

SEWERAGE AUTHORITIES

40:14A-1. Citation of act

This act shall be known and may be cited as the "sewerage authorities law."

P.L. 1946, c. 138, § 1, eff. April 23, 1946.

40:14A-2. Declaration of policy; purpose

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 relief of waters in or bordering the State from pollution and thus to reduce and ultimately abate the menace to the public health resulting from such pollution. 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 sewerage authority, to acquire, construct, maintain, operate or improve works for the collection, treatment, purification or disposal of sewage or other wastes, and, if necessary, works 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 sewer, sewage treatment or sewage disposal system operated by the sewerage authority;

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

(3) Creating as a body corporate and politic sewerage 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 sewerage authorities discretionary powers to provide for sewerage services designed to relieve pollution of such waters 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.

P.L. 1946, c. 138, §2. Amended by L.1951, c. 127, § 1; L.1953, c. 177, § 2, eff. May 29, 1953.

40:14A-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 or 21 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;

SEWERAGE AUTHORITIES

- (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 sewerage authority;
- (5) "Sewerage authority" shall mean a public body created pursuant to section 4 of this act;
- (6) Subject to the exceptions provided in section 4 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 the creation of a sewerage authority;
- (7) "Local unit" shall mean the county, or any municipality, which created or joined in the creation of a sewerage authority;
- (8) "Sewerage system" shall mean the plants, structures, on-site waste-water systems, and other real and personal property acquired, constructed, maintained or operated or to be acquired, constructed, maintained or operated by a sewerage authority for the purposes of the sewerage authority, including sewers, conduits, pipe lines, mains, pumping and ventilating stations, sewage treatment or disposal systems, plants and works, connections, and 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;
- (9) "Cost" shall mean, in addition to the usual connotations thereof, the cost of acquisition or construction of all or any part of a sewerage system and of all or any property, rights, easements, privileges, agreements and franchises deemed by the sewerage 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, costs of financial, professional and other estimates and advice, organization, administrative, operating and other expenses of the sewerage 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 sewerage 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 sewerage authority may determine, and also reimbursements to the sewerage authority or any county, municipality or other person of any moneys theretofore expended for the

SEWERAGE AUTHORITIES

purposes of the sewerage authority or to any county or municipality of any moneys theretofore expended for in connection with sanitation facilities;

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

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

(12) "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;

(13) "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 as may be present;

(14) "On-site wastewater system" means any of several works, 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;

(15) "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;

(16) "Ordinance" means a written act of the governing body of a municipality adopted and otherwise approved and published in the manner or mode of procedure prescribed for ordinances tending to obligate such municipality pecuniarily;

(17) "Resolution" means a written act of the governing body of a local unit adopted and otherwise approved in the manner or mode of procedure prescribed for resolutions tending to obligate such local unit pecuniarily;

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

(19) "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 sewer, sewage treatment or sewage disposal system operated by the sewerage authority.

SEWERAGE AUTHORITIES

40:14A-4. Creation of sewerage authorities

(a) The governing body of any county may, by resolution duly adopted, create a public body corporate and politic under the name and style of "the..... sewerage authority, " with all or any significant part of the name of such county inserted. Said body shall consist of the five members thereof, who shall be appointed by resolution of the governing body as hereinafter in this section provided, together with the additional members thereof, if any, appointed as hereinafter in subsection (i) of this section provided, and it shall constitute the sewerage authority contemplated and provided for in this act and an agency and instrumentality of said county. After the taking effect of the resolution for the creation of said body and the filing of a certified copy thereof as in subsection (d) of this section provided, five persons shall be appointed as the members of the sewerage 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 dates of their appointments. On or after January 1 in each year after such first appointments, one person shall be appointed as a member of the sewerage 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 sewerage authority occurring during an unexpired term of office, a person shall be appointed as a member of the sewerage authority to serve for such unexpired term.

(b) The governing body of any municipality may, by ordinance duly adopted, create a public body corporate and politic under the name and style of "the sewerage authority, " with all or any significant part of the name of such municipality inserted. A sewerage authority created pursuant to this section by a municipality other than a city of the first class shall consist of five members and a sewerage authority created pursuant to this section by a municipality which is a city of the first class shall consist of five or seven members, as determined by the governing body. Members of the sewerage authority shall be appointed by resolution of the governing body as hereinafter in this section provided, and the authority shall constitute the sewerage authority contemplated and provided for in this act and an agency and instrumentality of said municipality. After the taking effect of such ordinance and the filing of a certified copy thereof as in subsection (d) of this section provided, the members of the sewerage authority shall be appointed. The members first appointed shall, by the resolution of appointment, be designated to serve for terms respectively expiring as follows: the terms of the first four members shall expire in turn on each of the first days of the first, second, third and fourth Februarys next ensuing after the dates of their appointments, and the remaining members shall be designated to serve for terms expiring on the first day of the fifth February 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 or reappointed as a member of the sewerage authority to succeed each member whose term is expiring, and shall 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 sewerage authority occurring during an unexpired term of office, a person shall be appointed as a member of the sewerage authority to serve for such unexpired term.

SEWERAGE AUTHORITIES

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

(c) The governing bodies of any two or more municipalities or any two or more counties, the areas of which together comprise an integral body of territory, may, by parallel ordinances, or in the case of counties, by parallel resolutions, 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 sewerage authority, " with all or any significant part of the name of each such municipality or county or some identifying geographical phrase inserted. Said body shall consist of the members thereof, in an aggregate number determined as hereinafter in this subsection provided, who shall be appointed by resolutions of the several governing bodies as hereinafter in this section provided, and it shall constitute the sewerage authority contemplated and provided for in this act and an agency and instrumentality of the said municipalities or counties. The number of members of the sewerage authority to be appointed at any time for full terms of office by the governing body of any such municipality or county shall be as may be stated in said ordinances or resolutions, which shall be not less than one nor more than three. After the taking effect of the said ordinances or resolutions of all such municipalities or counties and after the filing of certified copies thereof as in subsection (d) of this section provided, the appropriate number of persons shall be appointed as members of the sewerage authority by the governing body of each municipality or county. In the case of municipalities or counties which by ordinance or resolution are entitled to appoint only one member of the authority, the total number of members, if five or more, shall be divided into five classes as nearly equal as possible, except that if there are less than five members, each member shall constitute a class. The members initially appointed shall be appointed for such terms that the terms of one class shall expire on the first day of each of the first, second, third, fourth and fifth Februarys next ensuing the date of appointment. In the event the several municipalities or counties cannot agree on the terms of the respective representatives, such terms shall be determined by lot. On or after January 1 in each year after such appointments, the expiring terms shall be filled by the appointment for terms commencing February 1 in such year and expiring on the first day of the fifth February next ensuing.

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

In municipalities or counties entitled to appoint three members, the appointing authority shall designate one of the initial appointees to serve for a term of three years, one for four years and one for five years. In municipalities or counties entitled to appoint two

SEWERAGE AUTHORITIES

members, the appointing authority shall designate one of the initial appointees to serve for a term of five years and one for four years. 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 sewerage authority by the governing body of each municipality or county, 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 sewerage authority occurring during the unexpired term of office, a person shall be appointed as a member of the sewerage authority to serve for such unexpired term by the governing body which made the original appointment for such unexpired term.

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

(d) A copy of each resolution or ordinance for the creation of a sewerage 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 creation of a sewerage authority as aforesaid, the sewerage 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 sewerage authority, be conclusively deemed to have been lawfully and properly created 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.

(e) A copy of each resolution appointing any member of a sewerage 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. 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.

(f) The governing body of a county which may create or join in the creation of any sewerage authority pursuant to this section shall not thereafter create or join in the creation of any other sewerage authority. No governing body of any municipality constituting the whole or any part of a district shall create or join in the creation of any sewerage authority except upon the written consent of the sewerage authority and in accordance with the terms and conditions of such consent, and in the event such consent be given and a sewerage authority be created pursuant thereto, the terms and conditions of such consent shall thereafter be in all respects binding upon such municipality and the

SEWERAGE AUTHORITIES

sewerage authority so created, and any system of sewers or sewage disposal plants constructed or maintained in conformity with the terms and conditions of such consent by the sewerage authority so created shall be deemed not to be competitive with the sewerage systems of the sewerage authority giving such consent. In the event that prior to the creation of a sewerage authority of a county the governing body of any municipality located in said county shall have created or joined in the creation of a sewerage authority, the area within the territorial limits of such municipality shall not be part of the district of the sewerage authority of said county.

(g) 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 sewerage authority adopted by the governing body of any county pursuant to this section, 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 sewerage 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, the governing body of such municipality may, by ordinance duly adopted, determine that such area shall again 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 sewerage 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 forever be part of such district.

(h) The governing body of any local unit which has created a sewerage authority pursuant to subsection (a) or subsection (b) of this section may, in the case of a county by resolution duly adopted or in the case of a municipality by ordinance duly adopted, dissolve such sewerage authority on the conditions set forth in this subsection. The governing bodies of two or more local units which have created a sewerage authority pursuant to subsection (c) of this section may, by parallel ordinances duly adopted by each of such governing bodies within any single calendar year, dissolve such sewerage authority on the conditions set forth in this subsection. Such a sewerage authority may be dissolved on condition that (1) either the members of such authority have not been appointed or the sewerage authority, by resolution duly adopted, consents to such dissolution, and (2) the sewerage authority has no debts or obligations outstanding. Upon the dissolution of any sewerage authority in the manner provided in this subsection, the governing body or bodies dissolving such sewerage authority shall be deemed never to have created or joined in the creation of a sewerage authority. A copy of each resolution or ordinance for the dissolution of a sewerage authority adopted pursuant to this subsection, 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 sewerage authority as aforesaid and upon proof that such sewerage authority had no debts or obligations outstanding at the time of the adoption of such resolution, ordinance

SEWERAGE AUTHORITIES

or ordinances, the sewerage authority therein referred to shall be conclusively deemed to have been lawfully and properly dissolved and the property of the sewerage 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.

(i) Whenever the sewerage authority of any county shall certify to the governing body of any county that it has entered into a contract pursuant to section 23 of this act with one or more municipalities situate within any other county, one additional member of the sewerage authority for each such other county shall be appointed by resolution of 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 any 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 sewerage 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 any such other county the sewerage 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 23 of this act 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.

(j) If a municipality, the governing body of which has created a sewerage authority pursuant to subsection (b) of this section, has been or shall be consolidated with another municipality, the governing body of the new consolidated municipality may, by ordinance duly adopted, provide that the members of the sewerage authority shall thereafter be appointed by the governing body of such new consolidated municipality, which shall make appointment of members of the sewerage authority by resolution as hereinafter in this subsection provided. On or after the taking effect of such ordinance, one person shall be appointed as a member of the sewerage authority for a term commencing on February 1 in each year, if any, after the date of consolidation, in which has or shall have expired the term of a member of the sewerage authority theretofore appointed by the governing body of the municipality which has been or shall be so consolidated, and expiring on February 1 in the fifth year after such year. Thereafter, on or after January 1 in each year, one person shall be appointed as a member of the sewerage authority to serve for a term commencing on February 1 in such year and expiring February 1 in the fifth year after such year. In the event of a vacancy in the membership of the sewerage authority occurring during an unexpired term of office, a person shall be appointed as a member of the sewerage authority to serve for such unexpired term. Each member of the sewerage authority appointed by the governing body of a municipality which has been or shall be so consolidated shall continue in office until his successor has been appointed as in this subsection provided and has qualified.

SEWERAGE AUTHORITIES

(k) If a municipality, the governing body of which has created a sewerage authority pursuant to subsection (b) of this section, has been or shall be consolidated with another municipality, the governing body of the new consolidated municipality, subject to the rights of the holders, if any, of bonds issued by the sewerage authority, and upon receipt of the sewerage authority's written consent thereto, may provide, by ordinance duly adopted, that the area within the territorial boundaries of the new consolidated municipality shall constitute the district of the sewerage authority, and upon the taking effect of such ordinance, such area shall constitute the district of the sewerage authority. Until the taking effect of such ordinance, the district of the sewerage authority shall be the area within the territorial boundaries, as they existed at the date of the consolidation, of the municipality the governing body of which created the sewerage authority.

(l) Whenever, with the approval of any sewerage authority created by the governing bodies of two or more municipalities, any other municipality not constituting part of the district shall convey to the sewerage authority all or any part of a system of main, lateral or other sewers or other sewerage facilities located within the district and theretofore owned and operated by such other municipality, then, if so provided in the instruments of such conveyance, one additional member of the sewerage authority for such other municipality shall be appointed by resolution of its governing body as in this section provided. The additional member so appointed for such municipality, and his successors, shall be residents of such municipality. The additional member first appointed or to be first appointed for such municipality 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 sewerage 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 at any time after such conveyance of sewers or sewerage facilities by a municipality its governing body shall adopt a resolution determining not thereafter to be represented in the membership of the sewerage authority and shall file a copy thereof duly certified by its clerk in the office of the sewerage authority, the term of office of any such additional member theretofore appointed for such municipality shall thereupon cease and expire and no additional member for such municipality shall thereafter be appointed.

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

SEWERAGE AUTHORITIES

appropriate officer of such municipality, together with a certified copy of a resolution of said sewerage authority approving such ordinance, shall be filed in the office of the Secretary of State, then from and after such filing the service area shall forever be part of said contiguous district and said sewerage authority shall consist of the members thereof acting or appointed as in this section provided and constitute an agency and instrumentality of such municipality, as well as such other municipalities. The governing body of the said municipality so becoming part of said contiguous district shall thereupon appoint members of the sewerage authority in the number stated in such ordinance, for periods and in the manner provided for the first appointment of members of a sewerage authority under subsection (c) of this section.

(ii) If the service area of such municipality shall then be part of the district of any other sewerage authority or municipal authority, such other authority shall, by resolution adopted not more than one year prior to the adoption of such ordinance, consent to the inclusion of the service area in the district of said contiguous district, and the service area shall become part of said contiguous district as aforesaid and shall no longer be part of the district of such other authority for sewerage purposes. If only part of the area within the territorial limits of such municipality shall constitute the service area to become part of said contiguous district, the service area shall be that so designated or shown on a map thereof bearing legend or reference to this section and filed in the office of the clerk of such municipality and in the office of the secretary of each authority referred to in this section, and such map shall be incorporated by a reference thereto in such ordinance and resolution as or for a description of the service area. For all the purposes of this act, such sewerage authority shall be deemed to have been created by the governing body of such municipality jointly with the other municipalities (the territorial areas of which constitute the district of such contiguous authority), and such municipality shall have all powers, duties, rights and obligations provided for by this act or any other law for or with respect to such sewerage authority or any other sewerage authority or municipal authority, notwithstanding that only a part of the area within the territorial limits of such municipality shall become part of said contiguous district.

(n) The governing body of a county or municipality may provide, in the ordinance or resolution creating the sewerage authority, for not more than two alternate members. Alternate members shall be designated by the governing body 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 commence on the dates of their appointments and shall expire on the fourth or fifth January 31 next ensuing after the dates 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.

SEWERAGE AUTHORITIES

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

P.L. 1946, c.138, s.4; amended 1947, c.391; 1951, c.127, s.3; 1952, c.277, s.1; 1954, c.72; 1966, c.249, s.1; 1967, c.154; 1971, c.11; 1971, c.73; 1975, c.381; 1981, c.412, s.2; 1986, c.182; 1994, c.85, s.1.

40:14A-5. Quorum; terms; interest of members in contracts or property; removal; expenses; chairman; vice-chairman

(a) The powers of a sewerage authority shall be vested in the members thereof in office from time to time. A majority of the entire authorized membership of the sewerage authority shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the sewerage 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 sewerage authority shall require a larger number. The sewerage authority may delegate to one or more of its officers, agents or employees such powers and duties as it may deem proper.

(b) Each member of a sewerage authority shall hold office for the term for which he was appointed and until his successor has been appointed and has qualified.

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

SEWERAGE AUTHORITIES

members of the governing body of a local unit may be appointed by such governing body and may serve as members of a sewerage authority. A member of a sewerage 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 ten days thereafter, had opportunity in person or by counsel to be heard thereon by such governing body.

(d) A sewerage 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 sewerage authority may provide that the members of the sewerage 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 sewerage authority such compensation for his services as the sewerage authority may determine within the limitations stated in such resolution, ordinance or parallel ordinances. The said annual or other limitations stated in any such resolution, ordinance or parallel ordinances may be amended 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 sewerage authority then in office except upon the written consent of the sewerage authority. No member of any sewerage authority shall receive any compensation for his services except as provided in this subsection.

(e) Every sewerage authority, upon the first appointment of its members and thereafter on or after the first day of February in each year, shall annually elect from among its members a chairman and a vice-chairman who shall hold office, until the first day of February next ensuing and until their respective successors have been appointed and have qualified. Every sewerage authority may also, without regard to the provisions of Title 11 of the Revised Statutes, appoint and employ a secretary and such professional and technical advisers and experts and such other officers, agents and employees as it may require, and shall determine their qualifications, terms of office, duties and compensation.

P.L. 1948, c. 138, §5. Amended by L.1951, c. 127, § 4; L.1952, c. 277, § 2, eff. May 23, 1952.

40:14A-6. Sewers; acquisition; operation

(a) The purposes of every sewerage authority shall be 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.

(b) Every sewerage authority is hereby authorized and directed, 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, 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 trunk, intercepting and outlet sewers, conduits, pipelines, pumping and ventilating stations, treatment plants or works at such places

SEWERAGE AUTHORITIES

within or without the district, such compensating reservoirs within the county in which the district lies, and such other plants, structures, boats and conveyances, as in the judgment of the sewerage authority will provide an effective and satisfactory method for promoting the purposes of the sewerage authority.

(c) Every sewerage 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 the purposes of the sewerage authority.

P.L. 1946, c. 138, §6. Amended by L.1951, c. 127, § 5; L.1953, c. 177, § 4, eff. May 29, 1953.

40:14A-7. Sewerage authority a public body corporate; powers

Every sewerage 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 to be sued;
- (3) In the name of the sewerage 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 sewerage authority but for the local unit or units, to acquire, hold, use and dispose of other personal property for the purposes of the sewerage authority;
- (5) In the name of the sewerage authority but for the local unit or units, to acquire by purchase, gift, condemnation or otherwise, real property and easements therein, necessary or useful and convenient for the purposes of the sewerage authority, and subject to mortgages, deeds of trust or other liens, or otherwise, and to hold and to use the same, and to dispose of property so acquired no longer necessary for the purposes of the sewerage authority;
- (6) 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;
- (7) To accept gifts or grants of real or personal property, money, material, labor or supplies for the purposes of the sewerage 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;
- (8) To enter on any lands, waters or premises for the purpose of making surveys, borings, soundings and examinations for the purposes of the sewerage 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

SEWERAGE AUTHORITIES

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;

(9) To establish an inspection program to be performed at least once every 3 years on all on-site wastewater systems installed within its 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 an 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 sewerage authority shall provide notice to the owner and resident of the property on 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;

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

(11) 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 sewerage system and any other of its properties, and to amend the same;

(12) 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 persons;

(13) 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 sewerage 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

(14) To enter into any and all lease agreements with sewerage authorities, and municipalities, and counties operating sewerage systems, for the rental of equipment owned by authority and municipality and/or county, together with the personnel to operate said equipment.

P.L. 1946, c. 138, § 7, eff. April 23, 1946. Amended by L.1968, c.317, § 1, eff. Oct. 7, 1968; L.1975, c. 96, § 3, eff. May 16, 1975; L.1980, c. 77, § 2, eff. July 24, 1980.

40:14A-7.1. Audit of accounts of sewerage authority annually; filing

It shall be the duty of every "sewerage authority, " created pursuant to the act to which this act is a supplement, to cause an annual audit of the accounts of the authority to be made and filed with the authority, and for this purpose the authority shall employ a registered municipal accountant of New Jersey or a certified public accountant of New

SEWERAGE AUTHORITIES

Jersey. The audit shall be completed and filed with the authority within four months after the close of the fiscal year of the 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 five days after the original report is filed with the authority.

P.L. 1952, c. 301, § 1, eff. June 12, 1952.

40:14A-7.2. Certified copies of bond resolutions and proceedings; filing

Every such "sewerage authority" shall file a certified copy of every bond resolution as finally passed with the Director of the Division of Local Government in the Department of the Treasury and in addition shall file a certified copy of all bond proceedings with the said director.

P.L. 1952, c. 301, § 2, eff. June 12, 1952.

40:14A-7.3. Interest on deposits with sewerage authorities

Whenever a sewerage authority requires a person to deposit an amount of money exceeding \$5,000.00 for professional services employed by the sewerage authority, for sewerage 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 sewerage authority. Money deposited shall be held in escrow. The sewerage 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 sewerage 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 sewerage 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 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 sewerage 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. 314, § 1, eff. Aug. 28, 1985.

SEWERAGE AUTHORITIES

40:14A-8. Service charges authorized

(a) Every sewerage authority is hereby authorized to charge and collect rents, rates, fees or other charges (in this act sometimes referred to as "service charges") for direct or indirect connection with, or the use or services of, the sewerage system. Such 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 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 service charges to the sewerage authority at the time when and the place where such service charges are due and payable.

(b) Rents, rates, fees and charges, which may be payable periodically, being in the nature of use or service charges, shall as nearly as the sewerage 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. 1994, c.78 (C.40:14A-8.2), 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 thereof, including chlorine demand, biochemical oxygen demand, concentration of solids and chemical composition. In addition to any such periodic 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 toward the cost of the system:

(1) 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 the sewerage 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.

(2) 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

SEWERAGE AUTHORITIES

public entity under a service agreement or service contract which is not repaid to the public entity by the authority, shall then be subtracted.

(3) 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 sewage for the connector shall be divided by the average daily flow of sewage for 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 subsection (c) of this section. 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 periodic service charges shall meet the requirements of subsection (c) hereof.

(c) The sewerage authority shall prescribe and from time to time when necessary revise a schedule of service charges, which shall comply with the terms of any contract of the sewerage authority and in any event shall be such that the revenues of the sewerage authority will at all times be adequate to pay all expenses of operation and maintenance of the sewerage system, including reserves, insurance, extensions, and replacements, and to pay punctually 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 sewerage authority or as may be deemed necessary or desirable by the sewerage authority. Said schedule shall thus be prescribed and from time to time revised by the sewerage authority after public hearing thereon which shall be held by the sewerage 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 sewerage 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 sewerage 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 sewerage authority and shall at all reasonable times be open to public inspection.

(d) Any county sewerage authority may establish sewerage regions in portions of the district. Rents, rates, fees and charges which may be payable periodically, being in the nature of use or service charges, shall as nearly as the sewerage authority shall deem practicable and equitable, be uniform throughout the district for the same type, class and

SEWERAGE AUTHORITIES

amount of use or service of the sewerage systems, except as permitted by section 1 of P.L. 1994, c.78 (C.40:14A-8.2), and shall meet all other requirements of subsection (b) hereof.

P.L. 1946, c.138, s.8; amended 1968, c.317, s.2; 1975, c.320; 1981, c.125, s.1; 1985, c.118, s.1; 1985, c.526, s.1; 1994, c.78, s.2.

40:14A-9. Appropriations by local unit to sewerage authority; construction, financing and operation of sewage 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 sewerage authority, and to loan or donate such moneys to the sewerage authority in such installments and upon such terms as may be agreed upon between such local unit and the sewerage authority.

b. Subject to section 29 of this act (C. 40:14A-29), 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 arising within a district. Subject to the consent and approval of the sewerage 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 special assessments levied by a municipality against lands and real estate specially benefited by such improvements. As provided in section 22 of this act (C. 40:14A-22), such facilities may be acquired and operated by the sewerage authority as part of the sewerage system, notwithstanding that special assessments may be or may have been levied for such improvements by a municipality.

P.L. 1946, c. 138, § 9, eff. April 23, 1946. Amended by L.1970, c. 209, § 1, eff. Sept. 30, 1970.

40:14A-10. Bonds; issuance authorized

For the purpose of raising funds to pay the cost of any part of its sewerage system, a sewerage authority shall have power to authorize or provide for the issuance of bonds pursuant to this act. Such sewerage 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 part (in this act sometimes called "project") of the sewerage system to be constructed or acquired;

(2) state the cost or estimated cost of the project; and

(3) provide for the issuance of the bonds in accordance with either section eleven or section twelve of this act.

P.L. 1946, c. 138, § 10, eff. April 23, 1946.

SEWERAGE AUTHORITIES

40:14A-11. Resolution for issuance of bonds; ordinance; sale of bonds

(a) A bond resolution of a sewerage authority may provide for the issuance of bonds of the local unit or units in accordance with this section for the purpose stated in section ten. Such a bond resolution shall (1) determine and state the share of the cost of the project allocated and to be financed by each of the local units and (2) determine and state all of the details (except the rate or rates of interest payable thereon) of the bonds to be authorized and issued by each of the local units for the purpose of financing the project, all within the limitations and in accordance with the applicable requirements of article one of chapter one of Title 40 of the Revised Statutes (R.S., section 40:1-1 et seq.). A copy of such bond resolution, duly certified by the appropriate officer of the sewerage authority, shall be delivered to the governing body of each local unit.

(b) Upon receipt of such certified copy of the bond resolution, each local unit may appropriate the share of the cost of the project allocated to it by the bond resolution and shall have power to incur indebtedness, borrow money and issue its negotiable bonds for the purpose of financing such project and appropriation. Such bonds shall comply with the description thereof stated in the bond resolution and, if the governing body of such local unit shall determine to issue the same, shall be authorized by municipal bond ordinance or county bond resolution, as the case may be, finally adopted by the governing body of the local unit in accordance with the limitations, and any exceptions thereto, and in the manner or mode of procedure prescribed by article one of chapter one of Title 40 of the Revised Statutes (R.S., section 40:1-1 et seq.) except that (1) the purpose of such bonds may be described and identified merely by reference to the bond resolution, and (2) no down payment shall be required.

(c) If within ninety days after adoption of the bond resolution, the governing body of every local unit shall have adopted a municipal bond ordinance or county bond resolution authorizing the issuance of all of the bonds of such local unit contemplated and described in the bond resolution, no municipal bond ordinance or county bond resolution authorizing the issuance of any of the bonds contemplated and described in the bond resolution shall thereafter be repealed, amended or revoked, except with the previous consent of the sewerage authority.

(d) Such bonds shall be sold by the sewerage authority in accordance with this section at such times and in such blocks or installments and bearing such rates of interest and for such prices not less than their par value as the sewerage authority may direct. Such bonds may be sold by the sewerage authority in the manner or mode of procedure prescribed by section 40:1-53 of article one of chapter one of Title 40 of the Revised Statutes (R.S., section 40:1-1 et seq.) but if not so sold, shall be sold only at public sale upon sealed proposals after at least seven days' notice published at least once in a publication carrying municipal bond notices and devoted primarily to financial news or the subject of State and municipal bonds, published in New York City or in New Jersey, to the bidder on whose bid the total loan may be made at the lowest net cost, such net cost to be computed, as to each bid, by adding to the total principal amount of the bonds

SEWERAGE AUTHORITIES

which the bidder offers to accept, the total interest which will be paid under the terms of the bid, and deducting therefrom the amount bid for the bonds which shall not exceed by more than one thousand dollars (\$1,000.00) the par value of the bonds offered for sale. Such bonds shall be executed by the appropriate officials of the local unit and delivered to the purchasers in accordance with the contract of sale and the proceeds thereof shall be paid to the sewerage authority.

P.L. 1946, c. 138, § 11, eff. April 23, 1946.

40:14A-12. Funding or refunding bonds

(a) A bond resolution of a sewerage authority may provide for and authorize the issuance of bonds of the sewerage authority in accordance with this section for the purpose stated in section ten or for the purpose of funding or refunding any bonds. A bond resolution providing for and authorizing the issuance of bonds to fund or refund bonds shall, in lieu of the matters described in clauses (1) and (2) of section ten, describe the bonds which are to be funded or refunded.

(b) Upon adoption of the bond resolution, the sewerage 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 one or more series and shall bear such date or dates, mature at such time or times not exceeding forty years from the date thereof, bear interest at such rate or rates not exceeding six per centum (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.

(c) Bonds of a sewerage authority may be sold by the sewerage authority at public or private sale at such price or prices as the sewerage 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 six per centum (6%) per annum.

P.L. 1946, c. 138, § 12, eff. April 23, 1946.

40:14A-13. Interim certificates or bonds

After sale of any bonds pursuant to section eleven or section twelve of this act, the sewerage authority shall have power to authorize the execution and issuance to the purchasers, pending the preparation of the definitive bonds, of interim certificates therefor or of temporary bonds or other temporary instruments exchangeable for the definitive bonds when prepared, executed and ready for delivery. The holders of such

SEWERAGE AUTHORITIES

interim certificates, temporary bonds or other temporary instruments shall have all the rights and remedies which they would have as holders of the definitive bonds.

P.L. 1946, c. 138, § 13, eff. April 23, 1946.

40:14A-14. Filing copy of bond resolution; publication of notice; objections

Any sewerage 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 of the creation and establishment of the sewerage authority, or the validity or proper authorization of bonds provided for by the bond resolution, or the validity of any covenants, agreements or contracts provided for by the bond resolution shall be commenced within twenty days after the first publication of such notice. If no such action or proceeding shall be commenced or instituted within twenty days after the first publication of such notice, then all residents and taxpayers and owners of property in the district and users of the sewerage 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 sewerage authority, the validity or proper authorization of such bonds, or the validity of any such covenants, agreements or contracts, 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. 1946, c. 138, §14. Amended by L.1951, c. 127, p. 555, § 6, eff. May 29, 1951.

40:14A-15. 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. 1946, c. 138, § 15, eff. April 23, 1946.

SEWERAGE AUTHORITIES

40:14A-16. Provisions authorized in bond resolution

Any bond resolution of a sewerage authority providing for or authorizing the issuance of any bonds may contain provisions, and such sewerage authority, in order to secure the payment of such bonds and in addition to its other powers, shall have power by provision in the 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 sewerage system;

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

(9) the rents, rates, fees, or other charges for connection with or the use or services of the sewerage 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 sewerage system or any obligations having or which may have a lien on any part of the system revenues;

SEWERAGE AUTHORITIES

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

(12) limitations on the powers of the sewerage 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 sewerage system;

(13) vesting in a trustee or trustees such property, rights, powers and duties in trust as the sewerage 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 seventeen of this act, and limiting or abrogating the right of such holders to appoint a trustee pursuant to section seventeen 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 sewerage 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 mandamus or other appropriate action, suit, or proceeding at law or in equity in any court of competent jurisdiction.

P.L. 1946, c. 138, § 16, eff. April 23, 1946.

40:14A-17. Series of bonds; default; trustee for holders

(a) The provisions of this section shall be applicable to a series of bonds authorized or issued under this act only if the bond resolution of the sewerage authority authorizing or providing for the issuance of such bonds shall provide in substance that the holders of the bonds of such series shall be entitled to the benefits, and be subject to the provisions, of this section.

(b) 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 thirty days, or in the event that the sewerage 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 of such bonds, and such failure or refusal shall continue for a period of

SEWERAGE AUTHORITIES

thirty days after written notice to the sewerage authority of its existence and nature, the holders of twenty-five per centum (25%) in aggregate principal amount of the bonds of such series then outstanding, by instrument or instruments filed 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.

(c) Such trustee may and upon written request of the holders of twenty-five per centum (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 sewerage authority to charge and collect service charges adequate to carry out any contract as to, or pledge of, system revenues, and to require the sewerage 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 sewerage 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 thirty days' prior notice in writing to the sewerage authority and, if all defaults shall be made good, then with the consent of the holders of twenty-five per centum (25%) of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

(d) 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.

(e) 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 sewerage authority pledged for the payment or security of bonds of such series.

SEWERAGE AUTHORITIES

40:14A-18. Receiver; powers

If a bond resolution of a sewerage authority authorizing or providing for the issuance of the bonds of any series shall contain the provision authorized by subsection (a) of section seventeen of this act and shall further provide in substance that any trustee appointed pursuant to said section shall have the powers provided by this section, then such trustee, whether or not 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 sewerage system, and such receiver may enter upon and take possession of the sewerage 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 sewerage system and proceed with such acquisition, construction, operation, maintenance or reconstruction which the sewerage authority is under any obligation to do, and operate, maintain and reconstruct the sewerage 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 sewerage authority in the same manner as the sewerage authority itself might do and under the direction of the court.

P.L. 1946, c. 138, § 18, eff. April 23, 1946.

40:14A-19. Liability on bonds; exemptions

Neither the members of the sewerage 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 sewerage 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 sewerage authority to incur any indebtedness on behalf of or in any way to obligate the State or any county or municipality.

P.L. 1946, c. 138, § 19, eff. April 23, 1946.

40:14A-20. Real property; acquisition

Every sewerage 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 sewerage 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

SEWERAGE AUTHORITIES

subdivision of the State, or public body or agency of such political subdivision, has any right, title or interest. Such sewerage authority is hereby empowered to acquire and take such real property, including any such public property or such public interest therein, by condemnation, in the manner provided by chapter 1 of Title 20, Eminent Domain, of the Revised Statutes (R.S. 20:1-1 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 of such local unit or units to acquire or take property for public use.

Upon the filing of a complaint in any action to fix the compensation to be paid for any such property, or at any time thereafter, such sewerage authority may file with the clerk of the county in which such property is located and also with the Clerk of the Superior Court a declaration of taking, signed by the sewerage authority, declaring that possession of 1 or more of the tracts or parcels of land or property described in the complaint is thereby being taken by and for the use of the sewerage authority. The said declaration of taking shall be sufficient if it sets forth (1) a description of each tract or parcel of land or property to be so taken sufficient for the identification thereof to which there may or may not be attached a plan or map thereof; (2) a statement of the estate or interest in the said land or property being taken; (3) a statement of the sum of money estimated by the sewerage authority by resolution to be just compensation for the taking of the estate or interest in each tract or parcel of land or property described in said declaration; and (4) that, in compliance with the provisions of this act, the sewerage authority has established and is maintaining a trust fund as hereinafter provided.

Upon the filing of the said declaration, the sewerage authority shall deposit with the Clerk of the Superior Court the amount of the estimated compensation stated in said declaration. In addition to the said deposits with the Clerk of the Superior Court the sewerage authority at all times shall maintain a fund on deposit with a bank or trust company doing business in this State in an amount at least equal to the aggregate amount deposited with the Clerk of the Superior Court as estimated compensation for all property described in declarations of taking with respect to which the compensation has not been finally determined and paid to the persons entitled thereto or into court. Said fund shall consist of cash or securities readily convertible into cash constituting legal investments for trust funds under the laws of this State or may consist of all or some part of the proceeds of bonds of the sewerage authority held by any trustee for the holders of such bonds and available for payment for the land or other property described in such declarations of taking. Said fund shall be held by or on behalf of the sewerage authority to secure and may be applied to the payment of just compensation for the land or other property described in such declarations of taking. The sewerage authority shall be entitled to withdraw from said fund from time to time so much as may then be in excess of the aggregate amount deposited with the Clerk of the Superior Court as estimated compensation for all property described in declarations of taking with respect to which the compensation has not been finally determined and paid to the persons entitled thereto or into court.

SEWERAGE AUTHORITIES

Upon the filing of the said declaration as aforesaid and depositing with the Clerk of the Superior Court the amount of the estimated compensation stated in said declaration, the sewerage authority, without other process or proceedings, shall be entitled to the exclusive possession and use of each tract of land or property described in said declaration and may forthwith enter into and take possession of said land or property, it being the intent of this provision that the action to fix compensation to be paid or any other proceedings relating to the taking of said land or interest therein or other property shall not delay the taking of possession thereof and the use thereof by the sewerage authority for the purpose or purposes for which the sewerage authority is authorized by law to acquire or condemn such land or other property or interest therein.

The sewerage authority shall cause notice of the filing of said declaration and the making of said deposit to be served upon each party to the action to fix the compensation to be paid, who resides in this State, either personally or by leaving a copy thereof at his residence, if known, and upon each such party who resides out of the State, by mailing a copy thereof to him at his residence, if known. In the event that the residence of any such party or the name of such party is unknown, such notice shall be published at least once in a newspaper published or circulating in the county or counties in which the land is located. Such service, mailing or publication shall be made within ten days after filing such declaration. Upon the application of any party in interest and after notice to other parties in interest, including the sewerage authority, the Superior Court may direct that the money deposited with the Clerk of the Superior Court or any part thereof be paid forthwith to the person or persons entitled thereto for or on account of the just compensation to be awarded in said action; provided, that each such person shall have filed with the Clerk of the Superior Court a consent in writing that, in the event the award in the said action shall be less than the amount deposited, the court, after such notice as the court prescribes and hearing, may determine his liability, if any, for the return of such difference or any part thereof and enter judgment therefor. If the amount of the award as finally determined shall exceed the amount so deposited, the person or persons to whom the award is payable shall be entitled to recover from the sewerage authority the difference between the amount of the deposit and the amount of the award, with interest at the rate of 6% per annum thereon from the date of making the deposit. If the amount of the award shall be less than the amount so deposited, the Clerk of the Superior Court shall return the difference between the amount of the award and the deposit to the sewerage authority unless the amount of the deposit or any part thereof shall have theretofore been distributed, in which event the court, on application of the sewerage authority and notice to all persons interested in the award and affording them an opportunity to be heard, shall enter judgment in favor of the sewerage authority for such difference against the party or parties liable for the return thereof.

The sewerage authority shall not abandon any condemnation proceeding subsequent to the date upon which it has taken possession of the land or property as herein provided.

In addition to other powers conferred by this act or by any other law, and not in limitation thereof, every sewerage authority, in connection with construction or operation of any part of a sewerage system, shall have power to make reasonable regulations for the

SEWERAGE AUTHORITIES

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 sewerage system, any sewerage 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 sewerage 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 sewerage authority and may be included in the cost of such sewerage 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.

P.L. 1946, c. 138, §20. Amended by L.1951, c. 127, § 7; L.1953, c. 177, § 5; P.L. 1956, c. 113, § 1, eff. June 21, 1946.

40:14A-21. Interest on service charges; liens; enforcement

(a) In the event that a service charge of any sewerage 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 sewerage 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 sewerage authority.

(b) In the event that a service charge of any sewerage 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 sewerage authority shall have filed in the office of the collector or other officer of said municipality charged with the duty of enforcing

SEWERAGE AUTHORITIES

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 sewerage authority, such statement shall be promptly withdrawn or canceled by the sewerage authority.

(c) In the event that a service charge of any sewerage authority with regard to any parcel of real property shall not be paid as and when due, the sewerage authority may, in its discretion, enter upon such parcel and cause the connection thereof leading directly or indirectly to the sewerage 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 sewerage authority.

(d) In the event that a service charge of any sewerage authority with regard to any parcel of real property shall not be paid as and when due, the sewerage authority may, in accordance with section twenty-six of this act, cause the supply of water to such parcel to be stopped or restricted 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 sewerage authority. If for any reason such supply of water shall not be promptly stopped or restricted as required by section twenty-six of this act, the sewerage 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. The supply of water to such parcel shall, notwithstanding the provisions of this subsection, 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 sewerage authority that the continuance of such stopping or restriction of the supply of water endangers the health of the public in such municipality.

(e) 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 sewerage authority pursuant to subsection (b) of this section, and shall pay over to the sewerage 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.

(f) In the event that any service charge of a sewerage authority shall not be paid as and when due, the unpaid balance thereof and all interest accrued thereon, together with attorney's fees and costs, may be recovered by the sewerage 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 sewerage authority by action or suit in equity as for the foreclosure of a mortgage on such real property.

SEWERAGE AUTHORITIES

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

P.L. 1946, c. 138, § 21, eff. April 23, 1946. Amended by L.1981, c. 530, § 1, eff. Jan. 12, 1982.

40:14A-22. Sale or lease of property by county or municipality to sewerage 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 and without the consent of any board, officer or other agency of the State, to sell, lease, lend, grant or convey to any sewerage authority, or to permit any sewerage authority to use, maintain or operate as part of the sewerage system, any real or personal property owned by it, including all or any part of any system of main, lateral or other sewers or other sewerage facilities, which may be necessary or useful and convenient for the purposes of the sewerage authority and which may be accepted by the sewerage 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 sewerage authority in conformity with its contracts with the holders of any bonds. Subject to any such contracts with holders of bonds, the sewerage 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 sewerage system.

P.L. 1946, c. 138, § 22, eff. April 23, 1946.

40:14A-23. Contracts for collection, treatment or disposal of sewage; powers of sewerage authority

Any sewerage authority, for the carrying out and effectuation of its purposes, and (a) any of the local units or (b) any other municipality whether within or without the district, and (c) any other sewerage authority, any municipal authority or any other public body of the State empowered to treat or dispose of sewage (all such local units, municipalities, other sewerage authorities, municipal authorities and other public 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 sewerage 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 originating in the district or received by the sewerage authority, or originating in the territorial area of or collected by the governmental unit, by means of the sewerage system or any sewage facilities of the

SEWERAGE AUTHORITIES

governmental unit or both, and the cost and expense of such collection, treatment and disposal. Such contract or contracts may provide for the payment to the sewerage 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 subsection (b) of section 8 of this act or in any other manner, as said contract or contracts may provide, and the sum or sums so payable may include provision for all or any part or a share of the amounts necessary (1) to pay or provide for the expenses of operation and maintenance of the sewerage system, including without limitation insurance, extension, betterments and replacements and the principal of and interest on any bonds, and (2) to provide for any deficits resulting from failure to receive sums payable to the sewerage authority by such governmental unit, any other governmental unit or county, or any person, or from any other cause, and (3) to maintain such reserves or sinking funds for any of the foregoing as may be required by the terms of any contract of the sewerage authority or as may be deemed necessary or desirable by the sewerage authority. Any such contract may provide that the sum or sums so payable to the sewerage authority shall be in lieu of all or any part of the service charges which would otherwise be charged and collected by the sewerage 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 sewerage authority and determined by it to be necessary for its purposes prior to the placing in operation of the sewerage system and may provide for the payment by the governmental unit to the sewerage 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 sewerage authority. Every such contract shall be authorized and entered into under and pursuant to a resolution adopted by the authority in the case of a sewerage or other authority, an ordinance of the governing body in the case of a municipality, a resolution 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 and 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 sewerage 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. Any contract heretofore or hereafter entered into pursuant to authority of this section shall be valid and shall be binding upon the parties thereto whether or not the terms or text of said contract had been set forth in full or stated in any ordinance or resolution authorizing such contract provided the form of such contract had been filed as aforesaid and the place and fact of such filing was described in such ordinance. Every such governmental unit is

SEWERAGE AUTHORITIES

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 governmental unit. Subject to any such contracts with the holders of bonds, the sewerage 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 sewerage 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 sewerage 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 the governmental unit.

P.L. 1946, c. 138 §23. Amended by L.1951, c. 127, § 8; L.1952, c. 277, § 3, eff. May 23, 1952; L.1970, c. 37, § 1, eff. May 1, 1970; L.1971, c. 27, § 1, eff. Feb. 11, 1971; L.1974, c. 165, § 1, eff. Dec. 6, 1974.

40:14A-24. Sewage and industrial wastes

In order to carry out and effectuate its purposes, any sewerage 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 sewerage and industrial wastes originating within or without the district and to enter into a contract or contracts with any other sewerage authority or any municipality in an adjoining State which is authorized to enter into such a contract or 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 sewerage and industrial wastes. Any such contract may contain any of the terms and provisions set forth in section 23 of this act and permitted by said section to be contained in contracts made thereunder. The sewerage authority and such other sewerage authority, municipality and 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 sewerage authority, other sewerage authority, municipality or person.

P.L. 1946, c. 138, §24. Amended by L.1951, c. 127, § 9; L.1958, c. 135, § 1; P.L. 1964, c. 31, § 1, eff. May 4, 1964.

40:14A-25. Connections with existing drains and pumping stations

(a) In order to carry out and effectuate its purposes, every sewerage authority is hereby authorized to enter upon and use and connect with any existing public drains, sewers, conduits, pipe lines, pumping and ventilating stations and treatment plants or works or any other public property of a similar nature within the district and, if deemed necessary

SEWERAGE AUTHORITIES

by the sewerage authority, close off and seal outlets and outfalls therefrom. No sewerage authority shall, however, take permanent possession or make permanent use of any such treatment plant or works unless it acquires the same.

(b) In order to carry out and effectuate its purposes, every sewerage authority is hereby authorized to construct, maintain and operate its sewerage 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. 1946, c. 138, §25. Amended by L.1951, c. 127, § 10, eff. May 29, 1951.

40:14A-26. Connections with drains serving county and other property; service charges

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

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

(c) Each county, municipality and other person owning or operating any sewer or drain which serves three or more parcels of real property in the district and which discharges sewage into waters in or bordering the State shall, upon notice from the sewerage 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 sewerage authority may specify and shall thereafter cause said sewer or drain to discharge into the sewerage system.

(d) Each county, municipality and other person owning or operating any system of water distribution serving three or more parcels of real property in the district shall, from time to time after request therefor by the sewerage authority, deliver to the sewerage 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 sewerage authority within sixty days after the making of such records, and the sewerage authority shall pay the reasonable cost of preparation and delivery of such copies.

SEWERAGE AUTHORITIES

(e) Each county and municipality owning or operating any system of water distribution serving three 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 sewerage authority that it will, upon request by the sewerage authority specifying a parcel of real property in the district with regard to which a service charge under section eight 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 sewerage 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 sewerage 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 sewerage 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. 1946, c. 138, § 26, eff. April 23, 1946.

40:14A-27. Mortgage or sale of property of authority; limitations; exemption

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

P.L. 1946, c. 138, § 27, eff. April 23, 1946.

40:14A-28. Pollution prohibited; prevention of violations

(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 in the district, to the effect that the sewerage 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

SEWERAGE AUTHORITIES

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 sewerage system of any sewerage authority any matter or thing which is or may be injurious or deleterious to such sewerage system, or to its efficient operation.

(c) 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 sewerage authority or by any county prosecutor.

(d) 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 or in drydock.

P.L. 1946, c. 138, §28. Amended by L.1953, c. 37 § 12, eff. March 19, 1953.

40:14A-29. Construction of other disposal plants prohibited

No sewage disposal plant or other facilities for the collection, treatment or disposal of sewage arising within a district shall be constructed unless the sewerage authority shall give its consent thereto and approve the plans and specifications therefor. Each sewerage authority is hereby empowered to give such consent and approval, subject, however, to the terms and provisions of any agreement with the holders of bonds.

P.L. 1946, c. 138, § 29, eff. April 23, 1946.

40:14A-30. Investments in sewerage authority bonds authorized

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. 1946, c. 138, § 30, eff. April 23, 1946.

SEWERAGE AUTHORITIES

40:14A-31. Taxation exemption

Every sewerage system and all other property of a sewerage 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 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. 1946, c. 138, § 31, eff. April 23, 1946.

40:14A-32. Pledge of State to 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 sewerage authority that the State will not authorize or permit the construction or maintenance of any system of sewers or sewage disposal plants which will be competitive with the sewerage system of the sewerage authority, and will not limit or alter the rights hereby vested in the sewerage authority to acquire, construct, maintain, reconstruct and operate its sewerage 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. 1946, c. 138, § 32, eff. April 23, 1946.

40:14A-33. Depository bonds required of banking institutions

All banks, bankers, trust companies, savings banks, investment companies and other persons carrying on a banking business are hereby authorized to give to any sewerage authority a good and sufficient undertaking with such sureties as shall be approved by the sewerage 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 sewerage authority or its authorized agent all such funds as may be deposited with it by the sewerage authority and agreed interest thereon, at such times or upon such demands as may be agreed upon with the authority or, in lieu of such sureties, deposit with the sewerage authority or its authorized agent or any trustee therefor or for the holders of any bonds, as collateral, such securities as the sewerage authority may approve; provided,

SEWERAGE AUTHORITIES

such securities shall consist of obligations in which public officers and bodies of the State and its municipal subdivisions, savings institutions, including savings and loan associations, insurance companies and associations, executors, administrators, guardians, trustees and other fiduciaries in the State may properly and legally invest the funds within their control, in such principal amount, market value or other description as may be approved by the sewerage authority. The deposits of the sewerage authority may be evidenced by a depository collateral agreement in such form and upon such terms and conditions as may be agreed upon by the sewerage authority and such bank or banking institution.

P.L. 1946, c. 138, § 33, eff. April 23, 1946.

40:14A-34. Repeal section

Article three of chapter sixty-three of Title 40, Municipalities and Counties, of the Revised Statutes (R.S. § 40:63-140 et seq.), is hereby repealed.

P.L. 1946, c. 138, § 34, eff. April 23, 1946.

40:14A-35. Liberal construction; independent authority

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 sewerage authority shall not be subject to regulation as to its service charges or as to any other matter whatsoever by any officer, board, agency, commission or other office of the State.

P.L. 1946, c. 138, § 35, eff. April 23, 1946.

40:14A-36. Contracts and jurisdiction of state agencies unimpaired

Nothing herein contained shall in any way affect or limit the jurisdiction or rights of the State Department of Health, Interstate Sanitation Commission, Interstate Commission on the Delaware River Basin or Passaic Valley Sewerage Commissioners; or impair the obligations assumed by any municipality included in any district created under this act in any contract made prior to the creation of such district, with one or more other municipalities or with the Passaic Valley Sewerage Commissioners.

P.L. 1946, c. 138, § 36, eff. April 23, 1946.

SEWERAGE AUTHORITIES

40:14A-37. Severability clause

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 one or more instances or under any one 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. 1946, c. 138, § 37, eff. April 23, 1946.