

CHAPTER 301

AN ACT concerning county bridge commissions, amending various parts of the statutory law and supplementing article 2 of chapter 19 of Title 27 of the Revised Statutes.

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

C.27:19-26.1 Definitions relative to county bridge commission projects, certain.

1. As used in this article:

"Facility charges" mean tolls, rents, rates, fares, fees or other charges in connection with, or for the use or services of, or otherwise relating to, any project owned, leased or controlled by the commission.

"Governmental unit" means the United States of America or the State of New Jersey or any county or municipality or any subdivision, department, agency or instrumentality heretofore or hereafter created, designated or established by or for the United States of America or the State of New Jersey or any county or municipality.

"Person" means any person, partnership, association, corporation, or entity other than a governmental unit.

"Project" means any project authorized by section 2 of P.L.2001, c.301 (C.27:19-26.2).

C.27:19-26.2 Additional powers of county bridge commission.

2. In addition to the powers set forth in R.S.27:19-26 et seq., a bridge commission established prior to the effective date of P.L.2001, c.301 (C.27:19-26.1 et al.) by a county of the second class shall have the power from time to time and be authorized to:

a. Plan, finance, develop, acquire, construct, purchase, lease, maintain, market, improve and operate any project within the county, including but not limited to, any terminal, terminal facility, transportation facility or any other facility of commerce or economic development activity;

b. Extend credit or make loans to any governmental unit or person for the planning, design, acquisition, construction, improvement, equipping, and furnishing of any project; and

c. Mortgage, pledge, assign or otherwise encumber all or any portion of its revenues and other income, real and personal property, projects and facilities and fix and collect facility charges for the use of any project for the purpose of securing its bonds, notes, and other obligations or otherwise in furtherance of the purposes of this article.

3. R.S.27:19-29 is amended to read as follows:

Tolls, facility charges.

27:19-29. a. The commission may at all times take, demand, and receive of and from any person who shall pass over or use its bridge or bridges and approaches, when such person shall enter upon or attempt to use the same, such rate of toll as may be fixed by it from time to time, for persons, automobiles, wagons, carts or other vehicles or for horses, cows or other animals, or for things not herein enumerated, entering on, passing over or using any such bridge and the approaches thereto.

Any toll gatherer of the commission may stop any person with automobiles, wagons, carts, or other vehicles or things not herein enumerated, and all horses, cows, cattle or other animal or animals, from entering upon, passing over or using any such bridge and the approaches thereto until the toll herein provided for shall have been paid.

b. The commission is authorized to charge and collect tolls, rents, rates, fares, fees or other charges (sometimes in this article referred to as "facility charges") in connection with, or for the use or services of, or otherwise relating to, any project owned, leased or controlled by the commission. Such facility charges may be charged to and collected from any governmental unit or person and such governmental unit or person shall be liable for and shall pay such facility charges to the commission at the time when and place where such facility charges are due and payable.

4. R.S.27:19-31 is amended to read as follows:

Financing of purposes, powers of bridge commission.

27:19-31. (A) To finance any of the purposes or powers provided for in this article, the bridge

commission shall from time to time first determine which bridge or bridges, project or projects are to be constructed, acquired, improved or replaced and, for any project which the county unconditionally guarantees the punctual payment of the principal of and interest on any bonds of the commission, seek approval or consent of the board or boards of chosen freeholders for such projects, and upon receiving such approval or consent, or whenever deemed by it necessary or desirable for the purpose of funding or refunding its bonds, notes or other indebtedness or providing funds or reserves for payment or security of any indebtedness including interest or redemption premiums thereon due or to accrue, such commission shall be authorized to issue its bonds, notes or other evidences of indebtedness. The commission may issue such types of bonds, notes or other evidences of indebtedness as it may determine including, without limitation, bonds, notes, or other evidence of indebtedness on which the principal and interest are payable: (1) exclusively from the income and revenues or facility charges of the project financed with the proceeds of such obligations; (2) exclusively from the income and revenues or facility charges of certain designated projects whether or not they are financed in whole or in part with the proceeds of such obligations; or (3) from its revenues generally. In addition, such bonds, notes and other evidence of indebtedness may be secured by a pledge of any grant or contribution from any governmental unit or person or a pledge of any income or revenues of the commission from any source whatsoever, or by a lien, mortgage or pledge upon any one or more of its bridges, approaches or all or any part of the real or personal property of the commission, including property which is acquired, improved, constructed, financed or refinanced by the proceeds of such bonds, or upon the tolls to be received in the operation of any one or more of such bridges, approaches or other properties or any other income or receipts of the commission, or upon any combination of any of the foregoing. No county other than a county which in accordance with paragraph (B) of this section shall have guaranteed payment of the principal of and interest on any such bonds shall incur any indebtedness of any kind or nature or pledge credit, taxes or taxing power, or any part thereof, in support of such principal and interest.

(B) For the purpose of aiding a commission in the accomplishment of any of the purposes or powers provided for in this article and in marketing any of its bonds, refunding or other, the county which created it may, pursuant to resolution duly adopted by its board of chosen freeholders in the manner provided for adoption of a bond ordinance as provided in the Local Bond Law (N.J.S., Title 40A, chapter 2) and with or without consideration and upon such terms and conditions as may be agreed to by and between the county and the commission, unconditionally guarantee the punctual payment of the principal of and interest on any bonds of the commission. Any guaranty of bonds of a commission made pursuant to this section shall be evidenced by endorsement thereof on such bonds, executed in the name of the county and on its behalf by such officer thereof as may be designated in the resolution authorizing such guaranty, and such county shall thereupon and thereafter be obligated to pay the principal of and interest on said bonds in the same manner and to the same extent as in the case of bonds issued by it. Any such guaranty of bonds of a commission may be made, and any resolution authorizing such guaranty may be adopted, notwithstanding any statutory debt or other limitations, including particularly any limitation or requirement under or pursuant to said Local Bond Law, but the principal amount of bonds so guaranteed, shall, after their issuance, be included in the gross debt of such county for the purpose of determining the indebtedness of such county under or pursuant to said Local Bond Law. The principal amount of said bonds so guaranteed and included in gross debt shall be deducted and is hereby declared to be and to constitute a deduction from such gross debt under and for all the purposes of said Local Bond Law (a) from and after the time of issuance of said bonds until the end of the third fiscal year beginning next after such time of issuance and (b) in any annual debt statement filed pursuant to said Local Bond Law as of the end of said fiscal year or any subsequent fiscal year if the revenues or other receipts or moneys of the commission in such year are sufficient to pay its expenses of operation and maintenance in such year and all amounts payable in such year on account of the principal and interest on all such guaranteed bonds and any other bonds of the commission issued under this article.

5. R.S.27:19-32 is amended to read as follows:

Bonds of bridge commission.

27:19-32. The bonds, notes or other evidences of indebtedness (hereinafter in this section called "bonds") issued by such bridge commissions shall bear interest at such rate or rates per annum which may be fixed or may change, at such time or times and according to such formula or method of determination, payable at such times, and may be sold at either private or public sale, to any person or governmental unit, as the commissions shall determine. Such commissions shall provide the form of such bonds and shall fix the denominations, place or places of payment of principal and interest, the terms and conditions and do all other things that may be necessary for the proper execution and delivery of said bonds.

The proceeds from the sale of any such bonds of a commission shall be deposited and used as provided in any contract or agreement of the commission relative thereto or in the resolution authorizing such bonds, or if not so provided, then as the commission shall direct and solely for the purposes for which such bonds were issued, to be drawn over the signatures of the chairman or vice-chairman, the secretary and the treasurer of the commission, with the surplus, if any, to be paid into the fund hereinafter provided for the payment of the principal and interest of such bonds.

The rates of tolls to be charged for the use of any bridge or bridges operated by a bridge commission under the provisions of this article shall be so fixed and adjusted as to comply with any contract or agreement of the commission relative thereto and, in any event, to provide a fund sufficient to pay the interest on and principal of all bonds issued under this article by the commission, refunding or other and whether or not issued to finance such bridge or bridges, provide funds to pay the cost of maintaining, repairing and operating the bridge or bridges operated by the commission, and maintain such reserves for the foregoing or other expenses as the commission may deem necessary. This article authorizes any commission, subject to the terms of any contract or agreement of the commission, to charge tolls for the use of any one or more of the bridges operated by it or of less than all of such bridges, to charge any such tolls in order to make or secure the payment of any bonds issued by it whether or not the bridge or bridges financed by the issuance of such bonds are subject to tolls imposed by the commission or are still operated by the commission, and to charge any such tolls in order to accumulate reserves for application in future to payment of principal of or interest on bonds issued by it or of costs of undertaking or accomplishing any of the purposes or powers provided in this article.

The facility charges fixed, charged and collected by the commission with respect to any project shall comply with the terms of any lease or other agreement of the commission with regard to such project, and the facility charges fixed, charged and collected by the commission may be so adjusted that the revenues of the commission will at all times be adequate to pay all expenses of the commission, including the expense of operation and maintenance of any project or other property owned or controlled by the commission, including insurance, improvements, replacements, reconstruction and any other required payments, and to pay the principal of and interest on any bonds, and to maintain such reserves or sinking funds for any of the foregoing purposes as may be required by the terms of any lease or other agreement of the commission or as may be deemed necessary or convenient and desirable by the commission.

All bonds of a bridge commission shall be authorized by resolution of the commission. Any such resolution may contain provisions, and the commission, in order to secure the payment of such bonds and in addition to its other powers, shall have power to agree by provision in such resolution with the several holders of such bonds, and to make, enter into and perform covenants and agreements, as to

- a. the custody, security, use, expenditure or application of the proceeds of any bonds;
- b. the construction and completion, or improvement or replacement, of all or any part of any bridge or bridges or approaches thereto or any project authorized by this article;
- c. the use, regulation, operation, maintenance, insurance or disposition of all or any part of any bridge or bridges or approaches thereto or any project authorized by this article, or restrictions on the exercise of the powers of the commission to dispose, or to limit or regulate the use, of all or any part of the same;
- d. payment of the principal of or interest on any bonds, and the sources and methods thereof, the rank or priority of any bonds as to any lien or security, or the acceleration of the

maturity of any bonds;

e. the use and disposition of any moneys of the commission, including revenues (hereinafter in this section sometimes called "bridge revenues") derived or to be derived from the operation of all or any part of any bridge or bridges or approaches thereto or revenues (hereinafter in this section sometimes called "facility revenues") derived or to be derived from the operation of any project authorized by this article, including any parts thereof theretofore constructed or acquired and any parts, extensions, replacements or improvements thereof thereafter constructed or acquired;

f. pledging, setting aside, depositing or trusteeing all or any part of any bridge revenues, facility revenues or other moneys of the commission and mortgaging, pledging, or otherwise encumbering all or any part of the commission's real or personal property, then owned or acquired, to secure the payment of the principal of or interest on any bonds, or the payment of expenses of operation or maintenance of any bridge or bridges or approaches thereto or any project authorized by this article;

g. the setting aside out of any bridge revenues, facility revenues or other moneys of the commission of reserves and sinking funds, and the source, custody, security, regulation, application and disposition thereof;

h. determination or definition of the bridge revenues, facility revenues, or of the expenses of operation and maintenance of any bridge or bridges or approaches thereto or any project authorized by this article;

i. the rates, tolls, rents, fares, fees, facility charges or other charges in connection with, for the use or services of, or for passage over or through or the use of, or otherwise relating thereto, any bridge or bridges or approaches thereto or any project authorized by this article, 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 bridge revenues or facility revenues to be produced thereby, and the disposition and application of the amounts charged or collected;

j. the assumption or payment or discharge of any indebtedness, liens or other claims relating to any part of any bridge or bridges or approaches thereto or any project authorized by this article or any obligations constituting or which may constitute a lien on any part of the bridge revenues or facility revenues;

k. limitations on the issuance of additional bonds, notes or other evidences of indebtedness or on the incurrence of indebtedness of the commission;

l. limitations on the powers of the commission to construct, acquire or operate, or permit the construction, acquisition or operation of, any structures, facilities or properties which may compete or tend to compete with any bridge or bridges or approaches thereto or any project authorized by this article;

m. payment of costs or expenses incident to the enforcement of any bonds or of the provisions of such resolution or of any covenant or agreement with the holders of any bonds;

n. the procedure, if any, by which the terms of any covenant or agreement 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

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

All such provisions of said resolution and all such covenants and agreements shall constitute valid and legally binding contracts between the commission 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, including a proceeding in lieu of prerogative writ, in any court of competent jurisdiction.

6. Section 11 of P.L.1946, c.318 (C.27:19-32.1) is amended to read as follows:
C.27:19-32.1 Covenant of State with bondholders.

11. The State of New Jersey does hereby covenant and agree with the holders of any bonds, notes or other evidences of indebtedness issued by any bridge commission that it will not in any

manner limit or alter the power and obligation vested by this article in the commission to fix, establish and collect such tolls or facility charges and revise the same from time to time whenever necessary, as will be sufficient to always comply fully with and fulfill the terms of all agreements and covenants made with the holders of such bonds, notes or other evidences of indebtedness, and will not in any manner impair, alter or abrogate any other power or obligation vested by this article in the commission or the rights and remedies of holders of such bonds, notes or other evidences of indebtedness until all such bonds, notes or other evidences of indebtedness, together with interest thereon and all costs and expenses in connection with any actions or proceedings by or on behalf of the holders thereof, are fully paid and discharged or adequate provision made for the payment or discharge thereof.

7. R.S.27:19-35 is amended to read as follows:

Awarding of contracts, agreements.

27:19-35. Every contract or agreement for the construction, reconstruction, repair, enlargement, extension, renewal, replacement or equipment of bridges or projects, shall be made and awarded pursuant to the provisions of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

8. Section 1 of P.L.1952, c.338 (C.27:19-36.1) is amended to read as follows:

C.27:19-36.1 Payments to municipality in lieu of taxes.

1. Notwithstanding any of the provisions of the article to which this act is a supplement, any county bridge commission created pursuant to said article may contract with any municipality within which any part of property acquired by such commission for bridge or project purposes is located, for the payment by such commission to such municipality, and may make payments to such municipality, of a fixed annual sum or sums of money in lieu of, or in reimbursement for, the loss of taxes upon such property; provided, however, that such annual sum or sums shall not be in excess of the amount of the municipal taxes upon such property for the year when last assessed prior to the time of its acquisition by the commission.

Any municipality wherein any such bridge property is located is authorized and empowered to enter into such contract with any such commission to accept the payment or payments which the commission is herein authorized and empowered to make.

9. R.S.27:19-37 is amended to read as follows:

Records, semiannual statements, examination.

27:19-37. The commission shall keep accurate records of all acts, the property intrusted to it, the cost of the bridge or bridges, project or projects, and incidents thereto, the expenditures for maintaining, repairing and operating the same, and the daily tolls or facility charges collected, which records shall be public records and the property of the county. A semiannual statement of the daily tolls shall be published on each bond interest date in the official newspaper of the county. The governing body of the county shall have power to examine the accounts at any time, to call for any reports at any time in its discretion, and to require the commission and its employees to appear before it to report or testify at any time.

C.27:19-26.3 Empowerment to enter into lease, agreement.

10. Any governmental unit or person is hereby empowered to enter into and perform any lease or other agreement with the commission for the lease to or use by such governmental unit or person of all or any part of any project. Any such lease or other agreement may provide for the payment to the commission by such governmental unit or persons annually or otherwise of such sum or sums of money, computed at fixed amounts or by any formula or in any other manner, as may be fixed in or pursuant thereto. Any such lease or other agreement may be made and entered into for a term beginning currently or at some future or contingent date and with or without consideration and for a specified or unlimited time and on any terms and conditions

which may be approved by such governmental unit or person and which may be agreed to by the commission in conformity with its contracts with the holders of any bonds, and shall be valid and binding on such governmental unit or person whether or not an appropriation is made thereby prior to authorization or execution of such lease or other agreement. Every such governmental unit or person is hereby authorized and directed to do and perform any and all acts and things necessary, convenient or desirable to carry out and perform any such lease or other agreement entered into by it and to provide for the payment or discharge of any obligation thereunder in the same manner as other obligations of such governmental unit or person.

C.27:19-26.4 Powers of county, municipality.

11. For the purpose of aiding a commission and co-operating in the planning, undertaking, acquisition, construction or operation of any project, the county or any municipality in any such county may:

a. acquire real property in its name for such project or for the widening of existing roads, streets, parkways, avenues or highways or for new roads, streets, parkways, avenues or highways to any such project, or partly for such purposes and partly for other county or municipal purposes, by purchase or condemnation in the manner provided by law for the acquisition of real property by such county or municipality;

b. furnish, dedicate, close, vacate, pave, install, grade, regrade, plan or replan parks, streets, roads, roadways, alleys, sidewalks or other places which it is otherwise empowered to undertake;

c. in consultation with the Department of Transportation, review and coordinate the development of improvement projects involving the department or New Jersey Transit Corporation transportation facilities that the commission may undertake; and

d. do any and all things necessary or convenient to aid and co-operate in the planning, undertaking, construction or operation of any such project, and cause services to be furnished to the commission of any character which such county or municipality is otherwise empowered to furnish, and to incur the entire expense thereof.

C.27:19-26.5 Empowerment to convey land to commission.

12. Any county by resolution of its governing body, municipality by ordinance of its governing body, governmental unit or person is hereby empowered, without any referendum or public or competitive bidding, to sell, lease, lend, grant or convey to a commission, or to permit a commission to use, maintain or operate as part of any project, any real or personal property which may be necessary or useful and convenient for the purposes of the commission and accepted by the commission. Any such sale, lease, loan, grant, conveyance or permit may be made or given 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, governmental unit or person and which may be agreed to by the commission in conformity with its contracts with the holders of any bonds. Subject to any such contracts with the holders of bonds, the commission may enter into and perform any and all agreements with respect to property so purchased, leased, borrowed, received or accepted by it, including agreements for the assumption of principal or interest or both of indebtedness of such county, municipality, governmental unit or person or of any mortgage or lien existing with respect to such property for the operation and maintenance of such property as part of any project.

13. This act shall take effect immediately.

Approved January 2, 2002.