number determined as hereinafter in this section provided, who shall be appointed by resolutions of the several governing bodies as hereinafter in this section provided, and it shall constitute the municipal authority contemplated and provided for in this act and an agency and instrumentality of the said municipalities. The number of members of the municipal authority to be appointed at any time for full terms of office by the governing body of any such municipality shall be as may be stated in said ordinances which shall be not less than 1 nor more than 3. After the taking effect of the said ordinances of all such municipalities and after the filing of certified copies thereof as in section 7 of this act provided, the appropriate number of persons shall be appointed as members of the municipal authority by the governing body of each municipality. The members first appointed or to be first appointed shall serve for terms expiring on the first day of the fifth February next ensuing after the date of the first appointment of any member. On or after January 1 in the year in which expire the terms of the said members first appointed and in every fifth year thereafter, the appropriate number of persons shall be appointed as members of the municipal authority by the governing body of each municipality, to serve for terms commencing on February 1 in such year and expiring on February 1 in the fifth year after such year. In the event of a vacancy in the membership of the municipal authority occurring during an unexpired term of office, a person shall be appointed as a member of the municipal authority to serve for such unexpired term by the governing body which made the original appointment for such unexpired term.

P.L. 1957, c. 183, § 5, eff. Aug. 22, 1957.

### **40:14B-6. Reorganization of sewerage authority**

a. The governing body of any municipality which shall have created a sewerage authority may, by ordinance duly adopted, provide and determine that said sewerage authority shall be reorganized as a municipal authority and thereupon and thereby cause



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said sewerage authority to be organized as a public body corporate and politic existing under and by virtue of this act.

b. In any county which has created a sewerage authority or a county sewer authority or authorities, each such authority shall be reorganized as a county utilities authority and shall be continued as a public body corporate and politic existing under and by virtue of the municipal authorities law, P.L. 1957, c. 183 (C. 40:14B-1 et seq.). The governing body of any county wherein a sewerage authority or a county sewer authority or authorities was reorganized pursuant to this section shall record such reorganization by resolution and file such resolution with the Secretary of State pursuant to section 7 of this act (C. 40:14B-7).

c. No authority reorganized pursuant to this section shall acquire, construct, maintain, operate or improve a water system, a solid waste system or a hydroelectric system until such time as the governing body authorizes such action, by ordinance in the case of a municipality, or by resolution in the case of a county.

d. Said body shall consist of the members of said sewerage authority or of said county sewer authority holding office at the time of such organization, together with successors in such membership appointed as if said sewerage authority or county sewer authority had originally been created pursuant to section 4 of this act, and, upon the passage of this amendatory and supplementary act or upon the taking effect of such ordinance and the filing of a certified copy thereof as in section 7 of this act provided, said body shall constitute a municipal authority contemplated and provided for in this act and an agency and instrumentality of said municipality or county. Said body as such municipal authority shall have all of the rights and powers granted and be subject to all the duties and obligations imposed by this act and, subject to the rights (if any) of the holders of any bonds or other obligations of said sewerage authority or county sewer authority theretofore issued, said body shall be the successor in all respects to said sewerage authority or county sewer authority and forthwith succeed to all of the rights, property, assets and franchises of said sewerage authority or county sewer authority and the said bonds or other obligations of said sewerage authority or county sewer authority shall be assumed by and become the obligations of said municipal authority, and the property of said sewerage authority or county sewer authority shall be vested in said municipal authority. Said body may at any time, by resolution duly adopted, change its corporate name and adopt the name and style of " the ..... municipal utilities authority" with the name of said municipality or county inserted.

P.L. 1957, c. 183, § 6, eff. Aug. 22, 1957. Amended by L. 1977, c. 384, § 6, eff. Feb. 10, 1978. L. 1980, c. 34, § 4, eff. June 6, 1980; L. 1981, c. 501, § 1, eff. Jan. 12, 1982; L. 1985, c. 537, § 1, eff. Jan. 21, 1986.

### **40:14B-7. Filing of recognition ordinance or resolution**

A copy of each resolution or ordinance for the creation of a municipal authority or resolution or ordinance for the reorganization of a sewerage authority or a county sewer authority as a municipal authority adopted pursuant to this act, duly certified by the

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appropriate officer of the local unit, shall be filed in the office of the Secretary of State. Upon proof of such filing of a certified copy of the resolution or ordinance or of certified copies of the parallel ordinances for the creation of a municipal authority as aforesaid or of a certified copy of the resolution or ordinance for the reorganization of a sewerage authority or a county sewer authority as a municipal authority as aforesaid, the municipal authority therein referred to shall, in any suit, action or proceeding involving the validity or enforcement of, or relating to, any contract or obligation or act of the municipal authority, be conclusively deemed to have been lawfully and properly created, organized and established and authorized to transact business and exercise its powers under this act. A copy of any such certified resolution or ordinance, duly certified by or on behalf of the Secretary of State, shall be admissible in evidence in any suit, action or proceeding and shall be conclusive evidence of due and proper filing thereof as aforesaid.

P.L. 1957, c. 183, § 7, eff. Aug. 22, 1957. Amended by L.1977, c. 384, § 7, eff. Feb. 10, 1978.

### **40:14B-8. Filing of resolution appointing authority member**

A copy of each resolution appointing any member of a municipal authority adopted pursuant to this act, duly certified by the appropriate officer of the local unit, may be filed in the office of the Secretary of State. A copy of such certified resolution, duly certified by or on behalf of the Secretary of State, shall be admissible in evidence in any suit, action or proceeding and, except in a suit, action or proceeding directly questioning such appointment, shall be conclusive evidence of the due and proper appointment of the member or members named therein.

P.L. 1957, c. 183, § 8, eff. Aug. 22, 1957.

### **40:14B-9. Single authority**

No governing body of any county which may create any municipal authority pursuant to this act or which records the reorganization of any preexisting sewerage authority or county sewer authority as a municipal authority pursuant to this act, shall thereafter create any other municipal authority or a sewerage authority. No governing body (1) of any county which shall have created any sewerage authority or any county sewer authority, or (2) of a municipality constituting the whole or any part of the district of a municipal authority or of the district of a sewerage authority, or (3) of any municipality constituting the whole or any part of the sewerage district of a county sewer authority which shall have entered into a contract or contracts with such municipality, shall create or join in the creation of a municipal authority or a sewerage authority except subject to the rights (if any) of the holders of any bonds or other obligations of such other authority then outstanding and upon the written consent of such other authority and in accordance with the terms and conditions of such consent, and in the event such consent be given and a municipal authority or sewerage authority be created pursuant thereto, the terms and conditions of such consent shall thereafter be in all respects binding upon the municipal authority or sewerage authority so created and the county or municipality creating or

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joining in the creation of the same, and any water supply or distribution system, solid waste system, system of sewers or sewage disposal plants or hydroelectric system constructed or maintained in conformity with the terms and conditions of such consent by the municipal authority or sewerage authority so created shall be deemed not to be competitive with the utility system of the said other authority giving such consent.

P.L. 1957, c. 183, § 9, eff. Aug. 22, 1957. Amended by L.1977, c. 384, § 8, eff. Feb. 10, 1978; P.L. 1980, c. 34, § 5, eff. June 6, 1980.

### **40:14B-10. Limited area**

In the event that prior to the creation of a municipal authority of a county the governing body of any municipality located in said county shall have created or joined in the creation of a municipal authority or a sewerage authority, the area within the territorial limits of such municipality shall not be part of the district of the municipal authority of said county.

P.L. 1957, c. 183, § 10, eff. Aug. 22, 1957.

### **40:14B-11. Election of municipalities within county to become part of county district**

Within 10 days after the filing in the office of the Secretary of State of a certified copy of a resolution for the creation of a municipal authority adopted by the governing body of any county pursuant to this act, a copy of such resolution, duly certified by the appropriate officer of the county, shall be filed in the office of the clerk of each municipality within the county. In the event that the governing body of any such municipality shall, within 60 days after such filing in the office of the Secretary of State, adopt a resolution determining that such municipality shall not be a part of the district of such municipal authority and file a copy thereof, duly certified by its clerk, in the office of the Secretary of State, the area within the territorial limits of such municipality shall not thereafter be part of such district, but at any time after the adoption of such resolution unless such municipality shall then constitute the whole or any part of any other district, the governing body of such municipality may, by ordinance duly adopted, determine that such area shall again be a part of such district of such municipal authority and if thereafter a copy of such ordinance duly certified by the appropriate officer of such municipality, together with a certified copy of a resolution of such municipal authority approving such ordinance, shall be filed in the office of the Secretary of State, then from and after such filing the area within the territorial limits of such municipality shall again be part of such district.

P.L. 1957, c. 183, § 11, eff. Aug. 22, 1957.

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### **40:14B-12. Separations from districts**

The governing body of any municipality constituting less than the whole of the district of a municipal authority may at any time adopt an ordinance requesting that such municipality shall no longer be a part of such district, and if thereafter a copy of such ordinance duly certified by the appropriate officer of such municipality, together with a certified copy of a resolution of such municipal authority approving and consenting to such ordinance and stating either that such municipal authority has no debts or obligations outstanding or that all creditors or other obligees of such municipal authority have consented to such ordinance, shall be filed in the office of the Secretary of State, then from and after such filing the area within the territorial limits of such municipality shall not be part of such district.

P.L. 1957, c. 183, § 12, eff. Aug. 22, 1957.

### **40:14B-13. Dissolution of authority**

The governing body of any local unit which has created or caused the organization of a municipal authority pursuant to section 4 or section 6 of this act may, in the case of a county by resolution duly adopted or in the case of a municipality by ordinance duly adopted, dissolve such municipal authority on the conditions set forth in this section. The governing bodies of 2 or more local units which have created a municipal authority pursuant to section 5 of this act may, by parallel ordinances duly adopted by each of such governing bodies within any single calendar year, dissolve such municipal authority on the conditions set forth in this section. Such a municipal authority may be dissolved on condition that (1) either the members of such authority have not been appointed or the municipal authority, by resolution duly adopted, consents to such dissolution, and (2) the municipal authority has no debts or obligations outstanding. Upon the dissolution of any municipal authority in the manner provided in this section, the governing body or bodies dissolving such municipal authority shall be deemed never to have created or joined in the creation of a municipal authority. A copy of each resolution or ordinance for the dissolution of a municipal authority adopted pursuant to this section, duly certified by the appropriate officer of the local unit, shall be filed in the office of the Secretary of State. Upon proof of such filing of a certified copy of the resolution or ordinance or of certified copies of the parallel ordinances for the dissolution of a municipal authority as aforesaid and upon proof either that such municipal authority had no debts or obligations outstanding at the time of the adoption of such resolution, ordinance or ordinances, or that all creditors or other obligees of such municipal authority have consented to such resolution, ordinance or ordinances the municipal authority therein referred to shall be conclusively deemed to have been lawfully and properly dissolved and the property of the municipal authority shall be vested in the local unit or units. A copy of any such certified resolution or ordinance, duly certified by or on behalf of the Secretary of State, shall be admissible in evidence in any suit, action, or proceeding, and shall be conclusive evidence of due and proper filing thereof as aforesaid.

P.L. 1957, c. 183, § 13, eff. Aug. 22, 1957.

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### **40:14B-13.1. New sewerage system authorized**

Notwithstanding the provisions of P.L. 1957, c. 183 (C. 40:14B-1 et seq.) or any other law to the contrary, the governing body of any municipality located in a county of the third class having a county population of at least 80,000 persons but not more than 85,000 persons according to the most recent federal decennial census, which municipality has created, participated in the creation of or joined a municipal utilities authority or has entered into a contract with a municipal utilities authority for the treatment and disposal of sewage within the whole or portions of the municipality pursuant to section 49 of P.L. 1957, c. 183 (C. 40:14B-49), may, pending the dissolution of the authority in accordance with the provisions of section 13 of P.L. 1957, c. 183 (C. 40:14B-13) and the provisions of the "Local Authorities Fiscal Control Law, " P.L. 1983, c. 313 (C. 40A:5A-1 et seq.), and pursuant to a duly adopted ordinance therefor, commence in its own name or by creating another municipal utilities authority pursuant to law the acquisition, construction, maintenance and operation of a new sewerage system, including the expenditure of its own moneys for the costs related thereto, for the purposes of the provision of adequate sewage collection, treatment, purification and disposal service within the municipality. Any actions undertaken by the governing body of the municipality must be consistent with the "Water Quality Planning Act, " P.L. 1977, c. 75 (C. 58:11A-1 et seq.) and with P.L. 1970, c. 33 (C. 13:1D-1 et seq.).

**P.L. 1986, c. 110, § 1, eff. Sept. 23, 1986.**

### **40:14B-14. Vesting of powers; quorum; majority action**

The powers of a municipal authority shall be vested in the members thereof in office from time to time. A majority of the entire authorized membership of the municipal authority shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the municipal authority at any meeting of the members thereof by vote of a majority of the members present, unless in any case the by-laws of the municipal authority shall require a larger number.

P.L. 1957, c. 183, § 14, eff. Aug. 22, 1957.

### **40:14B-15. Conflicting interests**

No member, officer or employee of a municipal authority shall have or acquire any interest, direct or indirect, in the utility system or in any property included or planned to be included in the utility system or in any contract or proposed contract for materials or services to be furnished to or used by the municipal authority, but neither the holding of any office or employment in the government of any county or municipality or under any

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law of the State nor the owning of any property within the State shall be deemed a disqualification for membership in or employment by a municipal authority, and members of the governing body of a local unit may be appointed by such governing body and may serve as members of a municipal authority.

P.L. 1957, c. 183, § 15, eff. Aug. 22, 1957.

### **40:14B-16. Term of member; removal; hearing**

Each member of a municipal authority shall hold office for the term for which he was appointed and until his successor has been appointed and has qualified. A member of a municipal authority may be removed only by the governing body by which he was appointed and only for inefficiency or neglect of duty or misconduct in office and after he shall have been given a copy of the charges against him and, not sooner than 10 days thereafter, had opportunity in person or by counsel to be heard thereon by such governing body.

P.L. 1957, c. 183, § 16, eff. Aug. 22, 1957.

### **40:14B-17. Compensation to members**

A municipal authority may reimburse its members for necessary expenses incurred in the discharge of their duties. The resolution, ordinance or parallel ordinances for the creation of a municipal authority or for the reorganization of a sewerage authority as a municipal authority may provide that the members of the municipal authority may receive compensation for their services within an annual and other limitations to be stated in such resolution, ordinance or parallel ordinances, and in that event, each member may receive from the municipal authority such compensation for his services as the municipal authority may determine within the limitations stated in such resolution, ordinance or parallel ordinances. The said provisions or limitations stated in any such resolution, ordinance or parallel ordinances may be amended or added by subsequent resolution, ordinance or parallel ordinances, as the case may be, but no reduction of any such limitation shall be effective as to any member of the municipal authority then in office except upon the written consent of such member. No member of any municipal authority shall receive any compensation for his services except as provided in this section.

P.L. 1957, c. 183, § 17, eff. Aug. 22, 1957.

### **40:14B-18. Employees of municipal authorities**

Every municipal authority, upon the first appointment of its members and thereafter on or after February 1 in each year, shall annually elect from among its members a chairman and a vice-chairman, who shall hold office until February 1 next ensuing and until their respective successors have been appointed and have qualified. Every municipal authority

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may also appoint and employ, full- or part-time, a secretary, an executive director, managerial personnel, technical advisors and experts, professional employees, and persons who shall render professional services as set forth in section 5 of P.L. 1971, c. 198 (C. 40A:11-5), as the authority may determine necessary for its efficient operations, and it shall determine their qualifications, terms of office, for periods not to exceed five years, duties and compensation and enter into contracts therefor, for periods not to exceed five years, as it deems necessary. Such municipal authority may also appoint and employ such other agents and employees as it may require and determine their duties and compensation. The provisions of this section with regard to terms shall not apply to the positions of general counsel and consulting engineer. The appointing and employing powers of the municipal authority set forth in this section shall be exercised without regard to the provisions of Title 11 of the Revised Statutes; provided, however, that any municipal authority which, prior to the effective date of this amendatory act, has accepted the jurisdiction of the Department of Civil Service, other than by reason of compliance with a court order, shall continue to be subject to the provisions of Title 11.

P.L. 1957, c. 183, § 18, eff. Aug. 22, 1957. Amended by L. 1981, c. 493, § 1, eff. Jan. 12, 1982; L. 1985, c. 537, § 2, eff. Jan. 21, 1986.

### **40:14B-19. Purpose; acquisition of facilities**

(a) The purposes of every municipal authority shall be (1) the provision and distribution of an adequate supply of water for the public and private uses of the local units, and their inhabitants, within the district, and (2) the relief of waters in or bordering the State from pollution arising from causes within the district and the relief of waters in, bordering or entering the district from pollution or threatened pollution, and the consequent improvement of conditions affecting the public health, (3) the provision of sewage collection and disposal service within or without the district, and (4) the provision of water supply and distribution service in such areas without the district as are permitted by the provisions of this act, and (5) the provision of solid waste services and facilities within or without the district in a manner consistent with the Solid Waste Management Act, P.L. 1970, c.39 (C.13:1E-1 et seq.) and in conformance with the solid waste management plans adopted by the solid waste management districts created therein, and (6) the generation, transmission and sale of hydroelectric power at wholesale, and (7) the operation and maintenance of utility systems owned by other governments located within the district through contracts with said governments.

(b) Every municipal authority is hereby authorized, subject to the limitations of this act, to acquire, in its own name but for the local unit or units, by purchase, gift, condemnation or otherwise, lease as lessee, and, notwithstanding the provisions of any charter, ordinance or resolution of any county or municipality to the contrary, to construct, maintain, operate and use such reservoirs, basins, dams, canals, aqueducts, standpipes, conduits, pipelines, mains, pumping and ventilating stations, treatment, purification and filtration plants or works, trunk, intercepting and outlet sewers, water distribution systems, waterworks, sources of water supply and wells at such places within or without the district, such compensating reservoirs within a county in which any part of the district

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lies, and such other plants, structures, boats and conveyances, as in the judgment of the municipal authority will provide an effective and satisfactory method for promoting purposes of the municipal authority.

(c) Every municipal authority is hereby authorized and directed, when in its judgment its sewerage system or any part thereof will permit, to collect from any and all public systems within the district all sewage and treat and dispose of the same in such manner as to promote purposes of the municipal authority.

P.L. 1957, c. 183, § 19, eff. Aug. 22, 1957. Amended by L.1977, c. 384, § 9, eff. Feb. 10, 1978; P.L. 1980, c. 34, § 6, eff. June 6, 1980.

### **40:14B-20. Powers**

Every municipal authority shall be a public body politic and corporate constituting a political subdivision of the State established as an instrumentality exercising public and essential governmental functions to provide for the public health and welfare and shall have perpetual succession and have the following powers:

- (1) To adopt and have a common seal and to alter the same at pleasure;
- (2) To sue and be sued;
- (3) In the name of the municipal authority and on its behalf, to acquire, hold, use and dispose of its service charges and other revenues and other moneys;
- (4) In the name of the municipal authority but for the local unit or units, to acquire, rent, hold, lease as lessor, use and dispose of other personal property for the purposes of the municipal authority;
- (5) In the name of the municipal authority but for the local unit or units and subject to the limitations of this act, to acquire by purchase, gift, condemnation or otherwise, or lease as lessee, real property and easements therein, necessary or useful and convenient for the purposes of the municipal authority, and subject to mortgages, deeds of trust or other liens, or otherwise, and to hold, lease as lessor, and to use the same, and to dispose of property so acquired no longer necessary for the purposes of the municipal authority;
- (6) To produce, develop, purchase, accumulate, distribute and sell water and water services, facilities and products within or without the district, provided that no water shall be sold at retail in any municipality without the district unless the governing body of such municipality shall have adopted a resolution requesting the municipal authority to sell water at retail in such municipality, and the board of public utility commissioners shall have approved such resolution as necessary and proper for the public convenience;
- (7) To provide for and secure the payment of any bonds and the rights of the holders thereof, and to purchase, hold and dispose of any bonds;



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(8) To accept gifts or grants of real or personal property, money, material, labor or supplies for the purposes of the municipal authority, and to make and perform such agreements and contracts as may be necessary or convenient in connection with the procuring, acceptance or disposition of such gifts or grants;

(9) To enter on any lands, waters or premises for the purpose of making surveys, borings, soundings and examinations for the purposes of the municipal authority, and whenever the operation of a septic tank or other component of an on-site wastewater system shall result in the creation of pollution or contamination source on private property such that under the provisions of R.S. 26:3-49, a local board of health would have the authority to notify the owner and require said owner to abate the same, representatives of an authority shall have the power to enter, at all reasonable times, any premises on which such pollution or contamination source shall exist, for the purpose of inspecting, rehabilitating, securing samples of any discharges, improving, repairing, replacing, or upgrading such septic tank or other component of an on-site wastewater system;

(10) To establish an inspection program to be performed at least once every three years on all on-site wastewater systems installed within the district which inspection program shall contain the following minimum notice provisions

(i) not less than 30 days prior to the date of the inspection of any on-site wastewater system as described herein, the authority shall notify the owner and resident of the property that the inspection will occur; and

(ii) not less than 60 days prior to the date of the performance of any work other than an inspection, the municipal authority shall provide notice to the owner and resident of the property in which the work will be performed. The notice to be provided to such owner and resident under this subsection shall include a description of the deficiency which necessitates the work and the proposed remedial action, and the proposed date for beginning and duration of the contemplated remedial action;

(11) To prepare and file in the office of the municipal authority records of all inspections, rehabilitation, maintenance, and work, performed with respect to on-site wastewater disposal systems;

(12) To make and enforce bylaws or rules and regulations for the management and regulation of its business and affairs and for the use, maintenance and operation of the utility system and any other of its properties, and to amend the same;

(13) To do and perform any acts and things authorized by this act under, through or by means of its own officers, agents and employees, or by contracts with any person;

(14) To enter into any and all contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient or desirable for the purposes of the municipal authority or to carry out any power expressly given in this act subject to "Local Public Contracts Law, " P.L. 1971, c. 198 (C. 40A:11-1 et seq.); and

(15) To extend credit or make loans to any person for the planning, designing, acquiring, constructing, reconstructing, improving, equipping, furnishing, and operating by that person of any part of a solid waste system, sewage treatment system, wastewater treatment or collection system for the provision of services and facilities within or

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without the district, which in the case of a solid waste system shall be in a manner consistent with the "Solid Waste Management Act, " P.L. 1970, c. 39 (C. 13:1E-1 et seq.) and in conformance with the solid waste management plans adopted by the solid waste management districts created therein. The credits or loans may be secured by loan and security agreements, mortgages, leases and any other instruments, upon such terms as the authority shall deem reasonable, including provision for the establishment and maintenance of reserve and insurance funds, and to require the inclusion in any mortgage, lease, contract, loan and security agreement or other instrument, provisions for the construction, use, operation and maintenance and financing of that part of the aforementioned systems as the authority may deem necessary or desirable.

P.L. 1957, c. 183, § 20, eff. Aug. 22, 1957. Amended by L.1975, c. 96, § 4, eff. May 16, 1975; P.L. 1980, c. 77, § 4, eff. July 24, 1980; L.1984, c. 178, § 2, eff. Nov. 5, 1984.

### **40:14B-20.1. Interest on deposits with municipal authorities**

Whenever a municipal authority requires a person to deposit an amount of money exceeding \$5,000.00 for professional services employed by the municipal authority, for municipal authority inspection fees or to satisfy any performance or maintenance guarantee requirements, the money, until repaid or applied to the purposes for which it is deposited, including the person's portion of the interest earned thereon, except as otherwise provided in this section, shall continue to be the property of the person and shall be held in trust by the municipal authority. Money deposited shall be held in escrow. The municipal authority receiving the money shall deposit it in a banking institution or savings and loan association in this State insured by an agency of the federal government, or in any other fund or depository approved for such deposits by the State, in an account bearing interest at a minimum at the rate currently paid by the institution or depository on time or savings deposits. The municipal authority shall notify the person in writing of the name and address of the institution or depository in which the deposit is made and the amount of the deposit. The municipal authority shall not be required to refund an amount of interest paid on a deposit which does not exceed \$100.00 for the year. If the amount of interest exceeds \$100.00, that entire amount shall belong to the person and shall be refunded to him by the municipal authority annually or at the time the deposit is repaid or applied to the purposes for which it was deposited, as the case may be; except that the municipal authority may retain for administrative expenses a sum equivalent to no more than 33 1/3% of that entire amount, which shall be in lieu of all other administrative and custodial expenses.

The provisions of this act shall apply only to that interest earned and paid on a deposit after the effective date of this act.

P.L. 1985, c. 316, § 1, eff. Aug. 28, 1985.

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### 40:14B-21. Water service charges

Every municipal authority is hereby authorized to charge and collect rents, rates, fees or other charges (in this act sometimes referred to as "water service charges") for direct or indirect connection with, or the use, products or services of, the water system, or for sale of water or water services, facilities or products. Such water service charges may be charged to and collected from any person contracting for such connection or use, products or services or for such sale or from the owner or occupant, or both of them, of any real property which directly or indirectly is or has been connected with the water system or to which directly or indirectly has been supplied or furnished such use, products or services of the water system or water or water services, facilities or products, and the owner of any such real property shall be liable for and shall pay such water service charges to the municipal authority at the time when and place where such water service charges are due and payable. Such rents, rates, fees and charges shall as nearly as the municipal authority shall deem practicable and equitable be uniform throughout the district for the same type, class and amount of use, products or services of the water system, except as permitted by section 1 of P.L. 1992, c.215 (C.40:14B-22.2), and may be based or computed either on the consumption of water on or in connection with the real property, or on the number and kind of water outlets on or in connection with the real property, or on the number and kind of plumbing fixtures or facilities on or in connection with the real property, or on the number of persons residing or working on or otherwise connected or identified with the real property, or on the capacity of the improvements on or connected with the real property, or on any other factors determining the type, class and amount of use, products or services of the water system supplied or furnished, or on any combination of such factors, and may give weight to the characteristics of the water or water services, facilities or products and, as to service outside the district, any other matter affecting the cost of supplying or furnishing the same, including the cost of installation of necessary physical properties.

In addition to any such water service charges, a separate charge in the nature of a connection fee or tapping fee, in respect of each connection of any property with the water system, may be imposed upon the owner or occupant of the property so connected. Such connection charges shall be uniform within each class of users and the amount thereof shall not exceed the actual cost of the physical connection, if made by the authority, plus an amount computed in the following manner to represent a fair payment toward the cost of the system:

a. The amount representing all debt service, including but not limited to sinking funds, reserve funds, the principal and interest on bonds, and the amount of any loans and interest thereon, paid by a municipal authority to defray the capital cost of developing the system as of the end of the immediately preceding fiscal year of the authority shall be added to all capital expenditures made by the authority not funded by a bond ordinance or debt for the development of the system as of the end of the immediately preceding fiscal year of the authority.

b. Any gifts, contributions or subsidies to the authority received from, and not reimbursed or reimbursable to any federal, State, county or municipal government or

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agency or any private person, and that portion of amounts paid to the authority by a public entity under a service agreement or service contract which is not repaid to the public entity by the authority, shall then be subtracted.

c. The remainder shall be divided by the total number of service units served by the authority at the end of the immediately preceding fiscal year of the authority, and the results shall then be apportioned to each new connector according to the number of service units attributed to that connector, to produce the connector's contribution to the cost of the system. In attributing service units to each connector, the estimated average daily flow of water for the connector shall be divided by the average daily flow of water to the average single family residence in the authority's district, to produce the number of service units to be attributed.

The connection fee shall be recomputed at the end of each fiscal year of the authority, after a public hearing is held in the manner prescribed in section 23 of P.L. 1957, c.183 (C.40:14B-23). The revised connection fee may be imposed upon those who subsequently connect in that fiscal year to the system. The combination of such connection fee or tapping fee and the aforesaid water service charges shall meet the requirements of section 23 of P.L. 1957, c.183 (C.40:14B-23). The foregoing notwithstanding, no municipal authority shall impose any charges or fees in excess of the cost of water actually used for any sprinkler system required to be installed in any residential health care facility pursuant to the "Health Care Facilities Planning Act, " P.L. 1971, c.136 (C.26:2H-1 et seq.) and regulations promulgated thereunder or in any rooming or boarding house pursuant to the "Rooming and Boarding House Act of 1979, " P.L. 1979, c.496 (C.55:13B-1 et al.) and regulations promulgated thereunder. Nothing in this amendatory act shall preclude any municipal authority from charging for the actual cost of water main connection.

P.L. 1957, c.183, s.21; amended 1977, c.441; 1981, c.514, s.5; 1985, c.526, s.2; 1994, c.78, s.3.

### **40:14B-21.1. Hydroelectric power; sale at wholesale; authority to charge and collect rents, rates, fees or other charges**

Every municipal authority is hereby authorized to charge and collect rents, rates, fees or other charges for sale of hydroelectric power at wholesale.

P.L. 1980, c. 34, § 7, eff. June 6, 1980.

### **40:14B-22. Sewerage service charges**

Every municipal authority is hereby authorized to charge and collect rents, rates, fees or other charges (in this act sometimes referred to as "sewerage service charges") for direct or indirect connection with, or the use or services of, the sewerage system. Such sewerage service charges may be charged to and collected from any person contracting for such connection or use or services or from the owner or occupant, or both of them, of any real property which directly or indirectly is or has been connected with the sewerage

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system or from or on which originates or has originated sewage or other wastes which directly or indirectly have entered or may enter the sewerage system, and the owner of any such real property shall be liable for and shall pay such sewerage service charges to the municipal authority at the time when and place where such sewerage service charges are due and payable. Such rents, rates, fees and charges, being in the nature of use or service charges, shall as nearly as the municipal authority shall deem practicable and equitable be uniform throughout the district for the same type, class and amount of use or service of the sewerage system, except as permitted by section 1 of P.L. 1992, c.215 (C.40:14B-22.2), and may be based or computed either on the consumption of water on or in connection with the real property, making due allowance for commercial use of water, or on the number and kind of water outlets on or in connection with the real property, or on the number and kind of plumbing or sewerage fixtures or facilities on or in connection with the real property, or on the number of persons residing or working on or otherwise connected or identified with the real property, or on the capacity of the improvements on or connected with the real property, or on any other factors determining the type, class and amount of use or service of the sewerage system, or on any combination of any such factors, and may give weight to the characteristics of the sewage and other wastes and any other special matter affecting the cost of treatment and disposal of the same, including chlorine demand, biochemical oxygen demand, concentration of solids and chemical composition, and, as to service outside the district, the cost of installation of necessary physical properties.

In addition to any such sewerage service charges, a separate charge in the nature of a connection fee or tapping fee, in respect of each connection of any property with the sewerage system, may be imposed upon the owner or occupant of the property so connected. Such connection charges shall be uniform within each class of users, and the amount thereof shall not exceed the actual cost of the physical connection, if made by the authority, plus an amount computed in the following manner to represent a fair payment towards the cost of the system:

a. The amount representing all debt service, including but not limited to sinking funds, reserve funds, the principal and interest on bonds, and the amount of any loans and the interest thereon, paid by the municipal authority to defray the capital cost of developing the system as of the end of the immediately preceding fiscal year of the authority shall be added to all capital expenditures made by a municipal authority not funded by a bond ordinance or debt for the development of the system as of the end of the immediately preceding fiscal year of the authority.

b. Any gifts, contributions or subsidies to the authority received from, and not reimbursed or reimbursable to, any federal, State, county or municipal government or agency or any private person, and that portion of amounts paid to the authority by a public entity under a service agreement or service contract which is not repaid to the public entity by the authority, shall then be subtracted.

c. The remainder shall be divided by the total number of service units served by the authority at the end of the immediately preceding fiscal year of the authority, and the results shall then be apportioned to each new connector according to the number of service units attributed to that connector. In attributing service units to each connector,

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the estimated average daily flow of sewage for the connector shall be divided by the average daily flow of sewage from the average single family residence in the authority's district, to produce the number of service units to be attributed.

The connection fee shall be recomputed at the end of each fiscal year of the authority, after a public hearing is held in the manner prescribed in section 23 of P.L. 1957, c.183 (C.40:14B-23). The revised connection fee may be imposed upon those who subsequently connect in that fiscal year to the system.

The combination of such connection fee or tapping fee and the aforesaid sewerage service charges shall meet the requirements of section 23.

P.L. 1957, c.183, s.22; amended 1971, c.298; 1985, c.526, s.3; 1992, c.215, s.2.

### **40:14B-22.1. Solid waste service charges**

Every municipal authority is hereby authorized to charge and collect rents, rates, fees or other charges (in this act sometimes referred to as "solid waste service charges") for the use or services of the solid waste system. Such solid waste service charges may be charged to and collected from any municipality or any person contracting for such use or services or from the owner or occupant, or both of them, of any real property from or on which originates or has originated any solid waste to be treated by the solid waste system of the authority, and the owner of any such real property shall be liable for and shall pay such solid waste service charges to the municipal authority at the time when and place where such solid waste service charges are due and payable. Such rents, rates, fees and charges, being in the nature of use or service charges, shall as nearly as the authority shall deem practicable and equitable be uniform throughout the county for the same type, class and amount of use or service of the solid waste system, except as permitted by section 1 of P.L. 1992, c.215 (C.40:14B-22.2), and may be based or computed on any factors determining the type, class and amount of use or service of the solid waste system, and may give weight to the characteristics of the solid waste and any other special matter affecting the cost of treatment and disposal of the same.

P.L. 1977, c.384, s.15; amended 1992, c.215, s.3.

### **40:14B-23. Municipal authorities**

Every municipal authority shall prescribe and from time to time when necessary revise a schedule of all its service charges, which may provide a single rent, rate, fee or charge for any of its utility charges and which shall comply with the terms of any contract of the municipal authority and may be such that the revenues of the municipal authority will at all times be adequate to pay the expenses of operation and maintenance of the utility system, including reserves, insurance, extensions, and replacements, and to pay the principal of and interest on any bonds and to maintain such reserves or sinking funds therefor as may be required by the terms of any contract of the municipal authority or as

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may be deemed necessary or desirable by the municipal authority. Said schedule shall thus be prescribed and from time to time revised by the municipal authority after public hearing thereon which shall be held by the municipal authority at least 20 days after notice of the proposed adjustment is mailed to the clerk of each municipality serviced by the authority and publication of notice of the proposed adjustment of the service charges and of the time and place of the public hearing in at least two newspapers of general circulation in the area serviced by the authority. The municipal authority shall provide evidence at the hearing showing that the proposed adjustment of the service charges is necessary and reasonable, and shall provide the opportunity for cross-examination of persons offering such evidence, and a transcript of the hearing shall be made and a copy thereof shall be available upon request to any interested party at a reasonable fee. The municipal authority shall likewise fix and determine the time or times when and the place or places where such service charges shall be due and payable and may require that such service charges shall be paid in advance for periods of not more than one year. A copy of such schedule of service charges in effect shall at all times be kept on file at the principal office of the municipal authority and shall at all reasonable times be open to public inspection.

P.L. 1957, c. 183, § 23, eff. Aug. 22, 1957. Amended by L. 1977, c. 384, § 10, eff. Feb. 10, 1978; P.L. 1981, c. 125, § 2, eff. April 27, 1981; L. 1985, c. 118, § 2, eff. April 9, 1985.

### **40:14B-24. Appropriation of funds by local unit; construction, financing and operation of facilities by local unit**

a. Any local unit shall have power, in the discretion of its governing body, to appropriate moneys for the purposes of the municipal authority, and to loan or donate such moneys to the municipal authority in such installments and upon such terms as may be agreed upon between such local unit and the municipal authority.

b. Subject to section 61 of this act (C. 40:14B-60), any local unit shall have the power to authorize as a general improvement or, in the case of a local unit which is a municipality, as a local improvement the construction and financing of any facilities for the collection, treatment and disposal of sewage or for the collection, recycling or disposal of solid waste within the district arising within a district, or any facilities for the distribution of water within a district. Subject to the consent and approval of the municipal authority, such facilities may be operated by the local unit and the local unit may fix rates and charges for the use thereof, in addition to the payment of any special assessments levied by a municipality against lands and real estate specially benefited by such improvements. As provided in section 48 of this act (C. 40:14B-48), such facilities may be acquired and operated by the municipal authority as a part of the utility system, notwithstanding that special assessments may be or may have been levied for such improvements by a municipality.

P.L. 1957, c. 183, § 24, eff. Aug. 22, 1957. Amended by L.1970, c. 209, § 3, eff. Sept. 30, 1970; P.L. 1977, c. 384, § 11, eff. Feb. 10, 1978.

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### **40:14B-25. Bond resolution**

For the purpose of raising funds to pay the cost of any part of its utility system or for the purpose of funding or refunding any bonds, a municipal authority shall have power to authorize or provide for the issuance of bonds pursuant to this act. Such municipal authority shall adopt a resolution (in this act sometimes referred to as "bond resolution" ) which shall

- (1) describe in brief and general terms sufficient for reasonable identification the utility system or part thereof (in this act sometimes called "project" ) to be constructed or acquired, or describe the bonds which are to be funded or refunded (if any);
- (2) state the cost or estimated cost of the project (if any); and
- (3) provide for the issuance of the bonds in accordance with section 26 of this act.

P.L. 1957, c. 183, § 25, eff. Aug. 22, 1957.

### **40:14B-26. Issuance of bonds**

Upon adoption of a bond resolution, a municipal authority shall have power to incur indebtedness, borrow money and issue its bonds for the purpose of financing the project or of funding or refunding the bonds described therein. Such bonds shall be authorized by the bond resolution and may be issued in 1 or more series and shall bear such date or dates, mature at such time or times not exceeding 40 years from the date thereof, bear interest at a rate or rates within such maximum rate (not exceeding 6% per annum), be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable from such sources in such medium of payment at such place or places within or without the State, and be subject to such terms of redemption (with or without premium) as the bond resolution may provide.

P.L. 1957, c. 183, § 26, eff. Aug. 22, 1957.

### **40:14B-27. Sale of bonds**

Bonds of a municipal authority may be sold by the municipal authority at public or private sale at such price or prices as the municipal authority shall determine; provided, however, that the interest cost to maturity of the money received for any issue of bonds (computed according to standard tables of bond values) shall not exceed 6% per annum.

P.L. 1957, c. 183, § 27, eff. Aug. 22, 1957.

### **40:14B-28. Publication of bond resolution; limitation on actions**



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Any municipal authority may cause a copy of any bond resolution adopted by it to be filed for public inspection in its office and in the office of clerk of the governing body of the local unit or units and may thereupon cause to be published in a newspaper published or circulating in the district a notice stating the fact and date of such adoption and the places where such bond resolution has been so filed for public inspection and also the date of the first publication of such notice and also that any action or proceeding of any kind or nature in any court questioning the validity or proper authorization of bonds provided for by the bond resolution, or the validity of any covenants, agreements or contract provided for by the bond resolution shall be commenced within 20 days after the first publication of such notice. If any such notice shall at any time be published and if no action or proceeding questioning the validity of the creation and establishment of the municipal authority, or the validity or proper authorization of bonds provided for by the bond resolution referred to in said notice, or the validity of any covenants, agreements or contract provided for by said bond resolution shall be commenced or instituted within 20 days after the first publication of said notice, then all residents and taxpayers and owners of property in the district and users of the utility system and all other persons whatsoever shall be forever barred and foreclosed from instituting or commencing any action or proceeding in any court, or from pleading any defense to any action or proceedings, questioning the validity of the creation and establishment of the municipal authority, or the validity or proper authorization of such bonds, or the validity of any such covenants, agreements or contracts, and said municipal authority shall be conclusively deemed to have been validly created and established and to be authorized to transact business and exercise powers as a municipal authority under this act, and said bonds, covenants, agreements and contracts shall be conclusively deemed to be valid and binding obligations in accordance with their terms and tenor.

P.L. 1957, c. 183, § 28, eff. Aug. 22, 1957.

### **40:14B-29. Negotiability of bonds**

Any provision of any law to the contrary notwithstanding, any bond or other obligation issued pursuant to this act shall be fully negotiable within the meaning and for all purposes of the negotiable instruments law of the State, and each holder or owner of such a bond or other obligation, or of any coupon appurtenant thereto, by accepting such bond or coupon shall be conclusively deemed to have agreed that such bond, obligation or coupon is and shall be fully negotiable within the meaning and for all purposes of said negotiable instruments law.

P.L. 1957, c. 183, § 29, eff. Aug. 22, 1957.

### **40:14B-30. Agreements with holders of bonds**

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Any bond resolution of a municipal authority providing for or authorizing the issuance of any bonds may contain provisions, and such municipal authority, in order to secure the payment of such bonds and in addition to its other powers, shall have power by provision in such bond resolution to covenant and agree with the several holders of such bonds, as to:

(1) the custody, security, use, expenditure or application of the proceeds of the bonds;

(2) the construction and completion, or replacement, of all or any part of the utility system;

(3) the use, regulation, operation, maintenance, insurance or disposition of all or any part of the utility system, or restrictions on the exercise of the powers of the municipal authority to dispose, or to limit or regulate the use, of all or any part of the utility system;

(4) payment of the principal of or interest on the bonds, or any other obligations, and the sources and methods thereof, the rank or priority of any such bonds or obligations as to any lien or security, or the acceleration of the maturity of any such bonds or obligations;

(5) the use and disposition of any moneys of the municipal authority, including revenues (in this act sometimes called "system revenues" ) derived or to be derived from the operation of all or any part of the utility system, including any parts thereof theretofore constructed or acquired and any parts, extensions, replacements or improvements thereof thereafter constructed or acquired;

(6) pledging, setting aside, depositing or trusteeing all or any part of the system revenues or other moneys of the municipal authority to secure the payment of the principal of or interest on the bonds or any other obligations or the payment of expenses of operation or maintenance of the utility system, and the powers and duties of any trustee with regard thereto;

(7) the setting aside out of the system revenues or other moneys of the municipal authority of reserves and sinking funds, and the source, custody, security, regulation, application and disposition thereof;

(8) determination or definition of the system revenues or of the expenses of operation and maintenance of the utility system;

(9) the rents, rates, fees, or other charges for connection with or the use, products or services of the utility system, including any parts thereof theretofore constructed or acquired and any parts, extensions, replacements or improvements thereof thereafter constructed or acquired, and the fixing, establishment, collection and enforcement of the same, the amount or amounts of system revenues to be produced thereby, and the disposition and application of the amounts charged or collected;

(10) the assumption or payment or discharge of any indebtedness, liens or other claims relating to any part of the utility system or any obligations having or which may have a lien on any part of the system revenues;

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(11) limitations on the issuance of additional bonds or any other obligations or on the incurrence of indebtedness of the municipal authority;

(12) limitations on the powers of the municipal authority to construct, acquire or operate, or permit the construction, acquisition or operation of, any plants, structures, facilities or properties which may compete or tend to compete with the utility system;

(13) vesting in a trustee or trustees within or without the State such property, rights, powers and duties in trust as the municipal authority may determine which may include any or all of the rights, powers and duties of the trustee appointed by the holders of bonds pursuant to section 31 of this act, and limiting or abrogating the right of such holders to appoint a trustee pursuant to section 31 of this act or limiting the rights, duties and powers of such trustee;

(14) payment of costs or expenses incident to the enforcement of the bonds or of the provisions of the bond resolution or of any covenant or contract with the holders of the bonds;

(15) the procedure, if any, by which the terms of any covenant or contract with, or duty to, the holders of bonds may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given or evidenced; or

(16) any other matter or course of conduct which, by recital in the bond resolution, is declared to further secure the payment of the principal of or interest on the bonds.

All such provisions of the bond resolution and all such covenants and agreements shall constitute valid and legally binding contracts between the municipal authority and the several holders of the bonds, regardless of the time of issuance of such bonds, and shall be enforceable by any such holder or holders by appropriate action, suit or proceeding in any court of competent jurisdiction, or by proceeding in lieu of prerogative writ.

P.L. 1957, c. 183, § 30.

### **40:14B-31. Bond provisions**

(a) If the bond resolution of a municipal authority authorizing or providing for the issuance of a series of its bonds shall provide in substance that the holders of the bonds of such series shall be entitled to the benefits of this section, then in the event that there shall be a default in the payment of principal of or interest on any bonds of such series after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of 30 days, or in the event that the municipal authority shall fail or refuse to comply with the provisions of this act or shall fail or refuse to carry out and perform the terms of any contract with the holders of any such bonds, and such failure or refusal shall continue for a period of 30 days after written notice to the municipal authority of its existence and nature, the holders of 25% in aggregate principal amount of the bonds and such series then outstanding by instrument or instruments filed

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in the office of the Secretary of State and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of the bonds of such series for the purposes provided in this section.

(b) Such trustee may and upon written request of the holders of 25% in aggregate principal amount of the bonds of such series then outstanding shall, in his or its own name:

(1) By any action, writ, proceeding in lieu of prerogative writ, or other proceeding, enforce all rights of the holders of such bonds, including the right to require the municipal authority to charge and collect service charges adequate to carry out any contract as to, or pledge of, system revenues, and to require the municipal authority to carry out and perform the terms of any contract with the holders of such bonds or its duties under this act;

(2) Bring an action upon all or any part of such bonds or interest coupons or claims appurtenant thereto;

(3) By action, require the municipal authority to account as if it were the trustee of an express trust for the holders of such bonds;

(4) By action, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds; or

(5) Declare all such bonds due and payable, whether or not in advance of maturity, upon 30 days' prior notice in writing to the municipal authority and, if all defaults shall be made good, then with the consent of the holders of 25% of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

(c) Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of the functions specifically set forth herein or incident to the general representation of the holders of bonds of such series in the enforcement and protection of their rights.

(d) In any action or proceeding by such trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, appointed pursuant to this act, shall constitute taxable costs and disbursements, and all costs and disbursements, allowed by the court, shall be a first charge upon any service charges and system revenues of the municipal authority pledged for the payment or security of bonds of such series.

P.L. 1957, c. 183, § 31, eff. Aug. 22, 1957.

### **40:14B-32. Receivers**

If the bond resolution of a municipal authority authorizing or providing for the issuance of a series of its bonds shall provide in substance that the holders of the bonds of such series shall be entitled to the benefits of section 31 of this act and shall further provide in substance that any trustee appointed pursuant to said section or having the powers of such a trustee shall have the powers provided by this section, then such trustee, whether or not

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all of the bonds of such series shall have been declared due and payable, shall be entitled as of right to the appointment of a receiver of the utility system, and such receiver may enter upon and take possession of the utility system and, subject to any pledge or contract with the holders of such bonds, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance or reconstruction of the utility system and proceed with such acquisition, construction, operation, maintenance or reconstruction which the municipal authority is under any obligation to do, and operate, maintain and reconstruct the utility system and fix, charge, collect, enforce and receive the service charges and all system revenues thereafter arising subject to any pledge thereof or contract with the holders of such bonds relating thereto and perform the public duties and carry out the contracts and obligations of the municipal authority in the same manner as the municipal authority itself might do and under the direction of the court.

P.L. 1957, c. 183, § 32, eff. Aug. 22, 1957.

### **40:14B-33. Liability on bonds**

Neither the members of the municipal authority nor any person executing bonds issued pursuant to this act shall be liable personally on the bonds by reason of the issuance thereof. Bonds or other obligations issued pursuant to this act shall not be in any way a debt or liability of the State, and bonds or other obligations issued by a municipal authority pursuant to this act shall not be in any way a debt or liability of the State or of any local unit or of any county or municipality and shall not create or constitute any indebtedness, liability or obligation of the State or of any such local unit, county or municipality, either legal, moral or otherwise, and nothing in this act contained shall be construed to authorize any municipal authority to incur any indebtedness on behalf of or in any way to obligate the State or any county or municipality.

P.L. 1957, c. 183, § 33, eff. Aug. 22, 1957.

### **40:14B-34. Eminent domain**

Every municipal authority is hereby empowered, in its own name but for the local unit or units, to acquire by purchase, gift, grant or devise and to take for public use real property, within or without the district, which may be deemed by the municipal authority necessary for its purposes, including public lands, waters, parks, roads, playgrounds, reservations and public or private rights in waters within or without the district, and any property within or without the district owned by or in which any county, municipality or political subdivision of the State, or public body or agency of such political subdivision, has any right, title or interest. Such municipal authority is hereby empowered to acquire and take such real property, including any such public property or such public interests therein, by condemnation, in the manner provided in P.L. 1971, c. 361 (C. 20:3-1 et seq.) and, to that end, may invoke and exercise in the manner or mode of procedure prescribed in said chapter, either in its own name or in the name of any local unit or units, all of the powers

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of such local unit or units to acquire or take property for public use; provided, however, that, notwithstanding the foregoing or any other provision of this act, no municipal authority shall acquire or take, by condemnation, any real property owned by the State or in which the State has any right, title or interest or real property in use as part of any system of water supply or distribution actually serving 50 or more parcels of real property or real property owned by a municipal or county government or any agency thereof which is utilized as part of a utility system thereby; and provided, further, that, notwithstanding the foregoing or any other provision of this act, no municipal authority shall acquire or take, by condemnation, any real property situate without the district owned or occupied by any county, municipality or other political subdivision of the State, except rights-of-way or easements for the location, construction, maintenance, renewal, relocation and removal of collecting, distribution and transmission pipes, mains, conduits, manholes, gate houses, appurtenances and other like facilities, and for access thereto.

P.L. 1957, c. 183, § 34, eff. Aug. 22, 1957. Amended by L.1977, c. 384, § 12, eff. Feb. 10, 1978.

### **40:14B-40. Additional powers**

In addition to other powers conferred by this act or by any other law, and not in limitation thereof, every municipal authority, in connection with construction or operation of any part of a utility system, shall have power to make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles or any other equipment and appliances (herein called "facilities") of any public utility, as defined in section 48:2-13 of the Revised Statutes, in, on, along, over or under any real property, including public lands, waters, parks, roads, streets, highways, playgrounds and reservations. Whenever in connection with construction or operation of any part of a utility system, any municipal authority shall determine that it is necessary that any such facilities, which now are, or hereafter may be, located in, on, along, over or under any such real property, including public lands, waters, parks, roads, streets, highways, playgrounds and reservations, should be relocated in such real property, including public lands, waters, parks, roads, streets, highways, playgrounds and reservations, or should be removed therefrom, the public utility owning or operating such facilities shall relocate or remove the same in accordance with the order of the municipal authority, provided, however, that the cost and expenses of such relocation or removal, including the cost of installing such facilities in a new location, or new locations, and the cost of any lands or any rights or interest in lands, or any other rights acquired to accomplish such relocation or removal, less the cost of any lands or any rights or interests in lands or any other rights of the public utility paid to the public utility in connection with the relocation or removal of such property, shall be paid by the municipal authority and may be included in the cost of such utility system. In case of any such relocation or removal of facilities, as aforesaid, the public utility owning or operating the same, its successors or assigns, may maintain and operate such facilities, with the necessary appurtenances, in the new location or new locations for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate such facilities in their former location.

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P.L. 1957, c. 183, § 40, eff. Aug. 22, 1957.

### **40:14B-41. Interest on unpaid service charges**

In the event that a service charge of any municipal authority with regard to any parcel of real property shall not be paid as and when due, interest shall accrue and be due to the municipal authority on the unpaid balance at the rate of 1 1/2 % per month until such service charge, and the interest thereon, shall be fully paid to the municipal authority.

P.L. 1957, c. 183, § 41, eff. Aug. 22, 1957. Amended by L.1981, c. 530, § 2, eff. Jan. 12, 1982.

### **40:14B-42. Lien for service charge**

In the event that a service charge of any municipal authority with regard to any parcel of real property owned by any person other than the State or an agency or subdivision thereof shall not be paid as and when due, the unpaid balance thereof and all interest accruing thereon shall be a lien on such parcel. Such lien shall be superior and paramount to the interest in such parcel of any owner, lessee, tenant, mortgagee or other person except the lien of municipal taxes and shall be on a parity with and deemed equal to the lien on such parcel of the municipality where such parcel is situate for taxes thereon due in the same year and not paid when due. Such lien shall not bind or affect a subsequent bona fide purchaser of such parcel for a valuable consideration without actual notice of such lien, unless the municipal authority shall have filed in the office of the collector or other officer of said municipality charged with the duty of enforcing municipal liens on real property a statement showing the amount and due date of such unpaid balance and identifying such parcel, which identification may be sufficiently made by reference to the assessment map of said municipality. The information shown in such statement shall be included in any certificate with respect to said parcel thereafter made by the official of said municipality vested with the power to make official certificates of searches for municipal liens. Whenever such service charge and any subsequent service charge with regard to such parcel and all interest accrued thereon shall have been fully paid to the municipal authority, such statement shall be promptly withdrawn or canceled by the municipal authority.

P.L. 1957, c. 183, § 42, eff. Aug. 22, 1957.

### **40:14B-43. Failure to pay service charge; shut off of service**

In the event that any service charge of any municipal authority with regard to any parcel of real property shall not be paid as and when due, the municipal authority, may, in its discretion, enter upon such parcel and cause any connection or connections thereof leading directly or indirectly to or from the utility system to be cut and shut off until such service charge and any subsequent service charge with regard to such parcel and all interest accrued thereon shall be fully paid to the municipal authority.

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P.L. 1957, c. 183, § 43, eff. Aug. 22, 1957.

### **40:14B-44. Failure to pay sewer service charge; shut off of water**

In the event that a sewer service charge of any municipal authority with regard to any parcel of real property shall not be paid as and when due, the municipal authority may, in accordance with section 57 of this act, cause the supply of water to such parcel by any county, municipality or other person to be stopped or restricted until such sewer service charge and any subsequent sewer service charge with regard to such parcel and all interest accrued thereon shall be fully paid to the municipal authority. If for any reason such supply of water shall not be promptly stopped or restricted as required by section 57 of this act, the municipal authority may itself shut off or restrict such supply and, for that purpose, may enter on any lands, waters or premises of any county, municipality or other person. Such supply of water to such parcel shall, notwithstanding the provisions of this section, be restored or increased if the State Department of Health, upon application of the local board of health or health officer of the municipality where such parcel is situate, shall after public hearing find and shall certify to the municipal authority that the continuance of such stopping or restriction of such supply of water endangers the health of the public in such municipality.

P.L. 1957, c. 183, § 44, eff. Aug. 22, 1957.

### **40:14B-45. Enforcement of service charges**

The collector or other officer of every municipality charged by law with the duty of enforcing municipal liens on real property shall enforce, with and as any other municipal lien on real property in such municipality, all service charges and the lien thereof shown in any statement filed with him by any municipal authority pursuant to section 42 of this act, and shall pay over to the municipal authority the sums or a pro rata share of the sums realized upon such enforcement or upon liquidation of any property acquired by the municipality by virtue of such enforcement.

P.L. 1957, c. 183, § 45, eff. Aug. 22, 1957.

### **40:14B-46. Civil action to recover unpaid service charge**

In the event that any service charge of a municipal authority shall not be paid as and when due, the unpaid balance thereof and all interest accrued thereon, together with attorneys' fees and costs, may be recovered by the municipal authority in a civil action, and any lien on real property for such service charge and interest accrued thereon may be foreclosed or otherwise enforced by the municipal authority by action or suit in equity as for the foreclosure of a mortgage on such real property.



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P.L. 1957, c. 183, § 46, eff. Aug. 22, 1957.

### **40:14B-47. Cumulative and concurrent rights and remedies**

All rights and remedies granted by this act for the collection and enforcement of service charges shall be cumulative and concurrent.

P.L. 1957, c. 183, § 47, eff. Aug. 22, 1957.

### **40:14B-48. Grant of utilities to authority**

Any county, by resolution of its governing body, or any municipality, by ordinance of its governing body, or any other person is hereby empowered, without any referendum, to sell, lease, lend, grant or convey to any municipal authority, or to permit any municipal authority to use, maintain or operate as part of the utility system, any real or personal property owned by it, including all or any part of any water supply, water distribution or sewerage facilities, which may be necessary or useful and convenient for the purposes of the municipal authority and accepted by the municipal authority. Any such sale, lease, loan, grant, conveyance or permit may be made with or without consideration and for a specified or an unlimited period of time and under any agreement and on any terms and conditions which may be approved by such county, municipality or other person and which may be agreed to by the municipal authority in conformity with its contracts with the holders of any bonds. Subject to any such contracts with holders of bonds, the municipal authority may enter into and perform any and all agreements with respect to property so accepted by it, including agreements for the assumption of principal or interest or both of indebtedness of such county, municipality or other person or of any mortgage or lien existing with respect to such property or for the operation and maintenance of such property as part of the utility system.

P.L. 1957, c. 183, § 48, eff. Aug. 22, 1957.

### **40:14B-49. Contracts for treatment and disposal of sewage or solid waste**

Any municipal authority for the carrying out and effectuation of its purposes, and (a) any of the local units (b) any other municipality whether within or without the district and (c) any other municipal authority, any sewerage authority or any other public body of the State empowered to treat or dispose of sewage or solid waste (all such local units, municipalities, other municipal authorities, sewerage authorities and other bodies being hereinafter referred to individually as a "governmental unit" ) for fostering the relief of waters in, bordering or entering the territorial area of the governmental unit from pollution or threatened pollution or assisting the municipal authority in carrying out and effectuating its purposes, may enter into a contract or contracts providing for or relating to the collection, treatment and disposal of sewage or solid waste originating in the district or received by the municipal authority, or originating in the territorial area of or

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collected by the governmental unit, by means of the sewerage or solid waste system or any sewerage or solid waste facilities of the governmental unit or both, and the cost and expense of such collection, treatment and disposal. Any municipal authority for the carrying out and effectuation of its purposes, and (a) any of the local units (b) any other municipality whether within or without the district and (c) any other municipal authority, any sewerage authority or any other public body of the State empowered to sell and supply water (all such local units, municipalities, other municipal authorities, sewerage authorities and other bodies being hereinafter referred to individually as a "governmental unit" ) for fostering the provision and distribution of an adequate supply of water within the territorial area of the governmental unit or assisting the municipal authority in carrying out and effectuating its purposes may enter into a contract or contracts providing for or relating to the sale or supplying of water to such municipal authority or to the governmental unit or to persons or properties within the district or the governmental unit, and the cost and expense of such sale or supplying of water. Any such contract may provide for the payment to the municipal authority by the governmental unit annually or otherwise of such sum or sums of money, computed at fixed amounts or by a formula based on any factors or other matters described in section 21 or section 22 of this act or in any other manner, as said contract or contracts may provide, and may provide that the sum or sums so payable to the municipal authority shall be in lieu of all or any part of the service charges which would otherwise be charged and collected by the municipal authority with regard to persons or real property within the territorial area of the governmental unit. Such contract or contracts may also contain provisions as to the financing and payment of expenses to be incurred by the municipal authority and determined by it to be necessary for its purposes prior to the placing in operation of a sewerage, solid waste or water supply and distribution system and may provide for the payment by the governmental unit to the municipal authority for application to such expenses or indebtedness therefor such sum or sums of money, computed as said contract or contracts may provide and as the governing body (hereinafter described) of the governmental unit shall, by virtue of its authorization of and entry into said contract or contracts, determine to be necessary for the purposes of the municipal authority. Every such contract shall be authorized and entered into under and pursuant to a resolution adopted by the authority in the case of municipal or other authority, an ordinance of the governing body in the case of a municipality, a resolution or ordinance of the governing body in the case of a county, and, in the case of any other public body, a resolution of the commission, council, board or body by whatever name it may be known (in this section sometimes referred to as "governing body" ) having charge of the finances of such public body, but the terms or text of said contract need not be set forth in full or stated in any such resolution or ordinance if the form of said contract is on file in the office of the clerk or other recording officer of the governmental unit or its governing body and the place in fact of such filing is described in the resolution or ordinance. Any such contract may be made with or without consideration and for a specified or an unlimited time and on any terms and conditions which may be approved by or on behalf of the governmental unit and which may be agreed to by the municipal authority in conformity with its contracts with the holders of any bonds, and shall be valid whether or not an appropriation with respect thereto is made by the governmental unit prior to authorization or execution thereof. Every such governmental unit is hereby authorized and directed to do and

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perform any and all acts or things necessary, convenient or desirable to carry out and perform every such contract and to provide for the payment or discharge of any obligation thereunder in the same manner as other obligations of such governmental unit. Subject to any such contracts with the holders of bonds, the municipal authority is hereby authorized to do and perform any and all acts or things necessary, convenient or desirable to carry out and perform every such contract and, in accordance with any such contract, to waive, modify, suspend or reduce the service charges which would otherwise be charged and collected by the municipal authority with regard to persons or real property within the territorial area of the governmental unit, but nothing in this section or any such contract shall prevent the municipal authority from charging and collecting, as if such contract had not been made, service charges with regard to such persons and real property sufficient to meet any default or deficiency in any payments agreed in such contract to be made by such governmental unit.

P.L. 1957, c. 183, § 49, eff. Aug. 22, 1957. Amended by L.1971, c. 297, § 1, eff. Aug. 27, 1971; P.L. 1973, c. 192, § 1, eff. June 28, 1973; L.1977, c. 384, § 13, eff. Feb. 10, 1978; L.1979, c. 86, § 14, eff. May 15, 1979.

### **40:14B-50. Effectuating terms of contracts**

In order to carry out and effectuate its purposes, any municipal authority, subject to its contracts with the holders of any bonds, is hereby empowered to provide, construct, maintain and operate facilities for the treatment and disposal of industrial wastes originating within or without the district and to enter into a contract or contracts with any person on such terms and conditions as such contract or contracts may contain, providing for or relating to the treatment and disposal of any such industrial wastes. The municipal authority and such person are hereby authorized and directed to do and perform any and all acts or things necessary, convenient or desirable to carry out and perform every such contract and to provide for the payment or discharge of any obligation thereunder in the same manner as other obligations of such municipal authority or person.

P.L. 1957, c. 183, § 50, eff. Aug. 22, 1957.

### **40:14B-51. Connections with or closing off other public facilities**

In order to carry out and effectuate its purposes, every municipal authority is hereby authorized to enter upon and connect with any existing public drains, sewers, conduits, pipelines, pumping and ventilating stations and sewage treatment plants or works or any other public property of a similar nature within the district and, if deemed necessary by the municipal authority, close off and seal outlets and outfalls therefrom. No municipal authority shall, however, take permanent possession or make permanent use of any such sewage treatment plant or works unless it acquires the same.

P.L. 1957, c. 183, § 51, eff. Aug. 22, 1957.

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### **40:14B-52. Use of public places**

In order to carry out and effectuate its purposes, every municipal authority is hereby authorized to construct, maintain and operate its utility system along, over, under and in any streets, alleys, highways and other public places within or without the district, doing no unnecessary injury thereto and making no unnecessary interruption in or interference with the public use of such places and restoring the same to their former usefulness and condition within a reasonable time.

P.L. 1957, c. 183, § 52, eff. Aug. 22, 1957.

### **40:14B-53. Availability of maps, plans, specifications, records, books and accounts**

Each county and municipality within the district, and every person owning or operating any sewer or drain or any system of water distribution serving 3 or more parcels of real property in the district, shall at the request and expense of the municipal authority make available to the municipal authority any and all of its maps, plans, specifications, records, books, accounts or other data or things deemed necessary by the municipal authority for its purposes.

P.L. 1957, c. 183, § 53, eff. Aug. 22, 1957.

### **40:14B-54. Payment of service charges owed by public bodies**

Each county, municipality and other public body shall promptly pay to any municipal authority all service charges which the municipal authority may charge to it, as owner or occupant of any real property, in accordance with section 21 or section 22 of this act, and shall provide for the payment thereof in the same manner as other obligations of such county, municipality or public body.

P.L. 1957, c. 183, § 54, eff. Aug. 22, 1957.

### **40:14B-55. Connections with sewerage system required**

Each county, municipality and other person owning or operating any sewer or drain which serves 3 or more parcels of real property in the district and which discharges or is designed to discharge sewage into waters in or bordering the State shall, upon notice from the municipal authority of its availability and a proposed point of connection with the sewerage system, cause such sewer or drain to be connected with the sewerage system at such point and in such manner as the municipal authority may specify and shall thereafter cause said sewer or drain to discharge into the sewerage system.

P.L. 1957, c. 183, § 55, eff. Aug. 22, 1967.

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### **40:14B-56. Reports by water distributors within district**

Each county, municipality and other person owning or operating any system of water distribution serving 3 or more parcels of real property in the district shall, from time to time after request therefor by the municipal authority, deliver to the municipal authority copies of the records made by it in the regular course of business of the amount of water supplied by it to every such parcel of real property in the district. Such copies shall be delivered to the municipal authority within 60 days after the making of such records, and the municipal authority shall pay the reasonable cost of preparation and delivery of such copies.

P.L. 1957, c. 183, § 56, eff. Aug. 22, 1957.

### **40:14B-57. Stoppage of water by water distributor**

Each county and municipality owning or operating any system of water distribution serving 3 or more parcels of real property in the district shall, and every other person owning or operating any such system may and is hereby authorized to enter into and perform a contract with the municipal authority that it will, upon request by the municipal authority specifying a parcel of real property in the district with regard to which a service charge under section 22 of this act is unpaid, cause the supply of water from its system to such parcel of real property to be stopped or restricted, as the municipal authority may request, until such service charge and any subsequent service charge with regard to such parcel and the interest accrued thereon shall be fully paid or until the municipal authority directs otherwise. No such county, municipality or other person shall be liable for any loss, damage or other claim based on or arising out of the stopping or restricting of such supply, and the municipal authority shall pay the reasonable cost of so stopping or restricting such supply and of restoring the same and may agree to indemnify such county, municipality or other person from all loss or damage by reason of such stopping or restriction, including loss of profits.

P.L. 1957, c. 183, § 57, eff. Aug. 22, 1957.

### **40:14B-58. Disposal or encumbrance of utility**

Neither the municipal authority nor any local unit shall have power to mortgage, pledge, encumber or otherwise dispose of any part of the utility system, except that the municipal authority may dispose of such part or parts thereof as may be no longer necessary for the purposes of the municipal authority. The provisions of this section shall be deemed to constitute a part of the contract with the holder of any bonds.

P.L. 1957, c. 183, § 58, eff. Aug. 22, 1957.

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### **40:14B-59. Exemption from levy**

All property of a municipal authority shall be exempt from levy and sale by virtue of an execution and no execution or other judicial process shall issue against the same nor shall any judgment against a municipal authority be a charge or lien upon its property; provided, that nothing herein contained shall apply to or limit the rights of the holder of any bonds to pursue any remedy for the enforcement of any pledge or lien given by a municipal authority on its system, revenues or other moneys.

P.L. 1957, c. 183, § 59, eff. Aug. 22, 1957.

### **40:14B-60. Discharge of sewage; discharges into sewage, solid waste or water systems; violations; injunction**

(a) No county, municipality or person shall discharge or suffer to be discharged directly or indirectly into any waters in or bordering a district any sewage which may or will cause or contribute to the pollution of such waters; provided, that this prohibition shall be applicable only to such part or parts of such waters as are in an area of the district bounded and described in a notice, inserted at least once in a newspaper published or circulating in the district, to the effect that the municipal authority has provided facilities reasonably sufficient in its opinion for the treatment and disposal of sewage which by discharge into such waters might cause or contribute to pollution of such waters, and that pollution of such waters is forbidden by law. Such a notice shall constitute prima facie evidence of the existence of facilities sufficient for the treatment and disposal of all such sewage.

(b) No county, municipality or person shall discharge or suffer to be discharged directly or indirectly into the sewage system or the solid waste system of any municipal authority any matter or thing which is or may be injurious or deleterious to such sewerage system or solid waste system or to its efficient operation.

(c) No county, municipality or person shall discharge or suffer to be discharged directly or indirectly into the water system of any municipal authority or on any lands or into any waters tributary to such water system any matter or thing which is or may be injurious or deleterious to such water system or to its efficient operation or may or will cause or contribute to a danger to the health of the public in the district.

(d) Any county, municipality or person may be restrained, enjoined or otherwise prevented from violating or continuing the violation of any provision of this section in a proceeding in lieu of prerogative writ, or other appropriate proceeding, or in an action for injunctive or other relief instituted by a municipal authority or by any county prosecutor.

(e) No violation of any provision of this section shall be deemed to have occurred by reason of the discharge of sewage from any boat or vessel while afloat or on a marine railway in drydock.

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P.L. 1957, c. 183, § 60, eff. Aug. 22, 1957. Amended by L.1977, c. 384, § 14, eff. Feb. 10, 1978.

### **40:14B-61. Approval of sewage disposal plants within district**

No sewage disposal plant or other facilities for the collection, treatment or disposal of sewage arising within a district shall be constructed unless the municipal authority shall give its consent thereto and approve the plans and specifications therefor. No facilities for the distribution of water within a district shall be constructed unless the municipal authority shall give its consent thereto and approve the plans and specifications therefor. Each municipal authority is hereby empowered to give any such consent and approval, subject, however, to the terms and provisions of any agreement with the holders of bonds. Upon submission to the authority of a complete application for approval of such a plant or facilities, the authority shall approve or disapprove the application within 90 days of the date of its submission, but the authority may extend the time for a period not to exceed 30 days by adoption of a resolution therefor. As used in this section, "complete application" means an application form completed as specified by resolution and the rules and regulations of the authority, and the accompanying documents, plans and specifications required by resolution for approval of the plant or facilities. An application shall be certified as complete, for the purposes of the commencement of the time for action by the authority, immediately upon the meeting of the requirements specified in the resolution and the rules and regulations of the authority. Failure of a municipal authority to approve or disapprove plans and specifications submitted pursuant to this section within such time, shall constitute approval thereof and consent of the authority to construction of the plant or facilities.

P.L. 1957, c. 183, § 61, eff. Aug. 22, 1957. Amended by L.1979, c. 418, § 1, eff. Feb. 8, 1980.

### **40:14B-62. Investment in bonds of authority**

Notwithstanding any restriction contained in any other law, the State and all public officers, municipalities, counties, political subdivisions and public bodies, and agencies thereof, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries, may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds, and such bonds shall be authorized security for any and all public deposits.

P.L. 1957, c. 183, § 62, eff. Aug. 22, 1957.

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### **40:14B-63. Tax exemptions**

Every utility system and all other property of a municipal authority are hereby declared to be public property of a political subdivision of the State and devoted to an essential public and governmental function and purpose and, other than lands subject to assessment and taxation pursuant to Revised Statutes 54:4-3.3, shall be exempt from all taxes and special assessments of the State or any subdivision thereof. All bonds are hereby declared to be issued by a political subdivision of this State and for an essential public and governmental purpose and to be a public instrumentality and such bonds, and the interest thereon and the income therefrom, and all service charges, funds, revenues and other moneys pledged or available to pay or secure the payment of such bonds, or interest thereon, shall at all times be exempt from taxation except for transfer, inheritance and estate taxes and taxes on transfers by or in contemplation of death.

P.L. 1957, c. 183, § 63, eff. Aug. 22, 1957. Amended by L.1968, c. 328, § 1, eff. Nov. 8, 1968.

### **40:14B-64. Guarantee of vested rights of bondholders**

The State of New Jersey does hereby pledge to and covenant and agree with the holders of any bonds issued pursuant to a bond resolution of a municipal authority that the State will not limit or alter the rights hereby vested in the municipal authority to acquire, construct, maintain, reconstruct and operate its utility system, and to fix, establish, charge and collect its service charges and to fulfill the terms of any agreement made with the holders of such bonds or other obligations, and will not in any way impair the rights or remedies of such holders, and will not modify in any way the exemptions from taxation provided for in this act, until the bonds, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged.

P.L. 1957, c. 183, § 64, eff. Aug. 22, 1957.

### **40:14B-65. Undertakings for deposits of municipal authority**

All banks, bankers, trust companies, savings banks, investment companies and other persons carrying on a banking business are hereby authorized to give to any municipal authority a good and sufficient undertaking with such sureties as shall be approved by the municipal authority to the effect that such bank or banking institution as herein before described shall faithfully keep and pay over to the order of or upon the warrant of the municipal authority or its authorized agent all such funds as may be deposited with it by the municipal authority and agreed interest thereon, at such times or upon such demands as may be agreed with the municipal authority or in lieu of such sureties, deposit with the municipal authority or its authorized agent or any trustee therefor or for the holders of any bonds, as collateral, such securities as the municipal authority may approve. The deposits of the municipal authority may be evidenced by a depository collateral



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agreement in such form and upon such terms and conditions as may be agreed upon by the municipal authority and such bank or banking institution.

P.L. 1957, c. 183, § 65, eff. Aug. 22, 1957.

### **40:14B-66. Annual audit**

Each municipal authority shall cause an annual audit of its accounts to be made, and for this purpose it shall employ a registered municipal accountant of New Jersey or a certified public accountant of New Jersey. The audit shall be completed and filed with the municipal authority within 4 months after the close of the fiscal year of the municipal authority and a certified duplicate copy thereof shall be filed with the Director of the Division of Local Government in the Department of the Treasury within 5 days after the original report is filed with the municipal authority.

P.L. 1957, c. 183, § 66, eff. Aug. 22, 1957.

### **40:14B-67. Filing of copy of bond resolution**

Each municipal authority shall file a copy of each bond resolution adopted by it with the Director of the Division of Local Government in the Department of the Treasury, together with a summary of the dates, amounts, maturities and interest rates of all bonds issued pursuant thereto.

P.L. 1957, c. 183, § 67, eff. Aug. 22, 1957.

### **40:14B-68. Construction**

This act shall be construed liberally to effectuate the legislative intent and as complete and independent authority for the performance of each and every act and thing herein authorized, and a municipal authority shall not be subject to regulation as to its service charges by any other officer, board, agency, commission or other office of the State, or constitute a municipality or agency or component of a municipality subject to, any provisions of Title 40 of the Revised Statutes and of Title 40A of the New Jersey Statutes, except P.L. 1971, c. 198 "Local Public Contracts Law" (C. 40A:11-1 et seq.); provided, however, that nothing contained in this act shall in any way affect or limit the jurisdiction, powers or rights of the State Department of Health, Interstate Sanitation Commission, Interstate Commission on the Delaware River Basin, Water Policy and Supply Council of the Department of Conservation and Economic Development, North Jersey District Water Supply Commission, Passaic Valley Sewerage Commissioners, or Passaic Valley Water Commission, or impair the obligations assumed by any municipality included in any district in any contract made prior to the creation of such district with any sewerage authority or any county sewer authority or with one or more

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other municipalities or with the Passaic Valley Sewerage Commissioners or with the North Jersey District Water Supply Commission.

P.L. 1957, c. 183, § 68. Amended by L.1957, c. 233, § 1, eff. Feb. 26, 1958; L.1975, c. 96, § 5, eff. May 16, 1975.

### **40:14B-69. Severability**

If any section, subsection, clause or provision of this act shall be adjudged unconstitutional or to be ineffective in whole or in part, to the extent that it is not adjudged unconstitutional or is not ineffective it shall be valid and effective and no other section, subsection, clause or provision of this act shall on account thereof be deemed invalid or ineffective, and the inapplicability or invalidity of any section, subsection, clause or provision of this act in any 1 or more instances or under any 1 or more circumstances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance or under any other circumstance.

P.L. 1957, c. 183, 69, eff. Aug. 22, 1957