

**CHAPTER 31**  
**(CORRECTED COPY)**

**AN ACT** expanding the permissible scope of operation of incinerator authorities and amending P.L.1948, c.348.

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

1. Section 1 of P.L.1948, c.348 (C.40:66A-1) is amended to read as follows:

C.40:66A-1 Short title.

1. This act shall be known and may be cited as the "incinerator or environmental services authorities law."

2. Section 2 of P.L.1948, c.348 (C.40:66A-2) is amended to read as follows:

C.40:66A-2 Public interest and policy declared.

2. It is hereby declared to be in the public interest and to be the policy of the State to foster and promote by all reasonable means the health and welfare of the citizens thereof by the proper collection and disposal of garbage and other refuse matter, as well as by the performance of various other sanitation, public works and environmental services necessary to maintain a clean, healthy, and safe environment for all citizens.

3. Section 3 of P.L.1948, c.348 (C.40:66A-3) is amended to read as follows:

C.40:66A-3 Definitions.

3. As used in this act, unless a different meaning clearly appears from the context:

- (1) "Municipality" shall mean any city of any class, any borough, village, town, township, or any other municipality other than a county or a school district;

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

- (3) "Person" shall mean any person, association, corporation, nation, State or any agency or subdivision thereof, municipality of the State or an incinerator authority;

- (4) "Incinerator authority" or "environmental services authority" shall mean a public body created pursuant to section four of this act;

- (5) Subject to the exceptions provided in section four of this act, "district" shall mean the area within the territorial boundaries of the municipality or municipalities which created or joined in the creation of an incinerator or environmental services authority;

- (6) "Local unit" shall mean any municipality which created or joined in the creation of an incinerator or environmental services authority;

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

- (8) "Cost" shall mean, in addition to the usual connotations thereof, the cost of acquisition or construction of all or any part of a garbage disposal system, of all or any property, rights, easements and franchises deemed by the incinerator or environmental

services authority to be necessary or useful and convenient therefor, including reimbursements to the incinerator or environmental services authority or any municipality or other person of any moneys theretofore expended for the purposes of the incinerator or environmental services authority and including interest or discount on bonds to finance such cost, engineering and inspection costs and legal expenses, the cost of financial, professional and other advice, and the cost of issuance of any such bonds;

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

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

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

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

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

(14) "Environmental services" shall mean any and all services relative to sanitation, recycling, park and other recreation area maintenance, demolition, repair or maintenance of unsafe, unsanitary, or unsound structures, automobile towing and impound, municipal vehicle maintenance and repair and services related thereto, street and road safety services, snow removal, environmental compliance and education, services necessary or appropriate for neighborhood beautification or environmental improvement, and any other service relative to maintaining a sanitary, safe, and healthy environment within a municipality.

4. Section 4 of P.L.1948, c.348 (C.40:66A-4) is amended to read as follows:

C.40:66A-4 Creation of incinerator or environmental services authority.

4. (a) The governing body of any municipality may, by ordinance duly adopted, create a public body corporate and politic under the name and style of "the..... incinerator authority" with all or any significant part of the name of such municipality inserted. The governing body of a municipality in which an incinerator authority has been established pursuant to P.L.1948, c.348 (C.40:66A-1 et seq.) prior to the effective date of P.L.2012, c.31 may, by ordinance duly adopted, create, continue and reestablish the incinerator authority under the name and style of the "environmental services authority" with all or any significant part of the name of the municipality inserted. An incinerator or environmental services authority created pursuant to this section by a municipality other than a city of the first class shall consist of five members, and an incinerator or environmental services authority created pursuant to this section by a municipality which is a city of the first class shall consist of five or seven members, as determined by the governing body. Members of the incinerator or environmental services authority shall be appointed by resolution of the governing body as hereinafter in this section provided, and the authority shall constitute the incinerator or environmental services authority contemplated and provided for in this act and an agency and instrumentality of said municipality. After the

taking effect of such ordinance and the filing of a certified copy thereof as in subsection (c) of this section provided, the members of the incinerator or environmental services authority shall be appointed. The members first appointed shall, by the resolution of appointment, be designated to serve for terms respectively expiring as follows: the terms of the first four members shall expire in turn on each of the first days of the first, second, third and fourth Februaries next ensuing after the date of their appointment, and the remaining members shall be designated to serve for terms expiring on the first day of the fifth February next ensuing after the date of their appointment. On or after the first day of January in each year after such first appointments, one person shall be appointed or reappointed as a member of the incinerator or environmental services authority to succeed each member whose term is expiring, and shall serve for a term commencing on the first day of February in such year and expiring on the first day of February in the fifth year after such year. In the event of a vacancy in the membership of the incinerator or environmental services authority occurring during an unexpired term of office, a person shall be appointed as a member of the incinerator or environmental services authority to serve for such unexpired term.

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

(b) The governing bodies of any two or more municipalities, whether or not the areas of such municipalities comprise an integral body of territory, may, by parallel ordinances duly adopted by each of such governing bodies within any single calendar year, create a public body corporate and politic under the name and style of "the ..... incinerator authority" with all or any significant part of the name of each such municipality or some identifying geographical phrase inserted. The governing bodies of any two or more municipalities who have established an incinerator authority pursuant to P.L.1948, c.348 (C.40:66A-1 et seq.) prior to the effective date of P.L.2012, c.31, whether or not the areas of such municipalities comprise an integral body of territory, may, by parallel ordinances duly adopted by each of such governing bodies within any single calendar year, create, continue and reestablish the incinerator authority under the name and style of "the environmental services authority" with all or any significant part of the name of each such municipality or some identifying geographical phrase inserted. Said body shall consist of the members thereof, in an aggregate number determined as hereinafter in this subsection provided, who shall be appointed by resolution of the several governing bodies as hereinafter in this section provided, and it shall constitute the incinerator or environmental services authority contemplated and provided for in this act and an agency and instrumentality of the said municipalities. The number of members of the incinerator or environmental services authority to be appointed at any time for full terms of office by the governing body of any such municipality or municipalities, as the case may be, shall be as may be stated in said ordinances which shall be not less than one nor more than three. After the taking effect of the said ordinances of all such municipalities and after the filing of certified copies thereof as in subsection (c) of this section provided, the appropriate number of persons shall be appointed as members of the incinerator or environmental services authority by the governing body of each municipality. The members first appointed or to be first appointed shall serve for terms expiring on the first day of the fifth February next ensuing after the date of the first appointment of any member. On or after the first day of January in the year in which expires the terms of the said members first appointed and in every fifth year thereafter,

the appropriate number of persons shall be appointed as members of the incinerator or environmental services authority by the governing body of each municipality, to serve for terms commencing on the first day of February in such year and expiring on the first day of February in the fifth year after such year. In the event of a vacancy in the membership of the incinerator or environmental services authority occurring during an unexpired term of office, a person shall be appointed as a member of the incinerator or environmental services authority to serve for such unexpired term by the governing body which made the original appointment for such unexpired term.

(c) A copy of each ordinance for the creation of an incinerator or environmental services authority adopted pursuant to this section, duly certified by the appropriate officer of the local unit, shall be filed in the office of the Secretary of State. Upon proof of such filing of a certified copy of the ordinance or of certified copies of the parallel ordinances for the creation of an incinerator or environmental services authority as aforesaid, the incinerator or environmental services authority therein referred to shall, in any suit, action or proceeding involving the validity or enforcement of, or relating to, any contract or obligation or act of the incinerator or environmental services authority, be conclusively deemed to have been lawfully and properly created and established and authorized to transact business and exercise its powers under this act. A copy of any such certified ordinance, duly certified by or on behalf of the Secretary of State, shall be admissible in evidence in any suit, action or proceeding.

(d) A copy of each resolution appointing any member of an incinerator or environmental services authority adopted pursuant to this section, duly certified by the appropriate officer of the local unit, shall be filed in the office of the Secretary of State. A copy of such certified resolution, duly certified by or on behalf of the Secretary of State, shall be admissible in evidence in any suit, action or proceeding and, except in a suit, action or proceeding directly questioning such appointment, shall be conclusive evidence of the due and proper appointment of the members named therein.

(e) Except as otherwise provided in subsection (a) or subsection (b) of this section with respect to the continuation and reestablishment of an environmental services authority, no governing body which may create or join in the creation of any incinerator or environmental services authority pursuant to this section shall thereafter create or join in the creation of any other incinerator or environmental services authority. No governing body of any municipality within a district shall create or join in the creation of any incinerator or environmental services authority except upon the written consent of the incinerator or environmental services authority and in accordance with the terms and conditions of such consent, and in the event such consent be given and an incinerator or environmental services authority be created pursuant thereto, the area within the territorial boundaries of such municipality shall not thereafter be part of the district.

5. Section 5 of P.L.1948, c.348 (C.40:66A-5) is amended to read as follows:

C.40:66A-5 Incinerator, environmental services authority; powers to be vested in members; membership; reimbursement for expenses; election.

5. (a) The powers of an incinerator or environmental services authority shall be vested in the members thereof in office from time to time. A majority of the entire authorized membership of the incinerator or environmental services authority shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the incinerator or environmental services authority at any meeting of the members thereof by

vote of a majority of the members present, unless in any case the by-laws of the incinerator or environmental services authority shall require a larger number. The incinerator or environmental services authority may delegate to one or more of its officers, agents or employees such powers and duties as it may deem proper.

(b) Each member of an incinerator or environmental services authority shall hold office for the term for which he was appointed and until his successor has been appointed and has qualified.

(c) No member, officer or employee of an incinerator or environmental services authority shall have or acquire any interest, direct or indirect, in the garbage disposal system in any property included or planned to be included in the garbage disposal system or in any contract or proposed contract for materials or services to be furnished to or used by the incinerator or environmental services authority, but neither the holding of any office or employment in the government of any municipality or under any law of the State nor the owning of any property within the State shall be deemed a disqualification for membership in or employment by an incinerator or environmental services authority. A member of an incinerator or environmental services authority may be removed only by the governing body by which he was appointed and only for inefficiency or neglect of duty or misconduct in office and after he shall have been given a copy of the charges against him and, not sooner than ten days thereafter, had opportunity in person or by counsel to be heard thereon by such governing body.

(d) An incinerator or environmental services authority may reimburse its members for necessary expenses incurred in the discharge of their duties. The ordinance or parallel ordinances for the creation of an incinerator or environmental services authority may provide that the members of the incinerator or environmental services authority may receive compensation for their services within an annual and other limitations to be stated in such ordinance or parallel ordinances, and in that event, each member may receive from the incinerator or environmental services authority such compensation for his services as the incinerator or environmental services authority may determine within the limitations stated in such ordinance or parallel ordinances. No member of any incinerator or environmental services authority shall receive any compensation for his services except as provided in this subsection.

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

6. Section 6 of P.L.1948, c.348 (C.40:66A-6) is amended to read as follows:

C.40:66A-6 Acquisition of facilities.

6. Every incinerator or environmental services authority is hereby authorized and directed, subject to the limitations of this act, to acquire, in its own name but for the local unit or units, by purchase, gift, condemnation or otherwise, and, notwithstanding the provisions of any charter, ordinance or resolution of any county or municipality to the contrary, to construct, maintain, operate and use such incinerators, treatment plants or works

at such places, and such other plants, structures, property and conveyances, as in the judgment of the incinerator or environmental services authority will provide an effective and satisfactory method for promoting the purposes of the incinerator or environmental services authority.

7. Section 7 of P.L.1948, c.348 (C.40:66A-7) is amended to read as follows:

C.40:66A-7 Incinerator, environmental services authority as political subdivision; powers.

7. Every incinerator or environmental services authority shall be a public body politic and corporate constituting a political subdivision of the State established as an instrumentality exercising public and essential governmental functions to provide for the public health and welfare and shall have perpetual succession and have the following powers:

- (1) To adopt and have a common seal and to alter the same at pleasure;
- (2) To sue and to be sued;
- (3) In the name of the incinerator or environmental services authority and on its behalf, to acquire, hold, use and dispose of its service charges and other revenues and other moneys;
- (4) In the name of the incinerator or environmental services authority but for the local unit or unit, to acquire, hold, use and dispose of other personal property for the purposes of the incinerator or environmental services authority;
- (5) In the name of the incinerator or environmental services authority but for the local unit or units, to acquire by purchase, gift, condemnation or otherwise, real property and easements therein, necessary or useful and convenient for the purposes of the incinerator or environmental services authority, and subject to mortgages, deeds of trust or other liens, or otherwise, and to hold and to use the same, and to dispose of property so acquired no longer necessary for the purposes of the incinerator or environmental services authority;
- (6) To provide for and secure the payment of any bonds and the rights of the holders thereof, and to purchase, hold and dispose of any bonds;
- (7) To accept gifts or grants of real or personal property, money, material, labor or supplies for the purpose of the incinerator or environmental services authority, and to make and perform such agreements and contracts as may be necessary or convenient in connection with the procuring, acceptance or disposition of such gifts or grants;
- (8) To enter on any lands or premises for the purposes of the incinerator or environmental services authority;
- (9) To make and enforce bylaws or rules and regulations for the management and regulation of its business and affairs and for the use, maintenance and operation of the garbage disposal system and any other of its properties, and to amend the same;
- (10) To do and perform any acts and things authorized by this act under, through or by means of its own officers, agents and employees, or by contracts with any persons; and
- (11) To enter into any and all contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient or desirable for the purpose of the incinerator or environmental services authority or to carry out any power expressly given in this act subject to P.L.1971, c.198 "Local Public Contracts Law" (C.40A:11-1 et seq.).

8. Section 1 of P.L.1952, c.304 (C.40:66A-7.1) is amended to read as follows:

C.40:66A-7.1 Audit of accounts annually; filing.

1. It shall be the duty of every "incinerator or environmental services authority," created pursuant to the act to which this act is a supplement, to cause an annual audit of the accounts

of the authority to be made and filed with the authority, and for this purpose the authority shall employ a registered municipal accountant of New Jersey or a certified public accountant of New Jersey. The audit shall be completed and filed with the authority within four months after the close of the fiscal year of the authority and a certified duplicate copy thereof shall be filed with the Director of the Division of Local Government Services in the Department of Community Affairs within five days after the original report is filed with the authority.

9. Section 2 of P.L.1952, c.304 (C.40:66A-7.2) is amended to read as follows:

C.40:66A-7.2 Certified copy of bond resolution proceedings; filing.

2. Every such "incinerator or environmental services authority" shall file a certified copy of every bond resolution as finally passed with the Director of the Division of Local Government Services in the Department of Community Affairs and in addition shall file a certified copy of all bond proceedings with the said director.

10. Section 8 of P.L.1948, c.348 (C.40:66A-8) is amended to read as follows:

C.40:66A-8 Incinerator, environmental services authority charges.

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

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

(c) The incinerator or environmental services authority shall prescribe and from time to time when necessary revise the schedule of such service charges, which in any event shall be such that the revenues of the incinerator or environmental services authority will at all times be adequate to pay all expenses of operation and maintenance of the garbage disposal system, including reserves, insurance, extensions, and replacements, and to pay punctually the principal of and interest on any bonds and to maintain such reserves or sinking funds therefor as may be required by the terms of any contract of the incinerator or environmental services authority. Said schedule shall thus be prescribed and from time to time revised by the incinerator or environmental services authority after public hearing thereon which shall be held by the incinerator or environmental services authority at least 7 days after publication of notice of the proposed adjustment of the service charges and of the time and place of the public hearing in at least two newspapers of general circulation in the area serviced by the authority. The incinerator or environmental services authority shall provide evidence at the hearing showing that the proposed adjustment of the service charges is necessary and reasonable, and shall provide the opportunity for cross-examination of persons offering such evidence, and a transcript of the hearing shall be made and a copy thereof shall be available upon request to any interested party at a reasonable fee. The incinerator or environmental services authority shall likewise fix and determine the time or times when and the place or places where such service charges shall be due and payable and may require that such service charges shall be paid in advance for periods of not more than 1 year. A copy of such schedule of service charges in effect shall at all times be kept on file at the principal office of

the incinerator or environmental services authority and shall at all reasonable times be open to public inspection.

11. Section 9 of P.L.1948, c.348 (C.40:66A-9) is amended to read as follows:

C.40:66A-9 Local unit may appropriate moneys.

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

12. Section 10 of P.L.1948, c.348 (C.40:66A-10) is amended to read as follows:

C.40:66A-10 Revenue bonds authorized, purpose, issuing details.

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

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

13. Section 11 of P.L.1948, c.348 (C.40:66A-11) is amended to read as follows:

C.40:66A-11 Rights of holders of temporary bonds.

11. After sale of any revenue bonds pursuant to this act, the incinerator or environmental services authority shall have power to authorize the execution and issuance to the purchasers,



pending the preparation of the definitive bonds, of interim certificates therefor or of temporary bonds or other temporary instruments exchangeable for the definitive bonds when prepared, executed and ready for delivery. The holders of such interim certificates, temporary bonds or other temporary instruments shall have all the rights and remedies which they would have as holders of the definitive bonds.

14. Section 12 of P.L.1948, c.348 (C.40:66A-12) is amended to read as follows:

C.40:66A-12 Publication of bond proceedings.

12. Any incinerator or environmental services authority may cause to be published in a newspaper published in the district a notice stating the date of adoption of such bond resolution, the amount and maturities of the bonds authorized to be issued, and also stating that any action or proceeding of any kind or nature in any court questioning the validity of the creation and establishment of the incinerator or environmental services authority, or the validity or proper authorization of bonds provided for by the bond resolution, or the validity of any covenants, agreements or contracts provided for by the bond resolution shall be commenced within twenty days after the first publication of such notice. If no such action or proceeding shall be commenced or instituted within twenty days after the first publication of such notice, then all residents and taxpayers and owners of property in the district and users of the garbage disposal system and all other persons whatsoever shall be forever barred and foreclosed from instituting or commencing any action or proceeding in any court, or from pleading any defense to any action or proceeding, questioning the validity of the creation and establishment of the incinerator or environmental services authority, the validity or proper authorization of such bonds, or the validity of any such covenants, agreements or contracts, and said bonds, covenants, agreements and contracts shall be conclusively deemed to be valid and binding obligations in accordance with their terms and tenor.

15. Section 14 of P.L.1948, c.348 (C.40:66A-14) is amended to read as follows:

C.40:66A-14 Provisions of bond resolutions.

14. Any bond resolution of an incinerator or environmental services authority providing for or authorizing the issuance of any bonds may contain provisions, and such incinerator or environmental services authority, in order to secure the payment of such bonds and in addition to its other powers, shall have power by provision in the bond resolution to covenant and agree with the several holders of such bonds, as to:

- (1) The custody, security, use, expenditure or application of the proceeds of the bonds;
- (2) The construction and completion, or replacement, of all or any part of the garbage disposal system;
- (3) The use, regulation, operation, maintenance, insurance or disposition of all or any part of the garbage disposal system, or restrictions on the exercise of the powers of the incinerator or environmental services authority to dispose, or to limit or regulate the use, of all or any part of the garbage disposal system;
- (4) Payment of the principal of or interest on the bonds, or any other obligations, and the sources and methods thereof, the rank or priority of any such bonds as obligations as to any lien or security, or the acceleration of the maturity of any such bonds or obligations;
- (5) The use and disposition of any moneys of the incinerator or environmental services authority, including revenues (in this act sometimes called "system revenues") derived or to

be derived from the operation of all or any part of the garbage disposal system, including any parts thereof theretofore constructed or acquired;

(6) Pledging, setting aside, depositing or trusteeing all or any part of the system revenues or other moneys of the incinerator or environmental services authority to secure the payment of the principal of or interest on the bonds or any other obligations, or the payment of expenses of operation or maintenance of the garbage disposal system, and the powers and duties of any trustee with regard thereto;

(7) The setting aside out of the system revenues or other moneys of the incinerator or environmental services authority of reserves and sinking funds, and the source, custody, security, regulation, application and disposition thereof;

(8) Determination or definition of the system revenues or of the expenses of operation and maintenance of the garbage disposal system;

(9) The rents, rates, fees, or other charges for the use of the services and facilities of the garbage disposal system, including any parts thereof theretofore constructed or acquired and any parts, extension, replacements or improvements thereof thereafter constructed or acquired, and the fixing, establishment, collection and enforcement of the same, the amount or amounts of system revenues to be produced thereby, and the disposition and application of the amounts charged or collected;

(10) The assumption or payment or discharge of any indebtedness, liens or other claims relating to any part of the garbage disposal system or any obligations having or which may have a lien on any part of the system revenue;

(11) Limitations on the issuance of additional bonds or any other obligations or on the incurrance of indebtedness of the incinerator or environmental services authority;

(12) Limitations on the powers of the incinerator or environmental services authority to construct, acquire or operate, or permit the construction, acquisition, or operation of, any plants, structures, facilities or properties which may compete or tend to compete with the garbage disposal system;

(13) Vesting in a trustee or trustees such property, rights, powers and duties in trust as the incinerator or environmental services authority may determine which may include any or all of the rights, powers and duties of the trustee appointed by the holders of bonds pursuant to section seventeen of this act, and limiting or abrogating the right of such holders to appoint a trustee pursuant to section fifteen of this act or limiting the rights, duties and powers of such trustee;

(14) Payment of costs or expenses incident to the enforcement of the bonds or of the provision of the bond resolution or of any covenant or contract with the holders of bonds;

(15) The procedure, if any, by which the terms of any covenant or contract with, or duty to, the holders of bonds may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given or evidenced; or

(16) Any other matter or course of conduct which by recital in the bond resolution, is declared to further secure the payment of the principal of or interest on the bonds.

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

16. Section 15 of P.L.1948, c.348 (C.40:66A-15) is amended to read as follows:

C.40:66A-15 Default in payment of bonds; trustee; appointment; powers; receiver.

15. In the event that there shall be a default in the payment of principal of or interest on any bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the incinerator or environmental services authority shall fail or refuse to comply with the provisions of this act or shall fail or refuse to carry out and perform the terms of any contract with the holders of any of such bonds, and such failure or refusal shall continue for a period of thirty days after written notice to the incinerator or environmental services authority of its existence and nature, the holders of twenty-five per centum (25%) in aggregate principal amount of the bonds of such series then outstanding, by instruments or instrument filed in the office of the Secretary of State and proved and acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of the bonds of such series for the purposes in this section, and to have the powers provided in this section.

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

(1) By an action or proceeding in a court of competent jurisdiction, enforce all rights of the holders of such bonds, including the right to require the incinerator or environmental services authority to charge and collect service charges adequate to carry out any contract as to, or pledge of, system revenues, and to require the incinerator or environmental services authority to carry out and perform the terms of any contract with the holders of such bonds or its duties under this act;

(2) Bring an action upon all or any part of such bonds or interest coupons or claims appurtenant thereto;

(3) By an action require the incinerator or environmental services authority to account as if it were the trustee of an express trust for the holders of such bonds;

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

(5) Declare all such bonds due and payable, whether or not in advance of maturity, upon thirty days' prior notice in writing to the incinerator or environmental services authority and, if all defaults shall be made good, then with the consent of the holders of twenty-five per centum (25%) of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

(b) Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of the functions specifically set forth herein or incident to the general representation of the holders of bonds of such series in the enforcement and protection of their rights.

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

(d) Such trustee, upon such default referred to in this section, whether or not all of the bonds of such series shall have been declared due and payable, shall be entitled as of right to the appointment of a receiver of the garbage disposal system, and such receiver may enter upon and take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance or reconstruction of the garbage disposal

system and proceed with such acquisition, construction, operation, maintenance or reconstruction which the incinerator or environmental services authority is under any obligation to do, and operate, maintain and reconstruct the garbage disposal system and fix, charge, collect, enforce and receive the service charges and all system revenues thereafter arising subject to any pledge thereof or contract with the holders of such bonds relating thereto and perform the public duties and carry out the contracts and obligations of the incinerator or environmental services authority in the same manner as the incinerator or environmental services authority itself might do and under the direction of the court.

17. Section 16 of P.L.1948, c.348 (C.40:66A-16) is amended to read as follows:

C.40:66A-16 Personal liability on bonds; not debt or liability of State or local unit.

16. Neither the members of the incinerator or environmental services authority nor any person executing bonds issued pursuant to this act shall be liable personally on the bonds by reason of the issuance pursuant to this act shall not be in any way a debt or liability of the State, and bonds or other obligations issued by an incinerator or environmental services authority pursuant to this act shall not be in any way a debt or liability of the State or of any local unit or municipality.

18. Section 17 of P.L.1948, c.348 (C.40:66A-17) is amended to read as follows:

C.40:66A-17 Real property, acquisition of; condemnation.

17. Every incinerator or environmental services authority is hereby empowered, in its own name but for the local unit or units, to acquire by purchase, gift, grant or devise and to take for public use real property, within or without the district, which may be deemed by the incinerator or environmental services authority necessary for its purposes. Such incinerator or environmental services authority is hereby empowered to acquire and take such real property by condemnation, in the manner provided by chapter one of Title 20, Eminent Domain, of the Revised Statutes (R.S., section 20:1-1 et seq.) and, to that end, may invoke and exercise in the manner or mode of procedure prescribed in said chapter, either in its own name or in the name of any local unit or units, all of the powers of such local unit or units to acquire or take property for public use.

19. Section 18 of P.L.1948, c.348 (C.40:66A-18) is amended to read as follows:

C.40:66A-18 Service charge with regard to real property; interest; liens, enforcement of; collection.

18. (a) In the event that a service charge of any incinerator or environmental services authority with regard to any parcel of real property shall not be paid as and when due, interest shall accrue and be due to the incinerator or environmental services authority on the unpaid balance at the rate of one per centum (1%) per month until such service charge, and the interest thereon, shall be fully paid to the incinerator or environmental services authority.

(b) In the event that a service charge of any incinerator or environmental services authority with regard to any parcel of real property owned by any person, firm, corporation or association shall not be paid as and when due, the unpaid balance thereof and all interest accruing thereon shall be a lien on such parcel. Such lien shall be superior and paramount to the interest in such parcel of any owner, lessee, tenant, mortgagee or other person except the

lien of State, county and municipal taxes and shall be on a parity with and deemed equal to the lien on such parcel of State, county and municipal taxes.

(c) In the event that a service charge of any incinerator or environmental services authority with regard to any parcel of real property shall not be paid as and when due, the incinerator or environmental services authority may, in its discretion, discontinue the furnishing of any of the services and facilities of said garbage disposal system until such service charge and any subsequent service charge with regard to such parcel and all interest accrued thereon shall be fully paid to the incinerator or environmental services authority.

(d) The collector or other officer of every municipality charged by law with the duty of enforcing municipal liens on real property shall enforce, with and as any other municipal lien on real property in such municipality, all service charges and the lien thereof and shall pay over to the incinerator or environmental services authority the sums or a pro rata share of the sums realized upon such enforcement or upon liquidation of any property acquired by the municipality by virtue of such enforcement.

(e) In the event that any service charge of an incinerator or environmental services authority shall not be paid as and when due, the unpaid balance thereof and all interest accrued thereon, together with attorneys' fees and costs, may be recovered by the incinerator or environmental services authority in a civil action, and any lien on real property for such service charge and interest accrued thereon may be foreclosed or otherwise enforced by the incinerator or environmental services authority by action or suit in equity as for the foreclosure of a mortgage on such real property.

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

20. Section 19 of P.L.1948, c.348 (C.40:66A-19) is amended to read as follows:

C.40:66A-19 Sale, lease, loan, grant or conveyance to incinerator, environmental services authority; permit.

19. Any county, by resolution of its board of chosen freeholders, or any municipality, by ordinance of its governing body, or any other person is hereby empowered, without any referendum and without the consent of any board, officer or other agency of the State, to sell, lease, lend, grant or convey to any incinerator or environmental services authority, or to permit any incinerator or environmental services authority to use, maintain or operate as part of the garbage disposal system, any real or personal property owned by it, which may be necessary or useful and convenient for the purposes of the incinerator or environmental services authority and which may be accepted by the incinerator or environmental services authority. Any such sale, lease, loan, grant, conveyance or permit may be made with or without consideration and for a specified or an unlimited period of time and under any agreement and in any terms and conditions which may be approved by such county, municipality or other person and which may be agreed to by the incinerator or environmental services authority in conformity with its contracts with the holders of bonds, the incinerator or environmental services authority may enter into and perform any and all agreements for the assumption of principal or interest or both of indebtedness of such county, municipality or other person or of any mortgage or lien existing with respect to such property or for the operation and maintenance of such property as part of the garbage disposal system.

21. Section 20 of P.L.1948, c.348 (C.40:66A-20) is amended to read as follows:

## C.40:66A-20 Contracts.

20. Any incinerator or environmental services authority and any municipality within the district by ordinance of its governing body may enter into a contract or contracts providing for or relating to the collection, treatment and disposal of garbage and refuse originating in the district or in such municipality by means of the garbage disposal system, and the cost and expense of such collection, treatment and disposal. Such contract or contracts may provide for the payment to the incinerator or environmental services authority by such municipality annually or otherwise of such sum or sums of money, computed at fixed amounts or by a formula based on any factors or other matters described in subsection (b) of section 8 of this act or in any other manner, as said contract or contracts may provide, and the sum or sums so payable may include provision for all or any part or a share of the amounts necessary (1) to pay or provide for the expenses of operation and maintenance of the garbage disposal system, including without limitation insurance, extensions, betterments and replacements and the principal of and interest on any bonds, and (2) to provide for any deficits resulting from failure to receive sums payable to the incinerator or environmental services authority by such municipality, any other municipality, or any person, or from any other cause, and (3) to maintain such reserves or sinking funds for any of the foregoing as may be required by the terms of any contract of the incinerator or environmental services authority or as may be deemed necessary or desirable by the incinerator or environmental services authority. Any such contract may provide that the sum or sums so payable to the incinerator or environmental services authority shall be in lieu of all or any part of the service charges which would otherwise be charged and collected by the incinerator or environmental services authority with regard to persons or real property within such municipality. Such contract or contracts may also contain provisions as to the financing and payment of expenses to be incurred by the incinerator or environmental services authority and determined by it to be necessary for its purposes prior to the placing in operation of the garbage disposal system and may provide for the payment by such municipality to the incinerator or environmental services authority for application to such expenses or indebtedness therefor such sum or sums of money, not in the aggregate exceeding an amount stated or otherwise limited in said contract or contracts plus interest thereon, as said contract or contracts may provide and as the governing body of said municipality shall, by virtue of its authorization of and entry into said contract or contracts, determine to be necessary for the purposes of the incinerator or environmental services authority. Any such contract may be made with or without consideration and for a specified or an unlimited time and on any terms and conditions which may be approved by such municipality and which may be agreed to by the incinerator or environmental services authority in conformity with its contracts with the holders of any bonds, and shall be valid whether or not an appropriation with respect thereto is made by such municipality prior to authorization or execution thereof. Subject to any such contracts with the holders of bonds, such municipality is hereby authorized and directed to do and perform any and all acts or things necessary, convenient or desirable to carry out and perform every such contract and to provide for the payment or discharge of any obligation thereunder in the same manner as other obligations of such municipality and, in accordance with any such contract, to waive, modify, suspend or reduce the service charges which would otherwise be charged and collected by the incinerator or environmental services authority with regard to persons or real property within such municipality. Nothing in this section, however, shall prevent the incinerator or environmental services authority from collecting additional fees and charges from the owners or occupants of all parcels of real estate served by it within such municipality if for any reason such additional fees or charges shall be

necessary in order for the incinerator or environmental services authority to pay all operating expenses, debt service and other payments required pursuant to contracts with bondholders; and notwithstanding such contracts with such municipalities, the incinerator or environmental services authority shall at all times have power and be obligated to collect sufficient additional fees and charges whenever necessary to pay all operating costs, debt service and all other payments required by contracts with bondholders.

22. Section 21 of P.L.1948, c.348 (C.40:66A-21) is amended to read as follows:

C.40:66A-21 Public bodies to pay service charge.

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

23. Section 22 of P.L.1948, c.348 (C.40:66A-22) is amended to read as follows:

C.40:66A-22 Mortgage, pledge or disposal of garbage disposal system; exemptions.

22. Neither the incinerator or environmental services authority nor any local unit shall have power to mortgage, pledge, encumber or otherwise dispose of any part of the garbage disposal system, except that the incinerator or environmental services authority may dispose of such part or parts thereof as may be no longer necessary for the purposes of the incinerator or environmental services authority. The provisions of this section shall be deemed to constitute a part of the contract with the holder of any bonds. All property of an incinerator or environmental services authority shall be exempt from levy and sale by virtue of an execution and no execution or other judicial process shall issue against the same nor shall any judgment against an incinerator or environmental services authority be a charge or lien upon its property; provided, that nothing herein contained shall apply to or limit the rights of the holder of any bonds to pursue any remedy for the enforcement of any pledge or lien given by an incinerator or environmental services authority on its system revenues.

24. Section 24 of P.L.1948, c.348 (C.40:66A-24) is amended to read as follows:

C.40:66A-24 Property as public property; bonds declared issued by political subdivision; bonds exempt from taxation.

24. Every garbage disposal system and all other property of an incinerator or environmental services authority are hereby declared to be public property of a political subdivision of the State and devoted to an essential public and governmental function and purpose and shall be exempt from all taxes and special assessments of the State or any subdivision thereof. All bonds issued pursuant to this act are hereby declared to be issued by a political subdivision of this State and for an essential public and governmental purpose and to be a public instrumentality, and such bonds, and the interest thereon and the income therefrom, and all service charges, funds, revenues and other moneys pledged or available to pay or secure the payment of such bonds, or interest thereon, shall at all times be exempt from taxation except for transfer, inheritance and estate taxes.

25. Section 25 of P.L.1948, c.348 (C.40:66A-25) is amended to read as follows:

C.40:66A-25 Competitive systems; State's pledge and agreement with bondholders.

25. The State of New Jersey does hereby pledge to and covenant and agree with the holders of any bonds issued pursuant to this act that the State will not authorize or permit the construction or maintenance of any incinerator or garbage disposal system which will be competitive with the garbage disposal system of the incinerator or environmental services authority, and will not limit or alter the rights hereby vested in the incinerator or environmental services authority to acquire, construct, maintain, reconstruct and operate its garbage disposal system, and to fix, establish, charge and collect its service charges and to fulfill the terms of any agreement made with the holders of such bonds or other obligations, and will not in any way impair the rights or remedies of such holders, and will not modify in any way the exemptions from taxation provided for in this act, until such bonds, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged.

26. Section 26 of P.L.1948, c.348 (C.40:66A-26) is amended to read as follows:

C.40:66A-26 Banks authorized to give undertaking; deposits.

26. All banks, bankers, trust companies, savings banks, investment companies and other persons carrying on a banking business are hereby authorized to give to any incinerator or environmental services authority a good and sufficient undertaking with such sureties as shall be approved by the incinerator or environmental services authority to the effect that such bank or banking institution as hereinbefore described shall faithfully keep and pay over to the order of or upon the warrant of the incinerator or environmental services authority or its authorized agent all such funds as may be deposited with it by the incinerator or environmental services authority and agreed interest thereon, at such times or upon such demands as may be agreed upon with the authority or, in lieu of such sureties, deposit with the incinerator or environmental services authority or its authorized agent or any trustee therefor or for the holders of any bonds, as collateral, such securities as the incinerator or environmental services authority may approve; provided, such securities shall consist of obligations in which public officers and bodies of the State and its municipal subdivisions, savings institutions, including savings and loan associations, insurance companies and associations, executors, administrators, guardians, trustees and other fiduciaries in the State may properly and legally invest the funds within their control, in such principal amount, market value or other description as may be approved by the incinerator or environmental services authority. The deposits of the incinerator or environmental services authority may be evidenced by a depository collateral agreement in such form and upon such terms and conditions as may be agreed upon by the incinerator or environmental services authority and such bank or banking institution.

27. Section 27 of P.L.1948, c.348 (C.40:66A-27) is amended to read as follows:

C.40:66A-27 Municipalities' powers respecting garbage disposal limited after creation of incinerator, environmental services authority; use of services.

27. After the creation of an incinerator or environmental services authority as provided herein, no municipality within the district shall have power to engage in, grant any license or permit for, or enter into any contract for, the collection, treatment and disposal of garbage



and refuse; and no such municipality, or any person, firm, corporation or association shall engage in any activities within such municipality which would be competitive with the purposes of the incinerator or environmental services authority as provided in this act.

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

The provisions of this section shall not be construed, however, to affect or impair any contracts entered into prior to the creation of an incinerator or environmental services authority.

28. This act shall take effect immediately.

Approved August 7, 2012.