

SOLID WASTE MANAGEMENT AUTHORITIES

40:66A-32. Short title

This act shall be known and may be cited as the "Solid Waste Management Authorities Law."

P.L. 1968, c. 249, § 1, eff. Aug. 16, 1968.

40:66A-33. Public interest and policy declared

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 health and welfare of the citizens thereof by the proper collection and disposal of garbage, solid waste and other refuse matter.

P.L. 1968, c. 249, § 2, eff. Aug. 16, 1968.

40:66A-34. 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;

(2) "Governing body" shall mean the commission, council, board or body, by whatever name it may be known, having charge of the finances of the municipality;

(3) "Person" shall mean any person, association, corporation, nation, State or any agency or subdivision thereof, municipality of the State or a solid waste management authority;

(4) "Solid waste management authority" shall mean a public body created pursuant to section 4 of this act;

(5) Subject to the exceptions provided in the section 4 of this act, "district" shall mean the area within the territorial boundaries of the municipality or municipalities which created or joined in the creation of a solid waste management authority;

(6) "Local unit" shall mean any municipality which created or joined in the creation of a solid waste management authority;

(7) "Garbage and solid wastes disposal system" shall mean the plants, structures and other real and personal property acquired, constructed or operated or to be acquired, constructed or operated by a solid waste management authority, including incinerators or other plants for the treatment and disposal of garbage, solid waste and refuse matter and all other real and personal property and rights therein and appurtenances necessary or useful and convenient for the collection or treatment or disposal in a sanitary manner of garbage, solid waste and refuse matter (but not including sewage).

(8) "Cost" shall mean, in addition to the usual connotations thereof, the cost of acquisition or construction of all or any part of a garbage and solid waste disposal system

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of all or any property, rights, easements and franchises deemed by the solid waste management authority to be necessary or useful and convenient therefor, including reimbursements to the solid waste management authority or any municipality or other person of any moneys theretofore expended for the purposes of the solid waste management authority and including interest or discount on bonds to finance such cost, engineering and inspection costs and legal expenses, the cost of financial, professional and other advice, and the cost of issuance of any such bonds;

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

(10) "Construct" and "construction" shall connote, and include acts of construction, reconstruction, replacement, extension, improvement and betterment of a garbage and solid waste disposal system;

(11) "Garbage, solid wastes or refuse matter" shall mean any refuse matter, trash or garbage from residences, hotels, apartments or any other public or private building but shall not include water-carried wastes or the kinds of wastes usually collected, carried away and disposed of by a sewerage system;

(12) "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; and

(13) "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.

P.L. 1968, c. 249, § 3, eff. Aug. 16, 1968.

40:66A-35. Solid waste management authority may be created by municipalities; filing of ordinance or resolution

(a) The governing body of any municipality may, by ordinance duly adopted, create a public body corporate and politic under the name and style of "solid waste management authority" with all or any significant part of the name of such municipality 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, and it shall constitute the solid waste management 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 (c) of this section provided, five persons shall be appointed as the members of the solid waste management 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 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 as a member of the solid waste management 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.

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In the event of a vacancy in the membership of the solid waste management authority occurring during an unexpired term of office, a person shall be appointed as a member of the solid waste management authority to serve for such unexpired term.

(b) The governing bodies of any two or more municipalities, whether or not the areas of such municipalities comprise an integral body of territory, may enter into an agreement and, by parallel ordinances duly adopted by each of such governing bodies within any single calendar year, create a public body corporate and politic under the name and style of "the solid waste management authority" with all or any significant part of the name of each such municipality or some identifying geographical phrase inserted. Said body shall consist of the members thereof, in an aggregate number determined as hereinafter in this subsection provided, who shall be appointed by resolution of the several governing bodies as hereinafter in this section provided, and it shall constitute the solid waste management authority contemplated and provided for in this act and an agency and instrumentality of the said municipalities. The governing body of each municipality which is a party to such agreement shall appoint one member of the solid waste management authority. Said ordinance may provide for the appointment of an alternate representative to serve in the event of the absence or inability to act of the representative. The terms of the representative and such alternate of the respective municipalities shall be 3 years. Nothing herein shall prevent such ordinances and agreement from providing for staggered terms. In the event a vacancy occurs at any time in the office of representative of any one of the municipalities, the governing body of such municipality shall forthwith, by resolution, appoint a successor representative to fill the said vacancy and serve out the said unexpired term. Until the appointment and qualification of such successor representative, however, the alternate representative of such municipality shall serve as the representative of such municipality to the authority. In the event a vacancy occurs at any time in the office of alternate representative of any one of the municipalities, the governing body of such municipality shall forthwith, by resolution, appoint a successor alternate representative to fill such vacancy and serve out the said unexpired term.

(c) A copy of each ordinance for the creation of a solid waste management 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 ordinance or of certified copies of the parallel ordinances for the creation of a solid waste management authority as aforesaid, the solid waste management 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 solid waste management 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 ordinance, duly certified by or on behalf of the Secretary of State, shall be admissible in evidence in any suit, action or proceeding.

(d) A copy of each resolution appointing any member of a solid waste management 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

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proceeding directly questioning such appointment, shall be conclusive evidence of the due and proper appointment of the members named therein.

(e) No governing body which may create or join in the creation of any solid waste management authority pursuant to this section shall thereafter create or join in the creation of any other solid waste management authority. No governing body of any municipality within a district shall create or join in the creation of any solid waste management authority except upon the written consent of the solid waste management authority and in accordance with the terms and conditions of such consent. This subsection shall not be applicable where the previously established solid waste management authority shall have been formally dissolved.

P.L. 1968, c. 249, § 4, eff. Aug. 16, 1968. Amended by L.1975, c. 216, § 1, eff. Oct. 7, 1975.

40:66A-36. Solid waste management authority; powers to be vested in members; membership; reimbursement for expenses; election

(a) The powers of a solid waste management authority shall be vested in the members thereof in office from time to time. A majority of the entire authorized membership of the solid waste management authority shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the solid waste management authority at any meeting of the members thereof by vote of a majority of the membership; unless in any case the by-laws of the solid waste management authority shall require a larger number and with the exception of those of those questions or items referred to in subsection (b) hereafter. The solid waste management authority may delegate to one or more of its officers, agents or employees such powers and duties as it may deem proper.

(b) The following questions or items shall require unanimous vote of all the representatives duly appointed to and serving as members of the authority:

(1) The selection and designation of any site on which is to be located any facility to be operated and managed by the authority in connection with and in the course of its operations;

(2) The decision to issue bonds of the authority for the purpose of raising funds to finance capital expenditures by the authority; and

(3) The fixing and determining of any rate or rates to be included in any rate schedule promulgated by the authority from time to time setting forth the rate or rates to be charged by the authority for its services.

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

(d) No member, officer or employee of a solid waste management authority shall have or acquire any interest, direct or indirect, in any property included or planned to be

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included in the garbage and solid wastes disposal system or in any contract or proposed contract for materials or services to be furnished to or used by the solid waste management authority, but neither the holding of any office or employment in the government of any 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 solid waste management authority. A member of a solid waste management authority may be removed only by the governing body by which he was appointed and only for inefficiency or neglect of duty or misconduct in office and after he shall have been given a copy of the charges against him and, not sooner than 10 days thereafter, had opportunity in person or by counsel to be heard thereon by such governing body.

(e) A solid waste management authority may reimburse its members for necessary expenses incurred in the discharge of their duties. In no event however shall any representative or alternate representative appointed to the authority receive any compensation whatsoever and each such representative or alternate representative shall serve without compensation or remuneration of any kind with the exception of reimbursed expenses referred to aforesaid.

(f) Every solid waste management authority, upon the first appointment of its members and thereafter on or after February 1 in each year, shall annually elect from among its members a president, a vice-president, a secretary and a treasurer who shall hold office, until February 1 next ensuing and until their respective successors have been appointed and have qualified. Every solid waste management authority may also appoint and employ such professional and technical advisers and experts and such other officers, agents, and employees as it may require, and it shall determine their qualifications, duties and compensation.

P.L. 1968, c. 249, § 5, eff. Aug. 16, 1968.

40:66A-37. Acquisition of incinerators; treatment plants or works

Every solid waste management 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 incinerators, treatment plants or works at such places and such other plants, structures, property and conveyances, as in the judgment of the solid waste management authority will provide an effective and satisfactory method for promoting the purposes of the solid waste management authority.

P.L. 1968, c. 249, § 6, eff. Aug. 16, 1968.

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40:66A-38. Solid waste management authority as political subdivision; powers

Every solid waste management 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 solid waste management 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 solid waste management authority but for the local unit or units, to acquire, hold, use and dispose of other personal property for the purposes of the solid waste management authority;
- (5) In the name of the solid waste management 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 solid waste management 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 solid waste management 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 purpose of the solid waste management 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 or premises for the purposes of the solid waste management authority;
- (9) 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 garbage and solid wastes disposal system and any other of its properties, and to amend the same;
- (10) 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; and
- (11) 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 purpose of the solid waste management authority or to carry out any powers expressly given in this act subject to P.L.1971, c. 198 "Local Public Contracts Law" (C. 40A:11-1 et seq.).

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40:66A-39. Audit of accounts of solid waste management authority annually; filing

It shall be the duty of every "solid waste management authority," created pursuant to this act, 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 Jersey. The audit shall be completed and filed with the authority within 4 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 10 days after the original report is filed with the authority.

P.L. 1968, c. 249, § 7.1, eff. Aug. 16, 1968.

40:66A-40. Certified copy of bond resolution and bond proceedings; filing

Every such "solid waste management 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. 1968, c. 249, § 7.2, eff. Aug. 16, 1968.

40:66A-41. Rents, rates, fees or other charges

(a) Every solid waste management authority is hereby authorized to charge and collect rents, rates, fees or other charges (in this act sometimes referred to as "service charges") for the services and facilities of the garbage and solid wastes disposal system.

(b) Such rents, rates, fees and charges, being in the nature of use or service charges, shall as nearly as the solid waste management authority shall deem practicable and equitable be uniform throughout the district for the same type, class and amount of use or service of the garbage and solid wastes disposal system.

(c) The solid waste management authority shall prescribe and from time to time when necessary revise the schedule of such service charges, which in any event shall be such that the revenues of the solid waste management authority will at all times be adequate to pay all expenses of operation and maintenance of the garbage and solid wastes disposal 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 solid waste management authority. Said schedule shall thus be prescribed and from time to time revised by the solid waste management authority after public hearing thereon which shall be held by the solid waste management authority at least 7 days after publication of

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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 solid waste management 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 solid waste management 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 1 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 solid waste management authority and shall at all reasonable times be open to public inspection. It is the purpose of this subsection that the rates fixed from time to time shall produce revenue not in excess of an amount sufficient to provide for all expenses of operation and maintenance of the authority, and to provide for interest, sinking fund and amortization. Any surplus which may accrue to the authority, however, for any reason whatsoever shall be retained by the authority to reduce its rates to the extent such surplus may justify, and to increase the quality and efficiency of its operations.

P.L. 1968, c. 249, § 8, eff. Aug. 16, 1968. Amended by L.1981, c. 125, § 4, eff. April 27, 1981.

40:66A-42. Appropriation of moneys for purpose of solid waste management authority

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

P.L. 1968, c. 249, § 9, eff. Aug. 16, 1968.

40:66A-43. Revenue bonds

Revenue bonds may be authorized to be issued under this act to provide funds to pay the cost of all or any part of the garbage and solid wastes disposal system, or for the refunding of any bonds theretofore issued for such purposes. The purposes for which such revenue bonds may be issued shall include the payment to the local unit or local units of the reasonable value of any properties or facilities deemed necessary or desirable for the purposes of the solid waste management authority, and such solid waste management authorities are hereby authorized to purchase and acquire such properties or facilities from such local unit or local units.

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Such revenue bonds shall be authorized by resolution of the solid waste management authority which may be adopted at the same meeting at which it is introduced by a unanimous vote of all the members thereof then in office, shall take effect immediately and need not be published or posted. Such revenue bonds may bear interest at such rate or rates, not exceeding 6% per annum, may be in one or more series, may bear such date or dates, may mature at such time or times not exceeding 30 years from their respective dates, may be payable in such medium of payment at such place or places, may carry such registration privileges, may be subject to such terms of redemption with or without premium, may be executed in such manner, may contain such terms, covenants and conditions, and may be in such form, either coupon or registered, as such resolution or subsequent resolution may provide. Such revenue bonds may be sold, all at one time or in blocks from time to time, at public or private sale, or if refunding bonds may also be delivered in exchange for the outstanding obligations to be refunded thereby, in such manner as the solid waste management authority shall determine by resolution, and at such price or prices, computed according to standard tables of bond values, as will yield to the purchasers or the holders of the obligations surrendered in exchange, income at a rate not exceeding 6% per annum to the maturity dates of the several bonds so sold or exchanged on the money paid or the principal amount of obligations surrendered therefor to the solid waste management authority.

P.L. 1968, c. 249, § 10, eff. Aug. 16, 1968.

40:66A-44. Interim certificates; temporary bonds or other instruments

After sale of any revenue bonds pursuant to this act, the solid waste management 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 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. 1968, c. 249, § 11, eff. Aug. 16, 1968.

40:66A-45. Notice of adoption of bond resolution; limitation of actions questioning validity

Any solid waste management authority may cause to be published in a newspaper published in the district a notice stating the date of adoption of such bond resolution, the amount and maturities of the bonds authorized to be issued, and also stating that any action or proceeding of any kind or nature in any court questioning the validity of the creation and establishment of the solid waste management 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 20 days after the first publication of such notice. If no such action

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or proceeding shall be commenced or instituted within 20 days after the first publication of such notice, then all residents and taxpayers and owners of property in the district and users of the garbage and solid wastes disposal 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 of proceeding, questioning the validity of the creation and establishment of the solid waste management 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. 1968, c. 249, § 12, eff. Aug. 16, 1968.

40:66A-46. Negotiability of bonds or obligations

Any provision of any law to the contrary notwithstanding any bond or other obligation issued pursuant to this act shall be fully negotiable in the meaning and for all purposes of the law merchant and 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 law merchant and negotiable instruments law.

P.L. 1968, c. 249, § 13, eff. Aug. 16, 1968.

40:66A-47. Provisions of bond resolutions

Any bond resolution of a solid waste management authority providing for or authorizing the issuance of any bonds may contain provisions, and such solid waste management 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 garbage and solid wastes disposal system;
- (3) The use, regulation, operation, maintenance, insurance or disposition of all or any part of the garbage and solid wastes disposal system, or restrictions on the exercise of the powers of the solid waste management authority to dispose, or to limit or regulate the use, of all or any part of the garbage and solid wastes disposal 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 as obligations

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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 solid wastes management 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 garbage and solid wastes disposal system, including any parts thereof theretofore constructed or acquired;

(6) Pledging, setting aside, depositing or trusteeing all or any part of the system revenues or other moneys of the solid waste management 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 garbage and solid wastes disposal 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 solid waste management 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 garbage and solid wastes disposal system;

(9) The rents, rates, fees, or other charges for the use of the services and facilities of the garbage and solid wastes disposal system, including any parts thereof theretofore constructed or acquired and any parts, extension, 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 garbage and solid wastes disposal system or any obligations having or which may have a lien on any part of the system revenue;

(11) Limitations on the issuance of additional bonds or any other obligations or on the incurrance of indebtedness of the solid wastes management authority;

(12) Limitations on the powers of the solid waste management 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 garbage and solid wastes disposal system;

(13) Vesting in a trustee or trustees such property, rights, powers and duties in trust as the solid waste management 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 17 of this act, and limiting or abrogating the right of such holders to appoint a trustee pursuant to section 15 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 provision of the bond resolution or of any covenant or contract with the holders of 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

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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 in the bonds.

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

P.L. 1968, c. 249, § 14, eff. Aug. 16, 1968.

40:66A-48. Default in payment of bonds; trustee; appointment; powers; receiver

In the event that there shall be a default in the payment of principal of or interest on any bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of 30 days, or in the event that the solid waste management 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 30 days after written notice to the solid waste management authority of its existence and nature, the holders of 25% in aggregate principal amount of the bonds of such series then outstanding, by instruments or instrument filed in the office of the Secretary of State and proved and 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 in this section, and to have the powers provided in this section.

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

(1) By an action or proceeding in a court of competent jurisdiction, enforce all rights of the holders of such bonds, including the right to require the solid waste management authority to charge and collect service charges adequate to carry out any contract as to, or pledge of, system revenues, and to require the solid waste management 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 an action require the solid waste management authority to account as if it were the trustee of an express trust for the holders of such bonds;

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

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

(b) 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.

(c) In any action or proceedings by such trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, appointed pursuant to this act, may be allowed by the court as taxable costs and disbursements or otherwise, when so allowed, shall be a first charge upon any service charges and system revenues of the solid waste management authority pledged for the payment or security of bonds of such series.

(d) Such trustee, upon such default referred to in this section, 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 garbage and solid wastes disposal system, and such receiver may enter upon and take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance or reconstruction which the solid waste management authority is under any obligation to do, and operate, maintain and reconstruct the garbage and solid wastes disposal 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 solid waste management authority in the same manner as the solid waste management authority itself might do and under the direction of the court.

P.L. 1968, c. 249, § 15, eff. Aug. 16, 1968.

40:66A-49. Personal liability on bonds; not debt or liability of State or local unit

Neither the member of the solid waste management 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 solid waste management authority pursuant to this act shall not be in any way a debt or liability of the State or of any local unit or municipality.

P.L. 1968, c. 249, § 16, eff. Aug. 16, 1968.

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40:66A-50. Real property, acquisition of; condemnation

Every solid waste management 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 the district, which may be deemed by the solid waste management authority necessary for its purpose. Such solid waste management authority is hereby empowered to acquire and take such real property by condemnation, in the manner provided by chapter 1 of Title 20, Eminent Domain, of the Revised Statutes (R.S., section 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.

P.L. 1968, c. 249, § 17, eff. Aug. 16, 1968.

40:66A-51. Service charge with regard to real property; interest; liens, enforcement of; collection

(a) In the event that a service charge of any solid waste management 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 solid waste management authority on the unpaid balance at the rate of 1% per month until such service charge, and the interest thereon, shall be fully paid to the solid waste management authority.

(b) In the event that a service charge of any solid waste management authority with regard to any parcel of real property owned by any person, firm, corporation or association 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 State, county and municipal taxes and shall be on a parity with and deemed equal to the lien on such parcel of State, county and municipal taxes.

(c) In the event that a service charge of any solid waste management authority with regard to any parcel of real property shall not be paid as and when due, the solid waste management authority may, in its discretion, discontinue the furnishing of any of the services and facilities of said garbage and solid wastes disposal system 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 solid wastes management authority.

(d) 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 and shall pay over to the solid waste management 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.

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

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

P.L. 1968, c. 149, § 18, eff. Aug. 16, 1968.

40:66A-52. Sale, lease, loan, grant or conveyance to solid waste management authority; permit

Any county, by resolution of its board of chosen freeholders, 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 solid waste management authority, or to permit any solid waste management authority in use, maintain or operate as part of the garbage and solid wastes disposal system, any real or personal property owned by it, which may be necessary or useful and convenient for the purposes of the solid waste management authority and which may be accepted by the solid waste management 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 in any terms and conditions which may be approved by such county, municipality or other person and which may be agreed to by the solid waste management authority in conformity with its contracts with the holders of bonds, the solid waste management authority may enter into and perform any and all 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 garbage and solid wastes disposal system.

P.L. 1968, c. 249, § 19, eff. Aug. 16, 1968.

40:66A-53. Contracts

Any solid waste management authority and any municipality within the district by ordinance of its governing body may enter into a contract or contracts providing for or relating to the collection or treatment and disposal of garbage, solid wastes and refuse originating in the district or in such municipality by means of the garbage and solid wastes disposal system, and the cost and expense of such collection or treatment and disposal. Such contract or contracts may provide for the payment to the solid waste management authority by such municipality annually or otherwise of such sum or sums

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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 garbage and solid wastes disposal system, including without limitation insurance, extensions, 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 solid wastes management authority by such municipality, any other municipality, 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 solid waste management authority or as may be deemed necessary or desirable by the solid wastes management authority. Any such contract may provide that the sum or sums so payable to the solid waste management authority shall be in lieu of all or any part of the service charges which would otherwise be charged and collected by the solid waste management authority with regard to persons or real property within such municipality. Such contract or contracts may also contain provisions as to the financing and payment of expenses to be incurred by the solid waste management authority and determined by it to be necessary for its purposes prior to the placing in operation of the garbage and solid wastes disposal system and may provide for the payment by such municipality to the solid waste management authority for application to such expenses or indebtedness therefor such sum or sums of money, not in the aggregate exceeding an amount stated or otherwise limited in said contract or contracts plus interest thereon, as said contract or contracts may provide and as the governing body of said municipality shall, by virtue of its authorization of and entry into said contract or contracts, determine to be necessary for the purposes of the solid waste management authority. 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 such municipality and which may be agreed to by the solid waste management 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 such municipality prior to authorization or execution thereof. Subject to any such contracts with the holders of bonds, such municipality is hereby authorized and directed to do and perform any and all acts of 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 municipality 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 solid waste management authority with regard to persons or real property within such municipality. Nothing in this section, however, shall prevent the solid waste management authority from collecting additional fees and charges from the owners or occupants of all parcels of real estate served by it within such municipality if for any reason such additional fees or charges shall be necessary in order for the solid waste management authority to pay all operating expenses, debt service and other payments required pursuant to contracts with bondholders; and notwithstanding such contracts with such municipalities, the solid waste management authority shall at all times have power and be obligated to collect sufficient additional fees and charges whenever necessary to pay all operating costs, debt

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service and all other payments required by contracts with bondholders. Nothing in this section shall be deemed to imply or direct that any contracts referred to aforesaid must provide for both the collection and disposal of garbage and solid wastes and such solid waste management authority may, by the agreement and parallel ordinances and such municipality may, by ordinance, engage in either collection of solid wastes or disposal of solid wastes or both.

P.L. 1968, c. 249, § 20, eff. Aug. 16, 1968.

40:66A-54. Public bodies to pay service charges

Each county, municipality and other public body shall promptly pay to a solid waste management authority all service charges which the solid waste management authority may charge to it, as owner or occupant of any real property and shall provide for the payment thereof in the same manner as other obligations of such county, municipality or public body.

P.L. 1968, c. 249, § 21, eff. Aug. 16, 1968.

40:66A-55. Mortgage, pledge or disposal of garbage and solid wastes disposal system; exemptions

Neither the solid waste management authority nor any local unit shall have power to mortgage, pledge, encumber or otherwise dispose of any part of the garbage and solid wastes disposal system, except that the solid waste management authority may dispose of such part or parts thereof as may be not longer necessary for the purposes of the solid waste management 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 solid waste management 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 solid waste management 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 solid waste management authority on its system revenues.

P.L. 1968, c. 249, § 22, eff. Aug. 16, 1968.

40:66A-56. Bonds as legal investments

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,

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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 issued pursuant to this act, and such bonds shall be authorized security for any and all public deposits.

P.L. 1968, c. 249, § 23, eff. Aug. 16, 1968.

40:66A-57. Property as public property; bonds declared issued by political subdivision; bonds exempt from taxation

Every garbage and solid wastes disposal system and all other property of a solid waste management 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 issued pursuant to this act 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.

To the end that municipalities may not suffer undue loss of tax revenue by reason of the acquisition and ownership of property therein by a solid waste management authority, every solid waste management authority is hereby authorized, empowered and directed to enter into an agreement or agreements with any municipality, whereby such solid waste management authority will undertake to pay a fair and reasonable sum or sums to compensate the said municipality for a loss of revenue in connection with any property acquired and owned by such solid waste management authority in carrying out the provisions of this act. Any such payment or payments which a solid waste management authority is hereby authorized, empowered and directed to make may be made on an annual basis, in which case the payment or payments shall not be less than the amount of taxes upon the property which last assessed prior to its acquisition by the solid waste management authority. Every municipality wherein the property shall be acquired by any solid waste management authority is hereby empowered to enter into such agreement or agreements with the solid waste management authority to accept the payment or payments which every solid waste management authority is herein authorized, empowered and directed to make.

P.L. 1968, c. 249, § 24, eff. Aug. 16, 1968.

40:66A-58. Competitive systems; State's pledge and agreement with bondholders

The State of New Jersey does hereby pledge to and covenant and agree with the holders of any bonds issued pursuant to this act that the State will not authorize or permit the construction or maintenance of any incinerator or garbage and solid wastes disposal system which may be competitive with the garbage and solid wastes disposal system of

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the solid waste management authority, and will not limit or alter the rights hereby vested in the solid waste management authority to acquire, construct, maintain, reconstruct and operate its garbage and solid wastes disposal 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 such 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. 1968, c. 249, § 25, eff. Aug. 16, 1968.

40:66A-59. Banks authorized to give undertaking; deposits

All banks, bankers, trust companies, savings banks, investment companies and other persons carrying on a banking business are hereby authorized to give to any solid waste management authority a good and sufficient undertaking with such sureties as shall be approved by the solid waste management 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 solid waste management authority or its authorized agent all such funds as may be deposited with it by the solid waste management 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 solid waste management authority or its authorized agent or any trustee therefor or for the holders of any bonds, as collateral, such securities as the solid waste management authority may approve; provided, 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 solid waste management authority. The deposits of the solid waste management 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 solid waste management authority and such bank or banking institution.

P.L. 1968, c. 249, § 26, eff. Aug. 16, 1968.

40:66A-60. Municipalities' powers respecting garbage and solid wastes disposal limited after creation of solid waste management authority; use of services

After the creation of a solid waste management authority as provided herein, no municipality within the district shall have power to engage in, grant any license or permit for, or enter into any contract for the collection or treatment and disposal of garbage, refuse and solid wastes; and no such municipality, or any person, firm, corporation or association shall engage in any activities within such municipality which would be

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competitive with the purposes of the solid waste management authority as provided in this act provided however, that the prohibitions aforesaid shall not be applicable to that activity (to wit: either the collection or disposal of solid wastes) in which any such solid waste management authority shall determine not to engage.

It is hereby determined and declared that it is necessary for the health and welfare of the inhabitants of every district within which a solid waste management authority is created that the facilities and services of such solid waste management authority shall be used by the owners or occupants of all lands, buildings and premises within such district, and the solid waste management authority may by resolution require the owners or occupants of all lands, buildings and premises therein to use the services and facilities of the solid waste management authority under such rules and regulations as the solid waste management authority shall fix and establish.

The provisions of this section shall not be construed, however, to affect or impair any contract entered into prior to the creation of a solid waste management authority.

P.L. 1968, c. 249, § 27, eff. Aug. 16, 1968.

40:66A-61. Liberal construction; regulation of solid waste management authorities

This act shall be construed liberally to effectuate the legislative intent and as complete authority for the performance of each and every act and thing herein authorized.

P.L. 1968, c. 249, § 28, eff. Aug. 16, 1968. Amended by L.1968, c. 382, § 1, eff. Dec. 27, 1968.

40:66A-62. Municipalities not prohibited from operating garbage and solid wastes disposal plants

Nothing in this act shall be construed to prevent or prohibit any municipality from erecting, constructing, operating and maintaining an incinerator or garbage and solid wastes disposal plant or other means for the disposition of garbage and solid wastes in any manner or by any means by which the same may now lawfully be erected, constructed, operated or maintained.

P.L. 1968, c. 249, § 29, eff. Aug. 16, 1968.

40:66A-63. Partial invalidity

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

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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. 1968, c. 249, § 30, eff. Aug. 16, 1968.

40:66A-64. Dissolution

The governing body of any local unit which has created a solid waste management authority or the governing bodies of any two or more local units which have joined in the formation of such an authority, by ordinance, or parallel ordinances, as the case may be, may dissolve such authority upon the condition that a. the members of the authority have not been appointed, the authority, by resolution duly adopted consents to such dissolution or the governing body desires to join in the creation of another authority under this or another law and b. the solid waste management authority has no debts or obligations outstanding or all creditors or obligees of the authority have consented to its dissolution.

A copy of the dissolution ordinance or ordinances, certified by the appropriate municipal official, shall be filed in the office of the Secretary of State. Upon proof of such filing the authority shall be dissolved.

P.L. 1975, c. 216, § 2, eff. Oct. 7, 1975.