

CHAPTER 43

AN ACT encouraging municipal rehabilitation and economic recovery in certain fiscally distressed municipalities, amending various parts of statutory law, creating chapter 27BBB of Title 52 of the Revised Statutes, and making appropriations.

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

ARTICLE 1. GENERAL PROVISIONS

C.52:27BBB-1 Short title.

1. This act shall be known and may be cited as the "Municipal Rehabilitation and Economic Recovery Act."

C.52:27BBB-2 Findings, declarations relative to municipal rehabilitation and economic recovery.

2. The Legislature finds and declares that:

a. There exists in certain municipalities a continuing state of fiscal distress which endures despite the imposition of a series of measures authorized pursuant to law;

b. Economically impoverished, those municipalities have a history of high crime rates, including arson, that has necessitated the maintenance of large police and fire departments, at enormous taxpayer cost in municipalities without a sound tax base;

c. The past fifty years have witnessed the depopulation of those municipalities characterized by such problems;

d. Spending power on the part of residents of these municipalities is severely limited and local businesses thereby suffer from the lack of an indigenous client base so that rebuilding the fortunes of city residents in order to recreate a viable urban economy will require a considerable period of time;

e. Notwithstanding the prosperity which has been experienced elsewhere throughout New Jersey in recent years, the unemployment rate in these municipalities is substantially higher than that of most other municipalities;

f. While the rest of New Jersey has enjoyed increased land values, the ratable base in these municipalities has declined steadily during the 1990's, marked by their low equalized value per capita which can be about one-half that of other cities;

g. Coupled with this economic deprivation, many of these municipalities are characterized by a lack of internal audit controls, accountability and oversight, evidenced by the fact that although real estate taxes comprise over two-thirds of locally generated revenues, many of these municipalities do not rigorously enforce collection and receive but a portion of their levy;

h. Although the State has experienced a period of tremendous prosperity and economic growth over the past few years, such municipalities continue to languish without any obvious signs of improvement;

i. These municipalities have experienced a substantial budget deficit for many years which has only been addressed through extraordinary payments of State aid;

j. While State aid dollars which have been directed toward such municipalities have served to address their structural deficits, they have not, and cannot, function as an economic impetus toward the rebuilding of those municipalities;

k. Because a significant proportion of the population of such municipalities lacks adequate health insurance coverage, causing many to seek basic care in municipal emergency rooms, municipal hospitals are heavily dependent upon state assistance commonly referred to as "charity care" for reimbursement. Such health services are crucial to the overall health of the infrastructure and social growth and stability of qualified municipalities. Moreover, the demand for such health services has necessitated planning for a major expansion of medical school programs within qualified municipalities;

l. Given the high crime rates in these municipalities, if economic recovery is to be successful, it is vital that municipal residents feel that their basic safety is assured; accordingly, the State will continue to commit to assist such municipalities in maintaining not less than that number of police officers employed by the municipality on the effective date of P.L.2002, c.43 (C.52:27BBB-1 et al.) and in creating working relationships between State agencies, local law enforcement and the community to identify and develop strategies to improve the quality of life

and the security of residents in qualified municipalities;

m. In order to ensure the long-term economic viability of such municipalities, it is critical that the Legislature encourage, to the extent possible, the production of market-rate housing within the municipality so as to expand the local tax base and provide a greater diversity of income levels among municipal inhabitants;

n. When faced with analogous situations, other states have employed extraordinary measures to provide leadership and oversight for struggling cities and the necessary tools to spur an economic revival within those cities; and

o. In light of the dire needs faced by such municipalities and the lack of progress in addressing those needs either governmentally or through private sector initiative, and given the successful interventions on the part of other states in analogous circumstances, it is incumbent upon the State to take exceptional measures, on an interim basis, to rectify certain governance issues faced by such municipalities and to strategically invest those sums of money necessary in order to assure the long-term financial viability of these municipalities.

C.52:27BBB-3 Definitions relative to municipal rehabilitation and economic recovery.

3. As used in this act:

"Authority" means the New Jersey Economic Development Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.).

"Board" means the State Economic Recovery Board established pursuant to section 36 of P.L.2002, c.43 (C.52:27BBB-36).

"Chief operating officer" means that person appointed pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) responsible for reorganizing governmental operations of a qualified municipality in order to assure the delivery of essential municipal services and the professional administration of that municipal government.

"Commissioner" means the Commissioner of Community Affairs.

"Director" means the Director of the Division of Local Government Services in the Department of Community Affairs.

"Economic recovery term" means the period commencing with the expiration of the term of the chief operating officer and terminating five years thereafter.

"In consultation with" means with consideration of the input of, or the advice of, the mayor, governing body, chief operating officer or director, as the case may be, without regard to the form or manner of the consultation.

"Local Finance Board" means the Local Finance Board of the Division of Local Government Services in the Department of Community Affairs.

"Project" means: (1) (a) acquisition, construction, reconstruction, repair, alteration, improvement and extension of any building, structure, facility, including water transmission facilities or other improvement, whether or not in existence or under construction, (b) purchase and installation of equipment and machinery, (c) acquisition and improvement of real estate and the extension or provision of utilities, access roads and other appurtenant facilities; and (2) (a) the acquisition, financing, or refinancing of inventory, raw materials, supplies, work in process, or stock in trade, or (b) the financing, refinancing or consolidation of secured or unsecured debt, borrowings, or obligations, or (c) the provision of financing for any other expense incurred in the ordinary course of business; all of which are to be used or occupied by any person in any enterprise promoting employment, either for the manufacturing, processing or assembly of materials or products, or for research or office purposes, including, but not limited to, medical and other professional facilities, or for industrial, recreational, hotel or motel facilities, public utility and warehousing, or for commercial and service purposes, including, but not limited to, retail outlets, retail shopping centers, restaurant and retail food outlets, and any and all other employment promoting enterprises, including, but not limited to, motion picture and television studios and facilities and commercial fishing facilities, commercial facilities for recreational fishermen, fishing vessels, aquaculture facilities and marketing facilities for fish and fish products and (d) acquisition of an equity interest in, including capital stock of, any corporation; or any combination of the above, which the authority determines will: (i) tend to maintain or provide gainful employment opportunities within and for the people of the State, or (ii) aid, assist and

encourage the economic development or redevelopment of any political subdivision of the State, or (iii) maintain or increase the tax base of the State or of any political subdivision of the State, or (iv) maintain or diversify and expand employment promoting enterprises within the State; and (3) the cost of acquisition, construction, reconstruction, repair, alteration, improvement and extension of an energy saving improvement or pollution control project which the authority determines will tend to reduce the consumption in a building devoted to industrial or commercial purposes, or in an office building, of nonrenewable sources of energy or to reduce, abate or prevent environmental pollution within the State; and (4) the acquisition, construction, reconstruction, repair, alteration, improvement, extension, development, financing or refinancing of infrastructure and transportation facilities or improvements related to economic development and of cultural, recreational and tourism facilities or improvements related to economic development and of capital facilities for primary and secondary schools and of mixed use projects consisting of housing and commercial development; and (5) the establishment, acquisition, construction, rehabilitation, improvement, and ownership of port facilities as defined in section 3 of P.L.1997, c.150 (C.34:1B-146). Project may also include: reimbursement to any person for costs in connection with any project, or the refinancing of any project or portion thereof, if such actions are determined by the authority to be necessary and in the public interest to maintain employment and the tax base of any political subdivision and likely to facilitate improvements or the completion of the project; and developing property and any construction, reconstruction, improvement, alteration, equipment or maintenance or repair, or planning and designing in connection therewith. For the purpose of carrying out mixed use projects consisting of both housing and commercial development, the authority may enter into agreements with the New Jersey Housing and Mortgage Finance Agency for loan guarantees for any such project in accordance with the provisions of P.L.1995, c.359 (C.55:14K-64 et al.), and for that purpose shall allocate to the New Jersey Housing and Mortgage Finance Agency, under such agreements, funding available pursuant to subsection a. of section 4 of P.L.1992, c.16 (C.34:1B-7.13). "Project" shall not include a school facilities project.

"Qualified municipality" means a municipality: (1) that has been subject to the supervision of a financial review board pursuant to the "Special Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.); (2) that has been subject to the supervision of the Local Finance Board pursuant to the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.); and (3) which, according to its most recently adopted municipal budget on the effective date of P.L.2002, c.43 (C.52:27BBB-1 et al.), is dependent upon State aid and other State revenues for not less than 55 percent of its total budget.

"Regional Impact Council" or "council" means that body established pursuant to section 39 of P.L.2002, c.43 (C.52:27BBB-39).

"Rehabilitation term" means that period during which the qualified municipality is under the direction of the chief operating officer appointed pursuant to section 7 of P.L.2002, c.43 (C.52:27BBB-7).

"Special arbitrator" means that judge designated by the Chief Justice pursuant to section 5 of P.L.2002, c.43 (C.52:27BBB-5).

"State supervision" means supervision pursuant to Article 4 of the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-54 et seq.).

"Treasurer" or "State treasurer" means the Treasurer of the State of New Jersey.

"Under rehabilitation and economic recovery" means that period which coincides with the rehabilitation term and the economic recovery term.

ARTICLE 2. GOVERNANCE

C.52:27BBB-4 Notification to qualified municipality.

4. Within 30 days of the effective date of P.L.2002, c.43 (C.52:27BBB-1 et al.), the commissioner shall notify the mayor and each member of the governing body of each qualified municipality that the municipality is subject to the provisions of the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.). In addition, the commissioner shall notify:

- a. the freeholder director and each member of the board of chosen freeholders of each county in which is situated a qualified municipality;
- b. the Chief Justice of the New Jersey Supreme Court; and
- c. each member of the Senate and General Assembly.

C.52:27BBB-5 Appointment of special arbitrator; criteria for dispute resolution.

5. Upon receipt of notification by the commissioner pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4), the Chief Justice may designate a Superior Court judge who sits within the vicinage of the county in which the qualified municipality is situated or a retired judge who, during his or her tenure as a judge, served within the vicinage of the county in which the qualified municipality is situated as the special arbitrator as prescribed pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) to serve during the rehabilitation term. The special arbitrator shall, on an expedited basis, oversee the resolution of any impasse brought before the special arbitrator by the chief operating officer pursuant to sections 9, 11, 13, 16, 22, and 27 of P.L.2002, c.43 (C.52:27BBB-9, C.52:27BBB-11, C.52:27BBB-13, C.52:27BBB-16, C.52:27BBB-22, and C.52:27BBB-27) or any other impasse resulting from any action or failure to act on the part of the mayor, the governing body or any other officer or appointee of the municipality. The special arbitrator may adopt those procedures necessary to govern the resolution of an impasse and shall use the following criteria in dispute resolution, as appropriate to the particular circumstances:

- a. The action or failure to act would be adverse to the rehabilitation or economic recovery of the municipality;
- b. The action in question or failure to act would represent an unsound decision in violation of the fiduciary responsibility of the municipal officials;
- c. The action or failure to act would be inconsistent with internal financial controls or would violate prudent standards or practices of municipal administration or would violate or compromise State laws, rules or regulations under which the municipality operates; and
- d. the action or inaction would delay the implementation of P.L.2002, c.43 (C.52:27BBB-1 et al.) or the achievement of the goal of fostering the redevelopment and rehabilitation of qualified municipalities and ensuring the effective delivery of municipal services and professionalization of municipal administration.

C.52:27BBB-6 Municipality deemed under rehabilitation and economic recovery; term.

6. a. Upon the appointment of a chief operating officer pursuant to section 7 of P.L.2002, c.43 (C.52:27BBB-7), a qualified municipality shall be under rehabilitation and economic recovery. This period shall begin with the assumption of job responsibilities by the chief operating officer pursuant to this section and terminate five years following the end of the term of the chief operating officer. The period corresponding with the term of the chief operating officer shall be referred to hereinafter as the rehabilitation term. The period commencing with the expiration of the term of the chief operating officer and terminating five years thereafter shall be referred to hereinafter as the economic recovery term.

b. During the economic recovery term, the mayor shall exercise those powers delegated to the mayor pursuant to the form of government, the charter and the administrative code of the municipality, and those powers delegated to the mayor under general law. In addition, during the economic recovery term, the mayor shall retain the power to veto the minutes of any independent board or authority, including, but not limited to, the housing authority, parking authority, redevelopment authority, planning board and board of adjustment.

While the municipality is under rehabilitation and economic recovery, the mayor shall retain the power to make those appointments to municipal authorities, boards or commissions, as the case may be, which is otherwise allocated to the mayor pursuant to law.

The mayor may retain staff for the purpose of advising the mayor and aiding in the performance of constituent services.

c. Upon the assumption of job responsibilities by the chief operating officer, the financial review board created pursuant to section 5 of P.L.1999, c.156 (C.52:27D-118.30a) to oversee the finances of the municipality shall cease to function and the municipality shall cease to be under supervision pursuant to Article 4 of P.L.1947, c.151 (C.52:27BB-54 et seq.).

All outstanding debts or obligations incurred by the qualified municipality or the New Jersey Housing and Mortgage Finance Agency established pursuant to section 4 of the "New Jersey Housing and Mortgage Finance Agency Law of 1983," P.L.1983, c.530 (C.55:14K-4) as of 60 days following the effective date of P.L.2002, c.43 (C.52:27BBB-1 et al.), with any subsidiary of that agency with jurisdiction in a qualified municipality, other than those debts or obligations represented by bonds or other negotiable instruments, are forgiven.

Notwithstanding the termination of the financial review board and supervision, all memorandums of understanding entered into by the municipality as a condition of receiving assistance under P.L.1987, c.75 (C.52:27D-118.24 et seq.) that require the municipality to implement any government, administrative, operational efficiency or oversight measures necessary for the fiscal recovery of the municipality as recommended by the director and approved by the Local Finance Board shall continue to have full force and effect.

C.52:27BBB-7 Appointment of chief operating officer; terms.

7. a. Within 30 days following the enactment of P.L.2002, c.43 (C.52:27BBB-1 et al.), the Governor shall appoint the chief operating officer in consultation with the mayor and the governing body. The chief operating officer shall serve at the pleasure of the Governor. The chief operating officer shall be qualified by training and experience for the position and shall have at least 10 years of experience in the management or supervision of government activities, three years of which may be substituted by an advanced degree in business, law, or public administration.

b. Pending the appointment of a chief operating officer or, in the event of the death, resignation, removal or inability of the chief operating officer to discharge the duties of that office, the functions, powers and duties of the chief operating officer shall devolve upon the director, for the time being, until a chief operating officer is appointed or is able to discharge the duties of that office. In the event that the chief operating officer does not serve out the chief operating officer's term of office for any reason, a successor shall be chosen by the Governor.

c. The term of the chief operating officer shall terminate five years following the assumption of duties on the part of the chief operating officer. The chief operating officer may be hired as a State employee in the unclassified service of Title 11A, Civil Service, of the New Jersey Statutes or may be hired under contract, as provided hereunder. Notwithstanding any other provision of law, no person so appointed shall acquire tenure.

If the chief operating officer is hired under contract, the person hired shall meet the qualifications set forth herein, and it shall be clear from the contract that the position is full-time and that the job site shall be at the principal offices of the municipality. If, for any reason, a person engaged under contract is unable to fulfill the job responsibilities of chief operating officer, the selection process shall be recommenced in accordance with the provisions of this section.

If the chief operating officer is hired under contract, the contract shall be available for public inspection in the office of the municipal clerk.

d. Subject to the approval of the commissioner, the salary, benefits and costs of the chief operating officer shall be fixed by the board and adjusted from time to time as the board deems appropriate. The salary level and benefits shall be comparable to that of the director of any public authority or agency with jurisdiction in the qualified municipality. The salary, benefits, and costs of the chief operating officer shall be an expense of the State.

C.52:27BBB-8 Submission of report by COO.

8. a. At the end of four years following the commencement of duties by the chief operating officer, the chief operating officer shall submit a report to the Governor, each member of the State Economic Recovery Board, each member of the Senate and General Assembly, each member of the county board of freeholders in the county in which the qualified municipality is situated, each member of the regional impact council, the mayor, and each member of the governing body of the qualified municipality. The report shall evaluate progress made in rehabilitating the qualified municipality and the status of economic recovery efforts. The report shall include an enumeration of any problems or hurdles encountered in rehabilitation and

economic recovery and, where applicable, recommendations for any amendments to State law which would promote and encourage rehabilitation and economic recovery. If the chief operating officer anticipates that the rehabilitation term will be insufficient to achieve rehabilitation goals, the chief operating officer shall include in the report a detailed analysis of the causes for the municipality's inability to reestablish local control and an assessment of the amount of time necessary for the continuation of the period of the rehabilitation term.

In addition to the foregoing, the report shall include detailed information as to how those funds appropriated pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) are being spent and how those expenditures are serving to promote the economic revitalization of the qualified municipality.

b. Within 30 days of receipt of the report by members of the Legislature, a hearing shall be held by the Senate Community and Urban Affairs Committee and the Assembly Housing and Local Government Committee, or their successors, to provide an opportunity for public comment and discussion.

C.52:27BBB-9 Reallocation of functions, powers, duties to chief operating officer.

9. a. Upon the appointment of the chief operating officer pursuant to subsection a. of section 7 of P.L.2002, c.43 (C.52:27BBB-7), all the functions, powers and duties heretofore or hereafter assigned by any statute, regulation, ordinance, resolution, charter or contract for municipal operations, municipal organization and reorganization, development and implementation of workforce training programs, and the hiring and firing of department heads, managers and supervisory employees shall be reallocated to the chief operating officer. The chief operating officer shall exercise those functions, powers and duties in consultation with the mayor as are hereinafter provided.

b. Except as otherwise provided in P.L.2002, c.43 (C.52:27BBB-1 et al.), the chief operating officer shall have the power to perform all acts and do all things consistent with law necessary for the proper conduct, maintenance, rehabilitation and supervision of the qualified municipality. The chief operating officer may propose ordinances, resolutions, rules, policies and guidelines, not inconsistent with law, for the proper conduct, maintenance and supervision of the municipality.

Ordinances and resolutions shall be adopted or amended as provided by law except that the chief operating officer shall exercise the functions, powers and duties of the mayor.

Failure of the mayor or governing body to act upon or approve any proposal introduced by the chief operating officer shall constitute an impasse and shall be subject to the dispute resolution procedures set forth in section 5 of P.L.2002, c.43 (C.52:27BBB-5).

c. Notwithstanding the provisions of the "Long Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et seq.), the chief operating officer may negotiate financial agreements and otherwise exercise the powers of the governing body pursuant thereto, including making available municipal land in order to facilitate a project pursuant to section 17 of P.L.1991, c.431 (C.40A:20-17). Any such agreements negotiated by the chief operating officer shall be presented to the governing body for the information of the members of the governing body.

d. Notwithstanding any provisions of P.L.2001, c.310 to the contrary, the chief operating officer may, in consultation with the mayor and governing body, negotiate bond financing pursuant to the "Redevelopment Area Bond Financing Law," sections 1 through 10 of P.L.2001, c.310 (C.40A:12A-64 through 73) and revenue allocation financing pursuant to the "Revenue Allocation District Financing Act," sections 11 through 41 of P.L.2001, c.310 (C.52:27D-459 through 489).

e. The functions, powers and duties reallocated to the chief operating officer pursuant to this section shall include, but not be limited to those powers allocated to the mayor which are found in the charter and administrative code of the municipality, Titles 40 and 40A generally and specifically in the "Local Bond Law," N.J.S.40A:2-1 et seq., the "Local Budget Law," N.J.S.40A:4-1 et seq., the "Local Fiscal Affairs Law," N.J.S.40A:5-1 et seq., the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), any specific form of government law according to which the municipality is governed, and such other sections or other laws necessary to the governance and administration of a municipality, the control of litigation, and the

determination of service levels as provided in this section.

f. During the rehabilitation term, the chief operating officer shall exercise the veto power of the mayor with respect to municipal ordinances; provided, however, that the chief operating officer may delegate the veto power to the mayor. In addition, during the rehabilitation term, the chief operating officer shall have the power to veto the minutes of any independent board or authority, including, but not limited to, the housing authority, parking authority, redevelopment authority, planning board and board of adjustment.

During the rehabilitation term, the chief operating officer may refer any matter involving any action or failure to act to the special arbitrator.

g. Subject to the approval of the director, the chief operating officer may appoint a confidential secretary and executive assistant who shall be State employees and serve in the unclassified service of the Civil Service. The salary and benefits of these appointees shall be fixed by the director and adjusted from time to time as the director deems appropriate. The salary, benefits, and costs of these appointees shall be an expense of the State.

These appointees shall serve at the pleasure of the chief operating officer.

C.52:27BBB-10 Particular powers of chief operating officer.

10. The chief operating officer may:

a. Sue in the municipality's corporate name and submit disputes and controversies to arbitration and determination in the manner provided by law;

b. Retain municipal corporation counsel and such other special counsel as the chief operating officer may deem necessary to carry out the functions, powers and duties set forth in P.L.2002, c.43 (C.52:27BBB-1 et al.); and

c. Request the State Treasurer to provide no interest loans to the municipality for cash flow purposes.

C.52:27BBB-11 Appointment of department heads.

11. Within 30 days of the assumption of job responsibilities on the part of the chief operating officer, the chief operating officer shall, in consultation with the mayor, recommend the interim appointment of department heads and submit the list of nominees to the governing body for confirmation. The department heads shall include a business administrator, or functional equivalent thereof, who shall not be the chief operating officer. The governing body may only reject a candidate by a 2/3 vote of the fully authorized membership of the governing body. In the event of an impasse in the appointment process, the matter shall be decided by the special arbitrator, whose decision shall not be subject to appeal. In making a determination pursuant to this subsection, the special arbitrator shall uphold the appointment recommended by the chief operating officer if, by any objective measure, the person under consideration for that position is qualified by reason of experience, education or training.

These interim appointees shall fulfill those responsibilities delegated to them by the chief operating officer pending the completion of the municipal management study by the chief operating officer pursuant to section 12 of P.L.2002, c.43 (C.52:27BBB-12).

C.52:27BBB-12 Preparation of municipal management study.

12. a. Within 30 days following the submission of interim department head appointments to the governing body, the chief operating officer, in consultation with the mayor, shall undertake the preparation of a municipal management study which analyzes the current state of all services provided by each municipal department and the service levels provided in similarly situated municipalities and shall call upon experts or State government officials, as necessary, in order to identify the options available to achieve appropriate levels of service. The study shall include police and fire services provided by the municipality, as well as planning, zoning, code enforcement, permitting and any other municipal permitting.

b. The study shall include reference to those studies previously completed by the State during the period of supervision or the operation of the financial review board and any other relevant studies.

c. The study shall be completed no later than nine months following the appointment of the

interim department heads.

d. The study shall include a review of the municipal organizational plan, the management structure of each department, and the specific personnel needs within each department and unit therein necessary to achieve the levels of service identified in the study as appropriate for the qualified municipality.

With regard to public safety services, the study shall analyze the current state of services provided in light of such performance measures as calls per officer and call response time and make recommendations for current and future staffing levels in order to realize appropriate levels of service.

With respect to other municipal services, the study shall address turnaround time on the processing, review, and approval of applications, permits, grants, loans or other application-driven interactions on the part of private individuals with the municipality and make recommendations for improvement, including considerations of future staffing levels and the logistical support necessary in order to assure more timely processing of such requests.

In addition, the study shall include an assessment of the current state of computerization of municipal operations, the extent to which technology and mechanization are used to increase the efficiency of municipal operations, and, in particular, the extent to which geographic information systems are used to assist in municipal resource allocation, and recommendations for ways in which those operations may be made more efficient and accessible to the public through the use of computers and technological innovation, including the use of geographic information systems.

e. Following from this review, the study shall include any recommendations for the reorganization of municipal government structure considered necessary in order to achieve the more efficient, orderly, cost-effective and professional delivery of municipal services.

In addition, the study shall include an analysis and recommendations concerning appropriate pay scales for department heads in order to assist the chief operating officer in recruiting persons with the training and experience necessary to effectuate their job responsibilities.

f. Notwithstanding any other law, rule or regulation to the contrary, the municipal management study shall include an evaluation of the qualification levels of departmental employees in light of their assigned tasks and an identification of training opportunities to assist those employees in better performing their assigned duties, including a program of computer and technology training. The chief operating officer may call upon the Commissioner of Personnel or other appropriate State government appointees or officers in order to perform this evaluation and provide appropriate training.

g. Upon completion, the study shall be distributed to the mayor, each member of the governing body, every member of the Senate and General Assembly, and the Commissioner of Community Affairs. In addition, the study shall be available for public inspection.

h. Following from the municipal management study, the chief operating officer shall prepare the necessary amendments to the municipality's administrative code and ordinance, including salary ordinances, which follow from the recommendations in the study. These ordinances and amendments should be included as an appendix to the municipal management study.

The mayor and the governing body shall be kept apprised of the progress of the municipal management study and shall cooperate with the chief operating officer and provide that information and documentation necessary to assure the expeditious completion of the study.

C.52:27BBB-13 Copy of study available for public inspection.

13. a. Upon the completion of the municipal management study by the chief operating officer, the chief operating officer shall make available for public inspection a copy of the study in the office of the municipal clerk and each branch of the public library within the municipality.

b. The chief operating officer shall cause notice to be published in a newspaper circulating within the municipality that the study is available for public inspection, not less than 14 days before the meeting of the governing body at which the study is to be voted on.

c. The municipal management study shall become the official operating plan for the municipality unless the governing body rejects the study by a 2/3 vote of the fully authorized membership of the governing body within 30 days following the publication of notice pursuant to subsection b. of this section.

In the event that the governing body rejects the study, the rejection shall be accompanied by a statement specifically outlining the basis for the rejection of each element or component of the study along with an alternative proposal or proposals which accomplish the same objectives.

If the chief operating officer does not approve those alternatives proposed by the governing body, any disputed item shall be considered an impasse and subject to the dispute resolution process set forth in section 5 of P.L.2002, c.43 (C.52:27BBB-5).

If the governing body has not acted within 30 days following the publication of notice pursuant to subsection b. of this section, the study shall be considered adopted.

d. Upon the adoption of the municipal management study, the chief operating officer, in consultation with the director, shall establish a salary scale for each department head. To the extent that the established salaries exceed those paid by the municipality at the commencement of the rehabilitation term, the State shall absorb the increased expense for salaries and benefits during the rehabilitation term, and for two years thereafter, subject to appropriation.

e. Once the chief operating officer has established the salary scale and the municipal management study has been adopted, the chief operating officer shall cause to be prepared proposed ordinances effectuating the salary scales and those amendments to the administrative code necessary to implement the municipal management study.

C.52:27BBB-14 Chief operating officer to act as appointing authority.

14. For the purposes of Title 11A, Civil Service, of the New Jersey Statutes, the chief operating officer shall act as the appointing authority.

The Commissioner of Personnel, in conjunction with the chief operating officer, shall design a remedial Human Resource Plan for the qualified municipality which best supports the efficient and effective delivery of services to the residents of the municipality. This plan may include, but need not be limited to, such measures as delegation of specified personnel functions, pilot programs, and streamlined appointment processes and shall remain in place during the rehabilitation term.

The Commissioner of Personnel may approve such additional changes in the staffing and organization structure as are needed to support the rehabilitation and economic recovery of the qualified municipality pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.).

C.52:27BBB-15 Abolishment of certain municipal positions.

15. a. Notwithstanding any other provision of law or contract, the chief operating officer may abolish positions in the municipality not under the direct supervision of the municipal governing body at any time. All of the functions, powers and duties of such abolished positions shall be exercised by the chief operating officer or those persons whom the chief operating officer designates to exercise them during the rehabilitation term. The affected individuals shall be given 60 days' notice of termination or pay for the same period. The notice or payment shall be in lieu of any other claim or recourse against the municipality based on law or contract or term of office.

b. Notwithstanding any law, rule or regulation to the contrary, no individual whose position is abolished by operation of this section shall be entitled to assert a claim to any position or to placement upon a preferred eligibility list for any position to which the individual may be entitled by virtue of tenure or seniority within the municipality. Nothing herein shall preclude an individual from asserting upon separation from service any legal contractual right to health care coverage, annuities, accrued vacation days, accrued sick leave, insurance and approved tuition costs. No individual whose position is abolished by operation of this subsection shall retain any right to tenure or seniority in the positions abolished herein.

c. Notwithstanding any provision of P.L.1992, c.43 (C.34:15D-1 et seq.) to the contrary, the Department of Labor shall, if requested by an employee, provide a training grant under the "Job Training Partnership Act," Pub. L. 97-300 (29 U.S.C. s.1501 et seq.), to each person who applies pursuant to this section for a training grant to pay for employment and training services as provided pursuant to section 6 of P.L.1992, c.43 (C.34:15D-6).

C.52:27BBB-16 Recommendation of department, division heads.

16. a. Following the completion of the municipal management study, the chief operating officer shall, in consultation with the mayor, recommend the appointment of department heads and division heads, as the case may be, and submit the list of nominees to the governing body for approval. Any recommendations provided by the chief operating officer pursuant to this subsection shall be made in consultation with the mayor. Any person who has served as an interim department head pursuant to section 11 of P.L.2002, c.43 (C.52:27BBB-11) shall be eligible for appointment pursuant to this section. The governing body may only reject a candidate by a 2/3 vote of the fully authorized membership of the governing body. In the event of an impasse in the appointment process, the matter shall be decided by the special arbitrator, whose decision shall not be subject to appeal. In making a determination pursuant to this subsection, the special arbitrator shall uphold the appointment recommended by the chief operating officer if, by any objective measure, the person under consideration for that position is the most qualified by reason of experience, education or training.

Appointment as a department head or division head, as the case may be, shall be for a period of time coinciding with the term of the chief operating officer and an additional two years thereafter; however, department heads and division heads may be removed for cause by the Local Finance Board following a hearing before the board.

b. Any person who has served as an employee in a position with tenure rights during the rehabilitation term who is reappointed by the mayor, with the advice and consent of the governing body, as appropriate, following the termination of the rehabilitation term shall receive credit for the years served during the period of rehabilitation for the purposes of establishing eligibility for tenure, so long as the position otherwise qualifies for tenure under general law.

C.52:27BBB-17 Transfer, assignment, reclassification of positions.

17. Upon the adoption of the municipal management study, the chief operating officer, working in conjunction with the Commissioner of Personnel and in consultation with the mayor, shall, within 60 days, transfer, assign or reclassify, as the case may be, those positions recommended for such action in the study.

Any residency requirement established pursuant to municipal ordinance shall be waived for those positions which are at the supervisory, management level or above and which are in the unclassified service of Title 11A, Civil Service, of the New Jersey Statutes.

C.52:27BBB-18 Annual stipend for residence in qualified municipality.

18. Any person hired in a position for which the residency requirement has been waived or as a police officer or firefighter after the adoption of the municipal management study, and who purchases a home in the qualified municipality and occupies that home as a principal residence shall, subject to appropriation, receive an annual stipend of 10 percent of the person's base salary upon proper claim made therefor each year to the Department of Community Affairs, so long as the claim is made during the rehabilitation term, subject to appropriation. The department shall pay the stipend upon satisfactory proof by the applicant that the dwelling for which the stipend is being paid continues to be occupied as a principal residence by the applicant. An employee may receive this stipend for a period of five years; however, the requirement that the dwelling be occupied as a principal residence shall extend to the period of rehabilitation and economic recovery. Any person who does not continue to occupy the residence for which that person receives the stipend for the entirety of the period of rehabilitation and economic recovery shall be required to reimburse the State for the entire amount of the stipend received.

A municipal tax lien shall attach on the property for which the stipend is being paid, at the time the annual stipend is paid by the State in the amount of stipend received by the applicant. The lien shall have the same status and shall be given the same effect as municipal liens established under R.S.54:5-9. The lien shall remain on the property until the expiration of the period of rehabilitation and economic recovery, or until the entire amount of the stipend paid to the applicant has been reimbursed back to the State, should the applicant not continue to occupy the residence for the entire period of rehabilitation and economic recovery. The amount of the stipend to be reimbursed to the State shall also be a personal debt of the applicant, and both the lien and the debt shall be recoverable in the name of the State by means of any remedy available

at law.

The chief operating officer shall each year compile a list of those employees eligible to receive the stipend, which shall be used by the department to verify eligibility. An employee who receives the stipend shall be ineligible to receive the property tax credit authorized pursuant to section 56 of P.L.2002, c.43 (C.52:27BBB-55).

The commissioner shall annually submit a list to the State Treasurer of those persons who receive the stipend.

C.52:27BBB-19 Incentive for retirement for certain employees.

19. Notwithstanding the provisions of any other law, rule or regulation to the contrary, an employee of a qualified municipality who is a member of the Public Employees' Retirement System and is otherwise eligible for retirement may, upon the recommendation of the chief operating officer with the approval of the director, receive an incentive payment for the termination of the employee's employment with the municipality.

As used in this section, "incentive payment" shall mean a lump sum payment of 20 percent of the employee's annual base salary, exclusive of overtime.

An employee shall only be eligible for an incentive payment pursuant to this section if that person applies for this termination benefit within 60 days of the appointment of the chief operating officer. Payment shall be made not sooner than upon the receipt of the first pension check by the municipal employee.

This election to retire on the part of the municipal employee shall be communicated by the member to the retirement system pursuant to Title 43 of the Revised Statutes; however, once the employee has elected to retire, that decision shall be final.

C.52:27BBB-20 Additional NJ SAVER rebate for certain residents.

20. A resident of a qualified municipality who has paid property taxes for the tax year on a homestead that is owned as such and who is eligible to receive an NJ SAVER rebate pursuant to P.L.1999, c.63 (C.54:4-8.58a et al.) shall, subject to appropriation, receive an NJ SAVER rebate in an amount equal to 150% of the amount otherwise owed that resident pursuant to section 4 of P.L.1999, c.63 (C.54:4-8.58b) during the time that the municipality is under rehabilitation and economic recovery.

C.52:27BBB-21 Monthly meetings, minutes.

21. a. The chief operating officer shall conduct monthly meetings with the mayor, department heads and the executive directors of any independent boards or authorities created by the municipality or which otherwise operate in the name of the municipality. Meetings may be held more frequently, as necessary, at the call of the chief operating officer.

b. During the rehabilitation term, the chief operating officer may veto the minutes of any independent board or authority, including, but not limited to, the housing authority, parking authority, redevelopment authority, planning board and board of adjustment. The mayor shall retain this power during the economic recovery term.

c. A true copy of the minutes of every meeting of any independent board or authority, including, but not limited to, the housing authority, parking authority, redevelopment authority, planning board and board of adjustment, shall be prepared and forthwith delivered to the chief operating officer or mayor, as the case may be. No action taken at any such meeting shall have force or effect until 10 days, exclusive of Saturdays, Sundays and public holidays, after the copy of the minutes shall have been so delivered. If, in that 10-day period, the chief operating officer or mayor returns the copy of the minutes with a veto of any action taken by the board or authority at the meeting, that action shall be null and void and of no force and effect. Following the completion of the 10-day period, those actions not vetoed shall be considered approved.

d. To ensure the expeditious consideration of any decision by the planning board and zoning board of adjustment or any other independent board or authority on the part of the chief operating officer or mayor, as appropriate, the secretary of each board or authority shall forward a copy of each resolution adopted by each board or authority within five business days following the adoption thereof. For the purposes of the exercise of the veto power by the chief operating

officer or mayor pursuant to subsection c. of this section, the 10-day period shall commence upon the receipt, by the chief operating officer or mayor, as appropriate, of those resolutions.

C.52:27BBB-22 Extension of review, appeal period for planning, zoning matters.

22. a. Any applicable period for review or appeal in connection with any application acted upon by either the planning board or zoning board, as the case may be, as provided for under the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), shall be extended to incorporate that amount of time taken by the chief operating officer in reviewing the minutes pursuant to subsection c. of section 21 of P.L.2002, c.43 (C.52:27BBB-21).

b. In the event that the veto of the chief operating officer reverses an approval that has been granted by the planning board or board of adjustment, as the case may be, or allows an application that has otherwise been denied by either board, the chief operating officer shall direct the secretary of the planning board or board of adjustment, as the case may be, to notify the applicant, by certified mail, at the same time that the secretary receives the copy of the minutes with the veto from the chief operating officer pursuant to subsection c. of section 21 of P.L.2002, c.43 (C.52:27BBB-21).

C.52:27BBB-23 Approval, veto of ordinance, resolution.

23. a. Within three business days following each meeting of the governing body, a copy of each ordinance and resolution which has been adopted by the governing body shall be forwarded to the chief operating officer or mayor, as the case may be, who shall have 10 days from the receipt thereof to veto the ordinance or resolution, as the case may be. Any veto action by the chief operating officer or mayor shall be submitted to the governing body within 10 days of the veto. Within five business days thereafter, the governing body may override the veto by a two-thirds vote of the fully authorized membership thereof.

If, in the opinion of the chief operating officer, the action is contrary to the rehabilitation of economic recovery goals which justified the rehabilitation declaration, the chief operating officer can submit the action to the special arbitrator, who shall allow the action only upon a finding that the action is consistent with the rehabilitation and economic recovery of the qualified municipality. The decision of the special arbitrator shall not be subject to appeal.

b. The chief operating officer shall have full access to all municipal records and to municipal information from all officials and employees of the municipality. If the chief operating officer believes that an official or employee of the municipality is not answering the questions of the chief operating officer accurately or completely or is not furnishing information requested by the chief operating officer, the chief operating officer may notify the official or employee in writing to furnish answers to questions or to furnish documents or records, or both. If the official or employee refuses, the chief operating officer may seek a subpoena in the Superior Court, in a summary manner, to compel testimony and furnish records and documents.

C.52:27BBB-24 Hiring of nonpartisan, professional staff.

24. The governing body, in conjunction with the Eagleton Institute of Politics and the Rand Institute at Rutgers, The State University, shall hire a non-partisan, professional staff to assist the governing body in the execution of its governmental functions and shall provide the staff with the computer hardware and software necessary to perform their assigned tasks. Computer equipment shall be provided at State expense. The staff members shall possess expertise in areas of municipal government operation, including but not limited to, municipal law, planning, social services, public health, public finance and public works administration. Candidates for appointment shall possess a college degree which is relevant to the position which may include, but not be limited to, business, law and public administration. Although a candidate may possess a law degree, staff members shall serve as subject matter experts to the governing body and shall not serve as legal counsel.

The Eagleton Institute and the Rand Institute shall also provide comprehensive training for members of the governing body and the non-partisan, professional staff to better enable them to discharge their representative functions in the public interest. The State shall adequately compensate the Eagleton Institute and the Rand Institute for their services, subject to

appropriation.

C.52:27BBB-25 Governing body to retain functions, powers, duties.

25. Unless otherwise provided pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), the governing body shall retain all functions, powers and duties prescribed to it pursuant to the charter and administrative code of the municipality, Titles 40 and 40A generally and specifically in the "Local Bond Law," N.J.S.40A:2-1 et seq., the "Local Budget Law," N.J.S.40A:4-1 et seq., the "Local Fiscal Affairs Law," N.J.S.40A:5-1 et seq., the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), the "New Jersey Water Supply Public-Private Contracting Act," P.L.1995, c.101 (C.58:26-19 et seq.), any specific form of government law according to which the municipality is governed, and such other sections or other laws which govern municipal operation or administration.

The governing body shall set the schedule and agenda for meetings of the governing body, which shall be duly advertised pursuant to the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.). Meetings shall be presided over by the president of the governing body.

C.52:27BBB-26 Oversight, audit of qualified municipality.

26. a. The director may provide for oversight or audit of the activities of each qualified municipality and report the findings to the Local Finance Board and the chief operating officer. The cost of providing oversight and audit functions shall be borne by the State. The power to negotiate collective bargaining agreements pursuant to section 20 of P.L.1981, c.211 (C.52:27BB-66.1) shall be vested in the chief operating officer. Collective bargaining agreements entered into by the municipality prior to the commencement of the rehabilitation term shall remain in force as provided in those agreements, except when otherwise expressly provided in P.L.2002, c.43 (C.52:27BBB-1 et al.).

b. The director may make grants to a municipality under rehabilitation, using such funds as may be available to the director, for the purposes of conducting studies or engaging consultants as may be authorized by P.L.2002, c.43 (C.52:27BBB-1 et al.) to assist in rehabilitation, or those that the director and the chief operating officer or mayor, as appropriate, determine are necessary to the rehabilitation of the municipality. Grants may be made subject to conditions deemed necessary by the director.

C.52:27BBB-27 No increase in municipal portion of general tax rate.

27. a. During the rehabilitation term, the chief operating officer shall not increase the municipal portion of the general tax rate over the rate established for the year during which the rehabilitation took effect.

b. The chief operating officer shall, in consultation with the mayor, annually prepare a budget pursuant to the provisions of the "Local Budget Law," N.J.S.40A:4-1 et seq. This budget shall conform in all respects with the requirements of the "Local Budget Law," N.J.S.40A:4-1 et seq. and shall be subject to the limitations on spending by municipalities set forth in P.L.1976, c.68 (C.40A:4-45.1 et seq.). The Local Finance Board may grant exceptions to the spending limitations set forth in P.L.1976, c.68 (C.40A:4-45.1 et seq.) upon application by the chief operating officer, if the Local Finance Board finds such exceptions to be necessary for the rehabilitation of the municipality.

c. Upon the preparation of the budget, the chief operating officer, in consultation with the mayor, shall fix: a date, place and time for the holding of a public hearing upon the budget; the amounts of money necessary to be appropriated for the use of the municipality for the ensuing year; and the various items and purposes for which the same are to be appropriated. The hearing shall be held in accordance with the provisions of the "Local Budget Law," N.J.S.40A:4-1 et seq.; however, the hearing shall be held at least 28 days after the date on which the budget is advertised. Notice of hearing, contents of the notice and the format and purpose of the hearing shall be as provided in that law. As part of the budget request, the chief operating officer may include provision for anticipation of rehabilitation aid if other revenues are insufficient to meet the revenues needed to offset total appropriations.

d. Following the hearing or hearings on the budget, the governing body shall vote upon the

proposed budget. Failure to adopt the budget shall be communicated to the chief operating officer along with the reasons for each line item that is rejected. If the chief operating officer does not approve those alternatives proposed by the governing body, any disputed line item shall be considered an impasse and subject to the dispute resolution process set forth in section 5 of P.L.2002, c.43 (C.52:27BBB-5).

e. If the budget proposed by the chief operating officer includes a provision for rehabilitation aid, the chief operating officer shall apply to the director for approval of the amount and shall supply the director with documentation justifying the need. The director shall then recommend an amount to the State Treasurer. The treasurer, after consideration of the recommendation, shall determine the amount of the rehabilitation aid to be requested.

f. During the period that the municipality is under rehabilitation and economic recovery, the commissioner shall ensure that those appropriations in the municipal budget necessary for the improvement of internal audit mechanisms and controls are present on an annual basis.

C.52:27BBB-28 Ordinances authorizing debt subject to approval by local finance board.

28. During the rehabilitation term, all ordinances authorizing the issuance of debt shall be subject to approval of the Local Finance Board. Provisions of the "Local Bond Law," N.J.S.40A:2-1 et seq., with regard to the introduction of bond ordinances shall be followed, and approval of the chief operating officer shall serve as approval of the bond ordinance for publication. After a public hearing held by the governing body and approval of a bond ordinance by the chief operating officer, the chief operating officer shall apply to the Local Finance Board for approval of the bond ordinance. No bond ordinance shall take effect without the approval of the Local Finance Board. Amendments to existing bond ordinances that do not increase the amount of bonded indebtedness may be approved by the chief operating officer without the approval of the Local Finance Board.

C.52:27BBB-29 Biannual report on progress.

29. The chief operating officer shall biannually provide to the Local Finance Board a report on the progress of each qualified municipality toward achieving municipal rehabilitation and economic recovery. The director shall formally report annually to the Local Finance Board, the commissioner, the Attorney General, the treasurer, the Governor, each member of the governing body of each qualified municipality, including the mayor, each member of the county board of freeholders in the county in which the qualified municipality is situated, each member of the regional impact council, and each member of the Legislature on the municipality's progress towards achieving these goals. The reports may also include recommendations to the Legislature by the chief operating officer for specific changes to the law that the chief operating officer believes would facilitate the goal of rehabilitating the qualified municipality.

C.52:27BBB-30 Community advisory committee.

30. The mayor of each qualified municipality and the chief operating officer shall establish a community advisory committee in order to provide an efficient means of eliciting citizen input in the rehabilitation and economic recovery and community development of that municipality, which shall exist while the qualified municipality is under rehabilitation and economic recovery. The community advisory committee shall consist of 13 members as follows: three to be appointed by the Commissioner of Community Affairs; three by the governing body; and three by the chief operating officer. The mayor shall serve as an ex officio member of the committee and shall appoint an additional three members. Members shall serve for a term of five years.

Membership of the committee shall include representatives of the municipality's neighborhood, business, labor, faith-based, civic, and public interest organizations. No fewer than three members of the committee shall represent private businesses situated within the qualified municipality.

The committee shall meet not less than twice a year, at the pleasure of the chief operating officer, and shall assist the chief operating officer in the conduct of the municipal management study pursuant to section 12 of P.L.2002, c.43 (C.52:27BBB-12) and such other functions as are assigned to it by the chief operating officer.

C.52:27BBB-31 Cooperation of State agencies with chief operating officer.

31. a. All State departments and agencies, to the extent not inconsistent with law and within budget constraints, shall cooperate with the chief operating officer and respond to requests for such information and assistance as are necessary to accomplish the purposes of P.L.2002, c.43 (C.52:27BBB-1 et al.).

b. Notwithstanding any law or regulation to the contrary, during the period of rehabilitation and economic recovery, each State department, agency, or authority shall supersede existing priority setting or ranking systems to place applications from the qualified municipality in the highest priority or ranking category for award or approval of grants, benefits, loans, projects, including highway, roads, sewer and other infrastructure projects or other considerations that would benefit the municipality. This shall be done to the greatest extent possible to benefit the municipality.

C.52:27BBB-32 Immunity from liability for State officer, employee.

32. The State shall not be liable in tort, contract or in the nature of tort for any action or inaction involving the rehabilitation or revitalization of the municipality. The chief operating officer, assistant chief operating officer, and any State officer or employee involved in the rehabilitation or revitalization of the municipality shall not be liable in tort, contract or in the nature of tort personally or as State employees for any action or inaction involving the rehabilitation or revitalization of the municipality.

This section shall not be construed to preclude an aggrieved person from maintaining an action in tort, contract or in the nature of tort against the chief operating officer or a State officer or employee involved in the rehabilitation or revitalization of the municipality, as municipal employees. For purposes of those actions the chief operating officer, appointees of the chief operating officer pursuant to subsection g. of section 9 of P.L.2002, c.43 (C.52:27BBB-9), and any State officer or employee involved in the rehabilitation shall be deemed officers or employees of the municipality and shall be entitled to the defenses and immunities as provided under the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq. and the "New Jersey Contractual Liability Act," N.J.S.59:13-1 et seq. for public employees and shall be entitled to defense and indemnification by the municipality as provided to other municipal employees.

C.52:27BBB-33 Utilization of available mechanism to facilitate communications.

33. The commissioner shall utilize available mechanisms, such as the Urban Coordinating Council, to coordinate and facilitate communications between the chief operating officer and the various State departments and agencies.

C.52:27BBB-34 Municipality to remain body corporate and politic; elections.

34. a. Notwithstanding that a municipality has been placed under rehabilitation and economic recovery under P.L.2002, c.43 (C.52:27BBB-1 et al.), the municipality shall remain a body corporate and politic in the same manner as existed prior to rehabilitation and economic recovery.

b. Nothing in P.L.2002, c.43 (C.52:27BBB-1 et al.) shall be construed to interrupt the holding of regular elections of the governing body, mayor or other chief executive officer.

C.52:27BBB-35 Agreement between library and county for operation.

35. Notwithstanding any law, rule or regulation to the contrary, the governing body of any qualified municipality in which a free public library has been established pursuant to R.S.40:54-1 et seq. situated in a county in which a free county library has been established pursuant to R.S.40:33-1 et seq. and in which is situated a qualified municipality may enter into an agreement with the governing body of the county, acting on behalf of the county library commission, for the county library to assume responsibility for the administration and operation of the municipal library system. The agreement shall provide for those financial arrangements necessary in order to assure a smooth transition from municipal to county operation and the transfer of library personnel from the municipal, to the county library system.

ARTICLE 3. REDEVELOPMENT MANAGEMENT

C.52:27BBB-36 State Economic Recovery board created in qualified municipality.

36. a. In order to facilitate the rehabilitation and economic recovery of each qualified municipality, there is created a subsidiary corporation of the New Jersey Economic Development Authority, which shall be known as the State Economic Recovery Board for (insert name of qualified municipality). The board shall operate for the period during which the municipality is under rehabilitation and economic recovery and for a period of two years thereafter. Any outstanding debts or obligations which remain at the termination of board operation shall be assumed by the authority and any accounts payable to the board shall be due and payable to the authority.

b. The board shall consist of 15 voting members, as follows: the mayor of the qualified municipality; a representative of the municipal governing body selected by the governing body; the chief operating officer; the State Treasurer; the Commissioner of Community Affairs; the chairperson of the authority; a representative of the regional impact council selected by the council; the director of the board of chosen freeholders of the county in which the qualified municipality is situated, as provided hereunder, all of whom shall serve ex officio and may select a designee to serve in their stead; one public member chosen by the Senate President and one public member chosen by the Assembly Speaker; and five public members to be appointed by the Governor, to include one representative of organized labor and one representing the business community. Of the public members appointed by the Governor, at least three shall be municipal residents. In addition, the Senior Community Builder in the State office of the federal Department of Housing and Urban Development shall serve as an ex officio, non-voting member of the board.

A majority of the entire authorized membership of the board shall constitute a quorum at any meeting thereof.

c. Each public member shall serve for a term of five years. Vacancies in the public membership of the board shall be filled in the same manner as the original appointments are made and a member may be eligible for reappointment. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. Each ex officio member shall serve for the period during which the municipality is under rehabilitation and economic recovery and for a period of two years thereafter.

The Governor shall designate the chairperson of the board.

d. The board shall be appointed as expeditiously as possible upon the enactment of P.L.2002, c.43 (C.52:27BBB-1 et al.) and shall convene not later than 30 days following enactment of P.L.2002, c.43 (C.52:27BBB-1 et al.) for its organizational meeting. Thereafter, the board shall meet regularly and on not less than a quarterly basis. At its first organizational meeting, the board shall appoint one of the public members to serve as its designee on the New Jersey Economic Development Authority pursuant to section 4 of P.L.1974, C.80 as amended by section 69 of P.L.2002, c.43 (C.34:1B-4).

e. The voting authority of the director of the county board of chosen freeholders shall not become effective until the filing with the Secretary of State of an agreement entered into by the chief operating officer, acting on behalf of the municipality, and the county, detailing the financial commitment of the county to the redevelopment of the infrastructure of the municipality which shall include improvements or other economic benefits totalling not less than \$20 million and a proposed construction schedule for the completion thereof.

C.52:27BBB-37 Duties of board.

37. The duties of the board shall include, but not be limited to:

a. in consultation with the chief operating officer and the mayor, the preparation of the capital improvement and infrastructure master plan, identification of resources necessary to assure its implementation, marshaling of efforts of public and private entities which operate within the qualified municipality, and performance of any other tasks requested by the chief operating officer to assure the efficient use of, and maximum access to, public resources in order to assure the economic recovery of the qualified municipality;

- b. the preparation of a strategic revitalization plan for the qualified municipality in accordance with the provisions of section 38 of P.L.2002, c.43 (C.52:27BBB-38);
- c. the review and approval of plans submitted by any institution of higher education as a prerequisite for the receipt of funding pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.). The approval of these plans shall not be unreasonably or arbitrarily withheld;
- d. the review, on a timely basis, of all programs or projects undertaken pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), including but not limited to development and redevelopment efforts, including commercial, residential and industrial projects, facilities or sites, the issuance of any loan, grant or other equity investment pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) or any other State appropriation or allocation for the qualified municipality;
- e. the preparation of project lists and financial plans in accordance with the provisions of section 45 of P.L.2002, c.43 (C.52:27BBB-44);
- f. the review of all recommendations, studies or other proposals related to the purposes of, and undertaken pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.); and
- g. the engagement, through contract or other appropriate means, of those professionals or organizations whose expertise and experience would prove essential to achieving a comprehensive and strategic economic development plan.

C.52:27BBB-38 Preparation of strategic revitalization plan.

38. a. Concurrently with the preparation of the capital improvement and infrastructure plan pursuant to section 42 of P.L.2002, c.43 (C.52:27BBB-41), the board shall oversee the preparation of a strategic revitalization plan for the qualified municipality.

The strategic revitalization plan shall incorporate a blueprint for the economic, social, and cultural revitalization of the municipality through the promotion of development and redevelopment in both the downtown business district and residential neighborhoods. The plan shall promote diversification of land uses, including housing where appropriate, and enhance the linkages of these uses to the rest of the community. The plan shall ensure a full range of housing choices through redevelopment, new construction, rehabilitation, adaptive reuse of nonresidential buildings, to the extent possible, and the introduction of new housing into appropriate nonresidential settings. To the extent that the existing housing stock can be preserved, the plan shall encourage maintenance, rehabilitation and flexible regulation, where possible.

The plan shall promote economic development by encouraging strategic land assembly, site preparation and infill development and assure that infrastructure improvements support a central role for the municipality within the regional context. The plan shall include strategies for integrating port redevelopment, downtown regeneration and the revitalization of residential neighborhoods. The plan shall also provide for the maintenance and enhancement of a transportation system that capitalizes on high density settlement patterns by encouraging the use of public transit, walking, and alternative modes of transportation, including the use of water transportation, where appropriate.

In addition, the plan shall provide for maximum active and passive recreational opportunities and facilities at the neighborhood, local and regional levels by concentrating on the maintenance and rehabilitation of existing parks and open space while expanding and linking the system through redevelopment and reclamation projects.

The strategic revitalization plan shall be drafted by urban planners recruited through a comprehensive nationwide search.

b. The strategic revitalization plan shall be submitted to the chief operating officer, the mayor, each member of the governing body, the commissioner, the Governor, each member of the Senate and General Assembly, and each member of the regional impact council within six months after the first meeting of the board.

c. The strategic revitalization plan shall be adopted upon an affirmative vote of a majority of the full authorized membership of the board.

C.52:27BBB-39 Regional impact council.

39. a. There is established for each qualified municipality a regional impact council to serve

for that period during which the municipality is under rehabilitation and economic recovery. The council shall consist of: the mayor of the qualified municipality or his or her designee; the mayor of any municipality in the county in which the qualified municipality is situated which on or before the effective date of P.L.2002, c.43 (C.52:27BBB-1 et al.) has participated in a regional collaborative established to further the strategic revitalization of the qualified municipality or the mayor's designee; the director of the board of chosen freeholders of the county in which the qualified municipality is situated or his or her designee; the director of the Office of State Planning or his or her designee; one representative of the New Jersey Regional Coalition, to be appointed as provided hereinafter; and four public members, two of whom shall be appointed by the Governor, one of whom shall be appointed by the Senate President and one of whom shall be appointed by the Speaker of the General Assembly. The four public members shall include at least one member of the faith-based community within the region; one member of the business community; one member of the higher education community; and one member of the labor community within the region.

b. Within 30 days of the effective date of P.L.2002, c.43 (C.52:27BBB-1 et al.), the New Jersey Regional Coalition shall submit to the Governor three nominees for consideration, from which the Governor may choose. If the organization does not submit three nominees for consideration at any time required, the Governor may appoint a member of the Governor's choice.

c. No member of the council shall receive a salary for service on the council but shall be reimbursed for reasonable and necessary expenses associated with serving on the council.

d. A majority of the members of the council shall choose one of the members to serve as the chair. Each member of the council shall serve for a two-year term and, upon expiration of that term, may be reappointed. Vacancies among the membership shall be filled in the same manner in which the original appointment was made.

e. The council shall select an appropriate location or locations in which to meet. The council may adopt its own bylaws and procedures that are not inconsistent with P.L.2002, c.43 (C.52:27BBB-1 et al.).

f. The council shall be eligible for and may employ a consultant and such staff as it deems necessary, to the extent that funds are made available pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) or other sources. The council may call upon the commissioner for such assistance as it deems necessary.

g. The council may hold public hearings at the call of the chair and pursuant to the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

C.52:27BBB-40 Role of regional impact council.

40. It shall be the role of the regional impact council to promote coordination among communities within the region surrounding a qualified municipality and to assist in the formulation of long range strategies to address regional issues, including public safety, economic development, housing, and environmental issues with the goal of improving the quality of life within the region.

In fulfilling this role, the responsibilities of the regional impact council shall include, but not be limited to:

a. the representation of the regional interest in the economic recovery of the qualified municipality through participation in the State Economic Recovery Board established pursuant to section 36 of P.L.2002, c.43 (C.52:27BBB-36);

b. the review of the strategic revitalization plan prepared pursuant to section 38 of P.L.2002, c.43 (C.52:27BBB-38), the capital improvement and infrastructure plan pursuant to section 42 of P.L.2002, c.43 (C.52:27BBB-41), and of the report submitted by the chief operating officer pursuant to section 8 of P.L.2002, c.43 (C.52:27BBB-8), and provision of comments and recommendations, as appropriate, in order to reflect regional concerns;

c. if deemed necessary and appropriate by the council, a review of the county master plan and other regional plans and development of recommendations for the county planning board or other regional entities in order to strengthen the functioning of the municipalities in the regional context;

d. the formulation of an action plan which includes a series of tasks necessary to enhance the functioning of the region, including planning, programs and projects and the identification of the technical, institutional and financial resources necessary to execute them, the agencies and organizations responsible for each activity and a timetable for completion; and

e. any recommendations for legislation deemed advisable by the board to enhance regional cooperation among municipalities and maximize the efficient utilization of federal, State, local and private resources.

41. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read as follows:

C.34:1B-5 Powers.

5. The authority shall have the following powers:

a. To adopt bylaws for the regulation of its affairs and the conduct of its business;

b. To adopt and have a seal and to alter the same at pleasure;

c. To sue and be sued;

d. To acquire in the name of the authority by purchase or otherwise, on such terms and conditions and such manner as it may deem proper, or by the exercise of the power of eminent domain in the manner provided by the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), any lands or interests therein or other property which it may determine is reasonably necessary for any project or school facilities project; provided, however, that the authority in connection with any project shall not take by exercise of the power of eminent domain any real property except upon consent thereto given by resolution of the governing body of the municipality in which such real property is located; and provided further that the authority shall be limited in its exercise of the power of eminent domain in connection with any project to municipalities receiving State aid under the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.), or to municipalities which had a population, according to the latest federal decennial census, in excess of 10,000;

e. To enter into contracts with a person upon such terms and conditions as the authority shall determine to be reasonable, including, but not limited to, reimbursement for the planning, designing, financing, construction, reconstruction, improvement, equipping, furnishing, operation and maintenance of the project or the school facilities project and to pay or compromise any claims arising therefrom;

f. To establish and maintain reserve and insurance funds with respect to the financing of the project or the school facilities project and any project financed pursuant to the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.);

g. To sell, convey or lease to any person all or any portion of a project or school facilities project, for such consideration and upon such terms as the authority may determine to be reasonable;

h. To mortgage, pledge or assign or otherwise encumber all or any portion of a project, school facilities project or revenues, whenever it shall find such action to be in furtherance of the purposes of this act, P.L.2000, c.72 (C.18A:7G-1 et al.), and the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.);

i. To grant options to purchase or renew a lease for any of its projects or school facilities projects on such terms as the authority may determine to be reasonable;

j. To contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the United States of America or any agency or instrumentality thereof, or from the State or any agency, instrumentality or political subdivision thereof, or from any other source and to comply, subject to the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), and the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.) with the terms and conditions thereof;

k. In connection with any application for assistance under P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.) or the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.) or commitments therefor, to require and collect such fees and charges as the authority shall

determine to be reasonable;

l. To adopt, amend and repeal regulations to carry out the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), and the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.);

m. To acquire, purchase, manage and operate, hold and dispose of real and personal property or interests therein, take assignments of rentals and leases and make and enter into all contracts, leases, agreements and arrangements necessary or incidental to the performance of its duties;

n. To purchase, acquire and take assignments of notes, mortgages and other forms of security and evidences of indebtedness;

o. To purchase, acquire, attach, seize, accept or take title to any project or school facilities project by conveyance or by foreclosure, and sell, lease, manage or operate any project or school facilities project for a use specified in this act, P.L.2000, c.72 (C.18A:7G-1 et al.), and the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.);

p. To borrow money and to issue bonds of the authority and to provide for the rights of the holders thereof, as provided in P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), and the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.);

q. To extend credit or make loans to any person for the planning, designing, acquiring, constructing, reconstructing, improving, equipping and furnishing of a project or school facilities project, which credits or loans may be secured by loan and security agreements, mortgages, leases and any other instruments, upon such terms and conditions as the authority shall deem reasonable, including provision for the establishment and maintenance of reserve and insurance funds, and to require the inclusion in any mortgage, lease, contract, loan and security agreement or other instrument, such provisions for the construction, use, operation and maintenance and financing of a project or school facilities project as the authority may deem necessary or desirable;

r. To guarantee up to 90% of the amount of a loan to a person, if the proceeds of the loan are to be applied to the purchase and installation, in a building devoted to industrial or commercial purposes, or in an office building, of an energy improvement system;

s. To employ consulting engineers, architects, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the authority to carry out the purposes of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), and the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.) and to fix and pay their compensation from funds available to the authority therefor, all without regard to the provisions of Title 11A of the New Jersey Statutes;

t. To do and perform any acts and things authorized by P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), and the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.) under, through or by means of its own officers, agents and employees, or by contract with any person;

u. To procure insurance against any losses in connection with its property, operations or assets in such amounts and from such insurers as it deems desirable;

v. To do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), and the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.);

w. To construct, reconstruct, rehabilitate, improve, alter, equip, maintain or repair or provide for the construction, reconstruction, improvement, alteration, equipping or maintenance or repair of any development property and lot, award and enter into construction contracts, purchase orders and other contracts with respect thereto, upon such terms and conditions as the authority shall determine to be reasonable, including, but not limited to, reimbursement for the planning, designing, financing, construction, reconstruction, improvement, equipping, furnishing, operation and maintenance of any such development property and the settlement of any claims arising

therefrom and the establishment and maintenance of reserve funds with respect to the financing of such development property;

x. When authorized by the governing body of a municipality exercising jurisdiction over an urban growth zone, to construct, cause to be constructed or to provide financial assistance to projects in an urban growth zone which shall be exempt from the terms and requirements of the land use ordinances and regulations, including, but not limited to, the master plan and zoning ordinances, of such municipality;

y. To enter into business employment incentive agreements as provided in the "Business Employment Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.);

z. To undertake school facilities projects and to enter into agreements or contracts, execute instruments, and do and perform all acts or things necessary, convenient or desirable for the purposes of the authority to carry out any power expressly provided pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.) and P.L.2000, c.72 (C.18A:7G-1 et al.), including, but not limited to, entering into contracts with the State Treasurer, the Commissioner of Education, districts and any other entity which may be required in order to carry out the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.);

aa. To enter into leases, rentals or other disposition of a real property interest in and of any school facilities project to or from any local unit pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.);

bb. To make and contract to make loans or leases and to make grants to local units to finance the cost of school facilities projects and to acquire and contract to acquire bonds, notes or other obligations issued or to be issued by local units to evidence the loans or leases, all in accordance with the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.);

cc. Subject to any agreement with holders of its bonds issued to finance a project or school facilities project, obtain as security or to provide liquidity for payment of all or any part of the principal of and interest and premium on the bonds of the authority or for the purchase upon tender or otherwise of the bonds, lines of credit, letters of credit, reimbursement agreements, interest rate exchange agreements, currency exchange agreements, interest rate floors or caps, options, puts or calls to hedge payment, currency, rate, spread or similar exposure or similar agreements, float agreements, forward agreements, insurance contract, surety bond, commitment to purchase or sell bonds, purchase or sale agreement, or commitments or other contracts or agreements, and other security agreements or instruments in any amounts and upon any terms as the authority may determine and pay any fees and expenses required in connection therewith;

dd. To charge to and collect from local units, the State and any other person, any fees and charges in connection with the authority's actions undertaken with respect to school facilities projects, including, but not limited to, fees and charges for the authority's administrative, organization, insurance, operating and other expenses incident to the financing, construction and placing into service and maintenance of school facilities projects;

ee. To make loans to refinance solid waste facility bonds through the issuance of bonds or other obligations and the execution of any agreements with counties or public authorities to effect the refunding or rescheduling of solid waste facility bonds, or otherwise provide for the payment of all or a portion of any series of solid waste facility bonds. Any county or public authority refunding or rescheduling its solid waste facility bonds pursuant to this subsection shall provide for the payment of not less than fifty percent of the aggregate debt service for the refunded or rescheduled debt of the particular county or public authority for the duration of the loan; except that, whenever the solid waste facility bonds to be refinanced were issued by a public authority and the county solid waste facility was utilized as a regional county solid waste facility, as designated in the respective adopted district solid waste management plans of the participating counties as approved by the department prior to November 10, 1997, and the utilization of the facility was established pursuant to tonnage obligations set forth in their respective interdistrict agreements, the public authority refunding or rescheduling its solid waste facility bonds pursuant to this subsection shall provide for the payment of a percentage of the aggregate debt service for the refunded or rescheduled debt of the public authority not to exceed the percentage of the specified tonnage obligation of the host county for the duration of the loan. Whenever the solid waste facility bonds are the obligation of a public authority, the relevant county shall execute a deficiency agreement with the authority, which shall provide that the

county pledges to cover any shortfall and to pay deficiencies in scheduled repayment obligations of the public authority. All costs associated with the issuance of bonds pursuant to this subsection may be paid by the authority from the proceeds of these bonds. Any county or public authority is hereby authorized to enter into any agreement with the authority necessary, desirable or convenient to effectuate the provisions of this subsection.

The authority shall not issue bonds or other obligations to effect the refunding or rescheduling of solid waste facility bonds after December 31, 2002. The authority may refund its own bonds issued for the purposes herein at any time;

ff. To pool loans for any local government units that are refunding bonds and do and perform any and all acts or things necessary, convenient or desirable for the purpose of the authority to achieve more favorable interest rates and terms for those local governmental units; and

gg. To finance projects approved by the board, provide staff support to the board, oversee and monitor progress on the part of the board in carrying out the revitalization, economic development and restoration projects authorized pursuant to the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.) and otherwise fulfilling its responsibilities pursuant thereto.

ARTICLE 4. DEMOLITION, CAPITAL IMPROVEMENT AND INFRASTRUCTURE

C.52:27BBB-41 Consultation with State Economic Recovery Board.

42. a. The chief operating officer and the mayor of the qualified municipality shall consult with the State Economic Recovery Board established pursuant to section 36 of P.L.2002, c.43 (C.52:27BBB-36) in its preparation of a capital improvement and infrastructure plan for each qualified municipality. The plan shall be submitted to the chief operating officer, the mayor, each member of the governing body, the commissioner, the Governor, each member of the county board of freeholders in the county in which the qualified municipality is situated, each member of the Senate and General Assembly, and each member of the regional impact council within six months after the first meeting of the board.

The first section of the plan shall be a water and sewer subplan where necessary. The water and sewer subplan shall provide a detailed blueprint for the separation of storm drains from the sewer system throughout the municipality, which improvements shall be completed within four years. In addition, the water and sewer subplan shall coordinate the overlay of municipal roads following the separation of underground lines and designate those roads which require reconstruction and allocate administrative and financial responsibility among various agencies for effectuating the plan. Funds shall be earmarked by the appropriate State agencies from the "Transportation Trust Fund Account," created pursuant to section 20 of P.L.1984, c.73 (C.27:1B-20) and the "New Jersey Environmental Infrastructure Trust" created pursuant to section 4 of P.L.1985, c.334 (C.58:11B-4), in order to accomplish the work plan set forth in the water and sewer subplan.

The capital improvement and infrastructure plan shall include those features of the municipal capital improvement program authorized pursuant to section 20 of P.L.1975, c.291 (C.40:55D-29). In addition, the plan shall specifically incorporate: a time frame for making any improvements necessary in the public water system to accommodate proposed redevelopment in the municipality and surrounding areas; a parks and open public space subplan which encompasses projects to improve the streetscapes, parks, public spaces, and any other relevant aspects of the public environment; and an analysis of public building needs, including administrative offices of the municipality, firehouses, police stations, libraries, and any other municipal government functions in light of the organizational and functional analysis of municipal government operations contained in the municipal management study.

The capital improvement and infrastructure plan shall recognize the plans of the county in which the qualified municipality is situated, any regional authorities with jurisdiction in the municipality, the State Department of Transportation, the New Jersey Transit Corporation, any State universities situated within the municipality, and any other public and nonprofit entities which operate in the municipality.

Any municipal plan which affects the physical development of the municipality and is adopted

by the municipality or any agency or instrumentality thereof after the adoption of the capital improvement and infrastructure plan shall be consistent with that plan.

b. The capital improvement and infrastructure plan shall be adopted upon an affirmative vote of a majority of the full authorized membership of the board.

C.52:27BBB-42 Property tax collection audit.

43. In addition to the municipal management study, the chief operating officer in consultation with the mayor, shall cause to be conducted a property tax collection audit in order to ascertain those properties which are in arrears with regard to property taxes and subject to tax sale or foreclosure. The study shall identify the ownership of those properties, the length of time during which taxes have been in arrears, and the likelihood that the properties might be developed individually or assembled with adjacent properties for demolition or redevelopment.

Following the completion of the property tax collection audit, the chief operating officer shall submit the study to the Commissioner of Community Affairs, who shall designate the board to assist in the preparation of a demolition funding plan.

The State shall provide the necessary level of funding to allow for the demolition of unsafe structures and clearing of those lots for future development.

C.52:27BBB-43 Conveyance of right, title, interest in certain real property.

44. The governing body of each qualified municipality shall convey to the board, for the period of rehabilitation and economic recovery, its right, title and interest in any real property, acquired through the purchase of any tax sale certificate covering that real property whose rights of redemption have been foreclosed under the In Rem Tax Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.), so long as the liens have previously been offered by the municipality at a public tax lien sale.

ARTICLE 5. PROJECT FINANCING

C.52:27BBB-44 Project list.

45. a. The board shall prepare and submit a project list, as provided hereunder. The list shall be consistent with the strategic revitalization plan and capital improvement and infrastructure plans for the qualified municipality to the extent practicable and shall include a series of projects which are prioritized according to their importance in revitalizing the qualified municipality.

Following the enactment of P.L.2002, c.43 (C.52:27BBB-1 et al.) and the preparation of the plans mentioned above, the capital and infrastructure needs shall be assessed and projects shall be anticipated over a three-year period. The bond moneys authorized to be issued pursuant to section 47 of P.L.2002, c.43 (C.52:27BBB-46) shall be expended over a three year period.

The board shall adopt each project list by a majority of those members present. In the event that the board selects to rescind a project from the list, such a vote shall be by a two-thirds vote of the fully authorized membership thereof.

Each project list shall be submitted to the Commission on Capital Budgeting and Planning, the Chairperson of the Senate Appropriations Committee and the Chairperson of the Assembly Appropriations Committee, or their successors, and the Legislative Budget and Finance Officer, on or before March 1 of each year.

b. The President of the Senate and the Speaker of the General Assembly shall cause the date of submission of the project list to be entered upon the Senate Journal and the Minutes of the General Assembly.

c. On or before March 1 of each year, the board shall submit a report of general project categories and proposed projects thereunder to be financed in the ensuing fiscal year, including therewith a description of the projects, the county or counties within which they are to be located, a distinction between State, local and private projects, and the amount estimated to be expended on each project. This report shall be known as the "Annual Qualified Municipality Capital and Economic Recovery Program" for the upcoming fiscal year. The program shall be consistent with, and reflective of, the goals and priorities of the Strategic Revitalization Plan, capital improvement and infrastructure plan, and the program shall include an explanation which

demonstrates how it is consistent with, and reflective of, the goals and priorities.

d. On or before August 1 of each year, the board shall also submit a "Qualified Municipality Capital and Economic Recovery Financial Plan" designed to implement the financing of the proposed projects. The financial plan shall contain an enumeration of the bonds, notes or other obligations of the authority which the authority intends to issue, including the amounts thereof and the conditions therefor.

In addition, the plan shall contain proposed amounts to be appropriated and expended, as well as amounts for which the authority anticipates to obligate during the ensuing fiscal year for any future expenditures.

C.52:27BBB-45 Definitions relative to project financing.

46. As used in this article:

"Authority reserves" means the unrestricted funds of the authority that have not been designated for authority programs;

"Bonds" means bonds, notes or other obligations issued by the authority pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.); and

"Refunding bonds" means bonds, notes or other obligations issued to refinance bonds, notes or other obligations previously issued by the authority pursuant to section 47 of P.L.2002, c.43 (C.52:27BBB-46).

C.52:27BBB-46 Powers of authority.

47. Notwithstanding the provisions of any law, rule, regulation or order to the contrary:

a. The authority shall issue bonds and refunding bonds, incur indebtedness and borrow money secured, in whole or in part, by money received pursuant to sections 48 and 49 of P.L.2002, c.43 (C.52:27BBB-47 and C.52:27BBB-48), for the purpose of making the deposits described in section 50 of P.L.2002, c.43 (C.52:27BBB-49). The total outstanding principal amount of the bonds shall not exceed \$175,000,000. In computing the foregoing limitation as to amount, there shall be excluded all bonds which shall be issued for (1) costs incurred in connection with the issuance of the bonds and (2) refunding purposes, provided that the refunding shall be determined by the authority to result in a debt service savings. The authority may establish reserve or other funds to further secure bonds and refunding bonds.

In computing the foregoing limitation, the authority may include those reserves of the authority or other State authorities to be made available for the purposes of P.L.2002, c.43 (C.52:27BBB-1 et al.) or those amounts to be made available by any bistrate or other agency with jurisdiction in the qualified municipality.

Prior to the approval of this financing plan, the authority shall submit a copy for review and approval of the Joint Budget and Oversight Committee.

b. The authority may, in any resolution authorizing the issuance of bonds or refunding bonds, pledge the contract with the State Treasurer, provided for in section 49 of P.L.2002, c.43 (C.52:27BBB-48), or any part thereof, for the payment or redemption of the bonds or refunding bonds, and covenant as to the use and disposition of money available to the authority for payments of bonds and refunding bonds. All costs associated with the issuance of bonds and refunding bonds by the authority for the purposes set forth in P.L.2002, c.43 (C.52:27BBB-1 et al.) may be paid by the authority from amounts it receives from the proceeds of the bonds or refunding bonds and from amounts it receives pursuant to sections 48 and 49 of P.L.2002, c.43 (C.52:27BBB-47 and C.52:27BBB-48), which costs may include, but are not limited to, any costs relating to the issuance of the bonds or refunding bonds and costs attributable to the agreements described in subsection c. of this section. The bonds or refunding bonds shall be authorized by resolution, which shall stipulate the manner of execution and form of the bonds whether the bonds are in one or more series, the date or dates of issue, time or times of maturity, which shall not exceed 40 years, the rate or rates of interest payable on the bonds, which may be at fixed rates or variable rates, and which interest may be current interest or may accrue, the denomination or denominations in which the bonds are issued, conversion or registration privileges, the sources and medium of payment and place or places of payment, terms of redemption, privileges of exchangeability or interchangeability, and entitlement to priorities of

payment or security in the amounts to be received by the authority pursuant to sections 48 and 49 of P.L.2002, c.43 (C.52:27BBB-47 and C.52:27BBB-48). The bonds may be sold at a public or private sale at a price or prices determined by the authority. The authority is authorized to enter into any agreements necessary or desirable to effectuate the purposes of this section, including agreements to sell bonds or refunding bonds to any persons and to comply with the laws of any jurisdiction relating thereto.

c. In connection with any bonds or refunding bonds issued pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), the authority may also enter into any revolving credit agreement, agreement establishing a line of credit or letter of credit, reimbursement agreement, interest rate exchange agreement, currency exchange agreement, interest rate floor or cap, options, puts or calls to hedge payment, currency, rate, spread or similar exposure, or similar agreements, float agreements, forward agreements, insurance contract, surety bond, commitment to purchase or sell bonds, purchase or sale agreement, or commitments or other contracts or agreements and other security agreements approved by the authority.

d. No resolution adopted by the authority authorizing the issuance of bonds or refunding bonds pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) shall be adopted or otherwise made effective without the approval in writing of the State Treasurer. Except as provided by subsection i. of section 4 of P.L.1974, c.80 (C.34:1B-4), bonds or refunding bonds may be issued without obtaining the consent of any department, division, commission, board, bureau or agency of the State, other than the approval as required by this subsection, and without any other proceedings or the occurrence of any other conditions or other things other than those proceedings, conditions or things which are specifically required by P.L.2002, c.43 (C.52:27BBB-1 et al.).

e. Bonds and refunding bonds issued by the authority pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) shall be special and limited obligations of the authority payable from, and secured by, such funds and moneys determined by the authority in accordance with this section. Neither the members of the authority nor any other person executing the bonds or refunding bonds shall be personally liable with respect to payment of interest and principal on these bonds or refunding bonds. Bonds or refunding bonds issued pursuant to the provisions of P.L.2002, c.43 (C.52:27BBB-1 et al.) shall not be a debt or liability of the State or any agency or instrumentality thereof, except as otherwise provided by this subsection, either legal, moral or otherwise, and nothing contained in P.L.2002, c.43 (C.52:27BBB-1 et al.) shall be construed to authorize the authority to incur any indebtedness on behalf of or in any way to obligate the State or any political subdivision thereof, and all bonds and refunding bonds issued by the authority shall contain a statement to that effect on their face.

f. The authority is authorized to engage, subject to the approval of the State Treasurer and in such manner as the State Treasurer shall determine, the services of financial advisors and experts, placement agents, underwriters, appraisers, and such other advisors, consultants and agents as may be necessary to effectuate the purposes of P.L.2002, c.43 (C.52:27BBB-1 et al.).

g. The proceeds from the sale of the bonds, other than refunding bonds, issued pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), after payment of any costs related to the issuance of such bonds, shall be applied to the purposes set forth in section 50 of P.L.2002, c.43 (C.52:27BBB-49).

h. All bonds or refunding bonds issued by the authority are deemed to be issued by a body corporate and politic of the State for an essential governmental purpose, and the interest thereon and the income derived from all funds, revenues, incomes and other moneys received for or to be received by the authority and pledged and available to pay or secure the payment on bonds or refunding bonds and the interest thereon, shall be exempt from all taxes levied pursuant to the provisions of Title 54 of the Revised Statutes or Title 54A of the New Jersey Statutes, except for transfer, inheritance and estate taxes levied pursuant to Subtitle 5 of Title 54 of the Revised Statutes.

i. The State hereby pledges and covenants with the holders of any bonds or refunding bonds issued pursuant to the provisions of P.L.2002, c.43 (C.52:27BBB-1 et al.), that it will not limit or alter the rights or powers vested in the authority by P.L.2002, c.43 (C.52:27BBB-1 et al.), nor limit or alter the rights or powers of the State Treasurer in any manner which would

jeopardize the interest of the holders or any trustee of such holders, or inhibit or prevent performance or fulfillment by the authority or the State Treasurer with respect to the terms of any agreement made with the holders of these bonds or refunding bonds or agreements made pursuant to subsection e. of this section, except that the failure of the Legislature to appropriate moneys for any purpose of P.L.2002, c.43 (C.52:27BBB-1 et al.) shall not be deemed a violation of this section.

j. Notwithstanding any restriction contained in any other law, rule, regulation or order to the contrary, the State and all political subdivisions of this State, their officers, boards, commissioners, departments or other agencies, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, saving and loan associations, investment companies and other persons carrying on a banking or investment business, and all executors, administrators, guardians, trustees and other fiduciaries, and all other persons whatsoever who now are or may hereafter be authorized to invest in bonds or other obligations of the State, may properly and legally invest any sinking funds, moneys or other funds, including capital, belonging to them or within their control, in any bonds or refunding bonds issued by the authority under the provisions of P.L.2002, c.43 (C.52:27BBB-1 et al.); and said bonds and refunding bonds are hereby made securities which may properly and legally be deposited with, and received by any State or municipal officers or agency of the State, for any purpose for which the deposit of bonds or other obligations of the State is now, or may hereafter be authorized by law.

C.52:27BBB-47 Payment to authority for debt service.

48. a. The State Treasurer shall, in each State fiscal year, pay from the General Fund to the authority, in accordance with a contract or contracts between the State Treasurer and the authority, authorized pursuant to section 49 of P.L.2002, c.43 (C.52:27BBB-48), an amount equivalent to the amount due to be paid in such State fiscal year to pay the debt service incurred for such State fiscal year on the bonds or refunding bonds of the authority issued pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) and any additional costs authorized by section 47 of P.L.2002, c.43 (C.52:27BBB-46); and

b. In addition to such terms and conditions as are agreed upon pursuant to section 49 of P.L.2002, c.43 (C.52:27BBB-48), the contract or contracts shall provide that all such payments from the General Fund shall be subject to, and dependent upon, appropriations being made from time to time by the Legislature for these purposes.

C.52:27BBB-48 Contracts between State Treasury and authority for debt service.

49. The State Treasurer and the authority are authorized to enter into one or more contracts to implement the payment arrangement that is provided for in section 48 of P.L.2002, c.43 (C.52:27BBB-47). The contract or contracts shall provide for payment by the State Treasurer of the amounts required to be paid pursuant to section 48 of P.L.2002, c.43 (C.52:27BBB-47) and shall set forth the procedure for the transfer of moneys for the purpose of paying such moneys. The contract or contracts shall contain such terms and conditions as are determined by the parties, and shall include, but not be limited to, terms and conditions necessary pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.); provided, however, that notwithstanding any other provision of any law, rule, regulation or order to the contrary, the authority shall be paid only such funds as shall be determined by the contract or contracts and further provided that the incurrence of any obligation of the State under the contract or contracts, including any payments to be made thereunder from the General Fund, shall be subject to and dependent upon appropriations being made from time to time by the Legislature for the purposes of P.L.2002, c.43 (C.52:27BBB-1 et al.).

C.52:27BBB-49 Series of special funds.

50. a. The authority shall establish and maintain a series of special funds as provided in sections 51 and 52 of P.L.2002, c.43 (C.52:27BBB-50 and C.52:27BBB-51) into which shall be deposited such moneys: (1) as shall be paid to the funds by the State Treasurer for the purposes of those funds; (2) as shall be appropriated by the State for the purpose of such funds; (3) as shall be deposited into the funds in accordance with the "Annual Qualified Municipal

Capital and Economic Recovery Program" and the "Qualified Municipality Capital and Economic Recovery Financial Plan" adopted pursuant to section 45 of P.L.2002, c.43 (C.52:27BBB-44) and (4) any other moneys or funds of the authority which it determines to deposit therein. Moneys in the funds may be invested in such obligations as the authority may approve and interest or other earnings on such investments shall be credited to the funds.

b. In addition to the powers of the authority set forth in section 5 of P.L.1974, c.80 (C.34:1B-5) and other powers which may be conferred on the authority or the executive director by P.L.2002, c.43 (C.52:27BBB-1 et al.), the authority, by resolution, shall have the power to: (1) pay all or part of the cost of an eligible project; and (2) make loans, guarantees, equity investments, and grants, or provide other forms of financing for an eligible project.

c. The purpose of the special funds established pursuant to subsection a. of this section shall be to provide loans, guarantees, equity investments, and grants or other forms of financing of a sufficient scale and visibility to expand and sustain economic activity in qualified municipalities, both within the central business district and port district and in order to encourage revitalization of the municipality's neighborhoods outside of the central business district through the rehabilitation, acquisition, demolition and redevelopment of property within those neighborhoods, the improvement of municipally-owned water supply and distribution facilities, and, where necessary, the remediation of brownfields sites to foster redevelopment. Grants shall be made available to qualified municipalities in order to strengthen the provision of municipal services through capital construction and reconstruction of public buildings and financial assistance necessary to allow for the purchase of equipment considered vital to the sustenance of municipal public services, particularly public safety.

C.52:27BBB-50 Overseeing of funds by board; amounts, purposes.

51. The board shall oversee the following funds:

a. the "Residential Neighborhood Improvement Fund," into which shall be deposited the sum of \$35 million from bond proceeds, to be disbursed at the direction of the board and upon the recommendation of the chief operating officer, to make grants, matching grants or loans, to support water and sewer improvements not funded by the county, to support the removal of litter and clean community activities, the development of tot-lots, community gardens, landscape amenities, small scale demolitions, streetscape improvements, property acquisition, housing, and restoration in neighborhoods outside of the central business district;

b. the "Demolition and Redevelopment Financing Fund," into which shall be deposited the sum of \$43 million from bond proceeds, to be disbursed at the direction of the board and upon the recommendation of the chief operating officer, which shall be used to provide grants, matching grants or loans to support neighborhood rehabilitation, land acquisition, brownfields remediation, demolition and redevelopment;

c. the "Downtown Revitalization and Recovery Fund" into which shall be deposited the sum of \$45.8 million from bond proceeds, to be disbursed at the direction of the board and upon the recommendation of the chief operating officer, which shall be used to make grants, matching grants or loans to support streetscape improvements, facade restoration, street signage improvements, street resurfacing, demolition and restoration of commercial structures, property acquisition, and redevelopment projects, brownfields remediation in order to foster redevelopment, industrial development, port redevelopment, and the development of entertainment and cultural facilities such as aquariums and community schools for the arts.

The sum of \$25 million out of this fund shall be used to make grants, matching grants or loans to support from bond proceeds the expansion and upgrade of an aquarium in a qualified municipality by a private developer. Moneys from the fund for aquarium purposes shall be made available on a matching basis, with three dollars of State money to be made available for every dollar raised by a private developer. The receipt of funds by a private developer shall be subject to those conditions set forth pursuant to section 53 of P.L.2002, c.43 (C.52:27BBB-52).

Funds paid out of this fund in support of an aquarium may be used for debt retirement; however, any funds used for that purpose shall not be subject to the matching requirement pursuant to this subsection;

d. the "Higher Education and Regional Health Care Development Fund" into which shall be

deposited the sum of \$47.7 million from bond proceeds, to be disbursed at the direction of the board and upon the recommendation of the chief operating officer, in accordance with the provisions of section 52 of P.L.2002, c.43 (C.52:27BBB-51);

e. the "Economic Recovery Planning Fund" into which shall be deposited the sum of \$3.5 million from bond proceeds, to be disbursed at the direction of the board and upon the recommendation of the chief operating officer, to cover those planning and administrative costs incurred in preparing the strategic revitalization plan pursuant to section 38 of P.L.2002, c.43 (C.52:27BBB-38), the capital improvement and infrastructure plan prepared pursuant to section 42 of P.L.2002, c.43 (C.52:27BBB-41), and such other plans as are required to be prepared pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.); and

f. the "Qualified Municipality Economic Opportunity Fund" into which shall be deposited the sum of \$1.5 million, which shall be used, in coordination with the job training provisions of the State's school construction program, to create employment and entrepreneurial opportunities through the completion of projects in the central business district, entrepreneurial training, and grants and loans to small business development in residential neighborhoods, and loans for housing development.

C.52:27BB-51 "Higher Education and Regional Health Care Development Fund."

52. There is created the "Higher Education and Regional Health Care Development Fund" which shall be used to provide grants, to nonprofit educational institutions and regional health care facilities, as provided hereunder.

a. Those grants to be provided to nonprofit educational institutions under this section shall be provided on a one-to-one matching basis in order to encourage the development of student housing, retail facilities and commercial enterprises in the central business district of the qualified municipality, subject to those conditions set forth in section 53 of P.L.2002, c.43 (C.52:27BBB-52).

Any facility constructed using bond proceeds shall be located within the central business district of the qualified municipality and shall be co-located with other university buildings.

With respect to Rowan University, these funds shall be made available on the condition that the university shall offer at least two full four- year programs, thereby allowing students to complete an entire course of study on the campus housed in the central business district. In addition, any of these institutions may use these matching funds in conjunction with land acquisition moneys received by that university from the Delaware River Port Authority.

The bond proceeds shall be allocated as follows:

- (1) the sum of \$11 million shall be made available to Rutgers, the State University;
- (2) the sum of \$5.1 million shall be made available to Rowan University;
- (3) the sum of \$9 million shall be made available to the University of Medicine & Dentistry of New Jersey; and
- (4) the sum of \$3.5 million shall be made available to Camden County College.

Moneys shall be committed within four years of the effective date of P.L.2002, c.43 (C.52:27BBB-1 et al.).

b. Those grants to be provided to regional health care facilities under this section shall be provided, on a matching basis, to regional health care facilities situated within the qualified municipality, to allow for facility expansion, including but not limited to, facilities for pre-admission testing, occupational health, health-related educational facilities such as a school of nursing and emergency room facilities, subject to those conditions set forth in section 53 of P.L.2002, c.43 (C.52:27BBB-52). Each health care facility shall be required to raise one dollar for every three dollars provided by the State. The bond proceeds shall be allocated as follows:

- (1) the sum of \$4.5 million shall be made available to Our Lady of Lourdes Medical Center;
- (2) the sum of \$13.35 million shall be made available to Cooper Hospital/University Medical Center; provided, however, that no funds shall be made available to Cooper Hospital/University Medical Center for the purpose of establishing or expanding family practice facilities. Cooper Hospital/University Medical Center may make available a portion of these funds to a federally-qualified health center operating in the City of Camden;

(3) the sum of \$1 million shall be made available to Virtua Hospital to allow for the establishment of an in-patient drug treatment facility; and

(4) the sum of \$250,000 shall be made available to Partners in Health to further community outreach efforts in underserved communities and the promotion of programs for minority children, the elderly, uninsured or underinsured families and disabled persons.

C.52:27BBB-52 Conditions on tax-exempt entities receiving funding.

53. Any entity which is otherwise tax-exempt pursuant to Title 54 of the Revised Statutes and which receives funding pursuant to the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.) to finance the purchase of any real property or construction of any improvement which would otherwise be tax-exempt shall be subject to the following conditions:

a. The entity shall pay an annual service charge for a period of 20 years following the receipt of funding pursuant thereto, which shall be negotiated by the tax-exempt entity and the chief operating officer on behalf of the qualified municipality according to the formula set forth pursuant to section 12 of P.L.1991, c.431 (C.40A:20-12).

b. The board shall approve in advance any facility plans or other such documentation produced by the tax-exempt entity which include detailed information concerning the projects proposed to be funded with the matching grants and the agreement negotiated by the chief operating officer pursuant to subsection a. of this section.

The receipt of matching funds by such an entity pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) shall be conditioned upon compliance with the provisions of this section, as determined by the board.

ARTICLE 6. ECONOMIC DEVELOPMENT

C.52:27BBB-53 Definitions relative to open for business incentives.

54. As used in this section and section 55 of P.L.2002, c.43 (C.52:27BBB-54):

a. "Business facility" means any factory, mill, plant, refinery, warehouse, building, complex of buildings or structural components of buildings, and all machinery, equipment and personal property located within a qualified municipality, used in connection with the operation of the business of a corporation that is subject to the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), and all facility preparation and start-up costs of the taxpayer for the business facility which it capitalizes for federal income tax purposes.

b. "Business relocation or business expansion property" means improvements to real property and tangible personal property, but only if that improvement or personal property is constructed or purchased and placed in service or use by the taxpayer, for use as a component part of a new or expanded business facility located in a qualified municipality.

(1) Business relocation or business expansion property shall include only:

(a) improvements to real property placed in service or use as a business facility on or after the operative date of P.L.2002, c.43 (C.52:27BBB-1 et al.) by the taxpayer;

(b) tangible personal property placed in service or use by the taxpayer on or after the operative date of P.L.2002, c.43 (C.52:27BBB-1 et al.), with respect to which depreciation, or amortization in lieu of depreciation, is allowable in determining the corporation business tax liability of the taxpayer under P.L.1945, c.162, and which has a remaining recovery period of three or more years at the time the property is placed in service or use in a qualified municipality; or

(c) tangible personal property owned and used by the taxpayer at a business location outside a qualified municipality which is moved into a qualified municipality on or after the effective date of P.L.2002, c.43 (C.52:27BBB-1 et al.), for use as a component part of a new or expanded business facility located in the qualified municipality; provided that the property is depreciable or amortizable personal property for income tax purposes, and has a remaining recovery period of three or more years at the time the property is placed in service or use in a qualified municipality.

(2) Property purchased for business relocation or expansion shall not include:

(a) repair costs, including materials used in the repair, unless for federal income tax purposes, the cost of the repair must be capitalized and not expensed;

(b) airplanes;

(c) property which is primarily used outside a qualified municipality with that use being determined based upon the amount of time the property is actually used both within and without the qualified municipality;

(d) property which is acquired incident to the purchase of the stock or assets of the seller.

(3) Property shall be deemed to have been purchased prior to a specified date only if:

(a) the physical construction, reconstruction or erection of the property was begun prior to the specified date, or such property was constructed, reconstructed, erected or acquired pursuant to a written contract as existing and binding on the purchase prior to the specified date; or

(b) the machinery or equipment was owned by the taxpayer prior to the specified date, or was acquired by the taxpayer pursuant to a binding purchase contract which was in effect prior to the specified date.

c. "Business relocation or expansion" means capital investment in a new or expanded business facility in a qualified municipality.

d. "Controlled group" means one or more chains of corporations connected through stock ownership with a common parent corporation if stock possessing at least 50% of the voting power of all classes of stock of each of the corporations is owned directly or indirectly by one or more of the corporations; and the common parent owns directly stock possessing at least 50% of the voting power of all classes of stock of at least one of the other corporations.

e. "Director" means the Director of the Division of Taxation in the Department of the Treasury.

f. "Expanded business facility" means any business facility, other than a new business facility, resulting from acquisition, construction, reconstruction, installation or erection of improvements or additions to existing property if such improvements or additions are purchased on or after the effective date of rehabilitation and economic recovery.

g. "Incentive payment" means: the amount of tax owed by a taxpayer for a privilege period, as computed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), multiplied by a fraction, the numerator of which is the average value of the taxpayer's business relocation or business expansion property within a qualified municipality during the period covered by its report, and the denominator of which is the average value of all the taxpayer's real and tangible personal property in New Jersey during such period which result is multiplied by 96 percent; provided, however, that for the purpose of determining average value, the provisions with respect to depreciation as set forth in subparagraph (F) of paragraph (2) of subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4) shall be taken into account for arriving at such value; and provided further that incentive payments shall be made for a period not to exceed 10 years, commencing on the date of a taxpayer's first acquisition of business relocation or business expansion property in the qualified municipality following the operative date of P.L.2002, c.43 (C.52:27BBB-1 et al.).

h. "New business facility" means a business facility which:

(1) is employed by a taxpayer in the conduct of a business which is or will be taxable under P.L.1945, c.162 (C.54:10A-1 et seq.). A business facility shall not be considered a new business facility in the hands of a taxpayer if the taxpayer's only activity with respect to the facility is to lease it to another person;

(2) is purchased by a taxpayer and is placed in service or use on or after the effective date of rehabilitation and economic recovery;

(3) was not purchased by a taxpayer from a related person; and

(4) was not in service or use during the 90-day period immediately prior to transfer of the title to the facility.

i. "Partnership" means a syndicate, group, pool, joint venture or other unincorporated organization through or by means of which any business, financial operation or venture is carried on, and which is not a trust or estate, a corporation or a sole proprietorship. The term "partner"

includes a member in such a syndicate, group, pool, joint venture or organization.

j. "Purchase" means, with respect to the determination of whether business relocation or business expansion property was purchased, any acquisition of property, including an acquisition pursuant to a lease, but only if:

(1) the property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of deductions under section 267 or subsection (b) of section 707 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.267 or s.707;

(2) the property is not acquired by one member of a controlled group from another member of the same controlled group; and

(3) the basis of the property for federal income tax purposes, in the hands of the person acquiring it, is not determined:

(a) in whole or in part by reference to the federal adjusted basis of such property in the hands of the person from whom it was acquired; or

(b) under subsection (e) of section 1014 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1014.

k. "Related person" means:

(1) a corporation, partnership, association or trust controlled by the taxpayer;

(2) an individual, corporation, partnership, association or trust that is in control of the taxpayer;

(3) a corporation, partnership, association or trust controlled by an individual, corporation, partnership, association or trust that is in control of the taxpayer; or

(4) a member of the same controlled group as the taxpayer.

C.52:27BBB-54 "Qualified Municipality Open for Business Incentive Program."

55. a. There is established in the authority the "Qualified Municipality Open for Business Incentive Program," the purpose of which is to foster business investment in qualified municipalities. Businesses that locate or expand in a qualified municipality during the period that the municipality is under rehabilitation and economic recovery shall be eligible to receive a rebate from the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.) as provided herein.

b. For each year in which a taxpayer is eligible for a rebate of a portion of the incentive payment, the Director of the Division of Taxation shall certify to the State Treasurer (1) that the taxpayer's corporation business tax return has been filed; (2) that the taxpayer's entire corporation business tax obligation has been satisfied; and (3) the amount of the taxpayer's incentive payment entitlement. Upon such certification, the treasurer shall certify to the executive director of the authority the amount of the taxpayer's incentive payment and, subject to the approval of the Director of the Division of Budget and Accounting, transfer that incentive payment to the fund established with the proceeds of those funds appropriated pursuant to subsection b. of section 73 of P.L.2002, c.43.

c. The executive director of the authority shall rebate to the taxpayer up to 75% of the incentive payment paid by the taxpayer and placed by the treasurer into a fund established using those funds appropriated pursuant to subsection b. of section 73 of P.L.2002, c.43 if the taxpayer applies for a rebate within two years of deposit of the incentive payment into the fund and establishes to the satisfaction of the executive director of the authority that the taxpayer will utilize those monies for business relocation or business expansion property. The cumulative amount of monies distributed to the taxpayer pursuant to this section shall not exceed the amount paid or to be paid by the taxpayer for the business relocation or business expansion property. In the event that the taxpayer does not establish its eligibility for a rebate of a portion of the incentive payment within two years of its deposit into the fund, the fund shall retain any remaining amount of the incentive payment.

C.52:27BBB-55 Application for CBT tax credit for new positions.

56. a. A taxpayer engaged in the conduct of business within a qualified municipality and who is not receiving a benefit under the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.), may apply to receive a tax credit against the amount of tax otherwise

imposed under the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.) equal to: \$2,500 for each new full-time position at that location in credit year one and \$1,250 for each new full-time position at that location in credit year two.

b. (1) The credit pursuant to subsection a. of this section for credit year one shall be allowed for the privilege period in which or with which credit year one ends; the credit pursuant to subsection a. of this section for credit year two shall be allowed for the privilege period in which or with which credit year two ends.

(2) An unused credit may be carried forward, if necessary, for use in the five privilege periods following the privilege period for which the credit is allowed.

(3) The order of priority of the application of the credit allowed under this section and any other credits allowed by law shall be as prescribed by the Director of the Division of Taxation. The amount of the credit applied under this section against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with any other credits allowed by law, shall not exceed 50% of the tax liability otherwise due and shall not reduce the tax liability to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162.

c. (1) Notwithstanding the provisions of subsection b. of this section to the contrary, the credit allowed for credit year one may be refundable at the close of the privilege period in which or with which credit year two ends, pursuant to the requirements and limitations of this subsection.

(2) That amount of the credit received for credit year one remaining, if any, after the liabilities for the privilege period in which or with which credit year two ends and for any prior privilege period have been satisfied, multiplied by the sustained effort ratio, shall be an overpayment for the purposes of section R.S.54:49-15 for the privilege period in which or with which credit year two ends; that amount of the credit received for credit year one remaining, if any, that is not an overpayment pursuant to this paragraph may be carried forward pursuant to subsection b. of this section.

d. The burden of proof shall be on the taxpayer to establish by clear and convincing evidence that the taxpayer is entitled to the credits or refund allowed pursuant to this section. The director shall by regulation establish criteria for the determination of when new or expanded operations have begun at a location. No taxpayer shall be allowed more than a single 24-month continuous period in which credits shall be allowed for activity at a location within a qualified municipality pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.).

e. For the purposes of this section:

"Credit year one" means the first twelve calendar months following initial or expanded operations at a location within a qualified municipality pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.).

"Credit year two" means the twelve calendar months following credit year one.

"Employee of the taxpayer" does not include an individual with an ownership interest in the business, that individual's spouse or dependants, or that individual's ancestors or descendants.

"Full time position" means a position filled by an employee of the taxpayer for at least 140 hours per month on a permanent basis, which does not include employment that is temporary or seasonal.

"New full time position" means a position that did not exist prior to credit year one. New full time positions shall be measured by the increase, from the twelve-month period preceding credit year one to the measured credit year, in the average number of full-time positions and full-time position equivalents employed by the taxpayer at the location within a qualified municipality pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.). The hours of employees filling part-time positions shall be aggregated to determine the number of full-time position equivalents.

"Part-time position" means a position filled by an employee of the taxpayer for at least 20 hours per week for at least three months during the credit year.

"Sustained effort ratio" means the proportion that the credit year two new full-time positions bears to the credit year one new full-time positions, not to exceed one.

C.52:27BBB-56 "Residential property" defined; tax credit for certain principal residences.

57. a. For the purposes of subsection b. of this section, "residential property" shall include land, a dwelling house or a condominium unit under the form of real property ownership provided for under the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.).

b. A taxpayer who shall not previously have occupied property owned by the taxpayer as a principal residence and who, during the taxable year, purchases residential property within a qualified municipality for the purpose of occupying the property as the taxpayer's principal residence shall be allowed in that taxable year, and for four taxable years thereafter, a credit not to exceed \$5,000 against the tax otherwise due under N.J.S.54A:1-1 et seq. The credit shall be allowed beginning in any taxable year during the period of rehabilitation and economic recovery.

No taxpayer filing either a single or a joint return shall be eligible for a credit under this section: (1) if, in a prior taxable year, the taxpayer or the taxpayer's spouse, either singly or jointly with each other or with another, shall have owned and occupied as a principal residence any residential property; or (2) if the taxpayer or the taxpayer's spouse has received an annual stipend pursuant to section 18 of P.L.2002, c.43 (C.52:27BBB-18).

In the case of a husband and wife who elect to file separate tax returns, each shall, unless otherwise ineligible, be entitled to one-half of the credit allowed.

If a taxpayer who shall have been allowed a credit under the provisions of this section with respect to the purchase of residential property fails to occupy the property as the taxpayer's principal residence within one year after the date of the purchase, or terminates occupation of the property as the taxpayer's principal residence within 10 years after the date of the purchase or the date on which such occupation shall have commenced, whichever is later, the taxpayer shall be liable for tax in an amount equal to the credit previously so allowed.

ARTICLE 7. LABOR RELATIONS AND CONTRACTS

58. Section 1 of P.L.1979, c.303 (C.34:1B-5.1) is amended to read as follows:

C.34:1B-5.1 Rules, regulations relative to payment of prevailing wage rate.

1. The New Jersey Economic Development Authority shall adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of construction contracts undertaken in connection with any of its projects, those projects which it undertakes pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) or school facilities projects. The prevailing wage rate shall be the rate determined by the Commissioner of Labor pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.).

C.52:27BBB-57 Prevailing wage rate on construction contracts under act.

59. Not less than the prevailing wage rate shall be paid to any workers employed in the performance of construction contracts undertaken in connection with any projects undertaken pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.). The prevailing wage rate shall be the rate determined by the Commissioner of Labor pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.).

C.52:27BBB-58 Affirmative action program on EDA projects.

60. In order to fulfill its obligation to establish an affirmative action program for the hiring of minority and female workers employed in the performance of construction contracts undertaken in connection with a project undertaken or financed by the authority pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), the authority shall comply with all requirements for pre-apprenticeship and apprenticeship applicable to the authority on or after the effective date of P.L.2002, c.43 (C.52:27BBB-1 et al.).

C.52:27BBB-59 Arbitrator to consider rehabilitation when deciding certain labor disputes.

61. For the purposes of section 3 of P.L.1977, c.85 (C.34:13A-16), when deciding the award in a dispute involving public fire or police departments of the qualified municipality during the rehabilitation term, the arbitrator or panel of arbitrators shall, when considering the interests and welfare of the public and the lawful authority of the employer, include in those assessments the

fact that the municipality is under rehabilitation pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.).

C.52:27BBB-60 Arrangements with other public entities by qualified municipality.

62. During the rehabilitation term, the qualified municipality may enter into arrangements with other municipalities, counties, local public authorities, or the State, for the purpose of affording the municipality those benefits which may accrue pursuant to any laws providing for contracted provision of goods or services. Notwithstanding any other provision of law to the contrary all State agencies are authorized to enter into such agreements or arrangements with the qualified municipality during the rehabilitation term as are necessary or useful in furthering the purposes of P.L.2002, c.43 (C.52:27BBB-1 et al.).

C.52:27BBB-61 Contract to contain provision for termination.

63. All contracts and agreements entered into by the qualified municipality during the rehabilitation term pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) shall contain provisions stating that the director or chief operating officer may, upon 30 days' notice, terminate the contract or agreement for any reason without payment of penalty or damages. This section shall not apply to collective bargaining agreements.

ARTICLE 8. MISCELLANEOUS

64. Section 2 of P.L.1991, c.266 (C.40:14B-23.1) is amended to read as follows:

C.40:14B-23.1 Definitions; host community benefit.

2. a. As used in this section:

"Residential property" means any building or part of a building used, to be used or held for use as a home or residence, together with the land upon which it is situate. A residential property shall include single family dwellings, multifamily dwellings as defined under subsection (k) of section 3 of the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.), and other rental unit property, and individual residences within a horizontal property regime as defined pursuant to the "Horizontal Property Act," P.L.1963, c.168 (C.46:8A-1 et seq.), or a condominium as defined pursuant to the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.), units in a cooperative, and units in a mutual housing corporation;

"Cooperative" means a housing corporation or association which entitles the holder of a share or membership interest thereof to possess and occupy for dwelling purposes a house, apartment, manufactured or mobile home or other unit of housing owned or leased by the corporation or association, or to lease or purchase a unit of housing constructed or to be constructed by the corporation or association;

"Mutual housing corporation" means a corporation not-for-profit, incorporated under the laws of this State on a mutual or cooperative basis within the scope of section 607 of the "National Defense Housing Act," Pub.L.76-849, (42 U.S.C. s. 1521 et seq.), as amended, which acquired a National Defense Housing Project pursuant to that act;

"Qualified resident" means a person who owns, rents or occupies residential property;

"Qualified entity" means a building or facility which is owned and used by:

(1) a public or private school, university, college or seminary for either classroom space or administrative office space;

(2) a church, synagogue or temple for holding religious services, or which is used to house church-, synagogue- or temple- related personnel;

(3) a clinic or hospital, including a residential building which is used to house personnel who are employed by the clinic or hospital;

(4) a nonprofit organization which operates under the provisions of Title 15A of the New Jersey Statutes, for the purposes for which the organization was created, or for administrative office space; or

(5) a business which has less than 10 full-time employees.

b. A city of the second class with a population of more than 79,000 but less than 88,000

according to the latest federal decennial census, located in a county of the second class with a population of more than 455,000 but less than 510,000 according to the latest federal decennial census, and a county or municipal utilities authority whose operations plant is located within the city's boundaries may negotiate a host community benefit for qualified residents and qualified entities within the city. The benefit may be applied against the rate, fee or charge assessed pursuant to section 23 of P.L.1957, c.183 (C.40:14B-23) or the connection fee or tapping fee assessed pursuant to section 21 of P.L.1957, c.183 (C.40:14B-21), or both, at the discretion of the county or municipal utilities authority. The benefit shall be provided as a credit against the individual accounts of the qualified resident or entity, and the county or municipal utilities authority and the city shall negotiate the amount of the benefit. Upon agreement of the parties, the governing body of the city shall adopt an ordinance setting forth the specific requirements under the agreement. In cases in which a qualified resident is not billed directly for the county or municipal utilities authority's services, the city shall, as part of the ordinance setting forth the specific requirements of the agreement, establish procedures under which the owner of the appropriate property shall insure that the qualified resident is compensated for the amount of the credit.

65. Section 8 of P.L.1983, c.530 (C.55:14K-8) is amended to read as follows:

C.55:14K-8 Eligibility for admission to housing projects; termination of tenancy or interest; excessive income; surcharge; disposition.

8. a. Admission to housing projects constructed, improved or rehabilitated under this act shall be limited to families whose gross aggregate family income at the time of admission does not exceed six times the annual rental or carrying charges, including the value or cost to them of heat, light, water, sewerage, parking facilities and cooking fuel, of the dwellings that may be furnished to such families, or seven times those charges if there are three or more dependents. There may be included in the carrying charges to any family for residence in any mutual housing project constructed, improved or rehabilitated with a loan from the agency an amount equal to 6% of the original cash investment of the family in the mutual housing project and, to the extent authorized by the agency where not included in the carrying charges, the value or cost of repainting the apartment and replacing any fixtures or appliances. Notwithstanding the provisions of this section, no family or individual shall be eligible for admission to any housing project constructed, improved or rehabilitated with a loan from the agency, whose gross aggregate family income exceeds such amount as shall be established from time to time by the agency, by rules or regulations promulgated hereunder; except that with respect to any project financed by an agency loan insured or guaranteed by the United States of America or any agency or instrumentality thereof, the agency may adopt the admission standards for such projects then currently utilized or required by the guarantor or insurer.

The provisions of this subsection shall not apply to any housing project situated in a qualified municipality that is constructed, improved or rehabilitated on or after the effective date of P.L.2002, c.43 (C.52:27BBB-1 et al.).

b. The agency shall by rules and regulations provide for the periodic examination of the income of any person or family residing in any housing project constructed, improved or rehabilitated with a loan from the agency. If the gross aggregate family income of a family residing in a housing project increases and the ratio to the current rental or carrying charges of the dwelling unit becomes greater than the ratio prescribed for admission in subsection a. of this section but is not more than 25% above the family income so prescribed for admission to the project, the owner or managing agent of the housing project shall permit the family to continue to occupy the unit. The agency or (with the approval of the agency) the housing sponsor of any housing project constructed, improved or rehabilitated with a loan from the agency, may terminate the tenancy or interest of any family residing in the housing project whose gross aggregate family income exceeds by 25% or more the amount prescribed herein and which continues to do so for a period of six months or more; but no tenancy or interest of any such family in any such housing project shall be terminated except upon reasonable notice and opportunity to obtain suitable alternate housing, in accordance with rules and regulations of the

agency; and any such family, with the approval of the agency, may be permitted to continue to occupy the unit, subject to payment of a rent or carrying charge surcharge to the housing sponsor in accordance with a schedule of surcharges fixed by the agency. The housing sponsor shall pay the surcharge to the municipality granting tax exemption, but only up to an amount that together with payments made to the municipality in lieu of taxes and for any land taxes equals 25% of the total rents or carrying charges of the housing project for the current and any prior years that the project has been in operation.

The provisions of this subsection shall not apply to any housing project situated in a qualified municipality that is constructed, improved or rehabilitated on or after the effective date of P.L.2002, c.43 (C.52:27BBB-1 et al.).

c. For projects on which the agency has made a loan and financed the loan with the proceeds of bonds issued prior to January 1, 1973, any remainder of the surcharge, or the total surcharge if tax exemption has not been granted, shall be paid into the housing finance fund securing the bonds issued to finance the project for the use of the agency; for projects financed on or after January 1, 1973, any remainder of the surcharge, or the total surcharge if tax exemption has not been granted, shall be paid to the agency.

d. Any family residing in a mutual housing project required to remove from the project because of excessive income as herein provided shall be discharged from liability on any note, bond or other evidence of indebtedness relating thereto and shall be reimbursed, in accordance with the rules of the agency, for all sums paid by the family to the housing sponsor on account of the purchase of stock or debentures as a condition of occupancy or on account of the acquisition of title for such purpose.

The provisions of this subsection shall not apply to any housing project situated in a qualified municipality that is constructed, improved or rehabilitated on or after the effective date of P.L.2002, c.43 (C.52:27BBB-1 et al.).

e. The agency shall establish admission rules and regulations for any housing project financed in whole or in part by loans authorized hereunder which shall provide priority categories for person displaced by urban renewal projects, highway programs or other public works, persons living in substandard housing, persons and families who, by reason of family income, family size or disabilities, have special needs, elderly persons and families living under conditions violative of minimum health and safety standards.

The provisions of this subsection shall not apply to any housing project situated in a qualified municipality that is constructed, improved or rehabilitated on or after the effective date of P.L.2002, c.43 (C.52:27BBB-1 et al.).

C.52:27BBB-62 Moratorium on regional contribution agreements.

66. Upon the enactment of P.L.2002, c.43 (C.52:27BBB-1 et al.) and during the rehabilitation term, there shall be a moratorium on regional contribution agreements pursuant to P.L.1985, c.222 (C.52:27D-301 et al.) in any qualified municipality.

C.52:27BBB-63 Membership of board of education of Type II school district.

67. a. Notwithstanding the provisions of any law to the contrary, in the case of a Type II school district which is contiguous with a qualified municipality and which has a nine-member board of education, the Governor shall appoint three additional members to the board of education upon the enactment of P.L.2002, c.43 (C.52:27BBB-1 et al.). The appointed members shall be voting members of the board who shall serve at the pleasure of the Governor for three-year terms and they shall be eligible for reappointment. Two members shall be residents of the qualified municipality and one member shall be employed in the qualified municipality.

b. At the first organizational meeting conducted pursuant to N.J.S.18A:10-3 following the establishment of the qualified municipality, the voting membership of the board of education shall be comprised of the three members appointed by the Governor pursuant to subsection a. of this section and any member of the board of education as comprised prior to the establishment of a qualified municipality with an unexpired term.

c. At the second organizational meeting conducted pursuant to N.J.S.18A:10-3 following the establishment of the qualified municipality, the voting membership of the board of education

shall be comprised of the three members appointed by the Governor pursuant to subsection a. of this section, three members appointed by the mayor of the qualified municipality with the advice and consent of the city council and any member of the board of education as comprised prior to the establishment of a qualified municipality with an unexpired term. Members appointed by the mayor, with the advice and consent of the city council shall serve three-year terms and shall be eligible for reappointment.

d. There shall be no school election of school board members conducted in the first two years following the establishment of a qualified municipality. In the third year following the establishment of the qualified municipality, a school election of school board members shall be conducted pursuant to P.L.1995, c.278 (C.19:60-1 et seq.) and three members of the board of education shall be elected by the voters to serve three-year terms.

e. In the fourth year and each subsequent year thereafter, up until the tenth year following the establishment of the qualified municipality, members shall be appointed or elected as provided hereinabove upon the expiration of the members' terms. In the tenth year following the establishment of the qualified municipality, a school election of school board members shall be conducted pursuant to P.L.1995, c.278 (C.19:60-1 et seq.) and three members of the board of education shall be elected by the voters to fill the vacancies of the Governor's appointees whose terms expire. The elected members shall serve three-year terms. In the eleventh year following the establishment of the qualified municipality, a school election of school board members shall be conducted pursuant to P.L.1995, c.278 (C.19:60-1 et seq.) and three members of the board of education shall be elected by the voters to fill the vacancies of the mayor's appointees whose terms expire. The elected members shall serve three-year terms. In the twelfth year following the establishment of the qualified municipality and each year thereafter successors to the members whose terms expire shall be elected for three-year terms as provided by law.

f. At all times the board of education and its membership shall comply with the requirements of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.) and the "School Ethics Act," P.L.1991, c.393 (C.18A:12-21 et seq.), and meet the requirements and qualifications for board membership established pursuant to chapter 12 of Title 18A of the New Jersey Statutes.

C.52:27BBB-64 Board of education minutes subject to veto provision.

68. a. Notwithstanding the provisions of Title 18A or any other law, rule, or regulation to the contrary, the minutes of every meeting of the board of education of a school district contiguous with a qualified municipality and constituted pursuant to N.J.S.18A:9-3 shall be subject to the veto provisions set forth in subsection b. of this section.

b. A true copy of the minutes of every meeting of a board of education described in subsection a. of this section shall be forthwith delivered by and under the certification of the secretary thereof to the Governor. No action taken at that meeting of the board of education shall have force or effect until 15 days after a copy of the minutes shall have been so delivered unless during that 15-day period the Governor shall approve those minutes, in which case the action shall become effective upon that approval. If, in the 15-day period, the Governor returns the copy of those minutes with a veto of any action taken by the board of education or any member thereof at that meeting, the action shall be null and void and of no effect.

69. Section 4 of P.L.1974, c.80 (C.34:1B-4) is amended to read as follows:

C.34:1B-4 "New Jersey Economic Development Authority."

4. a. There is hereby established in, but not of, the Department of the Treasury a public body corporate and politic, with corporate succession, to be known as the "New Jersey Economic Development Authority." The authority is hereby constituted as an instrumentality of the State exercising public and essential governmental functions, and the exercise by the authority of the powers conferred by the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.) or section 6 of P.L.2001, c.401 (C.34:1B-4.1) shall be deemed and held to be an essential governmental function of the State.

b. The authority shall consist of the Commissioner of Banking and Insurance, the Chief Executive Officer and Secretary of the New Jersey Commerce and Economic Growth

Commission, the Commissioner of Labor, the Commissioner of Education, and the State Treasurer, who shall be members ex officio, and eight public members appointed by the Governor as follows: two public members (who shall not be legislators) shall be appointed by the Governor upon recommendation of the Senate President; two public members (who shall not be legislators) shall be appointed by the Governor upon recommendation of the Speaker of the General Assembly; and four public members shall be appointed by the Governor, all for terms of three years. In addition, a public member of the State Economic Recovery Board established pursuant to section 36 of P.L.2002, c.43 (C.52:27BBB-36) appointed by the board, shall serve as a non-voting, ex officio member of the authority. Each member shall hold office for the term of the member's appointment and until the member's successor shall have been appointed and qualified. A member shall be eligible for reappointment. Any vacancy in the membership occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only. In the event the authority shall by resolution determine to accept the declaration of an urban growth zone by any municipality, the mayor or other chief executive officer of such municipality shall ex officio be a member of the authority for the purpose of participating and voting on all matters pertaining to such urban growth zone.

The Governor shall appoint three alternate members of the authority, of which one alternate member (who shall not be a legislator) shall be appointed by the Governor upon the recommendation of the Senate President, and one alternate member (who shall not be a legislator) shall be appointed by the Governor upon the recommendation of the Speaker of the General Assembly; and one alternate member shall be appointed by the Governor, all for terms of three years. The chairperson may authorize an alternate member, in order of appointment, to exercise all of the powers, duties and responsibilities of such member, including, but not limited to, the right to vote on matters before the authority.

Each alternate member shall hold office for the term of the member's appointment and until the member's successor shall have been appointed and qualified. An alternate member shall be eligible for reappointment. Any vacancy in the alternate membership occurring other than by the expiration of a term shall be filled in the same manner as the original appointment but for the unexpired term only. Any reference to a member of the authority in this act shall be deemed to include alternate members unless the context indicates otherwise.

The terms of office of the members and alternate members of the authority appointed by the Governor who are serving on July 18, 2000 shall expire upon the appointment by the Governor of eight public members and three alternate members. The initial appointments of the eight public members shall be as follows: the two members appointed upon the recommendation of the President of the Senate and the two members appointed upon the recommendation of the Speaker of the General Assembly shall serve terms of three years; two members shall serve terms of two years; and two members shall serve terms of one year. The initial appointments of the alternate members shall be as follows: the alternate member appointed upon the recommendation of the President of the Senate shall serve a term of three years; the alternate member appointed upon the recommendation of the Speaker of the General Assembly shall serve a term of two years; and one alternate member shall serve a term of one year. No member shall be appointed who is holding elective office.

c. Each member appointed by the Governor may be removed from office by the Governor, for cause, after a public hearing, and may be suspended by the Governor pending the completion of such hearing. Each member before entering upon his duties shall take and subscribe an oath to perform the duties of the office faithfully, impartially and justly to the best of his ability. A record of such oaths shall be filed in the office of the Secretary of State.

d. A chairperson shall be appointed by the Governor from the public members. The members of the authority shall elect from their remaining number a vice chairperson and a treasurer thereof. The authority shall employ an executive director who shall be its secretary and chief executive officer. The powers of the authority shall be vested in the members thereof in office from time to time and seven members of the authority shall constitute a quorum at any meeting thereof; provided, however, that the public member designated by the State Economic Recovery Board pursuant to the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.) shall not count toward the quorum. Action may be

taken and motions and resolutions adopted by the authority at any meeting thereof by the affirmative vote of at least seven members of the authority. No vacancy in the membership of the authority shall impair the right of a quorum of the members to exercise all the powers and perform all the duties of the authority.

e. Each member of the authority shall execute a bond to be conditioned upon the faithful performance of the duties of such member in such form and amount as may be prescribed by the Director of the Division of Budget and Accounting in the Department of the Treasury. Such bonds shall be filed in the office of the Secretary of State. At all times thereafter the members and treasurer of the authority shall maintain such bonds in full force and effect. All costs of such bonds shall be borne by the authority.

f. The members of the authority shall serve without compensation, but the authority shall reimburse its members for actual expenses necessarily incurred in the discharge of their duties. Notwithstanding the provisions of any other law, no officer or employee of the State shall be deemed to have forfeited or shall forfeit any office or employment or any benefits or emoluments thereof by reason of the acceptance of the office of ex officio member of the authority or any services therein.

g. Each ex officio member of the authority may designate an officer or employee of the member's department to represent the member at meetings of the authority, and each such designee may lawfully vote and otherwise act on behalf of the member for whom the person constitutes the designee. Any such designation shall be in writing delivered to the authority and shall continue in effect until revoked or amended by writing delivered to the authority.

h. The authority may be dissolved by act of the Legislature on condition that the authority has no debts or obligations outstanding or that provision has been made for the payment or retirement of such debts or obligations. Upon any such dissolution of the authority, all property, funds and assets thereof shall be vested in the State.

i. A true copy of the minutes of every meeting of the authority shall be forthwith delivered by and under the certification of the secretary thereof to the Governor. No action taken at such meeting by the authority shall have force or effect until 10 days, Saturdays, Sundays, and public holidays excepted, after the copy of the minutes shall have been so delivered, unless during such 10-day period the Governor shall approve the same in which case such action shall become effective upon such approval. If, in that 10-day period, the Governor returns such copy of the minutes with veto of any action taken by the authority or any member thereof at such meeting, such action shall be null and void and of no effect. The powers conferred in this subsection i. upon the Governor shall be exercised with due regard for the rights of the holders of bonds and notes of the authority at any time outstanding, and nothing in, or done pursuant to, this subsection i. shall in any way limit, restrict or alter the obligation or powers of the authority or any representative or officer of the authority to carry out and perform in every detail each and every covenant, agreement or contract at any time made or entered into by or on behalf of the authority with respect to its bonds or notes or for the benefit, protection or security of the holders thereof.

j. On or before March 31 in each year, the authority shall make an annual report of its activities for the preceding calendar year to the Governor and the Legislature. Each such report shall set forth a complete operating and financial statement covering the authority's operations during the year. The authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants and cause a copy thereof to be filed with the Secretary of State and the Director of the Division of Budget and Accounting in the Department of the Treasury.

k. The Director of the Division of Budget and Accounting in the Department of the Treasury and the director's legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts, books and records of the authority including its receipts, disbursements, contracts, sinking funds, investments and any other matters relating thereto and to its financial standing.

l. No member, officer, employee or agent of the authority shall be interested, either directly or indirectly, in any project or school facilities project, or in any contract, sale, purchase, lease or transfer of real or personal property to which the authority is a party.

70. Section 3 of P.L.1991, c.431 (C.40A:20-3) is amended to read as follows:

C.40A:20-3 Definitions.

3. As used in this act:

a. "Gross revenue" means annual gross revenue or gross shelter rent or annual gross rents, as appropriate, and other income, for each urban renewal entity designated pursuant to this act. The financial agreement shall establish the method of computing gross revenue for the entity, and the method of determining insurance, operating and maintenance expenses paid by a tenant which are ordinarily paid by a landlord, which shall be included in the gross revenue; provided, however, that any federal funds received, whether directly or in the form of rental subsidies paid to tenants, by a nonprofit corporation that is the sponsor of a qualified subsidized housing project, shall not be included in the gross revenue of the project for purposes of computing the annual services charge for municipal services supplied to the project.

b. "Limited-dividend entity" means an urban renewal entity incorporated pursuant to Title 14A of the New Jersey Statutes, or established pursuant to Title 42 of the Revised Statutes, for which the profits and the entity are limited as follows. The allowable net profits of the entity shall be determined by applying the allowable profit rate to each total project unit cost, if the project is undertaken in units, or the total project cost, if the project is not undertaken in units, for the period commencing on the date on which the construction of the unit or project is completed, and terminating at the close of the fiscal year of the entity preceding the date on which the computation is made, where:

"Allowable profit rate" means the percentage per annum arrived at by adding 1 1/4% to the annual interest percentage rate payable on the entity's initial permanent mortgage financing. If the initial permanent mortgage is insured or guaranteed by a governmental agency, the mortgage insurance premium or similar charge, if payable on a per annum basis, shall be considered as interest for this purpose. If there is no permanent mortgage financing the allowable profit rate shall be arrived at by adding 1 1/4% per annum to the interest rate per annum which the municipality determines to be the prevailing rate on mortgage financing on comparable improvements in the county.

c. "Net profit" means the gross revenues of the urban renewal entity less all operating and non-operating expenses of the entity, all determined in accordance with generally accepted accounting principles, but:

(1) there shall be included in expenses: (a) all annual service charges paid pursuant to section 12 of P.L.1991, c.431 (C.40A:20-12); (b) all payments to the municipality of excess profits pursuant to section 15 or 16 of P.L.1991, c.431 (C.40A:20-15 or 40A:20-16); (c) an annual amount sufficient to amortize the total project cost over the life of the improvements, as set forth in the financial agreement, which shall not be less than the terms of the financial agreement; and (d) all reasonable annual operating expenses of the urban renewal entity, including the cost of all management fees, brokerage commissions, insurance premiums, all taxes or service charges paid, legal, accounting, or other professional service fees, utilities, building maintenance costs, building and office supplies, and payments into repair or maintenance reserve accounts;

(2) there shall not be included in expenses either depreciation or obsolescence, interest on debt, income taxes, or salaries, bonuses or other compensation paid, directly or indirectly to directors, officers and stockholders of the entity, or officers, partners or other persons holding any proprietary ownership interest in the entity.

The urban renewal entity shall provide to the municipality an annual audited statement which clearly identifies the calculation of net profit for the urban renewal entity during the previous year. The annual audited statement shall be prepared by a certified public accountant and shall be submitted to the municipality within 90 days of the close of the fiscal year.

d. "Nonprofit entity" means an urban renewal entity incorporated pursuant to Title 15A of the New Jersey Statutes for which no part of its net profits inures to the benefit of its members.

e. "Project" means any work or undertaking pursuant to a redevelopment plan adopted pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.), which has as its purpose the redevelopment of all or any part of a redevelopment area including

any industrial, commercial, residential or other use, and may include any buildings, land, including demolition, clearance or removal of buildings from land, equipment, facilities, or other real or personal properties which are necessary, convenient, or desirable appurtenances, such as, but not limited to, streets, sewers, utilities, parks, site preparation, landscaping, and administrative, community, health, recreational, educational and welfare facilities.

f. "Redevelopment area" means an area determined to be in need of redevelopment and for which a redevelopment plan has been adopted by a municipality pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.).

g. "Urban renewal entity" means a limited-dividend entity, the New Jersey Economic Development Authority or a nonprofit entity which enters into a financial agreement pursuant to this act with a municipality to undertake a project pursuant to a redevelopment plan for the redevelopment of all or any part of a redevelopment area, or a project necessary, useful, or convenient for the relocation of residents displaced or to be displaced by the redevelopment of all or any part of one or more redevelopment areas, or a low and moderate income housing project.

h. "Total project unit cost" or "total project cost" means the aggregate of the following items as related to a unit of a project, if the project is undertaken in units, or to the total project, if the project is not undertaken in units, all of which as limited by, and approved as part of the financial agreement: (1) cost of the land and improvements to the entity, whether acquired from a private or a public owner, with cost in the case of leasehold interests to be computed by capitalizing the aggregate rental at a rate provided in the financial agreement; (2) architect, engineer and attorney fees, paid or payable by the entity in connection with the planning, construction and financing of the project; (3) surveying and testing charges in connection therewith; (4) actual construction costs which the entity shall cause to be certified and verified to the municipality and the municipal governing body by an independent and qualified architect, including the cost of any preparation of the site undertaken at the entity's expense; (5) insurance, interest and finance costs during construction; (6) costs of obtaining initial permanent financing; (7) commissions and other expenses paid or payable in connection with initial leasing; (8) real estate taxes and assessments during the construction period; (9) a developer's overhead based on a percentage of actual construction costs, to be computed at not more than the following schedule:

\$500,000 or less -	10%
\$500,000 through \$1,000,000 -	\$50,000 plus 8% on excess above \$500,000
\$1,000,001 through \$2,000,000 -	\$90,000 plus 7% on excess above \$1,000,000
\$2,000,001 through \$3,500,000 -	\$160,000 plus 5.6667% on excess above \$2,000,000
\$3,500,001 through \$5,500,000 -	\$245,000 plus 4.25% on excess above \$3,500,000
\$5,500,001 through \$10,000,000 -	\$330,000 plus 3.7778% on excess above \$5,500,000
over \$10,000,000 -	5%

If the financial agreement so provides, there shall be excluded from the total project cost actual costs incurred by the entity and certified to the municipality by an independent and qualified architect or engineer which are associated with site remediation and cleanup of environmentally hazardous materials or contaminants in accordance with State or federal law.

i. "Housing project" means any work or undertaking to provide decent, safe, and sanitary dwellings for families in need of housing; the undertaking may include any buildings, land (including demolition, clearance or removal of buildings from land), equipment, facilities, or other real or personal properties or interests therein which are necessary, convenient or desirable appurtenances of the undertaking, such as, but not limited to, streets, sewers, water, utilities, parks; site preparation; landscaping, and administrative, community, health, recreational, educational, welfare, commercial, or other facilities, or to provide any part or combination of the foregoing.

j. "Redevelopment relocation housing project" means a housing project which is necessary, useful or convenient for the relocation of residents displaced by redevelopment of all or any part

of one or more redevelopment areas.

k. "Low and moderate income housing project" means a housing project which is occupied, or is to be occupied, exclusively by households whose incomes do not exceed income limitations established pursuant to any State or federal housing program.

l. "Qualified subsidized housing project" means a low and moderate income housing project owned by a nonprofit corporation organized under the provisions of Title 15A of the New Jersey Statutes for the purpose of developing, constructing and operating rental housing for senior citizens under section 202 of Pub.L. 86-372 (12 U.S.C. s.1701q) or rental housing for persons with disabilities under section 811 of Pub.L. 101-625 (42 U.S.C. s.8013), or under any other federal program that the Commissioner of Community Affairs by rule may determine to be of a similar nature and purpose.

C.52:27BBB-65 Severability.

71. If any section, subsection, paragraph, sentence or other part of P.L.2002, c.43 (C.52:27BBB-1 et al.) is adjudged unconstitutional or invalid, that judgment shall not affect, impair or invalidate the remainder of this act, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this act directly involved in the controversy in which that judgment shall have been rendered.

ARTICLE 9. APPROPRIATIONS

72. From the proceeds of bonds authorized pursuant to section 47 of P.L.2002, c.43 (C.52:27BBB-46), the New Jersey Economic Development Authority shall deposit:

a. \$35 million into the "Residential Neighborhood Improvement Fund" created pursuant to section 51 of P.L.2002, c.43 (C.52:27BBB-50);

b. \$43 million into the "Demolition and Redevelopment Financing Fund" created pursuant to section 51 of P.L.2002, c.43 (C.52:27BBB-50);

c. \$45.8 million into the "Downtown Revitalization and Recovery Fund" created pursuant to section 51 of P.L.2002, c.43 (C.52:27BBB-50);

d. \$47.7 million into the "Higher Education and Regional Health Care Development Fund" created pursuant to section 52 of P.L.2002, c.43 (C.52:27BBB-51); and

e. \$3.5 million into the "Economic Recovery Planning Fund" created pursuant to section 51 of P.L.2002, c.43 (C.52:27BBB-50).

Notwithstanding this division of bond funds, up to 20% of the total amount deposited into these funds may be reallocated among these funds and subaccounts thereof, with the approval of the executive director of the authority and the chief operating officer, in order to serve the economic revitalization goals which P.L.2002, c.43 (C.52:27BBB-1 et al.) seeks to promote.

73. a. There is appropriated from the General Fund to the Department of Community Affairs such sums as may be required for rehabilitation aid to be allocated pursuant to subsection b. of section 26 of P.L.2002, c.43 (C.52:27BBB-26).

b. There is appropriated from the General Fund to the Department of the Treasury such sums as may be required to fund the buyout of retirees who choose the retirement option set forth in section 19 of P.L.2002, c.43 (C.52:27BBB-19) and those sums necessary to fund the incentives provided for in Article 6 of P.L.2002, c.43 (C.52:27BBB-1 et al.).

c. There is appropriated from the General Fund such sums as may be required, not to exceed \$1,500,000, to the Department of Community Affairs, Division of Local Government Services for the costs of: the salaries of the chief operating officer and the staff thereto; any salary differentials incurred in recruiting qualified personnel to serve under the chief operating officer; the stipend provided to encourage residency in qualified municipalities pursuant to section 18 of P.L.2002, c.43 (C.52:27BBB-18); and the additional SAVER rebate provided under section 20 of P.L.2002, c.43 (C.52:27BBB-20); all subject to the approval of the Director of the Division of Budget and Accounting in the Department of the Treasury.

d. There is appropriated from the General Fund to the Department of Law and Public Safety the sum of \$1,500,000 for police services and special initiatives in qualified municipalities.

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e. There is appropriated from the General Fund to the Department of Health and Senior Services the sum of \$3 million to be made available as an operating subsidy to the Neo-Natal Intensive Care Unit of the Children's Regional Hospital at Cooper Hospital/Medical Center.

74. There is appropriated from the General Fund to the Department of Labor the sum of \$1.5 million to capitalize the "Qualified Municipality Economic Opportunity Fund" created pursuant to section 51 of P.L.2002, c.43 (C.52:27BBB-50).

75. This act shall take effect immediately, but in any case shall be retroactive to June 30, 2002

Approved July 22, 2002.