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STATE OF NEW JERSEY
212th LEGISLATURE

ADOPTED JUNE 19, 2006

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SYNOPSIS

Authorizes certain cities to establish a municipal hospital authority.

CURRENT VERSION OF TEXT

As amended by the General Assembly on June 26, 2006.

(Sponsorship Updated As Of: 6/27/2006)

1 AN ACT authorizing the establishment of certain municipal hospital
2 authorities, supplementing chapter 9 of Title 30 of the New
3 Jersey Statutes and amending P.L.1992, c.160 and P.L.1971,
4 c.198.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8

9 1. (New section) Sections 1 through ¹~~[7]~~ ²9¹ of this act shall be
10 known and may be cited as the “Municipal Hospital Authority
11 Law.”

12

13 ¹2. (New section) The transfer of a hospital to an authority by a
14 charitable nonprofit entity pursuant to this act shall be deemed to be
15 in furtherance of such entity’s charitable purposes.¹

16

17 ¹~~[2.]~~ ^{3.}¹ (New section) For the purposes of this act:

18 “Authority” means a municipal hospital authority created
19 pursuant to section ¹~~[3]~~ ⁴4¹ of this act.

20 “Bonds” means bonds issued by the authority pursuant to this
21 act.

22 “City” means a city that is classified for legislative purposes
23 pursuant to N.J.S.40A:6-4 and which adopts an ordinance creating a
24 municipal hospital authority pursuant to this act.

25 “Hospital” means an institution licensed and classified as a
26 general hospital by the Commissioner of Health and Senior Services
27 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) and N.J.A.C.8:43G-
28 1 et seq., notwithstanding that the general hospital also may be
29 licensed to provide inpatient psychiatric or comprehensive
30 rehabilitation hospital services, or other related services.

31 “Local Finance Board” means the Local Finance Board in the
32 Division of Local Government Services in the Department of
33 Community Affairs.

34 “Manager” means the nonprofit management entity or entities
35 hired by an authority to manage and operate a hospital, or any
36 portion of a hospital, owned by that authority.

37 “Notes” means notes issued by the authority pursuant to this act.

38 “Project” means the acquisition, by purchase, gift or otherwise,
39 of all or any part of the assets and liabilities of a hospital located
40 within a city through a contract or other agreement requiring at least
41 \$12 million in working capital contributions from either the prior
42 owner thereof or another nongovernmental source, as certified by
43 the Local Finance Board in the Department of Community Affairs;

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly floor amendments adopted June 26, 2006.

1 the management and operation of that hospital; and the costs of any
2 capital improvements or equipment related to the operation,
3 maintenance, expansion, renovation, or rehabilitation of that
4 hospital; and the provision of working capital for operation of that
5 hospital, along with any required costs of issuing any bonds or
6 notes therefor.

7
8 **1[3.] 4.¹** (New section) a. The governing body of a city may
9 create, by ordinance, a body corporate and politic to be known as
10 the " Municipal Hospital Authority," inserting the name of
11 such city. The authority shall constitute an agency and
12 instrumentality of the city creating it.

13 A governing body of a city so creating an authority shall have
14 power from time to time and for such period and upon such terms,
15 with or without consideration, as may be provided by such
16 resolution or ordinance and accepted by the authority (1) to
17 appropriate moneys for the purposes of the authority, and to loan or
18 donate such money to the authority in such installments and upon
19 such terms as may be agreed upon with the authority, (2) to
20 covenant and agree with the authority to pay to or on the order of
21 the authority annually or at shorter intervals as a subsidy for the
22 promotion of its purposes not exceeding such sums of money as
23 may be stated in such resolution or ordinance or computed in
24 accordance therewith, and (3) upon authorization by it in
25 accordance with law of the performance of any act or thing which it
26 is empowered by law to authorize and perform and after
27 appropriation of the moneys (if any) necessary for such
28 performance, to covenant and agree with the authority to do and
29 perform such act or thing and as to the time, manner and other
30 details of its doing and performance, and, in accordance with the
31 limitations and any exceptions thereto and in the manner or mode of
32 procedure prescribed by the local bond law to incur indebtedness,
33 borrow money and issue its negotiable bonds for the purpose of
34 financing such project and appropriation, and to pay the proceeds of
35 such bonds to the authority.

36 b. A municipal hospital authority created pursuant to this act
37 shall be subject to the procedures of the "Local Authorities Fiscal
38 Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.), and shall
39 operate pursuant to the provisions of that law, except as otherwise
40 provided in P.L. , c. (C.) (pending before the Legislature as
41 this bill). The sole purpose of the authority shall be to carry out a
42 project and to operate and maintain a project hospital.

43 c. Except as otherwise limited by this act, the authority shall
44 have power:

45 (1) To finance and implement a project as defined pursuant to
46 section 2 of P.L. , c. (C.) (pending before the Legislature as
47 this bill);

- 1 (2) To sue and be sued;
- 2 (3) To have an official seal and alter it at pleasure;
- 3 (4) To make and alter bylaws for its organization and internal
4 management and for the conduct of its affairs and business;
- 5 (5) To maintain an office at a place within the State as it may
6 determine;
- 7 (6) To acquire, hold, use, and dispose of its income, revenues,
8 funds, and moneys;
- 9 (7) To acquire, lease as lessee or lessor, rent, hold, use, and
10 dispose of real or personal property for its purposes;
- 11 (8) To borrow money and to issue its negotiable bonds or notes
12 and to secure them by a mortgage on its property or any part
13 thereof, or by a pledge of its revenues, and otherwise to provide for
14 and secure the payment of them and to provide for the rights of the
15 holders of the bonds or notes;
- 16 (9) To make and enter into all contracts and agreements which
17 are necessary or incidental to the performance of its duties and the
18 exercise of its powers under this act;
- 19 (10) To establish, acquire, construct, rehabilitate, repair,
20 improve, own, operate, and maintain a project, and let, award and
21 enter into construction contracts, purchase orders and other
22 contracts with respect to a project as the authority shall determine;
- 23 (11) To fix and revise from time to time, and charge and collect,
24 rents, fees and charges for the use, occupancy or services of the
25 hospital or any part thereof or for admission thereto, and for the
26 grant of concessions therein and for things furnished or services
27 rendered by the authority through a project;
- 28 (12) To function as the hospital governing body responsible for
29 establishing hospital-wide policy, to establish and enforce rules,
30 regulations and bylaws for the use or operation of the hospital or the
31 conduct of its activities, maintaining quality of care, and providing
32 institutional management and planning, which functions shall not be
33 delegated or assigned to another entity;
- 34 (13) Subject to any agreement with bondholders or noteholders,
35 to invest moneys of the authority not required for immediate use,
36 including proceeds from the sale of any bonds or notes, in
37 obligations, securities and other investments the authority deems
38 prudent;
- 39 (14) To contract for and to accept any gifts or grants or loans of
40 funds or property or financial or other aid in any form from the
41 United States of America or any agency or instrumentality thereof,
42 or from the State or any agency, instrumentality or political
43 subdivision thereof, or from any other source, including for-profit
44 or nonprofit organizations or the general public, and to comply,
45 subject to the provisions of this act, with the terms and conditions
46 thereof;

1 (15) Subject to any agreements with bondholders or noteholders,
2 to purchase bonds or notes of the authority out of any funds or
3 money of the authority available for those purposes, and to hold,
4 cancel or resell the bonds or notes;

5 (16) To appoint and employ an executive director and additional
6 officers, who need not be members of the authority, and
7 accountants, attorneys, financial advisors, or experts and any other
8 officers, agents and employees as it may require and determine their
9 qualifications, terms of office, duties and compensation, all without
10 regard to the provisions of Title 11A, Civil Service of the New
11 Jersey Statutes;

12 (17) To do and perform any acts and things authorized by this act
13 under, through, or by means of contracts with a nonprofit or for-
14 profit entity or entities;

15 (18) To procure insurance against any losses in connection with
16 its property, operations or assets in such amounts and from such
17 insurers as it deems desirable; and

18 (19) To do anything necessary or convenient to carry out its
19 purposes and exercise the powers granted in this act.
20

21 ¹[4] 5.¹ (New section) a. The authority shall be governed by
22 an ¹[eleven-member] 11 member¹ board. The members shall be
23 divided among four classes. The Class I member shall be the mayor
24 of the city, or his designee, ex officio. There shall be two Class II
25 hospital members, who shall serve on, and be appointed by, the
26 medical staff executive committee of the hospital, to terms
27 concurrent with their membership on the executive committee, and
28 who need not be residents of the city. There shall be six Class III
29 public members, at least four of whom shall be residents of the city,
30 but none of whom shall be officers or employees of the city or of
31 the manager. The Class III public members shall be appointed by
32 the mayor of the city, with the advice and consent of the city
33 council. At least two of the Class III members shall have special
34 expertise as follows: one shall have extensive expertise in finance
35 of private or nonprofit organizations, and one shall have extensive
36 expertise in nonprofit organizational management. The Class III
37 members shall serve for terms of five years and until their
38 respective successors have been appointed and qualified; except
39 that of the six members first appointed by the mayor, one shall be
40 appointed for a term of one year, one for a term of two years, one
41 for a term of three years, one for a term of four years, and two for a
42 term of five years. The hospital's chief executive officer or a
43 designee thereof shall serve as a nonvoting Class IV member. The
44 Commissioner of Community Affairs shall appoint one individual
45 as a nonvoting Class IV member. Vacancies shall be filled in the
46 same manner as the original appointments were made, but for the
47 unexpired term.

1 b. Members of an authority shall not receive compensation for
2 their services, but shall be entitled to reimbursement for actual
3 expenses necessarily incurred in the discharge of the duties of
4 membership, including travel expenses. The powers of the
5 authority shall be vested in the members thereof in office from time
6 to time. Five members shall constitute a quorum of the authority
7 for the purpose of conducting its business and exercising its powers
8 and all other purposes. Action may be taken by the authority upon
9 the affirmative vote of the majority, but not less than five of the
10 members present, unless in any case the bylaws of the authority or
11 State law or regulation shall require a larger number.

12 c. The authority shall select a chairman and a vice-chairman
13 from among its Class III public members, and ¹~~shall~~ may¹
14 employ an executive director, who ¹~~shall~~ may¹ be its secretary.

15 d. Class II and Class IV members of the authority shall not be
16 deemed to have an interest in the hospital solely by virtue of their
17 membership on the medical staff of the hospital or their
18 employment by or contract with a manager, and they shall not be
19 subject to the provisions of ¹subsections d. and e. of¹ section 5 of
20 P.L.1991, c.29 (C.40A:9-22.5) of the "Local Government Ethics
21 Law." ¹~~].~~¹

22 e. A member of an authority may be removed by the governing
23 body or officer by which he was appointed for inefficiency or
24 neglect of duty or misconduct in office; but only after the member
25 has been given a copy of the charges at least 10 days prior to a
26 hearing thereon and has had the opportunity to be heard in person or
27 by counsel. In the event of a removal of any member of an
28 authority, a record of the proceedings, together with the charges and
29 findings thereon, shall be filed in the office of the clerk of the city.
30

31 ¹~~5.]~~ 6.¹ (New section) a. The authority shall exercise its
32 powers and duties to manage and operate a hospital owned by it
33 through a contract or contracts with a manager, which may be
34 entered into without public advertising for bid as otherwise required
35 pursuant to the provisions of section 3 of P.L.1971, c.198
36 (C.40A:11-3); provided, however, that the primary responsibility of
37 operating the hospital shall remain that of the authority.

38 b. The initial duration of a contract shall not exceed five years.
39 A contract entered into pursuant to this subsection may be renewed
40 for an additional period, not to exceed five years. A contract
41 entered into more than ten years from the date of the initial contract
42 shall be negotiated as a new contract and not as a renewal contract.

43 c. A contract, or a renewal thereof, with a manager to manage
44 and operate a hospital owned by the authority shall be effective
45 only with the prior written consent of the Local Finance Board,
46 which shall consult with the Commissioner of Health and Senior
47 Services. The Local Finance Board shall establish an application

1 procedure, submission requirements, and set minimum standards
2 and content that shall be included in any contract with a nonprofit
3 entity to manage and operate a hospital owned by the authority.

4 A contract with a manager shall provide that, in addition to such
5 other matters as determined to be necessary by the authority or as
6 otherwise required by law or regulation:

7 (1) The authority or its agents, and the city or its agents, shall
8 have independent access to the books and records of the hospital at
9 all times;

10 (2) The Governor of the State of New Jersey shall appoint an
11 individual to serve on the board of directors of the manager during
12 the term of the contract, including renewals; and

13 (3) Other than for routine, day-to-day business activities, the
14 authority shall have the final determination regarding the
15 acquisition and disposition of assets, or the incurring of debt or
16 expenses.

17 d. When contracting with a manager, the authority shall
18 approve the individuals that the manager proposes to designate as
19 the hospital's chief executive officer and chief financial officer, by
20 whatever title, and any change thereof and shall also approve
21 contracts or other arrangements setting forth terms and conditions
22 of employment for those positions.

23 e. An authority shall take the following actions pursuant to any
24 requirements that may be established by the Local Finance Board:

25 (1) adopt a management plan for the hospital, including
26 monitoring and review methods of financial activities;

27 (2) set minimum requirements for meetings of the authority, and
28 minimum attendance requirements for members;

29 (3) establish a formal mechanism for communication among the
30 members of the authority's board, hospital administrators and
31 medical staff;

32 (4) form a finance committee, which shall be responsible for the
33 oversight of the finances of the authority, and delineate the duties
34 and obligations of the finance committee; and

35 (5) include minimum provisions that shall be included in a
36 contract with a manager. Such provisions shall include the
37 submission of an annual budget of the hospital and of the nonprofit
38 manager by the manager for the approval of the authority. The
39 approval of these items shall be conditioned upon the approval of
40 the authority's annual budget pursuant to the "Local Authorities
41 Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.). The
42 budget and any supporting documents as may be required by the
43 Division of Local Government Services shall be submitted to the
44 division as part of the submission of the authority's annual budget.

45

46 ¹⁷. (New section) a. Bonds or notes issued under this act shall
47 be issued and sold in the same manner, and subject to the same

1 restrictions, as applicable to bonds of an authority authorized to be
2 issued pursuant to the "municipal and county utilities authorities
3 law," P.L.1957, c.183 (C.40:14B-1 et seq.), including specifically
4 sections 25 through 33 (C.40:14B-25 through C.40:14B-33).

5 An authority formed pursuant to P.L. , c. (C.) (pending
6 before the Legislature as this bill) shall be deemed to be a municipal
7 authority for the purposes of sections 59, 62, 63, 64, and 65 of
8 P.L.1957, c.183 (C.40:14B-59 and C.40:14B-62 through C.40:14B-
9 65), and those sections shall be applicable to a municipal hospital
10 authority and its bonds as authorized pursuant to P.L. ,c. (C.)
11 (pending before the Legislature as this bill). P.L. , c. (C.)
12 (pending before the Legislature as this bill) shall be construed
13 liberally to effectuate the legislative intent and as complete and
14 independent authority for the performance by a municipal hospital
15 authority of each and every act and thing herein authorized.

16 For purposes of P.L. , c. (C.) (pending before the
17 Legislature as this bill), "costs" means, in addition to the usual
18 connotations thereof, the cost of acquisition or construction of all or
19 any part of a hospital and of all or any property, rights, easements,
20 privileges, or agreements deemed by the authority to be necessary
21 or useful and convenient therefore or in connection therewith,
22 including interest or discount on bonds, cost of issuance of bonds,
23 and legal expenses, cost of financial, professional and other
24 estimates and advice, organization, administrative, operating and
25 other expenses of the authority or of a hospital owned by the
26 authority prior to and during such acquisition or construction, and
27 all such other expenses as may be necessary or incident to the
28 financing, acquisition, construction and completion of the hospital,
29 or any part thereof, and the placing of the same in operation, and
30 also such provision or reserves for working capital, operating,
31 maintenance or replacement expenses or for payment or security of
32 principal of or interest on bonds during or after such acquisition or
33 construction as the authority may determine, and also
34 reimbursements to the authority or the city of any moneys
35 theretofore expended for the purposes of the authority. In addition,
36 the issuance of any bonds or other instruments by a municipal
37 hospital authority shall be subject to the approval of the Local
38 Finance Board in the Department of Community Affairs.

39 b. Contracts entered into between the city and the authority
40 pursuant to P.L. , c. (C.) (pending before the Legislature
41 as this bill) may also contain provisions as to the financing and
42 payment of expenses to be incurred by the authority and determined
43 by it to be necessary for its purposes. Every such contract shall be
44 authorized and entered into under and pursuant to a resolution
45 adopted by the authority and an ordinance of the governing body of
46 the city, but the terms or text of the contract need not be set forth in
47 full or stated in any such resolution or ordinance if the form of the

1 contract is on file in the office of the municipal clerk and the place
2 in fact of such filing is described in the resolution or ordinance.
3 Any such contract may be made with or without consideration and
4 for a specified or an unlimited time and on any terms and conditions
5 which may be approved by or on behalf of the city and which may
6 be agreed to by the authority in conformity with its contracts with
7 the holders of any bonds or notes, and shall be valid whether or not
8 an appropriation with respect thereto is made by the city prior to
9 authorization or execution thereof. Every such city is hereby
10 authorized and directed to do and perform any and all acts or things
11 necessary, convenient or desirable to carry out and perform every
12 such contract and to provide for the payment or discharge of any
13 obligation thereunder in the same manner as other obligations of
14 that city.

15 c. The city may unconditionally guarantee the punctual payment
16 of the principal of and interest on any bonds or notes issued by the
17 authority, in the same manner, and subject to the same restrictions,
18 as municipal guarantees of bonds of an authority authorized to be
19 issued pursuant to the “parking authority law,” P.L.1948, c.198
20 (C.40:11A-1 et seq.).

21 d. The provisions of N.J.S.40A:2-11 shall not apply to any bond
22 ordinance of the city authorizing bonds pursuant to P.L. , c.
23 (C.) (pending before the Legislature as this bill).

24 e. Notwithstanding any provision of this act to the contrary, any
25 investments of money by the authority shall be made consistent
26 with the provisions of the N.J.S.40A:5-1 et seq.¹
27

28 ¹**[6.] 8.** (New section) Nothing in P.L. , c. (C.)
29 (pending before the Legislature as this bill) shall be construed to
30 apply to a hospital operated by a municipality pursuant to the
31 provisions of R.S.30:9-13.
32

33 ¹**[7.] 9.** (New section) The transfer of a hospital to an authority
34 pursuant to the provisions of P.L. , c. (C.) (pending before
35 the Legislature as this bill) shall be exempt from the provisions of
36 section 2 of P.L.2000, c.143 (C.26:2H-7.11).
37

38 ¹**[8.] 10.** Section 19 of P.L.1992, c.160 (C.26:2H-7a) is
39 amended to read as follows:

40 19. Notwithstanding the provisions of section 7 of P.L.1971,
41 c.136 (C.26:2H-7) to the contrary, the following are exempt from
42 the certificate of need requirement:

- 43 Community-based primary care centers;
- 44 Outpatient drug and alcohol services;
- 45 Hospital-based medical detoxification for drugs and alcohol;
- 46 Ambulance and invalid coach services;

- 1 Mental health services which are non-bed related outpatient
- 2 services;
- 3 Residential health care facility services;
- 4 Capital improvements and renovations to health care facilities;
- 5 Additions of medical/surgical, adult intensive care and adult
- 6 critical care beds in hospitals;
- 7 Replacement of existing major moveable equipment;
- 8 Inpatient operating rooms;
- 9 Alternate family care programs;
- 10 Hospital-based subacute care;
- 11 Ambulatory care facilities;
- 12 Comprehensive outpatient rehabilitation services;
- 13 Special child health clinics;
- 14 New technology in accordance with the provisions of section 18
- 15 of P.L.1998, c.43 (C.26:2H-7d);
- 16 Transfer of ownership interest except in the case of an acute care
- 17 hospital;
- 18 Change of site for approved certificate of need within the same
- 19 county;
- 20 Additions to vehicles or hours of operation of a mobile intensive
- 21 care unit;
- 22 Relocation or replacement of a health care facility within the
- 23 same county, except for an acute care hospital;
- 24 Continuing care retirement communities authorized pursuant to
- 25 P.L.1986, c.103 (C.52:27D-330 et seq.);
- 26 Magnetic resonance imaging;
- 27 Adult day health care facilities;
- 28 Pediatric day health care facilities; **and**
- 29 Chronic or acute renal dialysis facilities; and
- 30 Transfer of ownership of a hospital to an authority in accordance
- 31 with P.L. , c. (C.) (pending before the Legislature as this
- 32 bill).
- 33 (cf: P.L.1998, c.43, s.7)
- 34

35 ¹**[9.] 11.** Section 2 of P.L.1971, c.198 (C.40A:11-2) is amended
36 to read as follows:

37 2. As used herein the following words have the following
38 definitions, unless the context otherwise indicates:

39 (1) "Contracting unit" means:

40 (a) Any county; or

41 (b) Any municipality; or

42 (c) Any board, commission, committee, authority or agency,
43 which is not a State board, commission, committee, authority or
44 agency, and which has administrative jurisdiction over any district
45 other than a school district, project, or facility, included or
46 operating in whole or in part, within the territorial boundaries of
47 any county or municipality which exercises functions which are
48 appropriate for the exercise by one or more units of local

1 government, and which has statutory power to make purchases and
2 enter into contracts awarded by a contracting agent for the provision
3 or performance of goods or services.

4 The term shall not include a private firm that has entered into a
5 contract with a public entity for the provision of water supply
6 services pursuant to P.L.1995, c.101 (C.58:26-19 et al.).

7 "Contracting unit" shall not include a private firm or public
8 authority that has entered into a contract with a public entity for the
9 provision of wastewater treatment services pursuant to P.L.1995,
10 c.216 (C.58:27-19 et al.).

11 "Contracting unit" shall not include a duly incorporated nonprofit
12 association that has entered into a contract with the governing body
13 of a city of the first class for the provision of water supply services
14 or wastewater treatment services pursuant to section 2 of P.L.2002,
15 c.47 (C.40A:11-5.1).

16 "Contracting unit" shall not include a duly incorporated nonprofit
17 entity that has entered into a contract for management and operation
18 services with a municipal hospital authority established pursuant to
19 P.L. , c. (C.) (pending before the Legislature as this bill).

20 (2) "Governing body" means:

21 (a) The governing body of the county, when the purchase is to
22 be made or the contract or agreement is to be entered into by, or in
23 behalf of, a county; or

24 (b) The governing body of the municipality, when the purchase
25 is to be made or the contract or agreement is to be entered into by,
26 or on behalf of, a municipality; or

27 (c) Any board, commission, committee, authority or agency of
28 the character described in subsection (1) (c) of this section.

29 (3) "Contracting agent" means the governing body of a
30 contracting unit, or its authorized designee, which has the power to
31 prepare the advertisements, to advertise for and receive bids and, as
32 permitted by this act, to make awards for the contracting unit in
33 connection with purchases, contracts or agreements.

34 (4) "Purchase" means a transaction, for a valuable consideration,
35 creating or acquiring an interest in goods, services and property,
36 except real property or any interest therein.

37 (5) (Deleted by amendment, P.L.1999, c.440.)

38 (6) "Professional services" means services rendered or
39 performed by a person authorized by law to practice a recognized
40 profession, whose practice is regulated by law, and the performance
41 of which services requires knowledge of an advanced type in a field
42 of learning acquired by a prolonged formal course of specialized
43 instruction and study as distinguished from general academic
44 instruction or apprenticeship and training. Professional services
45 may also mean services rendered in the provision or performance of
46 goods or services that are original and creative in character in a
47 recognized field of artistic endeavor.

1 (7) "Extraordinary unspecifiable services" means services which
2 are specialized and qualitative in nature requiring expertise,
3 extensive training and proven reputation in the field of endeavor.

4 (8) (Deleted by amendment, P.L.1999, c.440.)

5 (9) "Work" includes services and any other activity of a tangible
6 or intangible nature performed or assumed pursuant to a contract or
7 agreement with a contracting unit.

8 (10) "Homemaker--home health services" means at home
9 personal care and home management provided to an individual or
10 members of the individual's family who reside with the individual,
11 or both, necessitated by the individual's illness or incapacity.
12 "Homemaker--home health services" includes, but is not limited to,
13 the services of a trained homemaker.

14 (11) "Recyclable material" means those materials which would
15 otherwise become municipal solid waste, and which may be
16 collected, separated or processed and returned to the economic
17 mainstream in the form of raw materials or products.

18 (12) "Recycling" means any process by which materials which
19 would otherwise become solid waste are collected, separated or
20 processed and returned to the economic mainstream in the form of
21 raw materials or products.

22 (13) "Marketing" means the sale, disposition, assignment, or
23 placement of designated recyclable materials with, or the granting
24 of a concession to, a reseller, processor, materials recovery facility,
25 or end-user of recyclable material, in accordance with a district
26 solid waste management plan adopted pursuant to P.L.1970, c.39
27 (C.13:1E-1 et seq.) and shall not include the collection of such
28 recyclable material when collected through a system of routes by
29 local government unit employees or under a contract administered
30 by a local government unit.

31 (14) "Municipal solid waste" means, as appropriate to the
32 circumstances, all residential, commercial and institutional solid
33 waste generated within the boundaries of a municipality; or the
34 formal collection of such solid wastes or recyclable material in any
35 combination thereof when collected through a system of routes by
36 local government unit employees or under a contract administered
37 by a local government unit.

38 (15) "Distribution" (when used in relation to electricity) means
39 the process of conveying electricity from a contracting unit that is a
40 generator of electricity or a wholesale purchaser of electricity to
41 retail customers or other end users of electricity.

42 (16) "Transmission" (when used in relation to electricity) means
43 the conveyance of electricity from its point of generation to a
44 contracting unit that purchases it on a wholesale basis for resale.

45 (17) "Disposition" means the transportation, placement, reuse,
46 sale, donation, transfer or temporary storage of recyclable materials
47 for all possible uses except for disposal as municipal solid waste.

1 (18) "Cooperative marketing" means the joint marketing by two
2 or more contracting units of the source separated recyclable
3 materials designated in a district recycling plan required pursuant to
4 section 3 of P.L.1987, c.102 (C.13:1E-99.13) pursuant to a written
5 cooperative agreement entered into by the participating contracting
6 units thereof.

7 (19) "Aggregate" means the sums expended or to be expended
8 for the provision or performance of any goods or services in
9 connection with the same immediate purpose or task, or the
10 furnishing of similar goods or services, during the same contract
11 year through a contract awarded by a contracting agent.

12 (20) "Bid threshold" means the dollar amount set in section 3 of
13 P.L.1971, c.198 (C.40A:11-3), above which a contracting unit shall
14 advertise for and receive sealed bids in accordance with procedures
15 set forth in P.L.1999, c.440 (C.40A:11-4.1 et al.).

16 (21) "Contract" means any agreement, including but not limited
17 to a purchase order or a formal agreement, which is a legally
18 binding relationship enforceable by law, between a vendor who
19 agrees to provide or perform goods or services and a contracting
20 unit which agrees to compensate a vendor, as defined by and subject
21 to the terms and conditions of the agreement. A contract also may
22 include an arrangement whereby a vendor compensates a
23 contracting unit for the vendor's right to perform a service, such as,
24 but not limited to, operating a concession.

25 (22) "Contract year" means the period of 12 consecutive months
26 following the award of a contract.

27 (23) "Competitive contracting" means the method described in
28 sections 1 through 5 of P.L.1999, c.440 (C.40A:11-4.1 thru 40A:11-
29 4.5) of contracting for specialized goods and services in which
30 formal proposals are solicited from vendors; formal proposals are
31 evaluated by the purchasing agent or counsel or administrator; and
32 the governing body awards a contract to a vendor or vendors from
33 among the formal proposals received.

34 (24) "Goods and services" or "goods or services" means any
35 work, labor, commodities, equipment, materials, or supplies of any
36 tangible or intangible nature, except real property or any interest
37 therein, provided or performed through a contract awarded by a
38 contracting agent, including goods and property subject to
39 N.J.S.12A:2-101 et seq.

40 (25) "Library and educational goods and services" means
41 textbooks, copyrighted materials, student produced publications and
42 services incidental thereto, including but not limited to books,
43 periodicals, newspapers, documents, pamphlets, photographs,
44 reproductions, microfilms, pictorial or graphic works, musical
45 scores, maps, charts, globes, sound recordings, slides, films,
46 filmstrips, video and magnetic tapes, other printed or published
47 matter and audiovisual and other materials of a similar nature,

1 necessary binding or rebinding of library materials, and specialized
2 computer software used as a supplement or in lieu of textbooks or
3 reference material.

4 (26) "Lowest price" means the least possible amount that meets
5 all requirements of the request of a contracting agent.

6 (27) "Lowest responsible bidder or vendor" means the bidder or
7 vendor: (a) whose response to a request for bids offers the lowest
8 price and is responsive; and (b) who is responsible.

9 (28) "Official newspaper" means any newspaper designated by
10 the contracting unit pursuant to R.S.35:1-1 et seq.

11 (29) "Purchase order" means a document issued by the
12 contracting agent authorizing a purchase transaction with a vendor
13 to provide or perform goods or services to the contracting unit,
14 which, when fulfilled in accordance with the terms and conditions
15 of a request of a contracting agent and other provisions and
16 procedures that may be established by the contracting unit, will
17 result in payment by the contracting unit.

18 (30) "Purchasing agent" means the individual duly assigned the
19 authority, responsibility, and accountability for the purchasing
20 activity of the contracting unit, and who has such duties as are
21 defined by an authority appropriate to the form and structure of the
22 contracting unit, and P.L.1971, c.198 (C.40A:11-1 et seq.).

23 (31) "Quotation" means the response to a formal or informal
24 request made by a contracting agent by a vendor for provision or
25 performance of goods or services, when the aggregate cost is less
26 than the bid threshold. Quotations may be in writing, or taken
27 verbally if a record is kept by the contracting agent.

28 (32) "Responsible" means able to complete the contract in
29 accordance with its requirements, including but not limited to
30 requirements pertaining to experience, moral integrity, operating
31 capacity, financial capacity, credit, and workforce, equipment, and
32 facilities availability.

33 (33) "Responsive" means conforming in all material respects to
34 the terms and conditions, specifications, legal requirements, and
35 other provisions of the request.

36 (34) "Public works" means building, altering, repairing,
37 improving or demolishing any public structure or facility
38 constructed or acquired by a contracting unit to house local
39 government functions or provide water, waste disposal, power,
40 transportation, and other public infrastructures.

41 (35) "Director" means the Director of the Division of Local
42 Government Services in the Department of Community Affairs.

43 (36) "Administrator" means a municipal administrator appointed
44 pursuant to N.J.S.40A:9-136 and N.J.S.40A:9-137; a business
45 administrator, a municipal manager or a municipal administrator
46 appointed pursuant to the "Optional Municipal Charter Law,"
47 P.L.1950, c.210 (C.40:69A-1 et seq.); a municipal manager

1 appointed pursuant to "the municipal manager form of government
2 law," R.S.40:79-1 et seq.; or the person holding responsibility for
3 the overall operations of an authority that falls under the "Local
4 Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et
5 seq.).

6 (37) "Concession" means the granting of a license or right to act
7 for or on behalf of the contracting unit, or to provide a service
8 requiring the approval or endorsement of the contracting unit, and
9 which may or may not involve a payment or exchange, or provision
10 of services by or to the contracting unit.

11 (38) "Index rate" means the rate of annual percentage increase,
12 rounded to the nearest half-percent, in the Implicit Price Deflator
13 for State and Local Government Purchases of Goods and Services,
14 computed and published quarterly by the United States Department
15 of Commerce, Bureau of Economic Analysis.

16 (39) "Proprietary" means goods or services of a specialized
17 nature, that may be made or marketed by a person or persons having
18 the exclusive right to make or sell them, when the need for such
19 goods or services has been certified in writing by the governing
20 body of the contracting unit to be necessary for the conduct of its
21 affairs.

22 (40) "Service or services" means the performance of work, or the
23 furnishing of labor, time, or effort, or any combination thereof, not
24 involving or connected to the delivery or ownership of a specified
25 end product or goods or a manufacturing process. Service or
26 services may also include an arrangement in which a vendor
27 compensates the contracting unit for the vendor's right to operate a
28 concession.

29 (cf: P.L.2002, c.47, s.7)

30

31 ¹**[10.] 12.**¹ This act shall take effect immediately.