

LAWS=NEW JERSEY
1971

ACTS
OF THE
Second Annual Session
OF THE
One Hundred and Ninety-fourth Legislature
OF THE
STATE OF NEW JERSEY
AND
Twenty-third Under the New Constitution



New Jersey State Library

1971

The following laws, passed by the Second Annual Session of the One Hundred and Ninety-fourth Legislature, and an index of the laws, are published in accordance with R. S. 1:3-1 et seq.

PAUL J. SHERWIN,
Secretary of State.

MEMBERS
OF THE
One Hundred and Ninety-fourth Legislature

SENATORS

FIRST DISTRICT
(Cape May, Cumberland)
ROBERT E. KAY

SECOND DISTRICT
(Atlantic)
FRANK S. FARLEY

THIRD DISTRICT
(Camden, Gloucester, Salem)
(3A) JOHN L. WHITE
(3B) HUGH A. KELLY
(3C) JOHN L. MILLER
(3D) FRANK C. ITALIANO

FOURTH DISTRICT
(Burlington, Ocean)
(4A) WILLIAM T. HIERING
(4B) EDWIN B. FORSYTHE¹
(4B) WALTER L. SMITH, JR.²

FIFTH DISTRICT
(Monmouth)
ALFRED N. BEADLESTON
RICHARD R. STOUT

SIXTH DISTRICT
(Mercer)
RICHARD J. COFFEE
SIDO L. RIDOLFI

SEVENTH DISTRICT
(Middlesex)
J. EDWARD CRABIEL
JOHN A. LYNCH
NORMAN TANZMAN

EIGHTH DISTRICT
(Somerset)
RAYMOND H. BATEMAN

NINTH DISTRICT
(Union)
NICHOLAS S. LACORTE³
FRANK X. McDERMOTT
MATTHEW J. RINALDO

TENTH DISTRICT
(Morris)
JOSEPH J. MARAZITI
HARRY L. SEARS

ELEVENTH DISTRICT
(Essex)
GERARDO L. DEL TUFO
DAVID W. DOWD¹
MICHAEL A. GIULIANO
ALEXANDER J. MATTURRI
MILTON A. WALDOR
JAMES H. WALLWORK

TWELFTH DISTRICT
(Hudson)
FRANK J. GUARINI, JR.
FREDERICK H. HAUSER
WILLIAM F. KELLY, JR.
WILLIAM V. MUSTO

THIRTEENTH DISTRICT
(Bergen)
FAIRLEIGH S. DICKINSON, JR.
GARRETT W. HAGEDORN
WILLARD B. KNOWLTON
ALFRED D. SCHIAFFO
JOSEPH C. WOODCOCK, JR.

FOURTEENTH DISTRICT
(Passaic)
IRA SCHOEM
FRANK J. SCIRO
EDWARD SISCO⁴

FIFTEENTH DISTRICT
(Hunterdon, Sussex, Warren)
WAYNE DUMONT, JR.

¹Resigned November 16, 1970

²Sworn in March 15, 1971

³Resigned December 8, 1970

⁴Deceased March 6, 1971

MEMBERS OF GENERAL ASSEMBLY

DISTRICT 1
(Cape May, Cumberland)
JAMES S. CAFIERO
JAMES R. HURLEY

DISTRICT 2
(Atlantic)
SAMUEL A. CURCIO
ALBERT S. SMITH

DISTRICT 3A
(Salem, part of Gloucester)
KENNETH A. BLACK, JR.
JOSEPH H. ENOS

DISTRICT 3B
(Part of Gloucester, part of
Camden)
THOMAS J. SHUSTED¹
JAMES M. TURNER

DISTRICT 3C
(Part of Camden)
WILLIAM K. DICKEY
EUGENE RAYMOND III

DISTRICT 3D
(Part of Camden)
JAMES J. FLORIO
JOHN J. HORN

DISTRICT 4A
(Ocean, part of Burlington)
JOHN F. BROWN
BENJAMIN H. MABIE

DISTRICT 4B
(Part of Burlington)
BARRY T. PARKER
WALTER L. SMITH, JR.²

DISTRICT 5A
(Part of Monmouth)
JOHN I. DAWES
JOSEPH E. ROBERTSON

DISTRICT 5B
(Part of Monmouth)
JOSEPH AZZOLINA
JAMES M. COLEMAN, JR.

DISTRICT 6A
(Part of Mercer)
WILLIAM E. SCHLUTER
KARL WEIDEL

DISTRICT 6B
(Part of Mercer)
JOSEPH P. MERLINO
S. HOWARD WOODSON, JR.

DISTRICT 7A
(Part of Middlesex)
PETER P. GARIBALDI
ROBERT K. HAELIG, JR.

DISTRICT 7B
(Part of Middlesex)
MARTIN E. KRAVARIK
DONALD MACRAE

DISTRICT 7C
(Part of Middlesex)
THOMAS DEVERIN
JOHN J. FAY, JR.

DISTRICT 8
(Somerset)
JOHN H. EWING
MILLCENT H. FENWICK

DISTRICT 9
(Union-at-large)
CHARLES J. IRWIN³

DISTRICT 9A
(Part of Union)
HENRY F. GAVAN
JOSEPH J. HIGGINS

DISTRICT 9B
(Part of Union)
HERBERT J. HEILMANN⁴
HUGO M. PFALTZ, JR.

DISTRICT 9C
(Part of Union)
HERBERT H. KIEHN
PETER J. McDONOUGH

¹Resigned March 9, 1971

²Elected to Senate March 2, 1971

³Resigned April 5, 1971

⁴Resigned December 1, 1970

MEMBERS

9

DISTRICT 10A
(Part of Morris)
W. ALLEN COBB
JOSEPHINE S. MARGETTS

DISTRICT 10B
(Part of Morris)
PETER W. THOMAS
EVERETT B. VREELAND

DISTRICT 11A
(Part of Essex)
JAMES P. LORDI
PAUL POLICASTRO

DISTRICT 11B
(Part of Essex)
GEORGE C. RICHARDSON
RONALD OWENS

DISTRICT 11C
(Part of Essex)
RALPH R. CAPUTO
C. RICHARD FIORE

DISTRICT 11D
(Part of Essex)
DAVID GOLDFARB
HERBERT M. RINALDI

DISTRICT 11E
(Part of Essex)
JOHN N. DENNIS
KENNETH T. WILSON

DISTRICT 11F
(Part of Essex)
PHILIP D. KALTENBACHER
THOMAS H. KEAN

DISTRICT 12A
(Part of Hudson)
JAMES P. DUGAN
JOSEPH A. LEFANTE

DISTRICT 12B
(Part of Hudson)
DAVID FRIEDLAND
ALFRED E. SUMINSKI¹

DISTRICT 12C
(Part of Hudson)
FRANK R. CONWELL
MICHAEL P. ESPOSITO

DISTRICT 12D
(Part of Hudson)
JOSEPH M. HEALEY
CHRISTOPHER J. JACKMAN

DISTRICT 13A
(Part of Bergen)
HAROLD C. HOLLENBECK
PETER J. RUSSO

DISTRICT 13B
(Part of Bergen)
THOMAS J. COSTA
WILLIAM J. DORGAN

DISTRICT 13C
(Part of Bergen)
WILLIAM M. CRANE
RICHARD J. VANDER PLAAT

DISTRICT 13D
(Part of Bergen)
RICHARD W. DE KORTE
PETER MORAITESS²

DISTRICT 13E
(Part of Bergen)
EDWARD A. CONNELL
AUSTIN N. VOLK

DISTRICT 14
(Passaic-at-large)
JOHN F. EVERS

DISTRICT 14A
(Part of Passaic)
ALFRED E. FONTANELLA
JAMES R. WHITE

DISTRICT 14B
(Part of Passaic)
JOSEPH HIRKALA
JOSEPH F. SCANCARELLA

DISTRICT 15
(Hunterdon, Sussex, Warren)
WALTER E. FORAN
ROBERT E. LITTELL

¹Deceased February 5, 1971

²Resigned April 19, 1971

L A W S

ACTS
PASSED BY THE
Second Annual Session
OF THE
One Hundred and Ninety-fourth Legislature

CHAPTER 1

AN ACT concerning certain qualifications for appointment to the office, position or employment of sheriff's officer, county correction officer or county park police officer, and supplementing subtitle 3 of Title 11 of the Revised Statutes.

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

C. 11:21-4.2 Definitions.

1. "Sheriff's officer," "county correction officer" and "county park police officer" as used herein shall mean, respectively, the county office, position or employment classified as of the effective date of this act, under the title "sheriff's officer," "county correction officer" or "county park police officer" by the civil service commission.

C. 11:21-4.3 Waiver of age limits.

2. Notwithstanding the age eligibility qualifications established by the civil service commission for appointment to the office, position or employment of sheriff's officer, county correction officer or county park police officer, such age limits may be waived upon a written determination by the commission that they are a deterrent to recruitment within any county subject to the provisions of Title 11 of the Revised Statutes. Such a determination must be based on a showing within the individual county that adequate qualified personnel can only be secured by so waiving the age qualification.

3. This act shall take effect immediately.

Approved January 15, 1971.

CHAPTER 2

AN ACT concerning coroners, county physicians and medical examiners, revising parts of the statutory law and repealing sundry acts and parts of acts.

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

1. N. J. S. 2A:10-2 is amended to read as follows:

County court; punishment of sheriff for contempt.

2A:10-2. The County Court of any county shall have the same power to punish for contempt a sheriff of the county, as the Superior Court.

2. N. J. S. 2A:15-25 is amended to read as follows:

Death or disability of certain persons to whom writ or process was originally directed.

2A:15-25. When a sheriff, receiver, master or other person to whom any writ, process, order or judgment has been or may be directed by any court of this State dies, becomes unable to discharge the duties of his office or appointment, or removes from and continues to reside without the jurisdiction of this State without discharging the duties of his office or appointment in relation to the command of the writ, process, order or judgment, it shall be lawful for the court upon notice to the other party, where notice can be given, to order the sheriff for the time being of the county or to some other proper person, as the case may be, to proceed to execute any such writ, process, order or judgment.

Upon such an order being made, the sheriff for the time being or other person shall proceed to execute or complete the execution of such writ, process, order or judgment, and do all other acts in the premises, as fully and completely as such sheriff or other person to whom the same was originally directed might himself have done had such death, disability or removal not occurred, subject to the same regulations and restrictions, and to the same penalties, actions and amercements for neglect of duty in relation thereto.

3. N. J. S. 2A:43-1 is amended to read as follows:

Privileged communications.

2A:43-1. The privileged character attaching to the publication of judicial or other proceedings shall extend to the publication in

any newspaper of official statements issued by police department heads and county prosecutors in investigations in progress or completed by them, and which are accepted in good faith by the publisher of any newspaper, and the privileged character thereof shall be a good defense to any action for libel, unless malice in fact be shown by the plaintiff therein.

4. N. J. S. 2A:72-5 is amended to read as follows:

Summoning grand and petit jurors; service.

2A:72-5. Every grand and petit juror shall be summoned by the sheriff, his deputy, or by an elisor or by a peace officer or officer of a court deputized for that purpose. The summons shall be by notice in writing, under the hand or hands of the summoning officer or officers, served at least 30 days before the day on which such juror is required to appear. It shall require the person therein summoned to appear before a specified court at such time and place as shall be expressed therein, to serve upon a jury.

Each person drawn for jury service may be served personally or by leaving the same at the dwelling house of such juror, or by registered or certified mail addressed to such juror at his usual residence or business address. Where service is made by mail, the summoning officer shall attach to his return the addressee's receipt for the registered or certified summons. Service by mail is complete upon mailing.

5. N. J. S. 2A:72-6 is amended to read as follows:

Execution of orders for juries by elisors in particular causes.

2A:72-6. When an order shall be directed to the elisors for a jury for the trial of a particular cause, the same shall be executed and the jury thereby required shall be summoned by the elisors in the same manner as by law was required to be done in such a case prior to March 9, 1836, notwithstanding any of the provisions of this subtitle relating to the drawing, summoning and impaneling of juries.

6. N. J. S. 2A:72-8 is amended to read as follows:

Accepting reward for summoning or excusing jurors; penalty.

2A:72-8. No sheriff or other officer, or any deputy thereof, shall, directly or indirectly, take, accept or receive money or other reward or thing to summon or return any person for service on any jury or to excuse any person from being summoned or returned or from serving on any jury, nor shall any such officer summon or return

any person who may have applied to him to be summoned or returned as a juror.

For every violation of this section the person guilty thereof shall forfeit \$150.00, recoverable, with costs, in an action in any court of record of competent jurisdiction. One moiety of the forfeiture recovered shall go to the State and the other moiety to any person prosecuting therefor.

7. N. J. S. 2A:113-1 is amended to read as follows:

Murder.

2A:113-1. If any person, in committing or attempting to commit arson, burglary, kidnapping, rape, robbery, sodomy or any unlawful act against the peace of this State, of which the probable consequences may be bloodshed, kills another, or if the death of anyone ensues from the committing or attempting to commit any such crime or act; or if any person kills a judge, magistrate, sheriff, constable or other officer of justice, either civil or criminal, of this State, or a marshal or other officer of justice, either civil or criminal, of the United States, in the execution of his office or duty, or kills any of his assistants, whether specially called to his aid or not, endeavoring to preserve the peace or apprehend a criminal, knowing the authority of such assistant, or kills a private person endeavoring to suppress an affray, or to apprehend a criminal, knowing the intention with which such private person interposes, then such person so killing is guilty of murder.

8. N. J. S. 2A:166-6 is amended to read as follows:

Expenses of execution of compulsory process in another county; inclusion in taxed bill of costs.

2A:166-6. In all cases where any sheriff, constable or special deputy shall execute any bench warrant, State warrant, capias ad testificandum or other compulsory process whatever, issued by any court of record or magistrate of this State, and, in the execution thereof, it shall become necessary for such officer to go beyond the limits of his county, he shall receive, in addition to the fees allowed by law, his traveling and other expenses necessarily incurred in such service, a particular statement of which shall be made out and sworn to and approved by the court, shall be included in the taxed bill of costs and collected and paid as other fees in criminal cases.

9. K. S. 19:3-5 is amended to read as follows:

Holding more than one office; qualifications of presidential electors and congressmen.

19:3-5. No person shall hold at the same time more than one of the following offices: elector of President and Vice-President of the United States, member of the United States Senate, member of the House of Representatives of the United States, member of the Senate or of the General Assembly of this State, county clerk, register, surrogate or sheriff.

No person shall be elected an elector of President and Vice-President of the United States unless he shall possess the qualifications of a legal voter of the State, shall be of the age of 25 years or upwards and shall have been a citizen of the United States 7 years next preceding such election.

No person shall be elected a member of the House of Representatives, or an elector of President and Vice-President who shall hold any office of trust or profit under the United States.

10. N. J. S. 22A:1-4 is amended to read as follows:

Fees and mileage of witnesses and others.

22A:1-4. Witnesses and others hereinafter mentioned shall be entitled to the following fees:

Each witness attending any of the following, in his own county, per day of attendance, \$2.00; a court; a joint committee of the Legislature, a standing committee of either house or any special committee, which shall have been, by resolution, directed to enter upon any investigation or inquiry, the purpose of which shall necessitate sending for persons and papers and the examination of witnesses; a commissioner or commissioners; a master; a referee; an arbitrator; an officer taking a deposition; or any proceeding issuing out of any court.

Each witness so attending from a foreign county, at the rate of \$2.00 a day, together with, for each day of attendance, an allowance of \$2.00 for every 30 miles of travel in going to the place of attendance from his place of residence and in returning.

For the Secretary of State, or any clerk attending on subpoena, with records, wills or other written evidence, at the rate of \$2.00 a day, and mileage as aforesaid.

11. N. J. S. 22A:4-8 is amended to read as follows:

Fees and mileage of sheriffs and other officers.

22A:4-8. Fees and mileage of sheriffs and other officers.

For the services hereinafter enumerated sheriffs and other officers shall receive the following fees:

In addition to the mileage allowed by law, for serving every summons and complaint, attachment or any mesne process issuing out of the Superior Court or County Court, the sheriff or other officer serving such process shall, for the first defendant or party on whom such process is served, be allowed \$10.00 and, for service on the second defendant named therein, \$8.00, and for serving such process on any other defendant or defendants named therein, \$4.00 each, and no more. If a man and his wife be named in such process they shall be considered as one defendant, except where they are living separate and apart.

Serving summons and complaint in matrimonial actions, in addition to mileage, \$12.00.

Serving capias ad respondendum, capias ad satisfaciendum, warrant of commitment, writ of ne exeat, in addition to mileage, \$25.00.

Serving order to summon juries and return, \$1.75.

Serving every execution against goods or lands and making an inventory and return, in addition to mileage, \$25.00.

For returning every writ, \$0.25.

Executing every writ of possession and return, in addition to mileage, \$25.00.

Executing every writ of attachment, sequestration or replevin issuing out of any of the courts, in addition to mileage, \$25.00.

For serving each out-of-State paper, in addition to the mileage allowed by law, \$15.00.

For serving or executing any process or papers where mileage is allowed by law, the officer shall receive mileage actually traveled to and from the courthouse, at the rate per mile of \$0.10.

For summoning a special jury, \$5.00.

Attending a jury of view, each day, \$2.50.

For service of notices on grand and petit jurors the same fees allowed by law for the service of a summons issued out of the County Court.

For producing the jury list and attending the judge within the county, \$3.50 and for attending the judge outside the county the

sheriff shall receive an additional sum for each mile from the courthouse of his county to the place of attendance, such mileage to be at the rate per mile of \$0.24.

For attending the regular terms of the courts of the county for each day, \$3.75.

Every person committed to prison, \$0.25.

Discharging every person from prison, \$0.12.

Victualing a prisoner, per day, \$0.15.

Attending with a prisoner before a judge on his being surrendered by or in discharge of his bail, and receiving him into custody, \$2.00.

The sheriff shall be entitled to retain out of all moneys collected or received by him on a forfeited recognizance, whether before or after execution, or from amercements, or from fines and costs on conviction, on indictment or otherwise, whether such moneys are payable to the State or to the county treasurer of the county wherein conviction was had, 5%.

For transporting each offender to the State Prison, per mile, but not less than \$3.00 for each offender, to be certified by the keeper of the prison and the certificate to be delivered to the county treasurer of the county where the conviction was had, \$0.23.

EXECUTION SALES

When a sale is made by virtue of an execution the sheriff shall be entitled to charge the following fees: On all sums not exceeding \$1,000.00, 4%; on all sums exceeding \$1,000.00 on such excess, 2½%; the minimum fee to be charged for a sale by virtue of an execution, \$6.00.

When the execution is settled without actual sale and such settlement is made manifest to the officer, the officer shall receive ½ of the amount of percentage allowed herein in case of sale.

Making statement of execution, sales and execution fees, \$2.25.

Advertising the property for sale, provided the sheriff or deputy sheriff attend in pursuance of the advertisement, \$7.00.

For the crier of the vendue, when the sheriff proceeds to sell, for every day he shall be actually employed in such sale, \$2.00.

Every adjournment of a sale, but no more than one adjournment shall be allowed, and if the sheriff shall have several executions against a defendant, he shall only be allowed for advertising, attending and adjourning, as if he had but one execution, \$10.00.

Drawing and making a deed to a purchaser of real property, \$15.75.

Drawing and making a bill of sale to the purchaser of personal property when such bill of sale is required or demanded, \$12.00.

When more than one execution shall be issued out of the Superior Court upon any judgment, each sheriff to whom such execution shall be directed and delivered shall be entitled to collect and receive from the defendant named in such execution the fees allowed by law for making a levy and return and statement thereon, or for such other services as may be actually performed by him, and the sheriff who shall collect the amount named in said execution or any part thereof, shall be entitled to the legal percentage upon whatever amount may be so collected by him, but in case any such judgment shall be settled between the parties and the amount due thereon shall not be collected by either sheriff, then the percentage on the amount collected which would be due the sheriff thereon in case only one execution had been issued shall be equally divided among the several sheriffs in whose hands an execution in the same cause may have been placed.

The sheriff shall file his taxed bill of costs with the clerk of the court out of which execution issued, within such time as the court shall direct by general rule or special order, or, in default thereof, he shall not be entitled to any costs. If any sheriff shall charge in such bill of costs for services not done, or allowed by law, or shall take any greater fee or reward for any services by him done than is or shall be allowed by law, he shall be liable for the damages sustained by the party aggrieved including a penalty of \$30.00, to be recovered in a summary manner, in the action or proceeding wherein the execution was issued or otherwise.

12. N. J. S. 22A:4-10 is amended to read as follows:

Fees of sheriffs, constables and other officers.

22A:4-10. Sheriffs, undersheriffs, deputy sheriffs, constables, court attendants and other officers authorized by law to perform any of the services enumerated below shall receive therefor the following fees:

Serving notice on a defaulting juror, to be paid by the juror, \$1.00.

For making return when served with a writ of habeas corpus, \$2.00.

For producing a prisoner held in custody on *capias ad respondendum*, before a court taking bail, \$2.00.

For taking a bond and inventory pursuant to law, concerning insolvent debtors, to be paid by the defendant, \$0.50.

For all services of the sheriff or other officer pursuant to a claim of exemption on execution or other civil process for seizure of property, \$5.00. This fee includes \$1.00 apiece to be paid by the sheriff to each of three appraisers appointed.

13. R. S. 26:6-8 is amended to read as follows:

Duty to furnish particulars; certification.

26:6-8. In the execution of a death certificate, the personal particulars shall be obtained by the funeral director from the person best qualified to supply them. The death and last sickness particulars shall be supplied by the attending physician, or if there be no attending physician by the county medical examiner. Within a reasonable time, not to exceed 24 hours after the pronouncement of death, the attending physician or the county medical examiner shall execute the medical certification. The burial particulars shall be supplied by the funeral director. The attending physician or the county medical examiner and the funeral director shall certify to the particulars supplied by them by signing their names below the list of items furnished.

14. R. S. 26:6-9 is amended to read as follows:

Death without medical attendance.

26:6-9. In case of any death occurring without medical attendance, the funeral director shall notify the county medical examiner, or local registrar. In case the local registrar, shall be notified, he shall immediately inform the county medical examiner and refer the case to him for investigation. The county medical examiner shall furnish the funeral director with the necessary data and last sickness particulars to make the death certificate.

15. R. S. 30:8-6 is amended to read as follows:

Penalty for violation of section 30:8-5.

30:8-6. If any sheriff, undersheriff, jailer or other officer, or minister aforesaid, shall offend against the provisions of section 30:8-5 of this Title, every such offender shall, besides being punished on conviction for a misdemeanor, forfeit and pay double damages to the party aggrieved, to be recovered, with costs, by a civil action in any court having cognizance thereof.

16. R. S. 30:8-21 is amended to read as follows:

Liability for escape of prisoners under civil arrest.

30:8-21. In all cases where any sheriff, undersheriff, or constable shall be by law authorized or required to confine or keep in jail any person arrested or in custody on any civil process, or in any civil suit or proceeding, by surrender in discharge of bail or in any other way, such sheriff, undersheriff or constable shall deliver such person so arrested or in custody to the jail warden of such county, if there shall be one, within such jail, with a copy of the process, commitment or surrender by virtue of which such person was arrested or is in custody, and after such delivery such sheriff, undersheriff or constable shall not be liable for any escape of such prisoner; but the board of chosen freeholders of such county, or their keeper or warden, if they shall have appointed one under the provisions of section 30:8-20 of this Title, shall, for any escape after such delivery, be liable in the same manner as the sheriff of the county would be if he had the custody, rule, keeping and charge of the county jail of such county and of the prisoners therein. Such sheriff, undersheriff or constable may require such keeper or warden to give a receipt, upon the process or commitment by which such prisoner may be arrested or held, for the body of such prisoner.

17. R. S. 39:4-134 is amended to read as follows:

Report of death to director.

39:4-134. Every county prosecutor, county medical examiner, or other official performing like functions shall make a report to the director with respect to a death found to have been the result of a motor vehicle accident.

18. Section 32 of chapter 340 of the laws of 1952 (C. 45:7-63) is amended to read as follows:

C. 45:7-63 Injection of fluid or substance into body; limitations.

32. No person shall inject any fluid or substance into any cavity or artery of the body of any person who has come to a sudden, violent or untimely death, or of any person found dead, the manner of whose death is not known, until permission is obtained from the county medical examiner of the county in which the dead body lies. No person shall employ, for the purpose of the practice of mortuary science, funeral directing or embalming, any arsenical or other poisonous agent which may by its presence in the viscera prevent the detection of criminal usage of the poisonous agent before the

death of the individual occurred; but this provision shall not prohibit the use by any association incorporated under article 4 of chapter 9 of Title 45 of the Revised Statutes, of any substance for the preservation of dead bodies which have legally come into its possession.

Repealer.

19. The following sections, chapters and acts, together with all amendments and supplements thereto, are hereby repealed:

R. S. 40:40-1 to 40:40-4, inclusive; 40:40-6 to 40:40-21, inclusive; 45:7-28; N. J. S. 22A:4-7; Laws of 1947, chapter 404, sections 1 to 4, inclusive (C. 40:40-28.5 to C. 40:40-28.8, inclusive).

20. This act shall take effect immediately.

Approved January 15, 1971.

CHAPTER 3

AN ACT to amend and supplement the "New Jersey Controlled Dangerous Substances Act," approved October 19, 1970 (P. L. 1970, c. 226).

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

1. Section 2 of P. L. 1970, c. 226 (C. 24:21-2) is amended to read as follows:

C. 24:21-2 Definitions.

2. Definitions. As used in this act:

"Administer" means the direct application of a controlled dangerous substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by: (1) a practitioner (or, in his presence, by his lawfully authorized agent), or (2) the patient or research subject at the lawful direction and in the presence of the practitioner.

"Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser but does not include a common or contract carrier, public warehouseman, or employee thereof.

“Bureau of Narcotics and Dangerous Drugs” means the Bureau of Narcotics and Dangerous Drugs, United States Department of Justice.

“Commissioner” means the State Commissioner of Health.

“Controlled dangerous substance” means a drug, substance, or immediate precursor in Schedules I through V of article 2 of this act. The term shall not include distilled spirits, wine, malt beverages, as those terms are defined or used in R. S. 33:1-1 et seq., or tobacco and tobacco products.

“Counterfeit substance” means a controlled dangerous substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed or dispensed such substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser.

“Deliver” or “delivery” means the actual, constructive, or attempted transfer from one person to another of a controlled dangerous substance, whether or not there is an agency relationship.

“Dispense” means to deliver a controlled dangerous substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery. “Dispenser” means a practitioner who dispenses.

“Distribute” means to deliver other than by administering or dispensing a controlled dangerous substance. “Distributor” means a person who distributes.

“Drugs” means (a) substances recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (b) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (c) substances (other than food) intended to affect the structure or any function of the body of man or other animals; and (d) substances intended for use as a component of any article specified in subsections (a), (b) and (c) of this section; but does not include devices or their components, parts, or accessories.

“Drug dependent person” means a person who is using a controlled dangerous substance and who is in a state of psychic or physical dependence, or both, arising from the use of that controlled dangerous substance on a continuous basis. Drug dependence is characterized by behavioral and other responses, including but not limited to a strong compulsion to take the substance on a recurring basis in order to experience its psychic effects, or to avoid the discomfort of its absence.

“Marihuana” means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin, but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

“Manufacture” means the production, preparation, propagation, compounding, conversion or processing of a controlled dangerous substance, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled dangerous substance by an individual for his own use or the preparation, compounding, packaging, or labeling of a controlled dangerous substance: (1) by a practitioner as an incident to his administering or dispensing of a controlled dangerous substance in the course of his professional practice, or (2) by a practitioner (or under his supervision) for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

“Narcotic drug” means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

- (a) Opium, coca leaves, and opiates;
- (b) A compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates;

(c) A substance (and any compound, manufacture, salt, derivative, or preparation thereof) which is chemically identical with any of the substances referred to in subsections (a) and (b), except that the words "narcotic drug" as used in this act shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine.

"Official written order" means an order written on a form provided for that purpose by the Attorney General of the United States or his delegate, under any laws of the United States making provisions therefor, if such order forms are authorized and required by the Federal law, and if no such form is provided, then on an official form provided for that purpose by the State Department of Health.

"Opiate" means any dangerous substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under section 3 of this act, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

"Opium poppy" means the plant of the species *Papaver somniferum* L., except the seeds thereof.

"Person" means any corporation, association, partnership, trust, other institution or entity or one or more individuals.

"Pharmacist" means a registered pharmacist of this State.

"Pharmacy owner" means the owner of a store or other place of business where controlled dangerous substances are compounded or dispensed by a registered pharmacist; but nothing in this chapter contained shall be construed as conferring on a person who is not registered or licensed as a pharmacist any authority, right or privilege that is not granted to him by the pharmacy laws of this State.

"Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

"Practitioner" means a physician, dentist, veterinarian, scientific investigator, laboratory, pharmacy, hospital or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled dangerous substance in the course of professional practice or research in this State.

(a) "Physician" means a physician authorized by law to practice medicine in this or any other State and any other person authorized by law to treat sick and injured human beings in this or any other State and

(b) "Veterinarian" means a veterinarian authorized by law to practice veterinary medicine in this State.

(c) "Dentist" means a dentist authorized by law to practice dentistry in this State.

(d) "Hospital" means any Federal institution, or any institution for the care and treatment of the sick and injured, operated or approved by the appropriate State department as proper to be entrusted with the custody and professional use of controlled dangerous substances.

(e) "Laboratory" means a laboratory to be entrusted with the custody of narcotic drugs and the use of controlled dangerous substances for scientific, experimental and medical purposes and for purposes of instruction approved by the State Department of Health.

"Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled dangerous substance.

"Immediate precursor" means a substance which the State Department of Health has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled dangerous substance, the control of which is necessary to prevent, curtail, or limit such manufacture.

"State" means the State of New Jersey.

"Ultimate user" means a person who lawfully possesses a controlled dangerous substance for his own use or for the use of a member of his household or for administration to an animal owned by him or by a member of his household.

2. Section 7 of P. L. 1970, c. 226 (C. 24:21-7) is amended to read as follows:

C. 24:21-7 Schedule III.

7. Schedule III. a. Tests. The commissioner shall place a substance in Schedule III if he finds that the substance: (1) has a potential for abuse less than the substances listed in Schedules I and II; (2) has currently accepted medical use in treatment in the

United States; and (3) abuse may lead to moderate or low physical dependence or high psychological dependence.

b. The controlled dangerous substances listed in this section are included in Schedule III, subject to any revision and republishing by the commissioner pursuant to section 3d., and except to the extent provided in any other schedule.

c. Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

- (1) Amphetamine, its salts, optical isomers, and salts of its optical isomers.
- (2) Phenmetrazine and its salts.
- (3) Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.
- (4) Methylphenidate.

d. Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

- (1) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules
- (2) Chlorhexadol
- (3) Glutethimide
- (4) Lysergic acid
- (5) Lysergic acid amide
- (6) Methypylon
- (7) Phencyclidine
- (8) Sulfondiethylmethane
- (9) Sulfonethylmethane
- (10) Sulfonmethane.

e. Nalorphine.

f. Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

- (1) Not more than 1.80 grams of codeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

(2) Not more than 1.80 grams of codeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amount.

(3) Not more than 300 milligrams of dihydrocodeinone or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.

(4) Not more than 300 milligrams of dihydrocodeinone or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(5) Not more than 1.80 grams of dihydrocodeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(6) Not more than 300 milligrams of ethylmorphine or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(7) Not more than 500 milligrams of opium or any of its salts per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(8) Not more than 50 milligrams of morphine or any of its salts per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

g. The commissioner may by regulation except any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections a. and b. of this schedule from the application of all or any part of this act if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system; provided, that such admixtures shall be included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the substances which do have a stimulant or depressant effect on the central nervous system.

3. Section 8 of P. L. 1970, c. 226 (C. 24:21-8) is amended to read as follows:

C. 24:21-8 Schedule IV.

8. Schedule IV. a. Tests. The commissioner shall place a substance in Schedule IV if he finds that the substance: (1) has low potential for abuse relative to the substances listed in Schedule III; (2) has currently accepted medical use in treatment in the United States; and (3) may lead to limited physical dependence or psychological dependence relative to the substances listed in Schedule III.

b. The controlled dangerous substances listed in this section are included in Schedule IV.

c. Any material, compound, mixture or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

- (1) Barbitol
- (2) Chloral betaine
- (3) Chloral hydrate
- (4) Ethchlorovynol
- (5) Ethinamate
- (6) Methohexital
- (7) Meprobamate
- (8) Methylphenobarbital
- (9) Paraldehyde
- (10) Petrichloral
- (11) Phenobarbital

d. The commissioner may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection c. from the application of all or any part of this act if the compound, mixture or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

C. 24:21-8.1 Schedule V.

4. Schedule V. a. Tests. The commissioner shall place a substance in Schedule V if he finds that the substance: (1) has low potential for abuse relative to the substances listed in Schedule IV; (2) has currently accepted medical use in treatment in the United States; and (3) has limited physical dependence or psychological dependence liability relative to the substances listed in Schedule IV.

b. The controlled dangerous substances listed in this section are included in Schedule V.

c. Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine or any of its salts per 100 milliliters or per 100 grams;

(2) Not more than 100 milligrams of dihydrocodeine or any of its salts per 100 milliliters or per 100 grams;

(3) Not more than 50 milligrams of ethylmorphine or any of its salts per 100 milliliters or per 100 grams;

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) Not more than 100 milligrams of opium or any of its salts per 100 milliliters or per 100 grams.

5. Section 10 of P. L. 1970, c. 226 (C. 24:21-10) is amended to read as follows:

C. 24:21-10 Registration requirements.

10. Registration requirements. a. Every person who manufactures, distributes, or dispenses any controlled dangerous substance within this State or who proposes to engage in the manufacture, distribution, or dispensing of any controlled dangerous substance within this State, shall obtain annually a registration issued by the State Department of Health in accordance with the rules and regulations promulgated by it.

b. Persons registered by the commissioner under this act to manufacture, distribute, dispense, or conduct research with controlled dangerous substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this article.

c. The following persons shall not be required to register and may lawfully have under their control or possess controlled dangerous substances under the provisions of this act; provided, however, that nothing in this section shall be construed as conferring on a person who is not registered or licensed as a practitioner or as a pharmacist any authority, right or privilege that is not granted him by the laws of this State:

(1) An agent, or an employee thereof, of any registered manufacturer, distributor, or dispenser of any controlled dangerous substance if such agent is acting in the usual course of his business or employment;

(2) A common carrier or warehouseman, or an employee thereof, whose possession of any controlled dangerous substance is in the usual course of his business or employment;

(3) An ultimate user or a person in possession of any controlled dangerous substance pursuant to a lawful order of a practitioner or in lawful possession of a Schedule V substance;

(4) Peace officers or employees in the performance of their official duties requiring possession or control of controlled dangerous substances; or to temporary incidental possession by employees or agents of persons lawfully entitled to possession, or by persons whose possession is authorized for the purpose of aiding peace officers in performing their official duties.

d. The commissioner may, by regulation, waive the requirement for registration of certain manufacturers, distributors, or dispensers if he finds it consistent with the public health and safety.

e. A separate registration shall be required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled dangerous substances.

f. The commissioner is authorized to inspect the establishment of a registrant or applicant for registration in accordance with the rules and regulations promulgated by him.

6. Section 11 of P. L. 1970, c. 226 (C. 24:21-11) is amended to read as follows:

C. 24:21-11 Registration.

11. Registration. a. The State Department of Health shall not register an applicant to manufacture or distribute controlled dangerous substances included in Schedules I through V of article 2 of this act unless it determines that the issuance of such registration is consistent with the public interest. In determining the public interest, the following factors shall be considered:

(1) Maintenance of effective controls against diversion of particular controlled dangerous substances into other than legitimate medical, scientific, or industrial channels;

(2) Compliance with applicable State and local laws;

(3) Any convictions of the applicant under any Federal and State laws relating to any controlled dangerous substance;

(4) Past experience in the manufacture of controlled dangerous substances, and the existence in the applicant's establishment of effective controls against diversion;

(5) Furnishing by the applicant of false or fraudulent material in any application filed under this act;

(6) Suspension or revocation of the applicant's Federal registration to manufacture, distribute, or dispense controlled dangerous substances as authorized by Federal law; and

(7) Such other factors as may be relevant to and consistent with the public health and safety.

b. Registration granted under subsection a. of this section shall not entitle a registrant to manufacture and distribute controlled dangerous substances in Schedule I or II other than those specified in the registration.

c. Practitioners shall be registered to dispense substances in Schedules II through V if they are authorized to dispense or conduct research under the law of this State. The commissioner need not require separate registration under this article for practitioners engaging in research with nonnarcotic controlled dangerous substances in Schedules II through V where the registrant is already registered under this article in another capacity. Practitioners registered under Federal law to conduct research with Schedule I substances may conduct research with Schedule I substances within this State upon furnishing the commissioner evidence of that Federal registration.

d. Compliance by manufacturers and distributors with the provisions of the Federal law respecting registration (excluding fees) entitling them to be registered under this act.

e. The State Department of Health shall initially permit persons to register who own or operate any establishment engaged in the manufacture, distribution or dispensing of any controlled dangerous substances prior to the effective date of this act and who are registered or licensed by the State.

7. Section 15 of P. L. 1970, c. 226 (C. 24:21-15) is amended to read as follows:

C. 24:21-15 Prescriptions.

15. Prescriptions. a. Except when dispensed directly in good faith by a practitioner, other than a pharmacist, in the course of

his professional practice only, to an ultimate user, no controlled dangerous substance included in Schedule II, which is a prescription drug as defined in R. S. 45:14-14 may be dispensed without the written prescription of a practitioner; provided that in emergency situations, as prescribed by the State Department of Health by regulation, such drug may be dispensed upon oral prescription reduced promptly to writing and filed by the pharmacist, if such oral prescription is authorized by Federal law. Prescriptions shall be retained in conformity with the requirements of section 13 of this act. No prescription for a Schedule II substance may be refilled.

b. Except when dispensed directly in good faith by a practitioner, other than a pharmacist, in the course of his professional practice only, to an ultimate user, no controlled dangerous substance included in Schedule III and IV which is a prescription drug as defined in R. S. 45:14-14 may be dispensed without a written or oral prescription. Such prescription may not be filled or refilled more than 6 months after the date thereof or be refilled more than 5 times after the date of the prescription, unless renewed by the practitioner.

c. No controlled dangerous substance included in Schedule V may be distributed or dispensed other than for a valid and accepted medical purpose.

d. A practitioner other than a veterinarian who prescribes a controlled dangerous substance in good faith and in the course of his professional practice may administer the same or cause the same to be administered by a nurse or intern under his direction and supervision.

e. A veterinarian who prescribes a controlled dangerous substance not for use by a human being in good faith and in the course of his professional practice may administer the same or cause the same to be administered by an assistant or orderly under his direction and supervision.

f. A person who has obtained a controlled dangerous substance from the prescribing practitioner for administration to a patient during the absence of the practitioner shall return to the practitioner any unused portion of the substance when it is no longer required by the patient or when its return is requested by the practitioner.

g. Whenever it appears to the State Department of Health that a drug not considered to be a prescription drug under existing

State law should be so considered because of its abuse potential, it shall so advise the State Board of Pharmacy and furnish to it all available data relevant thereto.

8. Section 19 of P. L. 1970, c. 226 (C. 24:21-19) is amended to read as follows:

C. 24:21-19 Prohibited acts A.; manufacturing, distributing, or dispensing; penalties.

19. Prohibited acts A.—Manufacturing, distributing, or dispensing—Penalties. a. Except as authorized by this act, it shall be unlawful for any person:

(1) To manufacture, distribute, or dispense, or to possess or have under his control with intent to manufacture, distribute, or dispense, a controlled dangerous substance; or

(2) To create, distribute, or possess or have under his control with intent to distribute, a counterfeit controlled dangerous substance.

b. Any person who violates subsection a. with respect to:

(1) A substance classified in Schedules I or II which is a narcotic drug is guilty of a high misdemeanor and shall be punished by imprisonment for not more than 12 years, a fine of not more than \$25,000.00, or both; or

(2) Any other controlled dangerous substance classified in Schedules I, II, III or IV is guilty of a high misdemeanor and shall be punished by imprisonment for not more than 5 years, a fine of not more than \$15,000.00, or both; or

(3) A substance classified in Schedule V is guilty of a misdemeanor and shall be punished by imprisonment for not more than 1 year, a fine of not more than \$5,000.00, or both.

9. Section 20 of P. L. 1970, c. 226 (C. 24:21-20) is amended to read as follows:

C. 24:21-20 Prohibited acts B.; possession, use or being under influence; penalties.

20. Prohibited acts B.—Possession, use or being under influence—Penalties. a. It is unlawful for any person, knowingly or intentionally, to obtain, or to possess, actually or constructively, a controlled dangerous substance unless such substance was obtained directly, or pursuant to a valid prescription or order from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized by this act. Any person who violates this section with respect to:

(1) A substance classified in Schedule I or II which is a narcotic drug and any other controlled dangerous substance classified in Schedule I, II, III or IV is guilty of a high misdemeanor and shall be punished by imprisonment for not more than 5 years, a fine of not more than \$15,000.00, or both, except as provided in subsection a. (3) below;

(2) Any controlled dangerous substance classified in Schedule V is guilty of a misdemeanor and shall be punished by imprisonment of not more than 1 year, a fine of not more than \$5,000.00, or both; or

(3) Possession of more than 25 grams of marihuana, or more than 5 grams of hashish is guilty of a high misdemeanor and shall be punished by imprisonment for not more than 5 years, a fine of not more than \$15,000.00, or both; provided, however, that any person who violates this section with respect to 25 grams or less of marihuana, or 5 grams or less of hashish is a disorderly person.

b. Any person who uses or who is under the influence of any controlled dangerous substance, as defined in this act, for a purpose other than the treatment of sickness or injury as prescribed or administered by a person duly authorized by law to treat sick and injured human beings, is a disorderly person.

In a prosecution under this subsection, it shall not be necessary for the State to prove that the accused did use or was under the influence of any specific narcotic drug or drugs, but it shall be sufficient for a conviction under this subsection for the State to prove that the accused did use or was under the influence of some controlled dangerous substance or counterfeit controlled dangerous substance as defined in this act, by proving that the accused did manifest physical and physiological symptoms or reactions caused by the use of any controlled dangerous substance.

c. In addition to the general penalty prescribed for a disorderly person's offense pursuant to N. J. S. 2A:169-4, every person adjudged a disorderly person for a violation of this subsection shall, at the discretion of the sentencing judge, forthwith forfeit his right to operate a motor vehicle over the highways of this State for a period of not more than 2 years from the date of his conviction and until such privilege shall be restored to him by the Director of Motor Vehicles upon application to and after certification by a physician to the director that such person is not a drug dependent person within the meaning of this act. The court before whom any person is convicted of a violation of this section shall cause a

report of such conviction to be filed with the Director of Motor Vehicles.

10. Section 26 of P. L. 1970, c. 226 (C. 24:21-26) is amended to read as follows:

C. 24:21-26 Distribution to persons under age 18.

26. Distribution to persons under age 18. a. Any person who is at least 18 years of age who violates subsection 19a. (1) by distributing a substance listed in Schedules I or II which is a narcotic drug to a person 17 years of age or younger who is at least 3 years his junior is punishable by a term of imprisonment of up to twice that authorized by subsection 19b. (1), (2) or (3) or by the fine authorized by subsection 19b. (1), or by both.

b. Any person who is at least 18 years of age who violates subsection 19a. (1) by distributing any other controlled dangerous substance listed in Schedules I, II, III, IV or V to a person 17 years of age or younger who is at least 3 years his junior is punishable by a term of imprisonment up to twice that authorized by subsections 19b. (2) or (3), or by the fine authorized by subsections 19b. (2) or (3), or both.

11. Section 27 of P. L. 1970, c. 226 (C. 24:21-27) is amended to read as follows:

C. 24:21-27 Conditional discharge for certain first offenses; expunging of records.

27. Conditional discharge for certain first offenses; expunging of records. a. Whenever any person who has not previously been convicted of any offense under the provisions of this act or, subsequent to the effective date of this act, under any law of the United States, this State or of any other state, relating to narcotic drugs, marihuana, or stimulant, depressant, or hallucinogenic drugs, is charged with or convicted of any offense under subsections 20a. (1), (2) and (3), and b., the court, upon notice to the prosecutor and subject to subsection c., may on motion of the defendant or the court:

(1) Suspend further proceedings and with the consent of such person after reference to the Controlled Dangerous Substance Registry, as established and defined in the Controlled Dangerous Substances Registry Act of 1970, place him under supervisory treatment upon such reasonable terms and conditions as it may require; or

(2) After plea of guilt or finding of guilt, and without entering a judgment of conviction, and with the consent of such person after

proper reference to the Controlled Dangerous Substances Registry as established and defined in the Controlled Dangerous Substances Registry Act of 1970, place him on supervisory treatment upon such reasonable terms and conditions as it may require, or as otherwise provided by law.

b. In no event shall the court require as a term or condition of supervisory treatment under this section, referral to any residential treatment facility for a period exceeding the maximum period of confinement prescribed by law for the offense for which the individual has been charged or convicted, nor shall any term of supervisory treatment imposed under this subsection exceed a period of 3 years. Upon violation of a term or condition of supervisory treatment the court may enter a judgment of conviction and proceed as otherwise provided, or where there has been no plea of guilt or finding of guilt, resume proceedings. Upon fulfillment of the terms and conditions of supervisory treatment the court shall terminate the supervisory treatment and dismiss the proceedings against him. Termination of supervisory treatment and dismissal under this section shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of disqualifications or disabilities, if any, imposed by law upon conviction of a crime or disorderly persons offense but shall be reported by the clerk of the court pursuant to the Controlled Dangerous Substances Registry Act. Termination of supervisory treatment and dismissal under this section may occur only once with respect to any person. Imposition of supervisory treatment under this section shall not be deemed a conviction for the purposes of determining whether a second or subsequent offense has occurred under section 29 of this act or any law of this State.

c. Proceedings under this section shall not be available to any defendant unless the court in its discretion concludes that:

(1) The defendant's continued presence in the community, or in a civil treatment center or program, will not pose a danger to the community; or

(2) That the terms and conditions of supervisory treatment will be adequate to protect the public and will benefit the defendant by serving to correct any dependence on or use of controlled substances which he may manifest.

12. This act shall take effect upon the same date that P. L. 1970, c. 226 becomes effective if enacted prior thereto or upon the date of enactment if the same occurs thereafter.

Approved January 15, 1971.

CHAPTER 4

A SUPPLEMENT to “An act providing for the establishment and operation by any life insurance corporation of a variable contract account, and the regulation thereof,” approved June 18, 1959 (P. L. 1959, c. 123).

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

C. 17:35A-14 Regulation of issuance and sale of certain contracts.

1. The Commissioner of Insurance shall have sole and exclusive authority to regulate the issuance and sale of contracts on a variable basis; and such contracts, the companies which issued them and the agents or other persons who sell them shall not be subject to the Uniform Securities Law (1967), approved June 8, 1967 (P. L. 1967, c. 93) (C. 49:3-47 et seq.) in the issuance or sale of such contracts.

2. This act shall take effect immediately.

Approved January 15, 1971.

CHAPTER 5

AN ACT concerning municipal boards of recreation commissioners, amending section 40:12-1 and supplementing subtitle 4 of Title 40 of the Revised Statutes.

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

1. R. S. 40:12-1 is amended to read as follows:

Board of recreation commissioners; appointment and terms; existing boards continued.

40:12-1. The mayor or other chief executive officer of any municipality and the board of chosen freeholders of any county may in his or its discretion appoint not less than three nor more than seven persons, citizens and residents of such municipality or county, as the case may be, as members of a board of recreation commissioners. The commissioners first appointed shall be appointed for terms of 1, 2, 3, 4, and 5 years respectively, in such manner that the term of at least one commissioner and not more than two

commissioners shall expire in each year according to the number appointed as fixed by the mayor or other chief executive officer in municipalities and the board of chosen freeholders in counties. In case of the increase of a board from three to five members or in case of the increase of a board from five to seven members, the additional commissioners shall be appointed, one for 4 and one for 5 years and in case of the increase of a board from three to seven members, two of the additional commissioners shall be appointed for 4 years and two shall be appointed for 5 years. Thereafter all appointments shall be for the term of 3 years if the board consists of three members or 5 years if the board consists of five or seven members, according to the number appointed to comprise the board, and vacancies shall be filled for the unexpired term only. The members shall serve until their respective successors are appointed and shall qualify. The members shall receive no compensation for their services.

All such boards heretofore appointed are continued and shall be governed by the provisions of sections 40:12-1 to 40:12-8 of this Title.

C. 40:73-8 Provisions applicable to certain municipalities.

2. Provisions of law of a general character relating to municipal boards of recreation commissioners shall be applicable to municipalities governed by commission government.

3. This act shall take effect immediately.

Approved January 15, 1971.

CHAPTER 6

AN ACT concerning salaries of the mayor and members of the governing body of cities of the fourth class in counties of the sixth class having councilmanic form of government and amending R. S. 40:46-26.

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

1. R. S. 40:46-26 is amended to read as follows:

Salaries of governing body and mayor; exception; increase in salary; referendum.

40:46-26. The legal voters of any municipality may, by vote at a general election held in such municipality, fix and determine the

salary or other compensation to be paid the members of the governing body. They may in the same manner fix the salary or other compensation to be paid the mayor, except in municipalities having a population of more than 20,000, in which municipalities the governing body shall fix the salary of the mayor by ordinance. In case the mayor of any municipality is reelected to succeed himself after having served one term in such office his salary may be increased not more than once during such term for which he is so reelected.

In any municipality in counties of the second class having a population of less than 230,000 and in counties of the third class and fifth class having a population over 80,000 in which the legal voters have not fixed and determined the salaries of the mayor or other chief executive officer or members of the governing body in the manner aforesaid, the governing body may, by ordinance, fix the annual salary to be paid the mayor or other chief executive officer and members of the governing body, but any such salary shall not be in excess of \$1,000.00 per annum in municipalities having a population not in excess of 12,000, or \$2,500.00 per annum in municipalities having a population in excess of 12,000. Any such ordinance shall become operative in 10 days after the publication thereof after its final passage, unless within said 10 days, a petition, signed by the voters of such municipality equal in number to at least 15% of the entire vote cast in the last preceding general election protesting against the passage of such ordinance, be presented to the governing body, in which case such ordinance shall remain inoperative unless and until a proposition for the ratification thereof shall be adopted at the next general election by a majority of the qualified voters voting on said proposition.

This section shall not be construed to prevent the payment of a per diem compensation, pursuant to section 40:146-14 of this Title, to members of a township committee who are not paid a salary.

This section shall not apply to municipalities governed by the provisions of subtitle 4 (40:70-1 et seq.) or subtitle 5 (40:79-1 et seq.) of this Title or boroughs in counties of the fourth or the sixth class, in which boroughs such salaries may be fixed by ordinance pursuant to section 40:87-60 of this Title, or townships having a population in excess of 9,000 and not in excess of 14,000, in which townships such salaries are fixed by section 40:146-15 of this Title, or to townships in counties of the sixth class bordering on the Atlantic ocean, in which townships such salaries are fixed by chapter 201, laws of 1946, or to cities of the fourth class in counties

of the sixth class having councilmanic form of government, in which cities the members of the governing body are hereby empowered, by ordinance, to fix the compensation for the mayor at a sum not exceeding \$6,000.00 per annum and for each of the members of the governing body thereof at a sum not to exceed \$2,500.00 per annum, or to any city of the third class in any county of the fourth class in which cities the members of the governing body are hereby empowered, by ordinance, to fix the compensation of the mayor and the members of the governing body as provided by law.

2. This act shall take effect immediately.

Approved January 15, 1971.

CHAPTER 7

AN ACT concerning the organization and financial requirements of insurance companies, and amending R. S. 17:17-4.

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

1. R. S. 17:17-4 is amended to read as follows:

Certificate of incorporation.

17:17-4. The persons so proposing to incorporate shall sign a certificate stating their intention to form a corporation under chapters 17 to 33 of this Title (17:17-1 et seq.), and setting forth:

a. The name of the company, which shall contain the words "insurance company," except that a company which may be formed for any or all of the purposes specified in paragraphs "d" to "o" of section 17:17-1 of this Title may adopt a name containing the words "insurance company," "indemnity company," "casualty company," "surety company" or "guaranty company." The name shall not so closely resemble that of any existing corporation as to be likely to mislead the public, and shall be approved by the commissioner;

b. The place where its principal office in this State is to be located;

c. The kind or kinds of insurance proposed to be transacted by the company, stating the paragraphs of section 17:17-1 of this Title authorizing the same;

d. Whether the company is to be a stock company or a mutual company;

e. If a stock company, the amount of its capital stock, which shall not be less than \$200,000.00, the number of shares into which it is divided, and the par value of each share, which shall not be less than \$1.00, except that if such company proposes to transact the kinds of insurance set forth in paragraphs "c" and "d" of section 17:17-1 of this Title, the amount of its capital stock shall not be less than the minimum capital stock requirements set forth in section 17:17-6 of this Title; and

f. The period, if any, limited for the duration of the company.

The certificate may contain such other particulars as may be necessary to explain and make manifest or limit the objects and purposes of the corporation, and such other provisions not inconsistent with chapters 17 to 33 of this Title (17:17-1 et seq.), or the Constitution or laws of this State, which the incorporators may choose to insert for the conduct of the affairs of the company, the regulation of its business, or for defining, regulating and limiting the powers of the directors or stockholders.

2. This act shall take effect immediately.

Approved January 15, 1971.

CHAPTER 8

AN ACT making an appropriation to the Department of Education for emergency aid to the Sandystone-Walpack Consolidated School District for the school year 1970-71.

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

1. There is hereby appropriated to the Department of Education for the purpose of granting emergency aid for the school year 1970-71 to the Sandystone-Walpack Consolidated School District pursuant to P. L. 1969, chapter 124 and N. J. S. 18A:58-11 the sum of \$30,000.00.

2. This act shall take effect July 1, 1970.

Approved January 15, 1971.

CHAPTER 9

AN ACT concerning alcoholic beverages and amending R. S. 33:1-22 and R. S. 33:1-31.

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

1. R. S. 33:1-22 is amended to read as follows:

Appeal to director from action of issuing authority respecting license; procedure.

33:1-22. If the other issuing authority shall refuse to issue any license, or if the other issuing authority shall refuse to extend said license for a limited time not exceeding its term, to the executor or administrator of a deceased licensee, or to such person who shall be appointed by the courts having jurisdiction, in the event of the incompetency of any licensee, the applicant shall be notified forthwith of such refusal by a notice served personally upon the applicant, or sent to him by registered mail addressed to him at the address stated in the application. Such applicant may within 30 days after the date of service or of mailing of such notice, upon payment to the director of a nonreturnable filing fee of \$50.00, appeal to the director from the action of the issuing authority. If the other issuing authority shall issue a license, or grant an extension of said license for a limited time not exceeding its term, to the executor or administrator of a deceased licensee, or to such person who shall be appointed by the courts having jurisdiction, in the event of the incompetency of any licensee, any taxpayer or other aggrieved person opposing the issuance of such license may, within 30 days after the issuance of such license, upon payment to the director of a nonreturnable filing fee of \$50.00, appeal to the director from the action of the issuing authority. The director shall fix a time for the hearing of the appeal and before hearing the same, shall give at least 5 days' notice of the time so fixed to such applicant, such taxpayer, or other aggrieved person and other issuing authority.

Where an appeal is taken from the denial of an application for a renewal of a license, the director may, in his discretion, issue an order upon the respondent issuing authority to show cause why the term of the license should not be extended pending the determination of the appeal, together with ad interim relief extending the term of the license pending the return of the order to show

cause. If it shall appear upon the return of the order to show cause that the action of the respondent issuing authority is prima facie erroneous and that irreparable injury to the appellant would otherwise result, the director may, subject to such conditions as he may impose, order that the term of the license be extended pending a final determination of the appeal.

2. R. S. 33:1-31 is amended to read as follows:

Suspension or revocation of license; appeal.

33:1-31. Any license, whether issued by the director or any other issuing authority, may be suspended or revoked by the director, or the other issuing authority may suspend or revoke any license issued by it, for any of the following causes:

- a. Violation of any of the provisions of this chapter;
- b. Manufacture, transportation, distribution or sale of alcoholic beverages in a manner or to an extent not permitted by the license or by law;
- c. Nonpayment of any excise tax or other payment required by law to be paid to the State Tax Commissioner;
- d. Failure to comply with any of the provisions of subtitle 8 of the Title Taxation (§ 54:41-1 et seq.);
- e. Failure to have at all time a valid, unrevoked permit, license or special tax stamp, or other indicia of payment, of all fees, taxes, penalties and payments required by any law of the United States;
- f. Failure to have at all times proper stamps or other proper evidence of payment of any tax required to be paid by any law of this State;
- g. Any violation of rules and regulations;
- h. Any violation of any ordinance, resolution or regulation of any other issuing authority or governing board or body;
- i. Any other act or happening, occurring after the time of making of an application for a license which if it had occurred before said time would have prevented the issuance of the license; or
- j. For any other cause designated by this chapter.

No suspension or revocation of any license shall be made until a 5-day notice of the charges preferred against the licensee shall have been given to him personally or by mailing the same by registered mail addressed to him at the licensed premises and a reasonable opportunity to be heard thereon afforded to him.

A suspension or revocation of license shall be effected by a notice in writing of such suspension or revocation, designating the effec-

tive date thereof, and in case of suspension, the term of such suspension, which notice may be served upon the licensee personally or by mailing the same by registered mail addressed to him at the licensed premises. Such suspension or revocation shall apply to the licensee and to the licensed premises.

A revocation shall render the licensee and the officers, directors and each owner, directly or indirectly, of more than 10% of the stock of a corporate licensee ineligible to hold or receive any other license, of any kind or class under this chapter, for a period of 2 years from the effective date of such revocation and a second revocation shall render the licensee and the officers, directors and each owner, directly or indirectly, of more than 10% of the stock of a corporate licensee ineligible to hold or receive any such license at any time thereafter. Any revocation may, in the discretion of the director or other issuing authority as the case may be, render the licensed premises ineligible to become the subject of any further license, of any kind or class under this chapter, during a period of 2 years from the effective date of the revocation.

The director may, in his discretion and subject to rules and regulations, accept from any licensee an offer in compromise in such amount as may in the discretion of the director be proper under the circumstances in lieu of any suspension of any license by the director or any other issuing authority. Any sums of money so collected by the director shall be paid forthwith into the State Treasury for the general purpose of the State.

No refund, except as expressly permitted by section 33:1-26 of this Title, shall be made of any portion of a license fee after issuance of a license; but if any licensee, except a seasonal retail consumption licensee, shall voluntarily surrender his license, there shall be returned to him, after deducting as a surrender fee 50% of the license fee paid by him, the prorated fee for the unexpired term; provided, that such licensee shall not have committed any violation of this chapter or of any rule or regulation or done anything which in the fair discretion of the director or other issuing authority, as the case may be, should bar or preclude such licensee from making such claim for refund and that all taxes and other set-offs or counterclaims which shall have accrued and shall have become due and payable to this State or any municipality, or both, have been paid. Such refund, if any, shall be made as of the date of such surrender. The surrender of a license shall not bar proceedings to revoke such license. The refusal of the other issuing authority to grant any

refund hereunder shall be subject to appeal to the director within 30 days after notice of such refusal is mailed to or served upon the licensee. Surrenders of retail licenses shall be promptly certified by the issuing authority to the director. Surrender fees shall be accounted for as are investigation fees. If any licensee to whom a refund shall become due under the provisions of this section shall be indebted to the State of New Jersey for any taxes, penalties or interest by virtue of the provisions of subtitle 8 of the Title Taxation (§ 54:41-1 et seq.), it shall be the duty of the issuing authority before making any such refund, upon receipt of a certificate of the State Tax Commissioner evidencing the said indebtedness to the State of New Jersey, to deduct therefrom, and to remit forthwith to the State Tax Commissioner the amount of such taxes, penalties and interest.

In the event of any suspension or revocation of any license by the other issuing authority, the licensee may, within 30 days after the date of service or of mailing of said notice of suspension or of revocation, upon payment to the director of a nonreturnable filing fee of \$50.00, appeal to the director from the action of the other issuing authority in suspending or revoking such license which appeal shall act as a stay of such suspension or revocation pending the determination thereof unless the director shall otherwise order. When any person files with any other issuing authority written complaint against a licensee specifying charges and requesting that proceedings be instituted to revoke or suspend such license, he may appeal to the director from its refusal to revoke or suspend such license or other action taken by it in connection therewith within 30 days from the time of service upon or mailing of notice to him of such refusal or action. The director shall thereupon fix a time for the hearing of the appeal and before hearing the same shall give at least 5 days' notice of the time so fixed to such licensee, other issuing authority and appellant.

3. This act shall take effect immediately.

Approved January 18, 1971.

CHAPTER 10

AN ACT concerning education, supplementing Title 18A, Education, of the New Jersey Statutes, and providing for payment of additional State school building aid to certain school districts.

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

C. 18A:58-33.6 Short title.

1. This act may be cited as the "Additional State School Building Aid Act of 1970."

C. 18A:58-33.7 Additional State school building aid; limitations.

2. Additional State school building aid shall be made available to school districts in accordance with the provisions of this act for the payment of debt service (interest and principal) on bonds and notes (as hereinafter defined) entitled to the benefits of this act, provided that the amount of aid payable in any year to any school district shall not exceed an amount equal to \$25.00 per pupil in resident enrollment in such school district on September 30, 1969, and provided further that the total principal amount of bonds entitled to the benefits of this act shall not exceed \$90,000,000.00.

C. 18A:58-33.8 Application for additional aid.

3. Whenever the board of education of a school district shall determine by resolution that it is unable to provide suitable educational facilities to comply with the provisions of section 18A:33-1 of the New Jersey Statutes, it may file an application with the Commissioner of Education for additional State school building aid under this act. Upon the receipt of such application, the Commissioner of Education shall cause an investigation to be made of the conditions in the district, taking into consideration the number of unhoused pupils, the rate of pupil population increase, the total tax rate of the municipalities in the district, the school tax rate of the district, the net debt of such municipalities and the school debt, the density of population, the apportionment valuations allocable with respect to each child in the school district, the number of children on welfare rolls, existing and proposed educational facilities and all such other factors as said commissioner or the State Board of Education may deem necessary for the purpose of this act. The Commissioner of Education shall report the results of such investigation to the State Board of Education and may include therein an

evaluation of the ability of such school district to provide suitable educational facilities to comply with the provisions of said section 18A:33-1, and of the need of such school district for additional State school building aid under this act, advice as to the resident enrollment in such school district as of September 30, 1969 as shown by records with respect thereto on file in his office, recommendation as to the amount (if any) of entitlement (as hereinafter defined) proposed with respect to said school district, and such further information with respect to such school district as requested or required by said board.

C. 18A:58-33.9 Determination of State Board of Education; proposal or ordinance.

4. (a) If the State Board of Education shall find that such school district is not able to provide the suitable educational facilities to comply with the provisions of said section 18A:33-1 the State Board of Education shall by resolution determine: (1) that such school district is entitled to receive additional State school building aid pursuant to this act, (2) the number of pupils in resident enrollment in such school district on September 30, 1969 for purposes of computation under this act, (3) the principal amount of bonds (which amount is hereinafter sometimes referred to as the "entitlement") which are to be entitled to the benefits of the provisions of this act, and (4) the maturity schedule for such principal amount of bonds approved by said board.

(b) At any time within 1 year after the adoption by the State Board of Education of the resolution referred to in subparagraph (a) with respect to a particular school district, said school district may submit to the Commissioner of Education a copy of a proposal or ordinance authorizing the issuance of bonds entitled to the benefits of this act in accordance with said resolution. If no such proposal or ordinance is submitted within 1 year the said resolution shall be of no further force and effect and the commissioner shall so notify said school district. The Commissioner of Education shall be and is hereby authorized to endorse upon any copy of such proposal or ordinance a certification thereof as being the proposal or ordinance as to which a determination of the State Board of Education has been made as aforesaid, and such endorsement shall be made in such form or manner as said commissioner shall determine.

C. 18A:58-33.10 Action by Local Finance Board.

5. (a) A copy of the resolution of the State Board of Education referred to in section 4 (a) and a copy of the proposal or ordinance

referred to in section 4 (b), bearing the endorsement of the Commissioner of Education as aforesaid, shall be submitted to the Local Finance Board in the Division of Local Finance for its consideration, and the Local Finance Board in considering such copy of proposal or ordinance submitted to it and before endorsing its consent thereon may require the board of education of any school district or the governing body of any municipality in such school district to adopt resolutions restricting or limiting any future proceedings therein or other matters or things deemed by the Local Finance Board to affect any estimate made or to be made by it in accordance with subsection (b) hereof, and every such resolution so adopted shall constitute a valid and binding obligation of such school district or municipality, as the case may be, running to and enforceable by, and releasable by, the Local Finance Board.

(b) Within 60 days after such submission to it, the Local Finance Board shall cause its consent to be endorsed upon such copy of any proposal or ordinance authorizing such bonds, if it shall be satisfied, and shall record by resolution, its estimates that the amounts to be expended for the education facilities to be financed pursuant to such proposal or ordinance are not unreasonable or exorbitant, and that issuance of the bonds, to be authorized by such proposal or ordinance, will not materially impair the credit of any municipality comprised within the district or substantially reduce its ability, during the ensuing 10 years, to pay punctually the principal and interest of its debts and supply essential public improvements and services, but if the Local Finance Board is not so satisfied it shall cause its disapproval to be endorsed on such copy within said period of 60 days.

C. 18A:58-33.11 Maturity schedule for bonds.

6. (a) If the board of education of a school district shall determine by resolution that the maturity schedule for bonds entitled to the benefits of this act, other than the maturity schedule approved by the State Board of Education by resolution pursuant to section 4(a) of this act, is in the best interest of said school district, it may make application to the State Board of Education setting forth such belief and the grounds therefor and requesting approval of a schedule of maturities for such bonds set forth in the application. If the State Board of Education, by resolution, shall find that the schedule of maturities set forth in the application is in the best interest of the school district and the State, it shall cause its approval to be endorsed thereon and shall forward said application to the Local Finance Board.

(b) Within 60 days after submission to the Local Finance Board of an application in accordance with section 6(a) of this act, it shall cause its approval to be endorsed thereon if it shall be satisfied and shall record by resolution its findings that the belief set forth in such application is well founded and that issuance of the bonds mentioned and described in such application would not materially impair the credit of any municipality comprised within the school district or substantially reduce its ability, during the ensuing 10 years, to pay punctually the principal and interest of its debts and supply essential public improvements and services, but if the Local Finance Board is not so satisfied, it shall cause its disapproval to be endorsed on such copy within said period of 60 days.

C. 18A:58-33.12 Deduction from gross debt.

7. Any bonds entitled to the benefits of the provisions of this act, shall be deducted from the school debt in determining the net school debt of any school district for any purpose or computation under section 18A:24-19 of the New Jersey Statutes, and the amount of all such bonds shall be deducted from the gross debt of any municipality constituting the whole or any part of such school district pursuant to section 40A:2-44(g) of the New Jersey Statutes.

C. 18A:58-33.13 Bond provisions.

8. All of such bonds when issued shall contain a recital to the effect that they are issued pursuant to Title 18A, Education, of the New Jersey Statutes and are entitled to the benefits of the provisions of this act. Except as otherwise provided in this act, any bonds entitled to the benefits of the provisions of this act shall be authorized and issued in the manner provided for in said Title 18A. Compliance with the provisions of this act by or on behalf of any school district or municipality shall make it unnecessary to comply with any of the provisions of sections 18A:24-20 through 18A:24-27 of the New Jersey Statutes, and such sections shall not be applicable with respect to authorization or issuance of any bonds entitled to the benefits of the provisions of this act. Bonds entitled to the benefits of the provisions of this act shall mature not later than 30 years from their date, without regard to any limitations as to maturities or amounts of annual installments for such bonds as provided in said Title 18A.

C. 18A:58-33.14 Issuance of temporary notes.

9. Any school district or municipality which has authorized bonds which are entitled to the benefits of this act, may issue temporary notes or loan bonds (hereinafter called "notes") in anticipation of

the issuance of permanent bonds to the extent permitted or provided by or pursuant to the provisions of Title 18A, Education, of the New Jersey Statutes or any other laws applicable, subject to such additional terms or conditions with respect to such notes as may be fixed or required by the Commissioner of Education to insure that funds are borrowed only as needed to meet required payments for construction or acquisition of the educational facilities to be financed by the issuance of permanent bonds.

C. 18A:58-33.15 Certification of amount of debt service.

10. Within 10 days after issuance of any bonds or notes entitled to the benefits of this act, the chief financial officer of the school district or municipality issuing such bonds shall certify to the Commissioner of Education the exact amount payable on account of debt service (interest and principal) on such bonds or notes in each year. The Commissioner of Education shall thereupon verify said amounts and certify the same to the State Treasurer. The certification by the Commissioner of Education as to amount payable in any year for debt service (principal and interest) on such bonds or notes shall be fully conclusive as to such bonds or notes from and after the time of issuance of such bonds or notes, notwithstanding any irregularity, omission or failure as to compliance with any of the provisions of this act with respect to such bonds or notes, provided that such bonds or notes contain a recital to the effect that they are entitled to the benefits of the provisions of this act, and all persons shall be forever estopped from denying that such bonds or notes are entitled to the benefits of the provisions of this act.

C. 18A:58-33.16 Eligibility for entitlement.

11. Any school district shall be eligible for an entitlement hereunder, and any entitlement may be made hereunder with respect to any school district, notwithstanding that such school district may then be eligible for or shall have heretofore received or shall hereafter receive additional State school building aid or any entitlement with respect thereto under any other act, it being the legislative intent that additional State school building aid hereunder provided shall be independent of, or may be in addition to, any such aid received or to be received as aforesaid. Any school district, with respect to which any determination as to additional State school building aid or any entitlement has been theretofore made pursuant to this act, may make application for further additional State school building aid and for further entitlement, or increase or revision in any such entitlement theretofore made, provided

that the aggregate amount of State aid for any school district in any year pursuant to this act shall not exceed the amount specified in section 2 of this act.

C. 18A:58-33.17 Additional aid for certain facilities; review of status of facilities.

12. The Commissioner of Education, the State Board of Education and the Local Finance Board are each hereby authorized and empowered to consider any application of any school district with respect to additional State school building aid under this act in connection with any educational facilities authorized to be undertaken pursuant to Title 18A of the New Jersey Statutes notwithstanding that such facilities were authorized or approved prior to the taking effect of this act. The State board shall, within 1 year from the date on which this act shall become effective and during each succeeding year, review the status of educational facilities of each school district, which is entitled to receive additional state building aid pursuant to this act. Said reviews shall continue annually until such facilities are completed.

C. 18A:58-33.18 Payment of aid.

13. All amounts of additional State school building aid to be paid under the provisions of this act with respect to any school district for debt service (principal and interest) on bonds or notes entitled to the benefits of this act shall, on or before the date for such payment of interest or principal, be paid to the custodian of school moneys of a Type II school district or to the chief financial officer of the municipality of a Type I school district, and in amount with respect to such date as reflects the amount of principal or interest, respectively, payable as to such date by reason of such additional State school building aid hereunder payable with respect to such school district.

C. 18A:58-33.19 Annual receipt, budgeting and disposition of aid.

14. As provided in this act, every school district and municipality which shall be entitled thereto, shall receive annually the amount of its additional State school building aid and the State Board of Education shall include such amount thereof in its annual budget for building aid for such school district. Amounts of such building aid paid under this act shall be used for the payment of debt service (interest and principal) on bonds or notes entitled to the benefits of the provisions of this act.

15. This act shall take effect immediately.

Approved January 21, 1971.

CHAPTER 11

AN ACT to amend "An act relating to the authorization, acquisition, financing and operation of sewage disposal systems and compensating reservoirs by or on behalf of any county or any one or more municipalities, providing for the creation of sewerage authorities to undertake the same, for the issuance of bonds and other obligations therefor, and for service charges to meet the expense thereof, repealing article 3 of chapter 63 of Title 40 (sections 40:63-140 et seq.) of the Revised Statutes, and supplementing Title 40 of the Revised Statutes," approved April 23, 1946 (P. L. 1946, c. 138) as said title was amended by P. L. 1953, c. 177.

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

1. Section 4 of P. L. 1946, c. 138 (C. 40:14A-4) is amended to read as follows:

C. 40:14A-4 Sewerage authorities in counties and municipalities.

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

February 1 in such year and expiring on February 1 in the fifth year after such year. In the event of a vacancy in the membership of the sewerage authority occurring during an unexpired term of office, a person shall be appointed as a member of the sewerage authority to serve for such unexpired term.

(b) The governing body of any municipality may, by ordinance duly adopted, create a public body corporate and politic under the name and style of "the sewerage authority," with all or any significant part of the name of such municipality inserted. Said body shall consist of five members thereof, who shall be appointed by resolution of the governing body as hereinafter in this section provided, and it shall constitute the sewerage authority contemplated and provided for in this act and an agency and instrumentality of said municipality. After the taking effect of such ordinance and the filing of a certified copy thereof as in subsection (d) of this section provided, five persons shall be appointed as the members of the sewerage authority. The members first appointed shall, by the resolution of appointment, be designated to serve for terms respectively expiring on the first days of the first, second, third, fourth and fifth Februarys next ensuing after the date of their appointment. On or after January 1 in each year after such first appointments, one person shall be appointed as a member of the sewerage authority to serve for a term commencing on February 1 in such year and expiring on February 1 in the fifth year after such year. In the event of a vacancy in the membership of the sewerage authority occurring during an unexpired term of office, a person shall be appointed as a member of the sewerage authority to serve for such unexpired term.

(c) The governing bodies of any two or more municipalities or any two or more counties, the areas of which together comprise an integral body of territory, may, by parallel ordinances or in the case of counties by parallel resolutions, duly adopted by each of such governing bodies within any single calendar year, create a public body corporate and politic under the name and style of "the sewerage authority," with all or any significant part of the name of each such municipality or county or some identifying geographical phrase inserted. Said body shall consist of the members thereof, in an aggregate number determined as hereinafter in this subsection provided, who shall be appointed by resolutions of the several governing bodies as hereinafter in this section provided, and it shall constitute

the sewerage authority contemplated and provided for in this act and an agency and instrumentality of the said municipalities or counties. The number of members of the sewerage authority to be appointed at any time for full terms of office by the governing body of any such municipality or county shall be as may be stated in said ordinances or resolutions which shall be not less than one nor more than three. After the taking effect of the said ordinances or resolutions of all such municipalities or counties and after the filing of certified copies thereof as in subsection (d) of this section provided, the appropriate number of persons shall be appointed as members of the sewerage authority by the governing body of each municipality or county. Except as to municipalities or counties which by ordinance or resolution are entitled to appoint more than one member of the authority, 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. In municipalities or counties entitled to appoint three members, the appointing authority shall designate one of the initial appointees to serve for a term of 3 years, one for 4 years and one for 5 years. In municipalities or counties entitled to appoint two members, the appointing authority shall designate one of the initial appointees to serve for a term of 5 years and one for 4 years. On or after January 1 in the year in which expire the terms of the said members first appointed and in every fifth year thereafter, the appropriate number of persons shall be appointed as members of the sewerage authority by the governing body of each municipality or county, to serve for terms commencing on February 1 in such year and expiring on February 1 in the fifth year after such year. In the event of a vacancy in the membership of the sewerage authority occurring during the unexpired term of office, a person shall be appointed as a member of the sewerage authority to serve for such unexpired term by the governing body which made the original appointment for such unexpired term.

Upon the expiration of the terms of office of members, in office on July 1, 1967, of sewerage authorities created by two or more municipalities or counties where more than one member is appointed by any participating municipality or county, their immediate successors, except for appointments to fill vacancies, shall be appointed for designated terms of 3, 4 or 5 years in the same manner as in this subsection (c) provided as to initial appointees.

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

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

(f) The governing body of a county which may create or join in the creation of any sewerage authority pursuant to this section shall not thereafter create or join in the creation of any other sewerage authority. No governing body of any municipality constituting the whole or any part of a district shall create or join in the creation of any sewerage authority except upon the written consent of the sewerage authority and in accordance with the terms and conditions of such consent, and in the event such consent be given and a sewerage authority be created pursuant thereto, the terms and conditions of such consent shall thereafter be in all respects binding upon such municipality and the sewerage authority so created and any system of sewers or sewage disposal plants constructed or maintained in conformity with the terms and conditions of such consent by the sewerage authority so created shall be deemed not to be competitive with the sewerage systems of the sewerage authority giving such consent. In the event that prior to the creation of a sewerage authority of a county the governing body of any municipality located in said county, shall have created

or joined in the creation of a sewerage authority, the area within the territorial limits of such municipality shall not be part of the district of the sewerage authority of said county.

(g) Within 10 days after the filing in the office of the Secretary of State of a certified copy of a resolution for the creation of a sewerage authority adopted by the governing body of any county pursuant to this section, a copy of such resolution, duly certified by the appropriate officer of the county, shall be filed in the office of the clerk of each municipality within the county. In the event that the governing body of any such municipality shall, within 60 days after such filing in the office of the Secretary of State, adopt a resolution determining that such municipality shall not be a part of the district of such sewerage authority and file a copy thereof duly certified by its clerk, in the office of the Secretary of State, the area within the territorial limits of such municipality shall not thereafter be part of such district, but at any time after the adoption of such resolution, the governing body of such municipality may, by ordinance duly adopted, determine that such area shall again be a part of such district and if thereafter a copy of such ordinance duly certified by the appropriate officer of such municipality, together with a certified copy of a resolution of such sewerage authority approving such ordinance, shall be filed in the office of the Secretary of State, then from and after such filing the area within the territorial limits of such municipality shall forever be part of such district.

(h) The governing body of any local unit which has created a sewerage authority pursuant to subsection (a) or subsection (b) of this section may, in the case of a county by resolution duly adopted or in the case of a municipality by ordinance duly adopted, dissolve such sewerage authority on the conditions set forth in this subsection. The governing bodies of two or more local units which have created a sewerage authority pursuant to subsection (c) of this section may, by parallel ordinances duly adopted by each of such governing bodies within any single calendar year, dissolve such sewerage authority on the conditions set forth in this subsection. Such a sewerage authority may be dissolved on condition that (1) either the members of such authority have not been appointed or the sewerage authority, by resolution duly adopted, consents to such dissolution, and (2) the sewerage authority has no debts or obligations outstanding. Upon the dissolution of any sewerage authority in the manner provided in this subsection, the governing body or bodies dissolving such sewerage

authority shall be deemed never to have created or joined in the creation of a sewerage authority. A copy of each resolution or ordinance for the dissolution of a sewerage authority adopted pursuant to this subsection, duly certified by the appropriate officer of the local unit, shall be filed in the office of the Secretary of State. Upon proof of such filing of a certified copy of the resolution or ordinance or of certified copies of the parallel ordinances for the dissolution of a sewerage authority as aforesaid and upon proof that such sewerage authority had no debts or obligations outstanding at the time of the adoption of such resolution, ordinance or ordinances, the sewerage authority therein referred to shall be conclusively deemed to have been lawfully and properly dissolved and the property of the sewerage authority shall be vested in the local unit or units. A copy of any such certified resolution or ordinance, duly certified by or on behalf of the Secretary of State, shall be admissible in evidence in any suit, action or proceeding.

(i) Whenever the sewerage authority of any county shall certify to the governing body of any county that it has entered into a contract pursuant to section 23 of this act with one or more municipalities situate within any other county, one additional member of the sewerage authority for each such other county shall be appointed by resolution of the governing body of such other county as in this section provided. The additional member so appointed for any such other county, and his successors shall be a resident of one of said municipalities situate within such other county. The additional member first appointed or to be first appointed for any such other county shall serve for a term expiring on the first day of the fifth February next ensuing after the date of such appointment, and on or after January 1 in the year in which expires the term of the said additional member first appointed and in every fifth year thereafter, one person shall be appointed by said governing body as a member of the sewerage authority as successor to said additional member, to serve for a term commencing on February 1 in such year and expiring on February 1 in the fifth year after such year. If after such appointment of an additional member for any such other county the sewerage authority shall certify to said governing body of such other county that it is no longer a party to a contract entered into pursuant to section 23 of this act with any municipality situate within such other county, the term of office of such additional member shall

thereupon cease and expire and no additional member for such other county shall thereafter be appointed.

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

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

at the date of the consolidation, of the municipality the governing body of which created the sewerage authority.

(1) Whenever, with the approval of any sewerage authority created by the governing bodies of two or more municipalities, any other municipality not constituting part of the district shall convey to the sewerage authority all or any part of a system of main, lateral or other sewers or other sewerage facilities located within the district and theretofore owned and operated by such other municipality, then, if so provided in the instruments of such conveyance, one additional member of the sewerage authority for such other municipality shall be appointed by resolution of its governing body as in this section provided. The additional member so appointed for such municipality, and his successors, shall be residents of such municipality. The additional member first appointed or to be first appointed for such municipality shall serve for a term expiring on the first day of the fifth February next ensuing after the date of such appointment, and on or after January 1 in the year in which expires the term of the said additional member first appointed and in every fifth year thereafter, one person shall be appointed by said governing body as a member of the sewerage authority as successor to said additional member, to serve for a term commencing on February 1 in such year and expiring on February 1 in the fifth year after such year. If at any time after such conveyance of sewers or sewerage facilities by a municipality its governing body shall adopt a resolution determining not thereafter to be represented in the membership of the sewerage authority and shall file a copy thereof duly certified by its clerk in the office of the sewerage authority, the term of office of any such additional member theretofore appointed for such municipality shall thereupon cease and expire and no additional member for such municipality shall thereafter be appointed.

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

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

2. This act shall take effect immediately.

Approved January 28, 1971.

CHAPTER 12

AN ACT concerning the county colleges and supplementing chapter 64A of Title 18A of the New Jersey Statutes.

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

C. 18A:64A-22.1 Additional state support of colleges; limitation.

1. Whenever the funds appropriated to the board of higher education are insufficient to satisfy the State's share of capital projects for county colleges pursuant to N. J. S. 18A:64A-22, additional State support for such projects shall be made available to counties in which county colleges are located for the payment of interest and principal on bonds entitled to the benefits of this act and interest on notes issued in anticipation thereof, provided that the total principal amount of such bonds shall not exceed \$40,000,000.00.

C. 18A:64A-22.2 Action by State Treasurer.

2. Whenever the board of higher education shall determine that it is unable to provide State support for a capital project of a

county college pursuant to N. J. S. 18A:64A-22 within the limit of available State appropriations, the chancellor shall certify to the State Treasurer the amount of State support recommended for such project and the amount available for such project within the limit of State appropriations. Upon receipt of any such certification, the State Treasurer shall determine the amount of bonds entitled to the benefits of this act and not theretofore allocated to another capital project. The State Treasurer shall examine such certification and determine the necessity or advisability of making available additional State support for the capital project referred to in such certification. To the extent he determines additional support is necessary or advisable, he shall certify to the board of chosen freeholders of the county in which said capital project is located the amount of bonds which shall be entitled to the benefits of this act, which amount shall not exceed the amount of bonds entitled to the benefit of this act and not theretofore allocated to another capital project. A copy of such certification shall be filed by the State Treasurer with the chancellor and with the Director of the Division of Local Finance.

C. 18A:64A-22.3 Issuance of bonds or notes.

3. At any time within 1 year of the certification by the State Treasurer to the board of chosen freeholders referred to in section 2, said board is authorized to issue bonds, or notes in anticipation thereof, in an aggregate amount not exceeding the amount set forth in the treasurer's certification. Such bonds shall be in addition to the sums authorized to be borrowed by said board pursuant to N. J. S. 18A:64A-19 for the purpose of funding the county share of such capital projects. No bonds or notes shall be issued pursuant to this act bearing an interest rate in excess of a maximum rate theretofore specified by the State Treasurer and, in the case of bonds, unless the State Treasurer has theretofore approved the maturity schedule for the repayment of said bonds.

C. 18A:64A-22.4 Deduction from gross debt.

4. Such additional borrowing shall constitute a deduction from the gross debt of such county and shall not be considered in determining its net debt for debt incurring purposes.

C. 18A:64A-22.5 Issuance of temporary notes.

5. Any board of chosen freeholders which has authorized such additional bonds may issue temporary notes in anticipation of the issuance of permanent bonds to the extent permitted by applicable law.

C. 18A:64A-22.6 Certification to State Treasurer.

6. Within 10 days after issuance of any bonds or notes entitled to the benefits of this act, the treasurer of the county issuing such bonds or notes shall certify to the State Treasurer the exact amounts payable on account of interest and principal on such bonds and interest on such notes and the dates upon which such amounts are payable by the county. The amounts so certified by the county treasurer to the State Treasurer shall be appropriated and paid to the county on or before the dates of each payment by the county on such bonds or notes in an amount with respect to each such date equal to the amount payable on such date and shall be used by the county only for such payment.

C. 18A:64A-22.7 Disposition of earnings.

7. On January 10 in each year the county treasurer shall certify and pay to the State Treasurer the amount of the earnings received by the county during the preceding year from the investment or deposit of the proceeds from the sale of such bonds or notes, provided that the investment or deposit of such proceeds shall be subject to regulations prescribed by the State Treasurer.

C. 18A:64A-22.8 State's credit not pledged.

8. Bonds or notes issued under the provisions of this act shall not be deemed to constitute a debt or liability of the State or a pledge of the faith and credit of the State but are dependent for repayment upon appropriations provided by law from time to time.

9. This act shall take effect immediately.

Approved January 28, 1971.

CHAPTER 13

AN ACT to validate certain proceedings of school districts for the issuance of bonds or other obligations issued or to be issued pursuant to such proceedings.

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

Validating act.

1. All proceedings heretofore had or taken by any school district or at any school district election for the authorization or issuance

of bonds of the school district, and any bonds or other obligations of the school district issued or to be issued in pursuance of a proposal adopted by the legal voters at such election, are hereby ratified, validated and confirmed notwithstanding that notices with respect to such election were not published or posted in accordance with the provisions of section 18A:14-19 of Title 18A, Education, of the New Jersey Statutes; provided, however, that no action, suit or other proceeding of any nature to contest the validity of such proceedings have heretofore been instituted prior to the date on which this act takes effect and within the time fixed therefor by or pursuant to law or rule of court, or when such time has not heretofore expired, are instituted within thirty days after the effective date of this act.

2. This act shall take effect immediately.

Approved January 28, 1971.

CHAPTER 14

AN ACT concerning the Federal census of 1970 and supplementing chapter 4 of Title 52 of the Revised Statutes.

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

C. 52:4-3 Effective date of 1970 census.

1. Except for the apportionment and election of the members of boards of education of regional districts pursuant to P. L. 1970, c. 305 (C. 18A:13-9.1 et seq.), the Federal census of 1970 shall become effective May 1, 1971, or on the date of the filing of the bulletin provided for in R. S. 52:4-1, whichever date is later.

2. This act shall take effect immediately.

Approved January 28, 1971.

CHAPTER 15

AN ACT concerning the salaries of the mayor and members of council of municipalities in certain cases, and supplementing chapter 46 of Title 40 of the Revised Statutes.

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

C. 40:46-28.4 Salaries of mayor and councilmen in certain cities.

1. Notwithstanding any other law, in a second class city in a fifth class county, the salaries shall be fixed by ordinance by the governing body as follows: Mayor, not more than \$6,500.00 per annum; council member, not more than \$4,500.00 per annum.

2. This act shall take effect July 1, 1970.

Approved January 28, 1971.

CHAPTER 16

AN ACT concerning autobuses with respect to specifications, insurance requirements and financial responsibility, and amending R. S. 48:2-13, R. S. 48:4-1, P. L. 1962, chapter 198, R. S. 48:16-23 and R. S. 48:16-24.

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

1. R. S. 48:2-13 is amended to read as follows:

General jurisdiction; "public utility" defined.

48:2-13. The board shall have general supervision and regulation of and jurisdiction and control over all public utilities as hereinafter in this section defined and their property, property rights, equipment, facilities and franchises so far as may be necessary for the purpose of carrying out the provisions of this Title.

The term "public utility" shall include every individual, co-partnership, association, corporation or joint stock company, their lessees, trustees or receivers appointed by any court whatsoever, their successors, heirs or assigns, that now or hereafter may own,

operate, manage or control within this State any railroad, street railway, traction railway, autobus, canal, express, subway, pipeline, gas, electric light, heat, power, water, oil, sewer, solid waste collection, solid waste disposal, telephone or telegraph system, plant or equipment for public use, under privileges granted or hereafter to be granted by this State or by any political subdivision thereof.

Nothing contained in this Title shall extend the powers of the board to include any supervision and regulation of, or jurisdiction and control over any vehicles engaged in the transportation of passengers for hire in the manner and form commonly called taxicab service unless such service becomes or is held out to be regular service between stated termini; hotel busses used exclusively for the transportation of hotel patrons to or from local railroad or other common carrier stations, including local airports, or bus employed solely for transporting school children and teachers, to and from school, or any autobus with a carrying capacity of not more than 10 passengers now or hereafter operated under municipal consent upon a route established wholly within the limits of a single municipality or with a carrying capacity of not more than 20 passengers operated under municipal consent upon a route established wholly within the limits of not more than four contiguous municipalities within any county of the fifth class, which route in either case does not in whole or in part parallel upon the same street the line of any street railway or traction railway or any other autobus route.

2. R. S. 48:4-1 is amended to read as follows:

Definitions and application.

48:4-1. The term "autobus" as used in this chapter means and includes, except as hereinafter noted, any motor vehicle or motorbus operated over public highways or public places in this State for the transportation of passengers for hire in intrastate business, notwithstanding such motor vehicle or motorbus may be used in interstate commerce.

Nothing contained herein shall be construed to include:

a. Vehicles engaged in the transportation of passengers for hire in the manner and form commonly called taxicab service unless such service becomes or is held out to be regular service between stated termini;

b. Hotel busses used exclusively for the transportation of hotel patrons to or from local railroad or other common carrier stations including local airports;

c. Busses operated solely for the transportation of school children and teachers to and from school;

d. Any autobus with a carrying capacity of not more than 10 passengers operated under municipal consent upon a route established wholly within the limits of a single municipality or with a carrying capacity of not more than 20 passengers operated under municipal consent upon a route established wholly within the limits of not more than four contiguous municipalities within any county of the fifth class, which route in either case does not in whole or in part parallel upon the same street the line of any street railway or traction railway or any other autobus route.

The word "person" as used in this chapter means and includes any individual, copartnership, association, corporation or joint stock company, their lessees, trustees, or receivers appointed by any court.

The word "street" as used in this chapter means and includes any street, avenue, park, parkway, highway, road or other public place.

The term "charter bus operation" as used in this chapter means and includes the operation of an autobus or autobusses by the person owning or leasing such bus or busses pursuant to a contract, agreement or arrangement to furnish an autobus or autobusses and a driver or drivers thereof to a person, group of persons or organization (corporate or otherwise) for a trip designated by such person, group of persons or organization for a fixed charge per trip, per autobus or per mile.

The term "special bus operation" as used in this chapter means and includes the operation by the owner or lessee of an autobus or autobusses for the purpose of carrying passengers for hire, each passenger paying a fixed charge for his carriage, on a special trip arranged and designated by such owner or lessee, which fixed charge may or may not include meals, lodging, entertainment or other charges.

3. Section 89 of P. L. 1962, chapter 198 (C. 48:4-1.1) is amended to read as follows:

C. 48:4-1.1 Charter and special busses; specifications; insurance requirements.

89. The board shall have jurisdiction with respect to specifications and insurance requirements or financial responsibility as to charter busses, special busses and autobusses, including for purposes of this section, autobusses with carrying capacity of not more than 20 passengers.

4. R. S. 48:16-23 is amended to read as follows:

Definitions.

48:16-23. The word "autobus" as used in this article shall mean and include any automobile or motor bus, commonly called jitney, with a carrying capacity of not more than ten passengers, operated under municipal consent upon a route established wholly within the limits of a single municipality or with a carrying capacity of not more than 20 passengers operated under municipal consent upon a route established wholly within the limits of not more than four contiguous municipalities within any county of the fifth class, which route in either case does not, in whole or in part, parallel upon the same street the line of any street railway or traction railway or any other autobus route.

The word "person" as used in this article shall mean and include any individual, copartnership, association, corporation or joint stock company, their lessees, trustees, or receivers appointed by any court whatsoever.

The word "street" as used in this article shall mean and include any street, avenue, park, parkway, highway or other public place.

5. 48:16-24 is amended to read as follows:

Municipal consent to operation; insurance; power of attorney; revocation of consent.

48:16-24. No autobus as defined herein shall be operated wholly or partly along any street in any city until the owner or owners thereof shall obtain the consent of the board or body having control of public streets in such city for the operation of such autobus and the use of any street or streets of said city.

No such consent shall become effective and no such operation shall be permitted until the owner of such autobus (including, for purposes of this section, autobusses with carrying capacity of not more than 20 passengers) in any city shall have filed with the chief fiscal officer of the city in which said autobus shall be licensed and operated an insurance policy of a company duly licensed to transact business under the insurance laws of this State in the sum of \$10,000.00 against loss from the liability imposed by law upon the autobus owner for damages on account of bodily injury or death suffered by any one person and in the sum of \$100,000.00 on account of bodily injury or death suffered by more than one person, and in the sum of \$5,000.00 against loss on account of property damage suffered by any person or persons as a result of an accident occurring by reason of the ownership, maintenance or

use of such autobus upon the public streets of such city, and such consent shall continue effective and such operation be permitted only so long as such insurance to the full and collectible amount of \$10,000.00 for one person and \$100,000.00 for more than one person for bodily injuries or death and \$5,000.00 for property damage shall remain in force, during the entire term of the policy. Such insurance policy shall provide for the payment of any final judgment recovered by any person on account of the ownership, maintenance and use of such autobus or any fault in respect thereto and shall be for the benefit of any person suffering loss, damage or injury as aforesaid.

A power of attorney shall be executed and delivered to such fiscal officer concurrently with the filing of a policy hereinbefore referred to, wherein and whereby the said owner shall nominate, constitute and appoint such fiscal officer his true and lawful attorney for the purpose of acknowledging service of any process out of a court of competent jurisdiction to be served against the insured by virtue of the indemnity granted under the insurance policy filed.

Any such consent may be revoked by the board or body of the municipality granting the same after notice and hearing whenever it shall appear that the person to whom such consent was granted has failed to furnish and keep in force the insurance and the power of attorney herein required, or to comply with any terms or conditions imposed by the board or body granting such consent or any law of this State.

6. This act shall take effect immediately.

Approved January 29, 1971.

CHAPTER 17

AN ACT to amend "A supplement to 'An act establishing and concerning a Department of Transportation as a principal department in the Executive Branch of the State Government, establishing therein a Commuter Operating Agency, providing an appropriation therefor, repealing chapter 88 of the laws of 1964, and supplementing Title 27 of the Revised Statutes,' approved December 12, 1966 (P. L. 1966, c. 301) and making an appropriation therefor," approved June 29, 1967 (P. L. 1967, c. 138) and making an appropriation.

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

1. Section 1 of P. L. 1967, c. 138 (C. 27:1A-24.1) is amended to read as follows:

C. 27:1A-24.1 Additional powers of agency.

1. (a) In addition to the power conferred upon it by the act hereby supplemented, the Commuter Operating Agency in the Department of Transportation is hereby empowered to enter into, from time to time, such supplemental agreements and contracts and to commit, obligate, expend and disburse any funds appropriated for the purposes of this act as shall be necessary to assure the continuance of essential freight service and such commuter rail service as may be under contract under the provisions of the act hereby supplemented in any case where the agency, with or without a hearing, is satisfied that, by reason of the inability of the carrier to meet its debts as they mature, or otherwise, all or part of said commuter or freight service is unlikely to be continued unless additional funds are made available to the carrier.

(b) "Essential freight service" shall mean those movements of materials, equipment, goods and supplies on railroad trains to and from points in this State which are determined by the Commuter Operating Agency, upon a hearing, to be necessary and in the public interest. In making such determination, the Commuter Operating Agency shall consider (1) the availability of alternative means of transportation, (2) the cost, if any, to the State of providing alternative means of transportation and (3) the effect of discontinuance of such freight service on employment, population trends, economic values and tax revenues.

2. There is hereby appropriated to the Department of Transportation the sum of \$2,000,000.00 or so much thereof as shall be required, to carry out the purposes of this act from the effective date hereof through the period ending June 30, 1971.

3. This act shall take effect immediately.

Approved January 29, 1971.

CHAPTER 18

AN ACT relating to State parks and State forest park reserves and reservations and supplementing Title 13 of the Revised Statutes.

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

C. 13:2-11 No admission fee for certain residents of State.

1. Notwithstanding the provisions of any rule or regulation of the Department of Conservation and Economic Development no admission fee shall be charged for entrance into any State park or State forest park reserve or reservation by any resident of this State 65 or more years of age. The Commissioner of Conservation and Economic Development shall by regulation prescribe the types of evidence which may be used to qualify persons for the benefits of this act.

2. This act shall take effect 30 days after enactment.

Approved February 3, 1971.

CHAPTER 19

AN ACT making an appropriation toward the expenses of the Point Pleasant Borough High School Marching Band in its participation in the Apple Blossom Festival.

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

1. There is hereby appropriated from the General State Fund the sum of \$800.00 to the Department of Education as a contribution by the State toward the expenses to be incurred by the Point Pleasant Borough High School in connection with the participation by the Point Pleasant Borough High School Marching Band in the "Apple Blossom Festival" to be held in Winchester, Virginia, between April 30 and May 2, 1970.

2. This act shall take effect immediately.

Approved February 3, 1971.

CHAPTER 20

AN ACT concerning senior citizen tax deductions, amending and supplementing P. L. 1963, c. 172, and providing for reimbursement by the State to taxing districts in connection therewith.

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

1. Section 1 of P. L. 1963, c. 172 (C. 54:4-8.40) is amended to read as follows:

C. 54:4-8.40 Definitions.

1. As used in this act:

(a) "Income" means all income from whatever source derived, exclusive of social security benefits, including, but not limited to, realized capital gains and, in their entirety, pension, annuity and retirement benefits. For the purpose of claiming a deduction from taxes for any tax year, pursuant to this act, "income" shall be deemed to be equal in amount to the income which the taxpayer reasonably anticipates he will receive during the tax year for which such deduction is claimed.

(b) "Pretax year" means the calendar year immediately preceding the "tax year."

(c) "Post-tax year" means the calendar year immediately following the "tax year."

(d) "Resident" means one legally domiciled within the State of New Jersey for a period of 3 years immediately preceding October 1 of the pretax year. Mere seasonal or temporary residence within the State, of whatever duration, shall not constitute domicile within the State for the purposes of this act. Absence from this State for a period of 12 months shall be prima facie evidence of abandonment of domicile in this State. The burden of establishing legal domicile within the State shall be upon the claimant.

(e) "Senior citizen's deduction" means the deduction against the taxes payable by any person, allowable pursuant to this act.

(f) "Tax year" means the calendar year in which the general property tax is due and payable.

2. Section 2 of P. L. 1963, c. 172 (C. 54:4-8.41) is amended to read as follows:

C. 54:4-8.41 Deduction against tax assessed against real property of certain residents.

2. Every person, a citizen and resident of this State of the age of 65 or more years, having an income not in excess of \$5,000.00 per year and residing in a dwelling house owned by him which is a constituent part of his real property, shall be entitled, annually, on proper claim being made therefor, to a senior citizen's deduction against the tax or taxes assessed against such real property to an amount not exceeding the amount of said tax, or the sum of \$160.00, whichever is the lesser, but no such deduction from taxes shall be in addition to any other deduction or exemption from taxes to which said person may be entitled.

For the purposes of this act the income of a married person shall be deemed to include an amount equal to the income of the spouse during the applicable income year, except for such portion of that year as the two were living apart in a state of separation, whether under judicial decree or otherwise.

3. Section 5 of P. L. 1963, c. 172 (C. 54:4-8.44) is amended to read as follows:

C. 54:4-8.44 Facts essential to support claims for deduction.

5. Every fact essential to support a claim for a senior citizen's deduction hereunder shall exist on October 1 of the pretax year, except as in this section otherwise provided. Every application by a claimant therefor shall establish that he is or will be on or before December 31 of the pretax year 65 or more years of age and that he was, on October 1 of the pretax year, (a) a citizen and resident of this State for the period required, (b) the owner of a dwelling house which is a constituent part of the real property for which the senior citizen's deduction is claimed, (c) residing in said dwelling house. Said application shall also establish that his anticipated income, including the income of his or her spouse, for the tax year will not exceed \$5,000.00.

C. 54:4-8.52 Certification by county board of taxation.

4. On or before June 15, 1971, and on or before June 15 of each year thereafter, each county board of taxation shall, on a form prescribed by the director, certify to the director from the tax lists certified with it for each taxing district for the current tax year the following:

a. number of senior citizen tax deductions allowed for the current tax year;

b. total dollar amount of senior citizen tax deductions allowed for the current tax year;

c. separately, the number and dollar amount of senior citizen tax deductions allowed or disallowed, as certified by the collector, from the time of certification made the previous year and prior to certification for the current year;

d. the totals for a., b., and c. above, by district and for the county as a whole.

C. 54:4-8.53 Action by director; payment to district.

5. After review the director shall determine an amount equal to $\frac{1}{2}$ of the amount allowed by each taxing district for senior citizens tax deductions and shall certify these amounts to the State Treasurer on or before September 15, 1971, and on or before September 15 annually thereafter. The director may inspect all records in the office of the collector and the assessor with respect to claims and allowances for senior citizens tax deductions.

The State Treasurer annually on or before November 1, 1971, and on or before November 1 annually thereafter, upon the certification of the Director of the Division of Taxation and upon the warrant of the State Comptroller, shall pay and distribute to each taxing district the amounts indicated and certified by the director.

C. 54:4-8.54 Inclusion of amount of deduction in abstract of ratables.

6. For the tax year 1971 and each year thereafter, each county board of taxation shall include in the abstract of ratables prepared pursuant to R. S. 54:4-52 the full estimated amount of the senior citizens' tax deductions as provided for in this act, but only $\frac{1}{2}$ of said amount shall be included in the total on which the tax rate is to be computed.

7. This act shall take effect immediately and shall be applicable with respect to tax deductions for the tax year 1971 and thereafter.

Approved February 3, 1971.

CHAPTER 21

AN ACT to amend "An act concerning the compensation of the mayor and the commissioners in certain cities of the fourth class governed by chapters 70 to 76 of Title 40 ("Commission Form of Government Law") of the Revised Statutes, and supplementing chapter 72 of Title 40 of the Revised Statutes," approved July 7, 1950 (P. L. 1950, c. 319).

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

1. Section 1 of P. L. 1950, chapter 319 (C. 40:72-24.1) is amended to read as follows:

C. 40:72-24.1 Compensation of Mayor and commissioners in certain fourth-class cities.

1. Notwithstanding any other provision of law, in cities of the fourth class governed by chapters 70 to 76 of Title 40 ("Commission Form of Government Law") of the Revised Statutes, and now or hereafter having the population hereinafter set forth, the compensation of the mayor and each commissioner shall be within the limits as hereinafter provided; and such salary shall be payable in equal monthly installments and shall be the total compensation payable to the mayor and the commissioners, except that such salary may be increased in the manner provided by section 40:72-24 of the Revised Statutes for the increase of the salary as fixed by sections 40:72-21 and 40:72-22 of the Revised Statutes, but the amount of such increase shall in no instance exceed 50% of the salary provided in this act.

In such cities having from 2,500 to 7,500 population, the mayor's annual salary shall not exceed \$6,000.00, and that of each commissioner shall not exceed \$5,000.00.

In such cities having from 7,500 to 10,000 population, the mayor's annual salary shall not exceed \$8,000.00 and that of each commissioner shall not exceed \$7,000.00.

2. This act shall take effect immediately.

Approved February 4, 1971.

CHAPTER 22

A SUPPLEMENT to “An act providing for the retirement of policemen and firemen of the police and fire departments in municipalities of this State, including members of the fire departments of any fire district located in any township and including all police officers having supervision or regulation of traffic upon county roads, and providing a pension for such retired policemen and firemen and members of the police and fire departments, and the widows, children and sole dependent parents of deceased members of said departments, and supplementing Title 43 and amending sections 43:16-1, 43:16-2, 43:16-3, 43:16-4, 43:16-5, 43:16-6, 43:16-7 and repealing 43:16-11 of the Revised Statutes,” approved May 23, 1944 (P. L. 1944, c. 253), and repealing section 3 of P. L. 1965, chapter 100.

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

C. 43:16-4c Pension for certain widows; limitations.

1. The widow of any member who died prior to June 15, 1965, shall receive a pension in the amount prescribed by the act to which this act is a supplement if she is otherwise eligible for such pension notwithstanding that she had married her deceased husband after he reached 50 years of age. Pensions authorized by this act shall be payable only upon written application therefor filed with the commission not later than 6 months after the effective date of this act. Each such pension shall commence as of the effective date of this act and continue during widowhood, but no widow's benefit shall be payable for the period from a member's date of death to the effective date of this act.

C. 43:16-4b Repealed.

2. Section 3 of P. L. 1965, chapter 100 (C. 43:16-4b) is repealed.
3. This act shall take effect immediately.

Approved February 4, 1971.

CHAPTER 23

AN ACT concerning the Department of Transportation and adding a route to the State highway system.

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

State highway route.

1. The Commissioner of Transportation shall, as soon as practicable, and in accordance with the procedure set forth in article 1 of chapter 7, Title 27, of the Revised Statutes, add to the present State highway system the following described route: Route No. beginning at the intersection of Cape May County Road No. 585 with Route No. 9 at Burleigh in Cape May county and extending along and including said Cape May County Road No. 585 in a southeasterly direction to the northeasterly line of the city of North Wildwood.

2. When this route is taken into the State highway system as provided in section 1 of this act, the Commissioner of Transportation shall designate the said route by an appropriate route number as provided by law.

3. This act shall take effect immediately.

Approved February 8, 1971.

CHAPTER 24

AN ACT concerning unemployment compensation and amending section 43:21-19 of the Revised Statutes.

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

1. Section 43:21-19 of the Revised Statutes is amended to read as follows:

Definitions.

43:21-19. As used in this chapter (R. S. 43:21-1 et seq.), unless the context clearly requires otherwise:

(a) (1) "Annual payroll" means the total amount of wages paid during a calendar year (regardless of when earned) by an employer for employment.

(2) "Average annual payroll" means the average of the annual payrolls of any employer for the last 3 or 5 preceding calendar years, whichever average is higher, except that any year or years throughout which an employer has had no "annual payroll" because of military service shall be deleted from the reckoning; the "average annual payroll" in such case is to be determined on the basis of the prior 3 or 5 calendar years in each of which the employer had an "annual payroll" in the operation of his business, if the employer resumes his business within 12 months after separation, discharge or release from such service, under conditions other than dishonorable, and makes application to have his "average annual payroll" determined on the basis of such deletion within 12 months after he resumes his business; provided, however, that "average annual payroll" solely for the purposes of paragraph (3) of subsection (e) of section 43:21-7 of this Title means the average of the annual payrolls of any employer on which he paid contributions to the State disability benefits fund, for the last 3 or 5 preceding calendar years, whichever average is higher; provided further, that only those wages be included on which employer contributions have been paid on or before January 31 (or the next succeeding day if such January 31 is a Saturday or Sunday) immediately preceding the beginning of the 12 months' period for which the employer's contribution rate is computed.

(b) "Benefits" means the money payments payable to an individual, as provided in this chapter (R. S. 43:21-1 et seq.), with respect to his unemployment.

(c) "Base year" with respect to benefit years commencing on or after January 1, 1953, shall mean the 52 calendar weeks ending with the second week immediately preceding an individual's benefit year.

(d) "Benefit year" with respect to any individual means the 364 consecutive calendar days beginning with the day on, or as of, which he first files a valid claim for benefits, and thereafter beginning with the day on, or as of, which the individual next files a valid claim for benefits after the termination of his last preceding benefit year. Any claim for benefits made in accordance with subsection (a) of section 43:21-6 of this Title shall be deemed to be a "Valid Claim" for the purpose of this subsection if (1) no remuneration was paid or is payable for the day on which, or as of which he files a claim for benefits, and no work is available to him with his current employing unit on such day, or, he is unemployed for the week in which, or as of which, he files a claim for benefits;

and (2) he has fulfilled the conditions imposed by subsection (e) of section 43:21-4 of this Title.

(e) "Division" means the Division of Employment Security of the Department of Labor and Industry established by chapter 446, P. L. 1948, and any transaction or exercise of authority by the director of the division thereunder, or under this chapter (R. S. 43:21-1 et seq.), shall be deemed to be performed by the division.

(f) "Contributions" means the money payments to the State unemployment compensation fund required by this chapter (R. S. 43:21-1 et seq.).

(g) "Employing unit" means any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1936, had in its employ one or more individuals performing services for it within this State. All individuals performing services within this State for any employing unit which maintains 2 or more separate establishments within this State shall be deemed to be employed by a single employing unit for all the purposes of this chapter (R. S. 43:21-1 et seq.). Whenever any employing unit contracts with or has under it any contractor or subcontractor for any employment which is part of its usual trade, occupation, profession, or business, unless the employing unit as well as each such contractor or subcontractor is an employer by reason of subsection (c) of section 43:21-8 of this Title or subsection (h) of this section, the employing unit shall for all the purposes of this chapter be deemed to employ each individual in the employ of each such contractor or subcontractor for each day during which such individual is engaged in performing such employment; except that each such contractor or subcontractor who is an employer by reason of subsection (c) of section 43:21-8 of this Title or subsection (h) of this section, shall alone be liable for the contributions measured by wages payable to individuals in his employ, and except that any employing unit who shall become liable for and pay contributions with respect to individuals in the employ of any such contractor or subcontractor who is not an employer by reason of subsection (c) of section 43:21-8 of this Title or subsection (h) of this section, may recover the same from such contractor or subcontractor. Each individual employed to perform or to assist in performing the

work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for all the purposes of this chapter (R. S. 43:21-1 et seq.), whether such individual was hired or paid directly by such employing unit or by such agent or employee; provided, the employing unit had actual or constructive knowledge of the work.

(h) "Employer" means:

(1) Any employing unit which for some portion of a day, but not necessarily simultaneously, in each of 20 different weeks, whether or not such weeks are or were consecutive, within either the current or the preceding calendar year has or had in employment 4 or more individuals (irrespective of whether the same individuals are or were employed in each such day);

(2) Any employing unit (whether or not an employing unit at the time of acquisition) which acquired the organization, trade or business, or substantially all the assets thereof, of another which at the time of such acquisition was an employer subject to this chapter (R. S. 43:21-1 et seq.);

(3) Any employing unit which acquired the organization, trade or business, or substantially all the assets thereof, of another employing unit and which, if treated as a single unit with such other employing unit, would be an employer under paragraph (1) of this subsection;

(4) Any employing unit which together with one or more other employing units is owned or controlled (by legally enforceable means or otherwise), directly or indirectly by the same interests, or which owns or controls one or more other employing units (by legally enforceable means or otherwise), and which, if treated as a single unit with such other employing unit or interest, would be an employer under paragraph (1) of this subsection;

(5) Any employing unit which, having become an employer under paragraphs (1), (2), (3) or (4) has not, under section 43:21-8 of this chapter (R. S. 43:21-1 et seq.) ceased to be an employer subject to this chapter (R. S. 43:21-1 et seq.); or

(6) For the effective period of its election pursuant to subsection (c) of section 43:21-8 of this chapter (R. S. 43:21-1 et seq.) any other employing unit which has elected to become fully subject to this chapter (R. S. 43:21-1 et seq.); or

(7) Any employing unit subject to the provisions of the Federal Unemployment Tax Act within either the current or the preceding calendar year except for employment hereinafter excluded under paragraph (7) of subsection (i) of this section.

(i) (1) "Employment" means service, including service in interstate commerce performed for remuneration or under any contract of hire, written or oral, express or implied.

(2) The term "employment" shall include an individual's entire service performed within or both within and without this State if:

(A) The service is localized in this State; or

(B) The service is not localized in any State but some of the service is performed in this State, and (i) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this State; or (ii) the base of operations or place from which such service is directed or controlled is not in any State in which some part of the service is performed, but the individual's residence is in this State.

(3) Services performed within this State but not covered under paragraph (2) of this subsection shall be deemed to be employment subject to this chapter (R. S. 43:21-1 et seq.) if contributions are not required and paid with respect to such services under an unemployment compensation law of any other State or of the Federal Government.

(4) Services not covered under paragraph (2) of this subsection, and performed entirely without this State, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other State or of the Federal Government, shall be deemed to be employment subject to this chapter (R. S. 43:21-1 et seq.) if the individual performing such services is a resident of this State and the employing unit for whom such services are performed files with the division an election that the entire service of such individual shall be deemed to be employment subject to this chapter (R. S. 43:21-1 et seq.).

(5) Service shall be deemed to be localized within a State if

(A) the service is performed entirely within such State; or

(B) the service is performed both within and without such State, but the service performed without such State is incidental to the individual's service within the State, for example, is temporary or transitory in nature or consists of isolated transactions.

(6) Services performed by an individual for remuneration shall be deemed to be employment subject to this chapter (R. S. 43:21-1

et seq.) unless and until it is shown to the satisfaction of the division that

(A) such individual has been and will continue to be free from control or direction over the performance of such service, both under his contract of service and in fact; and

(B) such service is either outside the usual course of the business for which such service is performed, or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and

(C) such individual is customarily engaged in an independently established trade, occupation, profession or business.

(7) The term "employment" shall not include:

(A) Agricultural labor;

(B) Domestic service in a private home;

(C) Service performed by an individual in the employ of his son, daughter or spouse, and service performed by a child under the age of 21 in the employ of his father or mother;

(D) Service performed in the employ of this State or of any political subdivision thereof or of any instrumentality of this State or its political subdivisions except those services performed in the employ of the South Jersey Port Commission or its successors;

(E) Service performed in the employ of any other State or its political subdivisions, or of the United States Government, or of an instrumentality of any other State or States or their political subdivisions or of the United States;

(F) Services performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, hospital, benevolent, philanthropic, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(G) Services performed in the employ of fraternal beneficiary societies, orders, or associations operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system and providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association, or their dependents;

(H) Services performed as an officer, or other employee of any building and loan association of this State, except where such services constitute the principal employment of the individual; services performed as an officer or other employee of any building and loan association where such association is a member of the Federal Home Loan Bank System; services performed as an officer or other employee of any bank which is a member of the Federal Reserve System; services performed by a director or member of a committee of a savings and loan association incorporated or organized under the laws of this State or of the United States, or by a member of the board of trustees or board of managers of a savings bank, or a member of a committee of a savings bank, so incorporated or organized, or by a director or a member of a committee of a bank so incorporated or organized;

(I) Service with respect to which unemployment insurance is payable under an unemployment insurance program established by an Act of Congress;

(J) Service performed by agents of mutual fund brokers or dealers in the sale of mutual funds or other securities, by agents of insurance companies, exclusive of industrial insurance agents, or by agents of investment companies, if the compensation to such agents for such services is wholly on a commission basis;

(K) Services performed by real estate salesmen or brokers who are compensated wholly on a commission basis;

(L) Services performed in the employ of any veterans' organization chartered by Act of Congress or of any auxiliary thereof, no part of the net earnings of which organization, or auxiliary thereof, inures to the benefit of any private shareholder or individual;

(M) Service performed for or in behalf of the owner or operator of any theatre, ballroom, amusement hall or other place of entertainment, not in excess of 10 weeks in any calendar year for the same owner or operator, by any leader or musician of a band or orchestra, commonly called a "name band," entertainer, vaudeville artist, actor, actress, singer or other entertainer;

(N) Services performed by an individual for a labor union organization, known and recognized as a union local, as a member of a committee or committees reimbursed by the union local

for time lost from regular employment, or as a part-time officer of a union local and the remuneration for such services is less than \$250.00 in a calendar year;

(O) Services performed in the sale or distribution of merchandise by home-to-home salespersons or in-the-home demonstrators whose remuneration consists wholly of commissions or commissions and bonuses.

(j) "Employment office" means a free public employment office, or branch thereof operated by this State or maintained as a part of a State-controlled system of public employment offices.

(k) "Fund" means the unemployment compensation fund established by this chapter (R. S. 43:21-1 et seq.), to which all contributions required and from which all benefits provided under this chapter (R. S. 43:21-1 et seq.) shall be paid.

(l) "State" includes, in addition to the States of the United States of America, the District of Columbia, the Virgin Islands and Puerto Rico.

(m) Unemployment.

(1) An individual shall be deemed "unemployed" for any week during which he is not engaged in full-time work and with respect to which his remuneration is less than his weekly benefit rate, including any week during which he is on vacation without pay; provided, such vacation is not the result of the individual's voluntary action.

(2) The term "remuneration," with respect to any individual for benefit years commencing on or after July 1, 1961, and as used in this subsection, shall include only that part of the same which in any week exceeds 20% of his weekly benefit rate (fractional parts of a dollar omitted) or \$5.00 whichever is the larger.

(3) An individual's week of unemployment shall be deemed to commence only after his registration at an employment office, except as the division may by regulation otherwise prescribe.

(n) "Unemployment compensation administration fund" means the unemployment compensation administration fund established by this chapter (R. S. 43:21-1 et seq.), from which administrative expenses under this chapter (R. S. 43:21-1 et seq.) shall be paid.

(o) "Wages" means remuneration paid subsequent to December 31, 1946, by employers for employment; provided, however, that for eligibility and benefit purposes wages earned but not paid when the amount thereof has been calculated and is due as determined by the established and customary practices of the employer shall be

construed as having been paid when earned. Gratuities, received regularly in the course of employment from other than the employer, shall be included in determining the wages but only in those cases where the employer or employee has kept a regular daily or weekly record of the amount of gratuities so received. In such cases the average weekly amount of gratuities over a period of 6 months, or for the entire time of employment, whichever period is less, shall be added to the fixed weekly wage to determine the employee's total weekly wage.

(p) "Remuneration" means all compensation for personal services, including commissions and bonuses and the cash value of all compensation in any medium other than cash.

(q) "Week" means such period or periods of 7 consecutive days ending at midnight, as the division may by regulation prescribe.

(r) "Calendar quarter" means the period of 3 consecutive calendar months ending on March 31, June 30, September 30, or December 31.

(s) "Investment company" means any company as defined in paragraph 1-a of chapter 322 of the laws of 1938, entitled "An act concerning investment companies, and supplementing Title 17 of the Revised Statutes by adding thereto a new chapter entitled 'investment companies.'"

(t) "Base week" means any calendar week of an individual's base year during which he earned in employment from an employer remuneration equal to not less than \$15.00; provided, if in any calendar week, an individual is in employment with more than one employer, he may in such calendar week establish a base week with respect to each such employer from whom the individual earns remuneration equal to not less than \$15.00 during such week.

(u) "Average weekly wage" means the amount derived by dividing an individual's total wages received during his base year base weeks (as defined in subsection (t) of this section) from that most recent base year employer with whom he had established at least 17 base weeks, by the number of base weeks in which such wages were earned. In the event that such claimant had no employer in his base year with whom he had established at least 17 base weeks, then such individual's average weekly wage shall be computed as if all of his base week wages were received from one employer and as if all his base weeks of employment had been performed in the employ of one employer.

If on application of a claimant it is determined that he has been employed during at least the 4 weeks immediately preceding his separation from employment by an employer on a substantially reduced schedule of weekly hours due to lack of work, all weeks of substantially reduced schedule within the base period and his wages therefor shall be disregarded in computing his average weekly wage.

(v) "Initial determination" means, subject to the provisions of Revised Statutes 43:21-6 (b) (2) and (3), a determination of benefit rights as measured by an eligible individual's base year employment with a single employer covering all periods of employment with that employer during the base year. Subject to the provisions of Revised Statutes 43:21-3 (d) (3) if an individual has been in employment in his base year with more than one employer, no benefits shall be paid to that individual under any successive initial determination until his benefit rights have been exhausted under the next preceding initial determination.

(w) "Last date of employment" means the last calendar day in the base year of an individual on which he performed services in employment for a given employer.

(x) "Most recent base year employer" means that employer with whom the individual most recently, in point of time, performed services in employment in the base year.

2. This act shall take effect on January 1 following the adoption of this act.

Approved February 11, 1971.

CHAPTER 25

AN ACT to amend "An act for the establishment of a police and firemen's retirement system for the police and firemen of a municipality, county or political subdivision thereof," approved May 23, 1944 (P. L. 1944, c. 255).

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

1. Section 4 of P. L. 1944, chapter 255 (C. 43:16A-4) is amended to read as follows:

C. 43:16A-4 Creditable service.

4. Only service as a policeman or fireman paid for by an employer, which was rendered by a member since he became a mem-

ber, or, since he last became a member in case of a break in service, plus service, if any, covered by a prior service liability, shall be considered as creditable service for the purposes of this act, except that temporary service as a policeman or fireman may also be considered as creditable service if it results, without interruption, in a valid permanent or probational appointment as a policeman or fireman and the member agrees during his first year of membership in the retirement system, or within 1 year after the effective date of this 1970 amendatory act, to make contributions covering such temporary service on the basis of rates established by the actuary.

2. This act shall take effect immediately.

Approved February 11, 1971.

CHAPTER 26

AN ACT relating to the establishment of branch offices of banks and savings banks and supplementing Article 6 of "The Banking Act of 1948," approved April 29, 1948 (P. L. 1948, c. 67).

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

C. 17:9A-23.14 Laws applicable to establishment and maintenance of branch offices.

1. The provisions of P. L. 1948, c. 67, ss. 19-23 (C. 17:9A-19 to 17:9A-23), P. L. 1963, c. 88 (C. 17:9A-22.1), P. L. 1952, c. 179 (C. 17:9A-23.1 to 17:9A-23.8) and P. L. 1961, c. 67 (C. 17:9A-23.9 to 17:9A-23.13) shall apply only to the establishment and maintenance of branch offices in the State of New Jersey and any bank may make written application to the commissioner for authority to establish and operate a branch office or offices in one or more places outside this State, whether within or without the United States, and such application may be approved by the commissioner in accordance with applicable law if he finds that the public interest will be served by the establishment of such branch office or offices.

2. This act shall take effect immediately.

Approved February 11, 1971.

CHAPTER 27

AN ACT to amend the "Sewerage Authorities Law," approved April 23, 1946 (P. L. 1946, c. 138).

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

1. Section 23 of P. L. 1946, c. 138 (C. 40:14A-23) is amended to read as follows:

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

23. Any sewerage authority and any local unit or any municipality within or without the district by ordinance of its governing body in the case of a municipality, or by resolution of its governing body in the case of a county, may enter into a contract or contracts providing for or relating to the collection, treatment and disposal of sewage originating in the district or in such municipality by means of the sewerage system or any sewerage facilities of such local unit or such municipality or both, and the cost and expense of such collection, treatment and disposal. Such contract or contracts may provide for the payment to the sewerage authority by such local unit or 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 sewerage 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 sewerage authority by such local unit or such municipality, any other municipality, any county or any other sewerage authority, or any person, or from any other cause, and (3) to maintain such reserves or sinking funds for any of the foregoing as may be required by the terms of any contract of the sewerage authority or as may be deemed necessary or desirable by the sewerage authority. Any such contract may provide that the sum or sums so payable to the sewerage authority shall be in lieu of all or any part of the service charges which would otherwise be

charged and collected by the sewerage authority with regard to persons or real property within such local unit or such municipality. Such contract or contracts may also contain provisions as to the financing and payment of expenses to be incurred by the sewerage authority and determined by it to be necessary for its purposes prior to the placing in operation of the sewerage system and may provide for the payment by such local unit or such municipality to the sewerage 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 local unit or 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 sewerage 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 local unit or such municipality and which may be agreed to by the sewerage authority in conformity with its contracts with the holders of any bonds, and shall be valid whether or not an appropriation with respect thereto is made by such local unit or such municipality prior to authorization or execution thereof. Such local unit or 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 local unit or such municipality. Subject to any such contracts with the holders of bonds, the sewerage authority is hereby authorized to do and perform any and all acts or things necessary, convenient or desirable to carry out and perform every such contract and, in accordance with any such contract, to waive, modify, suspend or reduce the service charges which would otherwise be charged and collected by the sewerage authority with regard to persons or real property within such local unit or such municipality, but nothing in this section or any such contract shall prevent the sewerage authority from charging and collecting, as if such contract had not been made, service charges with regard to such persons and real property sufficient to meet any default or deficiency in any payments agreed in such contract to be made by such local unit or such municipality.

2. This act shall take effect immediately.

Approved February 11, 1971.

CHAPTER 28

AN ACT concerning municipalities and repealing section 40:72-17
of the Revised Statutes.

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

Repealer.

1. Section 40:72-17 of the Revised Statutes is hereby repealed.
2. This act shall take effect immediately.

Approved February 11, 1971.

CHAPTER 29

AN ACT concerning civil actions in county district courts, and
amending N. J. S. 2A:6-25.

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

1. N. J. S. 2A:6-25 is amended to read as follows:

Sergeants-at-arms; number, appointment, bond, powers and duties.

2A:6-25. The judge, and in courts having branch parts, the presiding judge, of any county district court may, in accordance with the provisions of Title 11, Civil Service, of the Revised Statutes, appoint one or more sergeants-at-arms to attend the sittings of the court, preserve order therein, and perform such other duties as such judge may prescribe, except that constables of the county district court who were employed in that capacity prior to January 1, 1971 shall, upon passage of this act, be eligible for permanent appointment to the classified service as sergeants-at-arms without examination.

Before entering upon the discharge of their duties, sergeants-at-arms, appointed under authority of this section shall file in the office of the clerk of the board of chosen freeholders of the county in which the county district court to which they, respectively, are attached, is located, a bond in a penal sum in the amount of not less than \$1,000.00 nor more than \$10,000.00 and with surety as is required by law. The bond shall be conditioned that if he shall well

and truly execute his office and all things pertaining to the same, as well with respect to all persons concerned, as to the State of New Jersey and the county where such court is situate, and, at the expiration of his office, shall deliver to the clerk of the county district court all moneys deposited with him, together with the books, things, papers and records in the same, or appertaining thereto, then the obligation shall be void, otherwise it shall be and remain in force. The bond shall, before being filed, be fixed as to amount and approved as to form and sufficiency of surety by the judge making such appointment or appointments.

Sergeants-at-arms of a county district court shall be invested with and possess all the rights, privileges, powers and duties of a constable.

2. This act shall take effect immediately.

Approved February 11, 1971.

CHAPTER 30

AN ACT concerning special primary elections for certain special elections.

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

1. Whenever a writ of election shall have been or shall be issued for the conduct of special primary elections to nominate candidates to fill a vacancy in elective office in a county of the second class having a population of less than 400,000 and, at the closing date and time fixed for the filing of petitions of nomination, no candidate or only one candidate of a political party shall have filed a proper petition of nomination, the Secretary of State, county clerk or other officer with whom the petitions are to be filed shall order that the special primary of a political party or parties not be held and the names of the candidate or candidates whose petitions have been filed and approved shall be certified as nominees of their political parties for inclusion on the ballot for the special election.

2. This act shall take effect immediately and shall expire March 3, 1971.

Approved February 11, 1971.

CHAPTER 31

AN ACT concerning the State Department of Transportation, and directing a study of the extension of the State highway system.

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

1. The State Commissioner of Transportation is hereby directed to undertake a study of the advisability and feasibility of extending Route 169 from East Thirtieth Street in Bayonne south to the Bayonne Bridge.

2. The study shall include estimates of construction and maintenance costs.

3. This act shall take effect immediately.

Approved February 18, 1971.

CHAPTER 32

AN ACT to amend "An act concerning the distribution of certain tax revenues to the municipalities of this State and supplementing Title 54 of the Revised Statutes," approved June 17, 1966 (P. L. 1966, c. 135).

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

1. Section 7 of P. L. 1966, c. 135 (C. 54:11D-7) is amended to read as follows:

C. 54:11D-7 Apportionment of amounts to be raised in taxing districts; equalization table; assumed assessed value of property.

7. For the purpose of apportioning the amounts to be raised in the respective taxing districts of the county under Revised Statutes 54:4-49, the county board of taxation shall, for each taxing district, include in the equalization table for the county the assumed assessed

value of the property represented by the money received by each taxing district pursuant to the provisions of this act.

Commencing with the tax year 1969 and thereafter the assumed assessed value of such property in each taxing district shall be determined by the county board of taxation in the following manner: (a) the amount of money received by each taxing district during the preceding tax year pursuant to the provisions of this act, shall be divided by the general tax rate of the taxing district for such preceding tax year to obtain an assumed assessed value of such property; (b) this assumed assessed value shall be divided by the fraction produced by dividing the aggregate assessed value by the aggregate true value of the real property, as determined by the county board of taxation for equalization purposes in the previous tax year, exclusive of Class II railroad property, in the taxing district; and (c) the resulting quotient shall be included in the net valuation of each taxing district on which county taxes are apportioned.

For the tax year 1968, there shall be included in the equalization table for the county (a) 65% of the aggregate fair value of machinery, implements, and equipment and all other personal property used in business, other than inventories, farm machinery, farm livestock, crops and produce and (b) 25% of the aggregate fair value of inventories (except inventories of raw materials, supplies and small tools) including 25% of the aggregate fair value of farm machinery, farm livestock, crops and produce, used in business, as determined for county apportionment purposes for the tax year 1967. Provided, however, that in calculating the amounts to be included under (a) of the foregoing sentence, there shall be excluded the 1967 valuations determined for the personal property of persons, partnerships, associations or corporations subject to tax under chapter 4 of the laws of 1940.

2. This act shall take effect immediately.

Approved February 18, 1971.

CHAPTER 33

AN ACT to validate certain proceedings for the issuance of bonds of school districts and any bonds or other obligations issued or to be issued in pursuance of such proceedings.

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

Validating act.

1. All proceedings heretofore had or taken by any school district or at any school district election for the authorization or issuance of bonds of the school district, and any bonds or other obligations of the school district issued or to be issued in pursuance of a proposal adopted by the legal voters at such election, are hereby ratified, validated and confirmed, notwithstanding that the supplemental debt statement required by section 18A:24-16 of the New Jersey Statutes was not prepared and filed as required by section 18A:24-17 of the New Jersey Statutes or notwithstanding that notices relating to such election were not published as required by the absentee voting law (P. L. 1953, c. 211) as amended; provided, however, that a supplemental debt statement has heretofore been made, sworn to and filed in the places required by said section 18A:24-17; and provided further, that any applications received by the secretary of the board of education of the school district for military service ballots or civilian absentee ballots for such election were forwarded to the clerk of the county in which such school district is located; and provided further, that no action, suit or other proceeding of any nature to contest the validity of such proceedings has heretofore been instituted prior to the date on which this act takes effect and within the time fixed therefor by or pursuant to law or rule of court, or when such time has not heretofore expired, is instituted within 30 days after the effective date of this act.

2. This act shall take effect immediately.

Approved February 22, 1971.

CHAPTER 34

AN ACT concerning the practice of medicine and amending Revised Statutes 45:9-8.

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

1. Revised Statutes 45:9-8 is amended to read as follows:

Diploma from medical school in United States or foreign country; license in foreign country; internship or post-graduate work.

45:9-8. Except as otherwise provided in this chapter (45:9-1 et seq.), every applicant for admission to examination for a license to practice medicine and surgery shall, in addition to the requirements set forth in sections 45:9-6 and 45:9-7 of this Title,

(1) Prove to the board that

(a) He has received a diploma from some legally incorporated professional school or college of the United States or Canada, which school or college, in the opinion of the board, was in good standing at the time of the issuance of the diploma, or a diploma or license conferring the full right to practice all of the branches of medicine and surgery in some foreign country, or

(b) If he is a graduate of a foreign professional school or college and cannot submit to the board a diploma or license conferring full right to practice all of the branches of medicine and surgery in a foreign country if he can prove to the board that in addition to meeting all of the other requirements of this act, he has had not less than 3 full years of post-graduate, interne or resident training in a hospital in the United States approved by the board, and

(2) Shall further prove that, prior to the receipt of such diploma from any such professional school or college of the United States or Canada, or such diploma or license, as aforesaid, he had studied not less than 4 full school years, including 4 satisfactory courses of lectures of at least 8 months each, consecutively or in 4 different calendar years, in some legally incorporated and registered American or foreign professional school or schools, college or colleges in good standing in the opinion of the board, which courses shall have included a thorough and satisfactory course of instruction in medicine and surgery; and

(3) Such applicant, if he has graduated from a professional school or college after July 1, 1916, shall further prove to the board that, after receiving such diploma or license, he has completed an internship acceptable to the board for at least 1 year in a hospital approved by the board, or in lieu thereof he has completed 1 year of post-graduate work acceptable to the board in a school or hospital approved by the board; or

If prior to receiving such diploma, has been awarded a certificate or the degree of Bachelor of Medicine upon completion of a course of study acceptable to the board and of not less than 30 months duration in not less than 3 different calendar years in a medical college approved by the board, and in addition thereto, prior to receiving the degree of Doctor of Medicine shall have completed a full year of interne training in a medical college hospital or a hospital affiliated or associated with such medical college.

2. This act shall take effect immediately and shall be applicable to students entering medical school on and after September 1, 1970.

Approved February 25, 1971.

CHAPTER 35

AN ACT to amend the "Explosives Act," approved June 21, 1960 (P. L. 1960, c. 55).

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

1. Section 5 of P. L. 1960, chapter 55 (C. 21:1A-132) is amended to read as follows:

C. 21:1A-132 Prohibited acts; exceptions; permit required; records of permittees; disposal of deteriorated or leaking explosives.

5. It is prohibited for any person to manufacture, store, sell, transport, use, dispose of, or possess explosives in any manner except as permitted under this act. Any person who is not engaged primarily in the manufacture, sale, storage, transportation or use of explosives but who in the course of activities engages in any of the above or uses explosives in any manufacturing process shall be required to comply with the provisions of this act.

A. No person shall sell, deliver, give away or otherwise dispose of any explosives to any persons not in possession of a permit as

required by the provisions of this act. No person shall have any explosives in his possession or control without a permit required by this act.

B. Every person holding a permit to manufacture, sell, store or use explosives shall keep such records as may be required by the commissioner, and shall file reports monthly with the commissioner, on a date and in a form to be prescribed by the commissioner, listing amounts of explosives used, sold or otherwise disposed of, during the preceding month and showing inventories on hand, and shall be required to report immediately any loss, by theft or otherwise, of explosives in his possession to the commissioner, who shall immediately forward such information to the Attorney General of the State; provided, however, that where an employer is maintaining such records, his employees holding permits to use explosives, at the discretion of and with the written approval of the commissioner, shall not be required to maintain individual records. Records shall be retained at least until the end of the calendar year next following the year in which the record is made. All such records shall be open to inspection by the commissioner.

C. No person shall handle explosives while under the influence of narcotics or intoxicating liquors.

D. No person shall smoke or have open lights or fire- or flame-producing devices while handling or using explosives or when within 100 feet of any magazine or vehicle containing explosives; provided, however, that this prohibition shall not apply to the use of igniters when preparing to detonate an explosive charge.

E. When deteriorated or leaking explosives are found by the commissioner, he may order them disposed of in the manner he shall direct, at the expense of the possessor.

2. Section 6 of P. L. 1960, chapter 55 (C. 21:1A-133) is amended to read as follows:

C. 21:1A-133 Permits for manufacture, sale, storage, transportation or use of explosives.

6. Any person who shall manufacture, sell, store, transport or use explosives first shall obtain a written or printed permit from the commissioner, which permit shall state specifically the use or uses authorized:

(a) To manufacture—authorizing the manufacture of explosives and storage of materials in process, developmental materials and finished products.

(b) To sell—authorizing the sale of explosives.

(c) To transport—authorizing the transportation of explosives; provided, however, that no permit will be required where such transportation is not on the highways nor where the articles being transported are of laboratory samples; however, such transportation shall otherwise be in conformity with the provisions of this act.

(d) To store—authorizing the purchase and storage of explosives in a specified magazine;

(e) To use—authorizing a person to use explosives for such purposes and under such conditions as are specified on the permit. The commissioner may establish classifications of use of explosives for blasting and other purposes, specifying the privileges and requirements of each classification. Persons holding, or employed by a person holding, a permit to manufacture explosives, and who are engaged in the testing of explosives incident to the manufacture or development thereof shall not be required to obtain a permit to use explosives.

A. No permit shall be required for the storage, transportation or use of smokeless powder which is used by private persons for the hand loading of small arms ammunition and which is not for resale. For this purpose not more than 36 pounds of smokeless powder and not more than 5 pounds of black powder shall be stored or transported without a permit.

B. Permits shall at all times be readily available to inspection by the commissioner, State Police or local police and fire departments and shall be posted as directed by the commissioner.

C. Permits shall not be transferable.

D. Whenever a permanent storage magazine for which a permit has been issued is moved to a new location, or its physical surroundings are so changed that the magazine comes within the prohibited distances to a highway, railroad or inhabited building, the permit for said magazine shall become invalid and a new permit required.

E. No permittee shall manufacture, sell, transport, store or use explosives except in compliance with the limitations expressed on the permit.

3. Section 7 of P. L. 1960, chapter 55 (C. 21:1A-134) is amended to read as follows:

C. 21:1A-134 Investigation of applicant; qualifications; denial or revocation of permit; duration of permit; renewal; fee.

7. Upon receipt of an application for a permit to manufacture, store, sell, transport or use explosives, and before the permit is

New Jersey State Library

issued, the commissioner shall make or cause to be made an investigation for the purpose of ascertaining if all applicable requirements of this act have been met. The commissioner shall not issue a permit to manufacture, sell, store, transport or use explosives unless all the requirements of this act have been met. All permits issued in accordance with the provisions of this act shall be subject to any amendments hereafter made to this act.

A. An applicant for a permit shall, at his own expense, furnish whatever pertinent information the commissioner may require in addition to that specified herein. Application forms shall be furnished by the Department of Labor and Industry.

B. An applicant for a permit to manufacture, sell, transport, store or use explosives must:

- (a) Be at least 21 years of age;
- (b) Have a reasonable understanding of the English language;
- (c) Present satisfactory evidence of experience in the manufacture, sale, transportation, storage or use of explosives;
- (d) Demonstrate by written, oral or field examination, as the commissioner may direct, adequate knowledge of the safe manufacture, sale, transportation, storage or use of explosives and of the provisions of this act; and
- (e) Be of good moral character and must never have been disloyal to the United States; and

it shall be within the sole discretion of the commissioner to determine whether an applicant who has been convicted of a crime involving moral turpitude has the good moral character necessary for a permit. It shall also be within the reasonable discretion of the commissioner to deny the issuance of a permit where he concludes, after a full examination of the qualifications of an applicant, that to grant a permit would be dangerous to the health, safety and welfare of the people of the State of New Jersey. The failure of a holder of a permit to maintain the qualifications stated herein shall be good cause for the revocation of the permit.

C. When the applicant for a permit to manufacture, sell, transport, store or use explosives is a firm, association or corporation, the applicant must demonstrate that such activities with regard to explosives will be under the direct supervision of a person who meets the qualifications stated above.

D. Permits shall be valid for 1 year unless sooner revoked. Permits which expire on July 1, 1960 may be renewed by the com-

missioner at his discretion for a period of not less than 3 months nor more than 15 months, and permits renewed after such a period shall thereafter be valid for 1 year unless sooner revoked. The fee for all permits shall be fixed by the commissioner on a yearly basis or, for periods of less than a year, in amounts proportionately less than the annual fee.

E. The application for any permit must be accompanied by a fee established by regulation in accordance with the following schedule:

- (a) To manufacture—not less than \$10.00 nor more than \$150.00;
- (b) To sell—not less than \$10.00 nor more than \$50.00;
- (c) To transport—not less than \$5.00 nor more than \$10.00;
- (d) To store—not less than \$10.00 nor more than \$150.00;
- (e) To use—not more than \$10.00;
- (f) For storage, transportation and use of smokeless power in amounts in excess of 36 pounds, but not in excess of 100 pounds and black powder in amounts in excess of 5 pounds but not in excess of 100 pounds which is used by private persons for the hand loading of small arms ammunition and which is not for resale—not less than \$2.00 nor more than \$10.00.

4. Section 15 of P. L. 1960, chapter 55 (C. 21:1A-142) is amended to read as follows:

C. 21:1A-142 Possession of explosives or bombs for unlawful purpose; penalty.

15. Any person who shall have in his possession or control any explosives, including any bomb, shell or similar device filled with one or more explosives, intending to use the same or cause the same to be used or who has used the same for an unlawful purpose shall be guilty of a high misdemeanor, and upon conviction shall be punished by imprisonment in a State prison for a term of not more than 25 years. The possession of explosives or any bomb, shell or similar device filled with explosives, without a permit as required by this act, shall be evidence of an intent to use the same or cause the same to be used for an unlawful purpose. Unlawful purpose shall mean a purpose that cannot be authorized under the provisions of this act.

5. This act shall take effect immediately.

Approved February 25, 1971.

CHAPTER 36

AN ACT authorizing supplemental and additional methods for the issuance of bonds by boards of education for purchase by the public, for guaranty thereof by municipalities in certain cases, and supplementing Title 18A of the New Jersey Statutes.

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

C. 18A:24-66 Authorization to issue bonds.

1. Any board of education of this State, upon complying with the provisions of this act, shall be authorized, for any purpose for which it is permitted by law to issue any bonds, to issue some part or all of the same in the form, type and manner provided for herein.

C. 18A:24-67 Application for authorization; certificate; publication of notice.

2. Any board of education desiring to issue bonds under this act shall file application for authorization to do so with the Division of Local Finance in the Department of Community Affairs. The application shall be on such form, and shall contain such information as said division may specify by rule or regulation, and shall be acted upon within 30 days after filing. The authorization, if granted, may be made contingent upon compliance with terms and conditions therein specified, and shall be accompanied by a certificate of the division, or shall be supplemented by such certificate in instances for which terms and conditions are specified, stating that the provisions of this act have been complied with and that the bonds to be issued will be valid and binding obligations of the issuing board, and of any guaranteeing municipality when such guaranty is provided. The certificate shall be conclusive proof of the validity of the said bonds and of the fact that the same are governmental obligations for a public purpose, and such conclusive proof shall not be open to question or challenge in any place or proceeding. The issuing board shall cause notice of said certificate to be published in such manner and at such times as the certificate directs, and no proceeding to challenge the certificate or the conclusive effect thereof shall be instituted after the expiration of 30 days from the first publication of said notice.

C. 18A:24-68 Purposes of act.

3. It is the purpose of this act to stabilize the values of school bonds issued hereunder, and to provide means for reducing ad-

ministrative costs by a sufficient degree to permit purchase thereof by the public in small denominations, in order to make it feasible for the general public to provide financing for such bond issues.

C. 18A:24-69 Contracts with financial institutions.

4. The issuing board may enter into contracts and agreements with any financial institution or institutions to serve as agent of the board of education through whom the public may subscribe to, purchase and redeem bonds, or for temporary borrowings when appropriate to meet redemptions pending reissue of additional bonds, and for such other purposes and services appropriate to the achievement of the object of this act and the management of the issue. Such contracts and agreements, if entered into prior to the granting of authorization to issue bonds under this act, shall be deemed to contain a provision that the same shall not take effect until authorization has been granted and certificate issued, nor until any changes required by any terms and conditions of the authorization have been made. Nothing herein, however, shall prevent the making of a contract or agreement for the receipt of subscriptions and deposits for the purchase of bonds, contingent upon authorization and certification, so long as the issuing board is not required to make any payment or other compensation for the service or cost thereof in the event that the approval is not granted or certificate is not issued. Any such advance subscriptions shall be on a written form expressly stating that if authorization is not granted or certificate not issued by a date therein specified, the deposit accompanying the subscription shall be refunded on demand without interest.

C. 18A:24-70 Bond resolution.

5. Bonds issued pursuant to this act shall be authorized by a bond resolution adopted by the issuing board, which resolution may be adopted prior to application contingent upon authorization and certification. Such bond resolution may contain provisions dealing with all aspects and terms of the bonds to be issued, and in all cases shall contain provisions that:

a. The aggregate amount to be borrowed on bonds issued pursuant to this act shall be that sum which members of the public may subscribe for and purchase from time to time, but in no case shall the same exceed 1.5 times the amount of the borrowings which the issuing board has been authorized to expend for school purposes under its borrowing authority pursuant to law.

b. A blanket bond only shall be issued, payable to the financial institution designated to serve as fiscal agent, for the benefit of all bondholders, which bond shall state no specific amount in dollars but which shall be a binding obligation to pay the amount of the principal and accrued interest on all bonds issued and outstanding at any time. The ledgers and accounts of the fiscal agent and of the issuing board shall be determinative of the amounts.

c. Each bond purchaser shall be furnished by the fiscal agent with a written record upon which there shall be entered the name or names and form of registration, the effective purchase date of each bond and the principal amount thereof, the effective redemption date and amount paid for principal and accrued interest, and a printed schedule showing, for each principal denomination, the amount of accrued interest payable if redeemed at stated times after date of issue.

d. The bonds may be registered only in specified forms, which forms shall be conclusive of ownership for all purposes and as to all persons, and that no bearer bonds may be issued.

e. Bonds purchased before the fifteenth day of any month shall be deemed to have been issued on the first day of that month, and that all other bonds shall be deemed to have been issued on the first day of the following month.

f. No bond issued under this act may be transferred or assigned except to the extent resulting from the form of registration and except as may result from operation of law in case of death, insolvency or bankruptcy.

g. Every bondholder shall at all times be entitled to redeem any bond or bonds and to be repaid the principal amount thereof and any accrued interest shown on the schedule for the holding period, but provision may be made for a reasonable waiting period, not to exceed 2 weeks, for the refinancing of the amounts to be redeemed. If any waiting period should be required, accrued interest shall be ascertained from the schedule according to the date of actual payment.

Interest shall be payable only on redemption or maturity.

h. A schedule setting forth the denominations in which the bonds may be purchased, and showing the dollar amount of interest thereon for stated holding periods. The accrued interest schedule shall provide for lesser amounts of accrued interest for lesser holding periods than if held to maturity, may provide for no accrual if retained less than one year and shall designate the amount

of the accruals of interest for periods, which may be of varying duration, of not less than one year.

C. 18A:24-71 Investment of reserve.

6. Because the amounts actually borrowed on bonds issued pursuant to this act, together with amounts borrowed on bonds issued under other laws, may from time to time exceed the total amount authorized by law to be borrowed and expended for school purposes, any excess so borrowed from time to time shall be held in a reserve to be applied to meet redemptions and maturities. Where the amount to be invested is less than such limit as may be specified by the bond resolution, or is reasonably expected to be invested for a short period, the same may be temporarily invested in a certificate or certificates of deposit or other similar investment, of the fiscal agent or any other financial institution authorized to do business in this State. In other cases the investments may be made in such manner as other funds of a board of education may be invested, or the issuing board may negotiate and enter into an agreement for the making of investments for its account, either in a separate account or in a common fund with other like investments for other boards of education, by the State Investment Council in the Department of the Treasury, which council is hereby authorized to enter into and perform such agreements and to make investments in any security or securities in which it may be authorized to make investments under any of the laws applicable to it.

C. 18A:24-72 Maturity of bonds.

7. The blanket bond of the issuing board provided for in section 5b. of this act shall be for a due date not in excess of that which would provide the maximum borrowing period under applicable law for the particular purpose of the borrowing. The bonds issued to bondholders may be for shorter periods of maturity, and the same may be issued and reissued from time to time but all of the same shall mature and become due and payable on the due date of the blanket bond, unless prior thereto an additional bond issue or issues shall be authorized and new and additional blanket bond or bonds shall be issued, in which case bonds may be issued and reissued to bondholders to mature, in any event, on the last date of any of said bonds.

C. 18A:24-73 Annual calculation of amount of bonds outstanding.

8. The issuing board shall annually cause to be made calculations of the average amount of the principal of bonds issued and

outstanding under this act and of the average amount of the reserve provided for in section 6, for the 12-month period prior to such calculation. The calculations shall be made not more than 3 months prior to the date for the publication of the annual school budget. Said budget shall contain provision, as a mandatory item, of an amount equal to that sum which would be sufficient as a level annual installment to retire in full the net amount resulting from the subtraction of the average reserve from the average outstanding principal, at that rate of interest that would be applicable if all bonds were held to maturity, if such installments were paid over the full term of the blanket bond. The amount annually required for said item shall be placed in a separate sinking fund to be invested and reinvested in the same manner as provided in section 6, and shall be applied only to the satisfaction of bonds outstanding at the maturity of the last blanket bond. Any excess, remaining after full satisfaction of such bonds, or the making of provisions therefor, shall be and become general funds available to the issuing board but for authorized school purposes only.

C. 18A:24-74 Temporary funds.

9. Because the amounts of redemptions from time to time may be such as to deplete the reserve fund provided for in section 6, the issuing board is authorized to make temporary borrowings from any available source, to provide funds to meet redemptions. The authorization of the Division of Local Finance may require that binding arrangements be made for the availability of such temporary funds, unless the bonds to be issued hereunder are guaranteed by municipal guaranty.

C. 18A:24-75 Guaranty of bonds.

10. Every municipality within or part of the school district of the issuing board is hereby authorized to adopt an ordinance containing a guaranty of bonds issued under this act.

C. 18A:24-76 Modification or revocation of guaranty prohibited.

11. No bond resolution, no municipal ordinance for guaranty, and no contract, agreement, arrangement or other act of the issuing board, of any municipality or of any governmental office, officer or agency shall be modified, altered, revoked, added to or otherwise changed in any respect that would tend to adversely affect the interest or right of the holder of any bond or bonds issued hereunder. This provision shall be deemed to be a contractual obligation and not subject to modification or repeal so

long as any of said bonds are issued, outstanding and unmatured. Nothing in this section shall be construed to prevent the issue and reissue of additional bonds, all of which shall have equal rights in respect to any reserves or sinking funds without any differences in priority among them.

C. 18A:24-77 Granting of authorization.

12. The authorization provided for in section 2 of this act shall be granted in any case in which it shall appear to the Division of Local Finance that the issuing board is reasonably likely to be able to sell a sufficient number of bonds under this act as to accomplish its purpose. Such authorization shall be granted in any case where the total amount of the borrowing which is authorized to be expended for school purposes is not in excess of \$250,000.00, or in the alternative, where such amount represents an average of not more than \$25.00 per capita of the population of the district.

C. 18A:24-78 Issuance of bonds under other applicable laws.

13. No authorization to issue bonds pursuant to this act shall in any way preclude the issuing board from issuing other bonds under any other applicable law, at any time and from time to time, during the period for which bonds might have been issued in the absence of such authorization.

C. 18A:24-79 Calculation of net debt.

14. For the purposes of calculating or stating local debt or school debt, or for any debt statement or supplemental debt statement, or for the application of any limitation on the issuance of bonds by a board of education or municipality, or any other similar purpose under any applicable law now or hereafter enacted, the net debt of any board of education on bonds issued hereunder shall be the aggregate amount of the principal and accrued interest of issued and outstanding bonds, less the amount of the reserve funds and sinking funds held pursuant to this act and the earnings thereof, as of the date of the calculation. At the option of the issuing board, the calculation of net debt may be made in the same manner as provided in section 8 of this act, except that accrued interest shall be included in the calculation. No municipal guaranty of any bonds issued hereunder shall be taken into account in determining its bonded indebtedness or in calculating any debt limit or for any other purpose stated in this section in respect to such municipality, unless the municipality shall have been called upon to perform its guaranty, and then only to the extent of such

call and to the extent that the same has not been satisfied. However, the existence of the guaranty shall be disclosed in any case.

C. 18A:24-80 Tax exemption.

15. Any and all bonds issued pursuant to this act shall be conclusively deemed to be governmental obligations for governmental and public purposes, and the same, together with any interest thereon, shall be forever exempt from any and every tax and shall be excluded from the calculation of any and every tax, whenever enacted, of whatever nature and however levied, assessed or calculated, whether during the lifetime or at or after or by reason of the death of any holder.

C. 18A:24-81 Purchase of bonds by payroll deductions.

16. Every employer, public or private, is hereby authorized to accept requests from any employee to make payroll deductions to be applied by the employer from time to time, as sufficient deductions have accrued, to the purchase of bonds authorized to be issued hereunder for the account of such employee.

C. 18A:24-82 Investments by fiduciaries.

17. Every fiduciary or other representative is hereby authorized to make investments in bonds authorized to be issued hereunder, which shall be legal investments unless expressly prohibited by the instrument from which his authority derives.

C. 18A:24-83 Purchase of bonds for minors or other beneficiaries.

18. Bonds authorized to be issued under this act may be made the subject of gifts under the Gifts to Minors Act or other similar law, and may be purchased for the benefit of any minor or other beneficiary under any will or other instrument in any case where obligations of the United States or of this State may be purchased, or where moneys are authorized to be deposited in any bank account.

C. 18A:24-84 Construction and severability of act.

19. This act shall be liberally construed. Its provisions shall be deemed severable in any case where such severability will not tend to defeat its purpose. No defect, error or omission in any matter of form or substance shall in any way affect the validity and binding obligation of any bond issued hereunder, and the Division of Local Finance is authorized, in any such case, to issue an order validating any bonds to be issued after the discovery thereof, in any respect in which there may be such defect, error or omission, if it is satisfied that the same is not substantial or pre-

judicial, or upon a curing or correction of the defect, error or omission.

20. This act shall take effect immediately.

Approved March 4, 1971.

CHAPTER 37

AN ACT to provide special supplemental pension benefits to Irene B. Sheppard, a retired member of the Public Employees' Retirement System.

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

Private act.

1. In the case of Irene B. Sheppard, a retired member of the Public Employees' Retirement System who is receiving pension payments and who at the time of her retirement did not receive full credit for her services as helping teacher due to her failure to have been reappointed as helping teacher through inadvertence, mistake or misunderstanding, she shall be entitled to have her pension payments increased by the difference between the amount of the pension as granted and the amount she would have received upon her retirement had her services as a teacher been continued to the date of her retirement and credit given therefor the sum of \$10,000.00.

2. There is hereby appropriated to the Division of Pensions in the Department of the Treasury the sum of \$3,500.00 or so much thereof as may be necessary to carry out the provisions of this act as a supplemental appropriation for each of the fiscal years commencing July 1, 1967, July 1, 1968 and July 1, 1969.

3. This act shall be retroactive to July 1, 1967.

4. This act shall take effect immediately.

Approved March 4, 1971.

CHAPTER 38

AN ACT to amend "An act concerning disorderly persons and supplementing chapter 170 of Title 2A of the New Jersey Statutes," approved July 17, 1962 (P. L. 1962, c. 113).

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

1. Section 3 of P. L. 1962, chapter 113 (C. 2A:170-77.10) is amended to read as follows:

C. 2A:170-77.10 Exceptions to sections 2A:170-77.8 and 2A:170-77.9.

3. The provisions of sections 1 and 2 of this act, except so far as such provisions relate to any person who uses or is under the influence of the drugs described in said sections, shall not apply to a duly licensed physician, dentist, registered pharmacist, veterinarian, nurse, podiatrist, interne or resident physician of a hospital, sanitarium or other medical institution when acting in the regular course of his respective business or profession; or to a hospital, sanitarium, clinical laboratory or any other medical institution; or a state or governmental agency; or to any manufacturer, wholesaler, retailer or regular dealer in drugs when acting in the regular course of his respective business.

2. This act shall take effect immediately.

Approved March 4, 1971.

CHAPTER 39

AN ACT permitting the township of Cherry Hill, county of Camden, to increase the pension payable to Margaret Wermuth.

WHEREAS, Pursuant to the authority of P. L. 1955, c. 262, Cherry Hill township (formerly Delaware township) is paying a pension to Margaret Wermuth, who served the township in the capacity of township clerk for 30 years; and

WHEREAS, The township desires to increase the pension payable to Margaret Wermuth from $\frac{1}{2}$ of her former monthly salary to an amount not exceeding $\frac{3}{4}$ of her former monthly salary; now, therefore,

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

Private act.

1. Cherry Hill township, in the county of Camden, is authorized to increase the pension presently payable to Margaret Wermuth pursuant to the authority of P. L. 1955, c. 262 to an amount not exceeding $\frac{3}{4}$ of her former monthly salary.

2. This act shall take effect immediately.

Approved March 4, 1971.

CHAPTER 40

AN ACT concerning motor vehicles and amending section 39:4-75 of the Revised Statutes.

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

1. Section 39:4-75 of the Revised Statutes is amended to read as follows:

Driving overweight vehicles over intrastate bridges; penalty; liability for damage to bridges.

39:4-75. No commercial motor vehicles shall be driven over a bridge in this State upon which or immediately adjacent thereto there is posted in a conspicuous place a sign stating the gross weight the bridge will carry, if the gross weight of the commercial vehicle and load is greater than the gross weight stated on the sign.

A person violating this section shall be subject to a fine not exceeding \$100.00. In default of the payment thereof imprisonment in the county jail for a period not exceeding 10 days shall be imposed.

The owner and operator of any vehicle used in violation of this section shall be responsible to the municipal or other corporation owning or maintaining such bridge, or to the State if such bridge is maintained by the State, for any damage done to the bridge by reason of the violation.

2. This act shall take effect immediately.

Approved March 4, 1971.

CHAPTER 41

AN ACT to amend “An act relating to training of policemen prior to permanent appointment; appointments in certain municipal and county law enforcement agencies; establishing a police training commission; and providing an appropriation therefor,” approved June 3, 1961 (P. L. 1961, c. 56).

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

1. Section 5 of P. L. 1961, chapter 56 (C. 52:17B-70) is amended to read as follows:

C. 52:17B-70 Police Training Commission established; membership.

5. There is hereby established in the Department of Law and Public Safety a Police Training Commission whose membership shall consist of the following persons:

a. Two citizens of this State who shall be appointed by the Governor with the advice and consent of the Senate for terms of 3 years commencing with the expiration of the terms of the citizen members, other than the representative of the New Jersey Office of the Federal Bureau of Investigation, now in office.

b. The president or other representative designated in accordance with the bylaws of each of the following organizations: the New Jersey State Association of Chiefs of Police; the New Jersey State Patrolmen's Benevolent Association, Inc.; the New Jersey State League of Municipalities; and the New Jersey State Lodge, Fraternal Order of Police.

c. The Attorney General, the Superintendent of State Police, and the Commissioner of Education, ex officio, or when so designated by them, their deputies.

d. The Special Agent in Charge of the State of New Jersey for the Federal Bureau of Investigation or his designated representative.

2. Section 8 of P. L. 1961, chapter 56 (C. 52:17B-73) is amended to read as follows:

C. 52:17B-73 Organization of commission; quorum.

8. The Attorney General shall be the chairman of the commission. The commission, at its initial organization meeting to be held

promptly after the appointment and qualification of its members, and thereafter at each annual organization meeting to be held on the first Monday in February, shall select a vice-chairman from among its members, and shall meet at such other times within the State of New Jersey as it may determine. A majority of the commission shall constitute a quorum for the transaction of any business, the performance of any duty, or for the exercise of any of its powers.

3. This act shall take effect immediately.

Approved March 4, 1971.

CHAPTER 42

AN ACT requiring boards of education to include facilities for the physically handicapped in plans and specifications for public work, and supplementing chapter 18 of Title 18A of the New Jersey Statutes.

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

C. 18A:18-2.1 "Board of education" defined.

1. As used in this act, "board of education" means and includes the board of education of any local school district, consolidated school district, regional school district, county vocational school and any other board of education or other similar body other than the State Board of Education or the State Board of Higher Education, established and operating under the provisions of Title 18A of the New Jersey Statutes and having authority to engage contractors for the performance of public works for the board.

C. 18A:18-2.2 Facilities for physically handicapped.

2. Every board of education shall require that all plans and specifications for bids on any contract with the board for the construction of any public building shall provide facilities for the physically handicapped.

The State Board of Education, by rules and regulations, shall prescribe the kinds, types and quality of such facilities which shall include the following:

(a) At least one principal entrance to the building with ramp access in accordance with specifications for ramps established by rule of the State Board of Education;

(b) On each floor occupied by pupils at least one watercloset stall, for each sex, in general pupil toilet rooms, to accommodate wheelchair pupils which shall include adequate stall-door width, grab rails, sufficient space and appropriate height;

(c) A drinking fountain of suitable height and extension, for wheelchair pupils, on every floor used for pupil occupancy;

(d) In any multistory building an elevator, sufficient in size to accommodate a wheelchair;

(e) In all laboratory and shop facilities at least one working area dimensioned to permit use by physically-handicapped pupils;

(f) One public telephone at a height accessible to wheelchair pupils.

3. This act shall take effect immediately, but shall remain inoperative for 6 months thereafter.

Approved March 8, 1971.

CHAPTER 43

AN ACT authorizing the appointment of additional judges of the County Court in certain counties and supplementing article 2 of chapter 3 of Title 2A of the New Jersey Statutes.

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

C. 2A:3-13.7 Counties of 225,000 to 265,000 population; number of judges; appointment.

1. Whenever in the judgment of the Governor the public interest so requires there shall be in counties having a population of more than 225,000 and less than 265,000 according to the 1960 Federal census, two additional judges of the County Court in addition to those authorized under N. J. S. 2A:3-13, making six in all, to be nominated and appointed by the Governor with the advice and consent of the Senate.

2. This act shall take effect immediately.

Approved March 8, 1971.

CHAPTER 44

AN ACT concerning the judges of the county district court and the juvenile and domestic relations court in relation to their tenure.

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

C. 2A:4-7.4 County district court and juvenile and domestic relations court; tenure of judges.

1. Any judge of the county district court or the juvenile and domestic relations court who shall have served for 10 years successively as a judge of his respective court and shall be in his third term, shall have tenure in office during good behavior and shall be retired upon attaining the age of 70 years; provided, however, that no such judge of the county district court or the juvenile and domestic relations court shall have tenure in office under the provisions of this act until he shall have been appointed and confirmed at least once following the effective date of this act.

2. This act shall take effect immediately.

Approved March 8, 1971.

CHAPTER 45

AN ACT concerning the distribution of funds resulting from unclaimed outstanding pari-mutuel tickets and amending P. L. 1940, chapter 17.

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

1. Section 44 of P. L. 1940, chapter 17 (C. 5:5-64) is amended to read as follows:

C. 5:5-64 Distribution of pari-mutuel pool; breaks.

44. Each holder of a permit shall distribute all sums deposited in any pool to the winners thereof, less an amount which in harness races shall not exceed 16% of the total deposits plus the breaks and which in other races shall not exceed 15% of the total deposits plus the breaks. Every permit holder shall distribute to

the persons holding winning tickets, as a minimum, a sum not exceeding \$0.10, calculated on the basis of each dollar deposited in any pool after the deduction of the said 16% or 15% as the case may be. Should the amount remaining in the pool be insufficient to pay the winners the minimum, the breakage accruing in that race, or any necessary portion thereof, shall be applied toward making up any such deficiency. The breaks are hereby defined as the odd cents over any multiple of \$0.10, calculated on the basis of \$1.00 otherwise payable to a patron. Every permit holder engaged in the business of conducting running or harness race meetings under this act shall pay to the commission for the use of the State the breaks as herein defined, except as the same shall have been applied toward making up a deficiency in a pool as herein provided. Payment of such breaks shall be made every seventh day of any and every race meeting and shall be accompanied by a report under oath showing the daily and total amount of such breaks together with such other information as the commission may require. All sums held by any permit holder for payment of outstanding pari-mutuel tickets not claimed by the person or persons entitled thereto within 60 days from the time such tickets are issued shall be paid to the commission upon the expiration of such 60-day holding period.

Where it is shown to the satisfaction of the commission that the reason for the pari-mutuel tickets being outstanding and unclaimed is the loss, misplacement or theft of said tickets within the confines and control of the pari-mutuel department of any permit holder, and it is further shown to the satisfaction of the commission that said pari-mutuel tickets have been cashed by such pari-mutuel department, the commission may adjust and credit the permit holder's account accordingly and the permit holder shall reimburse any employee who has been held personally accountable and paid for such lost, stolen or misplaced tickets.

2. Section 48 of P. L. 1940, chapter 17 (C. 5:5-68) is amended to read as follows:

C. 5:5-68 Payment of moneys into State treasury.

48. All moneys received by said commission under the provisions of this act shall be by it paid into the State treasury and, except as to moneys deposited in the New Jersey Horse Breeding and Development Account, or distributed as otherwise provided by law, shall be part of the free treasury funds.

3. This act shall take effect immediately.

Approved March 8, 1971.

CHAPTER 46

AN ACT concerning education, amending “An act concerning education and supplementing Title 18A of the New Jersey Statutes,” approved July 19, 1968 (P. L. 1968, c. 177), and amending and supplementing the “Additional State School Building Aid Act of 1970,” approved January 21, 1971 (P. L. 1971, c. 10).

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

1. Section 3 of P. L. 1968, c. 177 (C. 18A:58-33.4) is amended to read as follows:

C. 18A:58-33.4 Approval of additional aid by State Treasurer and local finance board; deduction from gross debt; contents of bonds; maintenance of records; issuance of temporary notes or bonds; designation of paying agent or agents; disposition of proceeds of bonds or notes.

3. (a) A copy of said resolution of the State Board of Education determining a school district to be entitled to additional State school building aid, together with a copy of said ordinance or proposal bearing the endorsement of the Commissioner of Education, shall be submitted to the State Treasurer for his consideration. If the State Treasurer is satisfied after investigation either, (a) that the payment of the debt service (interest and principal) on the bonds proposed to be authorized by such ordinance or proposal will not cause the amount of additional State school building aid to be paid pursuant to this act to exceed the sum herein provided (with respect to such school district), or (b) that the payment of the debt service (interest and principal) in each year on the bonds authorized by such ordinance or proposal will not exceed the allocation with respect to such school district, he shall endorse his approval to that effect upon the copy of such ordinance or proposal.

(b) A copy of any such ordinance or proposal authorizing bonds for school purposes and bearing said endorsements of the Commissioner of Education and State Treasurer, shall be submitted to the local finance board for its consideration, and the local finance board in considering such copy of any ordinance or proposal submitted to it and before endorsing its consent thereon may require the governing body of any municipality or board of education of any school district submitting any such ordinance or proposal to adopt resolutions restricting or limiting any future proceedings

therein or other matters or things deemed by the local finance board to affect any estimate made or to be made by it in accordance with subsection (c) hereof, and every such resolution so adopted shall constitute a valid and binding obligation of such municipality or school district, as the case may be, running to and enforceable by, and releasable by, the local finance board.

(c) Within 60 days after such submission to it, the local finance board shall cause its consent to be endorsed upon such copy of any ordinance or proposal authorizing such bonds, if it shall be satisfied, and shall record by resolution, its estimates that the amounts to be expended for the school district projects or educational facilities to be financed pursuant to such ordinance or proposal are not unreasonable or exorbitant; and that issuance of the bonds, proposed to be authorized by such ordinance or proposal, will not materially impair the credit of any municipality comprised within the district or substantially reduce its ability, during the ensuing 10 years, to pay punctually the principal and interest of its debts and supply essential public improvements and services, but if the local finance board is not so satisfied it shall cause its disapproval to be endorsed on such copy within said period of 60 days.

(d) Any bonds entitled to the benefits of the provisions of this act, shall be deductible in determining the net school debt of any school district for any purpose or computation under section 18A:24-19 of the New Jersey Statutes, and the amount of all such bonds shall be deducted from the gross debt of any municipality constituting the whole or any part of such school district for any of the purposes of section 40A:2-44 of the New Jersey Statutes and shall be a deduction within the meaning and for the purpose of clause (g) of said section to any extent that such bonds are not deductible under clause (a) or clause (b) of said section, and shall at all times constitute a deduction from gross debt on any annual or supplemental debt statement of such municipality.

(e) All of such bonds when issued shall contain a recital to the effect that they are issued pursuant to Title 18A, Education, of the New Jersey Statutes and are entitled to the benefits of the provisions of this act. Any bonds entitled to the benefits of the provisions of this act shall be authorized and issued in the manner provided for in Title 18A, Education, of the New Jersey Statutes, and notwithstanding the provisions of section 18A:24-19 of the New Jersey Statutes. Compliance with the provisions of this act by or on behalf of any school district or municipality shall make it unnecessary to comply with any of the provisions of sections

18A:24-20 through 18A:24-27 of the New Jersey Statutes, and such sections shall not be applicable with respect to authorization or issuance of any bonds entitled to the benefits of the provisions of this act. Bonds entitled to the benefits of the provisions of this act shall mature not later than 30 years from their date and without regard to any limitations as to maturities or amounts of annual installments for such bonds as provided in Title 18A, Education, of the New Jersey Statutes.

(f) The Commissioner of Education is hereby authorized and directed to establish and maintain records pertaining to each issue of bonds entitled to the benefits of this act and setting forth as to such bonds the amount to be payable in each year on account of debt service (interest and principal) on such bonds, and such records as aforesaid shall be conclusive as to the amount so payable on account of such debt service, and the Commissioner of Education is hereby authorized and empowered to certify for any purpose such amounts as so payable on account of debt service with respect to such bonds. A school district or municipality authorized to issue such bonds may make application to the Commissioner of Education and the local finance board setting forth request for adjustment as to amount payable in any year on account of debt service with respect to such bonds, and the Commissioner of Education and the local finance board are each hereby authorized and empowered to grant such request if it shall be found that such request is reasonable and in the financial interest of such school district or municipality, and that the requested adjustment as to the amount payable in any year for debt service (principal and interest) on such bonds does not exceed the amount of the allocation then applicable as to such year with respect to such school district or municipality. The Commissioner of Education shall cause such records to be adjusted and shall certify by reference to such records the adjusted debt service with respect to such bonds after giving effect to such request, and such bonds shall thereafter be eligible with respect to payments hereunder for debt service (principal and interest) in accordance with such certification. Upon issuance of any bonds benefiting under this act the chief financial officer of the school district or municipality issuing such bonds shall, within 30 days after issuance of such bonds, certify to the Commissioner of Education the exact amount payable on account of debt service (interest and principal) on such bonds in each year and the name and address of the paying agent or paying agents for such bonds or notes, and upon receipt of such certification, the Commissioner of Education shall there-

upon cause such records to be adjusted with respect to such bonds giving effect to any increase or decrease resulting in any year as to payments on account of interest on or principal of such bonds as shown by said certification of said chief financial officer. Any certification by the Commissioner of Education with respect to bonds to the effect that such bonds are entitled to the benefits of the provisions of this act or as to amount payable in any year for debt service (principal and interest) on such bonds shall be fully conclusive as to such bonds from and after the time of issuance of such bonds, notwithstanding any irregularity, omission or failure as to compliance with any of the provisions of this act with respect to such bonds, provided that such bonds contain a recital to the effect that they are entitled to the benefits of the provisions of this act, and all persons shall be forever estopped from denying that such bonds are entitled to the benefits of the provisions of this act.

(g) Any school district or municipality which has authorized bonds and which are entitled to the benefits of this act, may issue temporary notes or loan bonds (hereinafter called "obligations") in anticipation of the issuance of permanent bonds to the extent permitted or provided for by or pursuant to the provisions of Title 18A, Education, of the New Jersey Statutes and any other laws applicable, in principal amount not in excess of the principal amount of the permanent bonds and subject to such additional terms or conditions with respect to such obligations as may be fixed or required by the Commissioner of Education or the local finance board under authority of this act. The amount and details of any such obligations issued and the interest payable thereon and the name and address of the paying agent or paying agents for such bonds or notes shall be certified by the chief financial officer of such school district or municipality to the Commissioner of Education. The whole or any part of the allocation then applicable to any school district pursuant to this act is hereby authorized to be paid in any year in which such obligations are outstanding and notwithstanding that permanent bonds have not been issued, pursuant to such terms and conditions as may be determined by the Commissioner of Education, for use and application of the amount so paid to the payment of interest on such obligations and so much of the principal thereof in any such year as shall be determined by said commissioner. The determination of the commissioner hereunder provided for shall be conclusive as to such matters, and receipt of the amount of such allocation so paid shall be used and applied only for the

payment of the interest on and principal of such obligations in accordance with such determination by said commissioner.

(h) No bonds or notes entitled to the benefits of this act shall be issued unless there is designated therefor a paying agent or paying agents, at least one of which is a bank or trust company authorized to do business in this State. All amounts of additional State school building aid to be paid under the provisions of this act with respect to any school district for debt service (principal and interest) on bonds or notes entitled to the benefits of this act shall, on or before the date for such payment of interest and principal, be paid on behalf of the school district or municipality issuing such bonds or notes to the paying agent or paying agents for such bonds or notes in amount with respect to such date as reflects the amount of principal or interest, respectively, payable as to such date by reason of such additional State school building aid hereunder payable with respect to such school district. Amounts so paid to such paying agent or paying agents shall be applied to the payment of debt service (principal and interest) on such bonds or notes and for no other purpose.

(i) Pending application to the purposes for which bonds or notes entitled to the benefits of this act are issued, the proceeds of such bonds or notes shall be invested or deposited subject to regulations prescribed by the State Treasurer. On January 10 in each year the custodian of school moneys of a Type II school district or the chief financial officer of the municipality of a Type I school district, as the case may be, shall certify and pay to the State Treasurer the amount of earnings received during the preceding year from the investment or deposit of the proceeds from the sale of such bonds or notes, which amounts shall be held by him and applied only to the payment of principal and interest on such bonds or notes.

2. Section 10 of P. L. 1971, c. 10 (C. 18A:58-33.15) is amended to read as follows:

C. 18A:58-33.15 Certification of amount of debt service.

10. Within 10 days after issuance of any bonds or notes entitled to the benefits of this act, the chief financial officer of the school district or municipality issuing such bonds or notes shall certify to the Commissioner of Education the exact amount payable on account of debt service (interest and principal) on such bonds or notes in each year and the name and address of the paying agent or paying agents for such bonds or notes. The Commissioner of

Education shall thereupon verify said amounts and certify the same to the State Treasurer together with the name and address of the paying agent or paying agents for such bonds or notes. The certification by the Commissioner of Education as to amount payable in any year for debt service (principal and interest) on such bonds or notes shall be fully conclusive as to such bonds or notes from and after the time of issuance of such bonds or notes, notwithstanding any irregularity, omission or failure as to compliance with any of the provisions of this act with respect to such bonds or notes, provided that such bonds or notes contain a recital to the effect that they are entitled to the benefits of the provisions of this act, and all persons shall be forever estopped from denying that such bonds or notes are entitled to the benefits of the provisions of this act.

3. Section 13 of P. L. 1971, c. 10 (C. 18A:58-33.18) is amended to read as follows:

C. 18A:58-33.18 Payment of aid.

13. All amounts of additional State school building aid to be paid under the provisions of this act with respect to any school district for debt service (principal and interest) on bonds or notes entitled to the benefits of this act shall, on or before the date for such payment of interest and principal, be paid on behalf of the school district or municipality issuing such bonds or notes to the paying agent or paying agents for such bonds or notes in amount with respect to such date as reflects the amount of principal or interest, respectively, payable as to such date by reason of such additional State school building aid hereunder payable with respect to such school district. Amounts so paid to such paying agent or paying agents shall be applied to the payment of debt service (principal and interest) on such bonds or notes and for no other purpose.

C. 18A:58-33.30 Disposition of proceeds of bonds or notes.

4. Pending application to the purposes for which bonds or notes entitled to the benefits of this act are issued, the proceeds of such bonds or notes shall be invested or deposited subject to regulations prescribed by the State Treasurer. On January 10 in each year the custodian of school moneys of a Type II school district or the chief financial officer of the municipality of a Type I school district, as the case may be, shall certify and pay to the State Treasurer the amount of earnings received during the preceding year from the investment or deposit of the proceeds from the sale of such bonds or notes, which amounts shall be held by him and applied

only to the payment of principal and interest on such bonds or notes.

C. 18A:58-33.21 Designation of paying agent or agents.

5. No bonds or notes entitled to the benefits of this act shall be issued unless there is designated therefor a paying agent or paying agents, at least one of which is a bank or trust company authorized to do business in this State.

6. This act shall take effect immediately.

Approved March 12, 1971.

CHAPTER 47

AN ACT to validate certain proceedings of municipalities and any bonds issued or to be issued pursuant to such proceedings.

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

Validating act.

1. All proceedings heretofore had or taken by any municipality prior to the effective date of this act for the authorization, sale or issuance of bonds of the municipality, and any bonds of the municipality issued or to be issued in pursuance of such proceedings are hereby ratified, validated and confirmed, notwithstanding that notice of sale of such bonds was not published as required by N. J. S. 40A:2-30 in a newspaper qualified for publication of a bond ordinance; provided, however, that notice of sale of such bonds as required by N. J. S. 40A:2-30 was published at least once at least 7 days prior to such sale in a financial publication carrying municipal bond news published in New York City, and provided further, that no action, suit or proceeding to contest the validity of such bonds or the sale thereof for failure to publish such notice of sale has heretofore been instituted in any court of the State.

2. This act shall take effect immediately.

Approved March 16, 1971.

CHAPTER 48

AN ACT to amend “An act providing for assessments against public utilities for certain purposes and supplementing Title 48 of the Revised Statutes,” approved July 16, 1968 (P. L. 1968, c. 173).

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

1. Section 2 of P. L. 1968, c. 173 (C. 48:2-60) is amended to read as follows:

C. 48:2-60 Amount of assessment.

2. The assessment shall be equal to a percentage of the gross operating revenue of the public utilities under the jurisdiction of the board derived from intrastate operations during the preceding calendar year at a rate to be determined annually by the board on or before June 30 in the following manner:

The total amount appropriated to the Department of Public Utilities by law for its general purposes for its next fiscal year shall be divided by the total amount of the gross operating revenues of all public utilities under the jurisdiction of the board derived from intrastate operations during the preceding calendar year. The quotient resulting shall constitute the percentage rate of the assessment for the calendar year in which such computation is made. The total amount so assessed to any particular public utility shall not exceed $\frac{1}{10}$ of 1% of the gross operating revenue subject to assessment hereunder of that utility derived from its intrastate operation during the preceding calendar year, except that the minimum assessment for any public utility shall be \$50.00.

2. This act shall take effect immediately.

Approved March 19, 1971.

CHAPTER 49

AN ACT concerning the Budget Message to be transmitted by the Governor to the Legislature for the fiscal year July 1, 1971 to June 30, 1972.

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

1. Notwithstanding the provisions of any other law, the Governor shall transmit his Budget Message for the fiscal year July 1, 1971 to June 30, 1972 to the Legislature on or before February 16, 1971.

2. This act shall take effect immediately.

Approved March 19, 1971.

CHAPTER 50

AN ACT concerning temporary disability benefits and amending section 23 of chapter 110 of the laws of 1948 (C. 43:21-47).

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

1. Section 23 of chapter 110 of the laws of 1948 (C. 43:21-47) is amended to read as follows:

C. 43:21-47 Withdrawal from Federal Treasury.

23. Withdrawal from Federal Treasury.

(a) The State Treasurer is hereby authorized and directed to requisition and withdraw on or before December 31, 1948, the sum of \$50,000,000.00 from the amount of worker contributions heretofore accumulated in the State unemployment compensation fund and deposited in and credited to the account of this State in the unemployment trust fund of the United States of America, established and maintained pursuant to section 904 of the Social Security Act, as amended (U. S. Code Title 42, Section 1104), and to deposit such sum in the State disability benefits fund, established under the Temporary Disability Benefits Law. The State Treasurer is further authorized and empowered to make such requisitions or withdrawals in accordance with such regulations

relating thereto as may be prescribed by the United States Secretary of the Treasury. No portion of the amount requisitioned or withdrawn from the Federal Treasury shall be expended for the purpose of administering the Temporary Disability Benefits Law.

(b) The State Treasurer is hereby authorized and directed to requisition and withdraw within 90 days of this enactment, an additional sum of \$50,000,000.00 from the amount of worker contributions heretofore accumulated in the State unemployment compensation fund and deposited in and credited to the account of this State in the unemployment trust fund of the United States of America, established and maintained pursuant to section 904 of the Social Security Act, as amended (U. S. Code Title 42, Section 1104) and to deposit such sum in the State disability benefits fund, established under the Temporary Disability Benefits Law. The State Treasurer is further authorized and empowered to make such requisitions or withdrawals in accordance with such regulations relating thereto as may be prescribed by the United States Secretary of the Treasury. If the balance in the State disability benefits fund as of December 31 of any calendar year, increased by the contributions credited thereto on or before, or as of January 31 immediately thereafter is in excess of \$75,000,000.00, the excess shall be withdrawn from the State disability benefits fund and deposited to the account of this State in the unemployment trust fund until the entire \$50,000,000.00 requisitioned and withdrawn under this subsection (b) has been returned and deposited to the account of this State in the unemployment trust fund pursuant to the provisions of this subsection (b) and subsection (c) hereof. Such repayment to the unemployment trust fund shall be considered in determining contribution rates by employers to the State disability benefits fund under R. S. 43:21-7(c). No portion of the amount requisitioned or withdrawn from the Federal Treasury shall be expended for the purpose of administering the Temporary Disability Benefits Law.

(c) The State Treasurer shall transfer from the State disability benefits fund to the clearing account of the unemployment compensation fund as established under R. S. 43:21-9, the sum of \$25,000,000.00. Such transfer may be made at such times and in such installments as the State Treasurer may deem proper, except that the total sum shall have been transferred by no later than April 30, 1971. Amounts transferred to the clearing account of the unemployment compensation fund under this subsection shall be cleared immediately and shall be deposited with the Secretary of

the Treasury of the United States of America in accordance with the provisions of R. S. 43:21-9(b).

2. This act shall take effect immediately.

Approved March 19, 1971.

CHAPTER 51

AN ACT concerning certain municipal ordinances and supplementing chapter 48 of Title 40 of the Revised Statutes.

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

C. 40:48-2.47 Removal of snow or ice from certain streets or roadways.

1. The governing body of any municipality may make, amend, repeal and enforce ordinances to compel the owner of certain real property on which there has been constructed any private street, highway, lane, alley or other roadway which is open to the public or to which the public is invited, to remove all snow and ice from such street, highway, lane, alley or other roadway within 12 hours of daylight after the same shall fall or be formed thereon. Any such ordinance may provide for the imposition of penalties for violation of same, and may provide for the removal of such snow or ice by the municipality where the owner of any such street, highway, lane, alley or other roadway shall fail to remove the same as provided in the ordinance. The cost of removal of any such snow or ice from any privately-owned street, highway, lane, alley or other roadway by the municipality shall be certified to the governing body of the municipality by the officer in charge thereof. The governing body shall examine such certificate, and if found to be correct, shall cause such cost to be charged against such real property, and the amount so charged shall thereupon become a lien and tax upon such real property and be added to and be part of the taxes next to be levied and assessed thereon, and enforced and collected with interest by the same officers and in the same manner as other taxes. The provisions of this act shall be applicable only to the owner of real property on which there has been constructed a multiple dwelling housing development containing three or more units of dwelling space which are occupied or are intended to be occupied by three or more persons who live independently of each other.

2. This act shall take effect immediately.

Approved March 19, 1971.

CHAPTER 52

AN ACT concerning the taxation of certain fuels and supplementing chapter 39 of Title 54 of the Revised Statutes.

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

C. 54:39-27.1 Tax on certain fuels used to propel motor vehicles.

1. The tax per gallon on each gallon of liquefied petroleum gas and liquefied or compressed natural gas sold or used to propel motor vehicles upon the public highways shall be $\frac{1}{2}$ the rate applicable and paid on the sale or use of other fuels pursuant to R. S. 54:39-27.

2. This act shall take effect immediately.

Approved March 19, 1971.

CHAPTER 53

AN ACT authorizing boards of education and municipal governing bodies to take necessary action in connection with the ownership, maintenance, restoration, preservation and public display of paintings and works of art owned by either thereof.

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

C. 18A:20-2.1 Ownership, maintenance and public display of paintings and works of art.

1. The board of education of any school district owning a painting or other work of art may by resolution transfer title thereto to the municipality in which the school district is located and the board of education and the governing body of the municipality may enter into an agreement relative to their respective responsibilities and obligations in connection with the maintenance, restoration and preservation of the painting or other work of art to assure its appropriate public display.

2. This act shall take effect immediately.

Approved March 19, 1971.

CHAPTER 54

AN ACT concerning alcoholic beverages and amending R. S. 33:1-77.

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

1. R. S. 33:1-77 is amended to read as follows:

Sale to minor; penalty; defenses.

33:1-77. Anyone who sells any alcoholic beverage to a minor is a disorderly person; provided, however, that the establishment of all of the following facts by a person making any such sale shall constitute a defense to any prosecution therefor: (a) that the minor falsely represented in writing that he or she was 21 years of age or over, (b) that the appearance of the minor was such that an ordinary prudent person would believe him or her to be 21 years of age or over, and (c) that the sale was made in good faith relying upon such written representation and appearance and in the reasonable belief that the minor was actually 21 years of age or over.

2. This act shall take effect immediately.

Approved March 19, 1971.

CHAPTER 55

AN ACT to provide for research and demonstration grants to local school districts, supplementing Title 18A of the New Jersey Statutes and supplementing "An act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1971, and regulating the disbursement thereof," approved June 15, 1970 (P. L. 1970, c. 96).

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

C. 18A:4-28.10 Purposes of act.

1. It is the purpose of this act to encourage the development of innovative programs to educate students in New Jersey's elementary and secondary schools, and members of the general public on

the subject of drugs and their abuse, to demonstrate the use of such programs, to evaluate the effectiveness thereof, and to promote coordinated efforts among school districts, communities, and other public and private groups.

C. 18A:4-28.11 "Research and demonstration grants" defined; authority to make grants, limitations.

2. The Commissioner of Education is authorized to make research and demonstration grants to local school districts in such amounts as he shall determine to assist said districts in the implementation of innovative pilot projects designed to educate students of elementary and secondary schools and members of the general public on the subject of drugs and to prevent the abuse of drugs. No grant to a particular school district shall exceed \$2,000.00, nor shall any grant be made under this act to a school district for the development of a program or curriculum required by any other law.

As used in this act "research and demonstration grants" shall mean additional financial aid to particular local school districts for the purposes expressed in section 1 hereof.

C. 18A:4-28.12 Application for grants; approval.

3. Application for research and demonstration grants shall be made on forms furnished by the Commissioner of Education and shall set forth the program proposed and appropriate procedures of administration for the proper and efficient implementation of such program. No such application shall be approved until the Commissioner of Education and the Commissioner of Health, or their designates for this purpose, shall have had a period of 30 days within which to review the same and make recommendations thereon.

4. There is hereby appropriated to the Department of Education the sum of \$75,000.00 to carry out the purposes of this act.

5. This act shall take effect immediately.

Approved March 19, 1971.

CHAPTER 56

AN ACT concerning the business of transmitting money to foreign countries and amending R. S. 17:15-1.

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

1. R. S. 17:15-1 is amended to read as follows:

Certificate of authority; issuance, renewal, fee.

17:15-1. Hereafter no person other than an individual or private banker authorized by the commissioner to transact business in this State, and no corporation other than a bank, a trust company or an express company or telegraph company, or a passenger steamship company receiving moneys for transmission through its regularly authorized agencies, shall engage in the business of transmitting money to foreign countries, or of receiving money on deposit to be transmitted to foreign countries, without a certificate of authority to transact such business granted by the commissioner. Such certificate of authority shall be renewed annually as of January 1 of each year, and the person or corporation receiving it shall pay to the commissioner a fee of \$100.00 for its principal place of business and \$25.00 for each additional place of business conducted in this State. Nothing in this chapter shall be construed to authorize any person or corporation to whom such certificate is issued to receive money on deposit on any other terms than that it be forwarded to a foreign country forthwith, or not later than 5 days from its receipt. No certificate of authority to transact such business shall be issued to any person who is not a citizen of the United States.

2. This act shall take effect immediately.

Approved March 19, 1971.

CHAPTER 57

AN ACT to amend the "Home Repair Financing Act," approved June 9, 1960 (P. L. 1960, c. 41).

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

1. Section 16 of P. L. 1960, c. 41 (C. 17:16C-77) is amended to read as follows:

C. 17:16C-77 Certain unlicensed businesses prohibited; licensing of contractor, salesman and agency; license not transferable; limitations of salesman's employment and compensation.

16. (a) No person shall engage in the business of a home financing agency, home repair contractor, or a home repair salesman in this State without first obtaining a license from the commissioner as provided for in this act, except that an individual, partner or officer or director of a corporation licensed as a home repair contractor shall not be required to obtain a home repair salesman license.

(b) (Deleted by amendment.)

(c) No home repair contractor shall employ any home repair salesman to procure a home repair contract from an owner on behalf of the contractor until the home repair salesman is licensed under this act.

(d) Any bank, trust company or national bank or any State or Federally chartered savings and loan association authorized to do business in this State and any licensed sales finance company shall be authorized to transact business as a home financing agency and shall be deemed to be a home financing agency for the purpose of this act, subject to all of the provisions of this act, except that it shall not be required to obtain a license or pay a license fee hereunder.

(e) No license issued under this act shall be transferable or assignable.

(f) No home repair salesman may concurrently represent more than one contractor in the solicitation or negotiation of any one home repair contract from an owner. The use of a contract form which fails to disclose a named contractor principal, whether for the purpose of offering the contract to various contractors other than the one the salesman purported to represent in negotiation or

otherwise, is prohibited. No salesman may be authorized to select a prime contractor on behalf of the owner.

(g) No home repair salesman shall accept or pay any compensation of any kind, for or on account of a home improvement transaction, from or for any person other than the contractor whom he represents with respect to the transaction.

2. Section 21 of P. L. 1960, c. 41 (C. 17:16C-82) is amended to read as follows:

C. 17:16C-82 Annual license fee.

21. (a) Every home financing agency shall pay to the commissioner at the time of making the application and annually thereafter upon renewal a license fee of \$100.00 for its principal place of business and \$100.00 for each additional place of business conducted in this State.

(b) Every home repair contractor shall pay to the commissioner at the time of making the application and annually thereafter upon renewal a license fee of \$25.00 for its principal place of business and \$25.00 for each additional place of business conducted in this State.

(c) Every home repair salesman shall pay to the commissioner at the time of making the application and annually thereafter upon renewal a license fee of \$10.00.

3. This act shall take effect immediately.

Approved March 19, 1971.

CHAPTER 58

AN ACT to amend the "Retail Installment Sales Act of 1960," approved June 9, 1960 (P. L. 1960, c. 40).

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

1. Section 7 of the act of which this act is amendatory (C. 17:16C-7) is amended to read as follows:

C. 17:16C-7 Sales finance company; annual license fee.

7. Every sales finance company shall pay to the commissioner at the time of making the application and annually thereafter upon renewal a license fee of \$200.00 for its principal place of business

and \$200.00 for each additional place of business conducted in this State.

2. Section 8 of the act of which this act is amendatory (C. 17:16C-8) is amended to read as follows:

C. 17:16C-8 Motor vehicle installment seller; annual license fee.

8. Every motor vehicle installment seller shall pay to the commissioner at the time of making the application and annually thereafter upon renewal a license fee of \$25.00 for its principal office and \$25.00 for each additional place of business conducted in this State.

3. This act shall take effect immediately.

Approved March 19, 1971.

CHAPTER 59

AN ACT concerning county assistance for the care of crippled children and children afflicted with cerebral palsy and amending R. S. 9:13-7.

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

1. R. S. 9:13-7 is amended to read as follows:

Expenditures for crippled children and children with cerebral palsy.

9:13-7. The board of chosen freeholders of a county which has no county home and hospital for crippled children and children afflicted with cerebral palsy may appropriate not more than \$75,000.00 each year for the necessary expense incident to the diagnosis and treatment of such children resident in the county under the age of 21 years, including the cost of surgical appliances, support and maintenance of such children, investigation of cases, and necessary traveling expenses incidental to the investigation and transportation of patients to a suitable home or hospital within the State supported by public funds or private charity; provided, however, that the board of chosen freeholders in a county of the first class having a population in excess of 800,000 may appropriate not more than \$100,000.00 each year. Within such appropriation such board of chosen freeholders or its appropriate committees, may, in its discretion, pay the whole or any part of the cost of transporting such persons to and from sheltered work rooms.

Before spending money for such purposes the board shall adopt such rules and regulations as it deems desirable concerning the requirements of residence and eligibility for such relief. Disbursements shall be made through officers designated by the board for that purpose on verified bills presented and approved as in the case of other county expenditures.

2. This act shall take effect immediately.

Approved March 24, 1971.

CHAPTER 60

AN ACT pertaining to certain professional boards and commissions and repealing R. S. 45:1-2.

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

C. 45:1-2.1 Applicability of act.

1. The provisions of this act shall apply to the following boards and commissions: The New Jersey State Board of Certified Public Accountants, the New Jersey State Board of Architects, the State Board of Barber Examiners, the Board of Beauty Culture Control, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage Counselor Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the New Jersey Real Estate Commission, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, and the X-ray Technician Board of Examiners.

C. 45:1-2.2 Membership of certain boards and commissions; appointment, removal, quorum.

2. a. All members of the several professional boards and commissions shall be appointed by the Governor in the manner prescribed by law, except in appointing members other than those appointed pursuant to subsection b. or subsection c., the Governor shall give

due consideration to, but shall not be bound by, recommendations submitted by the appropriate professional organizations of this State.

b. In addition to the membership otherwise prescribed by law, the Governor shall appoint in the same manner as presently prescribed by law for the appointment of members one additional member to represent the interests of the public, to be known as a public member, to each of the following boards and commissions: The New Jersey State Board of Certified Public Accountants, the New Jersey State Board of Architects, the State Board of Barber Examiners, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, The State Board of Psychological Examiners, the New Jersey Real Estate Commission, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, and the X-ray Technician Board of Examiners. Each public member shall be appointed for the term prescribed for the other members of the board or commission and until the appointment of his successor. Vacancies shall be filled for the unexpired term only. The Governor may remove any such public member after hearing, for misconduct, incompetency, neglect of duty or for any other sufficient cause.

c. The Governor shall designate a department in the Executive Branch of the State Government which is closely related to the profession or occupation regulated by each of the boards or commissions designated in section 1 and shall appoint the head of such department, or the holder of a designated office or position in such department, to serve without compensation at the pleasure of the Governor as a member of such board or commission.

d. A majority of the voting members of such boards or commissions shall constitute a quorum thereof.

C. 45:1-2.3 Membership qualifications and duties.

3. Such additional members:

a. Need not meet the educational and professional requirements for membership on such boards or commissions as provided in the several statutes establishing such boards and commissions; and

b. Shall be voting members subject to the same rights, obligations and duties as other members of their respective boards or commissions.

C. 45:1-2.4 Continuance of service of incumbents.

4. Nothing in this act shall affect the right of a board or commission member in office on the effective date of this act to continue to serve for the term for which he was appointed.

Repealer.

5. R. S. 45:1-2 is repealed.

6. This act shall take effect immediately.

Approved March 25, 1971.

CHAPTER 61

AN ACT adding an extension of the Route 35 Freeway to the State highway system and designating it as a freeway.

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

State highway route.

1. The Commissioner of Transportation shall as soon as practical and in accordance with the procedure set forth in article 1 of chapter 7 of Title 27 of the Revised Statutes add to the present highway system, as an extension of the Route 35 Freeway established pursuant to P. L. 1958, chapter 103, the following described route:

Beginning at the northerly terminus of the Route 35 Freeway in the vicinity of Eatontown, Monmouth county, and thence in a northwesterly direction to an appropriate connection with the Route 74 Freeway in Madison township, Middlesex county.

Route designation.

2. The aforesaid extension of the Route 35 Freeway is designated a freeway as defined in P. L. 1945, chapter 83 (C. 27:7A-1 et seq.).

3. This act shall take effect immediately.

Approved March 25, 1971.

CHAPTER 62

A SUPPLEMENT to the “Natural Gas Safety Act,” approved May 9, 1952 (P. L. 1952, c. 166).

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

C. 48:10-11 Penalties.

1. Any person who violates any provision of the Natural Gas Safety Act, (P. L. 1952, c. 166, C. 48:10-2 et seq.) as amended and supplemented or any order, rule or regulation issued thereunder, shall be subject to a civil penalty of not more than \$2,500.00 for each violation for each day that the violation persists; however, the maximum civil penalty shall not exceed \$200,000.00 for any related series of violations.

Any civil penalty may be compromised by the Board of Public Utility Commissioners. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance, after notification of a violation, shall be considered. The amount of the penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the State to the person charged or may be recovered in a summary proceeding in accordance with the Penalty Enforcement Law (N. J. S. 2A:58-1 et seq.). The Superior Court, County Court, county district court and the municipal court shall have jurisdiction to enforce the provisions of this act.

2. This act shall take effect immediately.

Approved March 29, 1971.

CHAPTER 63

A SUPPLEMENT to “An act making appropriations for the support of the State Government and for several public purposes for the fiscal year ending June 30, 1971, and regulating the disbursement thereof,” approved June 15, 1970 (P. L. 1970, c. 96).

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

1. The following sums are hereby appropriated out of the General State Fund, for the purposes herein specified:

DEPARTMENT OF THE TREASURY

DIVISION OF PENSIONS

941-100. EMPLOYEE BENEFITS

Extraordinary:

State's share of Social Security taxes \$1,335,000

DEPARTMENT OF THE TREASURY

DIVISION OF PENSIONS

501-150. EMPLOYEE BENEFITS—PUBLIC SCHOOL TEACHERS
AND COLLEGE FACULTIES—STATE AID

Extraordinary:

State's share of Social Security taxes \$2,978,000

2. This act shall take effect immediately.

Approved March 29, 1971.

CHAPTER 64

AN ACT to provide State aid to certain municipalities for the purposes of enabling such municipalities to maintain and upgrade municipal services, and making an appropriation therefor.

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

1. For the purposes of this act, unless the context clearly indicates otherwise:

“Director” means the Director of the Division of Local Finance in the Department of Community Affairs.

“Net valuation taxable” means the total value of property on which the general tax rate is computed as expressed in column 6 of the Table of Aggregates pursuant to R. S. 54:4-52 for the year 1970.

“Equalization ratio” means the ratio of assessed value to true value of real property as published in the Certification of Table of Equalized Valuations by the Director of the Division of Taxation for the year 1970 pursuant to R. S. 54:1-35.1.

“Equalized valuation” means net valuation taxable divided by the equalization ratio.

“Municipal equalized valuation per capita” means a municipality’s equalized valuation divided by the population of the municipality.

“State equalized valuation per capita” means the sum of the equalized valuations of all the municipalities of the state divided by the population of the State.

“General tax rate” means the tax rate for local taxing purposes as defined in N. J. S. 54:4-52 and as expressed in column 7 of the Table of Aggregates for the year 1970.

“Equalized tax rate” means the general tax rate multiplied by the equalization ratio.

“State equalized tax rate” means the sum of the total levies on which the tax rates for all the municipalities of the State are computed divided by the sum of the equalized valuations of all the municipalities of the State for the year 1970.

“Population” means the official population count of the State of New Jersey as reported by the United States Department of Commerce, Bureau of the Census, in bulletin PC (VI)-32 New Jersey.

“Ratio H” means the proportion that residential and apartment assessed valuation bear to the total assessed valuation of the real property of a municipality, as calculated by the Division of Taxation in the Treasury Department.

“Publicly financed housing” means any dwelling unit constructed and operated under any of the following Federal and State housing programs:

(a) Any dwelling unit constructed under grants or mortgage financing of the New Jersey Housing Finance Agency.

(b) Any dwelling unit constructed under the following sections of the National Housing Act (Public Law 73-479) as amended and

supplemented: section 221(d)(3) as added to by the Housing Act of 1961 (P. L. 87-70) and as subsequently amended; section 236 as added to by the Housing and Urban Development Act of 1938 (P. L. 90-448) and as subsequently amended; section 202, Housing Act of 1959 (P. L. 86-372) and as subsequently amended; section 221-H, as added by the Demonstration Cities and Metropolitan Development Act of 1966 (P. L. 89-754) and as subsequently amended.

(c) Any dwelling unit constructed or operated under the United States Housing Act of 1937 (Public Law 75-412) and as subsequently added to and amended.

“ADC children” means the number of children between the ages of 5 and 17 years in the municipality enrolled in the Aid to Dependent Children Program, as made available by the Division of Public Welfare in the Department of Institutions and Agencies for the year 1970 in the publication “State of New Jersey, ADC Data Needed to Implement Public Law 89-10, the Elementary and Secondary Education Act of 1965.”

“Qualifying municipality” means a municipality in which:

Population exceeds 15,000, and

The number of ADC children exceeds 350, and

There exists publicly financed housing, and

The municipality’s equalized tax rate exceeds the State equalized tax rate, and

The municipality’s equalized valuation per capita is less than the State equalized valuation per capita.

“Distribution factor” means for each qualifying municipality the following:

$$DF = 0.6 \left(\frac{W}{\sum W} \right) + 0.4 \left(\frac{T}{\sum T} \right)$$

where, DF equals the Distribution Factor

W equals ADC children in the municipality

T equals $P (V_s - V_m) (R_m - R_s) Z$

P equals Population

V_s equals State Equalized Valuation Per Capita

V_m equals Municipal Equalized Valuation Per Capita

R_m equals Municipal Equalized Tax Rate

R_s equals State Equalized Tax Rate

Z equals Ratio H

2. The sum of \$24,000,000.00 shall be apportioned among the qualifying municipalities for the purposes of enabling such municipalities to maintain and upgrade municipal services by multiplying said amount by the distribution factor for each qualifying municipality; provided that, in addition to any amount so apportioned there shall be added to the amount to be paid and distributed to any qualifying municipality which is entitled to State aid pursuant to chapter 101 of the laws of 1970 such amount as may be necessary so that the amount to which such municipality is entitled to receive pursuant to this act shall not be less than the amount which such municipality is entitled to receive pursuant to said chapter 101 of the laws of 1970.

3. The director shall, forthwith upon the effective date of this act, determine and certify to the State Treasurer and to the chief financial officer of each qualifying municipality the amount of State aid allocable to such municipality pursuant to this act, which aid shall be in addition to all other aid to municipalities. The State Treasurer, upon the certification of the director and upon the warrant of the State Comptroller, shall pay and distribute to each qualifying municipality on October 1, 1971, or as soon thereafter as practicable, the amount determined and certified.

4. Each qualifying municipality shall submit to the director no later than November 15, 1971 a detailed report of the utilization of such aid for the purposes of maintaining and upgrading municipal services. The director shall prepare and submit on or before December 31, 1971 to the Governor a summary report of the utilization of the funds appropriated under this act.

5. Any determination of the director pursuant to this act as to the amounts of State aid allocable to each qualifying municipality shall be final and conclusive, and no appeal shall be taken therefrom or any review thereof, except in the case of an arithmetical or typographical error in the calculation of any distribution of funds.

6. There shall be appropriated for the purposes of this act the sum of \$24,465,859.00 for the fiscal year commencing July 1, 1971.

7. This act shall take effect immediately.

Approved March 29, 1971.

CHAPTER 65

AN ACT authorizing payments to the city of Trenton as State aid for municipal services to be rendered to the State and making appropriation therefor.

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

1. There is hereby appropriated to the Department of Community Affairs the sum of \$500,000.00 to be paid to the city of Trenton during the fiscal year commencing July 1, 1971 as State aid for municipal services to be rendered to the State by the capital city. The amount hereby appropriated shall be paid to the city of Trenton on October 1, 1971 or as soon thereafter as practicable.

2. This act shall take effect immediately.

Approved March 29, 1971.

CHAPTER 66

AN ACT to amend "The Cigarette Tax Act," approved April 29, 1948 (P. L. 1948, c. 65).

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

1. Section 202 of P. L. 1948, c. 65 (C. 54:40A-4) is amended to read as follows:

C. 54:40A-4 Issuance of license; fee.

202. Issuance of license; fee.

All licenses shall be issued by the director, who shall make rules and regulations respecting applications therefor and issuance thereof. The director may refrain from the issuance of any license under this act where he has reasonable cause to believe that the applicant has willfully withheld information requested of him for the purpose of determining the eligibility of the applicant to receive a license, or where he has reasonable cause to believe that information submitted in the application is false and misleading and is not made in good faith. Each such license shall lapse on March 31 of the period for which it is issued, and each such license

shall be continued annually upon the conditions that the licensee shall have paid the required fee and complied with all the provisions of this act and the rules and regulations of the director made pursuant thereto.

For each license issued to a distributor there shall be paid to the director a fee of \$350.00. If a distributor sells or intends to sell cigarettes at two or more places of business, whether established or temporary, a separate license shall be required for each place of business. Each license, or certificate thereof, and such other evidence of license shall be exhibited in the place of business for which it is issued and in such manner as may be prescribed by the director. The director shall require each licensed distributor to file with him a bond in an amount not less than \$1,000.00 to guarantee the proper performance of his duties and the discharge of his liabilities under this act. The bond shall be executed by such licensed distributor as principal, and by a corporation approved by the director and duly authorized to engage in business as a surety company in the State of New Jersey, as surety. The bond shall run concurrently with the distributor's license.

For each license issued to a manufacturer, and for each continuance thereof, there shall be paid to the director a fee of \$10.00.

For each license issued to a manufacturer's representative, and for each continuance thereof, there shall be paid to the director a fee of \$5.00.

For each license issued to a wholesale dealer there shall be paid to the director a fee of \$250.00. If a wholesale dealer sells or intends to sell cigarettes at two or more places of business, whether established or temporary, a separate license shall be required for each place of business. Each license, or certificate thereof, and such other evidence of license shall be exhibited in the place of business for which it is issued and in such manner as may be prescribed by the director.

For each license issued to a retail dealer and for each continuance thereof, excepting a retail dealer operating a cigarette vending machine, there shall be paid to the director a fee of \$5.00. For each license issued to a retail dealer operating a vending machine for the sale of cigarettes and for each continuance thereof, there shall be paid to the director a fee of \$5.00. If a retail dealer sells or intends to sell cigarettes at two or more places of business, whether established or temporary, or whether in the same building or not, a separate license shall be required for each place of business. Each vending machine for the sale of cigarettes shall be

separately licensed and be deemed a separate place of business. Each license, or certificate thereof, and such other evidence of license shall be exhibited in the place of business for which it is issued and in such manner as may be prescribed by the director.

Any person licensed only as a distributor or as a manufacturer or as a manufacturer's representative or as a wholesale dealer or as a retail dealer shall not operate in any other capacity except under that for which he is licensed herein, unless the appropriate license or licenses therefor are first secured.

For each license issued to a consumer and for each continuance thereof there shall be paid to the director a fee of \$1.00. Each license, or certificate thereof, or such other evidence of license as may be prescribed by the director, shall be so kept by the consumer as to be readily available for inspection.

No license shall be issued to any person except upon the payment of the full fee therefor, any statute or exemption to the contrary notwithstanding. No license shall be assignable or transferable, except as hereinafter provided, but in the case of death, bankruptcy, receivership, or incompetency of the licensee, or if for any other reason whatsoever the business of the licensee shall devolve upon another by operation of law, the director may, in his discretion, extend said license for a limited time to the executor, administrator, trustee, receiver, or person upon whom the same has devolved. A purchaser or assignee of a licensed wholesaler or licensed distributor, or any other person upon whom the business of a licensed wholesaler or licensed distributor shall devolve by operation of law, shall upon application to the director, be entitled to an assignment or transfer of the wholesale or distributor license for the balance of the existing license period upon payment of a transfer fee of \$5.00 and subject to his qualification to be a licensed wholesaler or licensed distributor under the provisions of this act. The license issued for each vending machine for the sale of cigarettes may be transferred from machine to machine in the same ownership. No refund of the license fee shall be paid to any person upon the surrender or revocation of any license except a license fee paid or collected in error. But, upon payment of \$1.00 fee, there may be obtained (1) a duplicate license, or certificate thereof, in the event the original is lost, destroyed or defaced, and (2) an amended license, or certificate thereof, upon a change in the location of the place of business of any distributor or dealer.

2. This act shall take effect immediately.

Approved March 29, 1971.

CHAPTER 67

A SUPPLEMENT to "An Act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1971, and regulating the disbursement thereof," approved June 15, 1970 (P. L. 1970, c. 96).

WHEREAS, The Apportionment Commission created pursuant to Section III of Article IV of the Constitution of the State of New Jersey has the constitutional duty to establish and certify Senate and Assembly districts and to allocate the authorized number of Senators and Assemblymen among said districts in accordance with constitutional standards and on the basis of 1970 Federal decennial census populations;

WHEREAS, The New Jersey Supreme Court has affirmed that population equality is one of the most important measures of the legality of Senate and Assembly districts;

WHEREAS, The certification of Senate and Assembly districts complying with the population equality standards and other constitutional requirements can best be effected with the aid of electronic data processing facilities;

WHEREAS, The Apportionment Commission has engaged the services of expert consultants to assist it in its use of electronic data processing facilities, and it shall continue to need the services of consultants, including consultants in the use of electronic data processing facilities, in order that it may make timely certification of Senate and Assembly districts and of the apportionment of Senators and Assemblymen among said districts for use in the 1971 primary and general elections; now, therefore,

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

1. The following sum is hereby appropriated out of the General Treasury for the purpose specified:

012-100. APPORTIONMENT COMMISSION

For the expenses of the Commission \$50,000

2. This act shall take effect immediately.

Approved April 1, 1971.

CHAPTER 68

AN ACT to amend the "Outdoor Advertising Act," approved December 15, 1959 (P. L. 1959, c. 191).

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

1. Section 7 of chapter 191 of the laws of 1959 (C. 54:40-56) is amended to read as follows:

C. 54:40-56 Permits; fees, expiration, renewal.

7. For each permit or conditional permit to be issued, there shall be paid to the director the annual fees established pursuant to this act. The fee shall be based upon the size of the space to be used for outdoor advertising upon any advertising structure or other object and shall be as follows:

Area in Square Feet		Fee
Over	Not more than	
...	50	\$2.00
50	100	4.00
100	150	6.00
150	200	8.00
200	250	10.00
250	300	12.00
300	350	15.00
350	400	20.00
400	450	25.00
450	500	30.00
500	550	35.00
550	600	40.00
600	650	45.00
650	700	50.00
700	750	60.00
750	800	70.00
800	850	80.00
850	900	90.00
900	950	100.00
950	1000	110.00
1000	....	125.00

Where a series of signs, not exceeding six in number, and each not exceeding 5 square feet in area, is placed in a line parallel to the highway, all carrying a single advertising message, part of which is contained on each sign, then in fixing the amount of the permit fee hereunder the entire series shall be considered as one sign, but this provision shall not apply to permits for new series of signs not under permit when this act becomes effective.

All permits and conditional permits shall expire on March 31 following the date of issue, and may be renewed for the ensuing year under the same terms and conditions of the original applications. All applications for renewal of permits or conditional permits shall be in writing on forms prescribed and furnished by the director, which forms shall be filed with the director not later than March 15 preceding their expiration date.

The fees for all permits issued on and after October 1 in any year for such year shall be $\frac{1}{2}$ of the foregoing rates.

2. This act shall take effect immediately.

Approved April 1, 1971.

CHAPTER 69

AN ACT concerning the tax upon motor fuels and amending sections 54:39-30, 54:39-31 and 54:39-41 of the Revised Statutes.

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

1. Section 54:39-30 of the Revised Statutes is revised to read as follows:

Retail dealer; license, fee, display of license, disposition of license fees.

54:39-30. Every person engaged in the retail sale of fuels, as herein defined, shall be known as a retail dealer, and shall, before engaging in said business, apply to the director for a license for each establishment operated by such person. A license fee of \$10.00 shall be paid for the issuing of such license and the director shall supply a license plate or suitable substitute containing the number assigned to the licensee, and words denoting the type of

license, which the licensee shall publicly display at each establishment in a manner to be regulated by the director. No applicant shall continue in business after the end of the fourteenth day following the date of application unless the license applied for has been procured and is publicly displayed at the establishment being operated. All moneys received by the director for such license fees shall be accounted for and forwarded by him to the State Treasurer.

2. Section 54:39-31 of the Revised Statutes is revised to read as follows:

Wholesale license; fee.

54:39-31. Every wholesale dealer shall, before engaging in said business, procure from the commissioner a license for each establishment, wherever located, operated by such person out of which wholesale sales in New Jersey are made. If such sales are made by a person not having any such establishment, the license shall be secured for the location at which the records of such business are kept. Applicants with out-of-State establishments or locations shall furnish the commissioner with the name and address of their New Jersey registered agent. A license fee of \$5.00 shall be paid for the issuance of each license.

3. Section 54:39-41 of the Revised Statutes is revised to read as follows:

Registration of conveyances; license certificates and plates; fees.

54:39-41. Every person engaged in the business of hauling, transporting or delivering fuel, shall, before entering upon the highways or waterways of this State with any conveyance used therein, apply for the registration thereof to the commissioner on forms prescribed by the commissioner. Upon receipt of any application, the commissioner shall issue a license certificate and license plate for each conveyance which shall show the license number assigned and which shall be displayed on the conveyance at all times in such a manner as the commissioner may regulate. An annual license fee of \$5.00 shall be paid for the licensing of each such conveyance. Nothing contained in this section shall in any manner relieve or discharge persons obtaining licenses thereunder from complying with any or all provisions of other laws.

4. This act shall take effect immediately.

Approved April 1, 1971.

CHAPTER 70

AN ACT to amend "An act concerning issuance by insurance companies of contracts on a variable basis and the regulation thereof, and amending section 17:34-19 of the Revised Statutes," approved June 18, 1959 (P. L. 1959, c. 122).

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

1. Section 5 of P. L. 1959, chapter 122 (C. 17:35A-5) is amended to read as follows:

C. 17:35A-5 Form of contract or group certificate and application; filing; acknowledgment by commissioner; grounds for disapproval; required provisions; regulations.

5. (a) No contract on a variable basis shall be delivered or issued for delivery in this State by any insurance company until a copy of the form thereof (and, in the case of a contract on a group basis, the form of any certificate evidencing variable benefits issued pursuant thereto) and any form of application for such contract shall have been filed with the Commissioner of Insurance. No such form shall be issued or used until the commissioner shall give his prior written acknowledgment of the filing of such form. The commissioner shall disapprove or withdraw approval of any such contract form, application or certificate if:

(i) Such contract or application or certificate contains provisions which are unjust, unfair, inequitable, ambiguous, misleading, likely to result in misrepresentation, or contrary to law, or

(ii) Sales of such contracts are being solicited by any means of advertising, communication or dissemination of information which involves misleading or inadequate description of the provisions of the contract, or

(iii) Such contracts are being issued in disregard of reasonable regulations which shall be promulgated by the Commissioner of Insurance relating to the conditions which must be met at time of issue of an individual contract on a variable basis for balance whereby (A) provision made for income from contracts on a variable basis shall not exceed (B) provision made for income payable in predetermined dollar amount (in whatever form such provision is made, including, but without lim-

itation to, annuities, pensions, social security or other contracts or plans providing for the payment of income over a period of time).

He shall notify the company, specifying particulars, of his disapproval. It shall be unlawful for such company thereafter to issue any contract or certificate thereunder or use any application in the form so disapproved. Such disapproval of the commissioner shall be subject to review by the Superior Court in a proceeding in lieu of prerogative writ.

(b) Illustrations of benefits payable under any contract on a variable basis shall not involve projections of past investment experience into the future and shall conform with reasonable regulations promulgated by the Commissioner of Insurance.

(c) No individual annuity contract on a variable basis shall be delivered or issued for delivery in this State unless it contains in substance the following provisions:

(i) That, in the event of default in the payment of any consideration beyond the period of grace allowed by the contract for the payment thereof, the insurance company will make payment of the value of the contract, in accordance with a plan provided by the contract, commencing not later than the date contractual payments by the company were otherwise to have commenced in accordance with the contract;

(ii) That, upon request of the contract holder received by the insurance company at least 4 months prior to the date contractual payments by the company were otherwise to have commenced, the company will make payment of the value of the contract, in accordance with a plan provided by the contract and selected by the contract holder, commencing as of the first day of the first month which is at least 4 months after the date of receipt of such request, unless another date of commencement is requested by the contract holder and agreed to by the company;

(iii) That the insurance company will mail to the holder of the contract at least once in each contract year after the first, at his last address known to the company, a report in a form approved by the Commissioner of Insurance, which shall include a statement of the number of units credited to such contract and the dollar value of a unit as of a date not more than 2 months previous to the date of mailing and a statement

in a form and of a date approved by the commissioner of the investments held in the variable contract account designated in such contract.

(d) Any individual contract on a variable basis delivered or issued for delivery in this State shall stipulate the expense, mortality, and investment increment factors to be used in computing the dollar amount of variable benefits or other contractual payments or values thereunder, and shall guarantee that expense and mortality results shall not adversely affect such dollar amounts, except that such guarantee need not apply to any investment management fee which is subject to change with the approval by vote of the persons having beneficial interests in the variable contract account in which such contract participates. The mortality and investment increment factors used in computing the dollar amount of variable benefits or other contractual payments or values under an individual contract on a variable basis shall not produce a larger initial payment than would be produced by the use of the mortality table or tables specified in section 2 of chapter 148 of the laws of 1943 (C. 17:34-25.2) (the Standard Valuation Law) as amended and as such provision may be amended from time to time, as acceptable minimum mortality standards for the valuation of the reserve liabilities of individual annuity and pure endowment contracts, and an annual investment increment assumption of 5%.

Any group contract on a variable basis delivered or issued for delivery in this State shall stipulate the expense, mortality and investment increment factors to be used in computing the dollar amount payable with respect to a unit of variable benefits purchased thereunder and shall guarantee that expense and mortality results shall not adversely affect such dollar amounts, except that such guarantee need not apply to any investment management fee which is subject to change with the approval by vote of the persons having beneficial interest in the variable contracts account in which such contract participates.

“Expense” as used in this subsection (d), may exclude some or all taxes, as stipulated in the contract. Any company issuing a contract on a variable basis shall submit annually to the Commissioner of Insurance a separate annual statement for the business of its variable contract accounts. This statement shall be on the same form as that prescribed by the commissioner for insurance companies doing business in New Jersey which do not operate variable contract accounts, and shall include details as to all of the

income, disbursements, assets and liability items associated with the variable contract accounts.

The commissioner shall make a separate valuation of the assets of the variable contract accounts and a copy of such valuation shall be filed in the commissioner's office as a public document.

Such valuation shall be on the same basis required of a life insurance company doing business in New Jersey but which has not established a variable contract account.

The commissioner shall further prescribe by regulation the steps to be taken by the company in disposing of those holdings which at any time subsequent to purchase fail to meet the standards and regulations for new investments.

2. This act shall take effect immediately.

Approved April 5, 1971.

CHAPTER 71

A SUPPLEMENT to "An act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1971, and regulating the disbursement thereof," approved June 15, 1970 (P. L. 1970, c. 96).

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

1. The following sum is appropriated out of the General Treasury for the purpose specified:

DEPARTMENT OF HEALTH

360-100. GENERAL

Administration of Renal Diseases Program—P. L.
1969, c. 79 (C. 26:2-87 et seq.) \$100,000 00

2. This act shall take effect immediately.

Approved April 5, 1971.

CHAPTER 72

A SUPPLEMENT to “An act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1971, and regulating the disbursement thereof,” approved June 15, 1970 (P. L. 1970, c. 96).

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

1. The following sum is hereby appropriated out of the General Treasury, for the purpose specified:

DEPARTMENT OF HIGHER EDUCATION

573-100. New Jersey College of Medicine and Dentistry

Extraordinary:

Supplemental requirement of Martland Hospital for the fiscal year ended June 30, 1970	\$1,629,871.00

2. This act shall take effect immediately.

Approved April 5, 1971.

CHAPTER 73

AN ACT to amend the “Sewerage Authorities Law,” approved April 23, 1946 (P. L. 1946, c. 138).

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

1. Section 4 of P. L. 1946, c. 138 (C. 40:14A-4) is amended to read as follows:

C. 40:14A-4 Sewerage authorities in counties and municipalities.

4. (a) The governing body of any county may, by resolution duly adopted, create a public body corporate and politic under the name and style of “the sewerage authority,” with all or any significant part of the name of such

county inserted. Said body shall consist of the five members thereof, who shall be appointed by resolution of the governing body as hereinafter in this section provided, together with the additional members thereof, if any, appointed as hereinafter in subsection (i) of this section provided, and it shall constitute the sewerage authority contemplated and provided for in this act and an agency and instrumentality of said county. After the taking effect of the resolution for the creation of said body and the filing of a certified copy thereof as in subsection (d) of this section provided, five persons shall be appointed as the members of the sewerage authority. The members first appointed shall, by the resolution of appointment, be designated to serve for terms respectively expiring on the first days of the first, second, third, fourth and fifth Februarys next ensuing after the date of their appointment. On or after January 1 in each year after such first appointments, one person shall be appointed as a member of the sewerage authority to serve for a term commencing on February 1 in such year and expiring on February 1 in the fifth year after such year. In the event of a vacancy in the membership of the sewerage authority occurring during an unexpired term of office, a person shall be appointed as a member of the sewerage authority to serve for such unexpired term.

(b) The governing body of any municipality may, by ordinance duly adopted, create a public body corporate and politic under the name and style of "the sewerage authority," with all or any significant part of the name of such municipality inserted. Said body shall consist of five members thereof, who shall be appointed by resolution of the governing body as hereinafter in this section provided, and it shall constitute the sewerage authority contemplated and provided for in this act and an agency and instrumentality of said municipality. After the taking effect of such ordinance and the filing of a certified copy thereof as in subsection (d) of this section provided, five persons shall be appointed as the members of the sewerage authority. The members first appointed shall, by the resolution of appointment, be designated to serve for terms respectively expiring on the first days of the first, second, third, fourth and fifth Februarys next ensuing after the date of their appointment. On or after January 1 in each year after such first appointments, one person shall be appointed as a member of the sewerage authority to serve for a term commencing on February 1 in such year and expiring on February 1 in the fifth year after such year. In the event of

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

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

mening February 1 in such year and expiring on the first day of the fifth February next ensuing.

Upon the expiration of the terms of office of members, in office on July 1, 1970, of sewerage authorities created by two or more municipalities or counties where only one member is appointed by any participating municipality or county, their immediate successors, except for appointments to fill vacancies, shall be appointed for designated terms of 1, 2, 3, 4 or 5 years in the same manner as in this subsection (c) provided as to initial appointees.

In municipalities or counties entitled to appoint three members, the appointing authority shall designate one of the initial appointees to serve for a term of 3 years, one for 4 years and one for 5 years. In municipalities or counties entitled to appoint two members, the appointing authority shall designate one of the initial appointees to serve for a term of 5 years and one for 4 years. On or after January 1 in the year in which expire the terms of the said members first appointed and in every fifth year thereafter, the appropriate number of persons shall be appointed as members of the sewerage authority by the governing body of each municipality or county, to serve for terms commencing on February 1 in such year and expiring on February 1 in the fifth year after such year. In the event of a vacancy in the membership of the sewerage authority occurring during the unexpired term of office, a person shall be appointed as a member of the sewerage authority to serve for such unexpired term by the governing body which made the original appointment for such unexpired term.

Upon the expiration of the terms of office of members, in office on July 1, 1967, of sewerage authorities created by two or more municipalities or counties where more than one member is appointed by any participating municipality or county, their immediate successors, except for appointments to fill vacancies, shall be appointed for designated terms of 3, 4 or 5 years in the same manner as in this subsection (c) provided as to initial appointees.

(d) A copy of each resolution or ordinance for the creation of a sewerage authority adopted pursuant to this section, duly certified by the appropriate officer of the local unit, shall be filed in the office of the Secretary of State. Upon proof of such filing of a certified copy of the resolution or ordinance or of certified copies of the parallel ordinances for the creation of a sewerage authority as aforesaid, the sewerage authority therein referred to shall, in any suit, action or proceeding involving the validity or enforce-

ment of, or relating to, any contract or obligation or act of the sewerage authority, be conclusively deemed to have been lawfully and properly created and established and authorized to transact business and exercise its powers under this act. A copy of any such certified resolution or ordinance, duly certified by or on behalf of the Secretary of State, shall be admissible in evidence in any suit, action or proceeding.

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

(f) The governing body of a county which may create or join in the creation of any sewerage authority pursuant to this section shall not thereafter create or join in the creation of any other sewerage authority. No governing body of any municipality constituting the whole or any part of a district shall create or join in the creation of any sewerage authority except upon the written consent of the sewerage authority and in accordance with the terms and conditions of such consent, and in the event such consent be given and a sewerage authority be created pursuant thereto, the terms and conditions of such consent shall thereafter be in all respects binding upon such municipality and the sewerage authority so created and any system of sewers or sewage disposal plants constructed or maintained in conformity with the terms and conditions of such consent by the sewerage authority so created shall be deemed not to be competitive with the sewerage systems of the sewerage authority giving such consent. In the event that prior to the creation of a sewerage authority of a county the governing body of any municipality located in said county shall have created or joined in the creation of a sewerage authority, the area within the territorial limits of such municipality shall not be part of the district of the sewerage authority of said county.

(g) Within 10 days after the filing in the office of the Secretary of State of a certified copy of a resolution for the creation of a sewerage authority adopted by the governing body of any county pursuant to this section, a copy of such resolution, duly certified by the appropriate officer of the county, shall be filed in the office

of the clerk of each municipality within the county. In the event that the governing body of any such municipality shall, within 60 days after such filing in the office of the Secretary of State, adopt a resolution determining that such municipality shall not be a part of the district of such sewerage authority and file a copy thereof duly certified by its clerk, in the office of the Secretary of State, the area within the territorial limits of such municipality shall not thereafter be part of such district, but at any time after the adoption of such resolution, the governing body of such municipality may, by ordinance duly adopted, determine that such area shall again be a part of such district and if thereafter a copy of such ordinance duly certified by the appropriate officer of such municipality, together with a certified copy of a resolution of such sewerage authority approving such ordinance, shall be filed in the office of the Secretary of State, then from and after such filing the area within the territorial limits of such municipality shall forever be part of such district.

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

that such sewerage authority had no debts or obligations outstanding at the time of the adoption of such resolution, ordinance or ordinances, the sewerage authority therein referred to shall be conclusively deemed to have been lawfully and properly dissolved and the property of the sewerage authority shall be vested in the local unit or units. A copy of any such certified resolution or ordinance, duly certified by or on behalf of the Secretary of State, shall be admissible in evidence in any suit, action or proceeding.

(i) Whenever the sewerage authority of any county shall certify to the governing body of any county that it has entered into a contract pursuant to section 23 of this act with one or more municipalities situate within any other county, one additional member of the sewerage authority for each such other county shall be appointed by resolution of the governing body of such other county as in this section provided. The additional member so appointed for any such other county, and his successors shall be a resident of one of said municipalities situate within such other county. The additional member first appointed or to be first appointed for any such other county shall serve for a term expiring on the first day of the fifth February next ensuing after the date of such appointment, and on or after January 1 in the year in which expires the term of the said additional member first appointed and in every fifth year thereafter, one person shall be appointed by said governing body as a member of the sewerage authority as successor to said additional member, to serve for a term commencing on February 1 in such year and expiring on February 1 in the fifth year after such year. If after such appointment of an additional member for any such other county the sewerage authority shall certify to said governing body of such other county that it is no longer a party to a contract entered into pursuant to section 23 of this act with any municipality situate within such other county, the term of office of such additional member shall thereupon cease and expire and no additional member for such other county shall thereafter be appointed.

(j) If a municipality, the governing body of which has created a sewerage authority pursuant to subsection (b) of this section, has been or shall be consolidated with another municipality, the governing body of the new consolidated municipality may, by ordinance duly adopted, provide that the members of the sewerage authority shall thereafter be appointed by the governing body of such new consolidated municipality, which shall make appointment of members of the sewerage authority by resolution as hereinafter

in this subsection provided. On or after the taking effect of such ordinance, one person shall be appointed as a member of the sewerage authority for a term commencing on February 1 in each year, if any, after the date of consolidation, in which has or shall have expired the term of a member of the sewerage authority theretofore appointed by the governing body of the municipality which has been or shall be so consolidated, and expiring on February 1 in the fifth year after such year. Thereafter, on or after January 1 in each year, one person shall be appointed as a member of the sewerage authority to serve for a term commencing on February 1 in such year and expiring February 1 in the fifth year after such year. In the event of a vacancy in the membership of the sewerage authority occurring during an unexpired term of office, a person shall be appointed as a member of the sewerage authority to serve for such unexpired term. Each member of the sewerage authority appointed by the governing body of a municipality which has been or shall be so consolidated shall continue in office until his successor has been appointed as in this subsection provided and has qualified.

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

(l) Whenever, with the approval of any sewerage authority created by the governing bodies of two or more municipalities, any other municipality not constituting part of the district shall convey to the sewerage authority all or any part of a system of main, lateral or other sewers or other sewerage facilities located within the district and theretofore owned and operated by such other municipality, then, if so provided in the instruments of such conveyance, one additional member of the sewerage authority for such other

municipality shall be appointed by resolution of its governing body as in this section provided. The additional member so appointed for such municipality, and his successors, shall be residents of such municipality. The additional member first appointed or to be first appointed for such municipality shall serve for a term expiring on the first day of the fifth February next ensuing after the date of such appointment, and on or after January 1 in the year in which expires the term of the said additional member first appointed and in every fifth year thereafter, one person shall be appointed by said governing body as a member of the sewerage authority as successor to said additional member, to serve for a term commencing on February 1 in such year and expiring on February 1 in the fifth year after such year. If at any time after such conveyance of sewers or sewerage facilities by a municipality its governing body shall adopt a resolution determining not thereafter to be represented in the membership of the sewerage authority and shall file a copy thereof duly certified by its clerk in the office of the sewerage authority, the term of office of any such additional member theretofore appointed for such municipality shall thereupon cease and expire and no additional member for such municipality shall thereafter be appointed.

(m) The governing body of any municipality which is not part of any district but is contiguous to the district of a sewerage authority created by the governing bodies of two or more other municipalities may at any time, by ordinance duly adopted, propose that the area within the territorial limits of such municipality shall be a part of said contiguous district. Such ordinance shall (1) state the number of members of the sewerage authority, not less than one nor more than three, thereafter to be appointed for full terms of office by the governing body of such municipality, and (2) determine that, after the filing of a certified copy thereof and of a resolution of the sewerage authority in accordance with this subsection, such area shall be a part of said contiguous district. If thereafter a copy of such ordinance duly certified by the appropriate officer of such municipality, together with a certified copy of a resolution of said sewerage authority approving such ordinance, shall be filed in the office of the Secretary of State, then from and after such filing the area within the territorial limits of such municipality shall forever be part of said contiguous district and said sewerage authority shall consist of the members thereof acting or appointed as in this section provided and constitute an agency and instrumentality of such municipality as well as such other municipalities. The governing body of the said municipality so becoming part of said contiguous

district shall thereupon appoint members of the sewerage authority in the number stated in such ordinance, for periods and in the manner provided for the first appointment of members of a sewerage authority under subsection (c) of this section.

2. This act shall take effect immediately.

Approved April 5, 1971.

CHAPTER 74

AN ACT concerning the Educational Facilities Authority and amending section 18A:72A-27.1 of the New Jersey Statutes.

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

1. Section 18A:72A-27.1 of the New Jersey Statutes is amended to read as follows:

Powers and duties, revenue producing facilities.

18A:72A-27.1. In addition to the powers and duties with respect to dormitories given under sections 18A:72A-26 and 18A:72A-27 the Board of Higher Education, the board of governors of the university, the board of trustees of the Newark College of Engineering, the board of trustees of a State college and the board of trustees of the New Jersey College of Medicine and Dentistry shall also have the same powers and be subject to the same duties in relation to any conveyance, lease or sublease made under subsections a., b., or c. of section 18A:72A-26, with respect to revenue producing facilities; that is to say, structures or facilities which produce revenues sufficient to pay the rentals due and to become due under any lease or sublease made under subsection c. of section 18A:72A-26 including, without limitation, student unions and parking facilities.

2. This act shall take effect immediately.

Approved April 5, 1971.

CHAPTER 75

AN ACT concerning licensed game preserves and amending R. S. 23:3-29 and R. S. 23:3-32.

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

1. R. S. 23:3-29 is amended to read as follows:

License.

23:3-29. A person desiring to engage in the business of raising and selling game birds or game animals, or both, in a wholly inclosed preserve of which he is the owner or lessee, or to have in captivity game birds or game animals, shall immediately apply in writing to the division for a license to do so. The license fee shall be \$5.00 per annum for each of the above purposes. A person desiring to propagate pheasants, partridge, wild turkey or quail, or any of them, in a semiwild state on lands of which he is the owner or lessee, shall apply in writing to the division for a license to do so. The license fee shall be \$25.00 per annum.

The division, when it appears that the application is made in good faith, shall, upon the payment of the fee for each license, issue to the applicant such of the following license or licenses as may be applied for:

a. Propagating license permitting the licensee to propagate game birds or game animals, or both, in the wholly inclosed preserve the location of which is stated in the license and the application therefor, and to sell such propagated game birds or game animals, or both, and ship them from the State alive at any time and to kill the same and sell the carcasses for food subject to the conditions prescribed by sections 23:3-28 to 23:3-39 of this Title;

b. License to propagate pheasants, partridge, wild turkey or quail, or any of them, in a semiwild state on lands of which the applicant is the owner or lessee, when the applicant shall have released on the land described in the application, in the year in which the license is issued, and in the presence of the conservation officer, of the species for which the applicant desires to be licensed:

(1) Prior to May 1, at least 10 female and two male pheasants, or at least six female and six male quail, or at least six female and six male partridge, for the first 100 acres of land or portion thereof,

and a proportionate number of birds for any acreage in excess of the first 100 acres, or,

(2) During the month of October, at least one bird for each 5 acres of land;

c. License to keep game birds and animals in captivity; or

d. A person desiring to operate a "commercial pheasant, wild turkey, quail and partridge-shooting preserve" on lands of which he is the owner or bona fide lessee shall apply in writing to the division for a license so to do. The license fee shall be \$100.00 per annum and the form of the application and license shall be determined by the division.

The division may, upon payment of the fee, issue to the applicant such a license when it appears that:

(1) The operation of such shooting preserve shall not conflict with a prior reasonable public interest; and

(2) The applicant shall produce evidence satisfactory to the division that he has released on lands described in the application and license, of the species for which he desires to be licensed, a total of at least 10 female and two male pheasants or six female and six male quail or partridge for the first 100 acres of land or portion thereof, or a proportionate number of birds for any acreage in excess of the first 100 acres, prior to May 1 in the year for which the license is to be issued; and

(3) The applicant shall have produced evidence satisfactory to the division that he will raise or purchase for liberation and liberate on the shooting preserve a total of at least 500 pheasants, quail and partridge or combination thereof between September 1 of the year for which the license was issued and the following March 15.

2. R. S. 23:3-32 is amended to read as follows:

Pheasants, wild turkeys, partridge and quail; killing and shipping; tags; commercial preserves.

23:3-32. No pheasants, wild turkeys, partridge or quail propagated in a semiwild state shall be sold. No such pheasants, wild turkeys, partridge or quail shall be taken, possessed or transported unless each bird shall have been tagged with the special tag prescribed by sections 23:3-28 to 23:3-39 of this Title. Except as to the additional tags hereinafter provided for, no licensee raising pheasants, partridge or quail in a semiwild state shall procure from the division during any year of operation more tags to be affixed to the dead bodies of pheasants, partridge or quail propagated in a

semiwild state than: four times the number of female birds released prior to May 1 or, the number equal to $\frac{4}{5}$ of the number of pheasants, partridge or quail released during the month of October in each year. Additional tags may be provided to any licensee in number equal to $\frac{4}{5}$ of the birds released subsequent to May 1 or October, as the case may be, in the license year. The tags shall be of a special kind provided for the purpose. The number of birds taken in any year, either alive or dead, on lands on which pheasants, wild turkeys, partridge or quail are propagated in a semiwild state shall not exceed the number of tags obtained from the division. Pheasants, wild turkeys, and partridge propagated in a semiwild state may be taken by shooting only from 9:00 a.m. on November 10 or such opening date as may otherwise be prescribed by the State Fish and Game Code to January 20, except where the licensee shall have produced evidence satisfactory to the division that he has liberated on the land during the year covered by his license, or that he has in his possession on the land or in some other designated place or places and will liberate on the land prior to February 28 a total of at least 100 pheasants and partridge or combination thereof for any acreage up to 100 acres and at least one pheasant or partridge for each additional acre, in addition to those birds released prior to May 1 or during the month of October, as the case may be, in which case the licensee or any person or persons authorized by him so to do may take pheasants, wild turkeys and partridge by shooting from 9:00 a.m. on November 10 or such opening date as may otherwise be prescribed by the State Fish and Game Code to the next following February 28, both inclusive, and during any further period, not exceeding 31 days, which the Commissioner of Environmental Protection may, from time to time, designate for that purpose upon the recommendation of the Director of the Division of Fish, Game and Shell Fisheries of the Department of Environmental Protection on the land described in his license. The number of pheasants, wild turkeys, quail, and partridge so taken by shooting shall not exceed $\frac{4}{5}$ of the total number of pheasants, wild turkeys, quail and partridge liberated on said land during the year covered by such license. Section 23:4-24 of this Title relating to hunting on Sunday shall not apply to any person authorized to shoot pheasants, wild turkeys, quail, and partridge under sections 23:3-28 to 23:3-39 of this Title. Quail propagated in a semiwild state may be taken by shooting only from 9:00 a.m. on November 10 or such opening date as may otherwise be prescribed by the State Fish and Game Code to the next following February 28, both days

inclusive, and during any further period, not exceeding 31 days, which the commissioner may, from time to time, designate for that purpose upon the recommendation of the Director of the Division of Fish, Game and Shell Fisheries. No pheasants, wild turkeys, partridge or quail propagated in a semiwild state shall be trapped without the written permission of the division.

Under a "commercial pheasant, wild turkey, quail and partridge-shooting preserve" license, pheasants, wild turkeys, quail and partridge may be taken by shooting only on lands described in the application and license, without regard to sex and daily bag limit, by fully licensed hunters authorized by the licensee to shoot on said land between September 1 and the following March 15, both dates inclusive and during any further period, not exceeding 31 days, which the commissioner may, from time to time, designate for that purpose upon the recommendation of the Director of the Division of Fish, Game and Shell Fisheries.

No pheasants, wild turkeys, quail or partridge shall be taken, possessed or transported, unless each bird shall have been tagged with a suitable tag or seal supplied by the division, and no licensee shall receive from the division, during any year of operation, more tags to be affixed to the bodies of pheasants, quail and partridge than four times the number of female pheasants, quail and partridge released prior to May 1 in each year, in addition to one tag for each pheasant, wild turkey, quail and partridge liberated during the shooting period hereinbefore specified.

3. This act shall take effect immediately.

Approved April 5, 1971.

CHAPTER 76

AN ACT concerning the sale of motor vehicles in certain cases and supplementing Title 39 of the Revised Statutes.

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

C. 39:10-26 Standards for retail sale of used passenger vehicles.

1. Unless otherwise provided in this act, no motor vehicle dealer shall sell at retail any used passenger motor vehicle to be registered

in this State, unless such vehicle, meets the standards for the issuance of a certificate of approval as provided in chapter 8 of Title 39 of the Revised Statutes.

C. 39:10-27 Responsibility for correction of defects.

2. In the event that any such used passenger motor vehicle is sold at retail and has any defect, which results in its rejection for failure to meet the standards for issuance of such a certificate of approval, in the absence of a waiver as provided in this act, the seller shall make, or cause to be made, all the necessary repairs, without charge, or return the full purchase price to the purchaser; provided that such defect or defects are not the result of the purchaser's own act.

C. 39:10-28 Action by dealer prior to sale.

3. Prior to entering into any agreement for the retail sale of a used passenger motor vehicle, the dealer shall inquire as to whether the vehicle to be purchased is intended for registration in this State in the condition sold and, if so, such fact shall be specified in the written agreement between the dealer and the purchaser, and the dealer, prior to execution of the agreement of sale, shall inform the purchaser of the dealer's responsibilities under this act.

C. 39:10-29 Purchaser's waiver of dealer's obligation.

4. Any agreement of retail sale may contain a provision whereby the purchaser waives the dealer's obligation under section 2 of this act; provided, however, any such waiver must be separately stated in the agreement of retail sale and separately signed by the purchaser.

The signing of such a waiver by the purchaser shall also serve to eliminate any criminal responsibility placed upon any motor vehicle dealer by this act.

C. 39:10-30 Penalty.

5. Any dealer who fails to comply with the provisions of this act is a disorderly person.

6. This act shall take effect 30 days after enactment.

Approved April 5, 1971.

CHAPTER 77

AN ACT concerning the “New Jersey educational facilities authority law,” and amending N. J. S. 18A:72A-26, 18A:72A-27, 18A:72A-27.1 and 18A:72A-28.

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

1. N. J. S. 18A:72A-26 is amended to read as follows:

Powers and duties of board of higher education; institutions under State jurisdiction.

18A:72A-26. In order to provide new dormitories and to enable the construction and financing thereof, to refinance indebtedness hereafter created by the authority for the purpose of providing a dormitory or dormitories or additions or improvements thereto, or for any one or more of said purposes, but for no other purpose unless authorized by law, each of the following bodies shall have the powers hereafter enumerated to be exercised upon such terms and conditions, including the fixing of any consideration or rental to be paid or received, as it shall determine by resolution as to such property and each shall be subject to the performance of the duties hereafter enumerated, that is to say, the board of higher education as to such as are located on land owned by, or owned by the State and held for, the Department of Higher Education or on lands of the institutions under the jurisdiction of the Department of Higher Education or by the authority, the board of governors of the university, the board of trustees of the Newark College of Engineering or the New Jersey College of Medicine and Dentistry, the board of trustees of a State college or the board of trustees of a county college as to such as are located on land owned by the university or by the particular college respectively, namely:

- a. The power to sell and to convey to the authority title in fee simple in any such land and any existing dormitories thereon owned by the Department of Higher Education or owned by the State and held for such department or of any of the institutions under the jurisdiction of the Department of Higher Education or owned by the board of trustees of a county college or the power to sell and to convey to the authority such title as the university or the college respectively may have in any such land and any existing dormitories thereon.

b. The power to lease to the authority any land and any existing dormitories thereon so owned for a term or terms not exceeding 50 years each.

c. The power to lease or sublease from the authority, and to make available, any such land and existing dormitories conveyed or leased to the authority under subsections a. and b. of this section, and any new dormitories erected upon such land or upon any other land owned by the authority, any rentals to be payable, as to the university or as to any such college from available funds other than moneys appropriated to it by the State.

d. The power and duty, upon receipt of notice of any assignment by the authority of any lease or sublease made under subsection c. of this section, or of any of its rights under any such lease or sublease, to recognize and give effect to such assignment, and to pay to the assignee thereof rentals or other payments then due or which may become due under any such lease or sublease which has been so assigned by the authority.

2. N. J. S. 18A:72A-27 is amended to read as follows:

Additional powers and duties as to lands and dormitories.

18A:72A-27. In addition thereto the board of governors of the university and the board of trustees of each of said colleges including county colleges shall have the following powers and shall be subject to the following duties as to its lands and dormitories:

a. The power to pledge and assign all or any part of the revenues derived from the operation of such new dormitories as security for the payment of rentals due and to become due under any lease or sublease of such new dormitories under subsection c. of the preceding section.

b. The power to covenant and agree in any lease or sublease of such new dormitories made under subsection c. of the preceding section to impose fees, rentals or other charges for the use and occupancy or other operation of such new dormitories in an amount calculated to produce net revenues sufficient to pay the rentals due and to become due under such lease or sublease.

c. The power to apply all or any part of the revenues derived from the operation of any dormitories to the payment of rentals due and to become due under any lease or sublease made under subsection c. of the preceding section.

d. The power to pledge and assign all or any part of the revenues derived from the operation of any dormitories to the payment of

rentals due and to become due under any lease or sublease made under subsection c. of the preceding section.

e. The power to covenant and agree in any lease or sublease made under subsection c. of the preceding section to impose fees, rentals or other charges for the use and occupancy or other operation of any dormitories in an amount calculated to produce net revenues sufficient to pay the rentals due and to become due under such lease or sublease.

3. N. J. S. 18A:72A-27.1 is amended to read as follows:

Powers and duties, revenue producing facilities.

18A:72A-27.1. In addition to the powers and duties with respect to dormitories given under sections 18A:72A-26 and 18A:72A-27 the Board of Higher Education, the board of governors of the university, the board of trustees of the Newark College of Engineering, the board of trustees of a State college, the board of trustees of a county college and the board of trustees of the New Jersey College of Medicine and Dentistry shall also have the same power and be subject to the same duties in relation to any conveyance, lease or sublease made under subsections a., b., or c. of section 18A:72A-26, with respect to revenue producing facilities; that is to say, structures or facilities which produce revenues sufficient to pay the rentals due and to become due under any lease or sublease made under subsection c. of section 18A:72A-26 including, without limitation, student unions and parking facilities.

4. N. J. S. 18A:72A-28 is amended to read as follows:

Approval of plans, specifications and locations.

18A:72A-28. The board of governors of the university or the board of trustees of the Newark College of Engineering or the board of trustees of a State college or the board of trustees of a county college shall approve the plans and specifications and location of each dormitory undertaken for it or under its control, prior to the undertaking thereof by the authority.

5. This act shall take effect immediately.

Approved April 5, 1971.

CHAPTER 78

A SUPPLEMENT to "An act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1971, and regulating the disbursement thereof," approved June 15, 1970 (P. L. 1970, c. 96).

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

1. The following sum is hereby appropriated out of the General Treasury for the purpose specified:

DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF PARKS, FORESTRY AND RECREATION
490-103. BUREAU OF FORESTRY

Extraordinary:

Gypsy moth control on State owned lands (not to be used for the purchase and use of any long-lasting (persistent) pesticides like DDT).	\$75,000
---	----------

2. This act shall take effect immediately.

Approved April 5, 1971.

CHAPTER 79

AN ACT concerning deferred payments to contractors for materials supplied and work performed in the construction of State highways and related projects and amending R. S. 27:7-34.

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

1. R. S. 27:7-34 is amended to read as follows:

Partial or deferred payments for highway work; amount; payment on deposit of bonds.

27:7-34. Contracts may provide for partial payments at least once each month or from time to time as the work progresses on work of construction or maintenance. Ten per centum of the

amount due on partial payments on the first 50% of the total contract price shall be withheld from the contractor pending completion of the contract. Thereafter, on the remaining 50% of the total contract price, no per centum of the partial payments shall be withheld from the contractor pending such completion.

Contracts may also provide for partial payments at least once in each month or from time to time as the work progresses on all materials placed along or upon the site which are suitable for the use and execution of the contract, provided the contractor furnishes releases of liens for all materials furnished at the time each estimate of work is submitted for payment, but such partial payments shall be 80% of the value of the material.

When the contract provides that a portion of the work may be deferred with the approval of the commissioner, the sum withheld from the contractor may not be less than 25% of the value of said work.

Any money heretofore or hereafter withheld from contract payments as provided for herein shall be paid by the State to any contractor entitled thereto who shall deposit with the department negotiable bonds, approved by the commissioner, issued by the State or any political subdivision thereof, said bonds having value equal to the amount of money to be paid to any such contractor. For purposes of this section, value shall mean par value or market value, whichever is lower.

2. This act shall take effect January 1, 1972.

Approved April 8, 1971.

CHAPTER 80

AN ACT to amend "The Banking Act of 1948," approved April 29, 1948 (P. L. 1948, c. 67).

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

1. Section 187 of P. L. 1948, c. 67 (C. 17:9A-187) is amended to read as follows:

C. 17:9A-187 Cash balances.

187. Cash balances.

A. Every savings bank shall maintain cash balances of not less than 3% of its aggregate deposits other than capital deposits. The

cash balances may consist of (1) lawful currency of the United States, or (2) demand deposits made (a) in a reserve depository as defined in section 49, or (b) in a Federal home loan bank of which the savings bank is a member, or (c) subject to the approval of the commissioner, in any bank or trust company incorporated under the laws of any State of the United States or the District of Columbia, whether or not such bank or trust company is a member of the Federal Reserve System. Said required cash balances, to the extent of not more than 1½% of aggregate deposits other than capital deposits, may be made up of obligations of the United States or of instrumentalities of the United States maturing within 1 year.

B. A savings bank shall be deemed to have complied with the requirements of subsection A. of this section if its daily available funds, averaged over semimonthly periods beginning with the first and the sixteenth days of each month, shall at least equal the minimum amount prescribed by subsection A. of this section.

2. This act shall take effect immediately.

Approved April 8, 1971.

CHAPTER 81

AN ACT to amend "An act to accord blind persons the right-of-way, under certain circumstances, in crossing any highway or any intersection thereof," approved August 2, 1939 (P. L. 1939, c. 274).

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

1. Section 1 of P. L. 1939, chapter 274 (C. 39:4-37.1) is amended to read as follows:

C. 39:4-37.1 Blind persons; right-of-way.

1. Any blind person using as a guide a walking cane, predominantly white or metallic in color or any blind person using as a guide a seeing-eye dog or other dog trained as a guide for the blind, equipped with a rigid "U"-shaped harness such as customarily

used on dog guides shall have the right-of-way in crossing any highway or any intersection thereof, and all drivers of vehicles shall yield the right-of-way to such blind person although traffic on said highway or intersection thereof is controlled by traffic signals, anything in the motor vehicle and traffic laws of this State to the contrary notwithstanding. The failure of a blind person to comply with the provisions of this act shall not give rise to a conclusive presumption of contributory negligence by such person. The provisions of this section shall not apply where traffic is specially directed by a traffic or police officer.

2. This act shall take effect immediately.

Approved April 8, 1971.

CHAPTER 82

A SUPPLEMENT to "An act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1970, and regulating the disbursement thereof," approved June 4, 1969 (P. L. 1969, c. 71).

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

1. There is hereby appropriated from the General Treasury for the expenses of the commission to be established pursuant to "A joint resolution creating a commission to study certain automobile insurance matters, including the matter of a 'no fault' automobile accident insurance plan" now pending before the Legislature as 1970 Senate Joint Resolution No. 20, the sum of \$15,000.00.

2. This act shall take effect immediately upon the enactment of 1970 Senate Joint Resolution No. 20.

Approved April 8, 1971.

CHAPTER 83

AN ACT concerning security requirements of licensed dealers in milk or cream and amending R. S. 4:12-4 and 4:12-11.

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

1. R. S. 4:12-4 is amended to read as follows:

Bond or deposit for protection of creditors.

4:12-4. A license shall not be issued unless and until the applicant shall file with the secretary a good and sufficient surety bond, executed by a surety company duly authorized to transact business in this State, in a sum not less than one and one-half times the estimated maximum monthly value of the milk or cream to be purchased or received or which may have been purchased or received by the applicant from a producer or producers during the preceding 12 months. The maximum amount of the bond or deposit required from any applicant under the provisions of this section shall not exceed \$100,000.00.

The bond shall be approved as to form and sufficiency by the secretary, shall be given to the secretary in his official capacity and shall be conditioned for the faithful compliance by the licensee with the provisions of this article and for the payment of all amounts due to producers who have sold milk or cream to the licensee, during the period that the license is in force.

The applicant may, in lieu of such bond, deposit with the secretary money, or transferable United States Treasury bonds, notes, certificates, bills or other obligations issued or fully and unconditionally guaranteed by the United States Government both as to principal and interest in transferable bearer form in an amount equal to the sum secured by the bond required to be filed.

The money or securities so deposited shall constitute a separate fund and shall be held in trust for, and applied exclusively to, the payment of claims against the licensee making the deposit, arising from the sale of milk or cream to him, and all proceeds from the surety bonds, money or securities shall be distributed to the producer-creditors by the secretary.

2. R. S. 4:12-11 is amended to read as follows:

Adequacy of bond or deposit; additional bond or deposit.

4:12-11. A licensee shall make a verified statement of his disbursements during a period to be prescribed by the secretary, containing the names of the producers from whom such products were purchased and the amount due to said producers.

The statement shall be submitted to the secretary when requested by him and shall be in form as prescribed by him.

If it appears from such statement or other facts ascertained by him, upon inspection or investigation of the books and papers of the licensee as authorized by sections 4:12-14 and 4:12-15 of this Title, that the security afforded to producers selling milk or cream to the licensee, by the bond executed or deposit made as provided in this article, does not adequately protect said producers, the secretary may require the licensee to give an additional bond or to deposit additional money or securities, to be executed or deposited as provided in this article, in a sum to be determined by the secretary but, such additional requirement as provided under this section shall not exceed \$100,000.00. Before making a determination on the requirement of an additional bond, money or securities as provided in this section, the secretary shall hold a hearing if requested in writing by the licensee. In making such determination, the secretary shall consider the volume of milk currently being purchased; indebtedness; assets; accounts payable and receivable; sales trends; and other factors he may consider relevant in determining the financial condition of the licensee.

The licensee may in lieu of additional bond or deposit of additional money or securities, as provided under this section, offer and the secretary may approve payment to producers on a more frequent schedule than that provided by law.

3. This act shall take effect immediately.

Approved April 8, 1971.

CHAPTER 84

AN ACT concerning certain test for syphilis, and amending P. L. 1938, c. 41, s. 2 and P. L. 1938, c. 126, s. 2.

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

1. Section 2 of P. L. 1938, c. 41 (C. 26:4-49.2) is amended to read as follows:

C. 26:4-49.2 Standard serological test; duty of State Department of Health.

2. For the purpose of this act a standard serological test shall be a test for syphilis approved by the State Department of Health, and shall be made at a laboratory licensed in syphilis serology by the department, or by a laboratory in this State approved to make such tests by said department, or at a laboratory outside this State approved by said department, or the health department of the state or territory of the United States or District of Columbia wherein it is located, or at a laboratory of the Armed Forces of the United States or the United States Public Health Service. Such laboratory tests as are required by this act may, at the option of the department, be performed in the laboratories of the State Department of Health without charge.

2. Section 4 of P. L. 1938, c. 126 (C. 37:1-23) is amended to read as follows:

C. 37:1-23 Approved serological test.

4. For the purpose of this act an approved serological test shall be a test for syphilis performed in a clinical laboratory licensed in syphilis serology by the State Department of Health or by a laboratory in this State approved to make such tests by said department or at a laboratory outside this State approved by said department or the health department of the state or territory of the United States or District of Columbia wherein it is located or at a laboratory of the Armed Forces of the United States or the United States Public Health Service. Such laboratory tests as are required by this act may be performed in the laboratories of the State Department of Health.

3. This act shall take effect immediately.

Approved April 8, 1971.

CHAPTER 85

AN ACT concerning the breeding of horses and development of the horse industry in New Jersey establishing a Sire Stakes Program for standardbred horses, providing prizes and awards and rules and regulations therefor, regulating the distribution of pari-mutuel pools, amending and supplementing P. L. 1940, c. 17, amending P. L. 1967, c. 40, and repealing section 4 of P. L. 1967, c. 40.

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

C. 5:5-91 Sire Stakes Program established; eligibility, administration, board of trustees, funds, annual report, races and awards.

1. There is hereby established in the State of New Jersey a Sire Stakes Program for standardbred horses, bred in the State of New Jersey and to be the product of a registered New Jersey stallion, registered with the Standardbred Breeders' and Owners' Association of New Jersey as such and listed in their registry books.

Those horses eligible to race under said Sire Stakes Program shall be any foal of any registered New Jersey stallion standing at a New Jersey breeding farm and either owned by a resident of the State of New Jersey or leased by a resident thereof for a period of not less than 10 years to stand the full season on a New Jersey breeding farm. A copy of any such lease shall be filed with the United States Trotting Association, the Standardbred Breeders' and Owners' Association of New Jersey and the New Jersey Racing Commission.

Said Sire Stakes Program shall be administered by a board of trustees consisting of five members, four appointed by the Governor, two of whom shall be members of the Standardbred Breeders' and Owners' Association of New Jersey, two representatives of racing interests generally, and the Secretary of Agriculture, ex officio. Of members first appointed, the term of office of one appointee member of the Standardbred Breeders' and Owners' Association shall be 2 years, the other appointee member of such association shall be 1 year, the term of office of one appointee representing racing interests generally shall be for 2 years and the other appointee representing racing interests generally shall be for a term of 1 year. Thereafter, appointments shall be for terms of 2 years. No member of the board of trustees shall be compensated for his

services, however, reasonable travel and other expenses incurred in connection with duties as members of the board may be reimbursed.

The board of trustees is authorized to do all that is necessary for the proper administration of the said Sire Stakes Program and shall prepare, issue and promulgate rules and regulations providing for

- a. Classes and divisions of races, eligibility of horses and owners therefor and prizes and awards to be awarded.
- b. Nominating, sustaining and entry fees for horses and races.
- c. Such temporary programs including eligibility of horses, breeding, and other matters as may be necessary to make the Sire Stakes Program operable as soon as possible.
- d. Registration and certification of New Jersey stallions, mares bred to such stallions and foals produced thereby.
- e. Such other matters as the board determines to be necessary and appropriate for the proper administration and implementation of the Sire Stakes Program.

The funds for the Sire Stakes Program pursuant to section 46 of P. L. 1940, c. 17 and the nominating, sustaining and entry fees provided for herein shall be administered by the New Jersey Department of Agriculture by deposit in a trust account entitled Sire Stakes Fund. All disbursements therefrom for the payment of purses and awards, cost of administration, reimbursement of expenses of members of the board of trustees and any other appropriate expenses shall be made by the Secretary of Agriculture or his designee. A report shall be prepared and filed annually by the secretary with the Racing Commission setting forth an itemization of all deposits to and expenditures from said fund.

Sire stake races shall be run at all licensed harness tracks in the State of New Jersey. Said races and purses and awards awarded therefor shall be pursuant to the rules and regulations of the board of trustees hereunder, the New Jersey Racing Commission and the United States Trotting Association.

2. Section 26 of P. L. 1940, c. 17 (C. 5:5-46) is amended to read as follows:

C. 5:5-46 Notice of allotment of racing dates; acceptance; bond.

26. At the time of allotting any racing dates to any applicant, the commission shall notify such applicant of the dates allotted which notice shall be in writing and sent by registered mail addressed to such applicant at the address stated in his application, and shall be

mailed on the date such allotment is so made. Each applicant so notified shall within 10 days after the mailing of such notice of allotment or within such period of time as the commission shall otherwise direct, comply with the following conditions:

(1) File with the commission an acceptance of such allotment in the form prescribed by the commission;

(2) Execute and deliver to it in case of running and harness races a bond, payable to the State of New Jersey, in such amount as the commission shall direct which shall be sufficient to secure payment to the commission of the amounts of contributions to pari-mutuel pools and breaks required to be paid to the commission every seventh day of every race meeting, with sufficient surety or sureties to be approved by the commission and conditioned for the payment of all sums due and payable as in this act provided and for the observance in all respects of the provisions of this act. In lieu of any such bond there may be delivered to the commission for deposit negotiable securities in such amount as the commission shall direct as security for said payments.

3. Section 27 of P. L. 1940, c. 17 (C. 5:5-47) is amended to read as follows:

C. 5:5-47 Permits; issuance, contents, restrictions.

27. Upon compliance with the foregoing conditions, the commission shall issue a permit to such applicant to hold or conduct such horse race meeting as authorized by this act. Such permit shall specify the person, partnership, association or corporation to whom the same is issued; the dates upon which such horse race meeting is to be held or conducted; the hours of such days between which such horse racing will be permitted, which shall be in between the hours during which the conduct of racing is authorized by law, the location of the place, track or enclosure at, on or within which said horse race meeting is to be held or conducted; and shall acknowledge receipt of the payment of the deposit and the filing of the bond provided for in this act. The commission may in its discretion authorize a permit holder to conduct the horse race meeting for which it has been issued a permit, or a portion thereof, at a place, track or enclosure owned or operated by another permit holder upon application therefor made by both said permit holders, subject to such terms, conditions, and requirements as the commission shall direct. No permit shall be issued to permit running racing on any track that is less than 1 mile in circumference nor harness racing on any track that is less than $\frac{1}{2}$ mile in circumference. No such permit shall be transferable nor

shall it apply to any place, track or enclosure other than the one specified therein unless otherwise directed by the commission. No such permit shall be issued so as to permit horse racing at any place, track or enclosure except on Mondays through Fridays between the hours of 12:00 o'clock noon and 1:00 o'clock a.m. the following day and on Saturdays between the hours of 12:00 o'clock noon and 12:00 o'clock midnight. No permit shall be granted under this act to any person, partnership, association or corporation so as to permit upon any race track, place or enclosure more than 56 horse racing days in the aggregate in any 1 calendar year for running races, except for additional racing days as provided in section 24, and except as otherwise provided for herein, nor more than 100 racing days in the aggregate in any 1 calendar year for harness races; nor shall any permit be granted to the same person, partnership, association or corporation for the holding or conducting of a horse race meeting except at one track, place or enclosure in this State, unless otherwise directed by the commission, nor shall any permit be granted for the holding or conducting of a horse race meeting at any place in this State prior to March 1 in any calendar year or after the last day of November in any calendar year. No such permit shall be issued to any person, partnership, association or corporation that is in any way in default in the payment of any obligation or debt due to the State of New Jersey under the provisions of this act, nor shall any permit be issued to any corporation under the provisions of this act unless said corporation be organized under and by virtue of the laws of the State of New Jersey, nor shall any permit be issued to any applicant who shall be deemed by said commission not to be of sufficient financial integrity and moral responsibility to hold a horse race meeting conducive to the best interests of legitimate racing.

4. Section 44 of P. L. 1940, c. 17 (C. 5:5-64) is amended to read as follows:

C. 5:5-64 Distribution of pari-mutuel pool; breaks.

44. Each holder of a permit shall distribute all sums deposited in any pool to the winners thereof, less an amount which in harness races shall not exceed 17% of the total deposits plus the breaks and which in other races shall not exceed 17% of the total deposits plus the breaks. Every permit holder shall distribute to the persons holding winning tickets, as a minimum, a sum not exceeding \$0.10, calculated on the basis of each dollar deposited in any pool after the deduction of the said 17%. Should the amount remaining in the

pool be insufficient to pay the winners the minimum, the breakage accruing in that race, or any necessary portion thereof, shall be applied toward making up any such deficiency. The breaks are hereby defined as the odd cents over any multiple of \$0.10, calculated on the basis of \$1.00 otherwise payable to a patron. Every permit holder engaged in the business of conducting running or harness race meetings under this act shall pay to the commission for the use of the State the breaks as herein defined, except as the same shall have been applied toward making up a deficiency in a pool as herein provided; and provided further, however, that any permit holder engaged in the business of conducting harness race meetings wherein the total contribution to all pari-mutuel pools therefor did not exceed \$40,000,000.00 during the prior calendar year shall retain 50% of said breaks for his own uses and purposes. Payment of such breaks shall be made every seventh day of any and every race meeting and shall be accompanied by a report under oath showing the daily and total amount of such breaks together with such other information as the commission may require. All sums held by any permit holder for payment of outstanding pari-mutuel tickets not claimed by the person or persons entitled thereto within 6 months from the time such tickets are issued shall be paid to the commission upon the expiration of such 6-month holding period.

Where it is shown to the satisfaction of the commission that the reason for the pari-mutuel tickets being outstanding and unclaimed is the loss, misplacement or theft of said tickets within the confines and control of the pari-mutuel department of any permit holder, and it is further shown to the satisfaction of the commission that said pari-mutuel tickets have been cashed by such pari-mutuel department, the commission may adjust and credit the permit holder's account accordingly and the permit holder shall reimburse any employee who has been held personally accountable and paid for such lost, stolen or misplaced tickets.

5. Section 46 of P. L. 1940, c. 17 (C. 5:5-66) is amended to read as follows:

C. 5:5-66 Percentage payable to commission; report of contributions; other license fees or taxes.

46. Every permit holder engaged in the business of conducting horse race meetings under this act shall make disposition of the deposits remaining undistributed pursuant to section 44 as follows:

a. In the case of harness races: (1) Pay to the commission 6% of so much of the total contributions to all pari-mutuel pools conducted or made during such calendar year on any and every horse

race track granted a permit under this act as does not exceed \$40,000,000.00; and 7% of so much of such total contributions as exceeds \$40,000,000.00.

(2) Hold and set aside in an account designated as a special trust account 1% of such total contributions to be used and distributed as hereinafter provided, for the following purposes and no other:

(a) 42½% thereof to increase purses and grant awards for starting horses as provided or as may be provided by rules of the New Jersey Racing Commission;

(b) 49% thereof for the establishment of a Sire Stakes Program as hereinafter provided for standardbred horses;

(c) 5½% thereof for contributions and awards designed to improve and promote the standardbred breeding industry in New Jersey through payment of awards to owners and breeders of registered New Jersey bred horses which earn portions of purses in open events on New Jersey tracks, and to owners of stallions posted on the official stallion roster of the Standardbred Breeders' and Owners' Association of New Jersey which sire such registered New Jersey bred money earners;

(d) 3% thereof for other New Jersey horse breeding and promotion conducted by the New Jersey Department of Agriculture.

(3) Retain 10% of so much of such total contributions as does not exceed \$40,000,000.00 and 9% of so much of such total contributions as exceed \$40,000,000.00 for his own uses and purposes.

b. In the case of other races:

(1) Pay to the commission 9.15% of so much of the total contributions to all pari-mutuel pools conducted or made during such calendar year on any and every horse race track granted a permit under this act.

(2) Hold and set aside in an account designated as a special trust account 15% of 1% of such total contributions to be used and distributed as hereinafter provided, for the following purposes and no other:

(a) 10% of 1% thereof for contributions and awards designed to improve and promote the thoroughbred breeding industry in New Jersey through payment of awards to owners and breeders of registered New Jersey bred horses which earn portions of purses in open events on New Jersey tracks, and

to owners of stallions posted on the official stallion roster of the Thoroughbred Breeders' Association of New Jersey which sire such registered New Jersey bred money earners;

(b) 5% of 1% thereof for State horse breeding and development programs, research, fairs, horse shows, youth activities, promotion and administration.

(3) Distribute as purse money 3.74% of such total contributions. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the organization or organizations representing the horsemen and the tracks.

(4) Retain 3.96% of such total contributions for his own uses and purposes.

Payment on account of such sums to be paid to the commission shall be made every seventh day of any and every race meeting in the amount then due as determined in the manner provided above, and shall be accompanied by a report under oath showing the total of all such contributions, together with such other information as the commission may require. Except as otherwise provided by law, no admission or amusement tax, excise tax, license or horse racing fee of any kind shall be assessed or collected from any permit holder by the State of New Jersey, or by any county or municipality, or by any other body having power to assess or collect license fees or taxes.

6. Section 5 of P. L. 1967, c. 40 (C. 5:5-88) is amended to read as follows:

C. 5:5-88 Payment of moneys to New Jersey horse breeding and development account; distribution.

5. Every permit holder shall remit and pay to the commission in installments and at the same time and manner provided in section 46 of P. L. 1940, c. 17 all moneys set aside in the special trust account for contributions and awards and horse breeding and promotion pursuant to section 46 a. (2) (c) and (d) and 46 b. (2) (a) and (b) thereof. All such special trust account moneys received by the commission shall be separately accounted for and paid into the State treasury for deposit and maintenance by the State Treasurer in a special account entitled "New Jersey Horse Breeding and Development Account." Moneys credited to such special account shall be appropriated to and used by the Department of Agriculture, under the supervision of the State Board of

Agriculture after consultation with and approval of the State Treasurer, for contributions and awards to improve and promote thoroughbred and standardbred breeding in the manner and amount as provided in said sections.

The Department of Agriculture is authorized to confer with and seek the advice of the New Jersey Equine Advisory Board with reference to the distribution of the moneys as herein provided.

C. 5:5-87 Repealed.

7. Section 4 of P. L. 1967, c. 40 (C. 5:5-87) is repealed.

8. This act shall take effect immediately.

Approved April 8, 1971.

CHAPTER 86

AN ACT concerning school buses, and supplementing Title 39 of the Revised Statutes.

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

C. 39:3-77.1 Use of National School Bus Chrome; limitation.

1. No motor vehicle with a capacity of more than 16 passengers shall be painted National School Bus Chrome, unless that vehicle is used to transport children to or from school, or a summer day camp, or any school connected activity.

Whenever any motor vehicle with a capacity of more than 16 passengers, which has been used for the transportation of children to or from school, or a summer day camp, or any school connected activity, is no longer used for these purposes, it shall be repainted a color distinctively different from National School Bus Chrome.

2. This act shall take effect immediately.

Approved April 8, 1971.

CHAPTER 87

AN ACT concerning false alarms, amending section 2A:170-9 of the New Jersey Statutes and supplementing Title 2A of the New Jersey Statutes.

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

1. Section 2A:170-9 of the New Jersey Statutes is amended to read as follows:

Giving false alarm; penalty.

2A:170-9. Any person who, by word, act or other means, willfully and maliciously gives or causes to be given a false fire alarm or false police alarm, is a disorderly person and shall be punished on a first offense by a fine of not more than \$250.00, or by imprisonment in the county jail for not more than 90 days, or both. For each subsequent offense, each person shall be imprisoned for not more than 6 months, or fined not more than \$500.00, or both.

C. 2A:122-9.1 False fire alarm resulting in bodily injury or death; penalty.

2. Any person who willfully, or knowingly, gives, aids or abets in giving, any false alarm of fire, by any means, which results in bodily injury, or death of any person is guilty of a misdemeanor, and, upon conviction, shall be punished by imprisonment for not more than 5 years, or fined not more than \$3,000.00, or both.

C. 2A:122-9.2 Tampering with fire alarm apparatus; penalty.

3. Any person who willfully, or knowingly, with malice, tampers with, interferes with or impairs any public fire alarm apparatus, wire or associated equipment, shall be guilty of a misdemeanor, and upon conviction receive same penalty as set forth in section 2 of this act.

4. This act shall take effect immediately.

Approved April 8, 1971.

CHAPTER 88

AN ACT relating to the Police and Firemen's Retirement System and amending P. L. 1948, c. 441, s. 1 and P. L. 1948, c. 442, s. 1.

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

1. Section 1 of P. L. 1948, c. 441 (C. 43:16A-40) is amended to read as follows:

C. 43:16A-40 Counties of the first or second class; admission of park police as members; fiscal statement.

1. The park commission in any county of the first class or county of the second class having a population not in excess of 300,000 created pursuant to the provisions of the Revised Statutes, sections 40:37-96 through 40:37-194, may by an appropriate resolution request the board of trustees of the State Police and Firemen's Retirement System to permit the members of the park police department of any such county to become members of the State fund. The trustees shall thereupon request full information on forms to be supplied by them as to the employees who are to become members of the fund and transmit to such county park commission the following fiscal statement:

(1) Estimated cost to the county park commission as follows:

(a) The annual normal contribution to be made on account of employees then in service.

(b) The percentage of payroll for employees then in service, to meet the contribution under (a).

(c) The estimated lump sum of accrued liability for services rendered and to be rendered prior to the following January 1.

(d) The percentage of present payroll to meet the liability stated in (c).

(e) The estimated annual contribution on account of the accrued liability if paid in 10 installments.

(f) The percentage of present payroll, to meet the accrued liability, as stated in (e).

(g) The estimated annual contribution on account of accrued liability if met in 25 installments.

(h) The percentage of present payroll to meet the accrued liability, as stated in (g).

(2) The annual contribution of the employee stated in percentage of pay for the several age brackets as of the following January 1.

2. Section 1 of P. L. 1948, c. 442 (C. 43:16A-39) is amended to read as follows:

C. 43:16A-39 Counties of the first or second class; admission of certain police employees as members.

1. The board of trustees may by resolution admit as members into the retirement system the police employees of any county park commission in counties of the first or second class. Whenever any such county park commission shall so request, the board of trustees shall make an investigation to determine the eligibility of the county applicants and may thereafter, subject to the provisions of the act to which this act is a supplement and the rules and regulations of the board of trustees, admit such persons to membership in the retirement system.

3. This act shall take effect immediately.

Approved April 8, 1971.

CHAPTER 89

AN ACT concerning taxation in relation to the annual franchise tax upon life insurance companies of this State and amending section 3 of P. L. 1945, c. 132, and sections 2, 3 and 9 of P. L. 1950, c. 101, and repealing section 4 of P. L. 1950, c. 101.

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

1. Section 3 of P. L. 1945, c. 132 (C. 54:18A-3) is amended to read as follows:

C. 54:18A-3 Amount of tax, life insurance companies; deductions.

3. Amount of tax, life insurance companies; deductions.

(a) The tax specified in subsection (a) of section 1 of this act as to life insurance companies, shall, except as hereinafter provided, be 2% upon the taxable premiums collected by the company during the year ending December 31 next preceding under all policies or contracts of insurance on residents of this State, less the amount of any franchise taxes and taxes on its property, exclusive of taxes on real estate and of taxes payable pursuant

to this section, paid in this State by the company pursuant to any law of this State during the said year; provided, however, that in the case of any life insurance company incorporated under any law of this State having capital and surplus of \$15,000,000.00 or more, such deduction from the tax payable pursuant to this section shall be diminished by the amount of tax paid during the said year pursuant to subsection b. or c. of section 2, chapter 101 of the laws of 1950, as amended.

(b) Taxable premiums, collected after December 31, 1965 by an insurance company subject to the provisions of subsection (a) hereof under group accident and health insurance policies on residents of this State, shall be subject to tax only at the following rates:

As to taxes payable in 1967	1¾%
As to taxes payable in 1968	1½%
As to taxes payable in 1969	1¼%
As to taxes payable in 1970 and thereafter	1%

2. Section 2 of P. L. 1950, c. 101 (C. 54:18A-13) is amended to read as follows:

C. 54:18A-13 Amount of franchise tax.

2. Amount of franchise tax.

The annual franchise tax imposed by section 1 of this act shall be the sum of (a) following and either (b) or (c) following as appropriate:

a. The amount resulting from the application of a tax rate of 1.75% to the amount of taxable premiums for the preceding calendar year as herein defined.

b. The amount of \$200,000.00, except as provided in c. of this section.

c. A life insurance company which after December 31, 1970 becomes subject to the tax imposed by section 1 of this act for the first time and which has capital and surplus as herein defined of less than \$30,000,000.00 shall, in lieu of the \$200,000.00 provided in b. above, pay \$10,000.00 in the first year; in the second year it is subject to such tax it shall pay \$20,000.00; and in each year thereafter that it is subject to such tax it shall pay an amount which will be \$10,000.00 more than the largest amount paid in any year previously under this subsection, but in no event shall the total amount payable in any year under this subsection exceed \$200,000.00.

3. Section 3 of P. L. 1950, c. 101 (C. 54:18A-14) is amended to read as follows:

C. 54:18A-14 Life insurance companies with capital and surplus under \$15,000,000.

3. Life insurance companies with capital and surplus under \$15,000,000.00.

An annual franchise tax for the privilege of carrying on its business is hereby imposed upon any life insurance company incorporated under any law of this State having capital and surplus as herein defined in an amount less than \$15,000,000.00. The annual franchise tax imposed by this section 3 shall be 1¾% of its taxable premiums as herein defined for the respective preceding calendar years.

C. 54:18A-15 Repealed.

4. Section 4 of P. L. 1950, c. 101 (C. 54:18A-15) is hereby repealed.

5. Section 9 of P. L. 1950, c. 101 (C. 54:18A-20) is amended to read as follows:

C. 54:18A-20 Payment of franchise tax.

9. Payment of franchise tax.

Each such life insurance company of this State shall pay the amount of the franchise tax so ascertained and certified, in the manner following:

(a) Eighty-seven and one-half per centum of such franchise tax shall be paid to the municipality, and 12½% thereof shall be paid to the county, in which the principal office of such company is located.

(b) (Deleted by amendment.)

The franchise tax shall be paid in installments as follows: The first installment shall be payable on February 1 and shall consist of ½ of the full amount of the franchise tax as ascertained and certified for the respective preceding calendar year, and the second installment shall be payable on August 1 and shall consist of the difference between the full amount of the franchise tax as ascertained and certified for the then current year and any amount of franchise tax paid on February 1 as herein required or on any other date prior to August 1 of that year.

6. The second installment of taxes due August 1, 1971 shall be adjusted to reflect the changes enacted by this amendatory act.

7. This act shall be applicable to taxes payable in the year 1971 and thereafter.

8. This act shall take effect immediately.

Approved April 8, 1971.

CHAPTER 90

AN ACT concerning the small loan business and amending R. S. 17:10-3 and R. S. 17:10-9.

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

1. R. S. 17:10-3 is amended to read as follows:

Application for license; fees; power of attorney; assets.

17:10-3. Application for the license shall be in writing, under oath or affirmation, and in the form prescribed by the commissioner. It shall state the name and address both of the residence and place of business of the applicant, and if the applicant is a copartnership or association, of every member thereof, and if a corporation, of each officer and director thereof. It shall also state the county and municipality with street and number if any, where the business is to be conducted and any other information the commissioner requires. The applicant, at the time of making the application, shall pay to the commissioner the sum of \$150.00 as a fee for investigating the application and the additional sum of \$200.00 as an annual license fee for a period terminating on the last day of the current calendar year. If the application is approved after June 30 in any year the license fee shall be $\frac{1}{2}$ the sum which would otherwise be payable hereunder. In addition to the annual license fee every licensee hereunder shall pay to the commissioner the actual cost of each examination of his business as provided for in section 17:10-11 of this Title.

Every applicant shall, in writing, and in due form to be prescribed by the commissioner, file with the application a duly executed instrument constituting the commissioner and his successors in office the true and lawful agent and attorney of the applicant in this State, upon whom all original process in any action or legal proceeding, caused by the operation of a small loan business under this chapter, against the applicant or licensee may be served, except the notices prescribed in sections 17:10-7 and 17:10-10 of this Title. The applicant shall agree therein that any original process or legal proceeding, except as above stated, against the applicant or licensee shall be of the same force and effect as if served on the applicant or licensee personally. The commissioner shall keep a record of such process, showing the date and the hour of service.

Every applicant shall also prove in form satisfactory to the commissioner, that said applicant has a net worth of at least \$25,000.00 and has available for the purpose of making loans under this chapter, at the location specified in the application, liquid assets of at least \$25,000.00.

2. R. S. 17:10-9 is amended to read as follows:

Annual license fee.

17:10-9. Every licensee shall, on or before December 10 of each year, pay to the commissioner the sum of \$200.00 as an annual license fee for the next succeeding calendar year.

3. This act shall take effect immediately.

Approved April 8, 1971.

CHAPTER 91

AN ACT concerning the fee to be charged and collected for certificates relating to corporation franchise taxes and amending chapter 51 of the laws of 1947.

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

1. Section 3 of chapter 51 of the laws of 1947 (C. 54:10A-29) is amended to read as follows:

C. 54:10A-29 Certificate as to liens for unpaid corporation franchise taxes due; fee.

3. (a) Upon the receipt of a written application accompanied by the fee provided for in subsection (b) of this section, the commissioner shall issue to the applicant a certificate certifying with respect to the corporation or corporations listed for certification in the application either that there are no liens in favor of the State for corporation franchise taxes due pursuant to the provisions of this act or of chapters 13 or 32A of Title 54 of the Revised Statutes or that there are such liens as may be stated in such certificate or such other status as the commissioner's records may disclose.

(b) The fee for a certificate issued pursuant to this section shall be \$5.00 for each corporation listed in the application for which a certificate is requested.

(c) The commissioner may prescribe the form of the application and may require that it shall contain a concise and reasonably definite description of the property and of the type of transaction in connection with which the application is made as well as such other pertinent information as he may deem necessary.

(d) Any person who shall acquire for a valuable consideration an interest in lands, covered by such a certificate in reliance thereon, shall hold such interest free from any lien held by the State for unpaid corporation franchise taxes due pursuant to the provisions of this act or of chapters 13 or 32A of Title 54 of the Revised Statutes and not shown on such certificate.

2. This act shall take effect immediately.

Approved April 8, 1971.

CHAPTER 92

AN ACT concerning the Alcoholic Beverage Tax Law and amending section 54:44-6 of the Revised Statutes.

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

1. Section 54:44-6 of the Revised Statutes is amended to read as follows:

Certificate to issuing authorities; fee.

54:44-6. The Director of the Division of Taxation in the Department of the Treasury, whenever requested by any person licensed pursuant to the provisions of Title 33, Intoxicating Liquors, shall issue to any governmental agency having authority to issue and transfer such licenses a certificate stating whether any such person is indebted to this State for any taxes, penalties, and interest, under the provisions of this subtitle, and, if so, the amount of said debt; provided, there is paid to him for the use of the State of New Jersey a fee of \$5.00 for each person for whom a certificate is requested.

2. This act shall take effect immediately.

Approved April 8, 1971.

CHAPTER 93

AN ACT validating certain sales of lands or buildings or any right or interest therein, by the governing body of any municipality, pursuant to the provisions of R. S. 40:60-26.

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

Validating act.

1. No sale of any lands or buildings or any right or interest therein, not needed for public use, which was made on or before December 31, 1970 by the governing body of any municipality pursuant to paragraph (a) of R. S. 40:60-26, and which is not the subject of any judicial proceeding pending in any court of this State on the effective date of this act, shall be invalid because the last publication of the public advertisement thereof in a newspaper circulating in the municipality in which the lands are situated was made more than 7 days prior to the sale if such last publication was made not more than 40 days prior to the sale; provided, the said governing body of the municipality, by resolution, has or shall have confirmed such sale and the conveyance made by the municipality to effectuate the sale to the purchaser or purchasers thereof; and further provided, that the said purchaser or purchasers shall have paid the municipality the full purchase price for the said lands or buildings or any right or interest therein.

2. This act shall take effect immediately.

Approved April 8, 1971.

CHAPTER 94

AN ACT concerning the New Jersey Board of Certified Public Accountants and amending "An act to regulate the practice of the profession of certified public accounting in this State and repealing chapter 2 of Title 45 of the Revised Statutes," approved June 15, 1965 (P. L. 1965, c. 99).

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

1. Section 8 of P. L. 1965, chapter 99 (C. 45:2A-8) is amended to read as follows:

C. 45:2A-8 Application for examination; form, contents, fees.

8. Every applicant for a certificate shall, at least 30 days prior to the examination at which he desires to be examined, present to the secretary of the board a written application for admission to the examination on a form provided by the board, together with the payment of the examination fee as set forth in subparagraph (g) hereunder and satisfactory proof of the following:

- a. that the applicant is a citizen of the United States;
- b. that the applicant is at least 21 years of age;
- c. that the applicant is of good moral character;
- d. that for 1 year prior to the examination date the applicant has been a bona fide resident of the State of New Jersey or has maintained an office in the State for the regular practice of public accounting or has been employed by a certified public accountant or firm of certified public accountants, having an office in the State of New Jersey for the regular practice of public accounting;
- e. that the applicant has graduated with a baccalaureate degree from a college or university approved by the Department of Education of the State of New Jersey and has successfully included semester hours in courses in accountancy and related professional courses as may be required by The New Jersey State Board of Certified Public Accountants;
- f. that the applicant has had in the aggregate 3 years' experience in public accounting work in the office of a certified public accountant or a firm at least one member of which is a certified public accountant, or that the applicant has engaged in the general practice of public accounting in this State for at least 10 years, or that the appli-

cant has been in the employ of the State of New Jersey or the United States for at least 10 years. The experience qualifications required herein must be obtained in employment and practice which required the intensive diversified application of accounting and auditing principles and procedures. Evidence of said experience must be submitted to the board, in detail, so that the board may evaluate said experience and determine that the applicant possesses professional qualifications for the practice of public accounting satisfactory to the board.

The board may accept service in the Armed Forces of the United States for experience credit on the basis of 1 month's credit for each 6 months' service, with a maximum credit of 8 months. This experience credit may be applied against any of the experience requirements in this paragraph;

g. the fees for examinations shall be as follows:

Original examination fee	\$60 00
Reexamination fees:	
Maximum fee for any combination of subjects	\$60 00
Individual subjects:	
Accounting Practice	\$50 00
Theory of Accounts	\$30 00
Commercial Law	\$30 00
Auditing	\$30 00

2. Section 9 of P. L. 1965, c. 99 (C. 45:2A-9) is amended to read as follows:

C. 45:2A-9 Issuance of certificate; fee.

9. Except as otherwise provided in section 12, the board shall issue to any person who has complied with the provisions of this section and who has passed the examination provided for by this act, a certificate authorizing him to practice as a certified public accountant, and such person shall be styled and known as a "certified public accountant." The fee for the issuance of such certificate shall be \$6.00.

3. Section 10 of P. L. 1965, c. 99 (C. 45:2A-10) is amended to read as follows:

C. 45:2A-10 Reciprocity certificate.

10. The board may, in its discretion, waive the examination of, and recommend the issuance of a certificate to any person who, at the time of his application, holds a valid and unrevoked certificate as a certified public accountant issued by or under the authority

of any State which grants similar privileges to certified public accountants of this State, and has education and experience requirements which are substantially equivalent to the requirements of this act for the issuance of a certificate as a certified public accountant. Every application for a reciprocity certificate shall be accompanied by a fee of \$100.00.

4. Section 11 of P. L. 1965, c. 99 (C. 45:2A-11) is amended to read as follows :

C. 45:2A-11 Biennial registration fee.

11. Every individual to whom a certificate shall have been issued engaged in the practice of certified public accounting within the State shall biennially during September pay to the board a registration fee of \$20.00.

Notice of the failure to pay such biennial registration fee shall be given to the person so failing, which notice shall state that, upon the continued failure to pay such fee, the certificate issued to such person will be declared forfeited by the board at the time and place stated therein unless such fee is sooner paid. The board may make rules and regulations regarding the reissue of a certificate to any person whose certificate has been forfeited under this section, and fixing the fee to be paid for the reissue of said certificate.

Unless he has given notice thereof in some previous application to the board, an individual paying his biennial registration fee shall state in his application whether any certificate as certified public accountant or any charter as a chartered accountant or any license to practice or registration or enrollment as a public accountant ever issued to or made for him by any State or political subdivision of the United States or by any foreign country or political subdivision thereof or by an accounting society of a foreign country has been revoked or suspended, and, if so, such facts relating to such revocation or suspension as the board may require.

No certified public accountant of this State, who has not registered pursuant to the requirements of this section for a particular biennial registration period, shall, during such period, hold himself out to be engaged in practice as a certified public accountant within this State, or use in connection with his name any title or designation tending to imply that he is engaged in practice as a certified public accountant within this State.

5. This act shall take effect immediately.

Approved April 8, 1971.

CHAPTER 95

A SUPPLEMENT to “An act relating to public buildings and making appropriations for construction, reconstruction, development, extension, improvement and equipment of public buildings, all for education purposes,” approved April 2, 1969 (P. L. 1969, c. 13).

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

1. There is hereby appropriated to the Department of Higher Education from the Public Buildings Construction Fund the sum of \$30,230,100.00, or that portion thereof as may be required, for land acquisition and the planning, construction, rehabilitation and equipping of facilities, services, and buildings at the various public institutions of higher education. The appropriations will fund the foregoing types of projects approved by the Board of Higher Education in the amounts and at the institutions as follows:

<i>Institution</i>	<i>Amount</i>
Glassboro State College—Classroom building	\$4,230,000
Montclair State College—Library addition	880,000
Newark State College—Administration building, Science building, roads, parking, landscaping and utilities	5,790,000
Ramapo College of New Jersey—Phase I and land acquisition	4,000,000
Richard Stockton State College—Phase II facilities .	7,000,000
Trenton State College—Academic classroom building, utilities extension II	4,290,100
Rutgers, The State University—Instruction building, chemistry—Newark	3,800,000
College of Medicine and Dentistry of New Jersey— Planning, Raritan Valley Hospital improvements .	240,000
Total	\$30,230,100

2. There is hereby appropriated to the Department of Higher Education from the Public Buildings Construction Fund the sum of \$21,430,396.00, or that portion thereof as may be required, as the State's 50% share for land acquisition and the planning, con-

struction, rehabilitation and equipping of facilities, services, and buildings at the various county colleges as approved by the Board of Higher Education.

3. This act shall take effect immediately.

Approved April 8, 1971.

CHAPTER 96

A SUPPLEMENT to "An act relating to public buildings and making appropriations for construction, reconstruction, development, extension, improvement and equipment of public buildings, all for health and welfare purposes," approved February 13, 1969 (P. L. 1969, c. 4).

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

1. There is hereby appropriated to the Department of Institutions and Agencies, from the Public Buildings Construction Fund the sum of \$14,133,368.00 or so much thereof as may be necessary, for construction, reconstruction, development, extension, improvement and equipment of public buildings, on the following projects, which are hereby approved, for the purposes indicated:

Institution	Projects
Ancora Psychiatric Hospital	Renovation of dormitories
Training School for Boys,	
Jamesburg	Vocational building, remodeling
	Inmate housing
Marlboro Psychiatric	
Hospital	Fire protection
State Prison, Rahway	Hospital
Vineland State School	Cottages, renovation
	Utility rehabilitation
	Modernization, old main building
Vineland Soldier's Home	Renovation, main building and
	reimbursement for funds
	temporarily transferred

Woodbine State School Cottages, modernization
Units for Hard-to-place children, various locations
Day Care Centers, in Essex, Hudson, Hunterdon,
Monmouth, Salem, Ocean and Sussex counties
Emergency Child Care Facility account, reimbursement
Advance planning and design account, reimbursement

2. There is hereby appropriated to the State Department of Health from the Public Buildings Construction Fund the sum of \$5,640,000.00, or so much thereof as may be necessary, for the construction, reconstruction, development, extension, improvement and equipment of public buildings to provide facilities for drug addicts and abusers.

3. This act shall take effect immediately.

Approved April 8, 1971.

CHAPTER 97

AN ACT concerning the assessment and collection of taxes in certain cases and supplementing chapter 4 of Title 54 of the Revised Statutes.

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

1. Whenever the governing body of a municipality shall, prior to June 1, 1971, certify to the county board of taxation that it has received certification from the Division of Local Finance in the Department of Community Affairs that during the 1971 tax year it will receive State aid pursuant to P. L. 1971, c. 64 or P. L. 1971, c. 65 and that the receipt of said funds had not been previously anticipated, the county board of taxation shall reduce the amount of local taxes to be raised previously certified to the said county board of taxation for the purposes of the 1971 county table of aggregates by the amount so certified by said governing body. The county board of taxation shall recalculate and reduce the tax rate of said municipality accordingly.

2. This act shall take effect immediately.

Approved April 8, 1971.

CHAPTER 98

AN ACT concerning certain disorderly persons offenses and repealing sections 2A:170-12, 2A:170-13, 2A:170-15, 2A:170-50, 2A:170-52 and 2A:170-54 of the New Jersey Statutes.

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

Repealer.

1. Sections 2A:170-12, 2A:170-13, 2A:170-15, 2A:170-50, 2A:170-52 and 2A:170-54 of the New Jersey Statutes are repealed.
2. This act shall take effect immediately.

Approved April 16, 1971.

CHAPTER 99

AN ACT concerning hunting by unauthorized persons and repealing section 23:4-31 of the Revised Statutes.

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

Repealer

1. Section 23:4-31 of the Revised Statutes is repealed.
2. This act shall take effect immediately.

Approved April 16, 1971.

CHAPTER 100

AN ACT concerning the membership of certain township committees and supplementing article 1 of chapter 146 of Title 40 of the Revised Statutes.

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

1. Notwithstanding the provisions of P. L. 1971, c. 14 (C. 52:4-3), in any township having a population of more than 7,000 according to the final population counts of the Federal census of 1970 situated in any county of the second class having a population between 350,000 and 450,000 according to said final population counts, the township committee shall consist of five members.

2. This act shall take effect immediately.

Approved April 16, 1971.

CHAPTER 101

AN ACT concerning boards of chosen freeholders and supplementing Part B. of article 2 of chapter 20 of Title 40 of the Revised Statutes.

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

1. Notwithstanding any of the provisions of P. L. 1971, c. 14 (C. 52:4-3), in any county of the second class having a population between 375,000 and 500,000 according to the final population counts of the Federal census of 1970, the board of chosen freeholders shall consist of seven members.

2. This act shall take effect immediately.

Approved April 16, 1971.

CHAPTER 102

AN ACT to supplement “An act to provide for the creation, setting apart, maintenance and administration of a county employees’ pension fund in counties having a population exceeding 800,000 inhabitants,” approved April 8, 1943 (P. L. 1943, c. 160) and repealing chapter 190 of the laws of 1960.

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

C. 43:10-18.15g Definitions.

1. As used in this act “retirant” means any former employee included in the membership of the retirement system established under the act to which this act is a supplement, who has retired from such employment, and as a result of such employment, is receiving a pension from the retirement system.

“Calendar year” means the 12-month period beginning January 1 and ending December 31.

“Retirement year” is the calendar year 1967 for all retirants who retired before the calendar year 1968; for all retirants who retired after 1967, “retirement year” is the actual calendar year of retirement.

“Index” shall mean the annual average over a calendar year of the Consumer Price Index for Urban Wage Earners and Clerical Workers, All Items Series A, of the United States Department of Labor, (1957-1959 = 100). Should the reference base of said index be changed, the index used to determine the Consumer Price Index as defined herein will be the index converted to the new base by standard statistical methods.

“Retirement year index” shall be the index of the calendar year 1967 for all retirants who retired prior to January 1, 1968 and the index for the calendar year of retirement for all retirants who retired thereafter.

C. 43:10-18.15h Pension increase.

2. The monthly pension originally granted to any retirant shall be increased in accordance with the provisions of this act.

Pension increases shall not be paid to retirants who are not receiving their regular, full, monthly pensions. The increase granted under the provisions of this act shall be effective only on the first day of a month, shall be paid in monthly installments, and shall not

be decreased, increased, revoked or repealed except as otherwise provided in this act. No increase shall be due to a retirant or his beneficiary unless it constitutes a payment for an entire month.

C. 43:10-18.15i Ratio of increase; calculation.

3. The "ratio of increase" which shall apply to the pension originally granted to a retirant shall be calculated in accordance with the following percentages as determined by the calendar year in which the retirement became effective; provided that, in no instance shall the amount of the pension paid to any retirant under this supplementary act including payments under future revisions be less than the pension paid under chapter 190, public laws of 1960.

Year of Retirement	Ratio of Increase	Year of Retirement	Ratio of Increase
1940	132%	1948	35%
1941	120%	1949	36%
1942	99%	1950	35%
1943	88%	1951	25%
1944	85%	1952	22%
1945	80%	1953	21%
1946	66%	1954	21%
1947	45%		

C. 43:10-18.15j Funding of increase.

4. The employer shall bear the cost of the increase in the pensions payable to retirants who retired from the employ of such employer. The employer shall appropriate the amount in the fiscal year next following, taking into account payments made to retirants of such employer and prospective payments to be made to such retirants in the following year.

The increase in pensions provided for under this act shall commence provided, that there is appropriated the amount certified by the Director of the Division of Pensions of the State Department of the Treasury to the Director of the State Division of Budget and Accounting as set forth in the Pension Increase Act (P. L. 1969, c. 169). The increase in pensions shall continue to be paid as long as there shall be appropriated the amounts so certified. In the event that the necessary funds are not so appropriated, the increase in pensions shall cease; no further payments shall be made by the employer; a refund shall be made by the retirement system to the employer of any balance unexpended on its account.

C. 43:10-18.15k Waiver of rights.

5. Any person who is eligible to receive the increased pension under the provisions of this act may, at any time, waive his right thereto by filing a written notice of waiver with the secretary of the retirement system. The application for the waiver of all or part of the increase shall be made by the retirant at least 30 days prior to the desired effective date on a form satisfactory to the retirement system and shall be effective on the first day of the following month. Such waiver may be withdrawn at any time and upon such withdrawal the increase in the pension shall commence with the pension payment for the next following month.

C. 43:10-18.15l Review of index; percentage of adjustment; "retirant" defined.

6. On or before October 1, 1969 and by the same date in each subsequent year, the Director of the Division of Pensions of the State Department of the Treasury shall review the index and determine the percentum of change in the index from the retirement year index pursuant to the provisions of the Pension Increase Act (P. L. 1969, c. 169). The percentage of adjustment in the pensions shall be $\frac{1}{2}$ of the percentum of change.

The director shall include amounts sufficient to adjust the retirement allowances or pensions payable to all eligible retirants by $\frac{1}{2}$ of the percentum of change in the index as such retirement allowances or pensions may have been originally granted, or increased for certain retirants in accordance with the provisions of the Pension Increase Act (P. L. 1969, c. 169). The director shall notify the secretary of the retirement system of the percentage of adjustment for the applicable year.

In no instance shall the amount of the pension originally granted and payable to any retirant be reduced as a result of this adjustment.

For purposes of this section a "retirant" shall include all retirants except those whose pension commenced within the 3 calendar years prior to the first of the month in which the adjustment is to become effective in any year.

C. 43:10-18.15m Effect of blanket increases or minimum pensions.

7. If legislation is adopted providing for a blanket increase in the original pensions or for minimum pensions to any group of retirants eligible for benefits under this act, all increases provided under this supplementary act shall be terminated on the first of the month when such blanket increases or minimum pensions are payable, except in those instances where the retirant's original

pension plus the increases provided under this act will exceed the amounts payable to such retirants as a result of such other legislation; in such event the amount payable under this act shall be the difference between the new pension payable by the retirement system and the amount which would otherwise have been paid under this act. Any subsequent annual review of amounts payable under this act for such retirants shall continue to be determined on the basis of the original pension as granted by the retirement system prior to any blanket increase or provision for minimum pension for any group of retirants eligible for benefits under this act.

C. 43:10-18.15n Rules and regulations; report.

8. The Director of the Division of Pensions of the State Department of the Treasury shall promulgate such rules and regulations, not inconsistent with the provisions of the Pension Increase Act (P. L. 1969, c. 169) and this act, as he shall deem necessary for the effective operation of the program. He shall include a report of the operation of the Pension Increase Act (P. L. 1969, c. 169) and this act in his annual report submitted to the Governor and the Legislature regarding all of the operations of the Division of Pensions. The secretary of the retirement system shall furnish such information as the director may request for this purpose.

C. 43:10-18.15a to C. 43:10-18.15f Repealed.

9. P. L. 1960, chapter 190 is repealed.

10. This act shall be effective immediately but the repeal of chapter 190 of the public laws of 1960 and the first adjustment as contemplated by this supplementary act shall be effective January 1, 1971, provided that funds are appropriated in accordance with section 4 of this act.

Approved April 16, 1971.

CHAPTER 103

AN ACT concerning motor vehicles and amending section 39:4-50 of the Revised Statutes.

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

1. Section 39:4-50 of the Revised Statutes is amended to read as follows:

Operating motor vehicle while under influence of liquor or drugs; penalty.

39:4-50. (a) A person who operates a motor vehicle while under the influence of intoxicating liquor, narcotic, hallucinogenic or habit-producing drug, or permits another person who is under the influence of intoxicating liquor, narcotic, hallucinogenic or habit-producing drug to operate a motor vehicle owned by him or in his custody or control, shall be subject, for the first offense, to a fine of not less than \$200.00 nor more than \$500.00, or imprisonment for a term of not less than 30 days nor more than 3 months or both, in the discretion of the magistrate, and shall forthwith forfeit his right to operate a motor vehicle over the highways of this State for a period of 2 years from the date of his conviction or until he reaches the age of 21 years, whichever is the greater period of time, in the case of a person who at the time of his conviction is under the age of 21 years. Except as hereinafter provided, for a subsequent violation, he shall be imprisoned for a term of 3 months and shall forfeit his right to operate a motor vehicle over the highways of this State for a period of 10 years from the date of his conviction, and, after the expiration of said period, he may make application to the Director of the Division of Motor Vehicles for a license to operate a motor vehicle, which application may be granted at the discretion of the director. A magistrate who imposes a term of imprisonment under this section may sentence the person so convicted either to the county jail or to the workhouse of the county wherein the offense was committed.

A person who has been convicted of a previous violation of this section need not be charged as a second offender in the complaint made against him in order to render him liable to the punishment imposed by this section on a second offender, but if the second offense occurs 10 or more years after the previous conviction the court may, in its discretion, suspend the sentence of imprisonment, impose a fine of not less than \$300.00 nor more than \$1,000.00 and place the person on probation.

(b) A person who operates a motor vehicle while his ability to operate such motor vehicle is impaired by the consumption of alcohol shall be subject, for a first offense, to a fine of not less than \$50.00 nor more than \$100.00 and shall forthwith forfeit his right to operate a motor vehicle over the highways of this State for a period of 6 months from the date of his conviction. For a subsequent violation, he shall be fined not less than \$100.00 nor

more than \$300.00 and shall forthwith forfeit his right to operate a motor vehicle over the highways of this State for a period of 2 years from the date of his conviction. After the expiration of said period of forfeiture, he may make application to the Director of the Division of Motor Vehicles for a license to operate a motor vehicle which application may be granted at the discretion of the director.

2. This act shall take effect immediately.

Approved April 16, 1971.

CHAPTER 104

AN ACT concerning the service of process upon certain persons who shall drive, or cause to be driven, motor vehicles within this State, amending R. S. 39:7-2 and the title and body of P. L. 1954, chapter 61.

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

1. R. S. 39:7-2 is amended to read as follows:

Director of Division of Motor Vehicles as agent of nonresidents for service of process; effect of service.

39:7-2. (a) Any person, not being a resident of this State, who shall drive a motor vehicle in this State, whether or not such person shall be licensed to do so in accordance with the laws of this State or of any other State or otherwise; and

(b) Any person or persons, not being a resident or residents of this State or any corporation or association, not incorporated under the laws of this State and not duly authorized to transact business in this State, who by his, their or its agent or servant, shall cause to be driven in this State, any motor vehicle which is not registered in this State to be driven upon the public highways thereof, pursuant to the laws thereof, whether or not the driver thereof shall be licensed to drive a motor vehicle upon the public highways of this State; shall, by the operation of such motor vehicle, or by causing the same to be operated, within this State, make and constitute the Director of the Division of Motor Vehicles

in the Department of Law and Public Safety, his or their agent for the acceptance of process in any civil action or proceeding, issuing out of any district court, County Court, or other court of civil jurisdiction, against any such person or persons, corporation or association arising out of or by reason of any accident or collision occurring within this State in which any such motor vehicle, so driven or caused to be driven within this State is involved.

The agreement that the Director of the Division of Motor Vehicles in the Department of Law and Public Safety shall be constituted the agent, of a nonresident operator or owner of a motor vehicle, which is involved in any accident in this State, for the acceptance of process in any such action or proceeding, shall be irrevocable and binding upon the executor or administrator of such operator or owner, and service of process shall be made upon the executor or administrator of any such operator or owner dying prior to the commencement of such action or proceeding in the same manner and on the same notice as herein provided for service of process upon such operator or owner, and any such action or proceeding, duly commenced by service upon such an operator or owner under the provisions of this chapter, who shall die thereafter during the pendency of such action or proceeding, shall be continued against his executor or administrator by the court in which the same is pending, upon such application and notice as the court shall prescribe. The operating or causing to be operated of any such motor vehicle within this State shall be the signification of the agreement of such nonresident person operating the same, or of such person or persons or corporation or association for whom such motor vehicle is operated, of his, their or its agreement that any such process against him, or them, or it, or against his or their executors or administrators, which is so served shall be of the same legal force and validity as if served upon him or them personally or upon it in accordance with law within this State.

Title amended.

2. The title of P. L. 1954, chapter 61 is amended to read as follows:

AN ACT providing for the service of process, upon persons who shall drive, or shall cause to be driven, motor vehicles in this State, in civil actions when the cause of action arises out of accidents or collisions occurring within this State in which such motor vehicles are involved, who at the time of such accidents or collisions were residents of this State, and who thereafter became

nonresidents of this State, and supplementing chapter 7 of Title 39 of the Revised Statutes.

3. Section 1 of P. L. 1954, chapter 61 (C. 39:7-2.1) is amended to read as follows:

C. 39:7-2.1 Director of Division of Motor Vehicles as agent of residents who became nonresidents for service of process; effect of service.

1. Any resident of this State who shall drive a motor vehicle, or cause a motor vehicle to be driven in this State, whether or not such motor vehicle is registered under the laws of this State and whether or not such person or the driver of such motor vehicle is licensed to drive a motor vehicle upon the highways of this State, shall by the operation of such motor vehicle, or by causing the same to be operated, within this State, make and constitute the Director of the Division of Motor Vehicles in the Department of Law and Public Safety his agent for the acceptance of process, in any civil action or proceeding, issuing out of any county district court, County Court or other court of civil jurisdiction of this State against him by reason of an accident or collision in this State in which such motor vehicle, while so driven or caused to be driven, shall be involved if, and in case, such person shall cease to be a resident of this State and service of such process upon him within this State cannot be made by reason of his nonresidence. The operating or causing to be operated of any such motor vehicle within this State shall be his signification of the agreement of such person operating the same or the person for whom such motor vehicle is operated of his agreement that any such process against him which is so served after he becomes a nonresident of this State shall be of the same legal force and validity as if served upon him personally in accordance with law within this State. The agreement that the Director of the Division of Motor Vehicles in the Department of Law and Public Safety shall be constituted the agent, of a resident operator or owner of a motor vehicle who becomes a nonresident, which is involved in any accident in this State, for the acceptance of process in any such action or proceeding, shall be irrevocable and binding upon the executor or administrator of such operator or owner, whether appointed within or without the State, and service of process shall be made upon the said executor or administrator of any such operator or owner dying prior to the commencement of such action or proceeding in the same manner and on the same notice as herein provided for service of process upon such operator or owner, and any such action or proceeding, duly com-

menced by service upon such an operator or owner under the provisions of this act, who shall die thereafter during the pendency of such action or proceeding, shall be continued against his said executor or administrator by the court in which the same is pending, upon such application and notice as the court shall prescribe.

4. This act shall take effect immediately.

Approved April 16, 1971.

CHAPTER 105

AN ACT concerning the terms of office of the Director of the Division of Motor Vehicles and the Superintendent of State Police in the Department of Law and Public Safety and amending sections 39:2-2 and 53:1-2 of the Revised Statutes.

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

1. Section 39:2-2 of the Revised Statutes is amended to read as follows:

Director of Division of Motor Vehicles; appointment, term, salary, bond, oath.

39:2-2. The division shall be administered by the Director of the Division of Motor Vehicles.

The director shall be appointed by the Governor with the advice and consent of the Senate and shall serve during the term of office of the Governor appointing him and until the director's successor is appointed and has qualified.

The director shall receive such salary as shall be provided by law.

The director shall give bond, conditioned for the faithful discharge of his duties, in the sum of \$50,000.00, which bond shall be approved by a justice of the Supreme Court or a judge of the Superior Court, and shall be filed with the State Treasurer.

The director shall take an oath before one of the Supreme Court justices or Superior Court judges, in form similar to that now required by the State Treasurer, which oath shall be filed with the Secretary of State.

2. Section 53:1-2 of the Revised Statutes is amended to read as follows:

Superintendent of State Police; appointment, term, removal, salary, bond.

53:1-2. The Superintendent of State Police, hereinafter referred to as the superintendent, shall be appointed by the Governor, with the advice and consent of the Senate, shall serve during the term of office of the Governor appointing him and until the superintendent's successor is appointed and has qualified and shall be removable by the Governor after charges have been preferred and a hearing granted.

The superintendent shall receive such salary as shall be provided by law, and shall, before entering upon the duties of his office, give a bond to the State of New Jersey in the sum of \$20,000.00 for the faithful performance of his duties.

3. This act shall take effect immediately.

Approved April 16, 1971.

CHAPTER 106

AN ACT concerning appointment of commissioners to the Interstate Sanitation Commission and amending R. S. 32:19-1.

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

1. R. S. 32:19-1 is amended to read as follows:

New Jersey commissioners; appointment, designation of representatives, terms, vacancies, removal, powers and duties, compensation.

32:19-1. The Governor shall, by and with the advice and consent of the Senate, appoint three commissioners to the Interstate Sanitation Commission created by the agreement or compact between the States of New York and New Jersey and Connecticut, each of whom shall be a resident voter of the State of New Jersey. The Commissioner of Environmental Protection and the Commissioner of Health shall serve as commissioners ex officio, and may designate a representative of their respective departments to represent them at all meetings, hearings and proceedings of the Interstate Sanitation Commission with full power to vote and act on their respective behalf. In the event that either the Commissioner of Environ-

mental Protection or the Commissioner of Health shall not qualify in accordance with the provisions of the compact, said commissioner shall designate a representative of his respective department to serve as an Interstate Sanitation Commissioner until such time as the commissioner ex officio shall qualify.

Each appointive commissioner shall hold office, for a term of 5 years or until his successor has been appointed and qualified. At the expiration of the term of each appointive commissioner, the Governor shall, by and with the advice and consent of the Senate, appoint a successor who shall hold office for a term of 5 years or until his successor has been appointed and qualified. In the event of a vacancy occurring in the office of an appointive commissioner by death, resignation or otherwise, the Governor shall, by and with the advice and consent of the Senate, appoint his successor, who shall hold office for the unexpired term. Any commissioner may be removed upon charges and after hearing by the Governor. The commissioners shall have the powers and duties and be subject to the limitations provided for in the compact and agreement entered into between the signatory States and laws adopted by said States, and together with five commissioners from the States of New York and Connecticut shall form the Interstate Sanitation Commission. The commissioners shall serve without compensation, but shall be paid their actual expenses incurred and incident to the performance of their duties.

2. The incumbent commissioners as of the effective date of this act shall continue to serve for the terms for which they were appointed. The first vacancy occurring among the New Jersey commissioners shall be filled by the Commissioner of Environmental Protection, and the second such vacancy shall be filled by the Commissioner of Health, both of whom shall thereafter serve as commissioners ex officio in accordance with section 1 of this act.

3. This act shall take effect immediately.

Approved April 22, 1971.

CHAPTER 107

AN ACT concerning the boards of chosen freeholders, providing that the 1970 census shall not operate to increase the size and membership of the boards of chosen freeholders in certain counties.

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

C. 40:20-20.3 Effect of 1970 census on boards of chosen freeholders in certain counties.

1. Notwithstanding the provisions of R. S. 40:20-20 the 1970 census shall not operate to increase the size and membership of the board of chosen freeholders in any county having a population between 550,000 and 600,000 or between 310,000 and 375,000.

2. This act shall take effect immediately.

Approved April 22, 1971.

CHAPTER 108

AN ACT to amend and supplement “An act concerning the taxation of certain public utilities and amending and supplementing chapter 5, P. L. 1940, passed January 23, 1940, and chapter 91, P. L. 1961, approved July 18, 1961” (P. L. 1963, c. 42), approved May 22, 1963.

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

1. Section 8 of P. L. 1963, c. 42 (C. 54:30A-54.1) is amended to read as follows:

C. 54:30A-54.1 Computation of subsection (c) taxes.

8. The director shall annually, on or before April 1, 1964, and April 1 in each year thereafter, compute the excise taxes payable

to the State as provided in subsection (c) of section 6 hereof. In making such computation the director shall allow as a credit against the excise taxes payable to the State as provided in subsection (c)(2) of section 6 hereof, the amount of taxes paid in the previous calendar year by any such taxpayers pursuant to L. 1961, c. 91, as amended and supplemented. Within 5 days after making such computation, the director shall certify such taxes and the taxes provided for in section 2 of this act as a partial payment to the respective taxpayers who shall make payment thereof to the director on or before May 1 next succeeding.

C. 54:30A-54.1a Amount and payment of tax.

2. On or before May 1, 1971, except as hereinafter provided, and on or before May 1 of each year thereafter, every person, copartnership, association or corporation subject to the excise tax imposed by the act of which this act is amendatory shall pay to the director an amount equal to $\frac{1}{2}$ of the tax payable under section 6 of P. L. 1940, c. 5 (C. 54:30A-54) upon its gross receipts determined thereunder for the preceding calendar year. Each such payment shall be in addition to the tax payable under section 6 of P. L. 1940, c. 5 (C. 54:30A-54) and shall be considered as a partial payment of the tax which will become due under said section, upon the following May 1. The additional taxes due on or before May 1, 1971 shall be payable in two equal installments. With respect to the additional taxes herein, the first installment shall be payable on May 1, 1971 and the second installment thereof shall be payable on or before June 15, 1971.

In the calculation of the tax due in accordance with section 6 of P. L. 1940, c. 5 (C. 54:30A-54) in the year 1972 and each year thereafter, every person, copartnership, association or corporation subject to tax hereunder shall be entitled to a credit in the amount of the tax paid hereunder as a partial payment in the preceding calendar year and shall be entitled to the return of any amount so paid which shall be found to be in excess of the total amount payable in accordance with section 6 of P. L. 1940, c. 5 (C. 54:30A-54).

3. This act shall take effect immediately.

Approved April 22, 1971.

CHAPTER 109

AN ACT to amend and supplement “An act concerning the taxation of certain public utilities and amending and supplementing ‘An act imposing an excise tax upon persons, copartnerships, associations or corporations, other than street railway, traction, sewerage, water, gas and electric light, heat and power corporations, municipal corporations and corporations taxable under chapter 291 of the laws of 1941, using or occupying public streets, highways, roads or other public places by virtue of a franchise or authority or permission from the State or any municipality thereof, except for the operation of autobusses or autocabs commonly called taxicabs,’ passed January 23, 1940 (chapter 4, P. L. 1940), as said title was amended by chapter 92, P. L. 1961,” approved May 22, 1963 (P. L. 1963, c. 41).

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

1. Section 6 of P. L. 1963, c. 41 (C. 54:30A-18.1) is amended to read as follows:

C. 54:30A-18.1 Computation of section 3 (b) tax; certification and payment.

6. The director shall annually, on or before April 1, 1964, and April 1 in each year thereafter, compute the excise taxes payable to the State as provided in section 3(b) hereof. Within 5 days after making such computation, the director shall certify such taxes and the taxes provided for in section 2 of this act as a partial payment to the respective taxpayers who shall make payment thereof to the director on or before May 1 next succeeding.

C. 54:30A-18.1a Amount and payment of tax.

2. On or before May 1, 1971, except as hereinafter provided and on or before May 1, of each year thereafter, every person, copartnership, association or corporation subject to the excise tax imposed by the act of which this act is amendatory shall pay to the director an amount equal to $\frac{1}{2}$ of the tax payable under section 3(b) of P. L. 1940, c. 4 (C. 54:30A-18) upon its gross receipts determined thereunder for the preceding calendar year. Each such payment shall be in addition to the tax payable under section 3(b) of P. L. 1940, c. 4 (C. 54:30A-18) and shall be considered as a

partial payment of the tax which will become due under said section, upon the following May 1. The additional taxes due on or before May 1, 1971 shall be payable in two equal installments. With respect to the additional taxes herein, the first installment shall be payable on May 1, 1971 and the second installment thereof shall be payable on or before June 15, 1971.

In the calculation of the tax due in accordance with section 3(b) of P. L. 1940, c. 4 (C. 54:30A-18) in the year 1972 and each year thereafter, every person, copartnership, association or corporation subject to tax hereunder shall be entitled to a credit in the amount of the tax paid hereunder as a partial payment in the preceding calendar year and shall be entitled to the return of any amount so paid which shall be found to be in excess of the total amount payable in accordance with section 3(b) of P. L. 1940, c. 4 (C. 54:30A-18).

3. This act shall take effect immediately.

Approved April 22, 1971.

CHAPTER 110

AN ACT concerning the dredging and desnagging, the improvement of bridges and the acquisition of flood plain lands of and adjacent to the rivers and tributaries within the Passaic River Basin; and appropriating \$4.1 million therefor.

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

C. 58:16B-1 Short title.

1. This act may be cited as the "Passaic River Basin Dredging and Desnagging and Flood Plain Land Acquisition Act of 1971."

C. 58:16B-2 Legislature's findings.

2. The Legislature hereby finds that:

(a) The safety, economic vitality and general welfare of the residents of the Passaic River Basin region are threatened due to reoccurring flooding conditions causing loss of life, damage to

public and private property and to natural resources amounting to in excess of \$150 million and that it will be necessary to dredge and desnag the rivers and tributaries, improve bridges and to acquire affected land in the flood plain areas in order to reduce the dangers inherent in this situation as soon as possible.

(b) The sum of \$4.1 million is required at this time in order to implement this interim program.

C. 58:16B-3 Department of Environmental Protection authorized to engage in certain activities.

3. The Department of Environmental Protection is authorized and empowered to undertake the construction of bridge improvements and to engage in dredging and desnagging activities and projects on the Passaic river or at any inlet, estuary or tributary waterway thereof, or on any inland waterway adjacent to any inlet, estuary or tributary waterway of the Passaic river which may be necessary for flood control and to prevent or repair damage caused by erosion or storm; provided, however, the municipality and county in which such work is undertaken shall acquire and make available without cost to the State of New Jersey all lands, easements and rights-of-way required in connection with such work. All such work hereunder shall be done under contract with and under supervision of the Department of Environmental Protection.

C. 58:16B-4 Authority to purchase flood plain lands.

4. The Department of Environmental Protection is authorized to purchase flood plain lands within the Passaic River Basin for the purpose of flood control and protection, and to delineate such lands.

5. There shall be appropriated from the General State Fund \$4.1 million to the Department of Environmental Protection to effectuate the purposes of this act.

6. This act shall take effect immediately.

Approved April 22, 1971.

CHAPTER 111

AN ACT concerning the practice of medicine and amending R. S. 45:9-8.

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

1. R. S. 45:9-8 is amended to read as follows:

Diplomas from medical schools in the United States or foreign countries; license in foreign country; internship or post-graduate course.

45:9-8. Except as otherwise provided in this chapter (45:9-1 et seq.), every applicant for admission to licensure by examination to practice medicine and surgery shall, in addition to the requirements set forth in sections 45:9-6 and 45:9-7 of this Title:

(1) Prove to the board that he has received (a) a diploma from some legally incorporated professional school or college of the United States, Canada or other foreign country, which school or college, in the opinion of the board, was in good standing at the time of the issuance of the diploma, or (b) a license conferring the full right to practice all of the branches of medicine and surgery in some foreign country; and

(2) Shall further prove that, prior to the receipt of such diploma or license, as aforesaid, he had studied not less than 4 full school years, including four satisfactory courses of lectures of at least 8 months each, consecutively or in 4 different calendar years, in some legally incorporated and registered American or foreign professional school or schools, college or colleges in good standing in the opinion of the board, which courses shall have included a thorough and satisfactory course of instruction in medicine and surgery; and

(3) Such applicant, if he has graduated from a professional school or college after July 1, 1916, shall further prove to the board that, after receiving such diploma or license, he has completed an internship acceptable to the board for at least 1 year in a hospital approved by the board, or in lieu thereof he has completed 1 year of post-graduate work acceptable to the board in a school or hospital approved by the board; or

If prior to receiving such diploma, has been awarded a certificate or the degree of Bachelor of Medicine upon completion of a course

of study acceptable to the board and of not less than 30 months duration in not less than 3 different calendar years in a medical college approved by the board, and in addition thereto, prior to receiving the degree of Doctor of Medicine shall have completed a full year of intern training in a medical college hospital or a hospital affiliated or associated with such medical college.

2. This act shall take effect immediately.

Approved April 22, 1971.

CHAPTER 112

AN ACT concerning internships in hospitals in this State.

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

C. 30:4-4.1 Hospital internship examination; limitation.

1. No hospital licensed by this State or operated by the State, a county or a municipality and which receives funds pursuant to the "New Jersey Medical Assistance and Health Services Act," P. L. 1968, c. 413 (C. 30:4D-1 et seq.) shall require an individual as a condition to serving an internship in such hospital to take an examination other than an examination which may be required by rules and regulations of the State Board of Medical Examiners.

2. This act shall take effect immediately.

Approved April 22, 1971.

CHAPTER 113

AN ACT concerning the New Jersey Educational Facilities Authority and amending N. J. S. 18A:72A-3.

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

1. N. J. S. 18A:72A-3 is amended to read as follows:

Definitions.

18A:72A-3. As used in this act, the following words and terms shall have the following meanings, unless the context indicates or requires another or different meaning or intent:

"Authority" means the New Jersey Educational Facilities Authority created by this chapter or any board, body, commission,

department or officer succeeding to the principal functions thereof or to whom the powers conferred upon the authority by this chapter shall be given by law;

“Bond” means bonds or notes of the authority issued pursuant to this chapter;

“Dormitory” means a housing unit with necessary and usual attendant and related facilities and equipment;

“Educational facility” means a structure suitable for use as a dormitory, dining hall, student union, administration building, academic building, library, laboratory, research facility, classroom, athletic facility, health care facility, teaching hospital, and parking maintenance storage or utility facility and other structures or facilities related thereto or required or useful for the instruction of students or the conducting of research or the operation of an institution for higher education, and the necessary and usual attendant and related facilities and equipment, but shall not include any facility used or to be used for sectarian instruction or as a place for religious worship;

“Participating college” means a public college or private college which, pursuant to the provisions of this chapter, participates with the authority in undertaking the financing and construction or acquisition of a project;

“Project” means a dormitory or an educational facility or any combination thereof;

“Private college” means an institution for higher education other than a public college, situated within the State and which, by virtue of law or charter, is a nonprofit educational institution empowered to provide a program of education beyond the high school level;

“Public college” means Rutgers, The State University, the State colleges, the Newark College of Engineering, the New Jersey College of Medicine and Dentistry, the county colleges and any other public university or college now or hereafter established or authorized by law.

“University” means Rutgers; the State University.

2. This act shall take effect immediately.

Approved April 26, 1971.

CHAPTER 114

AN ACT to validate certain proceedings of school districts and any bonds or other obligations issued or to be issued in pursuance of such proceedings.

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

Validating act.

1. All proceedings heretofore had or taken by any school district or at any school district meeting or election for the authorization or issuance of bonds or other obligations of the school district, and any bonds or other obligations of the school district issued or to be issued in pursuance of a proposal adopted by the legal voters at such meeting or election, are hereby ratified, validated and confirmed, notwithstanding that no supplemental debt statements or complete executed originals thereof or school debt statements were prepared, made, sworn to and filed as required by the provisions of N. J. S. 18A:24-16 and 18A:24-17; provided, however, that such supplemental debt statements and such school debt statements, prepared as of a date not more than 30 days prior to such meeting or election shall, prior to the issuance of such bonds or other obligations, have been made, sworn to and filed in the places required by said N. J. S. 18A:24-16 and 18A:24-17; and provided further, that no action, suit or proceeding of any nature to contest the validity of such proceedings or has heretofore been instituted prior to the date upon which this act takes effect and within the time fixed therefor by or pursuant to law or rule of court, or, when such time has not heretofore expired, is instituted within 30 days after the effective date of this act.

2. This act shall take effect immediately.

Approved April 26, 1971.

New Jersey State Library

CHAPTER 115

AN ACT to amend the "Savings and Loan Act (1963)," approved August 30, 1963 (P. L. 1963, c. 144).

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

1. Section 226 of P. L. 1963, c. 144 (C. 17:12B-226) is amended to read as follows:

C. 17:12B-226 Fees and charges.

226. Fees and charges. A. Every State association shall pay filing fees as follows:

- (1) Annual report or certificates where required, \$25.00.
- (2) Dissolution proceedings, \$150.00.
- (3) Any new corporation filing, \$250.00; plus an additional fee of \$250.00 to cover the cost of investigation of filing.
- (4) Any proceeding under section 204, pertaining to bulk sales, \$200.00.
- (5) Any proceeding under section 198, pertaining to mergers, \$250.00.
- (6) Any application for a branch office, \$250.00.
- (7) Application to interchange a principal and branch office when such interchange involves two separate municipalities, \$250.00.
- (8) Application for change of name, \$50.00.
- (9) Certifications by the commissioner, of papers or records on file with the department, \$10.00 plus \$1.00 per page for each certification.
- (10) Application to interchange a principal and a branch office within the same municipality, \$100.00.
- (11) Application to change location of principal office pursuant to section 40(2), \$250.00.
- (12) Application to change location of branch office beyond 1,500 feet and in same municipality or pursuant to section 27(A)(1), \$100.00.
- (13) Application to change location of branch office pursuant to section 27(A)(2), \$250.00.

B. Every State association shall defray all expenses incurred in making an examination of its affairs as provided in this act, and the commissioner may maintain an action, in the name of the State, against the association, for the recovery of such expenses, in a court of competent jurisdiction.

2. This act shall take effect immediately.

Approved April 26, 1971.

CHAPTER 116

AN ACT to amend "The Banking Act of 1948," approved April 29, 1948 (P. L. 1948, c. 67).

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

1. Section 333 of P. L. 1948, c. 67 (C. 17:9A-333) is amended to read as follows:

C. 17:9A-333 Fees payable by banks and savings banks.

333. Fees payable by banks and savings banks.

A bank or savings bank shall pay the following fees to the commissioner for the use of the State:

(1) for filing an application for charter	\$2,500 00
(2) for the issuance by the commissioner of a certificate of authority	100 00
(3) for filing a certificate of amendment of a certificate of incorporation, or an amended certificate of incorporation	50 00
(4) for filing any other certificate	10 00
(5) for filing an application for approval of the establishment of a branch office	500 00
(6) for filing an agreement of merger per bank	1,500 00

(7) for filing a copy of a plan of reorganization	250 00
(8) for filing a report required by this act	25 00
(9) for filing an affidavit required by this act	10 00
(10) for filing proof of publication and mailing, or other proof required by this act	10 00
(11) for filing application for approval of a change in location of principal office or branch office	250 00
(12) for filing an application for approval of the cost of the establishment of an auxiliary office	250 00
(13) for the issuance of a certified copy of any certificate of incorporation or merger or plan of reorganization or any other certificate or affidavit filed in the department	\$10 00
plus \$1.00 per page	
(14) for filing an application for approval of an interchange between principal office and branch office	50 00
(15) for the issuance of any other approval by the commissioner	50 00
plus per diem charges where applicable	
(16) for the issuance of any extension by the commissioner	25 00
plus per diem charges where applicable	
(17) for filing a pension plan	200 00
(18) for filing an amendment or alteration to a pension plan	50 00

2. Section 334 of P. L. 1948, c. 67 (C. 17:9A-334) is amended to read as follows:

C. 17:9A-334 Fees payable by foreign banks.

334. Fees payable by foreign banks.

A foreign bank shall pay the following fees to the commissioner for the use of the State:

(1) for filing a copy of its certificate of incorporation or amendment thereof or other change therein	\$25 00
(2) for filing a statement of its financial condition	25 00
(3) for filing a power of attorney	10 00
(4) for the issuance of a certificate of authority or a certificate of renewal of a certificate of authority	250 00
(5) for each substitution of securities pursuant to subsection B of section 320 .	25 00

3. This act shall take effect immediately.

Approved April 26, 1971.

CHAPTER 117

AN ACT concerning boards of chosen freeholders and supplementing part B. of article 2 of chapter 20 of Title 40 of the Revised Statutes.

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

1. Notwithstanding any of the provisions of P. L. 1971, c. 14 (C. 52:4-3), in any county of the fifth class having a population of more than 200,000 according to the final population counts of the Federal census of 1970, the board of chosen freeholders shall consist of five members. In any county in which two additional members of the board of chosen freeholders are to be elected at the 1971 general election, one shall be elected for a term of 2 years and one for a term of 3 years; their successors shall be elected for terms of 3 years.

2. This act shall take effect immediately.

Approved April 27, 1971.

CHAPTER 118

AN ACT to amend “An act to regulate aeronautics over and within this State,” approved March 30, 1938 (P. L. 1938, c. 48) and to amend and supplement “A supplement to ‘An act to regulate aeronautics over and within this State,’ approved March 30, 1938 (P. L. 1938, c. 48),” approved July 14, 1953 (P. L. 1953, c. 234).

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

1. Section 2 of P. L. 1938, chapter 48 (C. 6:1-21) is amended to read as follows:

C. 6:1-21 Definitions.

2. When used in this act:

(a) “Aeronautics” means aviation of or transportation by aircraft; air instruction; the operation, repair or maintenance of aircraft, aircraft power plants and accessories; and the design, construction, repair, maintenance, operation or management of airports, landing fields, landing strips and other avigational facilities.

(b) “Avigation” means the operating, steering, directing or managing of aircraft in or through the air and on the ground or water.

(c) “Aircraft” means any contrivance now known or hereafter invented, used or designed for avigation or flight in the air.

(d) “Public aircraft” means an aircraft used exclusively in the service of any government or of any political subdivision thereof, including the Government of the United States, of the District of Columbia, and of any state, territory or insular possession of the United States, but not including any government-owned aircraft engaged in carrying for hire persons or goods.

(e) “Civil aircraft” means any aircraft other than a public aircraft.

(f) “Airport” means any area of land, water or both, which is used or made available for the landing and take-off of aircraft, and which provides facilities for the shelter, supply and repair of aircraft, and which, as to size, design, surface, marking, maintenance, repair and management, meets the minimum requirements for the various classes of airports established from time to time by the New Jersey Commissioner of Transportation.

(g) "Landing field" means any area of land, water or both, which is used or is made available for the landing and take-off of aircraft, and which does not provide facilities for the shelter, supply and repair of aircraft, and which, as to size, design, surface, marking, equipment, maintenance, repair and management, meets the minimum requirements for the various classes of landing fields established from time to time by the New Jersey Commissioner of Transportation.

(h) "Landing strip" means any area of land, water or both, other than an airport or landing field, which is used or is made available for the landing and take-off of aircraft.

(i) "Air instruction" means instruction in aeronautics or in the art or science of aviation or flight of aircraft.

(j) Fixed base operator means any person engaged in giving, offering to give, advertising, representing or holding himself out as giving, to the public with or without compensation or other reward, air instruction and any person engaged in, but not limited to, the following types of operation: flying club; dusting, spraying and seeding by aircraft; aircraft maintenance or repair shop, banner towing, intrastate air carriers, sport parachute center; air taxi scheduled or charter; piper or power line patrol; aerial photography; fish spotting; aerial advertising (other than banner towing); and parachute repair and rigging; but, the term "fixed base operator" shall not include air carriers operating under a certificate of public convenience and necessity issued by the Civil Aeronautics Board or any successor thereto.

(k) "Person" means any individual, corporation, copartnership or other association of individuals.

(l) "Commissioner" means the Commissioner of the State Department of Transportation.

(m) "Director" means the State Director of Aeronautics in the Department of Transportation.

(n) "Temporary landing area for rotary wing aircraft" means any area of land, water or both, which is used or made available for the landing and take-off of rotary wing aircraft, and which, as to size, design, surface, ownership and location, meets the minimum requirements established from time to time by the Commissioner of Transportation.

(o) The singular shall include the plural and any gender shall include every other gender.

2. Section 20 of P. L. 1938, chapter 48 (C. 6:1-39) is amended to read as follows:

C. 6:1-39 Pilots licenses; rules and regulations.

20. The commissioner shall provide for the licensing of all pilots for a limited or unlimited operation of aircraft by rules, regulations and orders adequate to protect the public safety and the safety of those participating in aeronautics. Such rules, regulations and orders may provide for periodic physical and mental examinations and periodic examinations of pilots' flying ability.

Any class of pilots shall be deemed to be licensed under the provisions of this section of this article; provided, that such pilots shall hold valid and effective certificates or licenses issued under the provisions of the laws, rules and regulations of the United States Government for the particular class of operations.

The commissioner shall publish rules and regulations establishing procedures, policy, and requirements or minimum requirements for the use of "temporary landing areas for rotary wing aircraft." The commissioner shall have the power to administratively revoke, amend or suspend any pilot certificate issued hereunder for the failure to comply with any of the provisions of this chapter or any rules, regulations or orders issued pursuant thereto.

3. Section 24 of P. L. 1938, chapter 48 (C. 6:1-43) is amended to read as follows:

C. 6:1-43 Use of unlicensed facilities prohibited; exceptions.

24. It shall be unlawful, except as hereinafter provided, to use, operate or cause to be used or operated any airport, landing field, landing strip, fixed base operator or other aviation facility, unless it, and, in the case of airports and landing fields, their management, shall be licensed as provided in this chapter; and except in case of emergency no aircraft shall land upon, or take off from, any airport, landing field or landing strip, except a temporary landing area for rotary wing aircraft approved by the commissioner, not so licensed; provided, however, that neither the provisions of this chapter, nor the rules, regulations or orders issued pursuant thereto, shall apply to any airport, landing field, landing strip, fixed base operator, or other aviation facility, owned and operated by the Government of the United States.

4. Section 25 of P. L. 1938, chapter 48 (C. 6:1-44) is amended to read as follows:

C. 6:1-44 Licensing of certain facilities; rules and regulations.

25. The commissioner shall provide for the licensing of airports, airport and landing field managements, landing fields, landing strips, fixed base operators or other aviation facilities and temporary landing areas for rotary wing aircraft by rules, regulations and orders adequate to protect the public health and safety and the safety of those participating in aeronautical activities; provided, however, that the continued use and operation of airports, landing fields, landing strips, fixed base operators and other aviation facilities, in use and operation on the effective date of this chapter, for which an application for a license shall have been filed within the time fixed by the commissioner, shall be permitted, pending the granting or rejection of such applications; and provided further, that the application for a license for any airport, landing field, landing strip, fixed base operator or other aviation facility in use and operation on the effective date of this chapter shall be granted, unless the commissioner shall find that such airports, landing fields, landing strips, fixed base operators or other aviation facilities are not constructed, equipped and operated in accordance with the standards and requirements fixed by the rules, regulations and orders of the commissioner. Whenever the commissioner or the Director of Aeronautics shall reject any application for license under the provisions of this section, he shall state in writing the reasons for such rejection.

5. Section 30 of P. L. 1938, chapter 48 (C. 6:1-49) is amended to read as follows:

C. 6:1-49 Malicious interference with aviation facilities; penalty.

30. Malicious interference with aviation facilities. Any person who shall willfully and maliciously interfere or tamper with any airport, landing field, landing strip, heliport, helistop, or any other aviation facility, or the equipment thereof, shall be guilty of a misdemeanor.

6. Section 1 of P. L. 1953, chapter 234 (C. 6:1-44.1) is amended to read as follows:

C. 6:1-44.1 Annual license fees.

1. The commissioner shall have the power to grant an appropriate license or certificate upon applications properly made and the fee

therefor paid for activities and operations that comply with the requirements of this act.

All licenses or certificates heretofore issued for airports, landing fields, landing strips, New Jersey rotary wing pilot certificates, airport or landing field managers, heliports, helistops, sport parachuting centers, sport parachuting exhibitions, private aviation facilities, aerial exhibitions, other avigational facilities, and fixed base operators shall continue in effect until the expiration date thereof expressed therein and all such licenses or certificates hereafter issued shall be issued for 1 year from the date of issuance and shall be renewed annually upon application for renewal made not later than 30 days before the expiration of the license or certificate to be renewed. Each applicant for such a license or certificate or the renewal of such a license or certificate shall be required to pay a fee to the Division of Aeronautics in the Department of Transportation, as follows:

License or certificate fees for initial issuance or renewal

Airport license	\$35 00
Landing field license	25 00
Landing strip license	15 00
Private aviation facility license	10 00
Heliport license	25 00
Helistop license	15 00
Sport parachuting center license	25 00
Sport parachuting exhibition license	20 00
Aerial exhibition, meet or air race license	25 00
Manager of airport or landing field license	10 00
Flying club license	5 00
New Jersey rotary wing pilot certificate	25 00
Other fixed base operators:	
Basic license for one operation	15 00
Each additional operation to be licensed	5 00
Special (three day) helistop	10 00

All such fees shall be paid to the State Treasurer by the division for use of the State.

C. 6:1-59.1 Penalty.

7. Any person violating any provisions of this act, or any rule, regulation or order authorized hereby and any person who operates, conducts, uses or permits others to operate, conduct, use or employ any aeronautical facility, operation or activity which is required to be licensed without said license being previously issued or re-

newed as required shall be liable to a penalty of \$50.00 which may be collected and enforced in an action by the Division of Aeronautics in the name of the State in a court of competent jurisdiction in a summary manner, without a jury, in accordance with the procedure prescribed in "The Penalty Enforcement Law" (2A:58-1 et seq.). All penalties and costs collected in such actions shall be accounted for by the judge and forwarded to the Division of Aeronautics which shall transmit the same to the State Treasurer.

8. This act shall take effect immediately.

Approved April 29, 1971.

CHAPTER 119

AN ACT to define the term Viet Nam conflict with respect to the civil service veterans' preference law, the Teachers' Pension and Annuity Fund law, and the Public Employees' Retirement System law, and amending Revised Statutes 11:27-1, N. J. S. 18A:66-2, P. L. 1954, chapter 84.

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

1. Section 11:27-1 of the Revised Statutes is amended to read as follows:

Definitions.

11:27-1. As used in this subtitle: "Commission" means the Civil Service Commission of this State.

"Appointing authority" means a commission, board, person or group of persons having the power authorized by law or by reason, of a lawfully delegated authority, to make appointments.

"War service" means service by a veteran, as hereinafter defined, in any war, uprising, insurrection or expedition mentioned in this section during the periods specified.

"Veteran with a record of disability incurred in line of duty" means any veteran as hereinafter defined who is eligible under the United States veterans' bureau qualifications for compensation for service-connected disability from World War service or who is receiving or who is entitled to receive equivalent compensation for service-connected disability arising out of such other military

or naval service hereinafter defined, and has presented to the Civil Service Commission of New Jersey full and convincing evidence of such record of disability incurred in line of duty on or before the announced closing date for filing applications for a particular examination.

“Veteran” means any honorably discharged soldier, sailor, marine or nurse who served in any army or navy of the allies of the United States in World War I, between July 14, 1914, and November 11, 1918, or who served in any army or navy of the allies of the United States in World War II, between September 1, 1939, and September 2, 1945, and who was inducted into such service through voluntary enlistment, and was citizen of the United States at the time of such enlistment, and who did not, during or by reason of such service, renounce or lose his United States citizenship, and any soldier, sailor, marine, airman, nurse or army field clerk, who has served in the active military or naval service of the United States and has or shall be discharged or released therefrom under conditions other than dishonorable, in any of the following wars, uprisings, insurrections or expeditions, and who has presented to the Civil Service Commission of New Jersey full and convincing evidence of such record of service on or before the announced closing date for filing applications for a particular examination:

(1) The Indian wars and uprisings during any of the periods recognized by the War Department of the United States as periods of active hostility;

(2) The Spanish-American War between April 20, 1898, and April 11, 1899;

(3) The Philippine insurrections and expeditions during the periods recognized by the War Department of the United States as of active hostility from February 4, 1899, to the end of 1913;

(4) The Peking relief expedition between June 20, 1900, and May 27, 1902;

(5) The army of Cuban occupation between July 18, 1898, and May 20, 1902;

(6) The army of Cuban pacification between October 6, 1906, and April 1, 1909;

(7) The Mexican punitive expedition between March 14, 1916, and February 7, 1917;

(8) The Mexican border patrol, having actually participated in engagements against Mexicans between April 12, 1911, and June 16, 1919;

(9) World War I between April 6, 1917, and November 11, 1918;

(10) World War II, after September 16, 1940, who shall have served at least 90 days commencing on or before September 2, 1945, in such active service, exclusive of any period he was assigned (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program, which course was a continuation of his civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not he has completed the 90-day service as herein provided.

(11) Korean conflict, after June 23, 1950, who shall have served at least 90 days commencing on or before July 27, 1953, in such active service, exclusive of any period he was assigned (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which course was a continuation of his civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not he has completed the 90-day service as herein provided.

(12) Viet Nam conflict, after December 31, 1960, and prior to the date of termination as proclaimed by the Governor, who shall have served at least 90 days in such active service on overseas duty, exclusive of any period he was assigned (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which course was a continuation of his civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; and exclusive of any service performed pursuant to the provisions of section 511 (d) of Title 10, United States Code, pursuant to an enlistment in the Army National Guard or as a reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not he has completed the 90 days service as herein provided.

2. Section 18A:66-2 of the New Jersey Statutes is amended to read as follows:

Definitions.

18A:66-2. As used in this article:

a. "Accumulated deductions" means the sum of all the amounts, deducted from the compensation of a member or contributed by him or on his behalf, including interest credited prior to January 1, 1956, standing to the credit of his individual account in the annuity savings fund.

b. "Annuity" means payments for life derived from the accumulated deductions of a member as provided in this article.

c. "Beneficiary" means any person receiving a retirement allowance or other benefit as provided in this article.

d. "Compensation" means the contractual salary for services as a teacher as defined in this article.

e. "Employer" means the State, the board of education or any educational institution or agency of or within the State by which a teacher is paid.

f. "Final compensation" means the average annual compensation for which contributions are made for the 5 years of creditable service in New Jersey immediately preceding his retirement, or it shall mean the average annual compensation for which contributions are made during any 5 fiscal years of his or her membership providing the largest possible benefit to the member or his beneficiary.

g. "Fiscal year" means any year commencing with July 1, and ending with June 30, next following.

h. "Pension" means payments for life derived from appropriations made by the State or employers to the Teachers' Pension and Annuity Fund.

i. "Annuity reserve" means the present value of all payments to be made on account of any annuity or benefit in lieu of an annuity, granted under the provisions of this article, computed on the basis of such mortality tables recommended by the actuary as the board of trustees adopts, with regular interest.

j. "Pension reserve" means the present value of all payments to be made on account of any pension or benefit in lieu of a pension granted to a member from the Teachers' Pension and Annuity Fund computed on the basis of such mortality tables recommended by the actuary as the board of trustees adopts, with regular interest.

k. "Present-entrant" means any member of the Teachers' Pension and Annuity Fund who has established status as a "present-entrant member" of said fund prior to January 1, 1956.

l. "Rate of contribution initially certified" means the rate of contribution certified based upon the member's age when last he became a member.

m. "Regular interest" shall mean interest as determined annually by the State Treasurer after consultation with the directors of the divisions of Investment and Pensions and the actuary of the fund. It shall bear a reasonable relationship to the percentage rate of earnings on investments but shall not exceed 105% of such percentage rate.

n. "Retirement allowance" means the pension plus the annuity.

o. "School service" means any service as a "teacher" as defined in this section.

p. "Teacher" means any regular teacher, special teacher, helping teacher, teacher clerk, principal, vice-principal, supervisor, supervising principal, director, superintendent, city superintendent, assistant city superintendent, county superintendent, State Commissioner or Assistant Commissioner of Education and other members of the teaching or professional staff of any class, public school, high school, normal school, model school, training school, vocational school, truant reformatory school, or parental school, and of any and all classes or schools within the State conducted under the order and superintendence, and wholly or partly at the expense of the State Board of Education, of a duly elected or appointed board of education, board of school directors, or board of trustees of the State or of any school district or normal school district thereof, and any such persons under contract or engagement to perform one or more of these functions. No person shall be deemed a teacher within the meaning of this article who is a substitute teacher or is a teacher not regularly engaged in performing one or more of these functions as a full-time occupation outside of vacation periods. In all cases of doubt the board of trustees shall determine whether any person is a teacher as defined in this article.

q. "Teachers' Pension and Annuity Fund" hereinafter referred to as the "retirement system," is the corporate name of the arrangement for the payment of retirement allowances and other benefits under the provisions of this article including the several funds placed under said system. By that name all its business shall be transacted, its funds invested, warrants for money drawn, and

payments made and all of its cash and securities and other property held.

r. "Veteran" means any honorably discharged officer, soldier, sailor, airman, marine or nurse who served in any Army, Air Force or Navy of the Allies of the United States in World War I between July 14, 1914, and November 11, 1918, or who served in any Army, Air Force or Navy of the Allies of the United States in World War II, between September 1, 1939, and September 2, 1945, and who was inducted into such service through voluntary enlistment, and was a citizen of the United States at the time of such enlistment, and who did not, during or by reason of such service, renounce or lose his United States citizenship, and any officer, soldier, sailor, marine, airman, nurse or army field clerk who has served in the active military or naval service of the United States and has or shall be discharged or released therefrom under conditions other than dishonorable, in any of the following wars, uprisings, insurrections, expeditions or emergencies, and who has presented to the retirement system evidence of such record of service in form and content satisfactory to said retirement system:

(1) The Indian wars and uprisings during any of the periods recognized by the War Department of the United States*as periods of active hostility;

(2) The Spanish-American War between April 20, 1898, and April 11, 1899;

(3) The Philippine insurrections and expeditions during the periods recognized by the War Department of the United States as of active hostility from February 4, 1899, to the end of 1913:

(4) The Peking relief expedition between June 20, 1900, and May 27, 1902;

(5) The army of Cuban occupation between July 18, 1898, and May 20, 1902;

(6) The army of Cuban pacification between October 6, 1906, and April 1, 1909;

(7) The Mexican punitive expedition between March 14, 1916, and February 7, 1917;

(8) The Mexican border patrol, having actually participated in engagements against Mexicans between April 12, 1911, and June 16, 1919;

(9) World War I, between April 6, 1917, and November 11, 1918;

(10) World War II, between September 16, 1940, and September 2, 1945, who shall have served at least 90 days in such active service, exclusive of any period he was assigned (1) for a course of education or training under the Army specialized training program or the Navy college training program which course was a continuation of his civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies any part of which 90 days was served between said dates; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not he has completed the 90-day service as herein provided;

(11) Korean conflict after June 23, 1950, and prior to July 27, 1953, who shall have served at least 90 days in such active service, exclusive of any period he was assigned (1) for a course of education or training under the Army specialized training program or the Navy college training program which course was a continuation of his civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not he has completed the 90-day service as herein provided; and provided further, that any member classed as a veteran pursuant to this subsection prior to August 1, 1966, shall continue to be classed as a veteran whether or not he completed the 90-day service between said dates as herein provided;

(12) Viet Nam conflict, after December 31, 1960, and prior to the date of termination as proclaimed by the Governor, who shall have served at least 90 days in such active service on overseas duty, exclusive of any period he was assigned (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which course was a continuation of his civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; and exclusive of any service performed pursuant to the provisions of section 511(d) of Title 10, United States Code, pursuant to an enlistment in the Army National Guard or as a reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve; provided, that any person receiving an actual service-incurred injury or disability

shall be classed as a veteran whether or not he has completed the 90 days service as herein provided.

s. "Child" means a deceased member's unmarried child either (a) under the age of 18 or (b) of any age who, at the time of the member's death, is disabled because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and his impairment has lasted or can be expected to last for a continuous period of not less than 12 months, as affirmed by the medical board.

t. "Dependent widower" means the man to whom a member was married at least 5 years before the date of her death and who was receiving at least $\frac{1}{2}$ of his support from the member in the 12-month period immediately preceding the member's death. The dependency of such a widower will be considered terminated by marriage of the widower subsequent to the death of the member. In the event of the payment of an accidental death benefit, the 5-year qualification shall be waived.

u. "Widow" means the woman to whom a member was married at least 5 years before the date of his death and to whom he continued to be married until the date of his death and who has not remarried subsequent to the member's death. In the event of the payment of an accidental death benefit, the 5-year qualification shall be waived.

3. Section 6 of P. L. 1954, c. 84 (C. 43:15A-6) is amended to read as follows:

C. 43:15A-6 Definitions.

6. As used in this act:

a. "Accumulated deductions" means the sum of all the amounts, deducted from the compensation of a member or contributed by him, standing to the credit of his individual account in the annuity savings fund.

b. "Annuity" means payments for life derived from contributions made by a member as provided in this act.

c. "Annuity reserve" means the present value of all payments to be made on account of any annuity or benefit in lieu of an annuity, granted under the provisions of this act, computed on the basis of such mortality tables as the board of trustees adopts, with regular interest.

d. "Beneficiary" means any person receiving a retirement allowance or other benefit as provided in this act.

e. "Final compensation" means the average annual compensation for which contributions are made for the 5 years of creditable service in New Jersey immediately preceding his retirement, or it shall mean the average annual compensation for which contributions are made during any 5 fiscal years of his or her membership providing the largest possible benefit to the member or his beneficiary.

f. "Fiscal year" means any year commencing with July 1 and ending with June 30 next following.

g. "Pension" means payments for life derived from appropriations made by the employer as formerly provided in chapters 14 and 15 of Title 43 of the Revised Statutes, or in this act.

h. "Pension reserve" means the present value of all payments to be made on account of any pension or benefit in lieu of a pension formerly granted under the provisions of chapters 14 and 15 of Title 43 of the Revised Statutes, or as provided in this act, computed on the basis of such mortality tables as the board of trustees adopts, with regular interest.

i. "Public Employees' Retirement System of New Jersey," hereinafter referred to as the "retirement system," is the corporate name of the arrangement for the payment of retirement allowances and other benefits under the provisions of this act and for the system including the several funds created and placed under the board of trustees of said system. By that name all of its business shall be transacted, its funds invested, warrants for money drawn and payments made and all of its cash and securities and other property held.

j. "Regular interest" shall mean interest as determined annually by the State Treasurer after consultation with the Directors of the Divisions of Investment and Pensions and the actuary of the system. It shall bear a reasonable relationship to the percentage rate of earnings on investments but shall not exceed 105% of such percentage rate.

k. "Retirement allowance" means the pension plus the annuity.

l. "Veteran" means any honorably discharged officer, soldier, sailor, airman, marine or nurse who served in any army, air force or navy of the allies of the United States in World War I, between July 14, 1914, and November 11, 1918, or who served in any army, air force or navy of the allies of the United States in World War II, between September 1, 1939, and September 2, 1945, and who was in-

ducted into such service through voluntary enlistment, and was a citizen of the United States at the time of such enlistment, and who did not, during or by reason of such service, renounce or lose his United States citizenship, and any officer, soldier, sailor, marine, airman, nurse or army field clerk, who has served in the active military or naval service of the United States and has or shall be discharged or released therefrom under conditions other than dishonorable, in any of the following wars, uprisings, insurrections, expeditions, or emergencies, and who has presented to the board of trustees evidence of such record of service in form and content satisfactory to said board of trustees:

(1) The Indian wars and uprisings during any of the periods recognized by the War Department of the United States as periods of active hostility;

(2) The Spanish-American War between April 20, 1898, and April 11, 1899;

(3) The Philippine insurrections and expeditions during the periods recognized by the War Department of the United States as of active hostility from February 4, 1899, to the end of 1913;

(4) The Peking relief expedition between June 20, 1900, and May 27, 1902;

(5) The army of Cuban occupation between July 18, 1898, and May 20, 1902;

(6) The army of Cuban pacification between October 6, 1906, and April 1, 1909;

(7) The Mexican punitive expedition between March 14, 1916, and February 7, 1917;

(8) The Mexican border patrol, having actually participated in engagements against Mexicans between April 12, 1911, and June 16, 1919;

(9) World War I, between April 6, 1917, and November 11, 1918;

(10) World War II, between September 16, 1940, and September 2, 1945, who shall have served at least 90 days in such active service, exclusive of any period he was assigned (1) for a course of education or training under the Army specialized training program or the Navy college training program which course was a continuation of his civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies any part of which 90 days was served between said dates; provided, that any person

receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not he has completed the 90-day service as herein provided.

(11) Korean Conflict after June 23, 1950, and prior to July 27, 1953, who shall have served at least 90 days in such active service, exclusive of any period he was assigned (1) for a course of education or training under the Army specialized training program or the Navy college training program which course was a continuation of his civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; provided, that any person receiving an actual service incurred injury or disability shall be classed as a veteran whether or not he has completed the 90-day service as herein provided; and provided further, that any member classed as a veteran pursuant to this subparagraph prior to the effective date of this amendatory act shall continue to be classed as a veteran whether or not he completed the 90-day service between said dates as herein provided.

(12) Viet Nam Conflict, after December 31, 1960, and prior to the date of termination as proclaimed by the Governor, who shall have served at least 90 days in such active service on overseas duty, exclusive of any period he was assigned (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which course was a continuation of his civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; and exclusive of any service performed pursuant to the provisions of section 511(d) of Title 10, United States Code, pursuant to an enlistment in the Army National Guard or as a Reserve for service in the Army Reserve, Naval Reserve, Marine Corps Reserve, or Coast Guard Reserve; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not he has completed the 90 days service as herein provided.

4. This act shall take effect immediately.

Approved April 29, 1971.

CHAPTER 120

AN ACT concerning the Department of Transportation and adding a route to the State highway system.

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

State highway route.

1. The Commissioner of Transportation is authorized to add to the State highway system a new route beginning at a point on Route 1-9 south of the Pulaski Skyway, in the county of Hudson, and extending generally northerly to a point of intersection with the Pulaski Skyway, and thence generally northerly to a point of intersection with State Route No. 3, in Hudson county.

2. Said route shall be designated as a freeway.

3. Said route shall be laid out and constructed as soon as practicable by the commissioner in the same manner and subject to the same procedure as other State highways.

4. Said route shall be paid for and maintained as other roads in the State highway system are paid for and maintained.

5. Existing highways may be made use of wherever it is convenient to do so, and the commissioner may acquire rights-of-way where necessary.

6. This act shall take effect immediately.

Approved April 29, 1971.

CHAPTER 121

AN ACT concerning pensions, amending and supplementing article 1 of chapter 66 of Title 18A of the New Jersey Statutes.

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

1. N. J. S. 18A:66-1 is amended to read as follows:

Short title.

18A:66-1. This article shall be known as the "Teachers' Pension and Annuity Fund Law."

2. N. J. S. 18A:66-2 is amended to read as follows:

Definitions.

18A:66-2. As used in this article:

a. "Accumulated deductions" means the sum of all the amounts, deducted from the compensation of a member or contributed by him or on his behalf, including interest credited to January 1, 1956, standing to the credit of his individual account in the annuity savings fund.

b. "Annuity" means payments for life derived from the accumulated deductions of a member as provided in this article.

c. "Beneficiary" means any person receiving a retirement allowance or other benefit as provided in this article.

d. "Compensation" means the contractual salary, for services as a teacher as defined in this article, which is in accordance with established salary policies of the member's employer for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary or extracurricular duties beyond the regular school day or the regular school year.

e. "Employer" means the State, the board of education or any educational institution or agency of or within the State by which a teacher is paid.

f. "Final compensation" means the average annual compensation for which contributions are made for the 3 years of creditable service in New Jersey immediately preceding his retirement or death, or it shall mean the average annual compensation for New Jersey service for which contributions are made during any 3 fiscal years of his or her membership providing the largest possible benefit to the member or his beneficiary.

g. "Fiscal year" means any year commencing with July 1, and ending with June 30, next following.

h. "Pension" means payments for life derived from appropriations made by the State or employers to the Teachers' Pension and Annuity Fund.

i. "Annuity reserve" means the present value of all payments to be made on account of any annuity or benefit in lieu of an annuity, granted under the provisions of this article, computed on the basis of such mortality tables recommended by the actuary as the board of trustees adopts, with regular interest.

j. "Pension reserve" means the present value of all payments to be made on account of any pension or benefit in lieu of a pension

granted to a member from the Teachers' Pension and Annuity Fund computed on the basis of such mortality tables recommended by the actuary as the board of trustees adopts, with regular interest.

k. "Present-entrant" means any member of the Teachers' Pension and Annuity Fund who has established status as a "present-entrant member" of said fund prior to January 1, 1956.

l. "Rate of contribution initially certified" means the rate of contribution certified by the retirement system in accordance with section 18A:66-29.

m. "Regular interest" shall mean interest as determined annually by the State Treasurer after consultation with the directors of the Divisions of Investment and Pensions and the actuary of the fund. It shall bear a reasonable relationship to the percentage rate of earnings on investments but shall not exceed 105% of such percentage rate.

n. "Retirement allowance" means the pension plus the annuity.

o. "School service" means any service as a "teacher" as defined in this section.

p. "Teacher" means any regular teacher, special teacher, helping teacher, teacher clerk, principal, vice-principal, supervisor, supervising principal, director, superintendent, city superintendent, assistant city superintendent, county superintendent, State Commissioner or assistant Commissioner of Education and other members of the teaching or professional staff of any class, public school, high school, normal school, model school, training school, vocational school, truant reformatory school, or parental school, and of any and all classes or schools within the State conducted under the order and superintendence, and wholly or partly at the expense of the State Board of Education, of a duly elected or appointed board of education, board of school directors, or board of trustees of the State or of any school district or normal school district thereof, and any such persons under contract or engagement to perform one or more of these functions. No person shall be deemed a teacher within the meaning of this article who is a substitute teacher or is a teacher not regularly engaged in performing one or more of these functions as a full-time occupation outside of vacation periods. In all cases of doubt the board of trustees shall determine whether any person is a teacher as defined in this article.

q. "Teachers' Pension and Annuity Fund" hereinafter referred to as the "retirement system," is the corporate name of the arrangement for the payment of retirement allowances and other benefits under the provisions of this article including the several funds

placed under said system. By that name all its business shall be transacted, its funds invested, warrants for money drawn, and payments made and all of its cash and securities and other property held.

r. "Veteran" means any honorably discharged officer, soldier, sailor, airman, marine or nurse who served in any Army, Air Force or Navy of the Allies of the United States in World War I between July 14, 1914, and November 11, 1918, or who served in any Army, Air Force or Navy of the Allies of the United States in World War II, between September 1, 1939, and September 2, 1945, and who was inducted into such service through voluntary enlistment, and was a citizen of the United States at the time of such enlistment, and who did not, during or by reason of such service, renounce or lose his United States citizenship, and any officer, soldier, sailor, marine, airman, nurse or army field clerk who has served in the active military or naval service of the United States and has or shall be discharged or released therefrom under conditions other than dishonorable, in any of the following wars, uprisings, insurrections, expeditions or emergencies, and who has presented to the retirement system evidence of such record of service in form and content satisfactory to said retirement system:

(1) The Indian wars and uprisings during any of the periods recognized by the War Department of the United States as periods of active hostility;

(2) The Spanish-American War between April 20, 1898, and April 11, 1899;

(3) The Philippine insurrections and expeditions during the periods recognized by the War Department of the United States as of active hostility from February 4, 1899, to the end of 1913;

(4) The Peking relief expedition between June 20, 1900, and May 27, 1902;

(5) The army of Cuban occupation between July 18, 1898, and May 20, 1902;

(6) The army of Cuban pacification between October 6, 1906, and April 1, 1909;

(7) The Mexican punitive expedition between March 14, 1916, and February 7, 1917;

(8) The Mexican border patrol, having actually participated in engagements against Mexicans between April 12, 1911, and June 16, 1919;

(9) World War I, between April 6, 1917, and November 11, 1918;

(10) World War II, between September 16, 1940, and September 2, 1945, who shall have served at least 90 days in such active service, exclusive of any period he was assigned (1) for a course of education or training under the Army specialized training program or the Navy college training program which course was a continuation of his civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies any part of which 90 days was served between said dates; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not he has completed the 90-day service as herein provided;

(11) Korean conflict after June 23, 1950, and prior to July 27, 1953, who shall have served at least 90 days in such active service, exclusive of any period he was assigned (1) for a course of education or training under the Army specialized training program or the Navy college training program which course was a continuation of his civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not he has completed the 90-day service as herein provided; and provided further, that any member classed as a veteran pursuant to this subsection prior to August 1, 1966, shall continue to be classed as a veteran whether or not he completed the 90-day service between said dates as herein provided;

(12) Viet Nam conflict, after December 31, 1960, and prior to the date of termination as proclaimed by the Governor, who shall have served at least 90 days in such active service on overseas duty, exclusive of any period he was assigned (1) for a course of education or training under the Army specialized training program or the Navy college training program which course was a continuation of his civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; and exclusive of any service performed pursuant to the provisions of section 511 (d) of Title 10, United States Code, pursuant to an enlistment in the the Army National Guard or as a reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve; provided, that any person receiving an actual service, incurred injury or disability shall be classed as a veteran whether or not he has completed the 90 days service as herein provided.

s. "Child" means a deceased member's unmarried child either (a) under the age of 18 or (b) of any age who, at the time of the member's death, is disabled because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and his impairment has lasted or can be expected to last for a continuous period of not less than 12 months, as affirmed by the medical board.

t. "Widower" means the man to whom a member was married at least 5 years before the date of her death and to whom she continued to be married until the date of her death and who was receiving at least $\frac{1}{2}$ of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widower will be considered terminated by marriage of the widower subsequent to the death of the member. In the event of the payment of an accidental death benefit, the 5-year qualification shall be waived.

u. "Widow" means the woman to whom a member was married at least 5 years before the date of his death and to whom he continued to be married until the date of his death and who was receiving at least $\frac{1}{2}$ of her support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widow will be considered terminated by the marriage of the widow subsequent to the member's death. In the event of the payment of an accidental death benefit, the 5-year qualification shall be waived.

v. "Parent" means the parent of a member who was receiving at least $\frac{1}{2}$ of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

w. "Medical board" means the board of physicians provided for in section 18A:66-56.

3. N. J. S. 18A:66-8 is amended to read as follows:

Continuance of membership.

18A:66-8. If a teacher is dismissed by his employer by reason of reduction in number of teachers employed in the school district, institution or department when in the judgment of the employer it is advisable to abolish any office, position or employment for reasons

of a reduction in the number of pupils, economy, a change in the administrative or supervisory organization or other good cause; or if a teacher becomes unemployed by reason of the creation of a regional school district or a consolidated school district; or if a teacher has been discontinued for service through no fault of his own or through leave of absence granted by his employer or permitted by any law of this State; and if such teacher has not withdrawn his accumulated deductions, his membership may continue, notwithstanding any provisions of this article if such member returns to service within a period of 5 years from the date of his discontinuance from service; no credit for retirement purposes shall be allowed to such member, covering the period of his discontinuance except as provided in this section. In computing the service or in computing final compensation no time after September 1, 1919, during which a member was employed as a teacher at an annual salary or remuneration fixed at less than \$500.00 shall be credited, except that in the case of a veteran member credit shall be given for service rendered prior to January 1, 1955, in an employment, office or position if the annual salary or remuneration therefor was fixed at not less than \$300.00 and such service consisted of the performance of the full duties of such employment, office or position. In computing service, time during which such teacher was absent on an official leave without pay shall be credited if such absence was for a period of (1) less than 3 months or (2) up to a maximum of 2 years if the leave was due to the member's personal illness or maternity and the period of leave is allowed for retirement purposes within 1 year following his return to service after the termination of such leave, or (3) the period of leave was specifically allowed for retirement purposes by the provisions of any law of this State. The method of computation, the terms of the purchase and credit granted shall be identical to those stipulated for the purchase of previous membership service by members of the fund as provided by section 18A:66-9.

4. N. J. S. 18A:66-11 is amended to read as follows:

Teachers in military service may enroll.

18A:66-11. Any teacher who had entered or shall hereafter enter into the active air, military or naval service of the United States before making application for enrollment in the retirement system shall be accepted as a member upon his filing application; provided, such application is made within 3 months after entry into such active air, military or naval service, and his regular salary deduc-

tion as provided by section 18A :66-29 shall be paid to the retirement system by the employer as provided by chapter 252 of the laws of 1942, as amended by chapter 326 of the laws of 1942.

5. N. J. S. 18A :66-14 is amended to read as follows :

Credit for temporary service.

18A :66-14. Any person employed temporarily as a teacher and whose temporary employment resulted, without interruption, in permanent employment or any person employed as a substitute immediately prior to permanent employment shall be permitted to make contributions covering such service on the basis of rates as provided by section 18A :66-29 and receive the same credit as if he had been a member during such service. The member must agree to make such contributions within 1 year after the effective date of this act or during his first year of membership in the retirement system.

6. N. J. S. 18A :66-15.1 is amended to read as follows :

Prior service credits given in TPAF for membership in PERS.

18A :66-15.1. A person who has been or is a member of the public employees' retirement system and who has taken or shall take office, position or employment in any position covered by the Teachers' Pension and Annuity Fund and is a member of said fund shall be entitled, upon application, to service credited in such system in the Teachers' Pension and Annuity Fund upon transfer of his contributions from the Public Employees' Retirement System to the fund. If he has withdrawn his contributions from the Public Employees' Retirement System, he may purchase credit for all of his service in the aforesaid system by paying into the annuity savings fund the amount required by applying the factor, supplied by the actuary, as being applicable to his age at the time of the purchase, to his salary at that time. The terms of the purchase and the credit granted shall be identical to those stipulated for the purchase of previous membership service by members of the fund as provided by section 18A :66-9.

7. N. J. S. 18A :66-17 is amended to read as follows :

Expenses paid by State reimbursement.

18A :66-17. The expenses of administration of the retirement system shall be paid by the State of New Jersey. Each employing school district shall reimburse the State for a proportionate share of the amount paid by the State for administrative expense. This proportion shall be computed as the number of members under

the jurisdiction of such employing school district bears to the total number of members in the system. The pro rata share of the cost of the administrative expense shall be included with the certification by the board of trustees to the Commissioner of Education, the State Treasurer and to each employing school district. The commissioner shall deduct the amount so certified from the certification, to the State Treasurer and the Director of the Division of Budget and Accounting, of State aid payable to such employing school district under the provisions of c. 85, P. L. 1954. Similar reimbursement shall be made to the State by institutions and districts to which c. 85, P. L. 1954 does not pertain.

8. N. J. S. 18A:66-18 is amended to read as follows:

Contingent reserve fund.

18A:66-18. The contingent reserve fund shall be the fund in which shall be credited contributions made by the State and other employers.

a. Upon the basis of such tables recommended by the actuary as the board of trustees adopts, and regular interest, the actuary of the board shall compute annually the amount of contribution, expressed as a proportion of the compensation paid to all members, except veteran members who were employed as teachers on January 1, 1955, which, if paid monthly during the entire prospective service of such members, will be sufficient to provide for the pension reserves required at the time of discontinuance of active service, to cover all pensions to which they may be entitled or which are payable on their account, and to provide for the amount of the death and accidental disability benefits payable on their account, and which amount is not covered by other contributions to be made as provided in this section and the funds in hand available for such benefits. This shall be known as the "normal contribution."

b. Upon the basis of such tables recommended by the actuary as the board of trustees adopts, and regular interest, the actuary of the board shall compute the amount of the unfunded liability as of June 30, 1970 which has accrued on the basis of service rendered prior to July 1, 1970 by all members, except veteran members who were employed as teachers on January 1, 1955, including the amount of the liability accrued by reason of the establishment of class B credit by nonveteran members which has not already been covered by State contributions to the retirement system, and including the accrued liabilities established by section 13 of chapter 66 of the laws of 1966. Using the total amount of this unfunded accrued liability,

he shall compute the amount of the flat annual payments which, if paid in each succeeding fiscal year commencing with July 1, 1971, for a period of 40 years, will provide for this liability. This shall be known as the "accrued liability contribution."

c. Upon the basis of such tables recommended by the actuary as the board of trustees adopts, and regular interest, the actuary of the board shall compute annually the amount of the total liability for past service and all prospective service for veteran members who were employed as teachers on January 1, 1955, which has not already been covered by State and employer contributions to the retirement system and, except as provided by section 18A:66-70, by past or prospective contributions by such veteran members and which will be sufficient to provide for the pension reserves required at the time of discontinuance of active service, to cover all pensions to which they may be entitled or which are payable on their account, and to provide for the amount of death and accidental disability benefits payable on their account. Using the total amount of this liability remaining as a basis, he shall compute the amount of the flat annual payment, which, if paid in each succeeding fiscal year commencing with July 1, 1957, for a period of 30 years, will provide for this liability.

d. The retirement system shall certify annually the aggregate amount payable to the contingent reserve fund in the ensuing year, which amount shall be equal to the sum of the amounts described in this section, and which shall be paid into the contingent reserve fund in the manner provided by section 18A:66-33.

e. Except as provided in sections 18A:66-26 and 18A:66-53, the death benefits payable under the provisions of this article upon the death of an active or retired member shall be paid from the contingent reserve fund.

f. The disbursements for benefits not covered by reserves in the system on account of veterans shall be met by direct contribution of the State.

9. N. J. S. 18A:66-19 is amended to read as follows:

Annuity savings fund.

18A:66-19. The annuity savings fund shall be the fund in which shall be credited accumulated deductions and contributions by members or on their behalf to provide for their allowances.

A single account shall be established in this fund for each person who is or shall become a member and all contributions deducted from each such member's compensation shall be credited to his

account regardless of the number of positions a member might hold or the number of employers he might have.

10. N. J. S. 18A:66-20 is amended to read as follows:

Refunding of excess contributions.

18A:66-20. (a) Any contributions made by a member in excess of those required shall be refunded with regular interest to January 1, 1956, to the member or his beneficiary or estate or shall, at his request, be used at retirement with regular interest to provide an annuity of equivalent actuarial value which shall be in addition to his retirement allowance as computed in accordance with section 18A:66-44.

(b) Upon the submission of such evidence as the retirement system may require, the system shall refund to any member, that part of his accumulated deductions paid into the retirement system as a result of deductions based on payments to him over and above compensation as defined in this article.

(c) Until July 1, 1974 contributions, made by a member employed by an institution of higher education prior to July 1, 1969, on the basis of compensation earned during summer sessions may be refunded with regular interest to January 1, 1956 to the member at his request or shall be included in the computation of his retirement allowance.

11. N. J. S. 18A:66-21 is amended to read as follows:

Retirement reserve fund.

18A:66-21. The retirement reserve fund shall be the fund from which all retirement allowances shall be paid except those payable from the pension fund as provided in section 18A:66-22. Upon the retirement of a member other than a present-entrant, his accumulated deductions together with regular interest after January 1, 1956, shall be transferred to the retirement reserve fund from the annuity savings fund. The reserve needed to produce the balance of the retirement allowance shall be transferred from the contingent reserve fund. If the retirement allowance of a member who has been retired is subsequently canceled, the appropriate reserve shall be transferred to the annuity savings fund and the contingent reserve fund.

Any surplus or deficit developing in the retirement reserve fund shall be adjusted from time to time by transfer to or from the contingent reserve fund by appropriate action of the retirement system upon the advice of the actuary.

12. N. J. S. 18A:66-22 is amended to read as follows:

Pension fund.

18A:66-22. The pension fund of the retirement system is the fund in which shall be accumulated the reserves for the payment of pensions to present-entrant members other than veterans, and from it shall be paid all retirement allowances of such present-entrant members and of all beneficiaries of the Teachers' Pension and Annuity Fund who, as of January 1, 1956, were receiving pensions from the pension fund. All reserves for the payment of annuities to persons receiving pensions from the pension fund, as of January 1, 1956 are hereby transferred from the former annuity reserve fund to the pension fund. Upon the retirement of a present-entrant member, the accumulated deductions of the member shall be transferred from the annuity savings fund to the pension fund. The retirement system shall annually transfer from the contingent reserve fund to the pension fund the annual State and employer contributions on account of present-entrant members as computed in accordance with section 18A:66-18. Any surplus or deficit developing in the pension fund shall be adjusted from time to time by transfer to or from the contingent reserve fund by the appropriate action of the retirement system upon the advice of the actuary.

13. N. J. S. 18A:66-27 is amended to read as follows:

Special reserve fund.

18A:66-27. The special reserve fund shall be the fund to which any earnings in excess of the amounts annually allowed under the provisions of section 18A:66-25 shall be transferred. No additional amounts shall be credited to the special reserve fund at any time when the total accumulations in such fund shall equal 1% of the book value of the investments of the retirement system. In this event, any such excess shall be credited to the contingent reserve fund. All losses from the sale of securities shall be charged against the special reserve fund. The special reserve fund shall be considered for valuation purposes by the actuary as an asset of the retirement system.

14. N. J. S. 18A:66-28 is amended to read as follows:

Examination of funds.

18A:66-28. The various funds created by this article shall be subject to examination by the Department of Insurance. The Commissioner of Insurance shall have the power, whenever he deems the

same expedient, to make or cause to be made an examination of all the assets and liabilities, method of conducting business and all other affairs of the retirement system and shall make such examination at least once every 3 years.

For the purpose of such examination all securities, books, papers or other documents in the possession of the retirement system shall be made available on demand for inspection. The report on such examination shall be filed in the Department of Insurance and a copy thereof shall be transmitted to the board of trustees and the actuary of the system and to the Division of Pensions. Neither the commissioner nor any appointee thereof shall be liable for any statement included therein.

15. N. J. S. 18A:66-31 is amended to read as follows:

System to certify contribution rates.

18A:66-31. The retirement system shall certify to each employer the proportion of each member's compensation to be deducted, and to facilitate the making of deductions the retirement system may modify the deduction required by a member of such amount as shall not exceed 1/10 of 1% of the compensation upon the basis of which the deduction is to be made.

There shall be credited in the annuity savings fund to the individual account of each member any amounts so deducted or contributed by him.

16. N. J. S. 18A:66-32.1 is amended to read as follows:

Workmen's compensation.

18A:66-32.1. a. If any member of the retirement system receives periodic benefits payable under the workmen's compensation law during the course of his active service, in lieu of his normal compensation, his regular salary deductions shall be paid to the retirement system by his employer. Such payments shall be computed, in accordance with section 18A:66-29, at the rate of contribution on the base salary subject to the retirement system, just prior to the receipt of the workmen's compensation benefits. The moneys paid by the employer shall be credited to the member's account in the annuity savings fund and shall be treated as employee contributions for all purposes. The employer will terminate the payment of these moneys when the periodic benefits payable under the workmen's compensation law are terminated or when the member retires.

The member for whom the employer is making such payments, will be considered as if he were in the active service.

b. An application for retirement benefits may be approved by the board of trustees while the member, applying for such benefits, is in receipt of periodic benefits under the workmen's compensation law. In this event the actuarial equivalent of such periodic benefits remaining to be paid shall be computed and will serve to reduce the pension portion of the retirement allowance payable to the retirant, subject to the provisions of section 18A:66-69.

17. N. J. S. 18A:66-34 is amended to read as follows:

Withdrawals.

18A:66-34. A member who withdraws from service or ceases to be a teacher for any cause other than death or retirement shall, upon the filing of an application therefor, receive all of his accumulated deductions standing to the credit of his individual account in the annuity savings fund, plus regular interest on contributions made after January 1, 1956, less any loan outstanding, and except that for any period after June 30, 1944, the interest payable shall be such proportion of the interest determined at the regular rate as 2% per annum bears to the regular rate of interest; provided, however, that no interest shall be payable if such a member does not have 3 years of membership service at the time of withdrawal from service or cessation of employment.

He shall cease to be a member 2 years from the date he discontinued service as a teacher, or, if prior thereto, upon payment to him of his accumulated deductions. If any such person or member shall die before withdrawing or before endorsing the check constituting the return of his accumulated deductions, such deductions shall be paid to the member's beneficiary. No member shall be entitled to withdraw the amounts contributed by his employer covering his military leave unless he shall have returned to the payroll and contributed to the retirement system for a period of 90 days.

18. Section 18A:66-35 of the New Jersey Statutes is amended to read as follows:

Loans.

18A:66-35. Any member who has at least 3 years of service to his credit for which he has contributed as a member may borrow from the retirement system, an amount equal to not more than 50% of the amount of his accumulated deductions, but not less than \$50.00; provided, that the amount so borrowed, together with interest thereon, can be repaid by additional deductions from compensation, not in excess of 25% of the member's compensation,

made at the same time compensation is paid to the member, but not after the attainment of age 60. The amount so borrowed, together with interest at the rate of 4% per annum on any unpaid balance thereof, shall be repaid to the retirement system in equal installments by deduction from the compensation of the member at the time the compensation is paid or in such lump sum amount to repay the balance of the loan but such installment shall be at least equal to the member's rate of contribution to the retirement system and at least sufficient to repay the amount borrowed with interest thereon by the time the member attains age 60. Not more than two loans may be granted to any member in any calendar year. Notwithstanding any other law affecting the salary or compensation of any person or persons to whom this article applies or shall apply, the additional deductions required to repay the loan shall be made. Any unpaid balance of a loan at the time any benefit may become payable shall be deducted from the benefit otherwise payable.

Loans shall be made to a member from his accumulated deductions. The interest earned on such loans shall be treated in the same manner as interest earned from investments of the retirement system.

19. N. J. S. 18A:66-37 is amended to read as follows:

Early retirement.

18A:66-37. Should a member resign after having established 25 years of creditable service before reaching age 60, he may elect "early retirement," provided, that such election is communicated by such member to the retirement system by filing a written application, duly attested, stating at what time subsequent to the execution and filing thereof he desires to be retired. He shall receive, in lieu of the payment provided in section 18A:66-34, an annuity which is the actuarial equivalent of his accumulated deductions and a pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of $1/70$ of his final compensation for each year of service credited as Class A service and $1/60$ of his final compensation for each year of service credited as class B service, calculated in accordance with section 18A:66-44, reduced by $1/4$ of 1% for each month that the member lacks of being age 60; provided, however, that upon the receipt of proper proofs of the death of such a member there shall be paid to his beneficiary an amount equal to $3/16$ of the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service.

The board of trustees shall retire him at the time specified or at such other time within 1 month after the date so specified as the board finds advisable.

20. N. J. S. 18A:66-38 is amended to read as follows:

Death benefits; contribution not required when leave is due to illness.

18A:66-38. Upon the receipt of proper proofs of the death of a member in service on account of which no accidental death benefit is payable under section 18A:66-46, there shall be paid to such member's beneficiary:

(a) The member's accumulated deductions at the time of death together with regular interest after January 1, 1956; and

(b) An amount equal to $1\frac{1}{2}$ times the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service; provided, however, that if such death shall occur after the member shall have attained age 70, the amount payable shall equal $\frac{3}{16}$ of such compensation instead of $1\frac{1}{2}$ times such compensation.

For the purpose of this section, section 18A:66-46e and section 18A:66-53, a member of the retirement system shall be deemed to be an active member (1) while he is disabled due to sickness or injury arising out of or in the course of his employment as a teacher to whom this article applies, is not engaged in any gainful occupation, and is receiving or entitled to receive periodic benefits (including any commutation of, or substitute for, such benefits) for loss of time on account of such disability under or by reason of workmen's compensation law, occupational disease law or similar legislation and has not retired or terminated his membership; or (2) for a period of no more than 2 years while on official leave of absence without pay if satisfactory evidence is presented to the retirement system that such leave of absence without pay is due to the member's personal illness other than an illness to which (1) above applies. For the purpose of this section, section 18A:66-46e and section 18A:66-53, a member of the retirement system shall be deemed to be an active member for a period of not more than 1 year in the event of an official leave (1) due to the member's maternity or (2) to fulfill a residency requirement for an advanced degree or (3) as a fulltime student at an institution of higher education, and for a period of not more than 93 days while on official leave of absence without pay when such leave of absence is due to any reason other than illness. In order for a member to be covered for the optional death benefits provided by section 18A:66-53, he shall continue to

make contributions for same during the period such member is on official leave of absence without pay, except that when such official leave of absence without pay is due to illness, no contributions shall be required of the member during the period he is deemed to be an active member while on such leave of absence.

If a member dies within 30 days after the date of retirement or the date of board approval, whichever is later, a death benefit shall be payable only if he is deemed to be an active member in accordance with this section; provided, however, a member applying for disability benefits shall be deemed an active member if he was covered by the death benefit provisions of the act at the termination of employment, filed the application for disability retirement with the retirement system within 30 days following such termination of employment and dies within 30 days after the date of retirement or the date of board approval, whichever is later.

21. N. J. S. 18A:66-40 is amended to read as follows:

Examination of disability beneficiary; reduction or discontinuance of pension; restoration to service.

18A:66-40. a. Once each year the retirement system may, and upon his application shall, require any disability beneficiary who is under the age of 60 years to undergo medical examination by a physician or physicians designated by the system for a period of 5 years following his retirement in order to determine whether or not the disability which existed at the time he was retired has vanished or has materially diminished. If the disability beneficiary is engaged in an occupation, then the amount of his pension shall be reduced to an amount which, when added to the amount then earned by him, shall not exceed the amount of the salary now attributable to his former position.

If his earnings have changed since the date of his last adjustment, then the amount of his pension may be further altered; but the new pension shall not exceed the amount of pension originally granted.

If a disability beneficiary, while under the age of 60 years, refuses to submit to at least one medical examination in any year by a physician or physicians designated by the system, his pension shall be discontinued until withdrawal of his refusal. If the report of the medical board shall show that such beneficiary is able to perform either his former duty or other comparable duty which his former employer is willing to assign to him, the beneficiary shall report for duty; such a beneficiary shall not suffer any loss

of benefits while he awaits his restoration to active service. If the beneficiary fails to return to duty within 10 days after being ordered so to do, or within such further time as may be allowed by the board of trustees for valid reason, as the case may be, the pension shall be discontinued during such default.

b. If a disability beneficiary becomes employed again in a position which makes him eligible to be a member of the retirement system, his retirement allowance and the right to any death benefit as a result of his former membership, shall be canceled until he again retires.

Such person shall be reenrolled in the retirement system and shall contribute thereto at a rate based on his age at the time of his prior enrollment. Such person shall be treated as an active member for determining disability or death benefits while in service and no benefits pursuant to an optional selection with respect to his former membership shall be paid if his death shall occur during the period of such reenrollment.

Upon subsequent retirement of such member, he shall receive a retirement allowance based on all his service as a member, computed in accordance with applicable provisions of this article, but the total retirement allowance upon subsequent retirement shall not be a greater proportion of his final compensation than the proportion to which he would have been entitled had he remained in service during the period of his prior retirement. Any death benefit to which such member shall be eligible shall be based on his latest retirement.

22. N. J. S. 18A:66-41 is amended to read as follows:

Ordinary disability allowances.

18A:66-41. A member upon retirement for ordinary disability shall receive a retirement allowance which shall consist of:

(a) an annuity which shall be the actuarial equivalent of his accumulated deductions at the time of his retirement together with regular interest after January 1, 1956; and

(b) a pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of $1\frac{1}{2}\%$ of final compensation multiplied by his number of years of creditable service; and provided further, that in no event shall the allowance be less than 40% of final compensation, except that in no case shall the rate of allowance exceed $\frac{9}{10}$ of the rate of the regular service retirement allowance which the member would have re-

ceived had he remained in service from the date of retirement to age 60.

Upon the receipt of proper proofs of the death of a member who has retired on an ordinary disability retirement allowance, there shall be paid to such member's beneficiary, an amount equal to $1\frac{1}{2}$ times the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service; provided, however, that if such death shall occur after the member shall have attained age 60, the amount payable shall equal $\frac{3}{16}$ of such compensation. The death benefits provided in this section shall apply to any member who has retired or shall retire on or after January 1, 1956.

23. N. J. S. 18A:66-42 is amended to read as follows:

Accidental disability allowances.

18A:66-42. A member under 65 years of age upon retirement for accidental disability shall receive a retirement allowance which shall consist of:

(a) an annuity which shall be the actuarial equivalent of his accumulated deductions at the time of his retirement together with regular interest after January 1, 1956; and

(b) a pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of $\frac{2}{3}$ of his actual annual compensation for which contributions were being made at the time of the occurrence of the accident.

Upon the receipt of proper proofs of the death of a member who has retired on an accidental disability retirement allowance, there shall be paid to such member's beneficiary, an amount equal to $1\frac{1}{2}$ times the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service; provided, however, that if such death shall occur after the member shall have attained age 60, the amount payable shall equal $\frac{3}{16}$ of such compensation. The death benefits provided in this section shall apply to any member who has retired or shall retire on or after January 1, 1956.

24. N. J. S. 18A:66-43 is amended to read as follows:

Retirement for service age limits.

18A:66-43. Retirement for service shall be as follows: (a) A member who has attained 60 years of age may retire on a service retirement allowance by filing with the retirement system a written application, duly attested, stating at which time subsequent to the

execution and filing thereof he desires to be retired. The board of trustees shall retire him at the time specified or at such other time within 1 month after the date so specified as the board finds advisable.

(b) Any member in service who attains 70 years of age shall be retired by the board of trustees on a service retirement allowance forthwith on the first day of the next calendar month, or at such time within 1 year thereafter as it deems advisable.

25. N. J. S. 18A:66-44 is amended to read as follows:

Service retirement allowances.

18A:66-44. A member, upon retirement for service, shall receive a retirement allowance consisting of:

(a) an annuity which shall be the actuarial equivalent of his accumulated deductions, together with interest after January 1, 1956, less any excess contributions as provided in section 18A:66-20; and

(b) a pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of $1/70$ of his final compensation for each year of service credited as class A service and $1/60$ of his final compensation for each year of service credited as class B service.

Upon the receipt of proper proofs of the death of a member who has retired on a service retirement allowance, there shall be paid to the member's beneficiary, an amount equal to $3/16$ of the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service.

26. N. J. S. 18A:66-46 is amended to read as follows:

Accidental death benefit.

18A:66-46. a. Upon the death of a member in active service as a result of an accident met in the actual performance of duty at some definite time and place and not as the result of his willful negligence, an accidental death benefit shall be payable, if a report of the accident is filed in the office of the retirement system within 60 days next following the accident, but the board of trustees may waive such time limit, for a reasonable period, if in the judgment of the board the circumstances warrant such action.

No such application shall be valid or acted upon unless it is filed in the office of the retirement system within 5 years of the date of such death.

b. Upon the receipt of proper proofs of the death of a member on account of which an accidental death benefit is payable, there shall be paid to his widow or widower a pension of 50% of the compensation, upon which contributions by the member to the annuity savings fund were based in the last year of creditable service, for the use of herself or himself and the children of the deceased member, to continue during her or his widowhood; if there is no surviving widow or widower or in the case the widow or widower dies or remarries, 20% of such compensation will be payable to one surviving child, 35% of such compensation to two surviving children in equal shares and if there be three or more children, 50% of such compensation will be payable to such children in equal shares. If there is no surviving widow, widower or child, 25% of the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service, will be payable to one surviving parent or 40% of such compensation will be payable to two surviving parents in equal shares. In the event of accidental death occurring in the first year of creditable service, the benefits, payable pursuant to this subsection, shall be computed at the annual rate of compensation.

c. If there is no surviving widow, widower, child or parent, there shall be paid to any other beneficiary of the deceased member his accumulated deductions at the time of death.

d. In no case shall the death benefit provided in subsection b. be less than that provided under subsection c.

e. In addition to the foregoing benefits payable under subsection b. or c., there shall also be paid in one sum to such member's beneficiary an amount equal to $1\frac{1}{2}$ times the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service; provided, however, that if such death shall occur after the member shall have attained age 70, the amount payable shall equal $\frac{3}{16}$ of such compensation instead of $1\frac{1}{2}$ times such compensation.

27. N. J. S. 18A:66-53.1 is amended to read as follows:

Beneficiary of member or retirant; designation, change, options.

18A:66-53.1. The designation of beneficiary by a member or retirant shall be made in writing on a form satisfactory to the retirement system, and filed with the retirement system. The member or retirant may, from time to time and without the consent of his death benefit designee, change the beneficiary by filing written notice of the change with the system on a form satisfactory to it.

The new nomination will be effective on the date the notice, in proper form, is received by the system, and any prior nomination shall thereupon become void.

If more than one beneficiary is nominated and in such nomination the member or retirant has failed to specify their respective interests, the beneficiaries shall share equally. If any beneficiary predeceases the member or retirant, the interest of such beneficiary shall terminate and shall be shared equally by such of the beneficiaries as survive the member or retirant, unless the member or retirant has made written request to the contrary in his beneficiary nomination.

Any amounts due for which there is no beneficiary at the death of a member, retirant or beneficiary shall be payable to the estate of such member, retirant or beneficiary.

Except with regard to the payment of the member's accumulated deductions with regular interest and the payment, upon the death of (1) a retirant after attaining the age of 60 or receiving an allowance pursuant to section 18A:66-37, or (2) a member after attaining the age of 70 years, of the death benefits provided in sections 18A:66-36, 18A:66-37, 18A:66-38, 18A:66-41, 18A:66-42, 18A:66-44, 18A:66-46e and 18A:66-53, a member may elect, by making written request to the retirement system, that the whole or any part of his death benefits be made payable to his beneficiary either as a life annuity or in equal installments over a period of years specified in such election, and may alter such election from time to time during his lifetime by again making such written request. In the event of a change of beneficiary, any previous arrangement by the member or retirant under this paragraph shall be void. The election set forth in this paragraph shall not apply or be available when the beneficiary is an estate, or a corporation, partnership, association, institution, trustee or any fiduciary.

If, at the member's or retirant's death, an amount of death benefit would be payable to the beneficiary in a single sum, any election with regard to such amount which was available to the member or retirant immediately prior to his death in accordance with the provisions of the immediately preceding paragraph shall then be available to such beneficiary for the benefit of such beneficiary.

28. N. J. S. 18A:66-53.2 is amended to read as follows:

Reemployment of retirant; reenrollment, subsequent retirement.

18A:66-53.2. If a former member of the retirement system who has been granted a retirement allowance for any cause other than disability, becomes employed again in a position which makes him eligible to be a member of the retirement system, his retirement allowance and the right to any death benefit as a result of his former membership, shall be canceled until he again retires.

Such person shall be reenrolled in the retirement system and shall contribute thereto at a rate based on his age at the time of reenrollment. Such person shall be treated as an active member for determining disability or death benefits while in service and no benefits pursuant to an optional selection with respect to his former membership shall be paid if his death shall occur during the period of such reenrollment.

Upon subsequent retirement of such member, his former retirement allowance shall be reinstated together with any optional selection, based on his former membership. In addition, he shall receive an additional retirement allowance based on his subsequent service as a member computed in accordance with applicable provisions of this article; provided, however, that his total retirement allowance upon such subsequent retirement shall not be a greater proportion of his final compensation than the proportion to which he would have been entitled had he remained in service during the period of his prior retirement. Any death benefit to which such member shall be eligible shall be based on his latest retirement, but shall not be less than the death benefit that was applicable to his former retirement.

29. N. J. S. 18A:66-54 is amended to read as follows:

Health insurance payments from allowances.

18A:66-54. If possible, whenever any beneficiary of the teachers' pension and annuity fund shall, in writing, request the Division of Pensions to make deductions from his retirement allowance or pension for the payment of premiums for the pensioners' group health insurance plan or the State Health Benefits Program, the division may make such deductions and transmit the sum so deducted to the companies carrying the policies. Any such written authorization may be withdrawn by any beneficiary upon filing notice of such withdrawal with the division.

30. N. J. S. 18A:66-56 is amended to read as follows:

Board of trustees; duties, appointment or election, terms, vacancies, oaths, voting, expenses.

18A:66-56. Subject to the provisions of chapter 70 of the laws of 1955, the general responsibility for the proper operation of the teachers' pension and annuity fund shall be vested in the board of trustees. Subject to the limitations of the law, the board shall annually establish rules and regulations for the administration and transaction of its business and for the control of the funds created by this article. Such rules and regulations shall be consistent with those adopted by the other pension funds within the Division of Pensions in order to permit the most economical and uniform administration of all such retirement systems. The membership of the board shall consist of the following:

(a) The State Treasurer or the deputy State Treasurer, when designated for that purpose by the State Treasurer;

(b) Two trustees appointed by the Governor who shall serve at the pleasure of the Governor and until their successors are appointed, and who shall be private citizens of the State of New Jersey and who are neither an officer thereof nor active or retired members of the system;

(c) Three trustees from among the active members of the retirement system, elected by the membership or by the delegates elected for this purpose by the membership, one of whom shall be elected each year for a 3-year term commencing on January 1, following such election in such manner as the board of trustees may prescribe;

(d) One trustee not an active or retired teacher nor an officer of the State, elected by the other trustees, other than the State Treasurer, for a term of 3 years.

The terms of office of the members of the board of trustees on the effective date of this article shall continue for the periods for which they were appointed or elected. A vacancy occurring in the board of trustees shall be filled in the same manner as provided in this section for regular appointment or election to the position where the vacancy exists.

Each member of the board shall, upon appointment or election, take an oath of office that, so far as it devolves upon him, he will diligently and honestly administer the board's affairs, and that he will not knowingly violate or willfully permit to be violated any provision of law applicable to this article. The oath shall be subscribed to by the member making it, certified by the officer before

whom it is taken and filed immediately in the office of the Secretary of State.

Each trustee shall be entitled to one vote in the board and a majority of all the votes of the entire board shall be necessary for a decision by the board of trustees at a meeting of the board. The board shall keep a record of all its proceedings, which shall be open to public inspection.

The members of the board shall serve without compensation but shall be reimbursed for any necessary expenditures. No employee shall suffer loss of salary or wages through serving on the board.

The State Treasurer shall designate a medical board after consultation with the Director of the Division of Pensions, subject to veto by the board for valid reason. It shall be composed of three physicians who are not eligible to participate in the retirement system. The medical board shall pass upon all medical examinations required under the provisions of this article, shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement, and shall report in writing to the retirement system its conclusions and recommendations upon all matters referred to it.

31. N. J. S. 18A:66-58 is amended to read as follows:

Actuary's report.

18A:66-58. The actuary shall recommend, and the Division of Pensions shall keep in convenient form, such data as shall be necessary for actuarial valuation of the various funds created by this article. Once in every 5-year period the actuary shall make an actuarial investigation into the mortality, service and compensation or salary experience of the members and beneficiaries as defined in this article and shall make a valuation of the assets and liabilities of the various funds created by this article. Upon the basis of such investigation and valuation, with the advice of the actuary, the board shall:

- (a) Adopt for the retirement system such mortality, service and other tables as shall be deemed necessary;
- (b) Certify the rates of deduction from compensation computed to be necessary to pay the annuities authorized under the provisions of this article; and
- (c) Certify the rates of contribution, expressed as a proportion of the compensation of members, which shall be made by the state to the contingent reserve fund.

32. N. J. S. 18A:66-59 is amended to read as follows:

Annual report.

18A:66-59. The retirement system shall publish annually a report showing a valuation of the assets and liabilities of the funds created by this article, certifying as to the accumulated cash and securities of the funds and stating other facts pertaining to the system. The board shall submit the report to the Governor and furnish a copy to every employer for use of the members and the public.

33. N. J. S. 18A:66-69 is amended to read as follows:

Benefit limitations.

18A:66-69. Any other provision of this article notwithstanding, (a) any member who is not covered under the old-age and survivors insurance provisions of Title II of the Federal Social Security Act as a teacher shall not be eligible for the death benefit provisions of sections 18A:66-36, 18A:66-37, 18A:66-38, 18A:66-41, 18A:66-42, 18A:66-44, 18A:66-46 e. and 18A:66-53, except for the payment of accumulated deductions together with regular interest; (b) no beneficiary of a pensioner who enrolled as a member on or after July 1, 1971 and who retired for any reason other than disability shall be entitled to receive benefits pursuant to the noncontributory death benefit coverages provided by this article if the pensioner had less than 10 years of service credit for retirement purposes at the time of retirement; (c) no member or beneficiary shall be entitled to receive a monthly retirement allowance or other benefit payable pursuant to this article unless the amount of the allowance or benefit would be at least \$25.00 per month.

34. N. J. S. 18A:66-70 is amended to read as follows:

Veterans' free membership in fund.

18A:66-70. a. Each public employee veteran member shall have returned to him his accumulated deductions as of January 1, 1956, less contributions based on his compensation for the year 1955 at the rate of contribution provided in subsection b. All service rendered in office, position, or employment of this state or of a county, municipality, or school district, board of education or other public employer by such veteran member previous to January 1, 1955, for which evidence satisfactory to the retirement system is presented, shall be credited to him as a "class B" member and the accrued liability for such credit shall be paid by the employer as provided in section 18A:66-33; provided, however, that no credit shall be allowed for such service rendered prior to January 1, 1955

unless the member purchases credit for all service rendered on or after such date.

b. Each public employee veteran member as of January 1, 1956, shall make contributions to the retirement system at the rates of contribution applicable to class B members of the public employees' retirement system as of January 2, 1955, as provided in section 18A:66-29. Each public employee veteran member shall pay the proportion of compensation applicable to his age at the commencement of employment, position or office with the State, any county, municipality or school district, board of education or other public employer, except that where such service has not been continuous, the public employee veteran member shall pay the proportion of compensation applicable to the age resulting from the subtraction, as of January 1, 1955, of his years of service from his age. No public employee veteran member shall be required during the continuation of his membership to increase the proportion of compensation certified on January 1, 1956, or at the time of becoming a member, if later, as payable by him, except as provided in section 18A:66-29.

c. In the event that a public employee veteran who prior to January 1, 1956, rendered service in office, position, or employment of this State or of a county, municipality, or school district, board of education or other public employer, but who is not in such office, position or employment on January 1, 1956, shall later become a member of the retirement system, such public employee veteran member shall receive prior service credit for service rendered prior to January 1, 1955, for which evidence satisfactory to the retirement system is presented, and shall pay the proportion of compensation, applicable to the age resulting from the subtraction of his years of such prior service from his age on the date of his becoming a member of the retirement system and as provided in section 18A:66-29. The State shall pay the accrued liability on behalf of such prior service, and such liability shall be paid in such a manner that the total obligation will be met within the period of time fixed for the liquidation of such accrued liabilities under this article.

35. N. J. S. 18A:66-71 is amended to read as follows:

Veterans' privileges.

18A:66-71. a. Any public employee veteran member in office, position or employment of this State or of a county, municipality, or school district, board of education or other employer on January 1, 1955, who remains in continuous service thereafter and who

has or shall have attained the age of 60 years and who has or shall have been for 20 years in office, position or employment of this State or of a county, municipality or school district, board of education or other employer, shall have the privilege of retiring for service and of receiving, instead of the retirement allowance provided under section 18A:66-44, a retirement allowance of $\frac{1}{2}$ of the compensation received during the last year of employment upon which contributions to the annuity savings fund or contingent reserve fund are made.

b. Any public employee veteran becoming a member after January 1, 1955, who shall be in office, position or employment of this State or of a county, municipality or school district, board of education or other employer, and who shall have attained 62 years of age and who has 20 years of aggregate service credit in such office, position or employment shall have the privilege of retiring for service and receiving, instead of the retirement allowance provided under section 18A:66-44, a retirement allowance of $\frac{1}{2}$ of the compensation received during the last year of employment upon which contributions to the annuity savings fund or contingent reserve fund are made. The provisions of this subsection shall also apply to any veteran who was a member on January 1, 1955, but whose service was not continuous thereafter.

c. Any public employee veteran member who has been for 20 years in the aggregate in office, position or employment of this State or of a county, municipality or school district, board of education or other employer as of January 1, 1955, shall have the privilege of retiring for ordinary disability and of receiving, instead of the retirement allowance provided under section 18A:66-41, a retirement allowance of $\frac{1}{2}$ of the compensation received during the last year of employment upon which contributions to the annuity savings fund or contingent reserve fund are made. Such retirement shall be subject to the provisions governing ordinary disability retirement in sections 18A:66-39 and 18A:66-40.

d. The death benefit provided in section 18A:66-44 shall apply in the case of any member retiring under the provisions of subsections a. and b. of this section. The death benefit provided in section 18A:66-41 shall apply in the case of any member retiring under the provisions of subsection c. of this section.

36. N. J. S. 18A:66-74 is amended to read as follows:

Authorization to purchase group life insurance.

18A:66-74. The State Treasurer is hereby authorized and permitted to purchase from one or more life insurance companies, as

determined by him, a policy or policies of group life insurance to provide for the benefits specified in sections 18A:66-36, 18A:66-37, 18A:66-38, 18A:66-41, 18A:66-42, 18A:66-44 and 18A:66-46 e. The Board of Trustees of the Teachers' Pension and Annuity Fund is hereby authorized and permitted to purchase from one or more life insurance companies, as determined by it, a policy or policies of group life insurance to provide for the benefits specified in section 18A:66-53. Such group life insurance coverage may be provided under one or more policies issued to the State Treasurer specifically for this purpose, or in the discretion of the State Treasurer, under one or more policies issued to the State Treasurer which provide group life insurance coverage for members of one or more other retirement systems of the State of New Jersey. Whenever such policy or policies of group insurance shall be in effect, the benefits payable thereunder shall be in lieu of the above mentioned death benefits provided by said sections.

37. N. J. S. 18A:66-80 is amended to read as follows:

Payment of benefits.

18A:66-80. Benefits under such group policy or policies shall be paid by the company to such person, if living, as the member shall have nominated by written designation duly executed and filed with the insurance company through the policyholder, otherwise to the executors or administrators of the member's estate. A member may file with the insurance company through the policyholder and alter from time to time during his lifetime, as desired, a duly attested written nomination of his payee for the death benefit.

C. 18A:66-38.1 Evidence of insurability.

38. a. Any person entitled to become a member of the Teachers' Pension and Annuity Fund shall not be allowed any of the death benefits established by sections 18A:66-36, 18A:66-37, 18A:66-38, 18A:66-41, 18A:66-42, 18A:66-44 and 18A:66-46 e. if on the date he files an application for membership he is 60 or more years of age or if he makes application for membership beyond the year after he first became eligible for membership, regardless of age, unless the member furnishes satisfactory evidence of insurability and on the effective date of his membership is actively at work and performing all his regular duties at his customary place of employment.

The effective date of coverage for such death benefits shall be the first day of the month which immediately follows the date when such evidence is determined to be satisfactory.

b. Such evidence of insurability will not be required of any person becoming a member of the Teachers' Pension and Annuity Fund upon transfer from another State-administered retirement system if such system provided death benefits of a similar nature and the transferring member was covered by such benefits at the time of the transfer. If such transferring member was not covered by such benefits at the time of the transfer, he may be allowed the death benefits of the Teachers' Pension and Annuity Fund subject to the provisions of subsection a. of this section; provided, however, that any such member must furnish satisfactory evidence of insurability under the provisions of subsection a. of this section if he had been unable or failed to give such evidence as a member of the system from which he transferred.

c. Any person who must furnish satisfactory evidence of insurability under the provisions of this section and who ceases to be a member of the retirement system without such evidence having been given shall continue to be subject to the same requirement if he subsequently becomes a member.

C. 18A:66-6.1 Purchase of membership credit for compulsory coverage.

39. a. In the case of any person who was required to become a member of the retirement system as a condition of employment, and whose application for enrollment in the retirement system or whose application for transfer from one employer to another within the system was filed beyond the effective date for his compulsory enrollment in the system or his transfer within the system, such person shall be required to purchase membership credit for his compulsory coverage by paying into the annuity savings fund the amount required by applying, in accordance with section 18A:66-29, his rate of contribution on his current base salary subject to the retirement system for each year of previous service during which he was required to have been a member.

b. If more than 1 year has elapsed from the time that contributions would have been required from such person, $\frac{1}{2}$ of the employee's cost established by the computation provided by subsection a. of this section, will be required of his employer and shall be included in the next budget subsequent to the certification of this special liability by the retirement system. The amount certified by the system shall be payable by the employer to the

contingent reserve fund and shall be due and owing to the system even if the employee is no longer in the employ of the employer by the date such moneys are to be paid to the system.

c. The employee's obligation may be satisfied by regular installments, equal to at least $\frac{1}{2}$ of the normal contribution to the retirement system, over a maximum period of 10 years, but not more than 2 years in the case of any employee who has attained or will attain age 60 within the 2-year period.

d. In the case of any person coming under the provisions of this section, full pension credit for the period of employment for which arrears are being paid by the employee shall be given upon the payment of at least $\frac{1}{2}$ of the total employee's arrearage obligation and the completion of 1 year of membership and the making of such arrears payments, except that in the case of retirement pursuant to sections 18A:66-36, 18A:66-37, 18A:66-44 and 18A:66-71, the total membership credit for such service shall be in direct proportion as the amount paid bears to the total amount of the arrearage obligation of the employee.

C. 18A:66-29.1 System relieved from certain liabilities.

40. Notwithstanding anything to the contrary, the retirement system shall not be liable for the payment of any pensions or other benefits on account of the employees or pensioners of any employer under this article, for which reserves have not been previously created from funds contributed by the State, the employer, or teacher for such benefits.

The actuarial equivalent of any shortage in required contributions at the time of retirement on account of misstatement of age, leave of absence, or clerical error, shall be deducted from the retirement allowance otherwise payable.

C. 18A:66-53.3 Eligibility for death benefits.

41. No member who enrolls on or after July 1, 1971 for the additional death benefit coverage provided by section 18A:66-53 shall be eligible for the benefits described in subsections f. and g. of the said section if such member retires with less than 10 years of participation in the program.

42. This act shall take effect immediately.

Approved April 29, 1971.

CHAPTER 122

AN ACT to amend “An act providing for joint action by Pennsylvania and New Jersey in the development of the ports on the lower Delaware river and the improvement of the facilities for transportation across the said river; authorizing the New Jersey Interstate Bridge Commission on behalf of the State of New Jersey for these purposes to enter into an agreement with the Commonwealth of Pennsylvania creating the Delaware River Joint Commission and specifying the powers and duties thereof, including the power to finance projects by the issuance of revenue bonds; transferring to the new commission all the powers of the Delaware River Bridge Joint Commission and making an appropriation,” approved June 30, 1931 (P. L. 1931, c. 391), authorizing the Governor, on behalf of the State of New Jersey, to enter into a supplemental compact or agreement with the Commonwealth of Pennsylvania amending the compact or agreement between the State of New Jersey and the Commonwealth of Pennsylvania entitled “Agreement Between The Commonwealth of Pennsylvania and The State of New Jersey creating the Delaware River Joint Commission as a body corporate and politic and defining its powers and duties,” as heretofore amended and supplemented, and authorizing the Governor to apply, on behalf of the State of New Jersey, to the Congress of the United States for its consent to such supplemental compact or agreement.

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

Delaware River Joint Commission continued as Delaware River Port Authority; corporate powers and governmental functions.

1. The Governor is hereby authorized to enter into a supplemental compact or agreement, on behalf of the State of New Jersey, with the Commonwealth of Pennsylvania amending Article I, paragraph (j) of the compact or agreement between the Commonwealth of Pennsylvania and the State of New Jersey entitled “Agreement Between The Commonwealth of Pennsylvania and the State of New Jersey creating the Delaware River Joint Commission as a

body corporate and politic and defining its powers and duties," as follows:

(j) The establishment, maintenance, rehabilitation, construction and operation of a rapid transit system for the transportation of passengers, express, mail, and baggage, or any of them, between points in New Jersey within the Port District and points within the city of Philadelphia, Pennsylvania, and intermediate points. Such system may be established by utilizing existing rapid transit systems, railroad facilities, highways and bridges within the territory involved and by the construction or provision of new rail facilities where deemed necessary, and may be established either directly by purchase, lease or contract, or by lease or agreement with any other public or private body or corporation, or any other manner.

2. The Governor is hereby authorized to apply, on behalf of the State of New Jersey, to the Congress of the United States for its consent and approval to such supplemental compact or agreement, but in the absence of such consent and approval, the commission referred to in such supplemental compact or agreement shall have all of the powers which the Commonwealth of Pennsylvania and the State of New Jersey may confer upon it without the consent and approval of Congress.

3. This act shall take effect immediately; but the Governor shall not enter into the supplemental compact or agreement hereinabove set forth on behalf of the State of New Jersey until passage by the Commonwealth of Pennsylvania of a substantially similar act embodying the supplemental compact or agreement between the two States.

Approved May 6, 1971.

CHAPTER 123

AN ACT concerning the registration of vital statistics and amending
R. S. 26:8-40.1.

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

1. R. S. 26:8-40.1 is amended to read as follows:

Adopted children; special certificate in lieu of birth certificate; contents; original certificate placed under seal.

26:8-40.1. When any person born in New Jersey who has been adopted pursuant to provisions of the laws of any State or country,

and which adoption has been certified to the State Registrar as required by paragraph B of section 15 of P. L. 1953, chapter 264 (C. 9:3-31) or there is submitted a certification or a certified copy of the decree or judgment of the court in such adoption proceedings, the State Registrar shall establish, in lieu of the original birth record, a certificate of birth showing (a) the name of the adopted person as changed by the decree of adoption, if changed, (b) the date and place of birth, (c) the names of the adopting parents or parent including the maiden name of the female adopting parent if such name is given in the certification or certified copy of the decree or judgment of the court, and (d) the date of filing. In any instance where the child has been adopted by the spouse of the natural parent the name of such parent shall also be entered on the new certificate of birth. Such certificate shall be of the same general type as is used in making a birth certificate for a person who has not been adopted. Upon application by an adopting parent or parents of any person born in the United States and adopted pursuant to the laws of this State, the court before which the adoption proceedings have been conducted, may, for good cause shown, direct and order that the place of birth shall be the residence of the adopting parent or parents at the time of said adoption; provided however, that the adopting parent or parents were residents of this State at the time of said adoption.

Upon receipt of such application, certification or certified copy of the decree or judgment of a court in an adoption proceeding, the State Registrar shall make a new certificate of birth containing the information referred to in the preceding paragraph. The fee for such service shall be \$3.00 which includes the issuance of a certified copy of the new certificate.

The State Registrar may file such a new certificate for any foundling, for any child born in any State or country, and for any child for whom an original birth report cannot be located, who has been adopted in New Jersey; provided, that there is attached to the decree or judgment of the court in such adoption proceeding or is submitted to the State Registrar a certified copy of the original birth record or acceptable evidence of birth. In the case of a foundling, the date and place of birth may be decided by the adopting parent or parents if not decided by the court before which the adoption proceedings were conducted. Such certificate for any child who is not a citizen of the United States shall bear the notation "by adoption," which shall also be shown upon any copy of the certificate issued; such notation may be removed at

any subsequent date upon submission of acceptable proof that the child has become a citizen of the United States.

When a new certificate of birth is made the State Registrar shall notify the local registrar of vital statistics of the place in which the birth occurred who shall enter the new certificate in his local record and place his copy of the original record under seal.

The State Registrar shall cause to be placed under seal the original certificate of birth and all papers pertaining to the new certificate of birth. Such seal shall not be broken except by order of a court of competent jurisdiction. Thereafter whenever a certificate of birth of such person is issued, it shall be made from the new certificate of birth except when an order of a court of competent jurisdiction shall require the issuance of a copy of the original certificate of birth.

2. This act shall take effect immediately.

Approved May 6, 1971.

CHAPTER 124

AN ACT to amend the "Municipal Planning Act (1953)," approved September 18, 1953 (P. L. 1953, c. 433).

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

1. Section 14 of P. L. 1953, chapter 433 (C. 40:55-1.14) is amended to read as follows:

C. 40:55-1.14 Regulation of subdivisions; approval of plats.

14. The governing body may by ordinance provide for the regulation of subdivisions within the municipality by requiring the approval of the governing body, by resolution, of all plats after favorable referral by the planning board before such plats may be filed with the county recording officer and may authorize and empower the planning board to review plats in accordance with regulations, requirements and standards established by the governing body and may further fix filing fees to be paid for by any applicant for subdivision approval.

In any ordinance creating a planning board or in any amendment or supplement thereto, provision may be made for the regulation of subdivisions within the municipality by approval of the planning board acting in lieu of the governing body of all plats before

such plats may be filed with the county recording officer, provided such ordinance regulating subdivisions establishes regulations, requirements, and standards for plat approval by the planning board. If such power of approval is granted to the planning board, the procedures of the planning board under this act shall be required in connection with such approval, and the signature of the chairman of the planning board shall have the same force as the signature of the mayor.

Any such ordinance may require as a condition for local municipal approval the submission of proof that no taxes or assessments for local improvements are due or delinquent on the property for which any subdivision application is made.

Any such ordinance may exempt from the requirement of local municipal approval, subdivisions wherein the number of new lots is less than a designated number, or plats that do not involve new streets, or such other classes of subdivisions as such ordinance shall designate. In all cases involving such exempted subdivisions, the mayor or planning board chairman, as the case may be, and the municipal clerk shall certify the exemption on the plat, deed, or instrument to be filed with the county recording officer.

Within 30 days after the adoption of any subdivision ordinance, regulation or of any amendment thereto, a copy of said document shall be transmitted to the county planning board for its information and files.

Each subdivision application or site plan review application, where required pursuant to section 8 of this act, shall be submitted to the county planning board for review and approval prior to approval by the local municipal approving authority.

The municipal approval authority shall defer taking action on a subdivision until receipt of the county planning board report thereon. The county planning board shall report to the municipal authority within 30 days from the date of receipt of the application. If the county planning board fails to report to the municipal approving authority within the 30-day period, said subdivisions shall be deemed to have been approved by the county planning board unless by mutual agreement between the county planning board and municipal approving authority, with approval of the applicant, the 30-day period may be extended for an additional 30-day period, and any such extension shall so extend the time within which a municipal approving authority shall be required by law to act thereon.

2. This act shall take effect immediately.

Approved May 6, 1971.

CHAPTER 125

AN ACT concerning hunting and fishing license fees and amending
R. S. 23:3-3, 23:3-4 and 23:3-11.

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

1. R. S. 23:3-3 is amended as follows:

Children's hunting license; fee.

23:3-3. The division may, in its discretion, issue a license to a citizen of the United States above 10 years and below 14 years of age, when applied for by his parent or legal guardian, authorizing him to hunt only when accompanied by a holder, above 21 years of age, of a regular residents' or nonresidents' license. This license shall be void after December 31 next succeeding its issuance. The fee for this license shall be \$2.00. These fees shall be remitted to the State Treasurer, and placed to the credit of the "hunters' and anglers' license fund," and be disbursed by the State Treasurer on vouchers certified by the division.

2. R. S. 23:3-4 is amended as follows:

Licenses; residents', nonresidents' and aliens'; fees; term of licenses.

23:3-4. The licenses issued under this article shall be as follows:

- a. A license issued to citizens of the United States above 14 years of age, who have an actual and bona fide domicile in this State at the time of the application for the license and who have had an actual and bona fide domicile in this State for at least 6 months immediately prior thereto. These licenses shall be of four kinds and designated as the residents' firearm hunting and trapping license, the residents' bow and arrow license, the residents' fishing license and the residents' family fishing license. The Fish and Game Council in the Division of Fish, Game and Shell Fisheries of the Department of Environmental Protection shall have the authority to adopt and promulgate regulations for said family fishing licenses.

The residents' firearm hunting and trapping license shall authorize its holder to trap and to hunt with hounds and firearms only, and a fee of \$7.00 and an issuance fee of \$0.25 shall be charged therefor. The residents' bow and arrow license shall authorize its holder to hunt with bow and arrow only, and a fee of \$7.00 and an issuance fee of \$0.25 shall be charged therefor. The residents'

fishing license shall authorize its holder to fish only, and a fee of \$6.00 and an issuance fee of \$0.25 shall be charged therefor except that in any case where the applicant is 70 or more years of age and is otherwise qualified no fee shall be charged. The residents' family fishing license shall authorize the parents or guardians and their children, foster children or wards between the ages of 14 and 18, named therein, to fish only. The fee for the parent license permitting fishing only by the father or mother, or both, or the guardian shall be \$12.00 with an issuance fee of \$0.25; and each child, foster child or ward named therein shall be required to have and shall be issued an individual supplementary license as a member of such family at a fee of \$1.00 and an issuance fee of \$0.25. The license shall be invalid from the date of its issuance when issued to a person not entitled thereto hereunder. Any person, a resident of this State, who is afflicted with total blindness, upon application to the Division of Fish, Game and Shell Fisheries shall be entitled to a residents' fishing license without fee or charge.

b. A license issued to a person above 14 years of age not entitled to a residents' license, authorizing him to trap and to hunt. These licenses shall be designated as the nonresidents' and aliens' firearm hunting and trapping license, and the nonresidents' and aliens' bow and arrow license. The fee for each of these licenses shall be \$25.00, and an issuance fee of \$0.25.

c. A license issued to a person above 14 years of age not entitled to a residents' license, authorizing him to fish only. These licenses shall be designated as the nonresidents' and aliens' fishing license and the nonresidents' and aliens' 3-day vacation fishing license valid for a period of 3 consecutive days and only obtainable after June 1 of each year. The fee for these licenses shall be \$10.00 for the annual fishing license, together with an issuance fee of \$0.25, and \$3.50 and an issuance fee of \$0.25 for the 3-day vacation fishing license.

Every license issued hereunder shall be void after December 31 next succeeding its issuance excepting the nonresidents' 1-day hunting license which shall expire on the date of issuance, and the nonresidents' and aliens' 3-day fishing license which is valid only for 3 consecutive days after date of issuance.

3. R. S. 23:3-11 is amended as follows:

Disposition of fees.

23:3-11. Two dollars of every resident and nonresident firearm hunting and trapping license fee, and every resident and nonresi-

dent bow and arrow license fee, and \$1.00 of every resident and nonresident fishing license fee, including the 3-day vacation fishing license fee, and \$2.00 of every resident family parent fishing license fee, remitted to the State Treasurer shall be placed to the credit of a fund to be known as the "public shooting and fishing grounds fund," which fund shall be used exclusively for the acquisition by purchase, lease or otherwise, and the development, maintenance and stocking of game, birds, animals and fish of areas of land, water, or land and water for use as public hunting and fishing grounds and game refuges; and the acquisition by lease or otherwise of areas of land or water for such other activities as the Division of Fish and Game shall deem to be in the interest of the hunters and fishermen of the State. This fund shall be kept separate and apart from the receipts of the division and all other State moneys and shall be disbursed by the State Treasurer on vouchers certified to by the division. The balance of the fee remitted shall be placed to the credit of the "hunters' and anglers' license fund." One dollar of every resident firearm hunting and trapping license fee, and \$1.00 of every resident bow and arrow license fee shall be spent for the management of the State's deer herd.

4. This act shall take effect January 1, 1972.

Approved May 6, 1971.

CHAPTER 126

AN ACT to validate certain proceedings of municipalities and any bonds issued or to be issued pursuant to such proceedings.

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

Validating act.

1. All proceedings heretofore had or taken by any municipality prior to the effective date of this act for the authorization, sale or issuance of bonds of the municipality, and any bonds of the municipality issued or to be issued in pursuance of such proceedings are hereby ratified, validated and confirmed, notwithstanding that notice of sale of such bonds was not published as required by N. J. S. 40A:2-30 in a newspaper qualified for publication of a bond ordinance; provided, however, that notice of sale of such bonds as

required by said section 40A:2-30 was published at least once at least 7 days prior to such sale in a financial publication carrying municipal bond news published in New York City, and provided further, that no action, suit or proceeding to contest the validity of such bonds or the sale thereof or failure to publish such notice of sale has heretofore been instituted in any court of the State.

2. This act shall take effect immediately.

Approved May 6, 1971.

CHAPTER 127

AN ACT concerning public utilities, establishing penalties for failure to file any annual report and supplementing Title 48 of the Revised Statutes.

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

C. 48:2-16.3 Failure to file annual report; penalty.

1. Any public utility that shall fail to file any annual report on the day on which it shall be due, shall be subject to a penalty of \$5.00 for each day thereafter until such report is filed. The Board of Public Utility Commissioners, if satisfied that the failure to comply with this provision was excusable, may waive the whole or part of the penalty herein imposed.

2. This act shall take effect immediately.

Approved May 6, 1971.

CHAPTER 128

AN ACT to establish a Statewide clinic system of drug abuse treatment and counseling clinics, providing for operating standards and rules and regulations, amending P. L. 1964, c. 226, and supplementing "An Act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1971, and regulating the disbursement thereof," approved June 15, 1970 (P. L. 1970, c. 96).

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

C. 26:2G-31 Declaration of policy.

1. It is declared to be the public policy of this State that the prevention of drug abuse and addiction and the treatment and rehabilitation of victims thereof is a matter of grave concern to the people of the State and requires that a comprehensive program be established to provide the broadest spectrum of medical and community services possible for local treatment and counseling facilities on a Statewide basis. Further, this Statewide effort must avoid divisiveness, organizational uncertainty, unnecessary duplication of efforts and unproductive controversy and, therefore, will require coordination and supervision of local operations through strategically placed regional centers, all to be administered through the Division of Narcotic and Drug Abuse Control in the Department of Health.

C. 26:2G-32 Definitions.

2. As used in this act:

(a) "Commissioner" means the Commissioner of the New Jersey State Department of Health, or the person specifically designated by him to perform his functions and duties pursuant to this act.

(b) "System" means the Statewide system of Drug Abuse Treatment and Counseling Clinics established hereunder.

C. 26:2G-33 Establishment of treatment and counseling clinics.

3. The Commissioner of the Department of Health shall establish a Statewide system of Drug Abuse Treatment and Counseling Clinics. The system shall be administered by the commissioner through regional centers organized to supervise and coordinate the operation of clinics in certain areas. Outreach offices may also be established to assist the clinics in their operation. The number and location of such clinics, regional centers and outreach offices shall be as the commissioner determines after appropriate study.

C. 26:2G-34 Medical and community services to be provided.

4. The clinics, regional centers, and outreach offices established hereunder shall provide a complete program of medical and community services in connection with all aspects of the use and abuse of drugs and related problems, including, but not by way of limitation, the following:

- educational programs;
- confidential drug counseling;
- vocational guidance and job placement;

psychiatric, psychological and social case work services;
induction and outreach services;
24-hour telephone emergency capability;
urine monitoring;
detoxification;
methadone maintenance;
individual and community prevention program;
individual self-help and group therapy;
referral services for in-patient treatment;
all areas of treatment and addict rehabilitation;
aftercare treatment;
probation services for the courts and correctional systems.

C. 26:26-35 Employees, advisers and consultants authorized.

5. The Commissioner of the Department of Health shall appoint and employ subject to the provisions of Title 11 of the Revised Statutes such employees, advisers, and consultants as he deems necessary to carry out the provisions of this act. The President of the Civil Service Commission and the Commissioner of the Department of Health shall determine which, if any, of such appointments need not comply with the provisions of said Title.

C. 26:26-36 Rules, regulations and standards.

6. The commissioner is authorized to adopt, promulgate and enforce rules and regulations and establish operating standards which shall be applicable to clinics which are part of the system established hereunder and to persons, groups or agencies which are not part of said system but which offer the same or similar programs or services.

C. 26:26-37 Authority to contract for and accept gifts, grants, services, etc.

7. The commissioner is authorized to contract for and to accept any gifts, grants, devises, bequests, funds, facilities, property, services, or assistance in any form from the Federal Government, or any agency or instrumentality thereof, or from any private agency or person for any of the purposes of this act. Any moneys so received may be expended by the commissioner to effectuate the purposes of this act, subject to the same limitation as to approval of expenditures and audits as are prescribed for State moneys appropriated for the purposes of this act.

8. Section 8 of P. L. 1964, c. 226 (C. 30:6C-8) is amended to read as follows:

C. 30:6C-8 Establishment of aftercare clinics; operation as independent agency or as part of Statewide system.

8. Each of the several counties, or several counties on a joint cooperative basis, may establish a regional medically oriented clinic to provide aftercare treatment for individuals released or discharged from mental hospitals as provided for herein, or may enter into a contractual relationship with an existing public or private facility to provide such aftercare treatment. On and after July 1, 1971, any clinic theretofore or thereafter established shall become a part of the Statewide system established under this supplementary and amendatory act; provided, however, the board of chosen freeholders of a county in which any such clinic is then presently operating may provide by resolution for such clinic to continue to operate as an independent county agency with the cost therefor to be paid by said county. In such case, the particular clinic shall not become part of the Statewide system, but shall operate as an independent county agency under the direction and at the expense of the county in which it is located; provided, however, it shall conform to standards, rules and regulations promulgated by the commissioner. Thereafter, any such clinic operating as an independent county agency may become part of the Statewide system upon the approval by the commissioner of a resolution adopted by the board of chosen freeholders of such county requesting the commissioner to assume operation and control of such clinic. Copies of resolutions authorized by this section shall be forwarded to the commissioner within 10 days after adoption.

Any county operating a clinic which becomes a part of the Statewide system established hereunder shall maintain, operate and make available to the Department of Health any building, space or other physical facility used by the county clinic for the continued use by the Department of Health at no cost for the Statewide system. Such building, space or other physical facility shall be so made available to the Department of Health at no cost to the Department or the State of New Jersey for a term of 5 years; provided, however, said term may be extended or decreased upon the written agreement of the Commissioner of Health and a resolution therefor by the board of chosen freeholders of the county in which said clinic is located.

9. There is hereby appropriated to the Division of Narcotic and Drug Abuse Control in the Department of Health the sum of \$200,000.00 to effectuate the purposes of this act.

10. This act shall take effect July 1, 1971.

Approved May 6, 1971.

CHAPTER 129

AN ACT to amend the "Amusement Games Licensing Law," approved June 16, 1959 (P. L. 1959, c. 109).

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

1. Section 3 of P. L. 1959, c. 109 (C. 5:8-102) is amended to read as follows:

C. 5:8-102 Application for municipal license; filing; contents; State license; annual fees.

3. Each applicant for such a license shall file with the clerk of the municipality a written application therefor in the form prescribed in said rules and regulations, duly executed and verified, in which shall be stated the name and address of the applicant, together with sufficient facts relating to its incorporation and organization if the applicant be a corporation or organization; the specific kind of amusement games intended to be held, operated and conducted by the applicant, and the place or places where, the period, term, date or dates and the time or times when, such amusement games are intended to be conducted by the applicant, under the license applied for; and that no prize or prizes will be offered and given under said license except of merchandise only and same shall be of a value not in excess of the sum or value authorized to be offered and given by this act and such other information as shall be prescribed by such rules and regulations.

Every such municipal license so issued shall be inoperative unless the licensee named therein shall also, within 90 days from the issuance thereof and prior to the conduct or operation of amusement games thereunder, procure a State license authorizing the licensee holding the municipal license to operate and conduct certain games according to the terms of such municipal license. The said State license shall be issued by the State Amusement Games Control Commissioner, if he finds that all of the conditions, terms and requirements of this act and of said rules and regulations have been fully met and complied with. As a condition of granting any such State license the applicant therefor shall pay to the said commissioner an annual fee of \$150.00. If any such municipal license authorizes the licensee to conduct and operate games at more than one place or of more than one specific kind the applicant for the State

license shall pay the said annual fee of \$150.00 for each such place and for each such specific kind.

2. This act shall take effect immediately, but shall remain inoperative until January 1, 1971.

Approved May 6, 1971.

CHAPTER 130

AN ACT concerning the civil rights of a blind person accompanied by a trained dog guide and supplementing the "Law Against Discrimination," approved April 16, 1945 (P. L. 1945, c. 169) and Title 10 of the Revised Statutes.

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

C. 10:5-29 Civil rights of blind person accompanied by trained dog guide.

1. Any person who by reason of loss or impairment of eyesight is accompanied by a dog guide trained by a recognized training agency or school is entitled, with his dog, to the full and equal enjoyment, advantages, facilities and privileges of all places of public accommodation, amusement, recreation or resort and to all other places to which the public is invited.

C. 10:5-30 Administration and enforcement of act.

2. The provisions of this act shall be administered and enforced by the Division of Civil Rights in the Department of Law and Public Safety pursuant to the authority vested in it by the Law Against Discrimination (C. 10:5-1 et seq.).

3. This act shall take effect immediately.

Approved May 6, 1971.

CHAPTER 131

AN ACT to amend the "State Medical Examiner Act," approved November 20, 1967 (P. L. 1967, c. 234).

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

1. Section 6 of P. L. 1967, c. 234 (C. 52:17B-83) is amended to read as follows:

C. 52:17B-83 Office of county medical examiner; appointment of examiner; term.

6. The office of county medical examiner is hereby created and shall be maintained in each county, except that several counties may jointly maintain the office on a cooperative basis. The office shall be directed by a county medical examiner who shall be appointed by the board or boards of chosen freeholders of the county or counties maintaining such office for a term of 5 years; provided, however, that any person in office as county physician or chief medical examiner on the effective date of this act shall continue as county medical examiner until the expiration of the term for which he was appointed. The county medical examiner shall be a licensed physician, of recognized ability and good standing in his community, with such training or experience as may be prescribed by standards promulgated by the State Medical Examiner by rule or regulation.

If the board of chosen freeholders shall fail to appoint a county medical examiner or if the office of county medical examiner shall become vacant or upon the written request of any assignment judge of the superior court or of the board of chosen freeholders of the county, the State Medical Examiner shall designate one of his assistants to perform the duties of the office. Whenever the State Medical Examiner shall have taken over the duties of a county medical examiner, he shall have all the authority conferred by law upon a county medical examiner and he may appoint such temporary assistants, aides, investigators or other personnel as he may deem necessary. In such event there shall be paid, by the treasurer of the county or counties, as the case may be, such sum for this service as the assignment judge of the superior court of the county or counties or a judge of a county court of said county or counties shall certify and fix, on the application of the State Medical Examiner, provided, that the compensation allowed shall not exceed that provided by law for the payment of the county medical examiner in said county or counties for the same or similar services.

2. This act shall take effect immediately.

Approved May 6, 1971.

CHAPTER 132

AN ACT concerning the acquisition by a corporation of minority interests in subsidiary domestic insurance companies.

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

C. 17:27B-1 Definitions.

1. Definitions. As used in this act,

(1) "Domestic insurer" means a stock insurance company organized under the laws of this State;

(2) "Parent corporation" means a corporation organized for any purpose under any law of this State or any other jurisdiction, which owns directly or indirectly at least 95% of the aggregate issued and outstanding shares of all classes of voting stock of a domestic insurer;

(3) "Subsidiary insurer" means a domestic insurer so owned by a parent corporation; and

(4) "Commissioner" means the Commissioner of Insurance of New Jersey.

C. 17:27B-2 Acquisition of minority interests.

2. Acquisition of minority interests.

(1) Any parent corporation may, in the manner hereinafter prescribed, acquire all of the issued and outstanding shares of voting stock of its subsidiary insurer not owned by the parent corporation.

(2) The method authorized by this act for acquiring shares of a subsidiary insurer is not exclusive, but is in addition to any other lawful method for the acquisition of such shares.

C. 17:27B-3 Plan of acquisition.

3. Plan of acquisition.

(1) The board of directors of the parent corporation which seeks to acquire the minority interests in its subsidiary insurer shall adopt a plan for such acquisition.

(2) The plan of acquisition shall set forth:

(a) The name of the subsidiary insurer;

(b) The total number of issued and outstanding shares of each class of voting stock of the subsidiary insurer, the number of its shares owned by the parent corporation and, if either of the foregoing is subject to change prior to the effective date

of acquisition, the manner in which any change may occur;

(c) The terms and conditions of the plan, including the manner and basis of exchanging the shares to be acquired for shares or other securities of the parent corporation, for cash, other consideration, or any combination of the foregoing, the proposed effective date of acquisition, and a statement clearly describing the rights of shareholders dissenting from the plan;

(d) If the parent corporation is not authorized to do business in this State, its consent to the enforcement against it in this State of the rights of shareholders pursuant to the plan or the rights of shareholders dissenting from the plan, and a designation of the commissioner as the agent upon whom process may be served against the parent corporation in any action or proceeding to enforce any such rights; and

(e) Such other provisions with respect to the plan as the board of directors of the parent corporation deems necessary or desirable, or as the commissioner may prescribe.

C. 17:27B-4 Submission of plan of acquisition to commissioner.

4. Submission of plan of acquisition to commissioner.

(1) Upon adoption of the plan of acquisition, it shall be executed by the parent corporation under its corporate seal and submitted to the commissioner who shall, within 60 days from the date of such submission, endorse thereon his approval or disapproval and notify the parent corporation thereof. The commissioner in reviewing such plan of acquisition may employ such experts or consultants as he shall deem necessary. The reasonable costs of such experts and consultants are to be paid for by the parent corporation.

(2) The commissioner shall approve the plan if he is satisfied that it complies with this act and is not inconsistent with law. If the commissioner disapproves the plan, he shall advise the parent corporation in writing of the reasons for such disapproval. No plan shall take effect unless the approval of the commissioner has been obtained.

(3) The commissioner's disapproval of a plan of acquisition shall be subject to review, hearing and relief in the Superior Court in a proceeding in lieu of prerogative writ.

C. 17:27B-5 Delivery of plan to minority shareholders; acquisition of shares.

5. Delivery of plan to minority shareholders; acquisition of shares.

(1) If the commissioner approves the plan, the parent corporation shall deliver a copy of the plan or a summary thereof approved

by the commissioner to each person who, as of the date of delivery, is a holder of record of stock to be acquired pursuant to the plan. Such delivery shall be made either in person or by depositing a copy of the plan or the approved summary in the United States mails, postage prepaid, addressed to the shareholder at his address of record. On or before the date of acquisition proposed in the plan, the parent corporation shall file with the commissioner a certificate executed by its president or vice president and attested by its secretary or assistant secretary under the seal of the parent corporation, attesting to compliance by the parent corporation with this subsection (1);

(2) Upon compliance with the foregoing requirements, ownership of the shares to be acquired pursuant to the plan shall vest in the parent corporation on the date of acquisition proposed in the plan, whether or not the certificates for such shares have been surrendered for exchange, and the parent corporation shall be entitled to have new certificates therefor registered in its name. Shareholders whose shares have been so acquired shall thereafter retain only the right either to receive the consideration to be paid in exchange for their shares pursuant to the plan or to dissent from the plan and receive the fair value of their shares as hereinafter provided.

C. 17:27B-6 Rights of dissenting shareholders.

6. Rights of dissenting shareholders.

(1) Within 30 days after delivery of the plan or a summary thereof pursuant to subsection (1) of section 5, any shareholder of the subsidiary insurer to whom the parent corporation was required to make such delivery may give to the parent corporation written notice of his dissent from the plan and of his demand for payment of the fair value of his shares.

(2) Upon giving such notice, the dissenting shareholder shall cease to have any rights of a shareholder, except the right to be paid the fair value of his shares, determined as of the day prior to the day on which the plan of acquisition was adopted by the parent corporation and excluding any appreciation or depreciation resulting from such action. Such determination of fair value shall be made in accordance with the provisions of sections 14A:11-6 through 14A:11-10 of the New Jersey Business Corporation Act, all references therein to a demand pursuant to subsections 14A:11-2(3), 14A:11-2(4) or 14A:11-2(5) being deemed for such purpose to include a notice of dissent and demand made pursuant to subsection (1) of this section 6.

(3) Not later than 20 days after giving notice of his dissent and demand for payment as aforesaid, each dissenting shareholder shall submit the certificate or certificates representing his shares to the parent corporation for notation as provided in subsection 14A:11-2(6) of the New Jersey Business Corporation Act, the effect of which notation shall be as specified in said subsection.

7. This act shall take effect immediately.

Approved May 6, 1971.

CHAPTER 133

AN ACT to amend the "Department of Environmental Protection Act of 1970," approved October 25, 1948 (P. L. 1948, c. 448) and amending and supplementing P. L. 1970, c. 33.

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

1. Section 5 of P. L. 1948, chapter 448 (C. 13:1B-5) is amended to read as follows:

C. 13:1B-5 Divisions in Department; assistants in administrative division; designation of deputy.

5. a. There is hereby established in the Department of Environmental Protection, a Division of Environmental Quality, a Division of Marine Services, a Division of Fish, Game and Shell Fisheries, a Division of Water Resources, and a Division of Parks and Forestry.

The commissioner shall have authority to organize and maintain in his offices an administrative division and to assign to employment therein such secretarial, clerical and other assistants in the department as his office and the internal operations of the department shall require, and the commissioner shall have authority to direct and coordinate the uses of all public lands under the jurisdiction of the department.

In addition, the commissioner shall have the authority to reorganize the department and the several divisions established therein, into such offices, bureaus and agencies which he deems to be necessary and desirable.

b. The commissioner may designate any officer or employee in the department to perform all of the powers, functions and duties of the commissioner during the absence or disability of the commissioner. Such designation shall be subject to the approval of the Governor, and shall be in writing and filed with the Secretary of State. In the event that the commissioner shall die, resign or be removed from office or become disqualified to execute the duties of his office or a vacancy shall occur in the office of the commissioner for any cause whatever, the person designated as aforesaid shall have and exercise the powers and perform the functions, powers and duties of the commissioner until the successor of the commissioner is appointed and shall qualify.

2. Section 4 of chapter 33 of the laws of 1970 (C. 13:1D-3) is amended to read as follows:

C. 13:1D-3 Division of Marine Services; Natural Resource Council.

4. a. The Division of Resource Development, together with all of its functions, powers and duties is continued as the Division of Marine Services in the Department of Environmental Protection.

b. The Resource Development Council, together with all of its functions, powers and duties, is continued as the Natural Resource Council in the Department of Environmental Protection. This act shall not affect the terms of office of the present members of the council. The members of the council shall continue to be appointed as provided by existing law.

C. 13:1D-18.1 Certain references in laws, contracts or documents.

3. Whenever the term "Division of Natural Resources" or "Director of the Division of Natural Resources" occurs or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to the Division of Marine Services and the director thereof, respectively.

Whenever the term "Division of Parks, Forestry and Recreation" occurs or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to the Division of Parks and Forestry in the Department of Environmental Protection.

Whenever the term "Division of Water Policy and Supply" or "Director of the Division of Water Policy and Supply" occurs or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to the Division of Water Resources and the director thereof, respectively, in the Department of Environmental Protection.

Whenever the term "Water Policy and Supply Council" occurs or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to the Water Policy and Supply Council in the Department of Environmental Protection.

4. All acts and parts of acts inconsistent with any of the provisions of this act are, to the extent of such inconsistency, superseded and repealed.

5. This act shall take effect immediately.

Approved May 6, 1971.

CHAPTER 134

AN ACT establishing and concerning a Division of Consumer Affairs in the Department of Law and Public Safety and making an appropriation therefor.

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

C. 52:17B-118 Short title.

1. This act shall be known and may be cited as the "Consumer Affairs Act of 1971."

C. 52:17B-119 Declaration of policy.

2. The Legislature recognizes that closer coordination among the various State agencies dealing with consumer affairs will substantially enhance the effectiveness of the State's efforts to adequately protect the interests of New Jersey consumers. Accordingly it is hereby declared to be the public policy of this State to secure the benefits of a uniform and efficient enforcement of the State's public protection laws and administration of consumer affairs throughout the State. All the provisions of this act shall be liberally construed to achieve these ends and administered and enforced with a view to carrying out the above declaration of policy.

C. 52:17B-120 Division of Consumer Affairs established.

3. There is hereby established in the State Department of Law and Public Safety the Division of Consumer Affairs. The division shall be under the immediate supervision of a director who shall administer the work of the division under the direction and supervision of the Attorney General. He shall be appointed by the

Governor, with the advice and consent of the Senate, and shall serve at the pleasure of the Governor. The Director of the Division of Consumer Affairs shall receive such salary as shall be determined by the Attorney General within the limits of available appropriations, and he shall devote his entire time and attention to the duties of his office.

C. 52:17B-121 Organization of division.

4. The Attorney General shall organize the work of the division in such bureaus and other organizational units as he may determine to be necessary for efficient and effective operation and shall assign to the division such employees in the Department of Law and Public Safety as may be necessary to assist the director in the performance of his duties.

C. 52:17B-122 Attorney General's powers and duties.

5. To effectuate the purposes of this act and in addition to any other powers and duties provided in or by this act, the Attorney General:

a. May, personally or through his designee, issue subpoenas to any person, administer an oath or affirmation to any person, conduct hearings in aid of any investigation or inquiry, and promulgate such rules and regulations as may be necessary, all of which shall have the force of law;

b. Shall appoint such qualified hearing examiners as may be necessary to exercise the functions, duties, and powers of the Division of Consumer Affairs. Each hearing examiner shall serve at the pleasure of the Attorney General. The director of the division may designate in his place any hearing examiner to conduct any hearing and recommend findings of fact and conclusions of law. The hearing examiner shall receive such compensation as may be determined by the Attorney General, subject to available appropriations.

C. 52:17B-123 Transfer of Division of Weights and Measures.

6. All the functions, powers, and duties of the Division of Weights and Measures, in the Department of Law and Public Safety (C. 52:17B-23 et seq.), are transferred to the Division of Consumer Affairs established hereunder.

C. 52:17B-124 Transfer of Office of Consumer Protection.

7. All the functions, powers, and duties, including the functions, powers, and duties of the Attorney General derived from chapter 39 of the laws of 1960 (C. 56:8-1 et seq.) as amended or supple-

mented, of the Office of Consumer Protection in the Department of Law and Public Safety (C. 52:17B-5.6 et seq.) are transferred to the Division of Consumer Affairs established hereunder.

C. 52:17B-125 Transfer of Bureau of Securities.

8. All the functions, powers, and duties of the Bureau of Securities in the Department of Law and Public Safety (C. 49:3-66 et seq.) are transferred to the Division of Consumer Affairs established hereunder.

C. 52:17B-126 Transfer of Division of Professional Boards.

9. All the functions, powers, and duties of the Division of Professional Boards, in the Department of Law and Public Safety (C. 52:17B-29 et seq.) including those of the boards and agencies contained therein, are transferred to the Division of Consumer Affairs established hereunder.

C. 52:17B-127 Powers of boards continued.

10. Each of the several boards within the Division of Professional Boards shall continue to have all of the powers and shall exercise all of the functions and duties vested in, or imposed upon, it by law. In addition nothing in this act shall be construed to affect the compensation of respective officers, members or employees of such boards as provided by law.

C. 52:17B-128 Terms of board members continued.

11. This act shall not affect the terms of office of the present members of the respective boards in the former Division of Professional Boards. Such boards shall continue to be constituted as provided by existing law.

C. 52:17B-129 Citizens Consumer Affairs Advisory Committee constituted.

12. The Citizens Consumer Advisory Committee established by chapter 23 of the laws of 1967 (C. 52:17B-5.11) is continued, but such committee is transferred to the Division of Consumer Affairs and shall be constituted the Citizens Consumer Affairs Advisory Committee, the chairman of which shall be the director, or his designee, of the Division of Consumer Affairs.

C. 52:17B-130 Employees transferred to Division of Consumer Affairs.

13. All employees of any division, office, board or other agency, the functions, powers and duties of which have been herein assigned or transferred to the Division of Consumer Affairs, shall upon the effective date of this act be transferred to the Division of Consumer Affairs.

C. 52:17B-131 Tenure rights or pension or retirement protection.

14. Nothing in this act shall be construed to deprive any person of any tenure rights or of any right or protection provided him by Title 11 of the Revised Statutes, Civil Service, or under any pension law or retirement system.

C. 52:17B-132 Transfer of appropriations and other moneys.

15. Except as provided in section 16 of this act, all appropriations and other moneys available and to become available to any division, office or other agency, the functions, powers and duties of which have been herein assigned or transferred to the Division of Consumer Affairs, are hereby transferred to the Division of Consumer Affairs established hereunder, and shall be available for the objectives and purposes for which appropriated, subject to any terms, restrictions, limitations or other requirements imposed by State or Federal law.

C. 52:17B-133 Manner of disposition of appropriations and other moneys not affected.

16. This act shall not affect the manner in which the appropriations of the several boards of the former Division of Professional Boards are obtained and disposed of; in addition all fees, fines, penalties and other moneys payable to the boards within the former Division of Professional Boards shall continue to be paid into the State Treasury and credited to the respective boards as provided by law.

C. 52:17B-134 Transfer of files, books, records and equipment.

17. All files, books, papers, records, equipment and other property of any division, office, board or other agency, the functions, powers and duties of which have been herein assigned or transferred to the Division of Consumer Affairs, shall upon the effective date of this act be transferred to the Division of Consumer Affairs.

C. 52:17B-135 Orders, rules and regulations not affected.

18. This act shall not affect orders, rules and regulations heretofore made or promulgated by any division, office, board or other agency, the functions, powers and duties of which have been herein assigned or transferred to the Division of Consumer Affairs; but such orders, rules and regulations shall continue with full force and effect until amended or repealed pursuant to law.

C. 52:17B-136 Actions or proceedings not affected.

19. This act shall not affect any actions or proceedings, civil or criminal, brought by or against any division, office, board or other agency, the functions, powers and duties of which have been herein

assigned or transferred to the Division of Consumer Affairs, and pending on the effective date of this act, but such actions or proceedings may be prosecuted or defended in the same manner and to the same effect by the Division of Consumer Affairs as if the foregoing provisions had not taken effect; nor shall any of the foregoing provisions affect any order or recommendation made by, or other matters or proceedings before, any division, office, board or other agency, the functions, powers and duties of which have been herein assigned or transferred to the Division of Consumer Affairs, and all such matters or proceedings pending before such division, office or other agency on the effective date of this act shall be continued by the Division of Consumer Affairs, as if the foregoing provisions had not taken effect.

C. 52:17B-137 Construction of act.

20. Nothing in this act shall be construed to limit the powers of the Attorney General with respect to any division, office, board or other agency herein assigned or transferred to the Division of Consumer Affairs established hereunder.

21. All acts and parts of acts inconsistent with any of the provisions of this act are, to the extent of such inconsistency, superseded and repealed.

22. There is hereby appropriated to the Department of Law and Public Safety the sum of \$100,000.00 to carry out the purposes of this act for the year beginning July 1, 1971.

23. The provisions of this act shall become operative at the beginning of the biweekly pay period next following enactment. Anticipatory action to effect the establishment of the division may be taken in advance thereof including the making of authorized appointments, and confirmation or approval thereof, and, within the limits of appropriations to the division, the expenditure of funds for payment of salaries and expenses incident thereto.

24. This act shall take effect immediately.

Approved May 6, 1971.

CHAPTER 135

AN ACT to validate certain proceedings of school districts and any bonds or other obligations issued or to be issued pursuant to such proceedings.

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

Validating act

1. All proceedings heretofore had or taken by any school district or at any school district election for the authorization or issuance of bonds of the school district, and any bonds or other obligations of the school district issued or to be issued in pursuance of a proposal adopted by the legal voters at such election, are hereby ratified, validated and confirmed, notwithstanding that the school debt statement required by N. J. S. 18A:24-16 was not prepared and filed as required by N. J. S. 18A:24-17, provided however that a school debt statement has heretofore been made, sworn to and filed in the places required by such section 18A:24-17; and provided further that no action, suit or other proceeding of any nature to contest the validity of such proceedings has heretofore been instituted prior to the date upon which this act takes effect and within the time fixed therefor by or pursuant to law or rule of court, or, when such time has not heretofore expired, is instituted within 30 days after the effective date of this act.

2. This act shall take effect immediately.

Approved May 6, 1971.

CHAPTER 136

AN ACT concerning the licensing and regulation of health care facilities, transferring certain powers and duties from the Department of Institutions and Agencies to the State Department of Health, and to amend "An act concerning hospital service corporations and regulating the establishment, maintenance and operation of hospital service plans, and supplementing Title 17 of the Revised Statutes by adding thereto a new chapter entitled 'Hospital Service Corporations,' " approved June 14, 1938 (P. L. 1938, c. 366).

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

C. 26:2H-1 Declaration of policy.

1. It is hereby declared to be the public policy of the State that hospital and related health care services of the highest quality, of demonstrated need, efficiently provided and properly utilized at a reasonable cost are of vital concern to the public health. In order to provide for the protection and promotion of the health of the inhabitants of the State, the State Department of Health, which has been designated as the sole agency in this State for comprehensive health planning under the "Comprehensive Health Planning and Public Health Services Amendments of 1966" (Federal Law 89-749), as amended and supplemented, shall have the central, comprehensive responsibility for the development and administration of the State's policy with respect to health planning, hospital and related health care services, and all public and private institutions, whether State, county, municipal, incorporated or not incorporated, serving principally as boarding, nursing or maternity homes or other homes for the sheltered care of adult persons or as facilities for the prevention, diagnosis, or treatment of human disease, pain, injury, deformity or physical condition, shall be subject to the provisions of this act.

C. 26:2H-2 Definitions.

2. The following words or phrases, as used in this act, shall have the following meanings, unless the context otherwise requires:

a. "Health care facility" means the facility or institution whether public or private, engaged principally in providing services for health maintenance organizations, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, including, but not limited to, a general hospital, special hospital, mental hospital, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, skilled nursing home, nursing home, intermediate care facility, tuberculosis hospital, chronic disease hospital, maternity hospital, outpatient clinic, dispensary, home health care agency, boarding home or other home for the sheltered care of adult persons and bioanalytical laboratory or central services facility serving one or more such institutions but excluding institutions that provide healing solely by prayer.

b. "Health care service" means the preadmission, out-patient, in-patient and post-discharge care provided in or by a health care facility, and such other items or services as are necessary for such

care, which are provided by or under the supervision of a physician for the purpose of health maintenance organizations, diagnosis or treatment of human disease, pain, injury, disability, deformity or physical condition, including, but not limited to, nursing service, home care nursing and other paramedical service, ambulance service, service provided by an intern, resident in training or physician whose compensation is provided through agreement with a health care facility, laboratory service, medical social service, drugs, biologicals, supplies, appliances, equipment, bed and board, but excluding services provided by a physician in his private practice or by practitioners of healing solely by prayer.

c. "Construction" means the erection, building, or substantial acquisition, alteration, reconstruction, improvement, renovation, extension or modification of a health care facility, including its equipment, the inspection and supervision thereof; and the studies, surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary thereto.

d. "Board" means the Health Care Administration Board established pursuant to this act.

e. "Government agency" means a department, board, bureau, division office, agency, public benefit or other corporation, or any other unit, however described, of the State or political subdivision thereof.

f. "State Health Planning Council" means the existing State Health Planning Council formed under the provisions of Federal Law 89-749, as amended and supplemented.

g. "Comprehensive area-wide health planning agency" means an officially recognized health planning agency formed under the provisions of Federal Law 89-749, as amended and supplemented.

h. "Area planning council" means a voluntary, nonprofit organization composed of persons representative of hospitals, nursing homes, and consumers of medical care services, formed for the purpose of planning the health facilities in a definite geographical area which is recognized by the commissioner through referral of applications for certificate of need as provided by this act.

i. "Department" means the State Department of Health.

j. "Commissioner" means the State Commissioner of Health.

C. 26:2H-3 Recognition as recommending agencies; coordinating agency.

3. The commissioner shall recognize the State Health Planning Council, the comprehensive area-wide health planning agencies and

area planning councils as the recommending agencies in carrying out the purpose of this act. The State Health Planning Council shall act as the coordinating agency for the comprehensive area-wide health planning agencies and area planning councils in all matters, including but not limited to, comprehensive studies of requirements in various areas of the State for health care facilities.

C. 26:2H-4 Health Care Administration Board; membership, appointment, terms, vacancies, meetings, compensation.

4. There shall be in the State Department of Health, a Health Care Administration Board which shall consist of 13 members, 11 of whom shall be appointed by the Governor with the advice and consent of the Senate, and representative of medical and health care facilities and services, labor, industry and the public at large, and two of whom shall be ex-officio members. The State Commissioner of Health and the Commissioner of Insurance or their designated representatives, shall be ex-officio voting members of the board and shall serve on the board during their respective terms of office. Of the original members appointed to the board, four shall be appointed for terms of 3 years, four for terms of 2 years, and three for terms of 1 year. Following the expiration of the initial terms, members of the board shall be appointed for terms of 4 years. Any vacancy occurring in the membership of the board shall be filled in the same manner as the original appointment, but for the unexpired term only. The board shall meet at least quarterly and at such other times as its rules may prescribe or as in its judgment, may be necessary. The appointive members of the board shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties.

C. 26:2H-5 Commissioner's powers.

5. a. The commissioner, to effectuate the provisions and purposes of this act, shall have the power to inquire into health care services and the operation of health care facilities and to conduct periodic inspections of such facilities with respect to the fitness and adequacy of the premises, equipment, personnel, rules and bylaws and the adequacy of financial resources and sources of future revenues.

b. The commissioner, with the approval of the board, shall adopt and amend rules and regulations in accordance with the Administrative Procedure Act P. L. 1968, c. 410 (C. 52:14B-1 et seq.) to effectuate the provisions and purposes of this act, including but not limited to: (1) the establishment of requirements for a uniform State-wide system of reports and audit relating to the quality of

health care provided, health care facility utilization and costs; (2) certification by the department of schedules of rates, payments, reimbursement, grants and other charges for health care services as provided in section 18; and (3) standards and procedures relating to the licensing of health care facilities and the institution of additional health care services.

c. The commissioner may enter into contracts with any government agency, institution of higher learning, voluntary nonprofit agency, or appropriate planning agency or council; and such entities are authorized to enter into contracts with the commissioner to effectuate the provisions and purposes of this act.

d. The commissioner may provide consultation and assistance to health care facilities in operational techniques, including but not limited to, planning, principles of management, and standards of health care services.

e. At the request of the commissioner, health care facilities shall furnish to the Department of Health such reports and information as it may require to effectuate the provisions and purposes of this act, excluding confidential communications from patients.

f. The commissioner may institute or cause to be instituted in a court of competent jurisdiction proceedings to compel compliance with the provisions of this act or the determinations, rules, regulations and orders of the commissioner.

C. 26:2H-6 Designation of unit to carry out provisions of act.

6. The commissioner shall designate an appropriate organizational unit in the State Department of Health to carry out the provisions and purposes of this act, which shall be under the supervision of a person who shall be appointed by and receive the compensation fixed by the commissioner, subject to appropriations made therefor.

C. 26:2H-7 Construction or expansion of health care facilities; limitations.

7. No health care facility shall be constructed or expanded, and no new health care services shall be instituted after the effective date of this act except upon application for and receipt of a certificate of need as provided by this act. No agency of the State or of any county or municipal government shall approve any grant of funds for, or issue any license to, a health care facility which is constructed or expanded, or which institutes a new health care service, in violation of the provisions of this act.

C. 26:2H-8 Requirements for certificate of need.

8. No certificate of need shall be issued unless the action proposed in the application for such certificate is necessary to provide required health care in the area to be served, can be economically accomplished and maintained, and will contribute to the orderly development of adequate and effective health care services. In making such determinations there shall be taken into consideration (a) the availability of facilities or services which may serve as alternatives or substitutes, (b) the need for special equipment and services in the area, (c) the possible economies and improvement in services to be anticipated from the operation of joint central services, (d) the adequacy of financial resources and sources of present and future revenues, (e) the availability of sufficient manpower in the several professional disciplines, and (f) such other factors as may be established by regulation. The commissioner shall cause appropriate surveys and studies to be made concerning the need for health care facilities and keep current records and statistics thereon by designated areas or regions of the State.

C. 26:2H-9 Issuance of certificate of need.

9. Certificates of need shall be issued by the commissioner in accordance with the provisions of this act and based upon criteria and standards therefor promulgated by the commissioner. The commissioner shall establish minimum needs for health care facilities in each area or region, and any applicant requesting a certificate of need who falls within such minimum needs, and who otherwise complies in all respects with this act and the criteria and standards established pursuant thereto shall be issued such certificate.

No such certificate shall be denied without the approval of the board and prior to the determination by the board, the applicant shall have been granted opportunity for hearing; and no decision shall be made contrary to the recommendations of the State Health Planning Council unless the council and the applicant shall have been granted opportunity for hearing. The department shall arrange within 60 days for fair hearings on all such cases and the commissioner or his designee shall furnish the board, the council and the applicant in writing his recommendations and reasons therefor. The board within 30 days shall make its determination.

C. 26:2H-10 Application for certificate of need; fee.

10. Application for a certificate of need shall be made to the department, and shall be in such form and contain such information as the department may prescribe. The department shall charge

a nonreturnable fee, not less than \$20.00 and not more than \$250.00 for the filing of an application for a certificate of need as it shall from time to time fix in rules or regulations. Upon receipt of an application, copies thereof shall be referred by the department to the appropriate planning agencies or councils for review.

These appropriate agencies and councils shall provide adequate mechanisms for full consideration of each application submitted to them and for developing recommendations thereon. Such recommendations, whether favorable or unfavorable, shall be forwarded to the commissioner within 60 days of the date of referral of the application. A copy of the recommendations made shall be forwarded to the applicant.

Recommendations concerning certificates of need shall be governed and based upon the principles and considerations set forth in section 8 hereof.

No member, officer or employee of any planning body shall be subject to civil action in any court as the result of any act done or failure to act, or of any statement made or opinion given, while discharging his duties under this act as such member, officer, or employee, provided he acted in good faith with reasonable care and upon proper cause.

C. 26:2H-11 Term of certificate; renewal.

11. A certificate of need shall be valid for 1 year from the date of issue, except that the commissioner may renew the certificate for further periods where the applicant has shown to the satisfaction of the commissioner by adequate proof that substantial progress towards completion of the project has been demonstrated.

C. 26:2H-12 Operational requirements for health care facility; application for license; fee.

12. a. No health care facility shall be operated unless it shall: (1) possess a valid license issued pursuant to this act, which license shall specify the kind or kinds of health care services the facility is authorized to provide; (2) establish and maintain a uniform system of cost accounting approved by the commissioner; (3) establish and maintain a uniform system of reports and audits meeting the requirements of the commissioner; and (4) prepare and review annually a long range plan for the provision of health care services, which plan shall be compatible with the State Health Plan established pursuant to the "Comprehensive Health Planning and Public Health Services Amendments of 1966" (Federal Law 89-749) as related to medical health services, health care services, and health manpower.

b. (1) Application for a license for a health care facility shall be made upon forms prescribed by the department. The department shall charge such nonrefundable fees, not less than \$50.00 and not more than \$250.00 for the filing of an application for a license and any renewal thereof, as it shall from time to time fix in rules or regulations. The application shall contain the name of the health care facility, the kind or kinds of health care service to be provided, the location and physical description of the institution, and such other information as the department may require. (2) A license shall be issued by the department upon its findings that the premises, equipment, personnel, including principals and management, finances, rules and bylaws, and standards of health care service are fit and adequate and there is reasonable assurance the health care facility will be operated in the manner required by this act and rules and regulations thereunder.

c. A license issued before the effective date of this act to a health care facility for its operation, upon the first renewal date thereafter, may be extended for a 1 year period of time, provided the facility then meets the requirements for licensure at the time said license was issued and submits an acceptable plan to meet current requirements at the end of said period of time.

C. 26:2H-13 Assessment of penalties; denial, revocation or suspension of license.

13. In addition to authority granted to the department by this act or any other law, the department after serving the licensee with specific charges in writing, may assess penalties and collect the same within the limitations imposed by this act, deny, place on probationary or provisional license, revoke or suspend any and all licenses granted under authority of this act to any person, firm, partnership, corporation or association violating or failing to comply with the provisions of this act, or the rules and regulations promulgated hereunder.

Notice of the assessment of penalties, revocation, suspension, the placing on probationary or provisional license or denial of a license together with a specification of charges shall be served on the applicant or licensee, personally or sent by certified mail to the address of record and the notice shall set forth the particular reasons for the assessment, denial, suspension, the placing on probationary or provisional license or revocation of the license. Such assessment, denial, suspension, the placing on probationary or provisional license, or revocation shall become effective 30 days after mailing, unless the applicant or licensee, within such 30-day period shall meet the requirements of the department or shall file

with the department a written answer to the charges and give written notice to the department of its desire for a hearing in which case the assessment, denial, suspension, the placing on probationary or provisional license, or revocation may be held in abeyance until the hearing has been concluded and a final decision rendered.

The department shall afford the licensee an opportunity for a prompt hearing on the question of the assessment of penalties, the issuance, suspension or the placing on a probationary or provisional license, or revocation of the license. The procedure governing such hearings shall be in accordance with the rules and regulations of the department. Either party may be represented by counsel of his own choosing, and shall have the right to subpoena witnesses and to compel their attendance on forms furnished by the department.

The commissioner shall arrange for prompt and fair hearings on all such cases, render written decisions stating conclusions and reasons therefor upon each matter so heard, and is empowered to enter orders of denial, suspension, placing on probationary or provisional license or revocation consistent with the circumstances in each case, and may assess penalties and collect the same within the limitations imposed by this act.

C. 26:2H-14 Penalties.

14. Any person, firm, partnership, corporation or association who shall operate or conduct a health care facility without first obtaining the license required by this act, or who shall operate such health care facility after revocation or suspension of license, shall be liable to a penalty of \$50.00 for each day of operation in violation hereof for the first offense and for any subsequent offense shall be liable to a penalty of \$100.00 for each day of operation in violation hereof. Any person, firm, partnership, corporation or association who shall be found guilty of violating any rule or regulation adopted in accordance with this act as the same pertains to the care of patients and neglects to rectify same within 7 days after receiving notice from the department of such violation or who neglects to commence, within 7 days, such repairs to his licensed establishment after receiving notice from the department that hazardous or unsafe condition exists in or upon the structure in which the licensed premises is maintained shall be subject to a penalty of not less than \$10.00 or more than \$100.00 for each day that he is in violation of such rule or regulation. If, within 1 year after such violation such person, firm, partnership, corporation or association is found guilty of the same violation such penalties as hereinbefore set forth shall be doubled, and if there be a third violation within such time, such

penalties shall be tripled. In addition thereto the department may, in its discretion, suspend the license for such time as it may deem proper.

Any person, firm, partnership, corporation or association who shall, except in cases of an emergency, maintain more patients in his premises than he is licensed so to do, shall be subject to a penalty in an amount equal to the charge collected from such patient or patients plus \$25.00 for each extra patient so maintained.

C. 26:2H-15 Misrepresentation by unlicensed facilities; penalties.

15. Whenever a boarding home for sheltered care, boarding house or rest home or facility or institution of like character, not licensed hereunder, by public or private advertising or by other means holds out to the public that it is equipped to provide post-operative or convalescent care for persons mentally ill or mentally retarded or who are suffering or recovering from illness or injury, or who are chronically ill, or whenever there is reason to believe that any such facility or institution, not licensed hereunder, is violating any of the provisions of this act, then, and in such case, the department shall be permitted reasonable inspection of such premises for the purpose of ascertaining whether there is any violation of the provisions hereof. If any such boarding home for sheltered care, boarding house, rest home or other facility or institution shall operate as a private mental hospital, convalescent home, private nursing home or private hospital in violation of the provisions of this act, then the same shall be liable to the penalties which are prescribed and capable of being assessed against health care facilities pursuant to this act.

Any person, firm, association, partnership or corporation, not licensed hereunder, but who holds out to the public by advertising or other means that the medical and nursing care contemplated by this act will be furnished to persons seeking admission as patients, shall cease and desist from such practice and shall be liable to a penalty of \$100.00 for the first offense and \$500.00 for each subsequent offense, such penalty to be recovered as provided for herein.

C. 26:2H-16 Recovery of penalties; disposition of moneys; authority to maintain an action to enjoin.

16. The penalties prescribed and authorized by this act shall be recovered in a summary civil proceeding, brought in the name of the State in the Superior Court, a County Court or a county district court pursuant to the Penalty Enforcement Law (N. J. S. 2A :58-1 et seq.).

The commissioner may, in his discretion and subject to rules and regulations, accept from any licensee an offer in compromise in such amount as may in his judgment be proper under the circumstances in lieu of any suspension of any license by the commissioner. Any sums of money so collected by the commissioner shall be paid forthwith into the State Treasury for the general purposes of the State. In no case shall the penalty be compromised for a sum less than \$250.00 for the first offense and \$500.00 for the second and each subsequent offense; provided, however, that any penalty of less than \$250.00 or \$500.00, as the case may be, may be compromised for a lesser sum.

The department may maintain an action in the name of the State to enjoin any person, firm, partnership, association or corporation from continuing to conduct, manage or operate a health care facility without a license, or after suspension or revocation of license, or in violation of rules and regulations promulgated hereunder.

C. 26:2H-17 Judicial review.

17. All orders or determinations under this act shall be subject to review by a court of competent jurisdiction in accordance with the Rules of Court.

C. 26:2H-18 Payment by government agencies or hospital service corporations for health care services; limitations.

18. a. No government agency and no hospital service corporation organized under the laws of the State shall purchase, pay for or make reimbursement or grant-in-aid for any health care service provided by a health care facility unless at the time the service was provided, the health care facility possessed a valid license or was otherwise authorized to provide such service.

b. Payment by government agencies for health care services provided by a health care facility shall be at rates established by the commissioner, based on elements of costs approved by him.

c. The Commissioner of Health in consultation with the Commissioner of Insurance shall determine and certify the costs of providing health care services, as reported by health care facilities, which are derived in accordance with a uniform system of cost accounting approved by the Commissioner of Health. Said certification shall specify the elements and details of costs taken into consideration.

d. Payment by hospital service corporations, organized under the laws of this State, for health care services provided by a health care facility shall be at rates approved as to reasonableness by

the Commissioner of Insurance with the approval of the Commissioner of Health. In establishing such rates, the commissioners shall take into consideration the total costs of the health care facility.

C. 26:2H-19 Transfer of certain powers and duties to the State Department of Health.

19. All of the functions, powers and duties of the State Board of Control, the Commissioner of Institutions and Agencies and the Department of Institutions and Agencies and its Hospital Licensing Board related to administration of laws governing and concerning boarding homes for the sheltered, care of children and adult persons, private mental hospitals, convalescent homes, private nursing homes and private hospitals, and relating to the planning, construction and licensing of health care facilities as defined in this act and the power to receive, allocate, expend, and authorize the expenditure of Federal moneys available for health care facility construction and renovation are hereby transferred and assigned to, assumed by and devolved upon the State Department of Health. To effectuate such transfer there shall also be transferred such officers and employees as are necessary, all appropriations or re-appropriations, to the extent of remaining unexpended or unencumbered balances thereof, whether allocated or unallocated and whether obligated or unobligated, and all necessary books, papers, records and property. All rules, regulations, acts, determinations and decisions in force at the time of such transfer and proceedings or other such matters undertaken or commenced by or before the Department of Institutions and Agencies or the Hospital Licensing Board pertaining to the planning, construction, licensing and operation of such health care facilities, and the administration of Federal moneys for health care facility construction, and renovation pending at the time of such transfer, shall continue in force and effect until duly modified, abrogated or completed by the Department of Health.

C. 26:2H-20 Transfer of certain employees to the State Department of Health.

20. Employees of the present Bureau of Community Institutions in the Department of Institutions and Agencies responsible for administration of laws governing and concerning boarding homes for the sheltered care of adult persons, private mental hospitals, convalescent homes, private nursing homes and private hospitals are hereby transferred to the State Department of Health. Persons so transferred shall be assigned such duties as the State Commissioner of Health shall determine.

C. 26:2H-21 Transfer of certain powers, duties, property and personnel to the State Department of Health.

21. All functions, powers, duties, records, and property of the Department of Institutions and Agencies, and personnel of the Bureau of Medical Facilities Construction and Planning relating to receipt of money from the Federal Government for the purpose of making payments for construction of hospitals, including public health centers and related facilities within the State, and for an inventory and survey in connection therewith under or pursuant to any Federal law providing for the payment of such moneys as established and authorized by the provisions of c. 83, P. L. 1947 (C. 30:1-19 et seq.), are hereby transferred to the State Department of Health.

C. 26:2H-22 Hospital Licensing Board abolished; certain powers and duties transferred to Department of Health.

22. The Hospital Licensing Board created pursuant to P. L. 1947, c. 340, s. 7 (C. 30:11-6) is hereby abolished. Upon the establishment of the Health Care Administration Board, all the functions, powers and duties of the Hospital Licensing Board, transferred to and vested in the Department of Health pursuant to section 19 of this act, shall be assumed by and devolved upon the Department of Health, to be exercised by the said Health Care Administration Board. Pending the appointment of members, establishment and convening of said Health Care Administration Board, all the functions, powers and duties thereof shall be exercised by the department.

C. 26:2H-23 Certain references in laws, rules, regulations or documents.

23. With respect to the functions, powers and duties of the State Board of Control, the Commissioner of Institutions and Agencies and the Department of Institutions and Agencies, which are herein transferred and vested in the Department of Health, whenever in any law, rule, regulation, contract, document or otherwise, reference is made to the State Board of Control or the Department of Institutions and Agencies the same shall be deemed to mean and refer to the Department of Health, and reference to the Commissioner of Institutions and Agencies in connection therewith shall be deemed to mean and refer to the Commissioner of Health.

C. 26:2H-24 Partial invalidity.

24. If any clause, sentence, paragraph, subsection or section of this act shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the

clause, sentence, paragraph, subsection or section thereof directly involved in the controversy in which this judgment shall have been rendered.

25. Section 1 of c. 366, P. L. 1938 (C. 17:48-1) is amended to read as follows:

C. 17:48-1 Definitions.

1. A hospital service corporation is hereby declared to be any corporation organized, without capital stock and not for profit, for the purpose of establishing, maintaining and operating a nonprofit hospital service plan. A hospital service plan is hereby defined as a plan whereby health care services are provided by a hospital service corporation or by a health care facility with which the corporation has a contract for such health care services to persons who become subscribers under contracts with the corporation. Health care services provided by a hospital service corporation shall include health care provided (a) through a health care facility which is maintained by a State or any of its political subdivisions; (b) through a health care facility licensed by the Department of Health; (c) through such other health care facilities as shall have been designated by the Department of Health for health care services; (d) through health care facilities located in other states, which are subject to the supervision of such other States provided that such last mentioned health care facilities, if they were located in this State, would be eligible to be licensed or designated by the Department of Health; (e) through nonprofit hospital service plans of other States approved by the Commissioner of Insurance.

26. Section 7 of c. 366, P. L. 1938 (C. 17:48-7) is amended to read as follows:

C. 17:48-7 Health care facilities eligible for contracts; approval of notes of payment.

7. Any hospital service corporation may enter into contracts with health care facilities for the rendering of health care services to any of its subscribers only with licensed health care facilities.

Rates of payment by such hospital service corporation pursuant to written contract with a hospital or institution for the services contracted thereunder may be in the form of a level per diem amount established for the particular hospital or institution for each day of health care services and prior to payment, shall be approved as to reasonableness by the Commissioner of Insurance following certification made pursuant to section 18 of the Health Care Facilities Planning Act (P. L. 1971, c. 136). The maximum rate of payment

to eligible hospitals and institutions not under contract with such hospital service corporation shall not exceed the particular hospital's or institution's regular charges to the general public for the same services and shall be set forth in the certificate issued by such hospital service corporation to any subscriber. The basis and extent of payment, if any, by such hospital service corporation under agreement with nonprofit hospital service plans of other states shall be subject to the approval of the Commissioner of Insurance.

C. 26:2H-25 Tenure rights or pension or retirement rights.

27. Nothing in this act shall be construed to deprive any person of any tenure rights or of any right or protection provided him by Title 11 of the Revised Statutes, Civil Service, or under any pension law or retirement system.

C. 26:2H-26 Short title.

28. This act shall be known and may be cited as the "Health Care Facilities Planning Act."

29. This act shall take effect at the beginning of the eighth biweekly pay period following enactment except that all arrangements and actions necessary and appropriate to enable this act to become fully operative on such date shall be made as promptly as possible as though this act were effective and operative immediately.

Approved May 10, 1971.

CHAPTER 137

AN ACT to provide stadiums and other buildings and facilities in the Hackensack meadowlands for athletic contests, horse racing and other spectator sporting events and for trade shows and other expositions; creating the New Jersey Sports and Exposition Authority and defining its powers and duties; authorizing the issuance of bonds and notes of the authority, providing for the terms and security thereof; and providing an appropriation therefor.

WHEREAS, The Hackensack Meadowlands Development Commission pursuant to P. L. 1968, c. 404 (C. 13:17-1 et seq.), is charged with the responsibility for reclaiming, planning, developing and

redeveloping the land in the Hackensack Meadowlands Districts;
and

WHEREAS, The Hackensack Meadowlands Development Commission and the New Jersey Sports and Exposition Authority can cooperate in the development of said Hackensack Meadowlands District by the effectuation of the sports and exposition project in accordance with this act; now, therefore,

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

C. 5:10-1 Short title.

1. This act shall be known as, and may be cited as, the "New Jersey Sports and Exposition Authority Law."

C. 5:10-2 Declaration of policy.

2. The Legislature hereby finds and declares that the general welfare, health and prosperity of the people of the State will be promoted by the holding of athletic contests, horse racing and other spectator sporting events and of trade shows and other expositions in the State; that in order to induce professional athletic teams, particularly major league football and baseball teams, to locate their franchises in the State, it is necessary to provide stadiums and related facilities for the use of such teams, in addition to the facilities for horse racing and other spectator sporting events; that such stadiums and other facilities would also accommodate other events and serve other uses which would provide needed recreation, forums and expositions for the public.

It is hereby further found and declared that additional facilities are needed in the State to accommodate trade shows and other expositions in order to promote industry and development in the State and provide a forum for public events.

The Legislature further finds and declares that the location of a sports and exposition complex in the Hackensack meadowlands would stimulate the needed development of said meadowlands.

The Legislature has determined that to provide for the establishment and operation of the needed stadiums and other facilities for the holding of such spectator sports, expositions and other public events and uses, a corporate agency of the State shall be created with the necessary powers to accomplish these purposes.

The Legislature further finds that the authority and powers conferred under this act and the expenditure of public moneys pursuant thereto constitutes a serving of a valid public purpose

New Jersey State Library

and that the enactment of the provisions hereinafter set forth is in the public interest and is hereby so declared to be such as a matter of express legislative determination.

C. 5:10-3 Definitions.

3. The following words or terms as used in this act shall have the following meaning unless a different meaning clearly appears from the context:

a. "Act" means this New Jersey Sports and Exposition Authority Law.

b. "Authority" means the New Jersey Sports and Exposition Authority created by section 4 of the act.

c. "Bonds" means bonds issued by the authority pursuant to the act.

d. "Meadowlands complex" means the sports and exposition project authorized by section 6 of the act.

e. "Notes" means notes issued by the authority pursuant to the act.

f. "Project" means the meadowlands complex.

g. "State" means the State of New Jersey.

h. "Hackensack meadowlands" means the Hackensack Meadowlands District as delineated in P. L. 1968, c. 404, s. 4 (C. 13:17-4).

i. "Meadowlands Commission" means the Hackensack Meadowlands Development Commission created by P. L. 1968, c. 404.

j. "Racing Commission" means the New Jersey Racing Commission created by P. L. 1940, c. 17.

C. 5:10-4 New Jersey Sports and Exposition Authority; establishment, membership, appointment, terms, vacancies, removal, oath, officers, quorum, bond, compensation, dissolution, minutes of meetings.

4. a. There is hereby established in the Department of Community Affairs a public body corporate and politic, with corporate succession, to be known as the "New Jersey Sports and Exposition 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 act shall be deemed and held to be an essential governmental function of the State and the application of the revenue derived from the project to the purposes provided in this act shall be deemed and held to be applied in support of government.

b. The authority shall consist of the State Treasurer, the Attorney General and a member of the Hackensack Meadowlands

Development Commission to be appointed by the Governor, who shall be members ex officio, and four members appointed by the Governor with the advice and consent of the Senate for terms of 4 years, provided that the members of the authority (other than the ex-officio members) first appointed by the Governor shall serve for terms of 1 year, 2 years, 3 years and 4 years, respectively. Each member shall hold office for the term of his appointment and until his 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.

c. Each appointed member 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 his 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. The chairman, who shall be chief executive officer of the authority, shall be appointed by the Governor from the members of the authority other than the ex-officio members, and the members of the authority shall elect one of their number as vice chairman thereof. The authority shall elect a secretary and a treasurer who need not be members, and the same person may be elected to serve both as secretary and treasurer. The powers of the authority shall be vested in the members thereof in office from time to time and four members of the authority shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the authority at any meeting thereof by the affirmative vote of at least four 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 and the treasurer of the authority shall execute a bond to be conditioned upon the faithful performance of the duties of such member or treasurer, as the case may be, in such form and amount as may be prescribed by the Comptroller 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 his office or employment or any benefits or emoluments thereof by reason of his acceptance of the office of ex-officio member of the authority or his services therein.

g. Each ex-officio member of the authority may designate an officer or employee of his department or agency to represent him at meetings of the authority, and each such designee may lawfully vote and otherwise act on behalf of the member for whom he 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 15 days after such copy of the minutes shall have been so delivered unless during such 15-day period the Governor shall approve the same in which case such action shall become effective upon such approval. If, in said 15-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 paragraph (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 paragraph (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.

C. 5:10-5 Authority's powers.

5. Except as otherwise limited by the act, the authority shall have power:

- a. To sue and be sued;
- b. To have an official seal and alter the same at pleasure;
- c. To make and alter bylaws for its organization and internal management and for the conduct of its affairs and business;
- d. To maintain an office at such place or places within the State as it may determine;
- e. To acquire, hold, use and dispose of its income, revenues, funds and moneys;
- f. To acquire, lease as lessee or lessor, rent, lease, hold, use and dispose of real or personal property for its purposes;
- g. To borrow money and to issue its negotiable bonds or notes and to secure the same by a mortgage on its property or any part thereof and otherwise to provide for and secure the payment thereof and to provide for the rights of the holders thereof;
- h. To make and enter into all contracts, leases, and agreements for the use or occupancy of the project or any part thereof or which are necessary or incidental to the performance of its duties and the exercise of its powers under the act;
- i. To make surveys, maps, plans for, and estimates of the cost of, the project;
- j. To establish, acquire, construct, lease the right to construct, rehabilitate, repair, improve, own, operate, and maintain the project, and let, award and enter into construction contracts, purchase orders and other contracts with respect thereto in such manner as the authority shall determine, subject only to the provisions of section 21 of the act;
- k. To fix and revise from time to time and charge and collect rents, tolls, fees and charges for the use, occupancy or services of the project or any part thereof or for admission thereto, and for the grant of concessions therein and for things furnished or services rendered by the authority;
- l. To establish and enforce rules and regulations for the use or operation of the project or the conduct of its activities, and provide for the policing and the security of the project;
- m. To acquire in the name of the authority by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, or, except with respect to the State, by the exercise of

the power of eminent domain, any land and other property, including land under water, meadowlands, and riparian rights, which it may determine is reasonably necessary for the project or for the relocation or reconstruction of any highway by the authority and any and all rights, title and interest in such land and other property, including public lands, reservations, highways or parkways, owned by or in which the State or any county, city, borough, town, township, village, public corporation, or other political subdivision of the State has any right, title or interest, or parts thereof or rights therein and any fee simple absolute or any lesser interest in private property, and any fee simple absolute in, easements upon or the benefit of restrictions upon, abutting property to preserve and protect the project;

n. To provide through its employees, or by the grant of one or more concessions, or in part through its employees and in part by grant of one or more concessions, for the furnishing of services and things for the accommodation of persons admitted to or using the project or any part thereof;

o. To hold and conduct horse race meetings for stake, purse or reward and to provide and operate a pari-mutuel system of wagering at such meetings but subject only to the provisions of section 7 of the act;

p. To acquire, construct, operate, maintain, improve and make capital contributions to others for transportation and other facilities, services and accommodations for the public using the project and to lease or otherwise contract for the operation thereof;

q. Subject to any agreement with bondholders or noteholders, to invest moneys of the authority not required for immediate use, including proceeds from the sale of any bonds or notes, in such obligations, securities and other investments as the authority shall deem prudent;

r. 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 the act, with the terms and conditions thereof;

s. Subject to any agreements with bondholders or noteholders, to purchase bonds or notes of the authority out of any funds or money of the authority available therefor, and to hold, cancel or resell such bonds or notes;

t. To appoint and employ an executive director and such additional officers who need not be members of the authority and accountants, attorneys, financial advisors or experts and all such other or different officers, agents and employees as it may require and determine their qualifications, terms of office, duties and compensation, all without regard to the provisions of Title 11, Civil Service, of the Revised Statutes, provided that, it is the express intent of the Legislature that the authority within its sole discretion shall utilize, to the fullest extent feasible, the services of the officers, personnel and consultants of the Meadowlands Commission;

u. To do and perform any acts and things authorized by the act under, through, or by means of its officers, agents or employees or by contracts with any person, firm or corporation;

v. 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;

w. To do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in the act; and

x. To determine the location, type and character of the project or any part thereof and all other matters in connection with all or any part of the project, notwithstanding any land use plan, zoning regulation, building code or similar regulation heretofore or hereafter adopted by the State, any municipality, county, public body politic and corporate, including but not limited to the Meadowlands Commission, or any other political subdivision of the State, provided that the authority shall consult with the Meadowlands Commission before making any determination as to the location, type and character of the project.

C. 5:10-6 Authorization to develop, construct and operate certain facilities; application of revenues.

6. a. The authority, pursuant to the provisions of the act, is hereby authorized and empowered to establish, develop, construct, operate, maintain, improve and otherwise effectuate a project to be located in the Hackensack meadowlands upon a site not to exceed 750 acres consisting of one or more stadiums, coliseums, arenas, pavilions, stands, field houses, playing fields, recreation centers, courts, gymnasiums, club houses, a race track for the holding of horse race meetings, and other buildings, structures, facilities, properties and appurtenances incidental and necessary to a complex suitable for the holding of athletic contests or other sporting events, or trade shows, exhibitions, spectacles, public

meetings or other expositions, and such project may include drive-ways, roads, approaches, parking areas, parks, recreation areas, food vending facilities, restaurants, transportation structures, systems and facilities, and equipment, furnishings, and all other structures and appurtenant facilities related to, necessary for, or complementary to the purposes of the project or any facility thereof. As part of the project the authority is empowered to make capital contributions to others for transportation and other facilities, and accommodations for the public using the project. Any part of the project site not occupied or to be occupied by facilities of the project may be leased by the authority for purposes determined by the authority to be consistent with or related to the purposes of the project, including but not limited to hotels and other accommodations for transients and other facilities related or incidental to the project.

b. Revenues, moneys or other funds, if any, derived from the operation or ownership of the meadowlands complex, including the conduct of horse race meetings, shall be applied in accordance with the resolution or resolutions authorizing or relating to the issuance of bonds or notes of the authority to the following purposes and in the following order:

(1) The costs of operation and maintenance of the meadowlands complex and reserves therefor;

(2) Principal, sinking fund installments and redemption premiums of and interest on any bonds or notes of the authority issued for the purposes of the meadowlands complex or for the purpose of refunding the same, including reserves therefor;

(3) The costs of any major or extraordinary repairs, renewals or replacements with respect to the meadowlands complex or incidental improvements thereto not paid pursuant to paragraph (1) above, including reserves therefor;

(4) Payments required to be made pursuant to section 18b.;

(5) Payments authorized to be made pursuant to section 18 c.;

(6) The balance remaining after application in accordance with the above shall be deposited in the General State Fund and 40% of all amounts so deposited shall be appropriated to the Meadowlands Commission for any of its purposes authorized by P. L. 1968, c. 404, and any amendments or supplements thereto.

C. 5:10-7 Authorization to hold horse race meetings.

7. a. The authority is hereby authorized, licensed and empowered to apply to the Racing Commission for a permit or permits to hold

and conduct, as part of the meadowlands complex, horse race meetings for stake, purse or reward, and to provide a place or places on the race meeting grounds or enclosure for wagering by patrons on the result of such horse races by the pari-mutuel system, and to receive charges and collect all revenues, receipts and other sums from the ownership and operation thereof; provided that only the authority through its employees shall conduct such horse race meetings and wagering and the authority is expressly prohibited from placing in the control of any other person, firm or corporation the conduct of such horse race meetings, or wagering.

b. Except as otherwise provided in this section, such horse race meetings and pari-mutuel wagering shall be conducted by the authority in the manner and subject to compliance with the standards set forth in P. L. 1940, c. 17 (C. 5:5-22 et seq.) and the rules, regulations and conditions prescribed by the Racing Commission thereunder for the conduct of horse race meetings and for pari-mutuel betting at such meetings.

c. Application for said permit or permits shall be on such forms and shall include such accompanying data as the Racing Commission shall prescribe for other applicants. The Racing Commission shall proceed to review and act on any such application within 30 days after its filing and the Racing Commission is authorized in its sole discretion to determine whether a permit shall be granted to the authority. If, after such review, the Racing Commission acts favorably on such application, a permit shall be granted to the authority without any further approval and shall remain in force and effect so long as any bonds or notes of the authority issued for the purposes of the meadowlands complex remain outstanding, the provision of any other law to the contrary notwithstanding. In granting a permit to the authority to conduct a horse race meeting, the Racing Commission shall not be subject to any limitation as to the number of tracks authorized for the conduct of horse race meetings pursuant to any provision of P. L. 1940, c. 17 (C. 5:5-22 et seq.). Said permit shall set forth the dates to be allotted to the authority for its initial horse race meetings. Thereafter application for dates for horse race meetings by the authority and the allotment thereof by the Racing Commission, including the renewal of the same dates theretofore allotted, shall be governed by the applicable provisions of P. L. 1940, c. 17 (C. 5:5-22 et seq.). Notwithstanding the provision of any other law to the contrary, the Racing Commission shall allot annually to the authority, in the case of harness racing, not less than 100 racing days, and in the case of running racing,

not less than 56 racing days, if and to the extent that application is made therefor.

d. No hearing, referendum or other election or proceeding, and no payment, surety or cash bond or other deposit, shall be required for the authority to hold or conduct the horse race meetings with pari-mutuel wagering herein authorized.

e. The authority shall determine the amount of the admission fee for the races and all matters relating to the collection thereof.

f. Distribution of sums deposited in pari-mutuel pools to winners thereof and payments from the remaining balances in such pools for stakes, purses or rewards and special trust accounts for breeding and development of horses shall be for the purposes of and in accordance with the provisions of P. L. 1940, c. 17 (C. 5:5-22 et seq.) pertaining thereto. In addition, as an initial payment to the State, an amount equal to $\frac{1}{2}$ of 1% of all pari-mutuel pools shall be deposited annually in the General State Fund. All amounts remaining in pari-mutuel pools after such distribution and payments shall constitute revenues of the authority. Except as otherwise expressly provided in this section 7, the authority shall not be required to make any payments to the Racing Commission or others in connection with contributions to pari-mutuel pools.

g. All sums held by the authority for payment of outstanding pari-mutuel tickets not claimed by the person or persons entitled thereto within the time provided by law shall be paid to the Racing Commission upon the expiration of such time without further obligation to such ticketholder.

h. No admission or amusement tax, excise tax, license or horse racing fee of any kind shall be assessed or collected from the authority by the State of New Jersey, or by any county or municipality, or by any other body having power to assess or collect license fees or taxes.

i. Any horse race meeting and the pari-mutuel system of wagering upon the result of horse races held as such race meeting shall not under any circumstances, if conducted as provided in the act and in conformity thereto, be held or construed to be unlawful, other statutes of the State to the contrary notwithstanding.

j. Each employee of the authority engaged in the conducting of horse race meetings shall obtain the appropriate license from the Racing Commission subject to the same terms and conditions as is required of similar employees of other permit holders. The Racing Commission may suspend any member of the authority upon approval of the Governor and the license of any employee of the au-

thority in connection with the conducting of horse race meetings pending a hearing by the Racing Commission for any violation of the New Jersey laws regulating horse racing or any rule or regulation of the commission. Such hearing shall be held and conducted in the manner provided in said laws.

C. 5:10-8 Change of location of public highway or road.

8. a. If the authority shall find it necessary in connection with the undertaking of the project to change the location of any portion of any public highway or road, it may contract with any government agency, public or private corporation which may have jurisdiction over said public highway or road to cause said public highway or road to be constructed at such location as the authority in consultation with the Meadowlands Commission shall deem most favorable. The cost of such reconstruction and any damage incurred in changing the location of any such highway shall be ascertained and paid by the authority as a part of the cost of the project. Any public highway affected by the construction of the project may be vacated or relocated by the authority in the manner now provided by law for the vacation or relocation of public roads, and any damages awarded on account thereof shall be paid by the authority as part of the cost of the project. In all undertakings authorized by this subsection the authority shall consult and obtain the approval of the New Jersey Department of Transportation.

b. In addition to the foregoing powers the authority and its authorized agents and employees may enter upon any lands, waters and premises for the purpose of making surveys, soundings, drillings and examinations as it may deem necessary or convenient for the purposes of the act, all in accordance with due process of law, and such entry shall not be deemed a trespass nor shall an entry for such purpose be deemed an entry under any condemnation proceedings which may be then pending. The authority shall make reimbursement for any actual damages resulting to such lands, waters and premises as a result of such activities.

c. The authority shall also have power to make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles and other equipment and appliances (herein called "public utility facilities") of any public utility as defined in R. S. 48:2-13, in, on, along, over or under the project. Whenever the authority shall determine that it is necessary that any such public utility facilities which now are, or hereafter may be,

located in, on, along, over or under the project shall be relocated in the project, or should be removed therefrom, the public utility owning or operating such facilities shall relocate or remove the same in accordance with the order of the authority; provided, however, that the cost and expenses of such relocation or removal, including the cost of installing such facilities in a new location, or new locations, and the cost of any lands, or any rights or interests in lands, and any other rights, acquired to accomplish such relocation or removal, shall be ascertained and paid by the authority as a part of the cost of the project. In case of any such relocation or removal of facilities, as aforesaid, the public utility owning or operating the same, its successors or assigns, may maintain and operate such facilities, with the necessary appurtenance, in the new location or new locations, for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate such facilities in their former location or locations. In all undertakings authorized by this subsection the authority shall consult and obtain the approval of the Public Utilities Commission.

C. 5:10-9 Exercise of power of eminent domain.

9. a. Upon the exercise of the power of eminent domain, the compensation to be paid thereunder shall be ascertained and paid in the manner provided in chapter 1 of Title 20 of the Revised Statutes insofar as the provisions thereof are applicable and not inconsistent with the provisions contained in this act. The authority may join in separate subdivisions in one petition or complaint the descriptions of any number of tracts or parcels of land or property to be condemned and the names of any number of owners and other parties who may have an interest therein and all such land or property included in said petition or complaint may be condemned in a single proceeding; provided, however, that separate awards be made for each tract or parcel of land or property; and provided further, that each of said tracts or parcels of land or property lies wholly in or has a substantial part of its value lying wholly within the same county.

b. Upon the filing of such petition or complaint or at any time thereafter the authority may file with the clerk of the county in which such property is located and also with the Clerk of the Superior Court a declaration of taking, signed by the authority declaring that possession of one or more of the tracts or parcels of land or property described in the petition or complaint is thereby being taken by and for the use of the authority. The said declaration of taking shall be sufficient if it sets forth (1) a description of

each tract or parcel of land or property to be so taken sufficient for the identification thereof to which there shall be attached a plan or map thereof; (2) a statement of the estate or interest in the said land or property being taken; (3) a statement of the sum of money estimated by the authority by resolution to be just compensation for the taking of the estate or interest in each tract or parcel of land or property described in said declaration; and (4) that, in compliance with the provisions of the act, the authority has established and is maintaining a trust fund as hereinafter provided.

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

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

the authority is authorized by law to acquire or condemn such land or other property or interest therein.

e. The authority shall cause notice of the filing of said declaration and the making of said deposit to be served upon each party in interest named in the petition residing in the State, either personally or by leaving a copy thereof at his residence, if known, and upon each party in interest residing out of the State, by mailing a copy thereof to him at his residence, if known. In the event that the residence of any such party or the name of such party is unknown, such notice shall be published at least once in a newspaper published or circulating in the county or counties in which the land is located. Such service, mailing or publication shall be made within 10 days after filing such declaration. Upon the application of any party in interest and after notice to other parties in interest, including the authority, any judge of the superior court assigned to sit for said county may order that the money deposited with the Clerk of the Superior Court or any part thereof be paid forthwith to the person or persons entitled thereto for or on account of the just compensation to be awarded in said proceeding; provided, that each such person shall have filed with the Clerk of the Superior Court a consent in writing that, in the event the award in the condemnation proceeding shall be less than the amount deposited, the court, after notice as herein provided and hearing, may determine his liability, if any, for the return of such difference or any part thereof and enter judgment therefor. If the amount of the award as finally determined shall exceed the amount so deposited, the person or persons to whom the award is payable shall be entitled to recover from the authority the difference between the amount of the deposit and the amount of the award, with interest at the then legal rate from the date of making the deposit. If the amount of the award shall be less than the amount so deposited, the Clerk of the Superior Court shall return the difference between the amount of the award and the deposit to the authority unless the amount of the deposit or any part thereof shall have theretofore been distributed, in which event the court, on petition of the authority and notice to all persons interested in the award and affording them an opportunity to be heard, shall enter judgment in favor of the authority for such difference against the party or parties liable for the return thereof. The authority shall cause notice of the date fixed for such hearing to be served upon each party thereto residing in the State either personally or by leaving a copy thereof at his residence, if known, and upon each party residing out of the State by mailing a copy to

him at his residence, if known. In the event that the residence of any party or the name of such party is unknown, such notice shall be published at least once in a newspaper published or circulating in the county or counties in which the land is located. Such service, mailing or publication shall be made at least 10 days before the date fixed for such hearing.

Whenever under chapter 1 of Title 20 of the Revised Statutes the amount of the award may be paid into court, payment may be made into the Superior Court and may be distributed according to law. The authority shall not abandon any condemnation proceeding subsequent to the date upon which it has taken possession of the land or property as herein provided.

C. 5:10-10 Issuance of bonds or notes.

10. a. The authority shall have the power and is hereby authorized from time to time to issue its bonds or notes in such principal amounts as in the opinion of the authority shall be necessary to provide sufficient funds for any of its corporate purposes, including the payment, funding or refunding of the principal of, or interest or redemption premiums on, any bonds or notes issued by it whether the bonds or notes or interest to be funded or refunded have or have not become due, the establishment or increase of such reserves to secure or to pay such bonds or notes or interest thereon and all other costs or expenses of the agency incident to and necessary to carry out its corporate purposes and powers.

b. Except as may be otherwise expressly provided in the act or by the authority, every issue of bonds or notes shall be general obligations payable out of any revenues or funds of the authority, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues or funds. The authority may issue such types of bonds or notes as it may determine, including (without limiting the generality of the foregoing) bonds or notes as to which the principal and interest are payable (1) exclusively from the revenues and receipts of the part of the project financed with the proceeds of such bonds or notes; (2) exclusively from the revenues and receipts of certain designated parts of the project whether or not the same are financed in whole or in part from the proceeds of such bonds or notes; or (3) from its revenues and receipts generally. Any such bonds or notes may be additionally secured by a pledge of any grant, subsidy or contribution from the United States of America or any agency or instrumentality thereof or the State or any agency, instrumentality or political subdivision

thereof, or any person, firm or corporation, or a pledge of any income or revenues, funds or moneys of the authority from any source whatsoever.

c. Whether or not the bonds and notes are of such form and character as to be negotiable instruments under the terms of Title 12A, Commercial Transactions, New Jersey Statutes, the bonds and notes are hereby made negotiable instruments within the meaning of and for all the purposes of said Title 12A, subject only to the provisions of the bonds and notes for registration.

d. Bonds or notes of the authority shall be authorized by a resolution or resolutions of the authority and may be issued in one or more series and shall bear such date, or dates, mature at such time or times, bear interest at such rate or rates of interest per annum, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable from such sources in such medium of payment at such place or places within or without the State, and be subject to such terms of redemption (with or without premium) as such resolution or resolutions may provide.

e. Bonds or notes of the authority may be sold at public or private sale at such price or prices and in such manner as the authority shall determine. Every bond shall mature and be paid not later than 40 years from the date thereof.

f. Bonds or notes may be issued under the provisions of the act without obtaining the consent of any department, division, commission, board, bureau or agency of the State, and without any other proceeding or the happening of any other conditions or other things than those proceedings, conditions or things which are specifically required by the act.

g. Bonds and notes of the authority issued under the provisions of the act shall not be in any way a debt or liability of the State or of any political subdivision thereof other than the authority and shall not create or constitute any indebtedness, liability or obligation of the State or of any such political subdivision or be or constitute a pledge of the faith and credit of the State or of any such political subdivision but all such bonds and notes, unless funded or refunded by bonds or notes of the authority, shall be payable solely from revenues or funds pledged or available for their payment as authorized in the act. Each bond and note shall contain on its face a statement to the effect that the authority is obligated to pay the principal thereof or the interest thereon only from revenues or

funds of the authority and that neither the State nor any political subdivision thereof is obligated to pay such principal or interest and that neither the faith and credit nor the taxing power of the State or any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds or notes.

h. All expenses incurred in carrying out the provisions of the act shall be payable solely from revenues or funds provided or to be provided under the provisions of the act and nothing in the act shall be construed to authorize the authority to incur any indebtedness or liability on behalf of or payable by the State or any political subdivision thereof.

C. 5:10-11 Provisions relating to issuance of bonds or notes.

11. In any resolution of the authority authorizing or relating to the issuance of any bonds or notes, the authority, in order to secure the payment of such bonds or notes and in addition to its other powers, shall have power by provisions therein which shall constitute covenants by the authority and contracts with the holders of such bonds or notes:

a. To pledge all or any part of its rents, fees, tolls, revenues or receipts to which its right then exists or may thereafter come into existence, and the moneys derived therefrom, and the proceeds of any bonds or notes;

b. To pledge any lease or other agreement or the rents or other revenues thereunder and the proceeds thereof;

c. To mortgage all or any part of its property, real or personal, then owned or thereafter to be acquired;

d. To covenant against pledging all or any part of its rents, fees, tolls, revenues or receipts or its leases or agreements or rents or other revenues thereunder or the proceeds thereof, or against mortgaging all or any part of its real or personal property then owned or thereafter acquired, or against permitting or suffering any lien on any of the foregoing;

e. To covenant with respect to limitations on any right to sell, lease or otherwise dispose of any project or any part thereof or any property of any kind;

f. To covenant as to any bonds and notes to be issued and the limitations thereon and the terms and conditions thereof and as to the custody, application, investment, and disposition of the proceeds thereof;

g. To covenant as to the issuance of additional bonds or notes or as to limitations on the issuance of additional bonds or notes and on the incurring of other debts by it;

h. To covenant as to the payment of the principal of or interest on the bonds or notes, or any other obligations, as to the sources and methods of such payment, as to the rank or priority of any such bonds, notes or obligations with respect to any lien or security or as to the acceleration of the maturity of any such bonds, notes or obligations;

i. To provide for the replacement of lost, stolen, destroyed or mutilated bonds or notes;

j. To covenant against extending the time for the payment of bonds or notes or interest thereon;

k. To covenant as to the redemption of bonds or notes and privileges of exchange thereof for other bonds or notes of the authority;

l. To covenant as to the rates of toll and other charges to be established and charged, the amount to be raised each year or other period of time by tolls or other revenues and as to the use and disposition to be made thereof;

m. To covenant to create or authorize the creation of special funds or moneys to be held in pledge or otherwise for construction, operating expenses, payment or redemption of bonds or notes, reserves or other purposes and as to the use, investment, and disposition of the moneys held in such funds;

n. To establish the procedure, if any, by which the terms of any contract or covenant with or for the benefit of the holders of bonds or notes may be amended or abrogated, the amount of bonds or notes the holders of which must consent thereto, and the manner in which such consent may be given;

o. To covenant as to the construction, improvement, operation or maintenance of its real and personal property, the replacement thereof, the insurance to be carried thereon, and the use and disposition of insurance moneys;

p. To provide for the release of property, leases or other agreements, or revenues and receipts from any pledge or mortgage and to reserve rights and powers in, or the right to dispose of, property which is subject to a pledge or mortgage;

q. To provide for the rights and liabilities, powers and duties arising upon the breach of any covenant, condition or obligation and to prescribe the events of default and the terms and conditions upon which any or all of the bonds, notes or other obligations of the authority shall become or may be declared due and payable before maturity and the terms and conditions upon which any such declaration and its consequences may be waived;

r. To vest in a trustee or trustees within or without the State such property, rights, powers and duties in trust as the authority may determine, including the right to foreclose any mortgage, and to limit the rights, duties and powers of such trustee;

s. To execute all mortgages, bills of sale, conveyances, deeds of trust and other instruments necessary or convenient in the exercise of its powers or in the performance of its covenants or duties;

t. To pay the costs or expenses incident to the enforcement of such bonds or notes or of the provisions of such resolution or of any covenant or agreement of the authority with the holders of its bonds or notes;

u. To limit the powers of the authority to construct, acquire or operate any structures, facilities or properties which may compete or tend to compete with the project;

v. To limit the rights of the holders of any bonds or notes to enforce any pledge or covenant securing bonds or notes; and

w. To make covenants other than in addition to the covenants herein expressly authorized, of like or different character, and to make such covenants to do or refrain from doing such acts and things as may be necessary, or convenient and desirable, in order to better secure bonds or notes or which, in the absolute discretion of the authority, will tend to make bonds or notes more marketable, notwithstanding that such covenants, acts or things may not be enumerated herein.

C. 5:10-12 Validity of pledge of revenues, funds or property.

12. Any pledge of revenues, moneys, funds or other property made by the authority shall be valid and binding from the time when the pledge is made; the revenues, moneys, funds or other property so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge of revenues, moneys or funds is created need be filed or recorded except in the records of the authority.

C. 5:10-13 Members of authority not personally liable.

13. Neither the members of the authority nor any person executing bonds or notes issued pursuant to this act shall be liable personally on such bonds or notes by reason of the issuance thereof.

C. 5:10-14 Authorization to establish reserves.

14. The authority may establish such reserves, funds or accounts as may be, in its discretion, necessary or desirable to further the accomplishment of the purposes of the authority or to comply with the provisions of any agreement made by or any resolution of the authority.

C. 5:10-15 State's pledge.

15. The State of New Jersey does hereby pledge to and covenant and agree with the holders of any bonds or notes issued pursuant to authority of the act that the State will not limit or alter the rights or powers hereby vested in the authority to acquire, construct, maintain, improve, repair and operate the project in any way that would jeopardize the interest of such holders, or to perform and fulfill the terms of any agreement made with the holders of such bonds or notes, or to fix, establish, charge and collect such rents, fees, rates or other charges as may be convenient or necessary to produce sufficient revenues to meet all expenses of the authority and fulfill the terms of any agreement made with the holders of such bonds and notes, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of such holders, until the bonds, together with interest thereon, are fully met and discharged or provided for.

C. 5:10-16 Authorization to invest in bonds or notes.

16. The State and all public officers, governmental units and agencies thereof, all banks, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustee and other fiduciaries, may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds or notes issued pursuant to the act, and such bonds or notes shall be authorized security for any and all public deposits.

C. 5:10-17 Authorization to lease, grant or convey real property.

17. All counties and municipalities and other governmental subdivisions, all authorities, and all public departments, agencies and commissions of the State, notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, lend, grant or convey to the authority at its request upon such terms and con-

ditions as the governing body or other proper authorities of such counties, municipalities and governmental subdivisions, authorities and departments, agencies or commissions of the State may deem reasonable and fair and without the necessity for any advertisement, order of court or other action or formality, other than the authorizing ordinance of the governing body of the municipality, the authorizing resolution of the governing body of the county, or the regular and formal action of any public body concerned, any real property or interest therein which may be necessary or convenient to the effectuation of the purposes of the authority, including public highways and other real property already devoted to public use, provided that such real property is located within the 750 acre site authorized for the project. No property of the State, other than meadowlands, riparian lands or lands under water and similar lands or interests therein referred to in Title 12, Commerce and Navigation, and Title 13, Conservation and Development, of the Revised Statutes, as amended, shall be so granted, leased or conveyed to the authority except upon payment to the State of such price therefor as may be fixed by the State House Commission.

C. 5:10-18 Tax exemption; exceptions.

18. a. All projects and other property of the authority is hereby declared to be public property 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 political subdivision thereof; provided, however, that when any part of the project site not occupied or to be occupied by facilities of the project is leased by the authority to another whose property is not exempt and the leasing of which does not make the real estate taxable, the estate created by the lease and the appurtenances thereto shall be listed as the property of the lessee thereof, or his assignee, and be assessed and taxed as real estate. All bonds or notes issued pursuant to the act are hereby declared to be issued by a body corporate and public of the State and for an essential public and governmental purpose and such bonds and notes, and the interest thereon and the income therefrom, and all funds, revenues, income and other moneys received or to be received by the authority and pledged or available to pay or secure the payment of such bonds or notes, or interest thereon, shall at all times be exempt from taxation except for transfer, inheritance and estate taxes.

b. To the end that there does not occur an undue loss of future tax revenues by reason of the acquisition of real property by the authority for the meadowlands complex, the authority annually

shall make payments in-lieu-of-taxes to the municipality in which such property is located in an amount computed in each year with respect to each such municipality by multiplying the total amount to be raised by real property taxation in each such year by a fraction, the numerator of which is the amount of real property taxes assessed against the property acquired by the authority in the tax year in which this act becomes effective and the denominator of which is the total amount to be raised by real property taxation in such municipality in the tax year in which this act becomes effective. Such payments shall be made in each year commencing with the first year subsequent to the year in which such real property shall have been converted from a taxable to an exempt status by reason of acquisition thereof by the authority.

c. The authority is further authorized and empowered to enter into any agreement or agreements with the Meadowlands Commission or with any county or municipality located in whole or part within the Hackensack meadowlands whereby the authority will undertake to pay any additional amounts to compensate for any loss of tax revenues by reason of the acquisition of any real property by the authority for the meadowlands complex or to pay amounts to be used by such commission, county or municipality in furtherance of the development of the Hackensack meadowlands, including the meadowlands complex. The commission and every such county and municipality is authorized and empowered to enter into such agreements with the authority and to accept payments which the authority makes thereunder.

d. All payments to municipalities pursuant to subsections b. and c. shall be treated as payments in-lieu-of-property taxes for all purposes of article 9 of P. L. 1968, c. 404 (C. 13:17-60 to 13:17-76).

C. 5:10-19 Annual report and audit.

19. On or before the last day of February in each year the authority shall make an annual report of its activities for the preceding calendar year to the Governor and to the Legislature. Each such report shall set forth a complete operating and financial statement covering its 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 the cost thereof shall be considered an expense of the authority and a copy thereof shall be filed with the Comptroller of the Treasury.

C. 5:10-20 Services of State agencies.

20. All officers, departments, boards, agencies, divisions and commissions of the State are hereby authorized and empowered to render any and all of such services to the authority as may be within the area of their respective governmental functions as fixed or established by law, and as may be requested by the authority. The cost and expense of any such services shall be met and provided for by the authority.

C. 5:10-21 Procedures for award of contracts.

21. The authority, in the exercise of its authority to make and enter into contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers, shall adopt standing rules and procedures providing that, except as hereinafter provided, no contract on behalf of the authority shall be entered into for the doing of any work, or for the hiring of equipment or vehicles, where the sum to be expended exceeds the sum of \$2,500.00 unless the authority shall first publicly advertise for bids therefor, and shall award the contract to the lowest responsible bidder; provided, however, that such advertising shall not be required where the contract to be entered into is one for the furnishing or performing services of a professional nature or for the supplying of any product or the rendering of any service by a public utility subject to the jurisdiction of the Public Utilities Commission and tariffs and schedules of the charges, made, charged, or exacted by the public utility for any such products to be supplied or services to be rendered are filed with said commission. This section shall not prevent the authority from having any work done by its own employees, nor shall it apply to repairs, or to the furnishing of materials, supplies or labor, or the hiring of equipment or vehicles, when the safety or protection of its or other public property or the public convenience require, or the exigency of the authority's service will not admit of such advertisement. In such case the authority shall, by resolution, passed by the affirmative vote of a majority of its members, declare the exigency or emergency to exist, and set forth in the resolution the nature thereof and the approximate amount to be so expended.

C. 5:10-22 Site limitation.

22. The site of the meadowlands complex shall not exceed 750 acres. It is the express intent of the Legislature that the powers of the authority to undertake the meadowlands complex shall be limited to the site of the project and that, with respect to the remainder of the Hackensack meadowlands, the rights, powers, duties

and purposes of the Meadowlands Commission shall not in any way be limited or abridged by the provisions of this act.

C. 5:10-23 Preservation of environmental balance.

23. It is the express intent of the Legislature that the authority in undertaking the meadowlands complex shall consult with the Meadowlands Commission and the Department of Environmental Protection with respect to the ecological factors constituting the environment of the Hackensack meadowlands to the end that the delicate environmental balance of the Hackensack meadowlands may be maintained and preserved.

C. 5:10-24 Conflict or inconsistency with other acts.

24. It is the intent of the Legislature that in the event of any conflict or inconsistency in the provisions of the act and any other acts pertaining to matters herein established or provided for or in any rules and regulations adopted under the act or said other acts, to the extent of such conflict or inconsistency, the provisions of the act and the rules and regulations adopted thereunder shall be enforced and the provisions of such other acts and rules and regulations adopted thereunder shall be of no force and effect.

C. 5:10-25 Partial invalidity.

25. If any clause, sentence, paragraph, section or part of the act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

C. 5:10-26 Construction of act.

26. The act shall be construed liberally to effectuate the legislative intent and purposes of the act as complete and independent authority for the performance of each and every act and thing herein authorized and all powers herein granted shall be broadly interpreted to effectuate such intent and purposes and not as a limitation of powers.

27. There is hereby appropriated to the authority from the General State Fund the sum of \$1,500,000.00, or so much thereof as may be necessary, for the purposes of carrying out its function and duties pursuant to this act. Such appropriation shall be repaid to the General State Fund as soon as practicable out of the proceeds of the first bonds issued by the authority or other available funds.

28. This act shall take effect immediately.

Approved May 10, 1971.

CHAPTER 138

AN ACT to amend the Health Care Facilities Planning Act.

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

1. Section 8 of the Health Care Facilities Planning Act is amended to read as follows:

C. 26:2H-8 Requirements for certificate of need.

8. No certificate of need shall be issued unless the action proposed in the application for such certificate is necessary to provide required health care in the area to be served, can be economically accomplished and maintained, and will contribute to the orderly development of adequate and effective health care services. In making such determinations there shall be taken into consideration (a) the availability of facilities or services which may serve as alternatives or substitutes, (b) the need for special equipment and services in the area, (c) the possible economies and improvement in services to be anticipated from the operation of joint central services, (d) the adequacy of financial resources and sources of present and future revenues, (e) the availability of sufficient manpower in the several professional disciplines, and (f) such other factors as may be established by regulation. The commissioner shall cause appropriate surveys and studies to be made concerning the need for health care facilities and keep current records and statistics thereon by designated areas or regions of the State.

In the case of an application by a health care facility established or operated by any recognized religious body or denomination the needs of the members of such religious body or denomination for care and treatment in accordance with their religious or ethical convictions may be considered to be public need.

2. This act shall take effect immediately.

Approved May 10, 1971.

CHAPTER 139

AN ACT to amend the title of “An act to provide for increases in the retirement allowances of certain retired public employees,” approved November 24, 1958 (P. L. 1958, c. 143) so that the same shall read “An act to provide for increases in the benefits of certain retired public employees and beneficiaries,” to amend and supplement the body of said act, amending P. L. 1969, c. 169, and making an appropriation.

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

Title amended.

1. The title of P. L. 1958, c. 143 is amended to read as follows: An act to provide for increases in the benefits of certain retired public employees and beneficiaries.

2. Section 1 of P. L. 1958, c. 143 (C. 43:3B-1) is amended to read as follows:

C. 43:3B-1 Definitions.

1. As used in this act:

a. “Retirant” means any person who was employed by the State of New Jersey, any of its instrumentalities, any of its political subdivisions or any of the instrumentalities of its political subdivisions, retired from such employment and, as a result of such employment, is receiving a retirement allowance or pension from a retirement system or under any law administered by the Division of Pensions of the State of New Jersey, other than one providing for individual annuity contracts purchased from private insurers.

b. “Survivorship benefit” means a monthly annuity to the designee of a retirant who, at retirement, elected Option II, III or IV pursuant to the provisions of N. J. S. 18A:66-47 or P. L. 1954, c. 84, s. 50 (C. 43:15A-50) or P. L. 1944, c. 255, s. 12 (C. 43:16A-12), but it shall not mean (1) an annuity based on settlement of a self-insured or insured lump sum death benefit or in lieu of a lump sum death benefit, (2) an annuity based on the return of the member’s contributions or (3) any life annuity settlement payable under Option I as provided by the aforesaid sections of the statutory law.

c. “Beneficiary” means any person who is receiving a pension as the result of the death of an active or retired member of a

State administered retirement system or who is receiving a survivorship benefit.

d. "Benefit year" means:

- (1) the calendar year 1966 for:
 - (a) all retirants who retired before the calendar year 1955; and
 - (b) all beneficiaries of members who retired or died before the calendar year 1955 except those beneficiaries covered by (4) of this subsection;
- (2) the actual calendar year of retirement for:
 - (a) all members who retired after 1954; and
 - (b) all beneficiaries of retirants who retired after 1954 except those beneficiaries covered by (4) of this subsection;
- (3) the actual calendar year of death for all beneficiaries of members who died after 1954 except those beneficiaries covered by (4) of this subsection;
- (4) the calendar year:
 - (a) 1967 for all beneficiaries of active or retired members entitled to receive increased pensions in 1967 in accordance with R. S. 43:16-3(c);
 - (b) 1968 for all beneficiaries of members entitled to receive increased pensions in 1968 in accordance with R. S. 43:16-4(b);
 - (c) 1968 for all beneficiaries of active or retired members entitled to receive increased pensions in 1968 in accordance with P. L. 1967, c. 250, s. 26 (C. 43:16A-12.1);
 - (d) 1969 for all beneficiaries of active or retired members entitled to receive increased pensions in 1969 in accordance with P. L. 1941, c. 220, s. 3 (C. 43:7-9) as amended.

e. "Calendar year" means the 12-month period beginning January 1 and ending December 31.

f. "Index" shall mean the annual average over a calendar year of the Consumer Price Index for Urban Wage Earners and Clerical Workers, All Items Series A, of the United States Department of Labor (1957-1959 = 100). Should the reference base of said index be changed, the index used to determine the Consumer Price Index as defined herein will be the index converted to the new base by standard statistical methods.

g. "Benefit year index" shall be the index of the benefit year.

This act shall be known and may be cited as the "Pension Increase Act."

3. Section 2 of P. L. 1958, c. 143 (C. 43:3B-2) is amended to read as follows:

C. 43:3B-2 Increase of monthly retirement allowance, pension or survivorship benefit.

2. The monthly retirement allowance or pension originally granted to any retirant and the pension or survivorship benefit originally granted to any beneficiary shall be increased in accordance with the provisions of this act provided, however, that:

a. the maximum retirement allowance, without option, shall be considered the retirement allowance originally granted to any retirant who, at retirement, elected an Option I allowance pursuant to the provisions of the statutes stipulated in subsection b. of section 1 of this act (C. 43:3B-1); and

b. the minimum pension granted to any beneficiary stipulated in subsection d. (4) of section 1 of this act (C. 43:3B-1), shall be considered the pension originally granted to such beneficiary.

Pension increases shall not be paid to retirants or beneficiaries who are not receiving their regular, full, monthly retirement allowances, pensions or survivorship benefits. The increase granted under the provisions of this act shall be effective only on the first day of a month, shall be paid in monthly installments, and shall not be decreased, increased, revoked or repealed except as otherwise provided in this act. No increase shall be due to a retirant or a beneficiary unless it constitutes a payment for an entire month.

4. Section 3 of P. L. 1958, c. 143 (C. 43:3B-3) is amended to read as follows:

C. 43:3B-3 Ratio of increase for retirants and beneficiaries; calculation.

3. For retirants, the "ratio of increase" which shall apply to the retirement allowance or pension originally granted to a retirant shall be calculated in accordance with the following percentages as determined by the calendar year in which the retirement became effective; provided that, in no instance shall the amount of the retirement allowance or pension paid to any retirant under this act including payments under future revisions be less than the retirement allowance or pension paid under chapter 143, public laws of 1958 as amended by chapter 144, public laws of 1961 and chapter 198, public laws of 1964. For beneficiaries, the "ratio of increase" which shall apply to the pension or survivorship benefit originally granted to a beneficiary shall be calculated in accordance with the following percentages as determined by the calendar year in which the member died or retired. In no event shall a beneficiary whose benefit year is established by subsection d.

(4) of section 1 of this act (C. 43:3B-1) be eligible for an increase under this section.

Year of Retirement or Death	Ratio of Increase	Year of Retirement or Death	Ratio of Increase
1915	219%	1935	137%
1916	198%	1936	134%
1917	153%	1937	126%
1918	116%	1938	130%
1919	88%	1939	134%
1920	62%	1940	132%
1921	82%	1941	120%
1922	94%	1942	99%
1923	90%	1943	88%
1924	90%	1944	85%
1925	85%	1945	80%
1926	84%	1946	66%
1927	87%	1947	45%
1928	89%	1948	35%
1929	89%	1949	36%
1930	94%	1950	35%
1931	113%	1951	25%
1932	138%	1952	22%
1933	151%	1953	21%
1934	143%	1954	21%

5. Section 4 of P. L. 1958, c. 143 (C. 43:3B-4) is amended to read as follows:

C. 43:3B-4 Certification, appropriation and payment of cost of increase by employer.

4. Except in the case of retirants and beneficiaries of the Teachers' Pension and Annuity Fund, each employer shall bear the cost of the increase in the retirement allowances or pensions payable to retirants who retired from the employ of such employer and the cost of the increase in the survivorship benefits or pensions payable to beneficiaries of active or retired members who were in the employ of such employer at the time of the member's death or retirement. Certification of the amounts due shall be made by the Director of the Division of Pensions to each employer other than the State, prior to December 1 of each year, commencing with December 1, 1958. Each employer shall appropriate the amounts so certified in

the fiscal year next following its fiscal year in which such certification is made. Such amounts shall be paid by each employer to the Division of Pensions by March 30 of each year in the case of employers whose fiscal year extends from January 1 to December 31, and by July 15 of each year in the case of each employer whose fiscal year extends from July 1 of a given calendar year to June 30 of the following calendar year. In making such certifications to employers in the years after 1958 the Director of the Division of Pensions shall take into account payments made by the employer, payments to retirants and beneficiaries of former employees of such employer, prospective payments to be made to such retirants and beneficiaries in the following year and necessary administrative costs on behalf of such retirants and beneficiaries.

The Director of the Division of Pensions shall certify annually to the Director of the Division of Budget and Accounting the amount necessary to provide for the remaining cost of the increases in retirement allowances, pensions and survivorship benefits and necessary administrative costs.

Payment of invoices rendered by the Division of Pensions to public employers for the amounts required to meet the employer's obligation under the act shall be made payable to "State of New Jersey, Pension Increase Fund."

If payment of the full amount of such employer obligation is not made within 30 days of the due date, interest at the rate of 6% per annum shall commence to run against the unpaid balance thereof on the first day after such thirtieth day.

The employer's failure to pay invoices within 30 days after being notified of his delinquency shall result in the suspension of payments under this act to eligible retirants and beneficiaries of former employees of the employer on the first of the month 30 days subsequent thereto. The office of the Attorney General shall act to collect such outstanding amounts.

6. Section 5 of P. L. 1958, c. 143 (C. 43:3B-5) is amended to read as follows:

C. 43:3B-5 Commencement of increase of retirement allowance, pension and survivorship benefit; duration.

5. The increase in retirement allowances, pensions and survivorship benefits provided for under this act shall commence with retirement allowance, pension and survivorship benefit payments for the month of January 1972 provided, that there is appropriated the amount certified by the Director of the Division of

Pensions to the Director of the Division of Budget and Accounting as set forth in section 4 hereof. The increase in retirement allowances, pensions and survivorship benefits shall continue to be paid as long as there shall be appropriated the amounts so certified. In the event that the necessary funds are not so appropriated, the increase in retirement allowances, pensions and survivorship benefits shall cease; no further payments shall be made by other employers; refunds shall be made by the Director of the Division of Pensions to all employers of any balances unexpended on their account; and charges shall be certified by the Director of the Division of Pensions to all employers of any amounts which have been paid on behalf of the retirants and beneficiaries of former employees of such employer for which funds have not been paid to the director by the employer. In the event that any such charges are certified, provision for payment shall be made by the employer in the budget for the ensuing fiscal year.

7. Section 6 of P. L. 1958, c. 143 (C. 43:3B-6) is amended to read as follows:

C. 43:3B-6 Waiver of right to increased retirement allowance, survivorship benefit or pension; application; withdrawal.

6. Any person who is eligible to receive the increased retirement allowance, survivorship benefit or pension under the provisions of this act may, at any time, waive his right thereto by filing a written notice of waiver with the Division of Pensions. The application for the waiver of all or part of the increase shall be made by the retirant or beneficiary at least 30 days prior to the desired effective date on a form satisfactory to the Division of Pensions and shall be effective on the first day of the following month. Such waiver may be withdrawn at any time and upon such withdrawal the increase in the retirement allowance, survivorship benefit or pension shall commence with the payment for the next following month.

8. Section 6 of P. L. 1969, c. 169 (C. 43:3B-7) is amended to read as follows:

C. 43:3B-7 Review of index; determination of percentum of change.

6. On or before October 1, 1971 and by the same date in each subsequent year, the Director of the Division of Pensions shall review the index and determine the percentum of change in the index from the benefit year index. In determining the percentum of change the director shall use the index for the calendar year preceding the date of review, dividing such index by the benefit

year index for the year for which the increase is being calculated and then subtracting 100% from the resulting quotient expressed to the nearest 1/100 of 1%. The percentage of adjustment shall be $\frac{1}{2}$ of the percentum of change.

The director shall include (a) in his corpus appropriation request for the administration of the act on behalf of those retirants and beneficiaries for whom the State assumes the costs attributable to this act, and, (b) in his certification of amounts due from each employer in accordance with section 4 of the Pension Increase Act, amounts sufficient to adjust the retirement allowances, survivorship benefits or pensions payable to all eligible retirants and beneficiaries by $\frac{1}{2}$ of the percentum of change in the index as such retirement allowances, survivorship benefits or pensions may have been originally granted, or increased for certain retirants or beneficiaries in accordance with section 3 of the Pension Increase Act. In no instance shall the amount of the retirement allowance or pension originally granted and payable to any retirant be reduced as a result of the adjustment made pursuant to the provisions of chapter 169 of the laws of 1969.

For purposes of this section a "retirant" shall include all retirants except those whose retirement allowance or pension commenced within the 3 calendar years prior to the first of the month in which the adjustment is to become effective in any year and a "beneficiary" shall include all beneficiaries except those whose benefit year is within the 3 calendar years prior to the first of the month in which the adjustment is to become effective in any year.

9. Section 7 of P. L. 1969, c. 169 (C. 43:3B-8) is amended to read as follows:

C. 43:3B-8 Blanket increase; termination of other increases.

7. If legislation is adopted providing for a blanket increase in original retirement allowances, survivorship benefits or pensions or for minimum allowances, benefits or pensions to any group of retirants or beneficiaries eligible for benefits under the Pension Increase Act, other than legislation which was enacted prior to 1971, all increases provided under this act shall be terminated on the first of the month when such blanket increases or minimum pensions are payable, except in those instances where the retirant's or beneficiary's original pension plus the increases, determined annually as provided under the Pension Increase Act, will exceed the amounts payable to such retirants or beneficiaries as a result of such other legislation; in such event the amount payable under the

Pension Increase Act shall thereafter be the difference between the new allowance or pension payable by the respective retirement system and the amount which would otherwise have been paid under this act.

C. 43:3B-4.1 Appropriation required.

10. If, in any calendar year, the State does not appropriate the amount required under section 4 of P. L. 1958, c. 143 (C. 43:3B-4), no increases in benefits may be paid under any other law of New Jersey in such calendar year to retirants or beneficiaries of active or retired members of any retirement system or program which is not administered by the Division of Pensions of the State of New Jersey.

11. There is hereby appropriated an amount of \$3,500,000.00 for the purpose of providing for the increase in benefits payable to retirants and beneficiaries of the several systems in which the State participates and is required to provide the employer's share of the cost thereof.

12. This act shall take effect immediately with increased benefits initially payable to retirants and beneficiaries for the month of January, 1972.

Approved May 12, 1971.

CHAPTER 140

AN ACT concerning the Department of Transportation and adding a route to the State highway system.

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

State highway route.

1. The Commissioner of Transportation is authorized to add to the State highway system a new route beginning at a point on route 1-9 south of the Pulaski skyway, in the county of Hudson, and extending generally northerly to a point of intersection with the Pulaski skyway, thence generally northerly to a point of intersection with State route no. 3, in Hudson county and thence generally northerly to a point of intersection with Interstate route 80 in Bergen county.

2. Said route shall be designated as a freeway.
3. Said route shall be laid out and constructed as soon as practicable by the commissioner in the same manner and subject to the same procedure as other State highways.
4. Said route shall be paid for and maintained as other roads in the State highway system are paid for and maintained.
5. Existing highways may be made use of wherever it is convenient to do so, and the commissioner may acquire rights-of-way where necessary.
6. This act shall take effect immediately.

Approved May 13, 1971.

CHAPTER 141

AN ACT to amend "An act concerning the Passaic Valley Sewerage Commissioners and the sanitation facilities constructed or to be constructed by it, providing for the issuance of bonds and other obligations for financing such facilities, and prescribing powers and duties of said commissioners and of municipalities with respect thereto, and supplementing chapter 14 of Title 58 of the Revised Statutes," approved August 19, 1953, (P. L. 1953, c. 388).

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

1. Section 2 of P. L. 1953, c. 388 (C. 58:14-34.11) is amended to read as follows:

C. 58:14-34.11 Definitions.

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

(a) "Original act" shall mean chapter 14 of Title 58 of the Revised Statutes (section 58:14-1, et seq.) and the acts continued thereby and the acts heretofore adopted amendatory thereof or supplemental thereto;

(b) "Commissioners" shall mean the Passaic Valley Sewerage Commissioners, the body politic and corporate of the State of New

Jersey appointed, organized, created and existing pursuant to the original act;

(c) "Sewerage system" shall mean the Passaic Valley intercepting sewer together with its branches and appurtenances and all plants, structures and other real and tangible personal property acquired, constructed or operated by the commissioners and such other plants, structures and other real and tangible personal property as may be acquired or constructed by the commissioners pursuant to this act;

(d) "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;

(e) "Contracting municipality" shall mean any municipality entitled to rights in and use of the sewerage system by virtue of contributions heretofore made by it to the commissioners toward the costs of construction of the sewerage system pursuant to the provisions of the original act and any contract heretofore made between the commissioners and one or more municipalities with respect to such construction and contributions;

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

(g) "Project" shall mean any or all sewers, conduits, pipe lines, mains, pumping and ventilating stations, sewage or other waterborne waste treatment or disposal systems, plants, works or apparatus, connections or outfalls deemed by the commissioners to be necessary or desirable as part of the sewerage system, including equipment or appurtenances thereof and any real or tangible personal property necessary or desirable therefor and including also all improvements necessary to relieve or prevent pollution of the Passaic river and Newark bay;

(h) "Bonds" shall mean bonds or other obligations of the commissioners issued pursuant to this act; and

(i) "System revenues" shall mean the moneys paid or required to be paid by any contracting municipality or any other user of the sewerage system to the commissioners on account of the cost of maintenance, repair and operation of the sewerage system.

2. Section 5 of P. L. 1953, c. 388 (C. 58:14-34.14) is amended to read as follows:

C. 58:14-34.14 Bond issue authorized; resolution; notice and hearing, issuance and sale; bond anticipation notes.

5. (a) For the purpose of raising funds to pay the cost of any of the projects, as defined in section 1 of this act, or any part of said projects, the commissioners shall have power from time to time to authorize and provide for the issuance of its bonds pursuant to this act. Such bonds shall be authorized by and be issued pursuant to a resolution or resolutions (in this act sometimes referred to as "bond resolution") of the commissioners which shall (1) describe the project or projects in brief and general terms sufficient for reasonable identification, and (2) state the amount of bonds authorized thereby for or with respect to said project or projects. There shall be included in such cost of such project or projects such amounts as the commissioners shall deem necessary or advisable to provide for the cost of issuance of bonds and of financial, legal and accounting services and advice, for discount on bonds, for engineering, inspection and professional costs, and for all such other expenses as may be necessary and incident to the financing, acquisition, construction and completion of such project or projects and the placing of the same in operation, and also such provision or reserves for working capital, operating, maintenance or replacement expenses, or payment or security of principal of or interest on any bonds or notes of the commissioners during or after such financing, acquisition, construction and completion as the commissioners may determine to be necessary or advisable.

(b) After adoption of a bond resolution, the commissioners shall (1) cause copy thereof, certified by its secretary, and a notice of the date, time and place of the hearing hereinafter mentioned to be mailed to the governing body of each contracting municipality; (2) cause such notice to be published at least once in a newspaper of general circulation published in the city of Newark, New Jersey; and (3) not sooner than 30 days after such publication and after such mailing, hold a public hearing in the Passaic Valley Sewerage District on said bond resolution at which any contracting municipality may appear in person or by agent or attorney and be heard with respect thereto. Said bond resolution shall take effect on the thirtieth day after the conclusion of such public hearing unless prior to such thirtieth day the governing bodies of contracting municipalities shall have caused to be filed with the secretary of the commissioners copies, certified by their respective clerks of resolutions adopted by such governing bodies respectively objecting

to said bond resolution and it shall appear that the contracting municipalities on behalf of which such objecting resolutions were adopted paid 25% or more of the total amount of moneys received by the commissioners, exclusive of moneys received because of lease arrangements or because of surcharges or default payments, from contracting municipalities during the calendar year ending on the last day of December next preceding the date of such public hearing.

(c) Upon the taking effect of a bond resolution, the commissioners shall have power to incur indebtedness, borrow money and issue its bonds for the purpose or respective purposes described therein. Such bonds shall be authorized by the bond resolution and may be issued in one or more series and shall bear such date or dates, mature at such time or times not exceeding 40 years from the date thereof, bear interest at such rate or rates and payable at such times, be in such denomination or denominations, be in such form either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable from such sources in such medium of payment at such place or places within or without the State, and be subject to such terms of redemption (with or without premium) as the bond resolution may provide or as may be determined by the commissioners in such other manner as the bond resolution may authorize.

(d) Bonds of the commissioners shall be sold by the commissioners at public sale not less than 6 nor more than 40 days after notice of such sale has been published at least once in a newspaper published in the city of Newark and in a financial newspaper published and circulating in New York City, which shall state the terms of sale as determined by the commissioners. The bonds of each issue sold by the commissioners shall be offered at such public sale by the commissioners on the basis of the interest cost to maturity of the money received for such issue (computed according to standard tables of bond values) and at such public sale, unless all proposals for the bonds are rejected, shall be awarded upon the proposal offering the lowest such interest cost.

(e) After adoption of a bond resolution, the commissioners, in anticipation of the issuance of bonds, shall have power to incur indebtedness, borrow money and issue negotiable notes. Any such note shall be designated "bond anticipation note" and shall contain a recital that it is issued in anticipation of the issuance of bonds. Such notes may be issued for a period of not exceeding 1 year and may be renewed from time to time for periods of not exceeding 1

year, but all such notes, including renewals thereof, shall mature and be paid more than 5 years from the date of the original notes. Such notes may be sold at public or private sale, bear interest at such rate or rates, be in such denomination or denominations, be in such form, have such rank or priority, be executed in such manner, and be payable at such place or places within or without the State as a resolution of the commissioners may provide. Bond anticipation notes may be sold at private sale pursuant to resolution of the commissioners, or by its treasurer expressly designated by resolution to sell such notes. The treasurer making any such sale shall report in writing to the commissioners at the next meeting thereof as to the principal amount, interest rate, and maturities of the notes sold, the price obtained and the name of the purchaser.

3. Section 7 of P. L. 1953, c. 388 (C. 58:14-34.16) is amended to read as follows:

C. 58:14-34.16 Negotiability of bonds, obligations and coupons.

7. Any provision of any law to the contrary notwithstanding, any bond or other obligation issued pursuant to this act shall be fully negotiable within the meaning and for all purposes of the uniform commercial code of the State, and each holder or owner of such a bond or other obligation, or of any coupon appurtenant thereto, by accepting such bond or coupon shall be conclusively deemed to have agreed that such bond, obligation or coupon is and shall be fully negotiable within the meaning and for all purposes of said uniform commercial code.

4. Section 11 of P. L. 1953, c. 388 (C. 58:14-34.20) is amended to read as follows:

C. 58:14-34.20 Cost of maintenance, repair and operation; payment.

11. For all purposes of the original act, and of any contract made or hereafter made thereunder or for the purposes thereof, the cost and expense of maintenance, repair and operation of the sewerage system for any year shall be deemed to include, and shall include, in addition to all other items heretofore included, all interest becoming due prior to the end of such year on bonds or other obligations of the commissioners issued pursuant to this act, plus the principal or redemption premium of any such bonds or obligations becoming due prior to the end of such year, plus such sums as the commissioners may determine or by the terms of any contract be required to set aside during such year as a reserve for payment or security of principal of or interest on any such bonds or obligations

or be by the terms of any contract required to set aside during such year as a reserve for any other purpose. The contracting municipalities and other users of the sewerage system are hereby authorized and directed to do and perform any and all acts and things necessary, convenient or desirable to pay to the commissioners annually the total cost and expense (as herein referred to and described) of maintenance, repair and operation of the sewerage system apportioned as above provided. If any payment on account of the cost and expense (as herein referred to and described) of maintenance, repair and operation of the sewerage system, or any part thereof, due to the commissioners under the original act or any such contract from a contracting municipality or other user shall remain unpaid for 30 days after the commissioners have notified such contracting municipality or other user by mail of the amount due and the due date, such contracting municipality or other user shall be charged with and shall pay to the commissioners interest on the amount unpaid from thirty days after such notice of the commissioners was mailed until paid, at the rate of 6% per annum. Every obligation assumed by or imposed upon any contracting municipality or other user by the original act or any such contract or this act shall be enforceable by the commissioners by appropriate action, suit or proceeding, and the commissioners may have and pursue any and all remedies provided by law for the enforcement of such obligation.

5. Section 15 of P. L. 1953, c. 388 (C. 58:14-34.24) is amended to read as follows:

C. 58:14-34.24 Pledge, covenant and agreement with bondholders.

15. The State of New Jersey does hereby pledge to and covenant and agree with the holders of any bonds that the State will not limit or alter the rights hereby vested in the commissioners to acquire, construct, maintain, reconstruct and operate the sewerage system and to fulfill the terms of any agreement made with the holders of such bonds or other obligations, and will not in any way impair the rights or remedies of such holders, and will not modify in any way the exemptions from taxation provided for in this act, until the bonds, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged; provided that such pledge to and covenant and agreement with the holders of any bonds issued on or after January 1, 1971 does not prohibit authorization here-

after for the commissioners, notwithstanding any other provision of this act or of the original act or acts amendatory thereof or supplemental thereto, to apportion the cost and expense of maintenance, repair and operation of the sewerage system (as in section 11 hereof referred to and described) among the contracting municipalities and other users thereof, upon any basis or bases in addition to or other than the proportion of the amount of sewage by them delivered and discharged into the sewerage system.

6. This act shall take effect immediately.

Approved May 13, 1971.

CHAPTER 142

AN ACT to authorize the town of Guttenberg in the county of Hudson to make permanent the appointment of Victor Conversano to the police department of the town of Guttenberg.

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

Private act.

1. Pursuant to the provisions of P. L. 1948, chapter 199 (C. 1:6-10 et seq.), under which a petition for a special law has been filed with the Legislature, the town of Guttenberg in the county of Hudson is authorized to make permanent the appointment of Victor Conversano to the police department of the town of Guttenberg notwithstanding his age is greater than the maximum age limit for appointment thereto set forth in R. S. 40:47-4.

2. The Board of Trustees of the Police and Firemen's Retirement System of New Jersey shall accept as a member of the retirement system any policeman, otherwise eligible for membership, appointed pursuant to this act provided there is paid into the retirement system, in such manner as the board shall prescribe, the contribution deemed due and payable from the date of original appointment.

3. This act shall take effect upon due adoption of an ordinance of the town of Guttenberg for the purpose of adopting same.

Approved May 20, 1971.

CHAPTER 143

A SUPPLEMENT to “An act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1971, and regulating the disbursement thereof,” approved June 15, 1970 (P. L. 1970, c. 96).

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

1. In addition to the sum of \$150,000.00 of the \$2,000,000.00 appropriated as State Aid for Grade Crossing Elimination which, under Account No. 350-150, may be used by the Department of Public Utilities for administration purposes, an additional sum of not more than \$45,000.00 is hereby authorized to be used for administration purposes of which amount a sum not to exceed \$8,000.00 may be expended for unpaid administrative costs incurred in the 1969-70 fiscal year.

2. This act shall take effect immediately.

Approved May 20, 1971.

CHAPTER 144

TITLE 17B

SUBTITLE 3

LIFE AND HEALTH INSURANCE CODE

TABLE OF CONTENTS

Chapter

- | | |
|----|---|
| 17 | Scope, Definitions and General Provisions, §§ 17B:17-1 to 17B:17-16, inclusive. |
| 18 | Organization, Management, Authorization, Powers and Changes in Organization of Insurers, §§ 17B:18-1 to 17B:18-66, inclusive. |

Chapter

- 19 Reserves and Valuations, §§ 17B:19-1 to 17B:19-9, inclusive.
- 20 Investments, §§ 17B:20-1 to 17B:20-8, inclusive.
- 21 Reports and Examinations, §§ 17B:21-1 to 17B:21-7, inclusive.
- 22 Insurance Representatives, §§ 17B:22-1 to 17B:22-35, inclusive.
- 23 Foreign and Alien Insurers, §§ 17B:23-1 to 17B:23-11, inclusive.
- 24 The Insurance Contract, §§ 17B:24-1 to 17B:24-12, inclusive.
- 25 Life Insurance Other Than Group, §§ 17B:25-1 to 17B:25-19, inclusive.
- 26 Health Insurance Other Than Group and Blanket Insurance, §§ 17B:26-1 to 17B:26-38, inclusive.
- 27 Group Life, Group Health Insurance and Blanket Insurance, §§ 17B:27-1 to 17B:27-53, inclusive.
- 28 Variable Contracts, §§ 17B:28-1 to 17B:28-14, inclusive.
- 29 Credit Life and Health Insurance, §§ 17B:29-1 to 17B:29-13, inclusive.
- 30 Trade Practices and Discriminations, §§ 17B:30-1 to 17B:30-22, inclusive.
- 31 Unclaimed Funds, §§ 17B:31-1 to 17B:31-11, inclusive.
- 32 Rehabilitation and Liquidation, §§ 17B:32-1 to 17B:32-30, inclusive.
- 33 Unauthorized Insurers' Process, §§ 17B:33-1 to 17B:33-9, inclusive.
- 34 Procedure and Administration, §§ 17B:34-1 to 17B:34-12, inclusive.
- 35 Transition; construction, §§ 17B:35-1 to 17B:35-7, inclusive.
- 36 Acts saved from repeal; Acts repealed; Acts partially repealed; Effective date, §§ 17B:36-1 to 17B:36-4, inclusive.

AN ACT revising the statutory law relating to life and health insurance and establishing Subtitle 3. Life and Health Insurance Code, of a new Title to be known as Title 17B, Insurance, of the New Jersey Statutes.

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

TITLE 17B

SUBTITLE 3

LIFE AND HEALTH INSURANCE CODE

CHAPTER 17

SCOPE, DEFINITIONS AND GENERAL PROVISIONS

ARTICLE 1. SCOPE AND DEFINITIONS

17B:17-1	Scope of act.
17B:17-2	Insurer defined.
17B:17-3	Life insurance defined.
17B:17-4	Health insurance defined.
17B:17-5	Annuity defined.
17B:17-6	Person defined.
17B:17-7	Domestic insurer, foreign insurer, alien insurer defined.
17B:17-8	State defined.
17B:17-9	Domicile defined.
17B:17-10	Principal office defined.
17B:17-11	Authorized insurer, unauthorized insurer defined.
17B:17-12	Certificate of authority; license defined.

ARTICLE 2. GENERAL PROVISIONS

17B:17-13	Misdemeanor to do business unless authorized.
17B:17-13.1	Charitable annuities.
17B:17-14	General penalty.
17B:17-15	Conflict with other laws.
17B:17-16	Separability of provisions.

ARTICLE 1. SCOPE AND DEFINITIONS

17B:17-1 Scope of act.

This Subtitle 3 of Title 17B shall be known as the “Life and Health Insurance Code,” sometimes referred to herein as this “Code,” and shall have application only to life insurance, health insurance and annuities as herein defined. No part of Subtitle 3 of

Title 17 and no other part of Title 17B as they now exist or may hereafter be constituted shall have any application to such insurance or annuities unless specifically otherwise provided in the act enacting this Code or in an act enacted subsequent to such act.

a. Any insurance company, domestic, alien or foreign, now or hereafter organized which in addition to doing the business of health insurance as defined in section 17B:17-4, is licensed to make, or shall hereafter become licensed to make, kinds of insurance other than those defined hereinafter in this chapter, shall be subject only to the hereinafter enumerated provisions of this Code but only in connection with such health insurance business:

- (1) All the provisions of the following chapters:
Chapters 22, 26, 29, 34 and 35;
- (2) All the provisions of the following sections:
17B:17-1, 17B:17-2, 17B:17-4, and 17B:17-6 through 17B:7-14; 17B:18-1, 17B:18-35 through 17B:18-40, 17B:18-63, 17B:18-66; 17B:19-5; 17B:24-1 through 17B:24-5, 17B:24-8 and 17B:24-9;
- (3) All of the provisions of the following articles of the designated chapter.

Articles 2 and 3 of Chapter 27.

b. The provisions of the following chapters and sections shall not be applicable to those insurance companies described in subsection "a" above:

- (1) Chapters 21, 23, 30 and 33.
- (2) 17B:18-41, 17B:18-42, 17B:18-47, 17B:18-56, 17B:18-57, 17B:18-58, 17B:18-64, 17B:18-65 and 17B:19-1.

All such companies will remain subject to subtitle 3 of Title 17 except as above provided.

c. Any insurer now licensed under R. S. 17:17-1, d. solely to do the business of health insurance shall be subject to every provision of this Code as a health insurer.

d. An insurer may be organized under the provisions of section 17B:18-4 to do the business of health insurance as defined in section 17B:17-4 and in addition kinds of insurance other than those kinds defined in this chapter, and in such case, it shall have all the obligations, powers and privileges of a health insurer organized under this Code and shall to the extent not inconsistent herewith be subject to all the provisions of Subtitle 3 of Title 17.

e. Except as otherwise specifically provided no provision of this Code shall apply to:

(1) Fraternal benefit societies as defined in Part 5A of Subtitle 3 of Title 17.

(2) Mutual benefit associations as defined in Part 6 of Subtitle 3 of Title 17.

(3) Hospital and medical service corporations as defined in Part 9 of Subtitle 3 of Title 17.

17B:17-2 Insurer defined.

“Insurer” includes every person engaged as indemnitor or contractor in the business of life insurance, health insurance or of annuity.

17B:17-3 Life insurance defined.

“Life insurance” is a policy or contract whereby an insurer is obligated to pay or allow a benefit of pecuniary value with respect to the cessation of human life. Life insurance includes also the granting of endowment benefits and optional modes of settlement of proceeds of life insurance as well as provisions for a. additional benefits in event of death by accident or accidental means or in event of dismemberment or loss of sight, or b. safeguarding such insurance against lapse or giving a special surrender value or special benefit or an annuity in the event that the insured shall become totally and permanently disabled, whether such provisions are incorporated in a policy or contract of life insurance or in a policy or contract supplemental thereto. Life insurance does not include workmen’s compensation coverages.

17B:17-4 Health insurance defined.

“Health insurance” is a contract or agreement whereby an insurer is obligated to pay or allow a benefit of pecuniary value with respect to the bodily injury, disablement, sickness, death by accident or accidental means of a human being, or because of any expense relating thereto, or because of any expense incurred in prevention of sickness, and includes every risk pertaining to any of the enumerated risks. Health insurance does not include workmen’s compensation coverages.

17B:17-5 Annuity defined.

“Annuity” is a contract not coming within the definition of life insurance as set forth in section 17B:17-3, or health insurance as set forth in section 17B:17-4, under which an insurer obligates itself to make periodic payments for a specified period of time, such as for a number of years, or until the happening of an event,

or for life, or for a period of time determined by any combination thereof. Such a contract which includes extra benefits of the kinds set forth in sections 17B:17-3 or 17B:17-4 shall nevertheless be deemed to be an annuity if such extra benefits constitute a subsidiary or incidental part of the entire contract.

17B:17-6 Person defined.

“Person” includes any individual, insurer, company, association, organization, society, partnership, syndicate, trust, business trust, corporation and every legal entity.

17B:17-7 Domestic insurer, foreign insurer, alien insurer defined.

a. A “domestic” insurer is one formed under the laws of this State.

b. A “foreign” insurer is one formed under the laws of a jurisdiction of the United States of America other than this State.

c. An “alien” insurer is one formed under the laws of any country other than the United States of America, its States, districts, territories, commonwealths, possessions and the Panama Canal Zone.

17B:17-8 State defined.

When used in context signifying a jurisdiction other than the State of New Jersey, “State” means any State, district, territory, commonwealth, or possession of the United States of America, and the Panama Canal Zone.

17B:17-9 Domicile defined.

The “domicile” of an insurer means:

a. As to Canadian insurers, the province in which the insurer’s head office is located.

b. As to other alien insurers authorized to transact insurance in one or more States, as provided in section 17B:23-5c.

c. As to alien insurers not authorized to transact insurance in one or more States, the country under the laws of which the insurer was formed.

d. As to all other insurers, the State under the laws of which the insurer was formed.

17B:17-10 Principal office defined.

“Principal office” means:

a. As to Canadian insurers, the office in Canada from which the general affairs of the insurer are directed or managed.

b. As to other alien insurers authorized to transact insurance in one or more States, the office in the United States from which

the general affairs of the insurer in the United States are directed or managed.

c. As to all other insurers, the office from which the general affairs of the insurer are directed or managed.

17B:17-11 Authorized insurer, unauthorized insurer defined.

a. An “authorized insurer” is one duly authorized by a current certificate of authority issued by the commissioner pursuant to this code to act as an insurer in this State.

b. An “unauthorized insurer” is an insurer not so authorized.

17B:17-12 Certificate of authority; license defined.

a. A “certificate of authority” is a certificate issued by the commissioner evidencing the authority of an insurer to transact insurance in this State.

b. A “license” is authority granted by the commissioner pursuant to this code authorizing the licensee to engage in a business or operation of insurance in this State as an agent, broker, or solicitor, as the case may be, and the written evidence of such authority.

ARTICLE 2. GENERAL PROVISIONS

17B:17-13 Misdemeanor to do business unless authorized.

a. No person shall act as an insurer in this State without complying with the applicable provisions of this Code.

b. No person by himself, or by his brokers, agents, solicitors, surveyors, canvassers or other representatives of whatever designation, nor any such broker, agent, solicitor, surveyor, canvasser, or other representative, shall solicit, negotiate or effect any contract of insurance of any kind or sign, deliver or transmit, by mail or otherwise, any policy or annuity contract or receive any premium, commission, fee or other payment thereon, or maintain or operate any office in this State for the transaction of the business of insurance, or in any manner, directly or indirectly, transact the business of insurance of any kind whatsoever, within this State, unless specifically authorized under the laws of this State.

c. Specific authorization under the laws of this State shall not be required with respect to the following:

(1) Investigation, settlement, or litigation of claims under an insurer’s policies lawfully written in this State, or liquidation of such insurer’s assets and liabilities (other than the collection of new premiums) all as resulting from its former authorized operation in this State.

(2) Transactions involving a policy subsequent to issuance thereof lawfully solicited, written, or delivered outside this State.

(3) Reinsurance when transacted as authorized under section 17B:18-62.

(4) The continuation and servicing of life or health insurance policies or annuity contracts remaining in force as to residents of this State when the insurer is not transacting new insurance therein.

(5) Group life or health insurance or annuity contracts covering residents of this State under a group policy or contract lawfully issued in another State.

d. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

17B:17-13.1 Charitable annuities.

a. The commissioner may, in his discretion, issue a special permit to a qualified nonprofit domestic or foreign corporation or association organized without capital stock or not for profit, engaged solely in bona fide charitable, religious, missionary, educational or philanthropic activities and which shall have been in active operation for at least ten years authorizing any such corporation or association to enter into annuity agreements with donors. Before issuing any such special permit the commissioner shall promulgate rules and regulations governing such annuity agreements and permit holders with respect to such annuity agreements. Such rules and regulations shall, in addition to such other provisions as the commissioner may determine to be necessary or desirable to protect the public, provide that each applicant for a special permit shall submit to the commissioner copies of its form of agreements with donors, and a schedule of its maximum annuity rates, which rates shall be so computed, on the basis of the standard valuation law, as to return to the special permit holder, upon the death of the annuitant, a residue at least equal to one-half of the original gift or other consideration for such annuity.

b. Each such special permit holder shall have and maintain segregated assets at least equal to the sum of the reserves on its outstanding agreements calculated in accordance with the provisions of Chapter 19 of this Code, and a surplus of ten per centum of such reserves or the amount of \$100,000, whichever is higher, and such assets shall be segregated as separate and distinct funds, independent of all other funds of such special permit holder and

shall not be applied for the payment of the debts and obligations of the special permit holder other than with respect to annuity agreements. In determining the reserves of any such special permit holder, a deduction shall be made for all or any portion of an annuity risk which is lawfully reinsured by an authorized insurer. Segregated assets herein required to be maintained shall be invested in the same manner and subject to the same restrictions as herein provided for investments of domestic insurers unless more restrictive provisions are contained in applicable statutes regulating any such permit holder and except as the commissioner may otherwise provide by regulation.

c. Any corporation or association defined in subsection a. hereof which, prior to the effective date of this Code, has entered into annuity agreements shall obtain a special permit as herein provided prior to entering into any new or additional annuity agreements provided, however, that the commissioner shall by regulation allow a period of time, which shall not be more than 5 years following the effective date of this Code for any such corporation or association to comply with the provisions of subsection b. of this section with respect to any annuity agreement entered into prior to the effective date of this Code. The commissioner, in his discretion may extend such time for a reasonable period.

d. If the commissioner finds that any special permit holder has failed to comply with the requirements of this section or of any rule or regulation of the commissioner issued hereunder, he may by appropriate order, subject to the provisions of the Administrative Procedure Act (P. L. 1968, c. 410), Chapter 34 of this Code and any rules adopted thereunder suspend or revoke any such special permit and he may take such other action to restrain or enjoin any such violation as may be otherwise provided by law. In addition the commissioner may make such orders as he deems desirable and necessary to afford appropriate financial security to the annuitants. The commissioner may require that special permit holders submit periodically such reports as he may deem desirable or necessary to ascertain compliance with requirements of this section and the commissioner may, whenever he deems it expedient, make or cause to be made an examination of the assets and liabilities and other affairs of any such special permit holder as the same pertains to annuity agreements entered into pursuant to this section. The reasonable expenses of any such examination shall be fixed and determined by the commissioner, and he shall collect them from the

special permit holder examined, who shall pay them on presentation of a detailed account of the expenses.

e. No special permit holder shall be deemed an insurer as defined in this Code.

17B:17-14 General penalty.

Each violation of this Code as to which a penalty is not provided by another provision of this Code or by other applicable laws of this State shall be a misdemeanor, and may in addition to any prescribed applicable denial, suspension, or revocation of certificate of authority, license, or permit be punishable upon conviction in the manner prescribed for misdemeanors under the provisions of Title 2A of the statutes of this State. Each instance of such violation may be considered a separate offense.

17B:17-15 Conflict with other laws.

All laws and parts of laws of this State inconsistent with this Code are hereby superseded with respect to matters covered by this Code.

17B:17-16 Separability of provisions.

If any provision of this Code or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Code which can be given effect without the invalid provision or application, and for this purpose the provisions of the Code are separable.

CHAPTER 18

ORGANIZATION, MANAGEMENT, AUTHORIZATION,
POWERS AND CHANGES IN ORGANIZATION
OF INSURERS

ARTICLE 1. GENERAL PROVISIONS

- 17B:18-1 Scope of chapter.
- 17B:18-2 Stock insurer defined.
- 17B:18-3 Mutual insurer defined.

ARTICLE 2. FORMATION OF STOCK AND MUTUAL INSURERS

- 17B:18-4 Organization of stock or mutual insurer.
- 17B:18-5 Approval of certificate by commissioner; recording and filing.
- 17B:18-6 Stipulation in stock subscriptions and applications.
- 17B:18-7 Certificate of incorporation of mutual insurer; election of directors.
- 17B:18-8 Loan to mutual insurer for organizational expenses.
- 17B:18-9 Temporary capital stock of mutual insurer.

ARTICLE 3. MANAGEMENT

- 17B:18-10 Election of directors of mutual insurer pursuant to provision in certificate of incorporation.
- 17B:18-11 Nomination of candidates for director.
- 17B:18-12 Death, withdrawal or incapacity of candidates for director.
- 17B:18-13 Qualified voters; "policyholder" defined.
- 17B:18-14 Elections of directors of mutual insurers; procedure, ballots.
- 17B:18-15 Nominations by others than board of directors; notice of election.
- 17B:18-16 Canvass of votes; tie vote.
- 17B:18-17 Report of result of election.
- 17B:18-18 Choosing of directors for mutual life insurers having in excess of ten million policies in force.
- 17B:18-19 Number of directors, appointment of public directors; ex-officio directors.

- 17B:18-20 Public directors: carry-overs; appointments; terms; vacancies; powers.
- 17B:18-21 Elected directors; carry-overs, terms; vacancies.
- 17B:18-22 Elected directors; manner of electing.
- 17B:18-23 Qualified voters; “policyholder” for purpose of section defined.
- 17B:18-24 Nomination of candidates; demand by public directors.
- 17B:18-25 Method of electing when no demand is made by public directors.
- 17B:18-26 Method of election when demand is made by public directors that other candidates be nominated.
- 17B:18-27 Mailing of ballot; effect of.
- 17B:18-28 Filing certificate on number of policies; copy delivered to Chief Justice.
- 17B:18-29 Election of directors in mutual insurer issuing temporary stock.
- 17B:18-30 Proxy voting permitted at elections.
- 17B:18-31 Emergency by-laws.
- 17B:18-32 Failure to adopt emergency by-laws; procedure.
- 17B:18-33 National emergency; succession.
- 17B:18-34 National emergency; relocation of principal place of business.

ARTICLE 4. AUTHORIZATION TO TRANSACT BUSINESS

- 17B:18-35 Stock insurer, minimum capital and surplus required.
- 17B:18-36 Mutual insurer, surplus required.
- 17B:18-37 Deposit prerequisite to authorization.
- 17B:18-38 Deposits; interest on; substitution of.
- 17B:18-39 Deposits to do business in other jurisdictions.
- 17B:18-40 Securties; deposit designated by company; approval by commissioner.
- 17B:18-41 Examination before commencing business.
- 17B:18-42 Certificate of authority; when issuable.

ARTICLE 5. POWERS AND REQUIREMENTS

- 17B:18-43 Domestic insurers, powers, duties—general corporation law.
- 17B:18-44 Stock of other insurers.
- 17B:18-45 Authority to acquire, hold and convey real estate.
- 17B:18-46 Limitation on dividends to stockholders.
- 17B:18-47 Increase or decrease of capital stock.
- 17B:18-48 Advertisements of assets to include liabilities.

- 17B:18-49 Cash disbursements to be evidenced by voucher.
- 17B:18-50 Payment of taxes, charges and fees prior to determination of invalidity.
- 17B:18-51 Compensation of directors.
- 17B:18-52 Salaries limited; pensions; benefits.
- 17B:18-53 Reporting amount of stock owned and changes therein by director, officer, and principal stockholders of domestic stock insurers.
- 17B:18-54 Suit for profits realized by director, officer, and principal stockholders.
- 17B:18-55 Limitation on sale of stock by director, officer and principal stockholders.

ARTICLE 6. CHANGES IN ORGANIZATION, INCLUDING MERGER

- 17B:18-56 Stock insurers; change of name, extension of corporate existence or amendment of charter or certificate of incorporation.
- 17B:18-57 Mutual insurers; change of name, extension of corporate existence or amendment of charter or certificate of incorporation.
- 17B:18-58 Mutual insurers: adoption of amended charter or certificate of incorporation.
- 17B:18-59 Mutualization of stock insurers.
- 17B:18-60 Merger and consolidation of stock insurers.
- 17B:18-61 Merger and consolidation of mutual insurers.

ARTICLE 7. REINSURANCE

- 17B:18-62 "Reinsurance" defined.
- 17B:18-63 Reinsurance of risks.
- 17B:18-64 Prerequisites to reinsurance.
- 17B:18-65 Extended reinsurance.
- 17B:18-66 Reinsurance pooling.

ARTICLE 1. GENERAL PROVISIONS

17B:18-1 Scope of chapter.

This chapter shall be applicable only to domestic stock and domestic mutual insurers, authorized to do one or more of the kinds of business defined in sections 17B:17-3, 17B:17-4 and 17B:17-5, except as otherwise stated in section 17B:17-1.

17B:18-2 Stock insurer defined.

A domestic stock insurer is an insurer incorporated in accordance with the laws of this State with its capital divided into shares and owned by its stockholders.

17B:18-3 Mutual insurer defined.

A domestic mutual insurer is an insurer incorporated in accordance with the laws of this State without permanent capital stock, the governing body of which, except while temporary capital stock is outstanding as provided in section 17B:18-9 and except as provided in section 17B:18-20, is elected by its policyholders.

ARTICLE 2. FORMATION OF STOCK AND MUTUAL INSURERS**17B:18-4 Organization of stock or mutual insurer.**

a. Ten or more persons may form a domestic stock or domestic mutual insurer to engage in the business of writing any or all of the kinds of insurance defined in sections 17B:17-3, 17B:17-4 and 17B:17-5 by signing a certificate stating their intention to form a corporation pursuant to this Code setting forth:

(1) The name of the insurer, which shall contain the words "insurance company" or words of similar connotation which shall not so closely resemble that of any existing insurer or other corporation as to be likely to mislead the public, and shall be approved by the commissioner;

(2) The place where its principal office in this State is to be located and the name of its agent at that office upon whom process may be served;

(3) The kind or kinds of insurance proposed to be written by the insurer, stating the section of this code defining the same;

(4) Whether the insurer is to be a stock or mutual insurer;

(5) If a stock insurer, the amount of its capital stock which shall not be less than that required by section 17B:18-35, the classes and number of shares of each into which it is divided and the par value of each share, which shall not be less than \$5.00;

(6) The period, if any, limited for the duration of the insurer.

b. The certificate may contain such other particulars as may be necessary to explain and make manifest or limit the objects and purposes of the insurer, and such other provisions not inconsistent with this Code, or the Constitution or laws of this State, which the incorporators may choose to insert for the conduct of the affairs of the insurer, the regulation of its business, or for defining, regulating and limiting the powers of the directors or stockholders.

c. No domestic stock insurer shall create more than one class of stock except, however, that preferred or non-voting stock, or both, may be issued if the amount of the stock so issued shall not at any time exceed the amount of common or voting stock, or both, then issued and outstanding, but preferred stock may be issued without limitation when such preferred stock is to be purchased or loaned

upon by any corporation, association or agency created by or organized under any law of the United States of America.

d. A company may be formed:

(1) For the purpose of transacting one or more of the kinds of business described in sections 17B:17-3, 17B:17-4 and 17B:17-5; or

(2) For the purpose of transacting business described in section 17B:17-4 by complying with the provisions of this Code and of transacting any of those kinds of business other than those described in sections 17B:17-3, 17B:17-4 and 17A:17-5 by complying with the provisions of Title 17, not inconsistent with this Code.

17B:18-5 Approval of certificate by commissioner; recording and filing.

The certificate of incorporation shall be proved or acknowledged as required for deeds of real estate and be submitted to, and examined by, the commissioner, and if found by him to be in accordance with this Code and not inconsistent with the constitution and laws of this State, he shall indorse thereon or annex thereto his certificate to that effect. The certificate of incorporation shall then be recorded in a book kept for that purpose in the office of the clerk of the county wherein the principal office and place of business of the corporation is to be located, and after being so recorded, filed with the commissioner. Thereupon, such persons, their successors and assigns, shall, from the date of the filing, be a corporation by the name set forth in the certificate.

All amendments of the certificate of incorporation shall be subject to the requirements of this section.

The certificate and amendments thereof, or copies thereof, duly certified by the commissioner, shall be evidence in all courts and places.

17B:18-6 Stipulations in stock subscriptions and applications.

Every subscription to the capital stock of a stock insurer shall contain the stipulation that no sum shall be used for commission, promotion or organization expenses in excess of a per cent of the amount paid upon the stock subscription, to be named in the stipulation, in an amount to be named by the commissioner. Every subscription for stock and every application for insurance in the insurer made prior to the granting to the insurer by the commissioner of the certificate of authority shall contain the stipulation that the money advanced by the applicant shall be returned to him without any deduction if the insurer fails to complete its organization or procure the certificate or issue the policy applied for in the application.

17B:18-7 Certificate of incorporation of mutual insurer; election of directors.

a. The certificate of incorporation of any mutual insurer of this State hereafter incorporated may contain provisions for the elections of directors in the manner set forth in sections 17B:18-11 to 17B:18-17, inclusive, and any amendment of the certificate of incorporation or of the charter of any mutual insurance corporation of this State heretofore or hereafter incorporated pursuant to the provisions of any general or special law of this State, may, at the option of such corporation, contain such provisions. Such certificate of incorporation or amendment thereof or of the charter of such insurer may provide that any vacancy in its board of directors may be filled by a majority vote of the board for the unexpired term to which such vacancy relates.

b. The periods at which directors of any such corporation shall be elected, the time of the election, the number of directors to be elected at any one time, and the terms for which they shall respectively be elected may be prescribed by its certificate of incorporation or charter or amendment thereof; provided, however, that one or more directors shall be elected at least once in every 2 years and that no director shall be elected for a term longer than 5 years.

17B:18-8 Loan to mutual insurer for organizational expenses.

A mutual insurer organized under this Code may borrow or assume a liability for the repayment of a sum of money sufficient to defray the reasonable expenses of its organization, or to enable it to comply with any requirement of law or as a guaranty fund, upon agreement, which shall first be submitted to and approved by the commissioner, that the loan or advance, with interest, shall be repaid only out of the surplus, earnings or profits of the corporation with the approval of the commissioner whenever, in his judgment, its financial condition shall warrant. Any such loan or advance shall not form a part of the legal liabilities of the insurer, but until repaid all statements published or filed with the commissioner by the insurer shall show the amount thereof then unpaid.

17B:18-9 Temporary capital stock of mutual insurer.

A mutual insurer may be organized with a temporary capital stock of not less than \$750,000.00 which shall be invested in the manner provided for the investment of its other funds. If so organized, the amount of premiums required to be engaged and collected before commencing business shall be \$25,000.00. Out of the net surplus of the insurer the holders of the stock may receive a dividend of not more than 10% per annum, which may be cumulative. The stock shall not be a liability of the insurer, except that

it shall be retired when the surplus of the insurer becomes sufficient to pay it at its par value and leave a surplus not less than the amount of the temporary capital so retired.

ARTICLE 3. MANAGEMENT

17B:18-10 Election of directors of mutual insurer pursuant to provision in certificate of incorporation.

If the certificate of incorporation or charter of a mutual insurer, or any amendment thereto contains provisions for the election of directors in the manner set forth in sections 17B:18-11 to 17B:18-17, inclusive, as provided in section 17B:18-7, then, subject to the provisions of section 17B:18-18, the directors of any such insurer shall be elected in such manner and no other. Each director elected and qualified pursuant to such sections shall hold office until his successor shall have been duly elected and qualified.

17B:18-11 Nomination of candidates for director.

At least seven months before the day fixed for any election of directors, the board of directors shall by a vote of a majority of its number nominate a candidate for each office of director to be filled at such next ensuing election and shall file with the commissioner a certificate of such nominations giving the name, occupation and address of each nominee. Qualified voters of the insurer as hereinafter defined to a number of not less than $\frac{1}{10}\%$ of the number of policies of the corporation in force as set forth in the next preceding annual statement of the insurer filed with the commissioner may nominate a candidate for each office of director to be filled at such next ensuing election by filing with the commissioner at least 5 months before the day fixed for such election a certificate, which may be in any number of counterpart originals, signed and acknowledged by each of them, giving his name, address and the number of his policy and giving the name, occupation and address of each candidate so nominated, together with a statement signed by each such candidate to the effect that he will accept if elected, and by serving upon the secretary of the corporation at least 5 months before the day fixed for such election a duplicate original of such certificate and of such statement.

17B:18-12 Death, withdrawal or incapacity of candidates for director.

In case of the death, withdrawal or incapacity of any candidate nominated by the board of directors prior to election, the board of directors shall by a vote of a majority of its number nominate a candidate in his place by filing prior to the day fixed for the election a certificate similar to that required for an original nomination by the board of directors, and in case of the death, withdrawal or incapacity of any candidate nominated by others prior to election,

such other persons or a majority of them may nominate a candidate in his place by filing and serving prior to the day fixed for the election duplicate certificates and statements similar to those required for an original nomination by such persons.

17B:18-13 Qualified voters; "policyholder" defined.

The qualified voters of the insurer shall consist of every policyholder who is 21 years of age or more and whose policy has been in force for at least 1 year. For the purposes of this section the term "policyholder" shall mean a. the person insured under an individual policy of life or health insurance, except where such policy declares some other person to be the owner thereof, in which case such owner shall be deemed to be the policyholder, b. the person to whom any annuity or pure endowment is presently or prospectively payable by the terms of an individual annuity or pure endowment contract except where the policy or contract declares some other person to be the owner thereof, in which case such owner shall be deemed to be the policyholder, c. the policyholder of any group life or health policy and d. the contract holder of any group annuity contract.

17B:18-14 Elections of directors of mutual insurers; procedure, ballots.

Each qualified voter of the insurer at such election shall be entitled to cast one vote in person or by proxy. The president, or, in his absence, a vice-president of the insurer, shall preside at the election and the secretary, or, in his absence, an assistant secretary of the insurer shall make and keep a record of the proceedings. Voting shall be by ballot and tellers to receive and count the votes and to determine the validity thereof shall be elected by a head vote of policyholders and their proxies present at the meeting. Ballots shall be prepared and furnished by the insurer to all voters at the election. No ballot shall be counted unless it shall set forth the number of the voter's policy and be signed by him or by his proxy, and no ballot shall be counted if cast for any person other than one nominated as herein provided. The polls shall remain open in no case for less than 4 hours.

17B:18-15 Nominations by others than board of directors; notice of election.

In case any nomination shall have been made by others than by the board of directors, the insurer shall cause notice of the time and place of the election and of the several nominations of candidates to be published at least 4 times at intervals of not less than 1 week, the first publication to be not more than 60 days and the last publication not less than 15 days prior to such election in at least 3 newspapers published in each State of the United States and in each province of Canada in which the insurer is authorized

to do business, one of such publications in each State or province to be, whenever possible, in a newspaper published in the capital city of each such State or province. Such notice shall contain the names of the persons nominated by the board of directors and by others at the time of commencement of publication and the death, withdrawal or incapacity of any such nominee or the nomination of any person in his stead before or after the completion of publication shall not invalidate such notice, nor shall the omission of any publication herein prescribed invalidate such notice or the election to which it relates; provided, the insurer shall have made diligent effort to cause such publication to be made.

17B:18-16 Canvass of votes; tie vote.

All ballots voted shall be received by the tellers subject to verification and ascertainment of the validity thereof and of the qualification of the voters, and, in the case of ballots voted by proxy, the respective proxy instruments shall be filed with the tellers. Immediately upon the closing of the polls the tellers shall proceed to canvass the votes. The canvass shall proceed from day to day until completed. All ballots and proxy instruments received by the tellers shall immediately upon the completion of the canvass be placed in sealed packages and preserved by them for at least 1 year from the date of election. The person receiving the highest number of votes for each office of director to be filled shall be elected for a full term. In case 2 or more persons shall receive the same number of votes for the same office, the tellers shall decide the election by lot.

17B:18-17 Report of result of election.

At the conclusion of the canvass the tellers shall report in writing to the secretary of the corporation the result thereof and he shall thereupon make a certificate, duly sworn to, setting forth the result of the election as shown by such report and shall file the same with the commissioner.

17B:18-18 Choosing of directors for mutual life insurers having in excess of ten million policies in force.

The directors of any mutual insurer of this State heretofore or hereafter incorporated pursuant to the provisions of the laws of this State which now or hereafter shall have in excess of ten million life insurance policies of the insurer in force as set forth in any annual statement of such insurer filed with the commissioner shall be of the number and shall be chosen in the manner set forth in sections 17B:18-19 to 17B:18-28, inclusive, any provision of law or of the certificate of incorporation or charter of such corporation to the contrary notwithstanding.

17B:18-19 Number of directors; appointment of public directors; ex officio directors.

Subject to the provisions of section 17B:18-21 as to the number of elected directors, the number of the directors of any such mutual insurer to which sections 17B:18-18 to 17B:18-28, inclusive, apply, shall be twenty-three, except where the chairman of the board and not the president is the chief executive officer of the corporation in which case the number shall be twenty-four, all of whom shall be policyholders of the corporation. Six of such directors shall be appointed as hereinafter provided by the Chief Justice of the Supreme Court of New Jersey and are hereinafter called the public directors. Sixteen of such directors shall be elected in the manner hereinafter provided and are hereinafter called the elected directors. The president of the corporation shall be ex officio a director, and the chairman of the board, if he is the chief executive officer of the corporation, shall also be ex officio a director; and if the president or such chairman of the board shall be a director by appointment or election either at the time of his election as president or chairman of the board, or on the date that sections 17B:18-18 to 17B:18-28, inclusive, become applicable to such corporation, the office of director so held by the president or such chairman of the board shall become vacant.

17B:18-20 Public Directors; carry-overs; appointments; terms; vacancies; powers.

Each director of any such mutual insurer heretofore appointed as a public director in accordance with P. L. 1953, chapter 156 and holding office as such on the effective day of this Code, shall continue in office as a public director until the expiration of the term for which he shall have been appointed. Whenever the provisions of sections 17B:18-18 to 17B:18-28, inclusive, shall for the first time become applicable to any mutual insurer, other than a mutual insurer then having public directors in accordance with the first sentence of this section, the Chief Justice of the Supreme Court of New Jersey shall thereupon appoint the 6 public directors for respective terms beginning on the date of appointment, such that the term of one public director shall expire on the date of the annual election of directors in each of the first 6 calendar years following the year in which sections 17B:18-18 to 17B:18-28, inclusive, for the first time become applicable to such mutual insurer. When such mutual insurer has public directors pursuant to either the first or second sentence of this section, thereafter one public director shall be appointed annually by the Chief Justice of the Supreme Court of New Jersey for a term of 6 years and shall hold office until his successor has been appointed and has qualified. In

case any vacancy shall occur in the office of public director, such vacancy shall be filled by the appointment of another public director by the Chief Justice of the Supreme Court of New Jersey for the unexpired term to which such vacancy relates. The public directors shall have the same powers, privileges and duties as the other directors, and such additional powers as provided in said sections.

17B:18-21 Elected Directors; carry-overs; terms; vacancies.

Each director of any mutual insurer, other than its president and other than the chairman of the board if he is the chief executive officer and other than one appointed as a public director in accordance with the provisions of P. L. 1953, chapter 156, holding office as such at the time sections 17B:18-18 to 17B:18-26, inclusive, for the first time become applicable to such insurer shall continue in office as an elected director until the expiration of the term for which he shall have been elected, notwithstanding the number of elected directors shall be greater or less than 16. At each annual election of directors, commencing with the annual election in the calendar year following the first year in which such insurer becomes subject to sections 17B:18-18 to 17B:18-28, inclusive, or, in the case of an insurer which on the effective date of this Code has directors who were elected in accordance with the provisions of P. L. 1953, chapter 156, commencing with the first annual election of directors following the effective date of this Code, 4 elected directors shall be elected in the manner hereinafter provided, each for a term of 4 years, and each such elected director shall hold office until his successor has been elected and has qualified. Except as otherwise provided in sections 17B:18-18 to 17B:18-28, inclusive, in case any vacancies shall occur in the office of an elected director, such vacancies shall be filled by the board of directors by majority vote of its entire number for the unexpired term to which such vacancy relates.

17B:18-22 Elected directors; manner of electing.

The elected directors shall be elected in the manner provided in sections 17B:18-23 to 17B:18-27, inclusive, by the qualified voters of the corporation at the annual election of directors to be held on the date and at the place prescribed by the corporation's certificate of incorporation or charter, by-laws, or otherwise.

17B:18-23 Qualified voters; "policyholder" for purpose of election defined.

The qualified voters of the insurer shall consist of every policyholder who is 21 years of age or more and whose policy has been in force for at least 1 year. For the purposes of this section the term "policyholder" shall mean a. the person insured under an

individual policy of life or health insurance, except where such policy declares some other person to be the owner thereof, in which case such owner shall be deemed to be the policyholder, b. the person to whom any annuity or pure endowment is presently or prospectively payable by the terms of an individual annuity or pure endowment contract except where the policy or contract declares some other person to be the owner thereof, in which case such owner shall be deemed to be the policyholder, c. the policyholder of any group life or health policy and d. the contract holder of any group annuity contract.

17B:18-24 Nomination of candidates; demand by public directors.

The board of directors shall by a vote of a majority of its entire number nominate a candidate for each office of elected director to be filled at each annual election of directors commencing with the first election at which 4 elected directors are to be elected pursuant to the provisions of section 17B:18-21 after sections 17B:18-18 to 17B:18-28, inclusive, become applicable to such insurer. Not more than 10 months, nor less than 9 months, before the date of each such annual election, the secretary of the corporation shall file a certificate of such nominations with the commissioner, giving the name, address and occupation of each candidate, together with a statement in writing from each of such candidates that he will accept if elected. If a majority of the public directors of the corporation shall determine that other candidates should be nominated in the best interests of the insurer, its policyholders and the public, they shall file with the commissioner not more than 9 months nor less than 8 months before the date of the next ensuing annual election of directors, a statement of their determination and a demand signed by a majority of them that other candidates be nominated.

17B:18-25 Method of electing when no demand is made by public directors.

If the public directors shall file no demand that other candidates be nominated, the election shall be according to the method prescribed in this section as follows:

a. The candidates shall be those so nominated by the board of directors and no others, subject to the nomination of substitute candidates in the case of death or withdrawal of a candidate as provided in paragraph d. of this section.

b. Tellers to receive and count the votes and to determine the validity thereof shall be appointed by the chief executive officer of the corporation and such tellers shall conduct the election. Ballots shall be prepared by the corporation and shall be furnished to

voters present at the election. Any qualified voter who shall make proper application to the corporation therefor in writing not later than 60 days before the date of the election, stating his name, address, policy number and date of birth, shall be furnished a ballot not less than 30 days before the date of the election, accompanied by a gummed postpaid return envelope addressed to the corporation at the place of the election, on which the words "Ballot for Directors" shall be printed and such ballot so applied for and furnished may be cast by mail. Each qualified voter of the corporation shall be entitled to cast one vote and no ballot shall be counted unless it is cast in person by a qualified voter at the election, or, in the case of a ballot cast by mail, unless it is received by the tellers at the place of the election before the polls close on the date of the election. No ballot shall be counted unless it shall set forth the number of the voter's policy and be signed by him in person, nor if cast for any person other than one nominated as herein provided. The polls shall be open between 10 o'clock in the forenoon and 2 o'clock in the afternoon on the date of the election, and no other business shall be transacted at the election.

c. All ballots voted shall be received by the tellers subject to verification and ascertainment of the validity thereof and of the qualification of the voters. Immediately upon the closing of the polls, the tellers shall proceed to canvass the votes. All ballots received by the tellers shall at the conclusion of the election be placed in sealed packages and preserved by them for at least 1 year from the date of the election. At the conclusion of the canvass, the tellers shall report in writing the result thereof to the secretary of the corporation and he shall thereupon make a certificate setting forth the result of the election as shown by such report and shall file the same with the commissioner.

d. In case of the death or withdrawal of any candidate prior to a date 50 days before the date of the election, the board of directors shall by a vote of a majority of its entire number nominate a candidate in his place by filing not later than 40 days before the date of the election a certificate similar to that required for an original nomination by the board of directors; and in case of the death or withdrawal of any candidate within 50 days of the date of the election, no substitution of a candidate shall be made to take the place of the candidate so dying or withdrawing and the election shall nevertheless proceed. If the report of the canvass of the votes at the election shows that the candidate so dying or withdrawing, for whom no substitution shall have been made, would have been elected except for the fact of his death or withdrawal, a vacancy

in the board of directors shall be deemed to have occurred as of the date of the election.

e. No election shall be held invalid by reason of any irregularity or failure in preparation or forwarding of any ballots pursuant to sections 17B:18-18 to 17B:18-28, inclusive. All voting shall be by the ballots so provided and shall be according to the provisions of said sections, any existing law of the State to the contrary notwithstanding.

17B:18-26 Method of election when demand is made by public directors that other candidates be nominated.

If the public directors shall file a demand pursuant to section 17B:18-24 that other candidates be nominated, the election shall be according to the method prescribed in this section as follows:

a. The commissioner within 30 days after the receipt of such demand by the public directors, shall appoint a nominating committee of 15 of such qualified voters who shall appear to the commissioner to be willing and qualified to select a candidate for each of the offices of the elected directors whose terms of office expire at the date of the next ensuing election. No officer, director, employee or agent of the corporation, nor any relative thereof by blood or connection by marriage in nearer degree than second cousin, nor any person who shall have served on such a nominating committee at any previous time, shall be eligible to be named by the commissioner to serve upon such nominating committee. The commissioner shall forthwith cause notice of the time and place of the first meeting of such committee to be sent to each member thereof. Within 30 days following the appointment or within such further period of time not exceeding 15 days as may be determined by the commissioner, the nominating committee shall by a majority vote select a candidate, suitable by training and experience to serve, for each such office of elected director, other than any candidate nominated by the board of directors, and shall within such period file with the commissioner a certificate setting forth the names, addresses and occupations of the candidates so nominated, together with a statement in writing from each of such candidates that he will accept if elected. The commissioner shall notify the secretary of the corporation of the names, addresses and occupations of the candidates so selected by the nominating committee.

b. When nominations shall have been made by such nominating committee, the commissioner shall cause notice of the election to be published at least 4 times at intervals of not less than 1 week, the first publication to be not more than 5 months and the last

publication not less than 3 months prior to the date of the election in at least 3 newspapers published in each State of the United States and in each province of Canada in which the corporation is authorized to do business, one of such publications in each State or province to be, whenever possible, in a newspaper published in the capital city of such State or province. Not less than 4 months prior to the date of the election, copies of such notice shall be posted in such offices maintained by the corporation as the commissioner may direct, in a conspicuous place to which the general public has access, and shall remain so posted until the record date hereinafter specified. Such notice shall contain the names, addresses and occupations of the candidates nominated by the board of directors and of the candidates nominated by the nominating committee, and shall advise the policyholders as to the procedure required by sections 17B:18-18 to 17B:18-28, inclusive, to be followed in voting. The death or withdrawal of any candidate or the nomination of any candidate in his place before or after the completion of publication or posting shall not invalidate such notice. The omission of any publication or posting herein prescribed shall not invalidate such notice nor the election to which it relates.

c. The commissioner shall prepare the form of ballot which shall contain: (1) the names of the candidates for director nominated by the board of directors, and so designated, and separately the names of the candidates for director nominated by the nominating committee, and so designated; (2) the following statement: "The Commissioner of Insurance of New Jersey neither approves nor disapproves the nomination of any of the aforesaid candidates"; (3) blank lines for the insertion of the policy number and signature of the qualified voter; and (4) such instructions for the proper completion of the ballot as the commissioner may deem necessary, including a statement of the date of the election and that the ballot must be received on or before such date. Each ballot shall be accompanied by a gummed postpaid return envelope, addressed to the commissioner, on which the words "Ballot for Directors" shall be printed. The commissioner shall cause ballots to be mailed at least 30 days prior to the date of the election to all applicants for ballots who appear to him, after checking the applications against the records of the corporation, to be qualified voters of the corporation on the record date. No election shall be held invalid by reason of any irregularity or failure in the preparation or forwarding of any ballots pursuant hereto.

d. Each qualified voter of the corporation shall be entitled to cast one vote and all ballots shall be cast by mail upon the forms

provided and shall be according to the provisions of sections 17B:18-18 to 17B:18-28, inclusive, any existing law of this State to the contrary notwithstanding. Policyholders who are qualified voters may obtain ballots by applying therefor either in person or by mail to the commissioner, or to any office maintained by the corporation, on or before the record date which shall be 70 days prior to the date of the election, stating in such application for a ballot, the name, address, policy number and date of birth of the applicant. The corporation shall prepare a list or other catalog of the applicants for ballots in such form as the commissioner may direct, showing the name, address and policy number of the applicant, whether or not he is 21 years of age or more and whether his policy has been in force at least 1 year; and such list or catalog shall specify any applicants for ballots appearing not to be qualified voters of the corporation according to its records, with a statement of the reason therefor. Such list or catalog shall be transmitted at least 40 days before the date of the election to the commissioner. The commissioner shall cause notice of disqualification to be given to any applicant who shall appear to him to be not a qualified voter of the corporation, with a statement of the reason therefor; and shall grant such applicant reasonable opportunity, within such period as may be fixed by the commissioner in his sole discretion, to present facts in support of his application. The list or catalog shall remain on file with the commissioner until 30 days after the election and shall be open to inspection by any qualified voter of the corporation, as the commissioner shall determine.

e. Ballots received by the commissioner on or before the date of the election shall be canvassed by the commissioner. The commissioner may employ such persons to assist him in canvassing the ballots as he deems necessary. No ballot shall be counted unless it is received by the commissioner on or before the date of the election, nor unless it shall set forth the number of the qualified voter's policy, be signed by him in person and be completed in accordance with the instructions appearing thereon; and no ballot shall be counted if cast for any person other than for one nominated as provided in sections 17B:18-18 to 17B:18-28, inclusive, nor if cast for more than the number of elected directors whose offices are to be filled at such election. The commissioner shall be the sole judge as to the qualifications of the voters and the proper casting of the ballots. All ballots received by the commissioner shall at the conclusion of the election be placed in sealed packages and preserved by him for at least 1 year from the date of the election. The 4 persons receiving the highest number of votes for the offices of

elected director to be filled shall be elected for full terms. In case 2 or more persons shall receive the same number of votes for the same office, the commissioner shall decide the election by lot. At the conclusion of the election, the commissioner shall certify in writing to the secretary of the corporation the result thereof.

f. In case of the death or withdrawal of any candidate prior to a date 50 days before the date of the election, the board of directors or the nominating committee, whichever shall have nominated such candidate, shall nominate a candidate in his place by filing not later than 40 days before the date of the election a certificate similar to that required for the original nominations; and in case of the death or withdrawal of any candidate within 50 days before the date of the election, no substitution of a candidate shall be made to take the place of the candidate so dying or withdrawing, and the election shall nevertheless proceed. If the report of the canvass of the votes at the election shows the number of votes so cast for the candidates so dying or withdrawing, for whom no substitution shall have been made, was such that he would have been elected except for the fact of his death or withdrawal, a vacancy in the board of directors shall be deemed to have occurred as of the date of the election and the same shall be filled by a majority vote of the entire number of either the board of directors or the nominating committee, whichever shall have nominated such candidate.

g. The commissioner shall conduct the election, may make such reasonable regulations for the conduct of the election not inconsistent with the provisions of sections 17B:18-18 to 17B:18-28, inclusive, as may appear to him to be necessary or desirable, and shall authorize payment of expenses incurred by the corporation for the purpose of advising policyholders, to the extent and in the manner he deems appropriate, as to the qualifications of the candidates. He may employ such persons as he may consider necessary to assist him in the performance of the duties imposed upon him under sections 17B:18-18 to 17B:18-28, inclusive, and may require the corporation to furnish assistance in such respects and in such manner as he may direct. All expenses incurred by the commissioner or by the nominating committee with the approval of the commissioner, in performing any of the duties imposed upon them by this act shall be borne by the corporation, and shall be paid by it upon the order of the commissioner. If the commissioner shall so request, the corporation shall advance to the commissioner funds reasonably sufficient to defray such expenses and the commissioner shall remit such funds to the State Treasurer as custodian thereof. The State Treasurer shall hold such funds separate from all other

State moneys and shall disburse the same only upon vouchers signed by the commissioner, who shall account to the corporation therefor.

17B:18-27 Mailing of ballot; effect of.

The mailing of a ballot to any person shall not be construed as an admission of the validity of any policy or that such person was a policyholder; and no such mailing shall be competent evidence in any action or proceeding in which the question of the validity of any policy is involved.

17B:18-28 Filing certificate on number of policies; copy delivered to Chief Justice.

If any annual statement of any domestic mutual insurer heretofore or hereafter filed with the commissioner sets forth a number of life insurance policies of the insurer in force in excess of ten million, such insurer shall thereafter during its corporate existence be subject to the provisions of sections 17B:18-18 to 17B:18-28, inclusive, any provisions of law or of the certificate of incorporation or charter of the corporation to the contrary notwithstanding. When any domestic mutual insurer at any time after the effective date of this Code files for the first time during its corporate existence an annual statement which shows that the number of life insurance policies of said insurer then in force is in excess of ten million, it shall immediately cause to be filed with the commissioner a certificate of the number of life insurance policies so set forth in such annual statement and the commissioner shall cause a copy thereof, duly certified by the commissioner, to be delivered to the Chief Justice of the Supreme Court of New Jersey.

17B:18-29 Election of directors in mutual insurer issuing temporary stock.

A bare majority of the entire board of directors of a domestic mutual insurer which issues temporary capital stock, as provided in section 17B:18-9, shall be elected by the holders of the temporary stock, and the rest of the directors shall be elected by the policyholders, in the manner and with the representation provided in its certificate of incorporation. After the retirement of the capital stock all the directors shall be so elected by the policyholders.

17B:18-30 Proxy voting permitted at elections.

At any election of directors, managers or other officers of a domestic insurer, except any election of directors held pursuant to N. J. S. 17B:18-18 to 17B:18-28, inclusive, every person entitled to vote at the election may vote in person or by attorney or proxy, but no proxy shall be voted, allowed or received after 3 years from its date.

17B:18-31 Emergency by-laws.

The board of directors of any domestic insurer may at any time adopt emergency by-laws, subject to repeal or change by action of those having power to adopt regular by-laws for the insurer, which shall be operative during a national emergency caused by an attack on the United States or by a nuclear, atomic or other disaster which makes it impossible or impracticable for an insurer to conduct its business in strict accord with applicable provisions of law, its by-laws, or its certificate of incorporation or charter. Such emergency by-laws may, notwithstanding any different provisions of the regular by-laws, or of the applicable statutes, or of the insurer's certificate of incorporation or charter, make any provision that may be reasonably necessary for the operation of the insurer during the period of such emergency.

17B:18-32 Failure to adopt emergency by-laws; procedure.

In the event that the board of directors of a domestic insurer has not adopted emergency by-laws, the following provisions shall become effective upon the occurrence of such a national emergency:

a. Three directors shall constitute a quorum for the transaction of business at all meetings of the board.

b. Any vacancy in the board may be filled by a majority of the remaining directors, though less than a quorum, or by a sole remaining director.

c. If there are no surviving directors, but at least 3 vice-presidents of the company survive, the 3 vice-presidents with the longest term of service in that office shall be the directors and shall possess all of the powers of the previous board of directors and such powers as are granted herein or by subsequently enacted legislation. By majority vote such emergency board of directors may elect other directors. If there are not at least 3 surviving vice-presidents, the commissioner or duly designated person exercising the powers of commissioner shall appoint 3 persons as directors who shall possess all of the powers of the previous board of directors and such powers as are granted herein or by subsequently enacted legislation, and these persons by majority vote may elect other directors.

17B:18-33 National emergency; succession.

At any time the board of directors of a domestic insurer may, by resolution, provide that in the event of such a national emergency and in the event of the death or incapacity of the Chairman of the Board and chief executive officer, the President, the Secretary or the Treasurer of the company, such officers, or any of them, shall be

succeeded in the office by the person named or described in a succession list adopted by the board of directors. Such list may be on the basis of named persons or position titles, shall establish the order of priority and may prescribe the conditions under which the powers of the office shall be exercised.

17B:18-34 National emergency; relocation of principal place of business.

At any time the board of directors of a domestic insurer may, by resolution, provide that in the event of such a national emergency the home office or principal place of business of the company shall be at such location in the United States of America as is named or described in the resolution. Such resolution may provide for alternate locations and establish an order of preference.

ARTICLE 4. AUTHORIZATION TO TRANSACT BUSINESS

17B:18-35 Stock insurer, minimum capital and surplus required.

No domestic stock insurer shall commence:

a. Either kind or both kinds of business specified in sections 17B:17-3 and 17B:17-5 unless it has a capital stock of at least \$1,000,000.00, actually paid in cash, and also a surplus of at least \$2,100,000.00 actually paid in cash;

b. The kind of business specified in section 17B:17-4 unless it has a capital stock of at least \$500,000.00, actually paid in cash, and also a surplus of at least \$750,000.00 actually paid in cash;

c. All three kinds of business specified in sections 17B:17-3, 17B:17-4 and 17B:17-5 unless it has a capital stock of at least \$1,500,000.00 actually paid in cash and also a surplus of at least \$2,850,000.00 actually paid in cash;

provided, however, that any insurance company duly licensed in this State immediately prior to the effective date of this Code shall be excepted from the provisions hereof and shall remain subject to those capital and surplus requirements in effect immediately prior thereto, but if such insurance company hereafter seeks to amend its license by increasing the kinds of business which it shall be authorized to transact in this State, it shall then be subject to the capital and surplus requirements specified herein.

17B:18-36 Mutual insurer, surplus required.

Except as otherwise provided in section 17B:18-9, no domestic mutual insurer shall commence business until bona fide applications have been made for insurance with the insurer and premiums thereon have been paid into the company in cash and in such sum, which, together with any other funds that may be legally available, will result in the insurer having unencumbered assets over and

above all required reserves and other liabilities of at least the amount specified below for each kind of insurance defined in sections 17B:17-3, 17B:17-4 and 17B:17-5 which it is authorized to transact:

a. Either kind or both kinds of business specified in sections 17B:17-3 and 17B:17-5 unless it has net cash assets of at least \$750,000.00;

b. The kind of business specified in section 17B:17-4 unless it has net cash assets of at least \$375,000.00;

c. All three kinds of business specified in sections 17B:17-3, 17B:17-4 and 17B:17-5 unless it has net cash assets of at least \$1,125,000.00;

provided, however, that any insurance company duly licensed in this State immediately prior to the effective date of this Code shall be excepted from the provisions hereof and shall remain subject to those net cash assets requirements in effect immediately prior thereto, but if such insurance company hereafter seeks to amend its license by increasing the kinds of business which it shall be authorized to transact in this State, it shall then be subject to the net cash assets requirements specified herein.

17B:18-37 Deposit prerequisite to authorization.

No domestic insurer shall be issued a certificate of authority until it has deposited with the commissioner bonds, notes or other evidences of indebtedness or public stock eligible for investment under paragraph a. of section 17B:20-1 having a market value of at least \$100,000.00. The commissioner may at any time require additions to said deposit to maintain said market value. If a company formed for any of the purposes specified in R. S. 17:17-1 is authorized to write health insurance as defined in 17B:17-4 and such company shall have made a deposit of at least \$100,000.00 under R. S. 17:20-1, no further deposit shall be required under this section.

17B:18-38 Deposits; interest on; substitution of.

The commissioner shall hold the securities deposited pursuant to section 17B:18-37 for the benefit and security of all the policyholders of the insurer depositing them, but shall, so long as it continues solvent and complies with all the requisites of the laws applicable to it, permit the insurer to collect the interest or dividends on the securities so deposited, and, from time to time to withdraw any of the securities, on depositing with him other eligible securities to the extent required to maintain the total market value of the deposit at \$100,000.00.

17B:18-39 Deposits to do business in other jurisdictions.

The commissioner may receive from any domestic insurer a deposit of any securities necessary to enable it to transact business in any other State or in any foreign country under the laws thereof. Such securities shall be held by the commissioner as long as the insurer desires to transact business in the State or foreign country requiring the deposit but the insurer may draw the dividends or receive the interest on the securities. When the deposit is no longer required by the laws of such State or foreign country, the commissioner shall return the securities to the insurer depositing them.

17B:18-40 Securities; deposit designated by company; approval by commissioner.

Whenever the commissioner is required or permitted to receive and hold deposits of securities from any insurance company under the provisions of this title, such securities may be deposited in the custody of such bank or trust company or national bank within this State as may be designated by the company depositing them and as may be approved by the commissioner, and said securities shall be held for account of the commissioner in trust for such beneficiaries as may be specified under the applicable provision of law. Securities so deposited may be maintained in bearer form at the option of the company depositing them.

17B:18-41 Examination before commencing business.

Before issuing a certificate of authority to a domestic insurer, the commissioner shall be satisfied, by such examination and evidence as he sees fit to make and require, that the whole amount of the capital stock set forth in the certificate of incorporation and the required minimum surplus of the insurer, if a stock company, has been actually paid in cash, and is possessed by the company in money, or in stocks, bonds, or bonds and mortgages authorized for insurers by chapter 20 of this code; or, if a mutual company, that it has received and is in possession of the cash premiums, and bona fide engagements for insurance to the extent and of the value required in section 17B:18-36.

17B:18-42 Certificate of authority; when issuable.

When satisfied that a domestic insurer has complied with all the requirements of this code to entitle it to engage in business and that the proposed methods of operation of the insurer are not such as would render its operation hazardous to the public or its policyholders, the commissioner shall issue to the insurer a certificate authorizing it to commence business, specifying in the cer-

tificate the particular kind or kinds of insurance it is authorized to transact. The commissioner may refuse to issue a certificate of authority if he finds that any of the insurer's directors or officers has been convicted of a crime involving fraud, dishonesty, or like moral turpitude or that said persons are not persons of good character and integrity. No insurer shall transact the business for which it is incorporated until it has received the certificate from the commissioner. If any insurer fails to obtain the certificate of authority within 1 year from the date of the certificate of the commissioner to its certificate of incorporation, as provided in section 17B:18-5, and such failure is the result of its lack of due diligence in meeting the requirements therefor, the insurer shall, ipso facto, be dissolved and its certificate of incorporation be null and void.

ARTICLE 5. POWERS AND REQUIREMENTS

17B:18-43 Domestic insurers, powers, duties—general corporation law.

a. Any domestic insurer and its stockholders, members and directors, shall have all the powers granted and be subject to all the duties and obligations imposed by New Jersey Business Corporation Act (N. J. S. 14A:1-1 et seq.), except so far as they may be inconsistent with the provisions of this Code.

b. Subject to the approval of the commissioner, a domestic insurer may, independently of any insurance or annuity contract, provide services of the kinds it performs in the normal conduct of its insurance or annuity business, including but not limited to consultative, administrative, investment, actuarial, loss prevention, data processing, accounting, claims and collection services. In granting any such approval, the commissioner may impose any limitations he may deem necessary for the protection of the interests of the policyholders of said insurer. In granting or withholding his approval, the commissioner shall take into account the effect of said insurer's providing such services on its existing insurance and annuity business and its surplus, and the risks inherent in said insurer's providing such services.

17B:18-44 Stock of other insurers.

A domestic insurer which purchases stock of another insurer in compliance with section 17B:20-4 may pay therefor in cash or its equivalent or in its own capital stock, and may issue its capital stock in payment to the persons from whom the same may be purchased or acquired, or otherwise for the purpose of the purchase or acquisition. The stock so purchased or acquired shall

constitute lawful payment for the capital stock issued to purchase or acquire it and any capital stock so issued shall be deemed a part of the capital of the issuing company. The company may exhibit the amount of capital so paid up in its advertisements.

17B:18-45 Authority to acquire, hold and convey real estate.

Any domestic insurer, in addition to the authority contained in sections 17B:20-1 to 17B:20-5, inclusive, may acquire, hold and convey any real estate as may be convenient in its operations, provided that if the commissioner shall determine after a hearing pursuant to the Administrative Procedure Act (P. L. 1968, c. 410) and any rules adopted thereunder, that the interest of such insurer's policyholders requires that any specific real estate so acquired be disposed of, then such insurer shall dispose of such real estate within such reasonable time as the commissioner shall direct.

17B:18-46 Limitation on dividends to stockholders.

No profits on participating policies and contracts heretofore or hereafter issued by a domestic stock insurer in excess of the larger of a. 10% of such profits before payment of policyholder dividends, or b. \$0.50 per year per \$1,000.00 of participating life insurance in force at the end of the year, shall inure to the benefit of the stockholders. In any annual statement made hereafter by such insurer to the commissioner, it shall exhibit the amount of participating policyholders' surplus. Both participating and nonparticipating policies or contracts may provide that, in addition to any rate of interest guaranteed by the issuing insurer to be paid on deferred payments of the proceeds thereof, additional interest may be paid thereon at such rate as the insurer may annually declare; and the inclusion of such provision in any nonparticipating policy shall not be deemed to make the policy participating.

17B:18-47 Increase or decrease of capital stock.

Any domestic stock insurer may increase its capital stock or decrease it to an amount not less than the minimum required by this code by proceeding in the manner and subject to the conditions of section 17B:18-56.

The whole of the increased capital stock shall be paid and may be invested, and an examination thereof shall be made in the manner provided by section 17B:18-41 for the original capital stock. Thereupon the increase shall be deemed a part of the capital of the insurer, subject to all the provisions of this code applicable thereto. When any insurer increases its capital stock by more than \$50,000.00, an examination thereof shall be made whenever and as often as \$50,000.00 or more of the increase is paid in, as is provided in said section 17B:18-41 for the original capital stock.

Thereupon the increase of \$50,000.00 or more shall be deemed a part of the capital of the insurer subject to all the provisions of this Code applicable thereto.

17B:18-48 Advertisement of assets to include liabilities.

When an insurance company doing business in this state advertises its assets, it shall, in the same connection and equally conspicuously, advertise its liabilities, the same to be determined in the manner required in making the annual statements to the commissioner. All advertisements purporting to show the capital of the company shall exhibit only the amount of capital actually paid in cash. In the case of a company organized under the laws of a foreign country, its assets shall be considered to be only the amounts deposited with the officials of the several states of the union or held by trustees in the United States for the benefit of the policyholders and creditors of the company in the United States. All policies, renewals, signs, circulars, cards, or other means by which public announcements are made, shall be held to be advertisements within the meaning of this section.

17B:18-49 Cash disbursements to be evidenced by voucher.

No domestic insurer shall make any cash disbursement of \$100.00 or more unless it is evidenced by a voucher, signed by or on behalf of the person receiving the money, and correctly describing the consideration for the payment. If the expenditure is for both services and disbursements, the voucher shall set forth the services rendered and an itemized statement of the disbursements made. When the voucher cannot be obtained, the expenditure shall be evidenced by an affidavit describing the character and object of the expenditure, and stating the reason for not obtaining the voucher.

17B:18-50 Payment of taxes, charges and fees prior to determination of invalidity.

The directors of any domestic insurer are authorized to pay, and to appropriate money to pay, such taxes, charges and fees as have been or may be imposed against the property, business, income or franchises of such insurer by the laws of this or any other State or jurisdiction in which such insurer is doing business unless, prior to the payment of any such tax, charge or other fee, the law imposing the same shall have been expressly held invalid by the State court having final appellate jurisdiction in the premises or by the Supreme Court of the United States.

17B:18-51 Compensation of directors.

The director of any domestic insurer when acting as its officer, counsel, agent or representative, and also for each occasion of his

attendance at meetings of the board or its committees, may receive such compensation as a majority of the board deems just and reasonable.

17B:18-52 Salaries limited; pensions; benefits.

No domestic insurer shall:

a. Pay any salary, compensation or emolument to any of its officers, directors, trustees, or employees, or any salary, compensation or emolument amounting in any year to more than \$30,000.00 to any person, unless the payment is first authorized by a vote of its board of directors;

b. Make any agreement with any of its officers, trustees or salaried employees whereby it agrees that for any service rendered or to be rendered he shall receive any salary, compensation or emolument that will extend beyond a period of 24 months from the date of the agreement, but nothing herein shall be construed to prevent a domestic insurer from deferring the payment of any salary, compensation or emolument for such period of time and upon such terms as it may determine or from entering into contracts with its agents or brokers for the payment of renewal commissions.

c. Grant any pension to any officer, director, employee or trustee thereof or to any member of his family after his death, except that according to a plan submitted to and approved by the commissioner it may: (1) grant to its salaried officers and employees retirement and disability allowances and death benefits; (2) establish a profit sharing plan which meets the requirements of section 401(a) of the Internal Revenue Code of 1954 or any similar legislation which might take its place and which plan, at the option of the insurer, may be in addition to any existing pension plan; and except that it may with the approval of the commissioner provide reasonable supplemental retirement allowances to any of its salaried officers and employees and their dependents, whose retirement benefits under the insurer's plan or plans are, in the opinion of its board of directors, inadequate. Such allowances shall not exceed the greater of \$3,000.00 per annum and the excess, if any, of 50% of the individual's average salary, based on the 5 years immediately prior to retirement, over such retirement benefits.

17B:18-53 Reporting amount of stock owned and changes therein by director, officer, and principal stockholders of domestic stock insurers.

Every person who is directly or indirectly the beneficial owner of more than 10% of any class of stock of a domestic stock insurer or who is a director or officer of such insurer shall file in the office of the commissioner within 10 days after he becomes such beneficial

owner, director or officer a statement, in such form as the commissioner may prescribe, of the amount of all stock of such insurer of which he is the beneficial owner, and within 10 days after the close of each calendar month thereafter, if there has been a change in such ownership during such month, shall file in the office of the commissioner a statement, in such form as the commissioner may prescribe, indicating his ownership at the close of the calendar month and such changes in his ownership as have occurred during such calendar month.

17B:18-54 Suit for profits realized by director, officer, and principal stockholders.

For the purpose of preventing the unfair use of information which may have been obtained by such beneficial owner, director or officer by reason of his relationship to such insurer, any profit realized by him from any purchase and sale, or any sale and purchase, of any stock of such insurer within any period of less than 6 months, unless such stock was acquired in good faith in connection with a debt previously contracted, shall inure to and be recoverable by the insurer, irrespective of any intention on the part of such beneficial owner, director or officer in entering into such transaction of holding the stock purchased or of not repurchasing the stock sold for a period exceeding 6 months. Suit to recover such profit may be instituted at law or in equity in any court of competent jurisdiction by the insurer or by the owner of any stock of the insurer in the name and in behalf of the insurer if the insurer shall fail or refuse to bring such suit within 60 days after request or shall fail diligently to prosecute the same thereafter; but no such suit shall be brought more than 2 years after the date such profit was realized. This section shall not be construed to cover any transaction where such beneficial owner was not such both at the time of the purchase and sale, or the sale and purchase, of the stock involved, or any transaction or transactions which the commissioner may by rules and regulations exempt as not comprehended within the purpose of this paragraph.

17B:18-55 Limitation on sale of stock by director, officer and principal stockholders.

It shall be unlawful for any such beneficial owner, director or officer, directly or indirectly, to sell any stock of such insurer if the person selling the stock or his principal a. does not own the stock sold, or b. if owning the stock, does not deliver it against such sale within 20 days thereafter, or does not within 5 days after such sale deposit it in the mails or other usual channels of transportation; but no person shall be deemed to have violated this section if he proves that notwithstanding the exercise of

good faith he was unable to make such delivery or deposit within such time, or that to do so would cause undue inconvenience or expense.

ARTICLE 6. CHANGES IN ORGANIZATION, INCLUDING MERGER

17B:18-56 Stock insurers; change of name, extension of corporate existence or amendment of charter or certificate of incorporation.

a. Any stock insurer heretofore or hereafter incorporated under any general or special law of this State may change its name, extend its corporate existence either before or after the expiration of the period limited for its duration or amend its charter or certificate of incorporation for any lawful purpose or restate its certificate of incorporation through procedures prescribed by the statutes of this State as to business corporations in general, and by complying with the requirements of subsection b.

b. Upon adoption of such change of name, extension of corporate existence, amendment or restatement of charter, a certificate thereof shall be signed by the president or a vice-president and secretary or assistant secretary under the corporate seal and be acknowledged or proved as in the case of deeds of real estate. The certificate shall be submitted to the commissioner for his approval as provided for certificates of incorporation. When so approved, it shall be filed in the Department of Insurance whereupon the charter or certificate of incorporation shall be deemed to be amended accordingly.

17B:18-57 Mutual insurers; change of name, extension of corporate existence or amendment of charter or certificate of incorporation.

a. Any mutual insurer heretofore or hereafter incorporated under any general or special law of this State may change its name and extend its corporate existence or amend its charter or certificate of incorporation for any lawful purpose by a $\frac{3}{4}$ vote of its directors present at any regular or special meeting, held in accordance with its charter and by-laws, held not less than 30 nor more than 90 days after notice of the proposed amendment has been given to the directors and to the commissioner.

b. Upon adoption, a certificate of such adoption setting forth such change of name, extension or amendment shall be made and filed by the president or a vice-president of the insurer and by the secretary or an assistant secretary under the corporate seal and shall be acknowledged or proved as in the case of deeds of real estate and shall be submitted to the commissioner for his approval. If the commissioner finds that such change of name, extension or amendment is in conformity with law and does not

unreasonably affect the interests of the policyholders, he may endorse his approval on the certificate. When so approved, it shall be filed in the Department of Insurance whereupon the charter or certificate of incorporation shall be deemed to be amended accordingly.

c. The refusal of the commissioner to give any approval shall be subject to judicial review.

17B:18-58 Mutual insurers: adoption of amended charter or certificate of incorporation.

When any mutual insurer adopts an amendment to its charter or certificate of incorporation, as provided for in this chapter, the board of directors of the insurer, at the time of adopting the amendment, may adopt and ratify in its entirety an amended charter or certificate of incorporation to the end that it shall fully and completely set forth all the terms and conditions of the charter or certificate of incorporation under which the insurer shall thereafter transact business. The amended charter or certificate of incorporation shall be executed, acknowledged, approved and filed in accordance with section 17B:18-5.

17B:18-59 Mutualization of stock insurers.

a. A stock insurer may become a mutual insurer under such plan and procedure as may be approved by the commissioner after a hearing thereon.

b. The commissioner shall not approve any such plan, procedure or mutualization unless:

- (1) It is equitable to stockholders and policyholders;
- (2) It is subject to approval by the holders of not less than $\frac{2}{3}$ of the insurer's outstanding capital stock having voting rights and by not less than $\frac{2}{3}$ of the insurer's policyholders who are qualified voters and who vote on such plan in person, by proxy or by mail pursuant to such notice and procedure as may be approved by the commissioner;
- (3) Mutualization will result in retirement of shares of the insurer's capital stock at a price not in excess of the fair market value thereof as determined by competent disinterested appraisers;
- (4) The plan provides for the purchase of the shares of any nonconsenting stockholder in the same manner and subject to the same applicable conditions as provided in New Jersey Business Corporation Act (N. J. S. 14A:1-1 et seq.) as to rights of nonconsenting stockholders, with respect to consolidation or merger of private corporations;

(5) The plan provides for definite conditions to be fulfilled by a designated early date upon which such mutualization will be deemed effective; and

(6) The mutualization leaves the insurer with surplus funds reasonably adequate for the security of its policyholders and to enable it to continue successfully in business in the States in which it is then authorized to transact insurance, and for the kinds of insurance included in its certificates of authority in such States.

c. This section shall not apply to mutualization under order of court pursuant to rehabilitation or reorganization of an insurer under chapter 32 of this Title.

17B:18-60 Merger and consolidation of stock insurers.

a. A domestic stock insurer may merge or consolidate with one or more domestic or foreign stock insurers in the following manner and subject to the following provisions.

b. (1) Mergers or consolidations may be initially proposed at any meeting of the board of directors of a domestic stock insurer by the affirmative vote of $\frac{2}{3}$ of the total number of directors of the insurer, or at any meeting of the stockholders of the insurer by the affirmative vote of a majority of the total number of shares of stock outstanding and entitled to vote, provided the notice of such meeting shall set forth such proposal.

(2) The plan of merger or consolidation proposed as required by paragraph (1) of this subsection, shall be submitted to a meeting of the stockholders of record of each domestic stock insurer, and may become effective only if adopted at such meeting by the affirmative vote, in person or by proxy, of $\frac{2}{3}$ of the total number of shares of stock outstanding and entitled to vote. The said meeting shall be held upon such reasonable notice as has been approved by the commissioner and the notice shall fully set forth the terms and conditions of the proposed plan and agreement of merger or consolidation.

c. No such merger or consolidation shall be effectuated unless in advance thereof the plan and agreement therefor have been filed with the commissioner and approved in writing by him after a hearing thereon. The commissioner shall give such approval within a reasonable time after such hearing unless he finds such plan or agreement:

(1) Is contrary to law; or

(2) Inequitable to the stockholders of any insurer involved; or

(3) Would substantially reduce the security of and service to be rendered to policyholders of the domestic insurer in this State or elsewhere.

(4) Involves the merger of a domestic insurer into a non-admitted foreign insurer.

d. No director, officer, agent or employee of any insurer party to such merger or consolidation shall receive any fee, commission, compensation or other valuable consideration whatsoever for in any manner aiding, promoting or assisting therein except as set forth in such plan or agreement.

e. If the commissioner does not approve any such plan or agreement he shall so notify the insurer in writing specifying in detail his reasons therefor.

f. Any plan or proposal through which a stock insurer proposes to acquire a controlling stock interest in another stock insurer through an exchange of stock of the first insurer issued for the purpose is deemed to be a plan or proposal of merger of the second insurer into the first insurer for the purposes of this section and is subject to the applicable provisions hereof.

g. Upon such merger or consolidation all the rights, franchises, and interest of the insurers so merging or consolidating, in and to every species of property and things in action belonging to them, or either of them, shall be deemed to be transferred to and vested in the insurer resulting from such merger or consolidation, without any other deed or transfer, and the merged or consolidated insurer shall hold and enjoy the same to the same extent as if the merging or consolidating insurers, or either of them, had continued to retain their titles and transact business.

h. The insurer so formed by or resulting from such merger or consolidation may require the return of the original certificates of stock held by each stockholder in each of the insurers involved in such merger or consolidation, and may convert said certificates into new certificates for such number of shares of the merged or consolidated insurer as each stockholder is entitled to receive. Any stockholder refusing or neglecting to so convert his stock shall be governed by the provisions of New Jersey Business Corporation Act (N. J. S. 14A:1-1 et seq.), concerning nonconsenting stockholders with respect to consolidation or merger of private corporations.

17B:18-61 Merger and consolidation of mutual insurers.

a. A domestic mutual insurer may merge or consolidate with one or more domestic or foreign mutual insurers in the following manner and subject to the following provisions:

b. (1) The plan for merger or consolidation may be proposed at any meeting of the board of directors of a domestic insurer by the affirmative vote of $\frac{2}{3}$ of the total number of directors of the insurer.

(2) The plan for consolidation or merger proposed as required by paragraph (1) of this subsection, shall be submitted to a meeting of the policyholders of each domestic insurer, and may be effective only if adopted at such meeting by the affirmative vote, in person or by proxy, of a majority of the votes cast by policyholders who are qualified voters and who vote thereon. The said meeting shall be held upon such reasonable notice as has been approved by the commissioner and the notice shall fully set forth the terms and conditions of the proposed plan and agreement of merger or consolidation.

c. No such merger or consolidation shall be effectuated unless in advance thereof the plan and agreement therefor have been filed with the commissioner and approved in writing by him after a hearing thereon. The commissioner shall give such approval within a reasonable time after such hearing unless he finds such plan or agreement:

- (1) Is contrary to law; or
- (2) Inequitable to the policyholders of any insurer involved; or
- (3) Would substantially reduce the security of and service to be rendered to policyholders of the domestic insurer in this State or elsewhere.
- (4) Involves the merger of a domestic insurer into a non-admitted foreign insurer.

d. No director, officer, agent or employee of any insurer party to such merger or consolidation shall receive any fee, commission, compensation or other valuable consideration whatsoever for in any manner aiding, promoting or assisting therein except as set forth in such plan or agreement.

e. If the commissioner does not approve any such plan or agreement he shall so notify the insurer in writing specifying in detail his reasons therefor.

f. Upon such merger or consolidation all the rights, franchises, and interest of the insurers so merging or consolidating, in and to every species of property and things in action belonging to them,

or either of them, shall be deemed to be transferred to and vested in the insurer resulting from such merger or consolidation, without any other deed or transfer, and the merged or consolidated insurer shall hold and enjoy the same to the same extent as if the merging or consolidating insurers, or either of them, had continued to retain their titles and transact business.

ARTICLE 7. REINSURANCE

17B:18-62 "Reinsurance" defined.

"Reinsurance" is a contract under which an originating insurer, called the "ceding insurer", procures insurance for itself in another insurer, called the "assuming insurer," with respect to part or all of an insurance risk of the originating insurer.

17B:18-63 Reinsurance of risks.

An insurer may reinsure such risks as it is authorized to insure, subject to the provisions of this Code.

17B:18-64 Prerequisites to reinsurance.

a. No domestic insurer may become a ceding insurer with respect to all or any substantial part of its outstanding insurance risks or become an assuming insurer with respect to all or any substantial part of the outstanding insurance risks of another insurer until the contract of reinsurance between the ceding insurer and the assuming insurer shall have been submitted to the commissioner together with satisfactory evidence that the interests of the policyholders of each of such insurers which is authorized to do an insurance business in this State are fully protected and until such contract of reinsurance shall have been approved by him; provided however, that this section shall not be applicable to contracts of reinsurance heretofore or hereafter entered into providing for the reinsuring of single risks or policies, in whole or in part, or risks covered by any group policy or contract, in whole or in part.

b. If a domestic mutual insurer cedes all or any substantial part of its insurance risks to a stock insurer, the agreement must be approved by the commissioner. The commissioner shall not approve any such agreement unless:

- (1) It is equitable to the insurer's policyholders;
- (2) It is subject to approval by vote of not less than $\frac{2}{3}$ of the insurer's current policyholders who are qualified voters and who vote thereon in person, by proxy, or by mail at a meeting of policyholders called for the purpose pursuant

to such reasonable notice and procedure as may be approved by the commissioner;

(3) The equity of each policyholder in the insurer is determinable under a fair formula approved by the commissioner, which such equity shall be based upon not less than the insurer's entire surplus (after deducting contributed or borrowed surplus funds) plus a reasonable present equity in its reserves and in all nonadmitted assets;

(4) In all cases involving the ceding of all the risks of a domestic mutual insurer to a stock insurer, there shall be a proviso in such agreement that upon the consummation of such transactions, said domestic insurer shall then be automatically dissolved.

17B:18-65 Extended reinsurance.

In addition to the reinsurance specified in 17B:18-63, an insurer authorized to do the business specified in sections 17B:17-3, 17B:17-4 and 17B:17-5 may through reinsurance assume any risk arising from, related to, or incident to the manufacture, ownership, or operation of aircraft and may retrocede any portion thereof; provided, however, no insurer may undertake any such extended reinsurance business without the prior approval of the commissioner.

17B:18-66 Reinsurance pooling.

Any reinsurance authorized by sections 17B:18-63 or 17B:18-65 or any reinsurance of blanket accident insurance referred to in section 4 of Public law 1939, c. 305 (17B:27-32) may be provided through pooling arrangements with other insurers for purposes of spreading the insurance risk.

CHAPTER 19

RESERVES AND VALUATIONS

- 17B:19-1 Expenses of Investigation, Analyses, and Valuation of Securities.
- 17B:19-2 Annual Valuation of Reserve Liabilities for Outstanding Policies; Foreign and Alien Insurers.
- 17B:19-3 Additional Reserves.
- 17B:19-4 Preliminary Term Insurance; Amount of Reserve.
- 17B:19-5 Health Insurance Reserves.
- 17B:19-6 Accepting Valuation of Other States.
- 17B:19-7 Abandonment of Standard of Valuation Adopted.
- 17B:19-8 Standard Valuation Law.
- 17B:19-9 Approved Standard Ordinary Mortality Table.

17B:19-1 Expenses of investigation, analyses, and valuation of securities.

a. The purpose of this section is to provide a means of making funds not in excess of \$250,000 in any one year available to the Subcommittee on Valuation of Securities of the National Association of Insurance Commissioners to defray the expenses of such committee in the investigation, analyses and valuation of securities and the determination of the amortizability of bonds, owned by insurers, for the purpose of furnishing to the several States on a uniform basis information needed in the supervision of insurers licensed to transact business in the several states. The commissioner is hereby authorized to disburse in the manner hereinafter provided, in co-operation with supervisory officials of other States, funds obtained through assessments for such purpose under this section.

b. The commissioner shall periodically obtain from such Subcommittee on Valuation of Securities a verified budget estimate of the receipts and of the expenses to be incurred by the committee for a stated period, not exceeding one year, with appropriate explanations of the estimates therein contained.

c. If the commissioner shall be satisfied as to the reasonableness of such budget estimate, he shall determine the portion of the funds required by such budget estimate, to be assessed as hereinafter provided, by deducting from such budget estimate or from the sum of \$250,000, whichever is less, any amounts received or

receivable by the committee from other states whose laws do not substantially conform to the method of assessment herein provided and applying to the remainder the proportion which the total investments in securities of domestic life insurers bears to the total investments in securities of life insurers domiciled in this and other States whose laws authorize and require assessments on substantially the same basis as herein provided. The commissioner shall thereafter as soon as convenient, by notice stating the method of computation thereof, assess the amount to be paid on account of such expenses, pro rata upon all domestic life insurers in the proportion which the total investments in securities of each domestic life insurer shall bear to the total investments in securities of all such insurers. The total investments in securities of any life insurer for purposes of this section shall be the total admitted value of stocks and bonds reported as such in its annual statement last filed prior to such assessment with the commissioner or other supervisory official of its state of domicile. Upon receipt of such notice each such insurer shall within thirty days pay said assessment of the commissioner who shall remit such funds to the State Treasurer as custodian thereof. The State Treasurer shall hold such funds separate from all other State moneys and shall disburse the same only upon vouchers signed by the commissioner. Such disbursements shall be made to the Subcommittee on Valuation of Securities of the National Association of Insurance Commissioners for the purposes of this section.

d. The commissioner shall require annually and at such other times as he may deem it necessary or advisable a duly certified audit of receipts and disbursements and statement of assets and liabilities, showing the details of the financial operations of the Subcommittee on Valuation of Securities.

17B:19-2 Annual valuation of reserve liabilities for outstanding policies; foreign and alien insurers.

The commissioner shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurer doing business in this State, except that in the case of an alien insurer, such valuation shall be limited to its United States business, and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods (net level premium method or other) used in the calculation of such reserves. All valuations made by him or by his authority shall be upon the net premium basis or such modifications thereof as are provided by law. In calculating such reserves, he may

use group methods and approximate averages for fractions of a year or otherwise. In lieu of the valuation of the reserves herein required of any foreign or alien insurer, he may accept any valuation made, or caused to be made, by the insurance supervisory official of any State or other jurisdiction when such valuation complies with the minimum standards provided by law and if the official of such State or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the commissioner when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that State or jurisdiction.

Any such insurer which at any time shall have adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standards provided by law may, with the approval of the commissioner, adopt any lower standard of valuation, but not lower than the minimum standards so provided.

Except in the case of policies for which the reserve liabilities are valued on the basis of the provisions of the standard valuation law contained in section 17B:19-8, all valuations made by the commissioner or by his authority shall be upon the net premium basis, or such modification thereof as hereinafter expressly provided; and all policies issued prior to January 1, 1901, shall be valued according to the actuaries' table of mortality, with compound interest at the rate of 4% per annum, except in cases where a life insurer elects or has elected to have the policies or any class thereof valued according to the American Experience table of mortality, or according to the American Men Ultimate table of mortality, with compound interest at the rate of either 3% or 3½% per annum or with the approval of the commissioner at a rate of less than 3% per annum; and all policies issued on or after January 1, 1901, shall be valued according to the American Experience table of mortality, with compound interest at the rate of 3½% per annum, except in cases where a life insurer elects or has elected to have such policies or any class thereof valued according to the American Experience table of mortality with compound interest at a rate of less than 3½% per annum but not less than 3% per annum or with the approval of the commissioner at a rate of less than 3% per annum; and except in cases where any life insurer with the approval of the commissioner may elect or shall have elected to have its ordinary policies or any class thereof valued according to the American Men

Ultimate table of mortality, with compound interest at a rate which is not more than $3\frac{1}{2}\%$ per annum. The minimum standard for the valuation of group term insurance policies under which premium rates are not guaranteed for a period in excess of 5 years shall be the American Men Ultimate table of mortality with interest at $3\frac{1}{2}\%$ per annum. The commissioner may vary the standards of interest and mortality in the case of annuities and industrial policies and of invalid lives and other extra hazards. When the actual premium charged for an insurance policy is less than the net premium for the insurance, computed according to the table of mortality, and the rate of interest prescribed herein, the value of the policy shall be increased by the value of an annuity, the amount of which shall equal the difference between the premiums and the term of which in years shall equal the number of future annual payments receivable on the insurance after the date of valuation.

Reserves for all policies and contracts to which the foregoing standards apply may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by this section.

17B:19-3 Additional reserves.

Subject to the approval of the commissioner, any life insurer of this State may set up, in addition to the reserve liabilities required pursuant to section 17B:19-2, reserves to provide for any additional liability at maturity, on the basis of rates of interest and of mortality appropriate to the valuation of annuities, on policies under which by their terms or otherwise a right has been or may be exercised to elect optional modes of settlement.

The commissioner shall, at the time of the annual valuation pursuant to section 17B:19-2, make or cause to be made a valuation of the additional reserves so set up, and shall thereupon include the amount of such additional reserves in any certification of reserves made pursuant to section 17B:19-2, specifying the mortality table or tables and rate or rates of interest used in the calculation of such additional reserves.

The basis of such additional reserves set aside by any insurer at the close of any year shall not thereafter be changed to a basis producing smaller aggregate reserves except upon approval by the commissioner of the insurer's application therefor.

17B:19-4 Preliminary term insurance; amount of reserve.

This section applies to life insurance policies, other than policies for which the reserve liabilities are valued on the basis of the pro-

visions of the standard valuation law contained in section 17B:19-8, which were previously issued by insurers doing business in this state and which provide for not more than one year preliminary term insurance by incorporating in the provision thereof specifying the premium consideration to be received a clause plainly showing that the first year's insurance or part thereof under the policies is term insurance, purchased by the whole or a part of the premium to be received during the first policy year.

If the premium charged for the preliminary term insurance under any such policy issued prior to January 1, 1920 did not exceed that charged at the same time for like insurance under a twenty-payment life preliminary term policy of the same insurer, issued at the same age, or if the premium charged for the preliminary term insurance under any such policy issued on or after January 1, 1920 did not exceed 150% of the net premium therefor, computed according to the table of mortality and the rate of interest adopted by the insurer, as herein provided, such policy may be valued according to its terms on the mortality and interest bases herein provided.

The reserve held on every other such policy shall be equal to that of a similar policy, issued at the same age, which does not provide for preliminary term insurance.

17B:19-5 Health insurance reserves.

The commissioner shall annually make or cause to be made or shall annually require the insurer to make calculations of policy and loss reserves for health insurance written by insurers authorized to write Health Insurance in this State as defined in section 17B:17-4. The commissioner may promulgate regulations providing for minimum reserve standards and mortality, morbidity or other contingency bases to be used in connection therewith. All calculations for minimum reserve purposes shall be made on the basis of a rate of interest not exceeding $3\frac{1}{2}\%$ per annum.

17B:19-6 Accepting valuation of other States.

Subject to the provisions of section 17B:19-2 the commissioner may accept the valuation of the insurance supervisory official or department of any other State or country.

17B:19-7 Abandonment of standard of valuation adopted.

Except in accordance with the provisions of section 17B:19-2, a life insurer shall not abandon the standard of valuation adopted for any outstanding policies if the reserve, calculated by the proposed standard, is less than the reserve calculated by the standard which is to be abandoned.

17B:19-8 Standard valuation law.

This section shall be known as the standard valuation law and shall apply to all the life insurance policies, pure endowment contracts and annuity contracts issued by every life insurer on or after January 1, 1948 or such earlier date as shall have been elected by the insurer as the operative date for such insurer of the standard nonforfeiture law.

a. The minimum standard for the valuation of the reserve liabilities for all such policies and contracts shall be the commissioners reserve valuation method defined in subsection b of this section, $3\frac{1}{2}\%$ interest, except as otherwise provided in paragraphs (iii) and (iv) of this subsection, and the following tables:

(i) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies, the Commissioners 1941 Standard Ordinary Mortality Table; provided, however, that the Commissioners 1958 Standard Ordinary Mortality Table shall be the table for the minimum standard for such policies issued on or after January 1, 1966 or, for policies in any category of ordinary insurance, such earlier date as shall have been elected by the insurer as the date on which the calculation of the adjusted premiums referred to in the standard nonforfeiture law for such insurer's policies in such category became based upon said table. Notwithstanding the above provisions of this paragraph, for any category of ordinary insurance, reserves for such policies issued on or after July 1, 1957 may be calculated, at the option of the insurer, according to the Approved Standard Ordinary Mortality Table contained in section 17B:19-9; provided, further, that for any category of such policies issued on female risks on or after July 1, 1957 modified net premiums and present values, referred to in subsection b of this section, may be calculated, at the option of the insurer with approval of the commissioner, according to an age not more than 3 years younger than the actual age of the insured.

(ii) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies, the 1941 Standard Industrial Mortality Table; provided, however, that the Commissioners 1961 Standard Industrial Mortality Table shall be the table for the minimum standard for such policies issued on or after January 1, 1968 or such earlier date as shall have been elected by the insurer as the date on which the calculation of the adjusted premiums referred to in the standard non-

forfeiture law for such insurer's industrial life insurance policies became based upon said table.

(iii) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such contracts, the 1937 Standard Annuity Mortality Table, or, at the option of the insurer, the Annuity Mortality Table for 1949, Ultimate, or any modification of either of these tables approved by the commissioner; provided, however, that for single stipulated payment individual annuity and single premium pure endowment contracts issued on or after January 1, 1970, excluding any disability and accidental death benefits in such contracts, the minimum standard shall be the lesser of (a) the standard just described and (b) the standard based on 4% interest and the Annuity Mortality Table for 1949, Ultimate, or any modification of such table approved by the commissioner.

(iv) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such contracts, the Group Annuity Mortality Table for 1951, any modification of such table approved by the commissioner, or, at the option of the insurer, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts; provided, however, that for group annuity benefits arising from considerations received on or after January 1, 1970, excluding any disability and accidental death benefits, the minimum standard shall be the lesser of (a) the standard just described and (b) the standard based on 4% interest and the Group Annuity Mortality Table for 1951, any modification of such table approved by the commissioner, or, at the option of the insurer, the Annuity Mortality Table for 1949, Ultimate, or any modification of such table specified for individual annuity and pure endowment contracts.

(v) For total and permanent disability benefits in or supplementary to ordinary policies or contracts, for policies or contracts issued on or after January 1, 1966, the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries, with due regard to the type of benefit; for policies or contracts issued on or after January 1, 1961 and prior to January 1, 1966, either such tables or, at the option of the insurer, the Class (3) Disability Table (1926); and for policies issued prior to January 1, 1961, the Class (3) Disability Table (1926). Any such table shall, for active lives,

be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(vi) For accidental death benefits in or supplementary to policies, for policies issued on or after January 1, 1966, the 1959 Accidental Death Benefits Table; for policies issued on or after January 1, 1961 and prior to January 1, 1966, either such table or, at the option of the insurer, the Inter-Company Double Indemnity Mortality Table; and for policies issued prior to January 1, 1961, the Inter-Company Double Indemnity Mortality Table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(vii) For group life insurance, life insurance issued on the substandard basis and other special benefits, such tables as may be approved by the commissioner.

(viii) For ordinary and industrial paid-up nonforfeiture term insurance, and accompanying pure endowment, the table of mortality based on the rates of mortality assumed in calculating the paid-up nonforfeiture benefits.

b. Reserves according to the commissioners reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided by the policy and the excess of (A) over (B), as follows:

(A) A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due; provided, however, that such net level annual premium shall not exceed the net level annual premium on the 19-year premium whole life plan for insurance of the same amount at an age 1 year higher than the age at issue of such policy.

(B) A net 1-year term premium for such benefits provided for in the first policy year.

Reserves according to the commissioners reserve valuation method for (i) life insurance policies providing for varying amounts of insurance or requiring the payment of varying premiums, (ii) annuity and pure endowment contracts, (iii) disability and accidental death benefits in all policies and contracts, and (iv) all other benefits, except life insurance and endowment benefits in life insurance policies, shall be calculated by a method consistent with the principles of this subsection b, except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums.

c. In no event shall an insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, be less than the aggregate reserves calculated in accordance with the method set forth in subsection b and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies. Reserves for any category of policies, contracts or benefits as established by the commissioner shall not be calculated according to any standards which produce smaller aggregate reserves for such category than the corresponding aggregate values of nonforfeiture benefits available as of the valuation date.

d. Reserves for any category of policies, contracts or benefits as established by the commissioner may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein; provided, however, that reserves for participating life insurance policies may, with the consent of the commissioner, be calculated according to a rate of interest lower than the rate of interest used in calculating the nonforfeiture benefits in such policies, with the further proviso that if such lower rate differs from the rate used in the calculation of the nonforfeiture benefits by more than $\frac{1}{2}\%$ the insurer issuing such policies shall file with the commissioner a plan providing for such equitable increases, if any, in the cash surrender values and nonforfeiture benefits in such policies as the commissioner shall approve.

e. If the gross premium charged by any life insurer on any policy or contract is less than the net premium for the policy or contract according to the mortality table, rate of interest and method used in calculating the reserve thereon, there shall be maintained on such policy or contract a deficiency reserve in addition to all other reserves required by law. For each such policy or contract the

deficiency reserve shall be the present value, according to such standard, of an annuity of the difference between such net premium and the premium charged for such policy or contract, running for the remainder of the premium-paying period.

17B:19-9 Approved standard ordinary mortality table.

The Approved Standard Ordinary Mortality Table shall be defined as that table where the numbers living at exact ages are as follows:

Exact Age	Number Living	Exact Age	Number Living	Exact Age	Number Living
0	10,000,000	35	9,504,913	70	5,720,146
1	9,930,200	36	9,483,527	71	5,435,340
2	9,913,815	37	9,460,861	72	5,141,016
3	9,901,026	38	9,436,641	73	4,839,495
4	9,890,531	39	9,410,502	74	4,533,349
5	9,881,630	40	9,382,082	75	4,224,537
6	9,873,725	41	9,351,121	76	3,914,583
7	9,866,517	42	9,317,457	77	3,604,626
8	9,859,906	43	9,280,839	78	3,295,710
9	9,853,694	44	9,241,117	79	2,989,011
10	9,847,683	45	9,198,146	80	2,686,553
11	9,841,774	46	9,151,603	81	2,391,086
12	9,835,672	47	9,101,178	82	2,105,710
13	9,829,082	48	9,046,571	83	1,833,715
14	9,821,710	49	8,987,316	84	1,578,132
15	9,813,165	50	8,922,967	85	1,341,396
16	9,803,352	51	8,853,011	86	1,125,243
17	9,792,274	52	8,776,875	87	930,779
18	9,780,034	53	8,694,021	88	758,464
19	9,766,929	54	8,603,864	89	608,099
20	9,753,158	55	8,505,694	90	478,902
21	9,738,918	56	8,398,948	91	369,645
22	9,724,407	57	8,282,959	92	278,797
23	9,709,626	58	8,157,058	93	204,657
24	9,694,673	59	8,020,590	94	145,450
25	9,679,452	60	7,873,091	95	99,392
26	9,664,062	61	7,714,055	96	64,482
27	9,648,406	62	7,543,034	97	38,653
28	9,632,390	63	7,359,889	98	19,774
29	9,616,015	64	7,164,410	99	6,562
30	9,599,091	65	6,956,356	100	none
31	9,581,621	66	6,735,492		
32	9,563,512	67	6,501,501		
33	9,544,768	68	6,254,184		
34	9,525,297	69	5,993,510		

CHAPTER 20

INVESTMENTS

- 17B:20-1 Investments of domestic insurers.
- 17B:20-2 Limitation of investments.
- 17B:20-3 Incidental acquisition of corporate stock or securities, construction of chapter.
- 17B:20-4 Stock of subsidiary corporations.
- 17B:20-5 Securities of foreign country or property therein.
- 17B:20-6 Reasonable and temporary additional restrictions.
- 17B:20-7 Safekeeping of securities.
- 17B:20-8 Valuation procedures and practices.

17B:20-1 Investments of domestic insurers.

Any domestic insurer may invest its capital, surplus and other funds, or any part thereof, in:

a. Bonds, notes, or other evidences of indebtedness or public stock issued, created, insured or guaranteed by the United States, any territory or possession thereof, this or any other State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Canada, or any of the provinces thereof, or any instrumentality, agency or political subdivision of one or more of the foregoing.

b. Real estate which may be improved or which is unimproved but acquired in accordance with a definite plan for development within not more than 5 years, and in the operation, improvement, development and leasing thereof; provided, that if the commissioner shall determine that the interest of such insurer's policyholders requires that any specific real estate so acquired be disposed of, then such insurer shall dispose of such real estate within such reasonable time as the commissioner shall direct; and provided further, that the sum of (1) the aggregate amount invested in such real estate (including real estate held pursuant to section 17B:18-45 of this Title) and (2) the aggregate amount invested in capital stock of any corporation engaged primarily in a business involving the owning, developing, operating or leasing of real property shall not exceed 8% of the total admitted assets of such insurer as of December 31 next preceding. The term "real estate" as used in this subsection b. shall include any real property and

any interest therein including, without limitation, any interest on, above or below the surface of the land, any leasehold estate therein, and any interest held or to be held by the insurer in cotenancy with one or more other institutions. Income produced by investment in any such leasehold shall be applied in a manner calculated to amortize the amount invested in such leasehold within a period not exceeding $\frac{8}{10}$ of the unexpired term of the leasehold, inclusive of enforceable options, or within 40 years, whichever is the lesser, or where the peculiar nature of the leasehold involved so dictates, within such period and subject to such other reasonable limitations as the commissioner shall by regulation impose. The commissioner shall promulgate a regulation in connection with investments under this subsection b. which shall, as far as practicable, be consistent with those regulations of the department which treat with securities supported by such interests in real estate.

c. Mortgage loans on unencumbered fee simple or leasehold real estate, which may consist of areas on, above or below the surface of the ground, or any interest therein, located within the United States, any territory or possession thereof, the Commonwealth of Puerto Rico or Canada. The amount of any such loan shall not exceed 80% of the value of the real estate interest mortgaged unless (1) the loan is also secured by the mortgagor's interest in a lease or leases whose aggregate rentals shall be sufficient, after payment of operating expenses and fixed charges, to repay 90% of the loan with interest thereon during the initial term or terms of such lease or leases and shall be payable directly or indirectly by any governmental units, instrumentalities, agencies or political subdivisions or an institution or institutions which meet the credit standards of the insurer for an unsecured loan to such institution or institutions or (2) the excess over such 80% is insured or guaranteed or to be insured or guaranteed by the United States, any territory or possession thereof, this or any other State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Canada or any of the provinces thereof, or any instrumentality, agency or political subdivision of one or more of the foregoing. Any mortgage loan so insured or guaranteed or to be insured or guaranteed shall not be subject to the provisions of any law of this State prescribing or limiting the interest which may be charged or taken upon any such loan.

Any such insurer may hold a participation in any such mortgage loan if (1) such participation is senior and gives the holder substantially the rights of a first mortgagee or (2) the interest of such

insurer in the evidence or evidences of indebtedness is of equal priority, to the extent of such interest, with other interests therein.

Any such mortgage loan whose maturity date shall be more than 2 years after the date of disbursement of such loan, and which exceeds $\frac{2}{3}$ of the value of the interest mortgaged as of the date of the mortgage shall, as a minimum, provide for payments to be made by the borrower during the term of the loan to amortize the amount by which the loan exceeds $\frac{2}{3}$ of the value of the interest mortgaged at the date of disbursement. The commissioner may promulgate such supplemental regulations as he deems necessary with regard to particular classes of such investments, taking into consideration the type of security and the ratio of the loan to the value of the real estate interest mortgaged. No loan may be made on leasehold real estate unless the terms of such loan provide for payments to be made by the borrower on the principal thereof in amounts sufficient to completely repay the loan within a period not exceeding $\frac{1}{10}$ of the term of the leasehold, inclusive of the term or terms which may be provided by any enforceable option or options of extension or of renewal, which is unexpired at the time the loan is made.

Fee simple or leasehold real estate or any interest therein shall not be deemed to be encumbered within the meaning of this subsection c. by reason of the existence of taxes or assessments that are not delinquent, or encumbrances that do not adversely affect the saleability of the property to a material extent or as to which the insurer is insured against loss by a title insurer, or any prior mortgage or mortgages held by such insurer if the aggregate of the mortgages held shall not exceed the amount hereinbefore set forth, nor when such real estate or interest therein is subject to lease in whole or in part; provided, that the security created by the mortgage on such real estate or interest therein is a first lien thereon.

No such insurer shall, pursuant to this subsection c. invest more than 2% of its total admitted assets as of December 31 next preceding in any mortgage loan secured by any one property, nor shall its total mortgage investments pursuant to this subsection c., exclusive of any mortgage loans insured or guaranteed or to be insured or guaranteed as hereinbefore provided, exceed 50% of such admitted assets.

d. Equipment trust obligations or other instruments evidencing an interest in or ownership of personal property where there is a right to receive determined portions of rental, purchase or other

fixed obligatory payments for the use or purchase of such personal property, provided, that the aggregate investments therein shall not exceed 10% of the total admitted assets of such insurer as of December 31 next preceding; or certificates of receivers of any institution where such purchase is necessary to protect an investment in the securities of such institution theretofore made under authority of this chapter; or the capital stock, bonds, securities or evidences of indebtedness issued, assumed or guaranteed by any institution created or existing under the laws of the United States, any territory or possession thereof, this or any other State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Canada or any of the provinces thereof; provided, that no purchase of any evidence of indebtedness which is in default as to interest shall be made by such insurer unless such purchase is necessary to protect an investment theretofore made under statutory authority.

The term "institution" as used in this chapter shall include any corporation, joint stock association, business trust, business joint venture, or business partnership.

No purchase shall be made of the stock of any class of any corporation except a corporation engaged primarily in a business involving the owning, developing, operating or leasing of real property unless (1) such corporation has paid cash dividends on such class of stock during each of the past 5 years preceding the time of purchase or (2) such corporation shall have earned during the period of such 5 years an aggregate sum available for dividends upon such stock which would have been sufficient, after all fixed charges and obligations, to pay dividends upon all shares of such class of stock outstanding during such period an average of 4% per annum computed upon the par value (or in the case of stock having no par value, upon the stated capital in respect thereof) of such stock. In the case of the stock of a corporation resulting from or formed by merger, consolidation, acquisition or otherwise less than 5 years prior to such purchase, each consecutive year next preceding the effective date of such merger, consolidation or acquisition during which dividends or other distributions of profits shall have been paid by any one or more of its constituent or predecessor institutions in an aggregate amount sufficient to have paid dividends on that class of stock of the existing corporation whose stock is to be purchased, had such corporation then been in existence, shall be deemed a year during which dividends have been paid on such class of stock and the earnings of such constituent

or predecessor institutions available for dividends during each of such years may be included as earnings of the existing corporation whose stock is to be purchased for each of such years; provided, however, that nothing herein contained shall prohibit the purchase of stock of any class which is preferred, as to dividends, over any class the purchase of which is not prohibited by this section; and provided further, that no purchase of its own stock shall be made by any insurer except for the purpose of the retirement of such stock or except as specifically permitted by any law of this State applicable by its terms only to insurers.

e. Securities, properties and other investments in foreign countries other than those specified in section 17B:20-5 which are substantially of the same character as prescribed for authorized investments for funds of the insurer under the preceding subsections of this section, to an amount valued at cost not exceeding in the aggregate at any one time 2% of the total admitted assets of such insurer as of December 31 next preceding; provided, however, that the amount invested in authorized investments in any one foreign country shall not exceed in the aggregate, at any one time, 1% of such admitted assets. For the purposes of this subsection e., Canada shall not be deemed to be a foreign country.

f. Bonds, notes, or other evidences of indebtedness, issued, insured or guaranteed or to be insured or guaranteed by the International Bank for Reconstruction and Development, or by the Inter-American Development Bank, or by the Asian Development Bank.

g. Loans or investments which are not qualified or permitted under any of the preceding subsections of this section or which are not otherwise expressly authorized by law; provided, that the aggregate amount of such loans and investments, valued at cost, shall not exceed at any one time 3% of the total admitted assets of such insurer as of December 31 next preceding.

For the purposes of subsection c. and this subsection g., the portion of a mortgage loan on unencumbered fee simple or leasehold real estate which does not exceed 80% of the value of the real estate interest mortgaged shall be deemed to be a permitted investment under subsection c. and the remainder of said loan may be deemed to be made under this subsection g. Any investment originally made under this subsection g. which would subsequently, if it were then being made, qualify as a permitted investment under another subsection of this section shall thenceforth be deemed to be a permitted investment under such other subsection.

17B:20-2 Limitation of investments.

No domestic insurer shall purchase more than 8% of any class of stock which entitles the holder thereof to vote at all elections of directors of any one corporation, unless it be: a municipal corporation; a corporation engaged primarily in a business involving the owning, developing, operating or leasing of real property; or an investment company within the meaning of the Investment Company Act of 1940 for which such insurer or its subsidiary is the investment manager or investment adviser, provided, that such investment company shall not own, control or hold in its portfolio any investment which, if added to the other investments of such insurer, would result in such insurer holding more than 8% of any class of stock which entitles the holder thereof to vote at all elections of directors of any one corporation. No such insurer shall hold more than 8% of any such class of stock of any investment company pursuant to this section at any time when such insurer could not purchase such stock pursuant to the foregoing provisions of this section. Neither shall the amount invested by any such insurer in the voting stock of any one corporation exceed 2% of the total admitted assets of such insurer as of December 31 next preceding, nor shall the aggregate investment in the common stock of all corporations (exclusive of investments in the common stock of subsidiaries pursuant to section 17B:20-4) valued at cost exceed 15% of such assets except that to the extent that such aggregate investment in stock exceeds 10% of such assets, further investments shall be subject to regulation by the commissioner under a formula which shall take into consideration the actual mandatory securities valuation reserve, as defined by the Subcommittee on Valuation of Securities of the National Association of Insurance Commissioners, held by a company which is applicable to such stocks in the corresponding annual statement filed with the department, nor shall the amount invested in the evidences of indebtedness, preferred stock and certificates of receivers of any one institution exceed 5% of such assets. Nothing herein contained shall prevent any such insurer from purchasing, investing in or otherwise acquiring the voting stock of certain corporations as hereinafter provided in sections 17B:20-3 and 17B:20-4.

No investment shall be made by any such insurer unless the same shall be authorized by the board of directors, or by a committee thereof charged with the duty of supervising such investment, or shall be made in conformity with standards approved by such directors or such committee.

No such insurer shall enter into any agreement to withhold from sale any of its property or jointly or severally enter into any agreement to purchase the unsold amount of securities which are the subject of an offering for sale to the public or otherwise to guarantee the sale of such securities.

Nothing contained in this section shall prevent any such insurer from distributing shares of an investment company within the meaning of the Investment Company Act of 1940 for which such insurer or its subsidiary is the investment manager or investment adviser.

Any insurer may enter into an agreement to acquire any investment permitted by law, directly with the issuer or owner thereof, and may participate with other investors provided that the obligations of such insurer and such other investors shall be several and not joint.

The term "Investment Company Act of 1940" as used in this section shall mean an act of Congress approved August 22, 1940 entitled "Investment Company Act of 1940" as amended from time to time, or any similar statute enacted in substitution therefor.

17B:20-3 Incidental acquisition of corporate stock or securities, construction of chapter.

Nothing contained in this chapter shall be construed to prohibit an insurer from accepting or acquiring corporate stock or evidences of indebtedness or other securities or property:

- a. pursuant to a plan of reorganization approved or made effective by order of a court having jurisdiction over the property of a debtor;
- b. pursuant to a voluntary plan or agreement of reorganization;
- c. as payment on account of an existing indebtedness;
- d. as realization of collateral for a loan in default;
- e. received in connection with an investment by the insurer otherwise allowable as an investment by this chapter; or
- f. through the exercise of rights of conversion, warrants or rights to purchase stock, or pre-emptive rights to subscribe to stock, contained in or attached to a previously existing investment of such insurer.

If any such stock, securities or property so received shall be of a kind or in an amount not otherwise allowable as an investment by this chapter, they shall be disposed of within 5 years from the time of their acquisition, unless the commissioner shall, for good

cause shown, allow further time for the disposal thereof and then within the time so allowed.

17B:20-4 Stock of subsidiary corporations.

In addition to the authority expressly contained in this chapter and notwithstanding any limitation contained in this Title, any domestic insurer may invest in the voting stock of one or more subsidiaries, as provided in this section.

a. As used in this section the following terms shall have the following meanings: (1) "voting stock" as used with reference to any corporation means shares of stock of any class which entitles the holder thereof to vote at all elections of directors of the corporation, and shall include voting trust certificates, certificates of deposit, interim receipts and other similar instruments representing such stock and (2) "subsidiary" means a corporation of which a majority of the voting stock is owned or controlled by a domestic insurer, or by one or more subsidiaries of such insurer or by such insurer and one or more subsidiaries of such insurer. In the case of a corporation that has more than one class of voting stock, the term "majority of the voting stock" means the number of shares of voting stock required to elect a majority of directors of such corporation.

b. The business of a subsidiary, whether or not it is organized under the laws of this State, shall be limited to that authorized for a corporation organized under any law of this State, except that "subsidiary" shall not include any bank organized pursuant to the laws of this State and shall not include any national bank maintaining its principal office in this State.

c. No investment in the voting stock of any subsidiary shall be retained by a domestic insurer or by any of its subsidiaries unless at least a majority of the voting stock of such subsidiary is owned or controlled by such insurer or by one or more subsidiaries of such insurer or by such insurer and one or more subsidiaries of such insurer.

d. The investments of such subsidiary, whether or not it is itself an insurance company, when added, on a basis proportional to the insurer's interest in such subsidiary, to the investments of such insurer (referred to herein as the "controlling insurer") shall not cause the investments of the controlling insurer to exceed any of the limitations applicable to domestic insurers contained in this chapter. Notwithstanding the foregoing limitations of this sub-

section d., any such subsidiary shall be permitted to invest in the voting stock of one or more other corporations if:

(1) after such investment, such subsidiary, the controlling insurer and all other subsidiaries of the controlling insurer shall own at least a majority of the voting stock of such other corporation and such other corporation would, within the meaning of this section, constitute a permitted subsidiary of the controlling insurer, or

(2) the proportion of such investment attributable to the controlling insurer pursuant to this subsection d. could then have been made in the same manner by the controlling insurer under any other provision of this chapter.

e. The investment in such subsidiary shall not tend substantially to lessen competition or tend to create a monopoly.

f. Such subsidiary shall not be used directly or indirectly to promote the private interests of any officer or director of such insurer except that compensation may be paid by any subsidiary to officers and directors of such insurer for services rendered when such compensation is authorized by the board of directors of such subsidiary and approved by the board of directors of such insurer.

g. The aggregate amount invested by the controlling insurer in the voting stock of all subsidiaries pursuant to this section together with the aggregate amount of all other investments of the controlling insurer in such subsidiaries, valued at cost, shall not exceed 5%, or with the approval of the commissioner 10%, of the total admitted assets of such insurer as of December 31 next preceding.

h. No investment in voting stock of any subsidiary shall be made by such insurer or any subsidiary thereof pursuant to this section unless a notice of intention to make such proposed investment is filed with the commissioner not less than 60 days, or such shorter period as may be permitted by the commissioner, in advance of such proposed investment, nor shall any such investment be made if the commissioner at any time prior thereto finds that the proposed investment does not meet the requirements of this section or determines, in his sole discretion, that such proposed investment would be contrary to the best interests of policyholders or the public; provided, that after an investment in voting stock has been made pursuant to this section, no notice of intention to make further investments in the voting stock or other securities of the same subsidiary shall be required, and such further investments may be made subject to the limitations contained in subsection d. and subsection g. of this section. The commissioner shall have

the power to conduct periodic examinations and require reports in connection with the operation of subsidiaries and, if he shall determine either that the interests of policyholders or the public so requires or that the investments of any subsidiary do not comply with the requirements of this section, to order that a domestic insurer or any subsidiary thereof dispose of its investment in any subsidiary or that any subsidiary dispose of any noncomplying investments, in each case within a reasonable period of time.

17B:20-5 Securities of foreign country or property therein.

Any domestic insurer lawfully doing business in any foreign country other than Canada, may also invest its funds, to an amount not exceeding 110% of the reserves for its outstanding policies of insurance issued or delivered in such foreign country, in securities issued by any governing body or agency or any institution of such foreign country or in the obligations secured upon property therein, otherwise of the same character as that prescribed for authorized investments for the funds of the insurer under the laws of this State.

17B:20-6 Reasonable and temporary additional restrictions.

Notwithstanding any of the provisions of this chapter, if it shall appear to the commissioner that by reason of investment conditions generally or the financial condition or investment portfolio content of any particular insurer or insurers (giving due regard to policyholders' protection afforded by its capital, surplus and reserves), the safety of the public or policyholders so warrants, he may, upon written notice, impose reasonable and temporary additional restrictions upon the type, class or permissible extent of investments which may be made by any domestic insurer or insurers subject to this chapter. Any insurer or insurers affected shall be entitled, upon application, to a departmental hearing for the purpose of determining whether such restriction should be modified or withdrawn.

17B:20-7 Safekeeping of securities.

All securities of domestic insurers, except:

- a. mortgages and evidences of indebtedness secured thereby which are held for safekeeping in one or more offices operated by and under the direct control of an officer of such a company;
 - b. stock and other securities representing stock or convertible into stock, and options, warrants or rights to acquire stock; and
 - c. debt securities with a maturity of less than 1 year;
- shall be held for safekeeping within the geographical limits of

this State; provided, that any such company may make and maintain such deposits of securities with public officials of other States, the District of Columbia, the United States, any territory or possession thereof, the Commonwealth of Puerto Rico, and foreign countries to such extent as may be required by the laws of such jurisdictions as a condition for authority to transact business therein. This section shall not prohibit the deposit of such securities under transactions as provided in section 17B:20-3 or the transmission of such securities outside the State for the purpose of securing or recording title to such securities or to property, or for the purpose of the sale, exchange or alteration of the provisions of such securities, or for the collection of any payment due thereon, nor shall this section prohibit the deposit of such securities as collateral for loans or as security for the performance of contracts or the holding of such securities in the names of nominees designated by the board of directors of such insurer.

17B:20-8 Valuation procedures and practices.

The commissioner shall promulgate a regulation or regulations which shall establish valuation procedures and practices with respect to securities held by insurers authorized to do business in this State which shall, as far as practicable and unless the commissioner shall make a determination to the contrary or unless otherwise provided by statute, be those adopted by the Subcommittee on Valuation of Securities of the National Association of Insurance Commissioners.

CHAPTER 21

REPORTS AND EXAMINATIONS

- 17B:21-1 Annual report; forms.
- 17B:21-2 Penalty for not filing annual statement; penalty for other violations.
- 17B:21-3 Examination; payment of expenses.
- 17B:21-4 Insurer to facilitate examination.
- 17B:21-5 Internal audits; filing certified copy of report of findings and recommendations with commissioner.
- 17B:21-6 Delivery of copy of report of findings and recommendations to directors of insurer.
- 17B:21-7 Fees.

17B:21-1 Annual report; forms.

a. Every insurer transacting business in this State shall annually, on or before March 1, file with the commissioner a statement subscribed and sworn to by its president or the chairman of the board if he is the chief executive officer and secretary, or, in their absence, by 2 of its officers and by a qualified actuary, showing the financial condition at the close of business on December 31 of the year last preceding, and its business for that year. The statement shall be in the form and contain the matters the commissioner prescribes.

b. The commissioner may also address any inquiries to the insurer or its officers in relation to its condition or affairs, or any matter connected with its transactions, and the officers of the insurer shall promptly reply in writing to all such inquiries. The commissioner may, for good cause, extend the time within which the statement or any part thereof may be filed. The annual statement of an alien insurer shall embrace only its business and condition in the United States, and shall be subscribed and sworn to by its resident manager or principal representative in charge of its United States business.

c. If an insurer authorized to do business in this State makes a request in writing no more than 60 days prior to December 1, the commissioner shall annually, in the month of December, furnish to such insurer one or more blanks which shall conform substantially to the form of statement adopted by the National Association of Insurance Commissioners and in use at the time furnished.

d. Insurers issuing both participating and nonparticipating policies shall make such separate statement of profits and losses, margins and expenses, with reference to each of such kinds of business, and showing the manner in which any general outlays of the insurer have been apportioned to each of such kinds of business, as may be required by the commissioner.

e. The commissioner shall have power to make from time to time such modifications and additions in such form and the matters contained therein as he may deem desirable or necessary to ascertain the condition and affairs of the insurer.

17B:21-2 Penalty for not filing annual statement; penalty for other violations.

Any insurer neglecting to make and file its annual statement in the form and within the time provided by section 17B:21-1 of this Code shall forfeit \$100.00 for each day's neglect, and, in addition thereto, pursuant to the provisions of the Administrative Procedure Act (P. L. 1968, c. 410) and any rules adopted thereunder,

the commissioner may revoke or suspend its authority to do business in this State.

The penalty for each violation of this chapter, other than the failure of a company to file an annual statement, shall be a penalty not exceeding \$1,000.00 for the first offense and not exceeding \$2,000.00 for each succeeding offense.

Said penalties shall be enforced and collected by the commissioner in the name of the State in a summary proceeding in accordance with the Penalty Enforcement Law (N. J. S. 2A:58-1 et seq.). A warrant may issue in lieu of a summons.

17B:21-3 Examination; payment of expenses.

a. The commissioner may, whenever he deems it expedient, make or cause to be made, an examination of the assets and liabilities, method of conducting business and all other affairs of any insurer authorized to transact business in this State, and shall make such an examination of every insurer of this State at least once in 5 years. For the purpose of the examination the commissioner may authorize and employ such person or persons to conduct the same or to assist therein as he deems advisable. The examination may be conducted in any State or country in which the insurer examined is incorporated or has an office, agent or place of business. Examination of an alien insurer shall be limited to its insurance transactions, assets, trust deposits and affairs in the United States except as otherwise required by the commissioner.

b. The reasonable expenses of the examination shall be fixed and determined by the commissioner, and he shall collect them from the insurer examined, which shall pay them on presentation of a detailed account of the expenses.

17B:21-4 Insurer to facilitate examination.

The officers, agents and employees of the insurer shall exhibit all its books, records and accounts for the purpose of the examination, and otherwise facilitate the same so far as they can. The commissioner, his deputy, assistants and employees may, for that purpose, examine, under oath, the officers, agents and employees of the insurer relative to its business and affairs.

17B:21-5 Internal audits; filing certified copy of report of findings and recommendations with commissioner.

Every insurer incorporated under the laws of this State shall cause to be made internal audits at such frequency and in such form as shall be determined by the commissioner to be necessary. Certified copies of the report of the findings of such audits and recom-

mendations, if any, shall be filed forthwith with the commissioner and shall be deemed to be confidential.

17B:21-6 Delivery of copy of report of findings and recommendations to directors of insurer.

A copy of such report of the finding of such audits and recommendations, if any, shall be given to every director of such insurer, and the secretary of the insurer shall certify to the commissioner that such copies have been so delivered.

17B:21-7 Fees.

a. On filing any certificate, executed by an insurer of this State, in the department, there shall be paid to the commissioner, for the use of the State, fees as follows:

(1) Certificate of incorporation, for each thousand dollars (\$1,000.00) of the total amount of the capital stock authorized, but in no case less than twenty-five dollars (\$25.00), twenty cents (\$0.20).

(2) Increase of capital stock, for each thousand dollars (\$1,000.00) of the total increase authorized, but in no case less than twenty dollars (\$20.00), twenty cents (\$0.20).

(3) Consolidation and merger of insurers, \$20.00.

(4) Extension of corporate existence, the same as required by this section for the original certificate of incorporation.

(5) Dissolution of insurer, change of name, change of nature of business, or for amended certificates of incorporation (other than those authorizing increase of capital stock), decrease of capital stock, increase or decrease of par value of shares, \$20.00.

(6) In all cases where several amendments are contained in one certificate, for each amendment, \$20.00.

(7) All certificates not hereby provided for, \$5.00.

b. The commissioner shall also charge and collect for his services under this subtitle, in addition to any other fees and charges due and payable into the State treasury for any of his official acts or services, and pay into the State treasury the following fees:

(1) Filing the certified copy of the charter, deed of settlement or certificate of organization of an insurer of another State or foreign country, \$20.00.

(2) Filing the statement of any such insurer on admission, \$20.00.

(3) Filing each annual statement of each insurer, \$20.00.

(4) Each certificate of authority to an agent of an insurer, \$5.00.

(5) Computing the value of policies of insurers, \$0.30 per \$1,000.00 of value so computed for the first \$1,000,000.00 of the

value, \$0.10 per thousand for the next \$9,000,000.00, \$0.05 per thousand for the next \$240,000,000.00, \$0.02 per thousand for the next \$250,000,000.00 and \$0.01 per thousand for that part of the value so computed in excess of \$500,000,000.00, except that, until the time the fee so computed exceeds the fee paid for the 1930 valuation, the latter amount shall be paid instead.

(6) Each certificate of valuation of the policies, \$1.00.

(7) Each certificate of the condition or qualification of an insurer, \$1.00.

(8) Each service of lawful process upon the commissioner as attorney, \$10.00.

(9) Each copy of any paper filed in the department, for each sheet or folio of 100 words, \$0.20.

(10) Certifying the same, \$1.00.

(11) For services in connection with deposits of securities by domestic insurers, the depositing insurer shall pay to the commissioner an annual fee of \$15.00 on January 1 of each year and on each substitution of securities and clipping and forwarding of interest coupon an additional fee of \$25.00.

CHAPTER 22

INSURANCE REPRESENTATIVES

17B:22-1 Agent defined.

17B:22-2 Broker defined.

17B:22-3 Nonresident agent defined.

17B:22-4 Nonresident broker defined.

17B:22-5 Solicitor defined.

17B:22-6 One who solicits considered company's agent.

17B:22-7 Exemptions from chapter.

17B:22-8 Licenses required of agents, brokers, solicitors; agents to be licensed for each insurer represented.

17B:22-9 Application for agent's, broker's or solicitor's license; contents.

17B:22-10 Agents: Qualifications for license; examinations; fees.

17B:22-11 Agents: Written examination required to determine competency.

17B:22-12 Agents: When examination not required.

17B:22-13 Agents: Scope, type, conduct of examinations, examinations to be held at least twice in each month.

- 17B:22-14 Nonresident agents: Qualifications for license.
- 17B:22-15 Nonresident agents: Times of examination; examination may be taken in State of residence; conditions.
- 17B:22-16 Nonresident agents: Commissioner may accept reciprocal certificate in lieu of examination.
- 17B:22-17 Brokers: Qualifications; examinations; fees.
- 17B:22-18 Nonresident brokers: Qualifications for license.
- 17B:22-19 Nonresident brokers: Times of examination; examination may be taken in State of residence; conditions.
- 17B:22-20 Nonresident brokers: Commissioner may accept reciprocal certificate in lieu of examination.
- 17B:22-21 Solicitors: Qualifications; examinations, license fees.
- 17B:22-22 Licensing of partnerships, corporations.
- 17B:22-23 Fees: License and examination fees.
- 17B:22-24 Nonresident agents and nonresident brokers—Service of process.
- 17B:22-25 Continuation of license—expiration of license—termination of agency contract: Notice to commissioner—cancellation of license.
- 17B:22-26 Temporary license.
- 17B:22-27 Grounds for suspension, revocation, refusal to issue, renew licenses; imposition of fines by commissioner.
- 17B:22-28 Limitations on issuance of license after revocation.
- 17B:22-29 Payment of commissions.
- 17B:22-30 Surrender of license.
- 17B:22-31 Penalties.
- 17B:22-32 Acting for unauthorized insurers prohibited.
- 17B:22-33 Violation; misdemeanor; penalties.
- 17B:22-34 Residents of Canada.
- 17B:22-35 Pre-emption.

17B:22-1 Agent defined.

For the purpose of this chapter “agent” means:

- a. Any individual, a resident of this State or whose office for the conduct of his insurance business is in this State;
- b. A partnership or corporation domiciled in this State, or having its office for the conduct of its insurance business in this State; who or which solicits or negotiates in this State, on behalf of any authorized insurer, contracts for life insurance, health insurance or annuity.

17B:22-2 Broker defined.

For the purpose of this chapter “broker” is hereby defined to be an individual, partnership, or corporation resident of or domiciled,

or having its office for the conduct of its insurance business, in this State, who or which, for a commission or a brokerage consideration, shall act or aid in any manner in soliciting or negotiating any life insurance, health insurance or annuity contract as an agent for an insured or prospective insured, other than himself. No individual may be licensed as a broker unless he is at least 21 years of age.

17B:22-3 Nonresident agent defined.

“Nonresident agent” means any individual, partnership or corporation, who or which solicits or negotiates in this State, on behalf of any authorized insurer, contracts for life insurance, health insurance or annuity, and residing in or domiciled in and having its principal office for the conduct of its insurance business in any State other than New Jersey.

17B:22-4 Nonresident broker defined.

“Nonresident broker” means any individual, partnership or corporation, who or which, for a commission or a brokerage consideration, shall act or aid in any manner in soliciting or negotiating any life insurance, health insurance or annuity contract as an agent for an insured or prospective insured, other than himself, and residing in or domiciled in and having its principal office for the conduct of its insurance business in any State other than New Jersey. No individual may be licensed as a broker unless he is at least 21 years of age.

17B:22-5 Solicitor defined.

For the purpose of this chapter “solicitor” means any individual who acts in any manner in the solicitation or negotiation, in the name of or for the account of any licensed agent or broker, of contracts for life insurance, health insurance or annuity. A solicitor may not act for more than one licensed agent or broker nor may he hold any other license provided for under the provisions of this chapter.

17B:22-6 One who solicits considered company’s agent.

Any person who solicits an application for life insurance, health insurance or annuity, shall, in any controversy relating thereto between the insured or his beneficiary and the company issuing any contract upon the application, be regarded as the agent of the company, and not as the agent of the insured.

17B:22-7 Exemptions from chapter.

This chapter shall not apply to the following:

- a. Salaried officers or employees of any insurer who do not receive any part of the commission or brokerage consideration paid on business which they may solicit or negotiate.

b. Agents of any insurer for collecting premiums and servicing policies on a debit who do not solicit or negotiate applications for life insurance, health insurance or annuity contracts.

c. Persons who secure and forward information for the purposes of group insurance coverages or group annuities or for enrolling individuals under group insurance coverages or group annuities or issuing certificates thereunder, where no commission or brokerage consideration is paid for such services.

17B:22-8 Licenses required of agents, brokers, solicitors; agents to be licensed for each insurer represented.

a. No individual, partnership or corporation or other entity shall act as an agent, nonresident agent, broker, nonresident broker or solicitor without first procuring a license so to act from the commissioner.

b. An agent or nonresident agent shall be licensed for each insurer represented by him.

17B:22-9 Application for agent's, broker's or solicitor's license; contents.

a. An application for an agent's, broker's or solicitor's license shall be filed in the office of the commissioner in writing.

b. The application shall be verified by the applicant and shall, unless otherwise prescribed by the commissioner, set forth:

(1) The name and address of the applicant; if the applicant is a partnership, the name and address of each member thereof who is actively engaged in the business of soliciting or negotiating policies or contracts of life insurance, health insurance or annuity; if the applicant is a corporation, the name and address of each of its officers who is actively engaged in the business of soliciting or negotiating policies or contracts of life insurance, health insurance or annuity, designated to act for the applicant.

(2) Whether the applicant has ever been convicted of a crime involving moral turpitude.

(3) The business in which the applicant has been engaged for the 5 years next preceding the date of application, and, if employed, the name and address of his employer.

(4) Whether the applicant has ever been denied, or had revoked, a license to engage in business as an insurance agent, broker or solicitor, or other profession or occupation licensed under the laws of any State.

(5) In what States the applicant is now or has been licensed as an insurance agent, broker or solicitor.

(6) The kinds of insurance business the applicant proposes to transact; namely, life insurance, health insurance or annuity or any combination thereof.

(7) Whether the applicant intends to transact the business of insurance with the general public.

(8) That the applicant is not seeking such license principally for the purpose of negotiating or writing life insurance, health insurance or annuity contracts covering himself, members of his family, members or employees of any organization of which the applicant is an officer, or officers or employees of a firm in which the applicant or his mother, father, sister, brother or wife or combination of such persons owns a controlling interest or for an employer that the applicant may be employed with.

c. The application shall include a certificate by a resident representative of an insurance company lawfully authorized to transact business in New Jersey, or by a licensed insurance agent or broker of New Jersey, certifying:

(1) That the applicant is a resident of New Jersey, or if a nonresident has his principal office for the conduct of his insurance business in New Jersey, or that he is an applicant for a nonresident agent's or broker's license;

(2) That the applicant is personally known to him;

(3) That the applicant has had experience or instruction in the business of life insurance, health insurance or annuity;

(4) That the applicant is of good reputation and is worthy of a license.

d. The commissioner may prescribe and furnish forms calling for such information as he deems proper in connection with the application for or renewal of licenses.

17B:22-10 Agents: Qualifications for license; examinations; fees.

The commissioner shall issue an agent's license to an applicant when he has satisfied himself, upon evidence presented and recorded, as to the integrity of the applicant and that the applicant has qualified in the following respects to hold a license:

a. That the application provided for by section 17B:22-9 has been filed with and approved by the commissioner.

b. That a qualified insurer has filed with the commissioner a certificate of its appointment of the applicant to act as its agent in this State and asking that he be licensed, the form of which certificate shall be prescribed by the commissioner.

c. That the fee provided for in section 17B:22-23 for such applicant has been paid.

d. That the applicant for a license shall have taken, and successfully completed, a program of studies established by regulation of the commissioner to the end that the applicant shall be reasonably familiar with the kinds of insurance he intends to solicit or negotiate.

The commissioner may waive the educational requirement set forth herein if the commissioner is satisfied that the applicant possesses sufficient knowledge of insurance in the following cases:

(1) In the case of an applicant who has previously been licensed, for the authority he is seeking, in New Jersey.

(2) In the case of an applicant who has previously been licensed, for the authority he is seeking, in another State.

e. That the applicant has completed to the satisfaction of the commissioner a written examination if required by law.

The license shall specify the kinds of insurance business the licensee is permitted to transact; namely, life insurance, health insurance or annuity or any combination thereof.

17B:22-11 Agents: Written examination required to determine competency.

Except as provided in section 17B:22-12, each applicant for a license to act as an agent within this State shall submit to a written examination to determine his competence with respect to the life insurance, health insurance or annuity business or combination thereof which he proposes to transact and his familiarity with the pertinent provisions of the laws of this State, and shall pass the same to the satisfaction of the commissioner.

17B:22-12 Agents: When examination not required.

No written examination shall be required of:

a. An applicant who is the holder of a valid agent's license issued by the commissioner or an applicant for a renewal license, except in a case where the commissioner has good and sufficient cause to believe that the applicant for renewal has demonstrated incompetency in the conduct of his business as an agent to the detriment of the insurance-buying public;

b. An applicant whose license to do business or act as an insurance agent for life insurance, health insurance or annuities in this State has expired less than 3 years prior to the date of application. If the applicant has permitted his license to lapse for a period of more than three years, he must submit to and pass an examination the same as a new applicant, except where the appli-

cant is a veteran who meets the requirements of subsection g. hereunder, when no re-examination shall be required;

c. An applicant who is a ticket-selling agent or other representative of a public carrier and who shall act under a restricted license only as an agent with respect to accident insurance ticket policies covering the risks of travel;

d. An applicant who shall act under a restricted license only as an agent with respect either to credit life or credit health insurance or to life or accident insurance covering the risks of travel, issued by means of mechanical vending machines supervised by him and located solely in terminal facilities of common carriers;

e. An applicant who holds an unexpired broker's license issued in accordance with the provisions of this chapter;

f. An applicant whose previous license has been revoked or suspended; provided this examination exemption is only at the discretion of the commissioner; or

g. An applicant who is a citizen of New Jersey and has served in the Armed Forces of the United States and has been honorably discharged or released under conditions other than dishonorable and was the holder at any time of an agent's license or a broker's license, in New Jersey, which authorized the applicant to transact the business of life insurance, health insurance or annuity.

h. An applicant who provides certification that he is a designated Chartered Life Underwriter.

17B:22-13 Agents: Scope, type, conduct of examinations, examinations to be held at least twice in each month.

a. The commissioner may establish rules and regulations with respect to:

- (1) The scope, type and conduct of written examinations.
- (2) The times and places within this State when they shall be held.

b. Examinations for agents' licenses shall be held at least twice in each month.

17B:22-14 Nonresident agents: Qualifications for license.

The commissioner may issue a nonresident agent's license upon the application of the company on behalf of a nonresident who is duly licensed under the law of the State of his residence or domicile to act as an agent for life insurance, health insurance or annuities, if said State does not prohibit residents of this State from acting as nonresident agents therein, when:

a. The applicant has shown by a statement from the proper official of the State in which he has his resident license that he is

authorized to do business as an agent in such State covering all the kinds of insurance for which the applicant is to be licensed under the New Jersey nonresident license.

b. The annual license fee as provided for in section 17B:22-23 has been paid.

c. The applicant has successfully passed a written examination given by the commissioner, except as provided in section 17B:22-16, showing his competence to be a nonresident agent within the State of New Jersey.

d. The applicant has no place of business in this State.

If the laws of another State require the sharing of commissions with resident agents of that State on applications for life insurance, health insurance or annuity written by nonresident agents, then the same provision shall apply when resident agents of that State, licensed as nonresident agents of New Jersey, write applications for life insurance, health insurance or annuity on residents of this State.

17B:22-15 Nonresident agents: Times of examination; examination may be taken in State of residence; conditions.

a. The examination as set forth in section 17B:22-14 shall be given, whenever practicable, within 1 month after the receipt of the application for license.

b. At any time after receipt of an application under section 17B:22-14, the commissioner may, in his discretion, forward the examination paper or papers to the insurance supervisory authority of the State in which the applicant has his resident license, for the purpose of having such official administer the taking of the examination by the applicant in accordance with the instructions of the commissioner. In such event, the examination paper or papers shall be returned to and be graded by the commissioner for the purpose of determining whether the applicant has passed.

17B:22-16 Nonresident agents: Commissioner may accept reciprocal certificate in lieu of examination.

The commissioner shall have the power to enter into written reciprocal agreements with the appropriate supervisory insurance official of any other State waiving the written examination of any applicant resident in such other State, provided:

a. A written examination is required of applicants for an agent's license to write life insurance, health insurance or annuities in such other State.

b. The appropriate supervisory insurance official of such other State certifies that the applicant holds a currently valid license as

an agent to write life insurance, health insurance or annuities in such other State, and either,

- (1) passed a written examination,
- (2) was the holder of an agent's license prior to the time a written examination was required, or,
- (3) was not required to take such examination by reason of provisions of the applicable agents' licensing law.

c. That in such other State, a resident of this State is privileged to procure such an agent's license upon the foregoing conditions and without discrimination as to fees or otherwise in favor of residents of such other State.

17B:22-17 Brokers: Qualifications; examinations; fees.

The commissioner shall issue a broker's license to an applicant when he has satisfied himself, upon evidence presented and recorded, as to the integrity of the applicant and that the applicant has qualified in the following respects to hold a license:

a. That the application provided for by section 17B:22-9 has been filed with and approved by the commissioner.

b. That the applicant has paid the license fee provided for under section 17B:22-23.

c. That the applicant for a license shall have taken, and successfully completed, a program of studies established by regulation of the commissioner to the end that the applicant shall be reasonably familiar with the kinds of insurance he intends to solicit or negotiate. The commissioner may waive the educational requirement set forth herein if the commissioner is satisfied that the applicant possesses sufficient knowledge of insurance in the following cases:

(1) In the case of an applicant who has previously been licensed, for the authority he is seeking, in New Jersey.

(2) In the case of an applicant who has previously been licensed, for the authority he is seeking, in another State.

d. That the applicant has taken and passed a written examination to determine his competence with respect to the life insurance, health insurance or annuity business and his familiarity with the pertinent provisions of the laws of this State. All the examination provisions of sections 17B:22-11 to 17B:22-13, inclusive, are likewise applicable to examinations of applicants for brokers' licenses.

The license shall specify the kinds of insurance business the licensee is permitted to transact; namely, life insurance, health insurance or annuity or any combination thereof.

17B:22-18 Nonresident brokers: Qualifications for license.

The commissioner may issue a nonresident broker's license in this State upon the application of a nonresident who is duly licensed under the law of the State of his residence or domicile to act as a broker for life insurance, health insurance or annuities, if said State does not prohibit residents of this State from acting as nonresident brokers therein, when:

a. The applicant has shown by a statement from the proper official of the State in which he has his resident license that he is authorized to do business as an insurance agent or broker in such State covering all the kinds of insurance for which the applicant is to be licensed under the New Jersey nonresident license.

b. The applicant has paid the annual license fee as provided for in section 17B:22-23.

c. The applicant has successfully passed a written examination given by the commissioner, except as provided in section 17B:22-20, showing his competence to be a nonresident broker within the State of New Jersey.

d. The applicant has no place of business in this State.

If the laws of another State require the sharing of commissions with resident agents or brokers of that State on applications for life insurance, health insurance or annuity written by nonresident brokers, then the same provisions shall apply when resident brokers of that State, licensed as nonresident brokers of New Jersey, write applications for life insurance, health insurance or annuity on residents of this State.

17B:22-19 Nonresident brokers: Times of examination; examination may be taken in State of residence; conditions.

a. The examination as set forth in section 17B:22-18 shall be given, whenever practicable, within 1 month after the receipt of the application for license.

b. At any time after receipt of an application under section 17B:22-18 the commissioner may, in his discretion, forward the examination paper or papers to the insurance supervisory authority of the State in which the applicant has his resident license, for the purpose of having such official administer the taking of the examination by the applicant in accordance with the instructions of the commissioner. In such event, the examination paper or papers shall be returned to and be graded by the commissioner for the purpose of determining whether the applicant has passed.

17B:22-20 Nonresident brokers: Commissioner may accept reciprocal certificate in lieu of examination.

The commissioner shall have the power to enter into written reciprocal agreements with the appropriate supervisory insurance

official of any other State waiving the written examination of any applicant resident in such other State, provided:

a. A written examination is required of applicants for a broker's license to write life insurance, health insurance or annuities in such other State.

b. The appropriate supervisory insurance official of such other State certifies that the applicant holds a currently valid license as a broker to write life insurance, health insurance or annuities in such other State, and either,

(1) passed a written examination,

(2) was the holder of a broker's license prior to the time a written examination was required, or

(3) was not required to take such examination by reason of provisions of the applicable broker's licensing law.

c. That in such other State, a resident of this State is privileged to procure such a broker's license upon the foregoing conditions and without discrimination as to fees or otherwise in favor of residents of such other State.

17B:22-21 Solicitors: Qualifications; examinations, license fees.

The commissioner shall issue a solicitor's license:

a. Only to an individual upon requisition, accompanied by the fee as provided for in section 17B:22-23, made by his employer, who or which shall be a licensed agent or broker, and then only when such employer certifies that the solicitor is his bona fide employee and is competent and fully qualified; and

b. That the applicant for a license shall have taken, and successfully completed, a program of studies established by regulation of the commissioner to the end that the applicant shall be reasonably familiar with the kinds of insurance he intends to solicit or negotiate. The commissioner may waive the educational requirement set forth herein if the commissioner is satisfied that the applicant possesses sufficient knowledge of insurance in the following cases:

(1) In the case of an applicant who has previously been licensed, for the authority he is seeking, in New Jersey.

(2) In the case of an applicant who has previously been licensed, for the authority he is seeking, in another State.

c. Only after such applicant shall have passed to the satisfaction of the commissioner the written examination on life, health or annuity business or combination thereof that he proposes to transact, which examination shall be given at least once each month. All the examination provisions of N. J. S. 17B:22-11 to 17B:22-13,

inclusive, are likewise applicable to examinations of applicants for solicitor's licenses.

Any licensed solicitor shall solicit or negotiate insurance only in the name of or for the account of his employer and shall only be authorized to write the same kinds of insurance his employer is authorized to write.

17B:22-22 Licensing of partnerships, corporations.

a. The application for a license by, and the license issued to, a partnership shall name all members thereof who are actively engaged in soliciting or negotiating for contracts of life insurance, health insurance or annuity for the partnership, and no such license shall be issued unless and until the members named in the application as being so actively engaged hold individual licenses as provided in this chapter.

b. The application for a license by, and the license issued to, a corporation shall name all the officers thereof who are actively engaged in soliciting or negotiating for contracts of life insurance, health insurance or annuity for the corporation, and no such license shall be issued unless and until the persons named in the application as being so actively engaged hold individual licenses as provided in this chapter.

17B:22-23 Fees: License and examination fees.

a. The following license fees shall be paid to the commissioner at the time of the original application and at the time of the annual renewal thereof:

(1) Agent's license	\$5.00
(2) Broker's license	\$35.00
(3) Solicitor's license	\$35.00

b. The following examination fees shall be paid to the commissioner at the time of the original application for each examination scheduled unless the applicant be exempt hereunder:

(1) Agent's examination fee	\$10.00
(2) Broker's examination fee	\$15.00
(3) Solicitor's examination fee	\$15.00

The agent's examination fee shall be waived if the applicant shall concurrently take an examination for an agent's, broker's or solicitor's license under Title 17, chapter 22 and shall have paid the examination fee therefor.

c. The following temporary license fees shall be paid to the commissioner at the time of the application:

(1) Agent's temporary license fee	\$5.00
(2) Broker's temporary license fee	\$35.00

Notwithstanding anything in this section to the contrary, an applicant who having paid the above cited temporary license fee and who shall thereafter pass his examination and be properly licensed, such applicant shall not be required to pay any further license fee until the next ensuing annual license renewal date.

d. If the applicant fails to qualify for, or is refused, a license, the license fee shall be returned. The examination fee shall not be returned for any reason.

e. An examination fee shall be paid for each examination and re-examination permitted pursuant to this chapter. One examination fee shall entitle the applicant to take an examination for life insurance, health insurance or annuity or any combination thereof.

17B:22-24 Nonresident agents and nonresident brokers—Service of process.

a. Each licensed nonresident agent and nonresident broker shall by his receipt of a license be deemed thereby to have appointed the commissioner as his attorney to receive service of legal process issued against such nonresident agent or broker in this State in any causes of action or legal proceedings against him arising within this State out of transactions under the license. Service upon the commissioner as attorney shall constitute effective legal service upon the nonresident agent or broker.

b. This appointment shall be irrevocable for so long as there can be any cause of action against the nonresident agent or nonresident broker arising out of his insurance transactions in or with respect to this State.

c. Duplicate copies of such legal process against the nonresident agent or broker shall be served upon the commissioner. At the time of service, the commissioner shall be paid a service fee of \$10.00 taxable as costs in the action.

d. Upon receiving such service, the commissioner shall forthwith send one of the copies of the process by registered or certified mail, return receipt requested, to the defendant nonresident agent or broker at the last known address.

e. The commissioner shall keep a record of the day and hour of service upon him of all such legal process.

17B:22-25 Continuation of license—expiration of license—termination of agency contract: Notice to commissioner—cancellation of license.

a. Every license issued to an agent or nonresident agent shall continue in force until May 1 next after its issue and by renewal thereof before May 1 of each year, and every license issued to a broker, nonresident broker or solicitor shall continue in force until October 1 next after its issue and by renewal thereof before October 1 of each year, or until suspended or revoked by the commissioner

or, in case of an agent, nonresident agent or solicitor, until the appointment is terminated by the insurer, agent or broker, respectively.

b. In the absence of a contrary ruling by the commissioner, an agent's renewal license shall be issued from year to year subject to the payment of the renewal license fee as required in section 17B:22-23 upon request but without further action on the part of the insurer, or licensee under this chapter. A broker's or solicitor's renewal license shall only be issued after a renewal application therefor, as required by the commissioner, has been submitted by the individual licensee, along with the payment of the renewal license fee as required in section 17B:22-23, and has been approved by the commissioner.

c. An insurer shall upon the termination of the appointment of an agent, and any broker or agent shall upon the termination of the appointment of any solicitor, immediately file a written notice of termination with the commissioner together with a statement of facts relative to the termination of appointment and the date and cause thereof. Any statement to the commissioner pursuant to this section shall be deemed a privileged communication and this statement shall not be used in evidence in any court action or other proceeding. This does not preclude the insurance department from subpoenaing the insurers records and using these records in a court action or other proceeding.

17B:22-26 Temporary license.

a. The commissioner is authorized to promulgate regulations containing educational standards and such other qualifications that he may deem proper for temporary licenses. Such regulations may also contain provisions governing the conduct of the holder of any such temporary license. Such temporary license shall be valid for a period not in excess of 6 months and may be revoked at any time within said period by the commissioner for cause. After the promulgation of such regulations as the commissioner shall deem proper, he shall be empowered to issue a temporary license to any applicant who shall qualify for the same.

b. The commissioner may also issue a temporary license to act as agent or broker to an individual otherwise qualified therefor without regard to educational, experience or examination requirements in the following cases:

- (1) To the surviving spouse or next of kin or to the administrator or executor of a deceased agent or broker.

(2) To the spouse, next of kin, employee or legal guardian of an agent or broker who has become mentally or severely physically disabled.

(3) To a designee of a licensed agent or broker entering into active service of the Armed Forces of the United States of America.

Such temporary license shall continue only until the agent can qualify under the provisions of sections 17B:22-9 to 17B:22-13, inclusive, or the broker can qualify under the provisions of section 17B:22-17; and shall not exceed a period of 6 months, except at the discretion of the commissioner, when the temporary licensee is acting as an executor or administrator or otherwise endeavoring to settle or dispose of the estate.

c. An applicant for a temporary license shall file an application with the commissioner in such form and containing such information as the commissioner may reasonably require. No such license shall issue until payment of the applicable fee as prescribed in section 17B:22-23. Application for temporary license under subsection b. must be made within 3 months of the death, disability or entering into active service of the licensed agent or broker.

17B:22-27 Grounds for suspension, revocation, refusal to issue, renew licenses; imposition of fines by commissioner.

a. The commissioner may refuse to issue and may revoke, suspend or refuse to renew a license issued under this chapter if he finds after notice and an opportunity for a hearing in accordance with the Administrative Procedure Act (P. L. 1968, c. 410) and any rules adopted thereunder that the applicant for or holder of such license has:

(1) Willfully violated any provisions of the insurance laws of this State; or

(2) Intentionally withheld material information or made a material misstatement in the application to qualify for such license; or

(3) Obtained or attempted to obtain a license by fraud or misrepresentation; or

(4) Committed fraudulent practices; or

(5) Misappropriated or converted to his own use or is illegally withholding moneys belonging to insurers, policyholders or others and received in the conduct of his business; or

(6) Obtained or has used such license not for the purpose of holding himself out to the general public as an agent, broker, or solicitor, but primarily for the purpose of solicit-

ing or negotiating "controlled business," that is life insurance, health insurance or annuity contracts covering himself, members of his family, members or employees of any organization of which the holder is an officer, or officers or employees of a partnership or corporation in which the holder or his mother, father, sister, brother or wife or combination of such persons owns a controlling interest.

Such a license shall be deemed to have been used principally for the purpose of writing controlled business if the commissioner finds that during any 12 months' period the aggregate commissions or other compensation accruing or to accrue from such controlled business have exceeded or will exceed the aggregate commissions or other compensation accruing or to accrue on other business written or probably to be written by such applicant or licensee during the same period; or

(7) Materially misrepresented the terms and conditions of policies or contracts of insurance or annuity which he seeks to sell or has sold; or

(8) Paid all or part of his commission to a person who does not hold a license hereunder as compensation for services rendered in the solicitation or negotiation of life or health insurance or annuity contracts in this State or to a person who is not properly licensed as agent or broker under the laws of another State as compensation for services rendered in the solicitation or negotiation of life or health insurance or annuity contracts in that State; or

(9) Aided, abetted or assisted another person in violating any of the insurance laws of this State; or

(10) Been convicted of a crime involving moral turpitude; or

(11) Changed the address of his place of business without due notice to the commissioner, and the commissioner, after diligent effort, is unable to locate the licensee. The sending of a letter by certified mail, with return receipt requested, to the licensee's last known address shall be deemed to satisfy the requirements of this subsection; or

(12) Demonstrated unworthiness, lack of integrity, bad faith, dishonesty or incompetency to transact business as an

agent, nonresident agent, broker, nonresident broker or solicitor.

b. As an alternative to such suspension, revocation or refusal to renew, the commissioner may impose a fine of not more than \$1,000.00 for each separate offense which the licensee may elect to pay to the commissioner in lieu of such suspension, revocation or refusal to renew.

17B:22-28 Limitations on issuance of license after revocation.

No individual, partnership or corporation whose license is revoked shall be entitled to apply for a license under this chapter for a period of at least 1 year from the effective date of revocation; but the revocation of the license of a member of a partnership or an officer of a corporation, shall not affect the license status of the other licensees in a partnership or corporation.

17B:22-29 Payment of commissions.

a. An insurer may pay money or commission for or on account of the solicitation or negotiation in this State of contracts of life insurance, health insurance or annuity only to an agent, nonresident agent, broker or nonresident broker, duly licensed under this chapter, but this shall not prohibit the payment of regular salaries to salaried employees or compensation to supervising personnel.

b. An agent or broker may pay money or commission for or on account of the solicitation or negotiation in this State of contracts of life insurance, health insurance or annuity only to his duly licensed solicitor, and to a duly licensed agent or nonresident agent, or to a duly licensed broker or nonresident broker. A nonresident agent may pay money or commission for or on account of the solicitation or negotiation in this State of contracts of life insurance, health insurance or annuity only to a duly licensed agent or broker.

c. This section shall not prevent the payment or receipt of renewal or other deferred commissions to or by any person solely because such person has ceased to hold a license required under this chapter.

17B:22-30 Surrender of license.

a. All licenses, although issued and delivered to a licensee, shall at all times be the property of the State of New Jersey and upon any suspension, revocation, refusal to renew, expiration or other termination of the license, such license shall no longer be in force and effect. Under these circumstances the licensee or other person

having possession or custody of the license shall forthwith deliver it to the commissioner either by personal delivery or by mail.

b. If any license be lost, stolen or destroyed, the commissioner may accept in lieu of return of license the affidavit or affidavits of the licensee or other person or persons responsible for or involved in the safekeeping of such license, concerning the facts of such loss, theft or destruction.

17B:22-31 Penalties.

Any individual, partnership or corporation violating any of the provisions of this chapter, for which violation no other penalty is provided in this chapter, shall be liable to a penalty not exceeding \$1,000.00 for the first offense and not exceeding \$2,000.00 for each succeeding offense, to be recovered in a summary proceeding in accordance with the Penalty Enforcement Law (N. J. S. 2A:58-1 et seq.).

17B:22-32 Acting for unauthorized insurers prohibited.

No person shall within this State solicit or negotiate contracts of life insurance, health insurance or annuity, or deliver contracts for, or in any manner secure, help, or aid in the placing of any such contracts for any person other than himself, directly or indirectly, with an insurer not authorized to do business in this State.

17B:22-33 Violation; misdemeanor; penalties.

Any person who in this State represents or aids an unauthorized insurer in violation of section 17B:22-32, shall upon conviction thereof be guilty of a misdemeanor.

17B:22-34 Residents of Canada.

The references to "State" in sections 17B:22-3, 17B:22-4, 17B:22-14, 17B:22-15, 17B:22-16, 17B:22-18, 17B:22-19, 17B:22-20, other than to "this State," shall be deemed to include the Provinces of Canada.

17B:22-35 Pre-emption.

The State hereby pre-empts the field of regulating and licensing persons regulated and licensed under this chapter; and all political subdivisions of the State are prohibited from requiring of such persons any authorization, license, permit or registration of any kind for conducting transactions lawful under licenses granted under this chapter.

CHAPTER 23

FOREIGN AND ALIEN INSURERS

- 17B:23-1 Transaction of business by foreign and alien insurers.
- 17B:23-2 Prerequisites to admission.
- 17B:23-3 Deposit by alien insurers.
- 17B:23-4 Revocation of authority to do business.
- 17B:23-5 Retaliatory provision.
- 17B:23-6 Purpose.
- 17B:23-7 Definitions.
- 17B:23-8 Conditions precedent to doing business in State.
- 17B:23-9 Actions deemed doing business in the State.
- 17B:23-10 Enforcement.
- 17B:23-11 Excluded actions.

17B:23-1 Transaction of business by foreign and alien insurers.

Any foreign insurer which by its charter or by the laws of the State in which it was incorporated, or any alien insurer which under the laws of the country or other jurisdiction in which it is organized, is authorized to write life insurance, annuities or health insurance or a combination thereof, may, if it meets the financial requirements of a similar domestic insurer set forth in sections 17B:18-35 and 17B:18-36, be admitted to transact such authorized business in this State; provided that if an insurer is otherwise qualified therefor, the commissioner shall continue to so authorize any insurer which immediately prior to the effective date of this Code was lawfully authorized to write in this state a kind or kinds of insurance in addition to life insurance, annuities and health insurance.

17B:23-2 Prerequisites to admission.

No foreign or alien insurer shall be admitted until it:

- a. Files with the commissioner a certified copy of its charter or certificate of authority, and a statement of its financial condition and business, in the form and detail the commissioner requires, signed and sworn to by its president and secretary or other proper officer;

b. Satisfies the commissioner that it is fully and legally organized under the laws of its State or country to do the business it proposes to transact; that its condition or methods of operation are not such as would render its operation hazardous to the public or its policyholders in this State; and that it meets the financial requirements specified in section 17B:23-1;

c. Constitutes, by a duly executed instrument filed in the department, the commissioner and his successor in office its true and lawful attorney, upon whom all original process in any action or legal proceeding against it may be served, and therein agrees that any original process against it which may be served upon the commissioner shall be of the same force and validity as if served on the company, and that the authority thereof shall continue in force irrevocable so long as any liability of the company remains outstanding in this State. The insurer shall file a designation of the person to whom process against it served upon the commissioner is to be forwarded. The insurer may change such designation by a new filing;

d. Obtains from the commissioner a certificate that it has complied with all the requirements of this code applicable to it and is authorized to transact business in this State. This certificate shall expire on May 1 of the following year, and shall be renewed each year before May 1; provided, that the commissioner may refuse to issue or renew any such certificate of authority if, in his judgment, such refusal will best protect the interests of the people of this State or if the company fails to comply substantially with any requirement or limitation of this code applicable to it or any rule or regulation promulgated by the commissioner thereunder which in the judgment of the commissioner is reasonably necessary to protect the interests of the people of this State, but the commissioner may not refuse to renew any such certificate except after notice and hearing pursuant to the Administrative Procedure Act (P. L. 1968, c. 410) and any rules adopted thereunder and provided, that all such certificates outstanding and in force at the date of the passage of this code shall continue in full force and effect until May 1 next following the approval of this code, unless sooner revoked by the commissioner; and provided, further, that no such certificate shall be issued by the commissioner if, in the judgment of the commissioner, the name of such company shall so closely resemble the name of any existing company authorized to transact business in this State as to be likely to mislead the public.

17B:23-3 Deposit by alien insurers.

No alien insurer shall be admitted until, in addition to complying with the foregoing conditions, it has made a deposit or deposits with the insurance commissioner or other officer of a State or States of the United States, designated by the laws of such State or States to hold the same, of a total amount not less than \$200,000.00, nor less than the capital required of a stock company of this State transacting the same kinds of business. The deposit or deposits must be in exclusive trust for the benefit and security of all the policyholders of the company in the United States, and shall be deemed for all purposes of this code the capital of the company making it.

17B:23-4 Revocation of authority to do business.

The authority of a foreign or alien insurer may be revoked, after notice and hearing, pursuant to the Administrative Procedure Act (P. L. 1968, c. 410) and any rules adopted thereunder if it fails to comply with any provision of law obligatory upon it, or for any reason for which the commissioner may refuse to issue or renew its certificate of authority under section 17B:23-2 of this chapter, or when in the opinion of the commissioner its condition is unsound.

17B:23-5 Retaliatory provision.

a. When by or pursuant to the laws of any other state or a province of Canada any taxes, licenses and other fees, in the aggregate, and any fines, penalties, deposit requirements or other obligations, prohibitions or restrictions are or would be imposed upon New Jersey insurers, or upon the agents or representatives of such insurers, which are in excess of such taxes, licenses and other fees, in the aggregate, or which are in excess of the fines, penalties, deposit requirements or other obligations, prohibitions, or restrictions directly imposed upon similar insurers, or upon the agents or representatives of such insurers of such other State or province under the statutes of this State, so long as such laws of such other State or province continue in force or are so applied, the same taxes, licenses and other fees, in the aggregate, or fines, penalties or deposit requirements or other obligations, prohibitions, or restrictions of whatever kind shall be imposed by the commissioner upon the insurers or upon the agents or representatives of such insurers, of such other State or province doing business or seeking to do business in New Jersey. Any tax, license or other fee or other obligation imposed by any city, county, or other political subdivision or agency of such other State or province on New Jersey insurers or their agents or representatives shall be

deemed to be imposed by such State or province within the meaning of this section and the commissioner may compute the burden of any such taxes on an aggregate basis as an addition to the rate of tax payable by similar New Jersey insurers in such State or province. The addition to the rate of tax payable by similar New Jersey insurers shall be determined by dividing (1) the aggregate of the tax obligations paid to such city, county or other political subdivisions of such State or province by such New Jersey insurers, by (2) the aggregate of the taxable premiums of such insurers under the premium taxing statute of such State or province. The commissioner may issue regulations to carry out the purpose of this section.

b. This section shall not apply as to personal income taxes, nor as to ad valorem taxes on real or personal property nor as to special purpose obligations or assessments imposed by another State or province in connection with particular kinds of insurance; except that deductions, from premium taxes or other taxes otherwise payable, allowed on account of real estate or personal property taxes shall be taken into consideration by the commissioner in determining the propriety and extent of retaliatory action under this section.

c. For the purposes of this section the domicile of an alien insurer, other than insurers formed under the laws of Canada or a province thereof, shall be that State designated by the insurer in writing filed with the commissioner at time of admission to this State or within 6 months after the effective date of this code, whichever date is the later, and may be any one of the following States:

- (1) That in which the insurer was first authorized to transact insurance;
- (2) That in which is located the insurer's principal place of business in the United States;
- (3) That in which is held the larger deposit of trusteed assets of the insurer for the protection of its policyholders and creditors in the United States;

If the insurer makes no such designation its domicile shall be deemed to be that State in which is located its principal place of business in the United States. In the case of an insurer formed under the laws of Canada or a province thereof, its domicile shall be deemed to be that province in which its head office is situated.

17B:23-6 Purpose.

Sections 17B:23-6 through 17B:23-12 are deemed and declared to be remedial legislation for the protection of the health and welfare of persons resident in this State by subjecting nonadmitted insurers which solicit, insure, or cause to be solicited such resident persons to the laws which govern all foreign insurers which do business in the State of New Jersey. These provisions shall be liberally construed to effectuate its purpose and intent.

17B:23-7 Definitions.

Whenever used or referred to in Sections 17B:23-6 to 17B:23-12 the term "commissioner" shall mean the Commissioner of Insurance.

17B:23-8 Conditions precedent to doing business in State.

No insurer organized or existing under the law of another State, or of a foreign country, or any employee, agent or other representative thereof including, without limitation, promotional media, shall by mail or otherwise, transact in any manner, directly or indirectly, the business of insurance within this State unless and until:

- a. Admitted to transact the business of insurance pursuant to the provisions of this chapter; or
- b. Specifically permitted by any other law of this State to transact the business of insurance within this State.

17B:23-9 Actions deemed doing business in the State.

Without limiting the generality of the foregoing, an insurer which performs, causes or suffers to be performed within this State any of the following acts with reference to persons located or resident in the State of New Jersey, by mail or otherwise, directly or indirectly, shall be deemed to be transacting the business of insurance within this State:

- a. The solicitation of or advertising for any contract of insurance of any kind, including annuities involving life contingencies;
- b. The negotiation or effectuation of any contract of insurance of any kind, including annuities involving life contingencies;
- c. The signature, delivery or transmittal of any contract of insurance of any kind, including annuities involving life contingencies, or any application therefor;
- d. The transmittal or receipt of any premium, commission, fee or other payment for any contract of insurance of any kind including annuities involving life contingencies;

e. The maintenance or operation of any office for the transaction of the business of insurance;

f. The offering for sale, sale, promotion of, or issuance of any contract of insurance of any kind, including annuities involving life contingencies; or

g. Any other acts normally incident to the transaction of the business of insurance.

17B:23-10 Enforcement.

Whenever it shall appear to the commissioner that any insurer, or any employee, agent, promotional medium, or other representative thereof, has violated, is violating, or is about to violate the provisions of this act, the Attorney General, upon the request of the commissioner, shall institute a civil action in the Superior Court for injunctive relief and for such other relief as may be appropriate under the circumstances. Process in such action may be served in accordance with the provisions of chapter 33 of this Title or as provided in the laws of this State and the rules of the Superior Court. Such action may proceed in a summary manner or otherwise. Nothing contained in this section shall limit or abridge the right to serve any process, notice or demand upon any person or insurer in any other manner now or hereafter deemed lawful.

17B:23-11 Excluded actions.

The provisions of this act shall not be construed to apply to:

a. The investigation, settlement or litigation of claims under any policy of insurance of any kind lawful when written in this State, or the liquidation of the assets and liabilities of an insurer (other than the collection of new premiums) resulting from the operations of an insurer within this State which were lawful when conducted;

b. Transactions involving any policy of insurance of any kind, which occur subsequent to the issuance thereof, provided, however, such policy of insurance does not cover a subject of insurance resident in this State, or located in this State, or expressly requiring the performance in this State at the time of issuance; and provided further, that such policy was lawfully solicited, written and delivered outside this State, at the time of issue;

c. The continuation and servicing of life insurance or accident or health insurance policies or annuity contracts remaining in force

as to residents of this State when the insurer has withdrawn from this State and is not collecting new premiums within or from this State;

d. The lawful transaction of contracts of reinsurance by insurers;

e. Transactions involving group life insurance, group or blanket accident and health insurance, and group annuities where the master policy for such groups was lawfully issued and delivered in a State in which the insurer is duly admitted, and such policy conforms to the laws of the State in which it is delivered.

f. Any life insurance company organized and operated without profit to any private shareholder or individual and exclusively for the purpose of aiding educational or scientific institutions organized and operated without profit to any private shareholder or individual, which issues to residents of this State directly from its home office without agents, representatives or other field operations in this State, contracts of insurance and annuity contracts only to or for the benefit of such institutions and to individuals engaged in the service of such institutions; nor shall this subsection apply to any life, accident and health or annuity contracts issued by such life insurance company, provided that any such life insurance company shall: (1) furnish to the commissioner a copy of any policy or contract form issued to residents of this State; (2) furnish to the commissioner a copy of its annual statement prepared pursuant to the laws of the State of domicile of such life insurance company, as well as such other reports, documents and financial material as may be requested by the commissioner; and (3) designate the commissioner as its true and lawful attorney upon whom may be served all lawful process in any action or proceeding against such life insurance company arising under any contract of insurance or annuity contract it has issued to, or which is held by, a resident of this State, and process so served against such life insurance company shall have the same force and validity as if served upon said life insurance company; and provided further that the commissioner may, if in his judgment the interest of the public so requires, promulgate regulations affecting the contracts, investments, or other aspects of the operations of companies covered by this subparagraph f., which shall be not more restrictive than the laws and regulations applicable to admitted life insurance companies.

CHAPTER 24

THE INSURANCE CONTRACT

- 17B:24-1 Insurable interest.
- 17B:24-2 Minors.
- 17B:24-3 Application as evidence.
- 17B:24-4 Assignment.
- 17B:24-5 Payment discharges insurer.
- 17B:24-6 Exemption of proceeds—Life insurance.
- 17B:24-7 Exemption of proceeds—Annuity contracts.
- 17B:24-8 Exemption of proceeds—Health insurance and Disability provisions.
- 17B:24-9 Exemption of proceeds—Group insurance.
- 17B:24-10 Policy settlements.
- 17B:24-11 Participating and nonparticipating policies—Right to issue; payment of commissions thereon.
- 17B:24-12 Separate risks and premiums.

17B:24-1 Insurable interest.

a. Every individual has an insurable interest in his own life, body and health. The term "insurable interest" shall include only such an interest and the following interests in the life, body and health of other individuals:

(1) In the case of individuals related closely by blood or by law, a substantial interest engendered by love and affection;

(2) In the case of other persons, a lawful and substantial economic interest in having the life, health, or bodily safety of the individual insured continue, and

(3) A person heretofore or hereafter party to a contract or option for the purchase or sale of an interest in a business partnership or firm, or of shares of stock of a closed corporation or of an interest in such shares, has an insurable interest in the life, body and health of each individual party to such contract for the purposes of such contract only, in addition to any insurable interest which may otherwise exist as to such individual.

b. No person shall procure or cause to be procured any insurance contract upon the life, body or health of another individual unless the benefits under such contract are payable to the individual insured or his personal representatives, or to a person having, at the time when such contract was made, an insurable interest in the individual insured. A person liable for the support of a child may procure a policy of insurance on such child.

c. If the beneficiary, assignee, or other payee under any contract made in violation of this section receives from the insurer any benefits thereunder accruing upon the death, disablement, or injury of the individual insured, the individual insured or his executor or administrator, as the case may be, may maintain an action to recover such benefits from the person so receiving them.

d. An insurer shall be entitled to rely upon all statements, declarations and representations made by an applicant for insurance relating to the insurable interest of the applicant in the insured; and no insurer shall incur legal liability, except as set forth in the policy, by virtue of any untrue statements, declarations or representations so relied upon in good faith by the insurer.

e. This section shall not apply to group life insurance, group health insurance or blanket insurance.

17B:24-2 Minors.

a. Any minor not less than 15 years of age may, notwithstanding such minority, contract for annuities or for insurance, or affirm by novation or otherwise pre-existing contracts for annuities or insurance, upon his own life, body or health, or upon the life, body or health of another person in whom the minor has an insurable interest.

b. Any minor not less than 15 years of age may, notwithstanding such minority, acquire ownership of and exercise every right, privilege and power with respect to or under any contract of annuity or insurance upon the life, body or health of such minor or of another person, whether or not such contract was applied for by such minor.

A minor shall be deemed competent to receive and give full acquittance for any payment made by any insurer under the provisions and options of, or under a settlement agreement arising from, any contract of annuity or insurance in which a minor has acquired any interest, or is a beneficiary as follows:

(1) As to a minor not less than 15 years of age—a payment or payments in aggregate not exceeding \$2,000.00 in any 1 calendar year, or,

(2) As to a minor not less than 18 years of age—a payment or payments in aggregate not exceeding \$5,000.00 in any 1 calendar year;

provided that prior to any such payment to a minor the insurer has not received at its home office written notice of the appointment of a duly qualified guardian of the property of the minor. A minor shall not be deemed competent to alienate the right to or to anticipate or commute such payment. A minor shall not by reason of his minority, be entitled to rescind, avoid or repudiate such a contract or any exercise of a right, privilege or power, or acquittance given, thereunder; except that a minor not otherwise emancipated shall not be bound by any unperformed agreement to pay, by promissory note or otherwise, any premium on any such annuity or insurance contract.

c. The provisions of this section shall not be deemed as requiring any insurance company making such payment to determine whether any other insurance company may be effecting a similar payment to the same minor.

17B:24-3 Application as evidence.

a. No application for any life or health insurance policy or annuity contract shall be admissible in evidence in any action relative to such policy or contract, unless a copy of the application was attached to or endorsed upon the policy or contract when issued.

b. If any life or health insurance policy or annuity contract delivered in this State is reinstated or renewed, and the insured or the beneficiary or assignee of the policy or contract makes written request to the insurer for a copy of the application, if any, for such reinstatement or renewal, the insurer shall, within 30 days after receipt of such request at its home office, deliver or mail to the person making such request a copy of such application reproduced by any legible means. In the case of such a request from a beneficiary or assignee, the time within which the insurer is required to furnish a copy of such application shall not begin to run until after receipt of evidence satisfactory to the insurer of the beneficiary's or assignee's interest in the policy or contract.

c. No alteration of any written application for any such policy or contract shall be made by any person other than the applicant without his written consent, except that insertions may be made by the insurer, for administrative purposes only, in such manner as to indicate clearly that such insertions are not to be ascribed to the applicant.

d. The falsity of any statement in the application for any policy or contract covered by this section may not bar the right to recovery thereunder unless such false statement materially affected either the acceptance of the risk or the hazard assumed by the insurer.

e. This section shall not apply to group life insurance, group health insurance, or blanket insurance policies or to group annuity contracts.

17B:24-4 Assignments.

a. Nothing in this Title shall prohibit any person insured under an insurance policy or annuity contract, other than group, from assigning or not assigning, as provided by its terms. Subject to its terms relating to assignability, any life or health insurance policy or annuity contract, other than group, whether heretofore or hereafter issued, under the terms of which the beneficiary may be changed upon the sole request of the insured or owner, if other than the insured, may be assigned either by pledge or transfer of title, by an assignment executed by the insured or such owner alone and delivered to the insurer, whether or not the pledgee or assignee is the insurer. Any such assignment shall entitle the insurer to deal with the assignee as the owner or pledgee of the insurance policy or annuity contract, other than group, in accordance with the terms of the assignment, until the insurer has received at its home office written notice of termination of the assignment or pledge.

b. Nothing in this title shall prohibit any person insured under a group insurance contract, pursuant to an arrangement among the insured, the group policyholder and the insurer, from making to any person an assignment of the rights and benefits conferred on him by any provision of such contract or by law including specifically but not by way of limitation the right to have issued to him an individual policy as set forth in section 17B:27-19 and section 17B:27-20, the right to name a beneficiary and the right to receive any proceeds of the policy payable during the lifetime of the insured. Any such assignment, whether made before or after the effective date of this law, shall entitle the insurer to deal with the assignee as the owner of all rights and benefits conferred on the insured under the policy in accordance with the terms of the assignment.

17B:24-5 Payment discharges insurer.

Whenever the proceeds of or payments under a life or health insurance policy or annuity contract heretofore or hereafter issued

become payable in accordance with the terms of such policy or contract, or the exercise of any right or privilege thereunder, payment thereof by the insurer in accordance therewith or in accordance with any written assignment thereof shall fully discharge the insurer from all claims under the policy or contract.

17B:24-6 Exemption of proceeds—life insurance.

a. If a policy of insurance, whether heretofore or hereafter issued, is effected by any person on his own life, or on another life, in favor of a person other than himself, or, except in cases of transfer with intent to defraud creditors, if a policy of life insurance is assigned or in any way made payable to any such person, then the lawful beneficiary, assignee or payee of such policy, shall be entitled to its proceeds and avails against the creditors and representatives of the insured and of the person effecting the same, whether or not the right to change the beneficiary is reserved or permitted, or the policy is made payable to the person whose life is insured or to the executors or administrators of such person if the beneficiary shall predecease such person.

Except however the foregoing shall not be applicable if the lawful beneficiary, assignee or payee of such policy is any of the following:

- (1) The insured,
- (2) The person so effecting such insurance, or
- (3) The executors or administrators of such insured or the person so effecting such insurance.

b. Such proceeds and avails shall be exempt from any liability for any debt of the beneficiary existing at the time the proceeds and avails become available for his use; provided that, subject to the statute of limitations, the amount of any premiums for such insurance paid with intent to defraud creditors, with interest thereon, shall inure to their benefit from the proceeds of the policy; but the insurer issuing the policy shall be discharged of all liability thereon by payment of its proceeds in accordance with its terms, unless, before such payment, the insurer shall have received written notice at its home office, by or in behalf of a creditor, of a claim to recover for transfer made or premiums paid with intent to defraud creditors setting forth such facts as will enable the insurer to ascertain the particular policy.

c. For the purposes of subsections a. and b. above, a policy shall also be deemed to be payable to a person other than the insured if and to the extent that a facility-of-payment clause or

similar clause in the policy permits the insurer to discharge its obligation after the death of the individual insured by paying the death benefits to a person as permitted by such clause.

17B:24-7 Exemption of proceeds—annuity contracts.

a. The benefits, rights, privileges, powers and options which under any annuity contract heretofore or hereafter issued are due or prospectively due the annuitant, shall not be subject to execution, garnishment, attachment, sequestration or other legal process nor shall the annuitant be compelled to exercise any such rights, privileges, powers, or options, nor shall creditors be allowed to interfere with or terminate the contract, except:

(1) As to amounts paid, with intent to defraud creditors, for or as consideration for any such annuity, with interest thereon, and of which the creditor has given the insurer written notice at its home office prior to the making of the payments to the annuitant out of which the creditor seeks to recover. Any such notice shall set forth such facts as will enable the insurer to ascertain the particular annuity contract.

(2) The total exemption of benefits presently due and payable to any annuitant periodically or at stated times under all annuity contracts under which he is an annuitant, shall not at any time exceed \$500.00 per month for the length of time represented by such installments, and such periodic payments in excess of \$500.00 per month shall be subject to garnishee execution to the same extent as are wages and salaries.

(3) If the total benefits presently due and payable to any annuitant under all annuity contracts under which he is an annuitant, shall at any time exceed payment at the rate of \$500.00 per month, then the court may order such annuitant to pay to a judgment creditor or apply on the judgment, in installments, such portion of such excess benefits as to the court may appear just and proper, after due regard for the reasonable requirements of the judgment debtor and his family, if dependent upon him as well as any prior court orders.

b. If the contract so provides, the benefits, rights, privileges, powers or options accruing under such contract to a beneficiary or assignee shall not be transferable nor subject to commutation, and if the benefits are payable periodically or at stated times, the same exemptions and exceptions contained herein for the annuitant, shall apply with respect to such beneficiary or assignee.

17B:24-8 Exemption of proceeds—Health insurance and disability provisions.

Except as may otherwise be expressly provided by the policy or contract, the proceeds or avails of all policies of health insurance and of provisions providing benefits on account of the insured's dismemberment, loss of sight or disability which are supplemental to life insurance policies or annuity contracts, heretofore or hereafter effected, shall be exempt from all liability for any debt of the insured, and from any debt of the beneficiary existing at the time the proceeds are made available for his use. Nothing herein contained shall apply to any income disability benefit in any action to recover for necessities contracted for after the commencement of the disability covered by the disability clause or contract allowing such income benefit.

17B:24-9 Exemption of proceeds—Group insurance.

a. A policy of group life insurance or group health insurance or the proceeds thereof payable to the individual insured or to the beneficiary thereunder, shall not be liable, either before or after payment, to be applied by any legal or equitable process to pay any debt or liability of such insured individual or his beneficiary or of any other person having a right under the policy. The proceeds thereof, when not made payable to a named beneficiary or to a third person pursuant to a facility-of-payment clause, shall not constitute a part of the estate of the individual insured for the payment of his debts. Nothing herein contained shall apply to any income disability benefit in any action to recover for necessities contracted for after the commencement of the disability covered by the disability clause or contract allowing such income benefit.

b. This section shall not apply to group insurance covering the debtors of a creditor, to the extent that such proceeds are applied to payment of the obligation for the purpose of which the insurance was so issued.

17B:24-10 Policy settlements.

Any life insurer shall have the power to hold under agreement the proceeds of any policy issued by it, upon such terms and restrictions as to revocation by the policyholder and control by beneficiaries, and with such exemptions from the claims of creditors of beneficiaries other than the policyholder as set forth in the policy or as agreed to in writing by the insurer and the policyholder. Upon maturity of a policy, in the event the policyholder has made no such agreement, the insurer shall have the power to

hold the proceeds of the policy under an agreement with the beneficiaries. The insurer shall not be required to segregate the funds so held but may hold them as part of its general assets.

17B:24-11 Participating and nonparticipating policies—Right to issue; payment of commissions thereon.

A stock or mutual life insurer may issue policies on both the participating and nonparticipating basis, provided that the right or absence of right of participation is reasonably related to the premium charged and that the policy indicates clearly whether it is participating or nonparticipating.

No life insurance company doing business in this State, and issuing policies both on participating and nonparticipating bases, shall pay commissions at a higher rate with respect to participating policies than it pays with respect to comparable nonparticipating policies.

17B:24-12 Separate risks and premiums.

When a policy shall insure against more than one hazard or peril, the insurance against any specific hazard or peril shall not be separately cancelable unless the policy shall specify a separate premium for any such insurance so cancelable. No policy of life insurance or annuity contract as the same are defined in 17B:17-3 and 17B:17-5 shall cover any other hazard or peril than insurance against bodily injury or death by accident, and upon the health of persons as the same is defined in section 17B:17-4.

CHAPTER 25

LIFE INSURANCE OTHER THAN GROUP

- 17B:25-1 “Industrial life insurance”; Definition.
- 17B:25-2 Standard provisions required.
- 17B:25-3 Grace period.
- 17B:25-4 Incontestability.
- 17B:25-5 Entire contract.
- 17B:25-6 Misstatement of age.
- 17B:25-7 Dividends.
- 17B:25-8 Policy loan.
- 17B:25-9 Reinstatement.
- 17B:25-10 Payment of premiums.
- 17B:25-11 Payment of claims.
- 17B:25-12 Beneficiary; Industrial policies.
- 17B:25-13 Nonforfeiture benefits and cash surrender values.
- 17B:25-14 Title.
- 17B:25-15 Provision prohibited.
- 17B:25-16 Excluded or restricted coverage.
- 17B:25-17 Incontestability; Limitation of liability after reinstatement.
- 17B:25-18 Filing of forms.
- 17B:25-19 Standard nonforfeiture law.

17B:25-1 “Industrial life insurance”; definition.

For the purpose of this code, “Industrial life insurance” is that form of life insurance, issued by an insurer which, as to such insurance, is operating under a debit plan of premium collection by agents, and under which the premiums are payable monthly or oftener and the words “industrial policy” or words of similar import are printed upon the policy as part of the descriptive matter.

17B:25-2 Standard provisions required.

a. No policy of life insurance, other than group insurance and pure endowments with or without return of premiums or of premiums and interest, shall be delivered or issued for delivery in this State unless it contains in substance all of the applicable provisions specified in sections 17B:25-3 to 17B:25-14, inclusive, of this chapter or provisions which in the opinion of the commissioner are not less favorable to the insured or the owner if other than the insured. This section shall not apply to any provi-

sion of a life insurance policy, or contract supplemental thereto, relating to disability benefits or to additional benefits in event of death by accident or accidental means or in event of dismemberment or loss of sight.

b. If any such provision is in whole or in part inapplicable to or inconsistent with the coverage provided by a particular form of policy (such as a single premium policy, a term policy, or a policy insuring more than one person) the insurer, with the approval of the commissioner, shall omit from such policy any inapplicable provision or part of a provision, and shall modify any inconsistent provision or part of a provision in such manner as to make the provision as contained in the policy consistent with the coverage provided by the policy.

c. In lieu of the provisions required by this section, substantially similar provisions required by the law of the domicile of a foreign or alien insurer may be used with the approval of the commissioner.

d. Where a policy of life insurance provides for both insurance and an annuity, this section shall apply only to that part of the policy which provides for insurance.

17B:25-3 Grace period.

There shall be a provision that a grace period of 30 days, or, at the option of the insurer, of 1 month of not less than 30 days, or of 4 weeks in the case of industrial life insurance policies the premiums for which are payable more frequently than monthly, shall be allowed within which the payment of any premium after the first may be made, subject, at the option of the insurer, to an interest charge not in excess of 6% per annum for the number of days of grace elapsing before the payment of the premium, during which period of grace the policy shall continue in full force; but if a claim arises under the policy during such period of grace, the amount of any premium due or overdue, together with such interest, if any, and any deferred premiums of the current policy year may be deducted from any amount payable under the policy in settlement.

17B:25-4 Incontestability.

There shall be a provision that the policy (exclusive of provisions of the policy or any contract supplemental thereto relating to disability benefits or to additional benefits in event of death by accident or accidental means or in event of dismemberment or loss of sight) shall be incontestable, except for nonpayment of pre-

miums, after it has been in force during the lifetime of the insured for a period of 2 years from its date of issue.

17B:25-5 Entire contract.

There shall be a provision that the policy, or the policy and the application therefor if a copy of such application is attached to or endorsed upon the policy when issued, shall constitute the entire contract between the parties, and that all statements contained in such an application shall, in the absence of fraud, be deemed representations and not warranties.

17B:25-6 Misstatement of age.

There shall be a provision that if the age of the insured or of any other person whose age is considered in determining the premium or benefit has been misstated, any amount payable or benefit accruing under the policy shall be such as the premium would have purchased at the correct age or ages.

17B:25-7 Dividends.

a. There shall be a provision in participating policies other than industrial life insurance policies that, beginning not later than the end of the third policy year, the insurer shall annually ascertain and apportion the divisible surplus, if any, that will accrue on the policy anniversary or other dividend date specified in the policy provided the policy is in force and all premiums to that date are paid. Except as hereinafter provided, any dividend credited to the policy shall at the option of the party entitled to elect such option be either:

- (1) payable in cash, or
- (2) applied to any one of such other dividend options as may be provided by the policy.

If any such other dividend options are provided, the policy shall further state which option shall be automatically effective if such party shall not have elected some other option. If the policy specifies a period within which such other dividend option may be elected, such period shall be not less than 30 days following the date on which such dividend is due and payable. The annually apportioned dividend shall be deemed to be payable in cash within the meaning of (1) above even though the policy provides that payment of such dividend is to be deferred for a specified period, provided that such period does not exceed 6 years from the date of apportionment and provided that interest will be added to such dividend at a specified rate. If a participating policy provides that the benefit under any paid-up nonforfeiture provision is to be

participating, it may provide that any divisible surplus credited to the policy while the insurance is in force under such nonforfeiture provision shall be applied in the manner set forth in the policy.

b. In participating industrial life insurance policies there shall be a provision that, beginning not later than the end of the fifth policy year, the policy shall participate annually in the divisible surplus, if any, in the manner set forth in the policy.

17B:25-8 Policy loan.

There shall be a provision that after 3 full years' premiums have been paid and after the policy has a cash surrender value and while no premium is in default beyond the grace period for payment, the insurer will advance, on proper assignment or pledge of the policy and on the sole security thereof, at a specified rate of interest, an amount equal to or, at the option of the party entitled thereto, less than the loan value of the policy. The loan value of the policy shall be at least equal to the cash surrender value at the end of the then current policy year, provided that the insurer may deduct, either from such loan value or from the proceeds of the loan, any existing indebtedness not already deducted in determining such cash surrender value including any interest then accrued but not due, any unpaid balance of the premium for the current policy year, and interest on the loan to the end of the current policy year. The policy may also provide that if interest on any indebtedness is not paid when due it shall then be added to the existing indebtedness and shall bear interest at the same rate, and that if and when the total indebtedness on the policy, including interest due or accrued, equals or exceeds the amount of the loan value thereof, then the policy shall terminate and become void but not until at least 30 days' notice shall have been mailed by the insurer to the last known address of the insured or other policy owner and of any assignee of record at the home office of the insurer. The policy shall reserve to the insurer the right to defer the granting of a loan, other than for the payment of any premium to the insurer, for 6 months after application therefor. The policy may, at the insurer's option, contain automatic premium loan provisions and may provide that such provisions do not become operative unless so elected by the person entitled to do so. This section shall not apply to term insurance, or to industrial life insurance policies.

17B:25-9 Reinstatement.

There shall be a provision that unless:

- a. the policy has been surrendered for its cash surrender value, or
- b. its cash surrender value has been exhausted, or
- c. the paid-up term insurance, if any, has expired,

the policy will be reinstated at any time within 3 years (or 2 years in the case of industrial life insurance policies) from the due date of the first premium in default upon written application therefor, the production of evidence of insurability satisfactory to the insurer, the payment of all premiums in arrears and the payment or reinstatement of any indebtedness to the insurer upon the policy, all with interest at a specified rate and which may be compounded as specified.

17B:25-10 Payment of premiums.

There shall be a provision relative to the payment of premiums.

17B:25-11 Payment of claims.

There shall be a provision that when benefits under the policy shall become payable by reason of the death of the insured, settlement shall be made upon receipt of due proof of death and, at the insurer's option, surrender of the policy or proof of the interest of the claimant or both. If an insurer shall specify a particular period prior to the expiration of which settlement shall be made, such period shall not exceed 2 months from the receipt of such proofs.

17B:25-12 Beneficiary; Industrial policies.

An industrial life insurance policy shall have the name of the beneficiary designated thereon, or in the application or other form if attached to the policy, with a reservation of the right to designate or change the beneficiary after the issuance of the policy, unless such beneficiary be irrevocably designated. The policy may also provide that no designation or change of beneficiary shall be binding on the insurer until endorsed on the policy by the insurer, and that the insurer may refuse to endorse the name of any proposed beneficiary who does not appear to the insurer to have an insurable interest in the life of the insured. The policy may also provide that if the beneficiary designated in the policy does not make a claim under the policy or does not surrender the policy with due proof of death within the period stated in the policy, which shall not be less than 30 days after the death of the insured, or if the beneficiary is the estate of the insured, or is a minor, or

dies before the insured, or is not legally competent to give a valid release, then the insurer may make any payment thereunder to the executor or administrator of the insured, or to any relative of the insured by blood or legal adoption or connection by marriage, or to any person appearing to the insurer to be equitably entitled thereto by reason of having been named beneficiary, or by reason of having incurred expense for the maintenance, medical attention or burial of the insured. The policy may also include a similar provision applicable to any other payment under the policy.

17B:25-13 Nonforfeiture benefits and cash surrender values.

There shall be a provision for nonforfeiture benefits and cash surrender values in accordance with the requirements of section 17B:25-19.

17B:25-14 Title.

There shall be a title on the policy, briefly describing it.

17B:25-15 Provision prohibited.

No policy of life insurance shall be delivered or issued for delivery in this State which limits the time within which any action may be commenced to less than 5 years after the cause of action accrues.

17B:25-16 Excluded or restricted coverage.

A clause in any policy of life insurance providing that such policy shall be incontestable after a specified period shall preclude only a contest of the validity of the policy, and shall not preclude the assertion at any time of defenses based upon provisions in the policy which exclude or restrict coverage, whether or not such restrictions or exclusions are excepted in such clause.

17B:25-17 Incontestability; Limitation of liability after reinstatement.

a. A reinstated policy of life insurance may be contested on account of fraud or misrepresentation of facts material to the reinstatement only for the same period following reinstatement and with the same conditions and exceptions as the policy provides with respect to contestability after original issuance.

b. When any life insurance policy is reinstated, such reinstated policy may exclude or restrict liability to the same extent that such liability could have been excluded or restricted when the policy was originally issued, and such exclusion or restriction shall be effective from the date of reinstatement.

17B:25-18 Filing of forms.

a. No life insurance policy, or application where written application is required and is to be made a part of such policy, or printed rider or endorsement for use with such policy, shall be delivered or issued for delivery in this State unless the form thereof has been submitted to and filed by the commissioner. This section shall not apply to policies of group life insurance and applications, printed riders or endorsements for use with such policies.

b. At the expiration of 30 days after submission the form shall be deemed filed unless prior thereto it has been affirmatively filed or disapproved for filing by the commissioner.

c. If any such form is disapproved for filing by the commissioner during said 30-day period, it may not be so delivered or issued for delivery unless and until such disapproval for filing is withdrawn. Such disapproval shall be subject to review in accordance with the procedure described in the Administrative Procedure Act (P. L. 1968, c. 410) and any rules adopted thereunder. Any such form which is filed by the commissioner or deemed filed may be so delivered or issued for delivery until such time as any subsequent withdrawal of the filing by the commissioner, following an opportunity for a hearing held in accordance with the Administrative Procedure Act (P. L. 1968, c. 410) and any rules adopted thereunder, becomes final in accordance therewith.

d. The commissioner may extend the 30-day period referred to above for not more than 30 additional days by giving written notice of such extension before the expiration of the initial 30-day period. In the event of such extension all the provisions of this section, except this provision for extension, relating to the initial 30-day period shall apply to the extended period instead of such initial 30-day period.

e. The disapproval for filing or the withdrawal of the filing of any such form by the commissioner must state in writing the grounds therefor in such detail as reasonable to inform the insurer thereof.

f. This section shall not apply to documents which relate only to the manner of distribution of benefits or to the reservation of rights and benefits under life insurance policies and which are used at the request of the individual policyholder.

g. The commissioner may exempt from the requirements of this section for so long as he deems proper any insurance document or form or type thereof to which, in his opinion, this section may

not practicably be applied, or the filing of which is, in his opinion, not desirable or necessary for the protection of the public.

h. The disapproval by the commissioner of any such form may be on the ground that such form contains provisions which are unjust, unfair, inequitable, misleading, contrary to law or to the public policy of this State.

17B:25-19 Standard nonforfeiture law.

This section shall be known as the standard nonforfeiture law.

a. No policy of life insurance, except as stated in subsection j, shall be issued or delivered hereafter in this State unless it shall contain in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the defaulting or surrendering policyholder:

(1) That, in the event of default in any premium payment, the insurer will grant, upon proper request not later than 60 days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date, of such value as may be hereinafter specified.

(2) That, upon surrender of the policy within 60 days after the due date of any premium payment in default after premiums have been paid for at least 3 full years in the case of ordinary insurance or 5 full years in the case of industrial insurance, the insurer will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as may be hereinafter specified.

(3) That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make such election elects another available option not later than 60 days after the due date of the premium in default.

(4) That, if the policy shall have become paid up by completion of all premium payments or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance or the fifth policy anniversary in the case of industrial insurance, the insurer will pay, upon surrender of the policy within 30 days after any policy anniversary, a cash surrender value of such amount as may be hereinafter specified.

(5) A statement of the mortality tables and interest rates used in calculating the cash surrender values and the mortality tables and interest rates used in calculating the

paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary either during the first 20 policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the insurer on the policy.

(6) A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance law of the State in which the policy is delivered; an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the insurer on the policy; if a detailed statement of the method of computation of the cash surrender values and paid-up nonforfeiture benefits shown in the policy is not stated therein, a statement that such method of computation has been filed with the insurance supervisory official of the State in which the policy is delivered; and a statement of the method to be used in calculating the cash surrender value and paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.

Any of the foregoing provisions or portions thereof not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy.

The insurer shall reserve the right to defer the payment of any cash surrender value for a period of 6 months after demand therefor with surrender of the policy.

b. In the case of annuity and pure endowment contracts issued on or after January 1, 1972, no contract of annuity or pure endowment, except as stated in subsection j., shall be issued or delivered in this State, unless it shall contain in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the defaulting or surrendering contractholder:

(1) That, in the event of default in any stipulated payment, the insurer will grant a paid-up nonforfeiture benefit

on a plan stipulated in the contract, effective as of such due date, of such value as may be hereinafter specified.

(2) A statement of the mortality tables, if any, and interest rates used in calculating the paid-up nonforfeiture benefits available under the contract, together with a table showing either the cash surrender value, if any, or the paid-up nonforfeiture benefit, if any, available on each anniversary of the contract either during the first 20 contract years or during the term of stipulated payments, whichever is shorter, such benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the contract and that there is no indebtedness to the insurer on the contract.

(3) A statement that the paid-up nonforfeiture benefits available under the contract are not less than the minimum benefits required by or pursuant to the insurance law of the State in which the contract is delivered; an explanation of the manner in which the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the contract or any indebtedness to the insurer on the contract; if a detailed statement of the method of computation of the paid-up nonforfeiture benefits shown in the contract is not stated therein, a statement that such method of computation has been filed with the insurance supervisory official of the State in which the contract is delivered; and a statement of the method to be used in calculating the paid-up nonforfeiture benefit available under the contract on any contract anniversary beyond the last anniversary for which such benefits are consecutively shown in the contract.

If an insurer shall provide for the payment of a cash surrender value, it shall reserve the right to defer the payment of such value for a period of 6 months after demand therefor with surrender of the contract.

Notwithstanding the requirements of this subsection, any deferred annuity contract may provide that if the annuity allowed under any paid-up nonforfeiture benefit would be less than \$120.00 annually, the insurer may at its option grant a cash surrender value in lieu of such paid-up nonforfeiture benefit of such amount as may be required by subsection f.

c. Any cash surrender value available under any policy referred to in subsection a in the event of default in a premium payment

due on any policy anniversary, whether or not required by subsection a, shall be an amount not less than the excess, if any, of the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions, if there had been no default, over the sum of (1) the then present value of the adjusted premiums as defined in subsection g, corresponding to premiums which would have fallen due on and after such anniversary, and (2) the amount of any indebtedness to the insurer on the policy. Any cash surrender value available within 30 days after any policy anniversary under any policy paid up by completion of all premium payments or any policy continued under any paid-up nonforfeiture benefit, whether or not required by subsection a, shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the insurer on the policy.

d. Any paid-up nonforfeiture benefit available under any policy referred to in subsection a in the event of default in a premium payment due on any policy anniversary shall be such that its present value as of such anniversary shall be at least equal to the cash surrender value then provided for by the policy or, if none is provided for, that cash surrender value which would have been required by this section in the absence of the condition that premiums shall have been paid for at least a specified period.

e. Any paid-up nonforfeiture benefit available under any annuity or pure endowment contract referred to in subsection b, in the event of default in a stipulated payment due on any contract anniversary, shall be such that its present value as of such anniversary shall be an amount not less than the excess, if any, of the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the contract, including any existing paid-up additions, if there had been no default, over the sum of (1) the then present value of the adjusted stipulated payments as defined in subsection h corresponding to stipulated payments which would have fallen due on and after such anniversary, and (2) the amount of any indebtedness to the insurer on the contract. In determining the benefits referred to in this subsection and in calculating the adjusted stipulated payments referred to in subsection h, in the case of annuity contracts under which an election may be made to have annuity payments commence at optional dates, the annuity payments shall be deemed to

commence at a date which shall be the latest permitted by the contract for the commencement of such payments but not later than the contract anniversary nearest the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later; and the stipulated payments shall be deemed to be payable for the longest period during which they would be payable if election were made to have the annuity payments commence at such date.

f. Any cash surrender value allowed by any annuity or pure endowment contract referred to in subsection b and the present value, under any optional provision, of future benefits commencing on the due date of the stipulated payment in default shall each be at least equal to the then present value of the minimum paid-up nonforfeiture benefit required by subsection e.

g. Except as provided in the third paragraph of this subsection, the adjusted premiums for any policy referred to in subsection a shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding any extra premiums charged because of impairments or special hazards, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of (1) the then present value of the future guaranteed benefits provided for by the policy; (2) 2% of the amount of insurance, if the insurance be uniform in amount or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with duration of the policy; (3) 40% of the adjusted premium for the first policy year; (4) 25% of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less; provided, however, that in applying the percentages specified in (3) and (4) above, no adjusted premium shall be deemed to exceed 4% of the amount of insurance or uniform amount equivalent thereto. The date of issue of a policy for the purpose of this subsection shall be the date as of which the rated age of the insured is determined.

In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent uniform amount thereof for the purpose of this subsection shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any,

issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy, provided, however, that in the case of a policy providing a varying amount of insurance issued on the life of a child under age 10, the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age 10 were the amount provided by such policy at age 10.

The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision shall be equal to (a) the adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased, during the period for which premiums for such term insurance benefits are payable, by (b) the adjusted premiums for such term insurance, the foregoing items (a) and (b) being calculated separately and as specified in the first 2 paragraphs of this subsection except that, for the purpose of (2), (3) and (4) of the first such paragraph, the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in (b) shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in (a).

All adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of the Commissioners 1958 Standard Ordinary Mortality Table. Notwithstanding this provision, for any category of ordinary insurance such calculations may be made, at the option of the insurer, on the basis of the Approved Standard Ordinary Mortality Table; provided, further, that for any category of ordinary insurance issued on female risks adjusted premiums and present values may be calculated, at the option of the insurer with approval of the commissioner, according to an age not more than 3 years younger than the actual age of the insured. Such calculations for all policies of industrial insurance shall be made on the basis of the Commissioners 1961 Standard Industrial Mortality Table. All calculations shall be made on the basis of the applicable rates of interest, not exceeding $3\frac{1}{2}\%$ per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than the rates shown in the Commissioners 1958 Extended Term Insurance Table if the

adjusted premiums for the policy are calculated on the basis of the Commissioners 1958 Standard Ordinary Mortality Table, may be not more than 130% of the rates shown in the Approved Standard Ordinary Mortality Table if the adjusted premiums for the policy are calculated on the basis of said table, and may be not more than the rates shown in the Commissioners 1961 Industrial Extended Term Insurance Table if the adjusted premiums for the policy are calculated on the basis of the Commissioners 1961 Standard Industrial Mortality Table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the commissioner.

h. The adjusted stipulated payments for any annuity or pure endowment contract referred to in subsection b shall be calculated on an annual basis and shall be such uniform percentage of the respective stipulated payments specified in the contract for each contract year that the present value, at the date of issue of the contract, of all such adjusted stipulated payments shall be equal to the sum of (1) the then present value of the future guaranteed benefits provided for by the contract; (2) 20% of the adjusted stipulated payment for the first contract year; and (3) 2% of the adjusted stipulated payment for the first contract year for each year not exceeding 20 during which stipulated payments are payable.

All adjusted stipulated payments and present values referred to in this section shall for annuity and pure endowment contracts be calculated on the basis of (1) the applicable rates of interest, not exceeding $3\frac{1}{2}\%$ per annum, specified in the contract for calculating cash surrender values, if any, and paid-up nonforfeiture benefits; and (2) the 1937 Standard Annuity Mortality Table, or the Annuity Mortality Table for 1949, Ultimate, or any modification of either of these tables approved by the commissioner or any other table approved by the commissioner.

i. Any cash surrender value and any paid-up nonforfeiture benefit, available under the policy or contract in the event of default in the payment of a premium or stipulated payment due at any time other than on the policy or contract anniversary, shall be calculated with allowance for the lapse of time and the payment of fractional premiums or stipulated payments beyond the last preceding policy or contract anniversary. All values referred to in subsections c to h, inclusive, may be calculated upon the assump-

tion that any death benefit is payable at the end of the policy or contract year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the dividends used to provide such additions. Notwithstanding the provisions of subsections c. and e., additional benefits payable (1) in the event of death or dismemberment by accident or accidental means, (2) in the event of total and permanent disability, (3) as reversionary annuity or deferred reversionary annuity benefits, (4) as term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this section would not apply, (5) as term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of the child, if such term insurance expires before the child's age is 26, is uniform in amount after the child's age is one, and has not become paid-up by reason of the death of a parent of the child, and (6) as other policy benefits additional to life insurance, endowment, and annuity benefits, and premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits. Notwithstanding the provisions of subsections c and e, additional benefits providing the privilege to purchase additional insurance or annuity benefits at some future time without furnishing evidence of insurability, and premiums or stipulated payments therefor, may, with the consent of the commissioner, be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

j. This section shall not apply to any reinsurance contract, group insurance policy, group annuity contract, variable annuity contract, single premium pure endowment or single stipulated payment annuity contract or reversionary annuity contract, nor to any term policy of uniform amount, or renewal thereof, of 15 years or less expiring before age 66, for which uniform premiums are payable during the entire term of the policy, nor to any term policy of decreasing amount on which each adjusted premium, calculated as specified in subsection g is less than the adjusted premium so calculated, on such 15-year term policy issued at the same age and for the same initial amount of insurance, nor to any policy or contract which shall be delivered outside this State through an agent or other representative of the insurer issuing the policy or contract.

CHAPTER 26

HEALTH INSURANCE OTHER THAN GROUP AND
BLANKET INSURANCE

- 17B:26-1 Filing of forms.
- 17B:26-2 Form of policy; requirements.
- 17B:26-3 Required provisions.
- 17B:26-4 Entire contract; changes.
- 17B:26-5 Time limit on certain defenses.
- 17B:26-6 Grace period.
- 17B:26-7 Reinstatement.
- 17B:26-8 Notice of claim.
- 17B:26-9 Claim forms.
- 17B:26-10 Proofs of loss.
- 17B:26-11 Time of payment of claims.
- 17B:26-12 Payment of claims.
- 17B:26-13 Physical examinations and autopsy.
- 17B:26-14 Legal actions.
- 17B:26-15 Change of beneficiary.
- 17B:26-16 Optional policy provisions.
- 17B:26-17 Change of occupation.
- 17B:26-18 Misstatement of age.
- 17B:26-19 Other insurance in this insurer.
- 17B:26-20 Insurance with other insurers.
- 17B:26-21 Insurance with other insurers.
- 17B:26-22 Relation of earnings to insurance.
- 17B:26-23 Unpaid premiums.
- 17B:26-24 Cancellation.
- 17B:26-25 Conformity with State statutes.
- 17B:26-26 Illegal occupation.
- 17B:26-27 Intoxicants and narcotics.
- 17B:26-28 Inapplicable or inconsistent provisions.
- 17B:26-29 Order of certain policy provisions.
- 17B:26-30 Third party ownership.
- 17B:26-31 Requirements of other jurisdictions.
- 17B:26-32 Other policy provisions.
- 17B:26-33 Policy conflicting with this chapter.
- 17B:26-34 Time limit on certain defenses with respect to reinstatement.

17B:26-35 Waiver of rights of insurer.

17B:26-36 Age limit.

17B:26-37 Scope of chapter.

17B:26-38 Penalty.

17B:26-1 Filing of forms.

a. No health insurance policy, or application where written application is required and is to be made a part of such policy, or printed rider or endorsement for use with such policy, shall be delivered or issued for delivery in this State unless the form thereof has been submitted to and filed by the commissioner.

b. At the expiration of 30 days after submission the form shall be deemed filed unless prior thereto it has been affirmatively filed or disapproved for filing by the commissioner.

c. If any such form is disapproved for filing by the commissioner during said 30-day period, it may not be so delivered or issued for delivery unless and until such disapproval for filing is withdrawn. Such disapproval shall be subject to review in accordance with the procedure described in the Administrative Procedure Act (P. L. 1968, c. 410) and any rules adopted thereunder. Any such form which is filed by the commissioner or deemed filed may be so delivered or issued for delivery until such time as any subsequent withdrawal of the filing by the commissioner, following an opportunity for a hearing held in accordance with the Administrative Procedure Act (P. L. 1968, c. 410) and any rules adopted thereunder, becomes final in accordance therewith.

d. The commissioner may extend the 30-day period referred to above for not more than 30 additional days by giving written notice of such extension before the expiration of the initial 30-day period. In the event of such extension all the provisions of this section, except this provision for extension, relating to the initial 30-day period shall apply to the extended period instead of such initial 30-day period.

e. The disapproval for filing or the withdrawal of the filing of any such form by the commissioner must state in writing the grounds therefor in such detail as reasonable to inform the insurer thereof.

f. This section shall not apply to documents which relate only to the manner of distribution of benefits or to the reservation of rights and benefits under health insurance policies and which are used at the request of the individual policyholder.

g. No form shall be filed by the commissioner in accordance with this section until the classification of risks and premium rates, if any, pertaining to such form have been submitted to the commissioner. Where such a classification of risks and premium rates are submitted to the commissioner later than the submission of the form to which they pertain, the 30-day period specified above shall commence with the date such classification of risks and premium rates are submitted to the commissioner.

h. The disapproval by the commissioner of any such form may be on the ground that:

(1) the benefits are unreasonable in relation to the premium charged, or

(2) such form contains provisions which are unjust, unfair, inequitable, misleading, contrary to law or to the public policy of this State, or

(3) the policy is sold in such a manner as to mislead the insured, or

(4) insurance under such policy is being solicited by means of advertising, communication or dissemination of information which involves misleading or inadequate description of the provisions of the policy, specifying particulars.

i. The commissioner may exempt from the requirements of this section for so long as he deems proper any insurance document or form or type thereof to which, in his opinion, this section may not practicably be applied, or the filing of which is, in his opinion, not desirable or necessary for the protection of the public.

17B:26-2 Form of policy; requirements.

a. No such policy of insurance shall be delivered or issued for delivery to any person in this State unless:

(1) the entire money and other considerations therefor are expressed therein; and

(2) the time at which the insurance takes effect and terminates is expressed therein; and

(3) it purports to insure only one person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family who shall be deemed the policyholder, any 2 or more eligible members of that family, including husband, wife, dependent children or any children under

a specified age which shall not exceed 19 years and any other person dependent upon the policyholder; and

(4) the style, arrangement and over-all appearance of the policy give no undue prominence to any portion of the text, and unless every printed portion of the text of the policy and of any endorsements or attached papers is plainly printed in light-faced type of a style in general use, the size of which shall be uniform and not less than 10-point lower-case unspaced alphabet length not less than 120-point (the "text" shall include all printed matter except the name and address of the insurer, name or title of the policy, the brief description if any, and captions and subcaptions); and

(5) the exceptions and reductions of indemnity are set forth in the policy and, except those which are set forth in sections 17B:26-3 to 17B:26-31 inclusive, are printed, at the insurer's option, either included with the benefit provision to which they apply, or under an appropriate caption such as "exceptions," or "exceptions and reductions," provided that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of such exception or reduction shall be included with the benefit provision to which it applies; and

(6) each such form, including riders and endorsements, shall be identified by a form number in the lower left-hand corner of the first page thereof; and

(7) it contains no provision purporting to make any portion of the charter, rules, constitution, or by-laws of the insurer a part of the policy unless such portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risks, or short-rate table filed with the commissioner.

b. A policy under which coverage of a dependent of the policyholder terminates at a specified age shall, with respect to an unmarried child covered by the policy prior to the attainment of age 19, who is incapable of self-sustaining employment by reason of mental retardation or physical handicap and who became so incapable prior to attainment of age 19 and who is chiefly dependent upon such policyholder for support and maintenance, not so terminate while the policy remains in force and the dependent remains in such condition, if the policyholder has within 31 days of such dependent's attainment of the limiting age submitted proof of such dependent's incapacity as described herein. The foregoing provisions of this paragraph shall not require an insurer to insure a dependent who is a mentally retarded or physically handicapped

child where the policy is underwritten on evidence of insurability based on health factors set forth in the application or where such dependent does not satisfy the conditions of the policy as to any requirement for evidence of insurability or other provisions of the policy, satisfaction of which is required for coverage thereunder to take effect. In any such case the terms of the policy shall apply with regard to the coverage or exclusion from coverage of such dependent.

c. Notwithstanding any provision of a policy of health insurance, hereafter delivered or issued for delivery in this State, whenever such policy provides for reimbursement for any optometric service which is within the lawful scope of practice of a duly licensed optometrist, the insured under such policy shall be entitled to reimbursement for such service, whether the said service is performed by a physician or duly licensed optometrist.

d. If any policy is issued by an insurer domiciled in this State for delivery to a person residing in another State, and if the official having responsibility for the administration of the insurance laws of such other State shall have advised the commissioner that any such policy is not subject to approval or disapproval by such official, the commissioner may by ruling require that such policy meet the standards set forth in subsection a. of this section and in sections 17B:26-3 to 17B:26-31 inclusive.

17B:26-3 Required provisions.

Except as provided in section 17B:26-28 each such policy delivered or issued for delivery to any person in this State shall contain the provisions specified in sections 17B:26-4 to 17B:26-15 inclusive, in words in which the same appear in the applicable sections; provided, however, that the insurer may, at its option, substitute for one or more of such provisions corresponding provisions of different wording approved by the commissioner which are in each instance not less favorable in any respect to the insured or the owner, if other than the insured. Such provisions shall be preceded individually by the appropriate caption appearing in each of such sections or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the commissioner may approve.

17B:26-4 Entire contract; changes.

There shall be a provision as follows:

Entire contract; changes: This policy, including the endorsements and the attached papers, if any, constitutes the entire con-

tract of insurance. No change in this policy shall be valid until approved by an executive officer of the insurer and unless such approval be endorsed hereon or attached hereto. No agent has authority to change this policy or to waive any of its provisions.

17B:26-5 Time limit on certain defenses.

There shall be a provision as follows:

Time limit on certain defenses:

a. After 2 years from the date of issue of this policy no misstatements, except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of such 2-year period.

(1) The foregoing policy provision shall not be so construed as to affect any legal requirement for avoidance of a policy or denial of a claim during such initial 2-year period, nor to limit the application of sections 17B:26-17 to 17B:26-21, inclusive, in the event of misstatement with respect to age or occupation or other insurance.)

(2) A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium (a) until at least age 50 or, (b) in the case of a policy issued after age 44, for at least 5 years from its date of issue, may contain in lieu of the foregoing the following provision (from which the clause in parentheses may be omitted at the insurer's option) under the caption "INCONTESTABLE":

After this policy has been in force for a period of 2 years during the lifetime of the insured, (excluding any period during which the insured is disabled) it shall become incontestable as to the statements contained in the application.)

b. No claim for loss incurred or disability (as defined in the policy) commencing after 2 years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy.

17B:26-6 Grace period.

There shall be a provision as follows:

Grace period: A grace period of (insert a number not less than "7" for weekly premium policies, "10" for monthly

premium policies and "31" for all other policies) days will be granted for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force.

a. A policy which contains a cancellation provision may add, at the end of the above provision:

Subject to the right of the insurer to cancel in accordance with the cancellation provision hereof.

b. A policy in which the insurer reserves the right to refuse any renewal shall have, at the beginning of the above provision:

Unless not less than 5 days prior to the premium due date the insurer has delivered to the insured or has mailed to his last address as shown by the records of the insurer written notice of its intention not to renew this policy beyond the period for which the premium has been accepted

17B:26-7 Reinstatement.

There shall be a provision as follows:

Reinstatement: If any renewal premium be not paid within the time granted the insured for payment, a subsequent acceptance of premium by the insurer or by any agent duly authorized by the insurer to accept such premium, without requiring in connection therewith an application for reinstatement, shall reinstate the policy; provided, however, that if the insurer or such agent requires an application for reinstatement and issues a conditional receipt for the premium tendered, the policy will be reinstated upon approval of such application by the insurer or, lacking such approval, upon the forty-fifth day following the date of such conditional receipt unless the insurer has previously notified the insured in writing of its disapproval of such application. The reinstated policy shall cover only loss resulting from such accidental injury as may be sustained after the date of reinstatement and loss due to such sickness as may begin more than 10 days after such date. In all other respects the insured and insurer shall have the same rights thereunder as they had under the policy immediately before the due date of the defaulted premium, subject to any provisions endorsed hereon or attached hereto in connection with the reinstatement. Any premium accepted in connection with a reinstatement shall be applied to a period for which premium has not been previously paid, but not to any period more than 60 days prior to the date of reinstatement.

(The last sentence of the above provision may be omitted from any policy which the insured has the right to continue in force

subject to its terms by the timely payment of premiums a. until at least age 50 or, b. in the case of a policy issued after age 44, for at least 5 years from its date of issue.)

17B:26-8 Notice of claim.

There shall be a provision as follows:

Notice of claim: Written notice of claim must be given to the insurer within 20 days after the occurrence or commencement of any loss covered by the policy, or as soon thereafter as is reasonably possible. Notice given by or on behalf of the insured or the beneficiary to the insurer at (insert the location of such office as the insurer may designate for the purpose), or to any authorized agent of the insurer, with information sufficient to identify the insured, shall be deemed notice to the insurer.

(In a policy providing a loss-of-time benefit which may be payable for at least 2 years, an insurer may at its option insert the following between the first and second sentences of the above provision:

Subject to the qualifications set forth below, if the insured suffers loss of time on account of disability for which indemnity may be payable for at least 2 years, he shall, at least once in every 6 months after having given notice of claim, give to the insurer notice of continuance of said disability, except in the event of legal incapacity. The period of 6 months following any filing of proof by the insured or any payment by the insurer on account of such claim or any denial of liability in whole or in part by the insurer shall be excluded in applying this provision. Delay in the giving of such notice shall not impair the insured's right to any indemnity which would otherwise have accrued during the period of 6 months preceding the date on which such notice is actually given.)

17B:26-9 Claim forms.

There shall be a provision as follows:

Claim forms: The insurer, upon receipt of a notice of claim, will furnish to the claimant such forms as are usually furnished by it for filing proofs of loss. If such forms are not furnished within 15 days after the giving of such notice the claimant shall be deemed to have complied with the requirements of this policy as to proof of loss upon submitting, within the time fixed in the policy for filing proofs of loss, written proof covering the occurrence, the character and the extent of the loss for which claim is made.

17B:26-10 Proofs of loss.

There shall be a provision as follows:

Proofs of loss: Written proof of loss must be furnished to the insurer at its said office in case of claim for loss for which this policy provides any periodic payment contingent upon continuing loss within 90 days after the termination of the period for which the insurer is liable and in case of claim for any other loss within 90 days after the date of such loss. Failure to furnish such proof within the time required shall not invalidate nor reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity, later than 1 year from the time proof is otherwise required.

17B:26-11 Time of payment of claims.

There shall be a provision as follows:

Time of payment of claims: Indemnities payable under this policy for any loss other than loss for which this policy provides any periodic payment will be paid immediately upon receipt of due written proof of such loss. Subject to due written proof of loss, all accrued indemnities for loss for which this policy provides periodic payment will be paid (insert period for payment which must not be less frequently than monthly) and any balance remaining unpaid upon the termination of liability will be paid immediately upon receipt of due written proof.

17B:26-12 Payment of claims.

There shall be a provision as follows:

Payment of claims: Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting such payment which may be prescribed herein and effective at the time of payment. If no such designation or provision is then effective, such indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured's death may, at the option of the insurer, be paid either to such beneficiary or to such estate. All other indemnities will be payable to the insured.

(The following provisions, or either of them, may be included with the foregoing provision at the option of the insurer:

a. If any indemnity of this policy shall be payable to the estate of the insured, or to an insured or beneficiary who is a minor or otherwise not competent to give a valid release, the insurer may

pay such indemnity, up to an amount not exceeding \$.
(insert an amount which shall not exceed \$1,000.00), to any relative by blood or connection by marriage of the insured or beneficiary who is deemed by the insurer to be equitably entitled thereto. Any payment made by the insurer in good faith pursuant to this provision shall fully discharge the insurer to the extent of such payment.

b. Subject to any written direction of the insured in the application or otherwise all or a portion of any indemnities provided by this policy on account of hospital, nursing, medical, or surgical services may, at the insurer's option and unless the insured requests otherwise in writing not later than the time of filing proofs of such loss, be paid directly to the hospital or person rendering such services; but it is not required that the service be rendered by a particular hospital or person.)

17B:26-13 Physical examinations and autopsy.

There shall be a provision as follows:

Physical examinations and autopsy: The insurer at its own expense shall have the right and opportunity to examine the person of the insured when and as often as it may reasonably require during the pendency of a claim hereunder and to make an autopsy in case of death where it is not forbidden by law.

17B:26-14 Legal actions.

There shall be a provision as follows:

Legal actions: No action at law or in equity shall be brought to recover on this policy prior to the expiration of 60 days after written proof of loss has been furnished in accordance with the requirements of this policy. No such action shall be brought after the expiration of 3 years after the time written proof of loss is required to be furnished.

17B:26-15 Change of beneficiary.

There shall be a provision as follows:

Change of beneficiary: Unless the insured makes an irrevocable designation of beneficiary, the right to change of beneficiary is reserved to the insured and the consent of the beneficiary or beneficiaries shall not be requisite to surrender or assignment of this policy or to any change of beneficiary or beneficiaries, or to any other changes in this policy.

(The first clause of this provision, relating to the irrevocable designation of beneficiary, may be omitted at the insurer's option.)

17B:26-16 Optional policy provisions.

Except as provided in section 17B:26-28, no policy of health insurance delivered or issued for delivery to any person in this State shall contain provisions respecting the matters set forth in sections 17B:26-17 to 17B:26-27 inclusive, unless such provisions are in the words in which the same appear in the applicable section; provided, however, that the insurer may, at its option, use in lieu of any such provision a corresponding provision of different wording approved by the commissioner which is not less favorable in any respect to the insured or the owner, if other than the insured. Any such provision contained in the policy shall be preceded individually by the caption appearing in the appropriate section or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the commissioner may approve.

17B:26-17 Change of occupation.

There may be a provision as follows:

Change of occupation: If the insured be injured or contract sickness after having changed his occupation to one classified by the insurer as more hazardous than that stated in this policy or while doing for compensation anything pertaining to an occupation so classified, the insurer will pay only such portion of the indemnities provided in this policy as the premium paid would have purchased at the rates and within the limits fixed by the insurer for such more hazardous occupation. If the insured changes his occupation to one classified by the insurer as less hazardous than that stated in this policy, the insurer, upon receipt of proof of such change of occupation, will reduce the premium rate accordingly, and will return the excess pro rata unearned premium from the date of change of occupation or from the policy anniversary date immediately preceding receipt of such proof, whichever is the more recent. In applying this provision, the classification of occupational risk and the premium rates shall be such as have been last filed by the insurer prior to the occurrence of the loss for which the insurer is liable or prior to date of proof of change in occupation with the State official having supervision of insurance in the State where the insured resided at the time this policy was issued; but if such filing was not required, then the classification of occupational risk and the premium rates shall be those last made effective by the insurer in such State prior to the occurrence of the loss or prior to the date of proof of change in occupation.

17B:26-18 Misstatement of age.

There may be a provision as follows:

Misstatement of age: If the age of the insured has been misstated, all amounts payable under this policy shall be such as the premium paid would have purchased at the correct age.

17B:26-19 Other insurance in this insurer.

There may be a provision as follows:

Other insurance in this insurer: If an accident or sickness or accident and sickness policy or policies previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity for
(insert type of coverage or coverages) in excess of \$.
(insert maximum limit of indemnity or indemnities) the excess insurance shall be void and all premiums paid for such excess shall be returned to the insured or to his estate.

or, in lieu thereof:

Insurance effective at any one time on the insured under a like policy or policies in this insurer is limited to the one such policy elected by the insured, his beneficiary or his estate, as the case may be, and the insurer will return all premiums paid for all other such policies.

17B:26-20 Insurance with other insurers.

There may be a provision as follows:

Insurance with other insurers: If there be other valid coverage, not with this insurer, providing benefits for the same loss on a provision of service basis or on an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability under any expense incurred coverage of this policy shall be for such proportion of the loss as the amount which would otherwise have been payable hereunder plus the total of the like amounts under all such other valid coverages for the same loss of which this insurer had notice bears to the total like amounts under all valid coverages for such loss, and for the return of such portion of the premiums paid as shall exceed the pro-rata portion for the amount so determined. For the purpose of applying this provision when other coverage is on a provision of service basis, the "like amount" of such other coverage shall be taken as the amount which the services rendered would have cost in the absence of such coverage.

(If the foregoing policy provision is included in a policy which also contains the next following policy provision there shall be added to the caption of the foregoing provision the phrase “—Expense Incurred Benefits.” The insurer may, at its option, include in this provision a definition of “other valid coverage,” approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other State of the United States or any province of Canada, and by hospital or medical service organizations, and to any other coverage the inclusion of which may be approved by the commissioner. In the absence of such definition such term shall not include group insurance, automobile medical payments insurance, or coverage provided by hospital or medical service organizations or by union welfare plans or employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any workmen’s compensation or employer’s liability statute) whether provided by a governmental agency or otherwise shall in all cases be deemed to be “other valid coverage” of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as “other valid coverage.”)

17B:26-21 Insurance with other insurers.

There may be a provision as follows:

Insurance with other insurers: If there be other valid coverage, not with this insurer, providing benefits for the same loss on other than an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability for such benefits under this policy shall be for such proportion of the indemnities otherwise provided hereunder for such loss as the like indemnities of which the insurer had notice (including the indemnities under this policy) bear to the total amount of all like indemnities for such loss, and for the return of such portion of the premium paid as shall exceed the pro-rata portion for the indemnities thus determined.

(If the foregoing policy provision is included in a policy which also contains the next preceding policy provision there shall be added to the caption of the foregoing provision the phrase “—Other Benefits.” The insurer may, at its option, include in this provision a definition of “other valid coverage,” approved as

New Jersey State Library

to form by the commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other State of the United States or any province of Canada, and to any other coverage the inclusion of which may be approved by the commissioner. In the absence of such definition such term shall not include group insurance, or benefits provided by union welfare plans or by employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any workmen's compensation or employer's liability statute) whether provided by a governmental agency or otherwise shall in all cases be deemed to be "other valid coverage" of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as "other valid coverage.")

17B:26-22 Relation of earnings to insurance.

There may be a provision as follows:

Relation of earnings to insurance: If the total monthly amount of loss of time benefits promised for the same loss under all valid loss of time coverage upon the insured, whether payable on a weekly or monthly basis, shall exceed the monthly earnings of the insured at the time disability commenced or his average monthly earnings for the period of two years immediately preceding a disability for which claim is made, whichever is the greater, the insurer will be liable only for such proportionate amount of such benefits under this policy as the amount of such monthly earnings or such average monthly earnings of the insured bears to the total amount of monthly benefits for the same loss under all such coverage upon the insured at the time such disability commences and for the return of such part of the premiums paid during such two years as shall exceed the pro-rata amount of the premiums for the benefits actually paid hereunder; but this shall not operate to reduce the total monthly amount of benefits payable under all such coverage upon the insured below the sum of two hundred dollars or the sum of the monthly benefits specified in such coverages, whichever is the lesser, nor shall it operate to reduce benefits other than those payable for loss of time.

(The foregoing policy provision may be inserted only in a policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums a. until at least

age 50 or, b. in the case of a policy issued after age 44, for at least five years from its date of issue. The insurer may, at its option, include in this provision a definition of "valid loss of time coverage," approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by governmental agencies or by organizations subject to regulation by insurance law or by insurance authorities of this or any other State of the United States or any province of Canada, or to any other coverage the inclusion of which may be approved by the commissioner or any combination of such coverages. In the absence of such definition such terms shall not include any coverage provided for such insured pursuant to any compulsory benefit statute (including any workmen's compensation or employer's liability statute), or benefits provided by union welfare plans or by employer or employee benefit organizations.)

17B:26-23 Unpaid premium.

There may be a provision as follows:

Unpaid premium: Upon the payment of a claim under this policy, any premium then due and unpaid or covered by any note or written order may be deducted therefrom.

17B:26-24 Cancellation.

There may be a provision as follows:

Cancellation: The insurer may cancel this policy at any time by written notice delivered to the insured, or mailed to his last address as shown by the records of the insurer, stating when, not less than five days thereafter, such cancellation shall be effective; and after the policy has been continued beyond its original term the insured may cancel this policy at any time by written notice delivered or mailed to the insurer, effective upon receipt or on such later date as may be specified in such notice.

In the event of cancellation, the insurer will return promptly the unearned portion of any premium paid. If the insured cancels, the earned premium shall be computed by the use of the short-rate table last filed with the State official having supervision of insurance in the State where the insured resided when the policy was issued. If the insurer cancels, the earned premium shall be computed pro-rata. Cancellation shall be without prejudice to any claim originating prior to the effective date of cancellation.

17B:26-25 Conformity with State statutes.

There may be a provision as follows:

Conformity with State statutes: Any provision of this policy which, on its effective date, is in conflict with the statutes of the

State in which the insured resides on such date is hereby amended to conform to the minimum requirements of such statutes.

17B:26-26 Illegal occupation.

There may be a provision as follows:

Illegal occupation: The insurer shall not be liable for any loss to which a contributing cause was the insured's commission of or attempt to commit a felony or to which a contributing cause was the insured's being engaged in an illegal occupation.

17B:26-27 Intoxicants and narcotics.

There may be a provision as follows:

Intoxicants and narcotics: The insurer shall not be liable for any loss sustained or contracted in consequence of the insured's being intoxicated or under the influence of any narcotic unless administered on the advice of a physician.

17B:26-28 Inapplicable or inconsistent provisions.

If any provision of sections 17B:26-3 to 17B:26-31, inclusive, is in whole or in part inapplicable to or inconsistent with the coverage provided by a particular form of policy the insurer, with the approval of the commissioner, shall omit from such policy any inapplicable provision or part of a provision, and shall modify any inconsistent provision or part of the provision in such manner as to make the provision as contained in the policy consistent with the coverage provided by the policy.

17B:26-29 Order of certain policy provisions.

The provisions which are the subject of sections 17B:26-3 to 17B:26-27, inclusive, or any corresponding provisions which are used in lieu thereof in accordance with such sections, shall be printed in the consecutive order of the provisions in such sections or, at the option of the insurer, any such provision may appear as a unit in any part of the policy, with other provisions to which it may be logically related, provided the resulting policy shall not be in whole or in part unintelligible, uncertain, ambiguous, abstruse, or likely to mislead a person to whom the policy is offered, delivered or issued.

17B:26-30 Third party ownership.

The word "insured," as used in this chapter, shall not be construed as preventing a person other than the insured with a proper insurable interest from making application for and owning a policy covering the insured or from being entitled under such a policy to any indemnities, benefits and rights provided therein.

17B:26-31 Requirements of other jurisdictions.

a. Any policy of a foreign or alien insurer, when delivered or issued for delivery to any person in this State, may contain any provision which is not less favorable to the insured or the owner, if other than the insured, than the provisions of this chapter and which is prescribed or required by the law of the State under which the insurer is organized.

b. Any policy of a domestic insurer may, when issued for delivery in any other State or country, contain any provision permitted or required by the laws of such other State or country.

17B:26-32 Other policy provisions.

No policy provision which is not subject to sections 17B:26-3 to 17B:26-31, inclusive, of this chapter shall make a policy, or any portion thereof, less favorable in any respect to the insured or the owner, if other than the insured, than the provisions thereof which are subject to this chapter.

17B:26-33 Policy conflicting with this chapter.

A policy delivered or issued for delivery to any person in this State in violation of this chapter shall be held valid but shall be construed as provided in this chapter. When any provision in a policy subject to this chapter is in conflict with any provision of this chapter, the rights, duties and obligations of the insurer, the insured or the owner, if other than the insured, shall be governed by the provisions of this chapter.

17B:26-34 Time limit on certain defenses with respect to reinstatement.

A policy provision complying with the requirements of section 17B:26-5, relating to a time limit on certain defenses, shall also apply to any reinstatement of the policy except that the period of time established by such provision shall commence with the date of the reinstatement instead of the date of issue of the policy.

17B:26-35 Waiver of rights of insurer.

The acknowledgement by any insurer of the receipt of notice given under any policy covered by this chapter, or the furnishing of forms for filing proofs of loss, or the acceptance of such proofs, or the investigation of any claim thereunder shall not operate as a waiver of any of the rights of the insurer in defense of any claim arising under such policy.

17B:26-36 Age limit.

If any policy contains a provision establishing, as an age limit or otherwise, a date after which the coverage provided by the pol-

icy will not be effective, and if such date falls within a period for which premium is accepted by the insurer or if the insurer accepts a premium after such date, the coverage provided by the policy will continue in force subject to any right of cancellation until the end of the period for which premium has been accepted. In the event the age of the insured has been misstated and if, according to the correct age of the insured, the coverage provided by the policy would not have become effective, or would have ceased prior to the acceptance of such premium or premiums, then the liability of the insurer shall be limited to the refund, upon request, of all premiums paid for the period not covered by the policy.

17B:26-37 Scope of chapter.

Nothing in this chapter shall apply to or affect a. any policy of workmen's compensation insurance or any policy of liability insurance with or without supplementary coverage therein as authorized by section 17:28-1; or b. any policy or contract of reinsurance; or c. any blanket or group policy of insurance; or d. life insurance or annuity contracts, or contracts supplemental thereto, which contain only such provisions relating to health insurance as (1) providing for additional benefits in event of death by accident or accidental means or in event of dismemberment or loss of sight, or (2) safeguarding such insurance or annuity against lapse or giving a special surrender value or special benefit or an annuity in the event that the insured or the annuitant shall become totally and permanently disabled.

17B:26-38 Penalty.

Any person who delivers or issues for delivery to any person in this State any policy in willful violation of the provisions of this chapter shall be liable to a penalty not exceeding \$500.00 for each offense to be collected by the commissioner in the name of the State in a summary proceeding in accordance with the Penalty Enforcement Law (N. J. S. 2A:58-1 et seq.).

CHAPTER 27
GROUP LIFE, GROUP HEALTH INSURANCE
AND BLANKET INSURANCE

ARTICLE 1. GROUP LIFE INSURANCE

- 17B:27-1 Requirements.
- 17B:27-2 Employer groups.
- 17B:27-3 Credit groups.
- 17B:27-4 Labor union groups.
- 17B:27-5 Trustee groups.
- 17B:27-6 State Policemen's Benevolent Association and fraternal order of police groups.
- 17B:27-7 Credit union shareholder groups.
- 17B:27-8 Group associations.
- 17B:27-9 Dependents.
- 17B:27-10 Standard provisions.
- 17B:27-11 Grace period.
- 17B:27-12 Incontestable clause.
- 17B:27-13 Application; statements not warranties; entire contract.
- 17B:27-14 Evidence of insurability.
- 17B:27-15 Age adjustments.
- 17B:27-16 Participating policies.
- 17B:27-17 Beneficiary; facility of payment.
- 17B:27-18 Certificates.
- 17B:27-19 Conversion on termination of employment or membership.
- 17B:27-20 Conversion on termination or amendment of policy.
- 17B:27-21 Death within conversion period.
- 17B:27-22 Certificate to debtors.
- 17B:27-23 Conversion privilege of debtors on assignment by creditor of indebtedness requiring installment payments of more than ten years.
- 17B:27-24 Notice of conversion rights under group life insurance.
- 17B:27-25 Filing of forms.

ARTICLE 2. GROUP HEALTH AND BLANKET INSURANCE

- 17B:27-26 Definitions and requirements.
- 17B:27-27 Employer, trustee, labor union, association groups.
- 17B:27-28 Other groups as permitted under group life insurance.
- 17B:27-29 Discretionary groups.
- 17B:27-30 Dependents.
- 17B:27-31 “Employees” defined.
- 17B:27-32 Blanket insurance.
- 17B:27-33 Standard provisions.
- 17B:27-34 Application; statements.
- 17B:27-35 Policy changes.
- 17B:27-36 New entrants.
- 17B:27-37 Payment of premiums.
- 17B:27-38 Certificate.
- 17B:27-39 Age limits.
- 17B:27-40 Notice of loss.
- 17B:27-41 Proof of loss.
- 17B:27-42 Forms for proof.
- 17B:27-43 Examination, autopsy.
- 17B:27-44 Time of benefit payment.
- 17B:27-45 Beneficiary; direct payment to hospitals.
- 17B:27-46 Time limits, suits.
- 17B:27-47 Group health or blanket insurance—provisions as favorable; policies issued outside state.
- 17B:27-48 Exceptions in same type as benefits.
- 17B:27-49 Filing of forms.
- 17B:27-50 Reimbursement for service of physician or practicing psychologist.
- 17B:27-51 Reimbursement for optometric service.

ARTICLE 3. GROUP LIFE AND HEALTH INSURANCE

- 17B:27-52 Group life and health—package policies.
- 17B:27-53 Group life and health—rate reduction and application of dividends; excess over employer’s cost.

ARTICLE 1. GROUP LIFE INSURANCE

17B:27-1 Requirements.

No policy of group life insurance shall be delivered or issued for delivery in this State unless it conforms to one of the descriptions set forth in sections 17B:27-2 to 17B:27-8 inclusive.

17B:27-2 Employer groups.

A policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, subject to the following requirements:

a. The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof determined by conditions pertaining to their employment or by a combination of such conditions and conditions pertaining to the family status of the employees. The policy may provide that the term "employees" shall include the employees of one or more subsidiary corporations and the employees, individual proprietors and partners of one or more affiliated corporations, proprietors or partnerships if the business of the employer and such affiliated corporations, proprietors or partnerships is under common control through stock ownership, contract or otherwise. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietor or a partnership. The policy may provide that the term "employees" shall include retired employees. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

b. The premium for the policy shall be paid by the policyholder, either wholly from the employer's funds or funds contributed by him, or partly from such funds and partly from funds contributed by the insured employees. No policy may be issued on which the entire premium is to be derived from funds con-

tributed by the insured employees. A policy on which part of the premium is to be derived from funds contributed by the insured employees may be placed in force only if at least 75% of the then eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

c. The policy must cover at least 10 employees at date of issue.

d. The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or by the employer or trustees.

17B:27-3 Credit groups.

A policy issued to a creditor or to a trustee or trustees or agent designated by two or more creditors, which creditor, trustee, trustees or agent shall be deemed to be the policyholder, to insure debtors of the creditor or creditors subject to the following requirements:

a. The debtors eligible for insurance under the policy shall be all of the debtors of the creditor or all except any as to whom evidence of individual insurability is not satisfactory to the insurer whose indebtedness is repayable either (1) in installments, or (2) in one sum at the end of a period not in excess of 18 months from the initial date of debt, or all of any class or classes thereof determined by conditions pertaining to the indebtedness or to the purchase giving rise to the indebtedness. The policy may provide that the term "debtors" shall include the debtors of one or more subsidiary corporations and the debtors of one or more affiliated corporations, proprietors or partnerships, if the business of the policyholder and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership, contract, or otherwise. The term "debtors" may also include intended borrowers pursuant to a program for defraying the cost of attendance of a student at a college or a university, which program shall include provision for immediate periodic payments by the parent or guardian of such student and a loan commitment to such parent or guardian by a financial institution or by or in behalf of a college or university to defray the cost of attendance at such

college or university in excess of the accumulated periodic payment by the parent or guardian.

b. The premiums for the policy shall be paid by the policyholder, either from the creditor's funds or from charges collected from the insured debtors, or from both. A policy on which part or all of the premium is to be derived from the collection from the insured debtors of identifiable charges not required of uninsured debtors shall not include, in the class or classes of debtors eligible for insurance debtors under obligations outstanding at its date of issue without evidence of individual insurability unless at least 75% of the then eligible debtors elect to pay the required charges. A policy on which no part of the premium is to be derived from the collection of such identifiable charges must insure all eligible debtors or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

c. The policy may be issued only if the group of eligible debtors is then receiving new entrants at the rate of at least 100 persons yearly or may reasonably be expected to receive at least 100 new entrants during the first policy year, and only if the policy reserves to the insurer the right to require evidence of individual insurability if less than 75% of the new entrants become insured. The policy may exclude from the classes eligible for insurance classes of debtors determined by age.

d. The amount of insurance on any person insured under a policy shall not at any time exceed the lesser of (1) the amount of unpaid indebtedness due from such person or in the case of an outstanding loan commitment under a program for defraying the cost of attendance of a student at a college or a university, the balance of any outstanding loan commitment reduced by scheduled periodic payments by the debtor, and (2) in the case of transactions secured by a real estate mortgage, the sum of \$30,000.00, and, in all other cases, \$20,000.00. Where the indebtedness is repayable in one sum to the creditor the insurance on the life of any debtor shall in no instance be in effect for a period in excess of 18 months except that such insurance may be continued for an additional period not exceeding 6 months in the case of default, extension or recasting of the loan.

e. The insurance shall be payable to the policyholder, and such payments shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of such payment.

17B:27-4 Labor union groups.

A policy issued to a labor union, which shall be deemed the policyholder, to insure members of such union for the benefit of persons other than the union or any of its officials, representatives or agents, subject to the following requirements:

a. The members eligible for insurance under the policy shall be all of the members of the union, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the union, or both or by a combination of such conditions and conditions pertaining to the family status of the members.

b. The premium for the policy shall be paid by the policyholder, either wholly from the union's funds or partly from such funds and partly from funds contributed by the insured members specifically for their insurance. No policy may be issued on which the entire premium is to be derived from funds contributed by the insured members specifically for their insurance. A policy on which part of the premium is to be derived from funds contributed by the insured members specifically for their insurance may be placed in force only if at least 75% of the then eligible members, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

c. The policy must cover at least 10 members at date of issue.

d. The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or by the union.

17B:27-5 Trustee groups.

A policy issued to the trustees of a fund established by two or more employers in the same industry, or in related industries, or by one or more labor unions or by one or more employers and one or more labor unions, which trustees shall be deemed the policyholder to insure employees of the employers or members of the unions for the benefit of persons other than the employers or the unions, subject to the following requirements:

a. The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the unions, or to both or by a combination of such conditions and conditions pertaining to the family status of the employees or members. The policy may provide that the term "employees" shall include retired employees, and the individual proprietors or partners if an employer is an individual proprietor or partnership. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship. If the fund is established by the members of an association of employers, the policy may provide that the term "employees" shall include the employees of the association.

b. The premium for the policy shall be paid by the trustees wholly from funds contributed by the employer or employers of the insured persons, or by the union or unions, or by both, or partly from such funds and partly from funds contributed by the insured persons, provided that the contributions of the insured persons toward the cost of insurance shall not exceed \$.60 monthly per \$1,000 of insurance unless the commissioner approves greater contributions for all or any category or categories of insured persons which, in the opinion of the commissioner, are equitable. A policy on which part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance may be placed in force only if at least 75% of the then eligible persons, excluding any as to whom evidence of insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance must insure all eligible persons or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

c. The policy must cover at date of issue at least 100 persons; and it must cover an average of not less than 3 persons per

employer unit unless the policy is issued to the trustees of a fund established by employers which have assumed obligations through a collective bargaining agreement and are participating in the fund either pursuant to those obligations with respect to one or more classes of their employees which are encompassed in the collective bargaining agreement or as a method of providing insurance benefits for other classes of their employees, or unless the policy is issued to the trustees of a fund established by one or more labor unions.

d. The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the insured persons, policyholder, employers or unions.

17B:27-6 State Policemen's Benevolent Association and fraternal order of police groups.

A policy issued to a duly incorporated State Policemen's Benevolent Association or Fraternal Order of Police, which association or order shall be deemed the policyholder, to insure members of such association or order for the benefit of persons other than the association, order or any of its officials, subject to the following requirements:

a. The persons eligible for insurance under the policy shall be all of the members of the association or order or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the association, order, or both.

b. The premium for the policy shall be paid by the policyholder wholly from the association's or order's funds. No policy may be issued on which any part of the premium is to be derived from funds contributed by the insured members specifically for their insurance. The policy must insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

c. The policy must cover at least 10 members at date of issue.

d. The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or the association or order. In no event may the amount of insurance under the policy on a member exceed \$5,000.00.

17B:27-7 Credit union shareholder groups.

A policy issued to a credit union or to the trustees of a fund established by one or more credit unions, which credit union or trustees shall be deemed the policyholder to insure members of such credit union or credit unions for the benefit of persons other

than the credit union or credit unions or trustees or any of their officials, subject to the following requirements:

a. The members eligible for insurance shall be all of the members of the credit union or credit unions, or all of any class or classes thereof determined by conditions pertaining to membership in the credit union or credit unions. The policy may exclude from the classes eligible for insurance classes of members determined by age.

b. The premium for the policy shall be paid by the policyholder, either wholly from the funds of the credit union or credit unions, or partly from such funds and partly from funds contributed by the insured members specifically for their insurance, or wholly from funds contributed by the insured members specifically for their insurance. A policy on which all or a part of the premium is to be derived from funds contributed by the insured members specifically for their insurance may be placed in force only if at least seventy-five per cent of the then eligible members of each credit union, excluding any as to whom evidence of insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

c. The policy must cover at least twenty-five members at date of issue.

d. The amount of the insurance on the life of any member cannot exceed the amount of his share account and the amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or by the credit union or credit unions.

17B:27-8 Group associations.

A policy issued to a duly incorporated nonprofit religious or charitable association or corporation, which has been in existence for more than 1 year at the time of issuance of the policy and which was not formed for the exclusive purpose of procuring insurance, which association or corporation shall be deemed the policyholder, to insure members of such association or corporation for the benefit of the association or corporation or of persons named by the insured members for the purpose of carrying out the duly stated objectives of the association or corporation, subject to the following requirements:

a. The persons eligible for insurance under the policy shall be all of the members of the association or corporation or all of any class or classes thereof determined by conditions pertaining to membership in the association or corporation.

b. The premium for the policy shall be paid by the policyholder or the insured members, or by both jointly.

c. The policy must cover at least 100 members at date of issue and, if any part of the premium is to be paid by the insured members, shall cover not less than 75% of such eligible members, exclusive of any as to whom evidence of individual insurability is not satisfactory to the insurer.

d. The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the insured members or by the policyholder.

17B:27-9 Dependents.

Any policy issued pursuant to sections 17B:27-2, 17B:27-4 and 17B:27-5 may be extended to insure the employees or members against loss due to the death of their spouses and dependent or minor children, or any class or classes thereof, subject to the following requirements:

a. The premium for the insurance shall be paid by the policyholder, either from the employer's or union's funds or from funds contributed by the insured employees or members, or from both. If any part of the premium is to be derived from funds contributed by the insured employees or members, the insurance with respect to spouses and children may be placed in force only if at least 75 per cent of the then eligible employees or members, excluding any as to whose family members evidence of insurability is not satisfactory to the insurer, elect to make the required contribution. If no part of the premium is to be derived from funds contributed by the employees or members, all eligible employees or members, excluding any as to whose family members evidence of insurability is not satisfactory to the insurer, must be insured with respect to their spouses and children;

b. The amounts of insurance must be based upon some plan precluding individual selection either by the employees or members or by the policyholder, employer or union and shall not exceed, with respect to any spouse or child, 50% of the insurance on the life of such employee or member or \$5,000, whichever is less, provided, however, the amount for a child whose age at death is less than 6 months shall not exceed \$100.

c. Upon termination of the insurance with respect to the members of the family of any employee or member by reason of the employee's or member's termination of employment, termination or membership in the class or classes eligible for coverage under the policy, or death, the spouse shall be entitled to have issued by the insurer, without evidence of insurability, an individual policy of life insurance without disability or other supplementary benefits, providing application for the individual policy is made, and the first premium paid to the insurer, within 31 days after such termination, subject to the requirements of subsections a., b. and c. of section 17B:27-19. If the group policy terminates or is amended so as to terminate the insurance of any class of employees or members and the employee or member is entitled to have issued an individual policy under section 17B:27-20, the spouse shall also be entitled to have issued by the insurer an individual policy, subject to the conditions and limitations provided above and in said section 17B:27-20. If the spouse dies within the period during which he would have been entitled to have an individual policy issued in accordance with this subsection and before such an individual policy becomes effective, the amount of life insurance which he would have been entitled to have issued under such individual policy shall be payable as a claim under the group policy, whether or not application for the individual policy or the payment of the first premium therefor has been made;

d. Notwithstanding the provisions of section 17B:27-18, only one certificate need be issued for delivery to an insured person if a statement concerning any dependents' coverage is included in such certificate.

17B:27-10 Standard provisions.

No policy of group life insurance shall be delivered or issued for delivery in this State unless it contains in substance the following provisions in sections 17B:27-11 to 27B:27-21, inclusive, provided, however, a. that sections 17B:27-17 to 17B:27-21, inclusive, shall not apply to policies issued in accordance with section 17B:27-3, but sections 17B:27-22 and 23 shall be applicable to such policies, and that sections 17B:27-19 to 17B:27-21, inclusive, shall not apply to policies issued in accordance with section 17B:27-7; b. that the provisions required for individual life insurance policies shall not apply to group life insurance policies; and c. that if the group life insurance policy is on a plan of insurance other than the term plan, it shall contain a nonforfeiture provision or provisions which in the opinion of the commissioner is or are equitable to the

insured persons and to the policyholder, but nothing herein shall be construed to require that group life insurance policies contain the same form of nonforfeiture provisions as are required for individual life insurance policies. Any policy of group life insurance may be delivered in this State which in the opinion of the commissioner contains provisions as favorable to the persons insured and to the policyholder as the following provisions and may be issued by any insurer of this State for delivery outside of this State when containing provisions in addition to or differing from the following provisions; provided, such policy conforms to the laws of the State or country in which it is delivered.

17B:27-11 Grace period.

There shall be a provision that the policyholder is entitled to a grace period of 31 days for the payment of any premium due except the first, during which grace period the death benefit coverage shall continue in force, unless the policyholder shall have given the insurer written notice of discontinuance in advance of the date of discontinuance and in accordance with the terms of the policy. The policy may provide that the policyholder shall be liable to the insurer for the payment of a pro rata premium for the time the policy was in force during such grace period.

17B:27-12 Incontestable clause.

There shall be a provision that the validity of the policy shall not be contested, except for nonpayment of premiums, after it has been in force for 2 years from its date of issue; and that no statement made by any person insured under the policy relating to his insurability shall be used in contesting the validity of the insurance with respect to which such statement was made after such insurance has been in force prior to the contest for a period of 2 years during such person's lifetime nor unless it is contained in a written instrument signed by him.

17B:27-13 Application; statements not warranties; entire contract.

There shall be a provision that a copy of the application, if any, of the policyholder shall be attached to the policy when issued, that all statements made by the policyholder or by the persons insured shall be deemed representations and not warranties, and that no statement made by any person insured shall be used in any contest unless a copy of the instrument containing the statement is or has been furnished to such person or to his beneficiary.

17B:27-14 Evidence of insurability.

There shall be a provision setting forth the conditions, if any, under which the insurer reserves the right to require a person eligible for insurance to furnish evidence of individual insurability

satisfactory to the insurer as a condition to part or all of his coverage.

17B:27-15 Age adjustments.

There shall be a provision specifying an equitable adjustment of premiums or of benefits or of both to be made in the event the age of a person insured has been misstated, such provision to contain a clear statement of the method of adjustment to be used. This provision need not be included in a policy where premiums are not based upon age.

17B:27-16 Participating policies.

In participating policies, there shall be a provision that the policy shall participate in the divisible surplus of the insurer as determined by the insurer and that the insurer shall determine annually the extent of such participation, if any; and that the policyholder shall have the right to any dividend arising from the participation paid in cash unless another dividend option contained in the policy has been elected.

17B:27-17 Beneficiary; facility of payment.

There shall be a provision that any sum becoming due by reason of the death of the person insured shall be payable to the beneficiary designated by the person insured except where the policy contains conditions pertaining to family status, the beneficiary may be the family member specified by the policy terms, subject to the provisions of the policy in the event there is no such designated or specified beneficiary, as to all or any part of the insurance payable, living at the death of the person insured, and subject to any right reserved by the insurer in the policy and set forth in the certificate to pay at its option a part of such sum not exceeding \$500.00 to any person appearing to the insurer to be equitably entitled thereto by reason of having incurred funeral or other expenses incident to the last illness or death of the person insured.

17B:27-18 Certificates.

There shall be a provision that the insurer will issue to the policyholder for delivery to each person insured a certificate setting forth a statement as to the insurance protection to which he is entitled, to whom the insurance benefits are payable, and the rights and conditions set forth in sections 17B:27-19, 17B:27-20 and 17B:27-21 following.

17B:27-19 Conversion on termination of employment or membership.

There shall be a provision that if the insurance, or any portion of it, on a person covered under the policy ceases because of termination of employment or of membership in the class or classes

eligible for coverage under the policy, such person shall be entitled to have issued to him by the insurer, without evidence of insurability, an individual policy of life insurance without disability or other supplementary benefits, provided application for the individual policy shall be made, and the first premium paid to the insurer, within 31 days after such termination, and provided further that,

a. the individual policy shall, at the option of such person, be on any one of the forms, except term insurance, then customarily issued by the insurer at the age and for the amount applied for;

b. the individual policy shall be in an amount not in excess of the amount of life insurance which ceases because of such termination less the amount of any life insurance for which such person is or becomes eligible within 31 days after such termination under the same or any other group policy; provided, that any amount of insurance which shall have matured on or before the date of such termination as an endowment payable to the person insured, whether in one sum or in installments or in the form of an annuity, shall not, for the purposes of this provision, be included in the amount which is considered to cease because of such termination; and

c. the premium on the individual policy shall be at the insurer's then customary rate applicable to the form and amount of the individual policy, to the class of risk to which such person then belongs, and to his age attained on the effective date of the individual policy.

17B:27-20 Conversion on termination or amendment of policy.

There shall be a provision that if the group policy terminates or is amended so as to terminate the insurance of any class of insured persons, every person insured thereunder at the date of such termination whose insurance terminates and who has been so insured for at least 5 years prior to such termination date shall be entitled to have issued to him by the insurer an individual policy of life insurance, subject to the same conditions and limitations as are provided by section 17B:27-19 above, except that the group policy may provide that the amount of such individual policy shall not exceed the smaller of

a. the amount of the person's life insurance protection ceasing because of the termination or amendment of the group policy, less the amount of any life insurance for which he is or becomes eligible under any group policy issued or reinstated by the same or another insurer within 31 days after such termination, and

b. \$2,000.00.

17B:27-21 Death within conversion period.

There shall be a provision that if a person insured under the group policy dies during the period within which he would have been entitled to have an individual policy issued to him in accordance with section 17B:27-19 or section 17B:27-20 above and before such an individual policy shall have become effective, the amount of life insurance which he would have been entitled to have issued to him under such individual policy shall be payable as a claim under the group policy, whether or not application for the individual policy or the payment of the first premium therefor has been made.

17B:27-22 Certificate to debtors.

In the case of a policy issued in accordance with section 17B:27-3 above there shall be a provision that the insurer will furnish to the policyholder for delivery to each debtor insured under the policy a form which shall contain a statement that the life of the debtor is insured under the policy and that any death benefit paid thereunder by reason of his death shall be applied to reduce or extinguish the indebtedness.

17B:27-23 Conversion privilege of debtors on assignment by creditor of indebtedness requiring installment payments of more than 10 years.

In the case of a policy issued in accordance with section 17B:27-3 above, which provides that each insured debtor whose protection under the group insurance policy terminates by reason of absolute assignment by the creditor of the insured debtor's indebtedness for the discharge of which the debtor when incurring the same had agreed upon installment payments over a period of more than 10 years, there shall be a provision that each insured debtor shall be entitled to have issued to him by the insurer, without evidence of insurability, upon application made to the insurer and upon the payment of the premium applicable to the class of risk to which he belongs and to the form and amount of the policy at his then attained age within 31 days after such assignment of the indebtedness, an individual policy of life insurance; provided, such individual policy of life insurance so issued shall be in any one of the level premium forms customarily issued by the insurer, except term insurance, in an amount equal to the amount of his protection terminated under the group insurance policy because of such assignment, less the amount of insurance for which such insured debtor may become eligible and qualify under any group insurance policy in effect with the assignee at the date of the assignment or issued to the assignee within such period of 31 days; and provided further, that in the event that such assignment of

the indebtedness shall have been made by the creditor at the request of the insured debtor, the insurer may require satisfactory evidence of such debtor's insurability before making such individual policy of life insurance effective. If such insured debtor dies during the period within which he would have been entitled to have an individual policy issued to him in accordance with this provision and before such an individual policy shall have become effective, the amount of life insurance which he would have been entitled to have issued to him under such individual policy shall be payable as a claim under the group policy, whether or not application for the individual policy or the payment of the first premium therefor has been made.

17B:27-24 Notice of conversion rights under group life insurance.

If any individual insured under a group life insurance policy hereafter delivered in this State becomes entitled under the terms of such policy to have an individual policy of life insurance issued to him without evidence of insurability, subject to the making of application and payment of the first premium within the period specified in such policy, and if such individual is not given notice of the existence of such right at least 15 days prior to the expiration date of such period, then the individual shall have an additional period within which to exercise such right; but nothing herein shall be construed to continue any insurance under the policy beyond the period provided in the policy. Such additional period shall expire 15 days next after the individual is given such notice, but in no event shall such additional period extend beyond 60 days next after the expiration date of the period provided in such policy. Written notice presented to the individual, or mailed by the policyholder to the last known address of the individual, or mailed by the insurer to the last known address of the individual as furnished by the policyholder, shall constitute notice for the purposes hereof.

17B:27-25 Filing of forms.

a. No group life insurance policy, or application where written application is required and is to be made a part of such policy, certificate, printed rider or endorsement for use with such policy, shall be delivered or issued for delivery in this State unless the form thereof has been submitted to and filed by the commissioner.

b. At the expiration of 30 days after submission the form shall be deemed filed unless prior thereto it has been affirmatively filed or disapproved for filing by the commissioner.

c. If any such form is disapproved for filing by the commissioner during said 30-day period, it may not be so delivered or issued for delivery unless and until such disapproval for filing is withdrawn. Such disapproval shall be subject to review in accordance with the procedure described in the Administrative Procedure Act (P. L. 1968, c. 410) and any rules adopted thereunder.

Any such form which is filed by the commissioner or deemed filed may be so delivered or issued for delivery until such time as any subsequent withdrawal of the filing by the commissioner, following an opportunity for a hearing held in accordance with the Administrative Procedure Act (P. L. 1968, c. 410) and any rules adopted thereunder, becomes final in accordance therewith.

d. The commissioner may extend the 30-day period referred to above for not more than 30 additional days by giving written notice of such extension before the expiration of the initial 30-day period. In the event of such extension all the provisions of this section, except this provision for extension, relating to the initial 30-day period shall apply to the extended period instead of such initial 30-day period.

e. The disapproval for filing or the withdrawal of the filing of any such form by the commissioner must state in writing the grounds therefor in such detail as reasonable to inform the insurer thereof.

f. This section shall not apply to documents which relate only to the manner of distribution of benefits or to the reservation of rights and benefits under such policies and which are used at the request of the individual insured or policyholder.

g. The disapproval by the commissioner of any such form may be on the ground that such form contains provisions which are unjust, unfair, inequitable, misleading, contrary to law or to the public policy of this State.

ARTICLE 2. GROUP HEALTH AND BLANKET INSURANCE

17B:27-26 Definitions and requirements.

Any policy or contract of health insurance which covers more than one person, other than a blanket insurance policy, or a policy issued pursuant to section 17B:26-2a(3), shall be deemed a group health insurance policy. No group health insurance policy may be delivered or issued for delivery in this State unless it conforms to one of the descriptions set forth in sections 17B:27-27 to 17B:27-29, inclusive.

17B:27-27 Employer, trustee, labor union, association groups.

A policy issued to an employer or to the trustees of a fund established by one or more employers, or issued to a labor union, or issued to an association formed for purposes other than obtaining such insurance, or issued to the trustees of a fund established by one or more labor unions or by one or more employers and one or more labor unions, insuring employees and members of associations or labor unions.

17B:27-28 Other groups as permitted under group life insurance.

Group health insurance may also be provided under a policy issued to cover such other groups as may be covered for group life insurance.

17B:27-29 Discretionary groups.

A policy issued to insure any other group which, in the opinion of the commissioner, may be insured for group health insurance in accordance with sound underwriting principles.

17B:27-30 Dependents.

Benefits of group health insurance, except benefits for loss of time on account of disability, may be provided for one or more members of the families or one or more dependents of persons who may be insured under a group policy referred to in sections 17B:27-27, 17B:27-28 or 17B:27-29. Any group health insurance policy which contains provisions for the payment by the insurer of benefits for expenses incurred on account of hospital, nursing, medical, or surgical services for members of the family or dependents of a person in the insured group may provide for the continuation of such benefit provisions, or any part or parts thereof, after the death of the person in the insured group.

A policy under which coverage of a dependent of an employee or other member of the insured group terminates at a specified age shall, with respect to an unmarried child covered by the policy prior to the attainment of age 19, who is incapable of self-sustaining employment by reason of mental retardation or physical handicap and who became so incapable prior to attainment of age 19 and who is chiefly dependent upon such employee or member for support and maintenance, not so terminate while the insurance of the employee or member remains in force and the dependent remains in such condition, if the insured employee or member has within 31 days of such dependent's attainment of the termination age submitted proof of such dependent's incapacity as described herein. The foregoing provision of this paragraph shall not require an insurer to insure a dependent who is a mentally retarded or

physically handicapped child of an employee or other member of the insured group where such dependent does not satisfy the conditions of the group policy as to any requirements for evidence of insurability or other provisions as may be stated in the group policy required for coverage thereunder to take effect. In any such case the terms of the policy shall apply with regard to the coverage or exclusion from coverage of such dependent.

17B:27-31 "Employees" defined.

The policy may provide that the term "employees" shall include as employees of a single employer the employees of one or more subsidiary corporations and the employees, individual proprietors and partners of affiliated corporations, proprietorships and partnerships if the business of the employer and such corporations, proprietorships or partnerships is under common control through stock ownership, contract or otherwise. The policy may provide that the term "employees" shall include the individual proprietor or partners of an individual proprietorship or a partnership. The policy may provide that the term "employees" shall include retired employees. A policy issued to trustees may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship. A policy issued to the trustees of a fund established by the members of an association of employers may provide that the term "employees" shall include the employees of the association.

17B:27-32 Blanket insurance.

a. Any policy or contract of insurance against death or injury resulting from accident or from accidental means which conforms with the description and complies with the requirements contained in one of the following paragraphs shall be deemed a blanket insurance policy.

(1) A policy or contract issued to any railroad, steamship, motor bus or airplane carrier of passengers, which carrier shall be deemed the policyholder, covering a group defined as all persons who may become such passengers and whereby such passengers shall be insured against loss or damage resulting from death or bodily injury either while, or as a result of, being such passengers.

A policy or contract covering accidental death or injury to individuals resulting from airline accidents may also be issued under which premiums are paid from funds of the airline and the benefits are payable to the airline or to a trust established for the

purpose of funding payments to persons with claims against the airline by reason of the death or bodily injury of individuals.

(2) A policy or contract issued in the name of any volunteer fire department, first aid or ambulance squad or volunteer police organization which shall be deemed the policyholder and covering all of the members of any such organization against loss from accidents resulting from hazards incidental to duties in connection with such organizations.

(3) A policy or contract issued in the name of any established organization, whether incorporated or not, having community recognition and operating for the welfare of the community and not for profit which shall be deemed the policyholder and covering all volunteer workers who are members of the organization and who serve without pecuniary compensation against loss from accidents occurring while engaged in the actual performance of duties on behalf of such organization.

(4) A policy or contract issued to any employer, who shall be deemed the policyholder, covering any group of employees defined by reference to exceptional hazards incident to such employment, insuring such employees against death or bodily injury resulting while or from being exposed to such exceptional hazards.

(5) A policy or contract issued to a college, school, or other institution of learning or to the head or principal thereof, who or which shall be deemed the policyholder.

(6) A policy or contract issued to and in the name of an incorporated or unincorporated association of persons having a common interest or calling, which association shall be deemed the policyholder, having not less than 50 members, covering all the members of such association, or if part or all of the premium is to be derived from funds contributed by the insured members and if the opportunity to take such insurance is offered to all eligible members, then such policy must cover not less than 75% of any class or classes of members determined by conditions pertaining to membership in the association.

(7) A policy or contract issued to insure any other substantially similar group approved by the commissioner as eligible for insurance under a blanket insurance policy or contract.

b. Nothing contained in this section shall be deemed to affect the legal liability of policyholders for the death of or injury to any such member of such group.

17B:27-33 Standard provisions.

No policy of group health or blanket insurance and no certificate thereunder shall be delivered or issued for delivery in this State unless the policy contains in substance all the provisions specified in sections 17B:27-34 to 17B:27-46 following.

17B:27-34 Application; statements.

There shall be a provision that a copy of the application, if any, of the policyholder shall be attached to the policy when issued, that all statements made by the policyholder or by the persons insured shall be deemed representations and not warranties, and that no statement made by any person insured shall avoid the insurance or reduce benefits thereunder unless contained in a written instrument signed by the person insured.

17B:27-35 Policy changes.

There shall be a provision that no agent has authority to change the policy or to waive any of its provisions and that no change in the policy shall be valid unless approved by an officer of the insurer and evidenced by endorsement on the policy, or by amendment to the policy signed by the policyholder and the insurer.

17B:27-36 New entrants.

There shall be a provision that all new employees or new members, as the case may be, in the groups or classes eligible for such insurance must be added to such eligible groups or classes.

17B:27-37 Payment of premiums.

There shall be a provision that all premiums due under the policy shall be remitted by the employer or employers of the persons insured, by the policyholder, or by some other designated person acting on behalf of the association or group insured, to the insurer on or before the due date thereof with such period of grace as may be specified therein.

17B:27-38 Certificate.

There shall be a provision that the insurer shall issue to the employer, the policyholder, or other person or association in whose name such policy is issued, for delivery to each employee or member, a certificate setting forth in summary form a statement of the essential features of the insurance coverage, to whom the benefits thereunder are payable, and in substance the provisions of sections 17B:27-39 to 17B:27-46, inclusive of this chapter. This section shall not apply to blanket policies issued pursuant to section

17B:27-32a(1) and 17B:27-32a(3) of this act, nor to group health policies insuring a private plan under the Temporary Disability Benefits Law, if reasonable notice of the benefits provided thereby is furnished to the covered employees by direct notification or by conspicuous posting at the place of employment. If family members or dependents are included in the coverage, only one certificate need be issued for each family unit.

17B:27-39 Age limits.

There shall be a provision specifying the ages, if any there be, to which the insurance provided therein shall be limited; and the ages, if any there be, for which additional restrictions are placed on benefits, and the additional restrictions placed on the benefits at such ages.

17B:27-40 Notice of loss.

There shall be a provision that written notice of sickness or of injury must be given to the insurer within 20 days after the date when such sickness or injury occurred. Failure to give notice within such time shall not invalidate nor reduce any claim if it shall be shown not to have been reasonably possible to give such notice and that notice was given as soon as was reasonably possible.

17B:27-41 Proof of loss.

There shall be a provision that in the case of claim for loss of time for disability, written proof of such loss must be furnished to the insurer within 30 days after the commencement of the period for which the insurer is liable, and that subsequent written proofs of the continuance of such disability must be furnished to the insurer at such intervals as the insurer may reasonably require, and that in the case of claim for any other loss, written proof of such loss must be furnished to the insurer within 90 days after the date of such loss. Failure to furnish such proof within such time shall not invalidate nor reduce any claim if it shall be shown not to have been reasonably possible to furnish such proof and that such proof was furnished as soon as was reasonably possible.

17B:27-42 Forms for proof.

There shall be a provision that the insurer will furnish to the person making claim, or to the policyholder for delivery to such person, such forms as are usually furnished by it for filing proof of loss. If the person making claim does not receive such forms before the expiration of 15 days after the insurer receives notice of any claim under the policy, the person making such claim shall be deemed to have complied with the requirements of the policy

as to proof of loss upon submitting within the time fixed in the policy for filing proof of loss, written proof covering the occurrence, character and extent of the loss for which claim is made.

17B:27-43 Examination, autopsy.

There shall be a provision that the insurer shall have the right and opportunity to examine the person of the insured when and so often as it may reasonably require during the pendency of claim under the policy and also the right and opportunity to make an autopsy in case of death where it is not prohibited by law.

17B:27-44 Time of benefit payment.

There shall be a provision that all benefits payable under the policy other than benefits for loss of time will be payable not more than 60 days after receipt of proof, and that, subject to due proof of loss, all accrued benefits payable under the policy for loss of time will be paid not later than at the expiration of each period of 30 days during the continuance of the period for which the insurer is liable, and that any balance remaining unpaid at the termination of such period will be paid immediately upon receipt of such proof.

17B:27-45 Beneficiary; direct payment to hospitals and other purveyors of services.

There shall be a provision that indemnity for loss of life of the insured shall be payable to the beneficiary or beneficiaries designated by the insured, other than the policyholder or an officer thereof as such, or if no beneficiary is designated, to such other person or persons as shall be specified in the policy; and that all other indemnities of the policy are payable to the employee or member, except that, at the request of the employee or member or in the event of his death, payment of benefits to the extent of expenses incurred on account of hospitalization may be made by the insurer to the hospital and except that the group policy may provide that all or any portion of any benefits on account of hospital, nursing, medical or surgical services may, at the insurer's option, be paid directly to the hospital or person rendering such services provided, further that authorization for any such payments has been obtained from the insured. If a beneficiary is designated, the consent of the beneficiary shall not be requisite to change of beneficiary or to any other changes in the policy or certificate except as may be specifically provided by the policy.

This section shall not apply to a blanket insurance policy issued to an airline under which the benefits are payable to the airline or a trust established by the airline and the premiums are paid from its funds.

17B:27-46 Time limits, suits.

There shall be a provision that no action at law or in equity shall be brought to recover on the policy prior to the expiration of 60 days after proof of loss has been filed in accordance with the requirements of the policy and that no such action shall be brought at all unless brought within 3 years from the expiration of the time within which proof of loss is required by the policy.

17B:27-47 Group health or blanket insurance—provisions as favorable; policies issued outside State.

No policy of group health or blanket insurance, and no certificate thereunder shall be delivered or issued for delivery in this State if such policy or certificate contains any provision inconsistent with any of the provisions of this chapter, except that such policy may contain any provision which in the opinion of the commissioner is as favorable to policyholders or certificate holders as the provision herein required, and except that such policy issued by any insurer of this State for delivery outside of this State may contain any provision not consistent with the provisions of this chapter; provided, such policy conforms to the laws of the State or country in which it is delivered.

17B:27-48 Exceptions in same type as benefits.

Exceptions in the policy shall be printed in the policy and in the certificate with the same prominence as the benefits to which they apply.

17B:27-49 Filing of forms.

a. No group health insurance policy, or blanket insurance policy, or application where written application is required and is to be made a part of such policy, certificate, printed rider or endorsement for use with such policy, shall be delivered or issued for delivery in this State unless the form thereof has been submitted to and filed by the commissioner.

b. At the expiration of 30 days after submission the form shall be deemed filed unless prior thereto it has been affirmatively filed or disapproved for filing by the commissioner.

c. If any such form is disapproved for filing by the commissioner during said 30-day period, it may not be so delivered or issued for delivery unless and until such disapproval for filing is withdrawn. Such disapproval shall be subject to review in accordance with the procedure described in the Administrative Procedure Act (P. L. 1968, c. 410) and any rules adopted thereunder. Any such form which is filed by the commissioner or deemed filed may be so delivered or issued for delivery until such time as any subsequent withdrawal of the filing by the commissioner, following

an opportunity for a hearing held in accordance with the Administrative Procedure Act (P. L. 1968, c. 410) and any rules adopted thereunder, becomes final in accordance therewith.

d. The commissioner may extend the 30-day period referred to above for not more than 30 additional days by giving written notice of such extension before the expiration of the initial 30-day period. In the event of such extension all the provisions of this section, except this provision for extension, relating to the initial 30-day period shall apply to the extended period instead of such initial 30-day period.

e. The disapproval for filing or the withdrawal of the filing of any such form by the commissioner must state in writing the grounds therefor in such detail as reasonable to inform the insurer thereof.

f. This section shall not apply to documents which relate only to the manner of distribution of benefits or to the reservation of rights and benefits under such policies and which are used at the request of the individual insured or policyholder.

g. The disapproval by the commissioner of any such form may be on the ground that such form contains provisions which are unjust, unfair, inequitable, misleading, contrary to law or to the public policy of this State.

17B:27-50 Reimbursement for service of physician or practicing psychologist.

Notwithstanding any provision of a policy or contract of group health insurance, hereafter delivered or issued for delivery in this State, whenever such a policy or contract provides for reimbursement for any service which is within the lawful scope of practice of a duly licensed practicing psychologist, a person covered under such group health policy or contract shall be entitled to reimbursement for such service whether the said service is performed by a physician or duly licensed practicing psychologist.

17B:27-51 Reimbursement for optometric service.

Notwithstanding any provision of a policy or contract of group health insurance, hereafter delivered or issued for delivery in this State, whenever such a policy or contract provides for reimbursement for any optometric service which is within the lawful scope of practice of a duly licensed optometrist, a person covered under such group health policy or contract shall be entitled to reimbursement for such service, whether the said service is performed by a physician or duly licensed optometrist.

ARTICLE 3. GROUP LIFE AND HEALTH INSURANCE

17B:27-52 Group life and health—package policies.

Any insurer authorized to write in this State group life and group health insurance may provide such coverages in one policy or in separate policies, or in supplements or riders to such policy or policies, with or without health insurance benefits on account of families or dependents of the insured employees or members, if the provisions of any such policy, supplement or rider which treat of group life insurance, and the provisions which treat of group health insurance comply respectively with the requirements of the law of this State applicable to the respective forms of insurance.

17B:27-53 Group life and health—rate reductions and application of dividends; excess over employer's cost.

If a policy dividend is hereafter declared or a reduction in rate is hereafter made or continued under any group insurance policy heretofore or hereafter issued to an employer, or to a labor union, or to the trustees of a fund established in whole or in part by an employer or a labor union, the excess, if any, of the aggregate dividends or rate reductions under such policy and all other group insurance policies of the policyholder over the aggregate expenditure for insurance under such policies made from funds contributed by the policyholder, or by an employer of insured persons, or by a union or association to which insured persons belong, including expenditures made in connection with administration of such policies, shall be applied by the policyholder for the sole benefit of insured employees or members.

CHAPTER 28

VARIABLE CONTRACTS

- 17B:28-1 Definition.
- 17B:28-2 Qualification of insurer.
- 17B:28-3 Certificate to sell.
- 17B:28-4 Required statements; procedure.
- 17B:28-5 Form of contract.
- 17B:28-6 Administration.
- 17B:28-7 Separate accounts; approval by commissioner.
- 17B:28-8 Amounts placed in account; liabilities.
- 17B:28-9 Investment of assets; eligibility; definition.
- 17B:28-10 Valuation of assets.

- 17B:28-11 Reserve liability.
- 17B:28-12 Annuities.
- 17B:28-13 Distribution to stockholders.
- 17B:28-14 Regulation of contracts issued on a variable basis, insurers issuing the same and sales agents.

17B:28-1 Definition.

When used in this chapter “contract on a variable basis” shall mean any contract issued by an insurer providing for the dollar amount of benefits or other contractual payments or values thereunder to vary so as to reflect investment results of any segregated portfolio of investments or of one or more designated accounts in which amounts received in connection with any such contracts shall have been placed.

17B:28-2 Qualification of insurer.

No present or future domestic insurer shall undertake the issuance of any contract on a variable basis, and no foreign or alien insurer heretofore or hereafter admitted to transact in this State any class or classes of insurance authorized by this code shall undertake the issuance or delivery of any contract on a variable basis within this State, unless said insurer shall have the authority to write life insurance or annuities or both and until said insurer has satisfied the commissioner that it has been engaged in transacting the business of life insurance for a period of at least 2 years and that its condition or methods of operation in connection with the issuance of such contracts on a variable basis will not be such as would render its operation hazardous to the public or its policyholders in this State. In determining the qualification of an insurer requesting authority to issue or deliver contracts on a variable basis within this State, the commissioner will consider, among other things, the history of the insurer; the character, responsibility and general fitness of the officers and directors of the insurer; and the regulation of such insurer by its jurisdiction of domicile. If the insurer is a subsidiary of an authorized insurer, or affiliated with such authorized insurer by common management or ownership, it may be deemed by the commissioner to have satisfied the aforementioned provisions if either it or such authorized insurer satisfies said provisions.

17B:28-3 Certificate to sell.

a. No agent heretofore or hereafter licensed shall be authorized to sell or act or aid in any manner in the negotiation of a contract on a variable basis until he has received a certificate to sell contracts on a variable basis from the commissioner, which certificate shall

not be issued by the commissioner until such agent has qualified by personal examination, to the satisfaction of the commissioner, as to his trustworthiness and competence to act as such agent.

b. Before a first-time applicant for an agent's license to solicit and negotiate contracts on a variable basis shall be admitted to the examination, the applicant shall be required to concurrently hold an agent's license granting authority to solicit and negotiate contracts of life insurance with the sponsoring insurance company. Application for a license must be made on such forms as the commissioner may prescribe.

c. The examination fee shall be \$10.00 for each examination scheduled and such examination fee shall not be returned for any reason. The annual license fee shall be \$5.00. A renewal license shall be issued from year to year subject to the payment of the renewal license fee as required by this section and upon request of the insurer. Licenses issued in accordance with this section shall expire on April 30 of each year.

d. No written examination shall be required of:

(1) An applicant who is the holder of a valid agent's license issued pursuant to this section by the commissioner or an applicant for a renewal of such license, except in a case where the commissioner has good and sufficient cause to believe that the applicant for renewal has demonstrated incompetence in the conduct of his business as such agent to the detriment of the public;

(2) An applicant whose license to do business as an agent issued pursuant to this section has expired less than 3 years prior to the date of application. If the applicant has permitted his license to lapse for a period more than 3 years he must submit to and pass an examination in the same manner as a new applicant, except where the applicant is a veteran who meets the requirements of subsection (4) hereunder, when no re-examination shall be required;

(3) An applicant whose previous license issued pursuant to this section has been revoked or suspended; provided this examination exemption is only at the discretion of the commissioner;

(4) An applicant who is a citizen of New Jersey and has served in the Armed Forces of the United States and has been honorably discharged or released under conditions other than dishonorable and was the holder at any time of a

license in New Jersey which authorized the applicant to solicit or negotiate contracts on a variable basis.

e. The commissioner may issue a nonresident agent's license upon the application of a nonresident who is duly licensed under the law of the State of his residence or domicile to act as an agent for contracts on a variable basis if said State does not prohibit residents of this State from acting as nonresident agents therein, when:

(1) The applicant has shown by a statement from the proper official of the State in which he has his resident license that he is authorized to do business as an agent in such State with authority for which the applicant is to be licensed under the New Jersey nonresident license.

(2) The applicant has paid the annual license fee as provided for in this section.

(3) The applicant has no place of business in this State.

(4) The commissioner may enter into reciprocal agreements with the appropriate supervisory insurance official of any other State waiving the written examination of any applicant resident in such other State, provided:

(a) A written examination is required of applicants for an agent's license in such other State.

(b) The appropriate supervisory insurance official of such other State certifies that the applicant holds a currently valid license as an agent in such other State, and either,

(i) passed a written examination,

(ii) was the holder of an agent's license prior to the time a written examination was required, or,

(iii) was not required to take such examination by reason of provisions of the applicable agents' licensing law.

(c) That in such other State, a resident of this State is privileged to procure such an agent's license upon the foregoing conditions and without discrimination as to fees or otherwise in favor of residents of such other State. If the laws of another State require the sharing of commissions with resident agents of that State on application for contracts on a variable basis written by nonresident agents, then the same provision shall apply when resident agents of that State, licensed as nonresident agents of

New Jersey write applications for contracts on a variable basis in this State.

17B:28-4 Required statements; procedure.

Any contract on a variable basis delivered or issued for delivery in this State, and any certificate evidencing variable benefits issued pursuant to any such contract on a group basis, shall contain a statement of the essential features of the procedure to be followed by the insurer in determining the dollar amount of variable benefits or other contractual payments or values thereunder and shall state in clear terms that such amount may decrease or increase according to such procedure. Any such contract delivered or issued for delivery in this State, and any such certificate, shall contain on its first page, in a prominent position, a clear statement that the benefits or other contractual payments or values thereunder are on a variable basis.

17B:28-5 Form of contract.

(a) No contract on a variable basis shall be delivered or issued for delivery in this State by any insurer until a copy of the form thereof (and, in the case of a contract on a group basis, the form of any certificate evidencing variable benefits issued pursuant thereto) and any form of application for such contract shall have been filed with the commissioner. No such form shall be issued or used until the commissioner shall give his prior written acknowledgment of the filing of such form. The commissioner shall disapprove or withdraw approval of any such contract form, application or certificate if:

(i) such form contains provisions which are unjust, unfair, inequitable, ambiguous, misleading, likely to result in misrepresentation or contrary to law, or

(ii) sales of contracts in such form are being solicited by any means of advertising, communication or dissemination of information which involves misleading or inadequate description of the provisions of the contract.

He shall notify the insurer, specifying particulars, of his disapproval. It shall be unlawful for such insurer thereafter to issue any contract or certificate thereunder or use any application in the form so disapproved. Such disapproval of the commissioner shall be subject to review by the Superior Court in a proceeding in lieu of prerogative writ.

(b) Illustrations of benefits payable under any contract on a variable basis shall not involve projections of past investment experience into the future and shall conform with reasonable regulations promulgated by the commissioner.

(c) No individual annuity contract on a variable basis shall be delivered or issued for delivery in this State unless it contains in substance the following provisions:

(i) that, in the event of default in the payment of any consideration beyond the period of grace allowed by the contract for the payment thereof, the insurer will make payment of the value of the contract, in accordance with a plan provided by the contract, commencing not later than the date contractual payments by the insurer were otherwise to have commenced in accordance with the contract;

(ii) that, upon request of the contract holder received by the insurer at least 4 months prior to the date contractual payments by the insurer were otherwise to have commenced, the insurer will make payment of the value of the contract in accordance with a plan provided by the contract and selected by the contract holder, commencing as of the first day of the first month which is at least 4 months after the date of receipt of such request, unless another date of commencement is requested by the contract holder and agreed to by the insurer;

(iii) that the insurer will mail to the contract holder at least once in each contract year after the first, at his last address known to the insurer, a report in a form approved by the commissioner, which shall include a statement of the number of units credited to such contract and the dollar value of a unit as of a date not more than 2 months previous to the date of mailing and a statement in a form and of a date approved by the commissioner of the investments held in the variable contract account designated in such contract.

(d) Any individual contract on a variable basis delivered or issued for delivery in this State shall stipulate the expense, mortality, and investment increment factors to be used in computing the dollar amount of variable benefits or other contractual payments or values thereunder, and shall guarantee that expense and mortality results shall not adversely affect such dollar amounts, except that such guarantee need not apply to any investment management fee which is subject to change with the approval by vote of the persons having beneficial interests in the variable contract account in which such contract participates. The mortality and investment increment factors used in computing the dollar amount of variable benefits or other contractual payments or values under an individual contract on a variable basis shall not produce a larger initial payment than would be produced by

the use of the mortality table or tables specified in N. J. S. 17B:19-8 (the Standard Valuation Law), as amended, and as such provision may be amended from time to time, as acceptable minimum mortality standards for the valuation of the reserve liabilities of individual annuity and pure endowment contracts, and an annual investment increment assumption of 5%.

Any group contract on a variable basis delivered or issued for delivery in the State shall stipulate the expense, mortality and investment increment factors to be used in computing the dollar amount payable with respect to a unit of variable benefits purchased thereunder and shall guarantee that expense and mortality results shall not adversely affect such dollar amounts, except that such guarantee need not apply to any investment management fee which is subject to change with the approval by vote of the persons having beneficial interests in the variable contract account in which such contract participates.

“Expense,” as used in this subsection (d), may exclude some or all taxes, as stipulated in the contract.

(e) Any contract on a variable basis delivered or issued for delivery in this State may provide for a death benefit not in excess of the greater of (i) the sum of the stipulated payments or premiums paid under the contract and (ii) the amount that would have been payable under the contract upon surrender.

17B:28-6 Administration.

Any insurer issuing a contract on a variable basis shall submit annually to the commissioner a report of the business of its variable contract accounts. Such report shall be made either by a separate annual statement for such business or by suitable additions to such insurer's regular annual statement, in either case on a form prescribed by the commissioner, and shall include details as to all of the income, disbursements, assets and liability items associated with the variable contract accounts.

The commissioner shall make a separate valuation of the assets of the variable contract accounts and a copy of such valuation shall be filed in the commissioner's office as a public document. Such valuation shall be in accordance with section 17B:28-10.

The commissioner shall further prescribe by regulation the steps to be taken by the insurer in disposing of those holdings which at any time subsequent to purchase fail to meet the standards and regulations for new investments.

17B:28-7 Separate accounts; approval by commissioner.

Any present or future domestic insurer shall have authority to establish and operate a separate account known as a variable contract account. Any insurer may establish more than one such separate account with the approval of the commissioner.

17B:28-8 Amounts placed in account; liabilities.

Except as may be otherwise specifically provided by the contract, all amounts received in connection with any contract on a variable basis shall be placed in the variable contract account designated in such contract, and all liabilities on any such contract shall be set up in said account.

17B:28-9 Investment of assets; eligibility; definition.

(a) The assets held in a variable contract account, or any part thereof, may be invested in

(i) common stock or shares of any investment company specified in the contract or contracts participating in such variable contract account, and registered under the Investment Company Act of 1940, whether or not such stock or shares satisfy the dividend or earnings history requirements now or hereafter contained in the provisions of this Title that regulate investments by domestic insurers; provided that at the time of the first purchase of such stock or shares of any such investment company, the insurer which maintains such account, or a subsidiary or affiliate of such insurer, shall be the investment manager or investment adviser of such investment company and, as long as such insurer which maintains such account, or any subsidiary or affiliate of such insurer, shall continue as such investment manager or investment adviser, the investments acquired by such investment company shall be such as would be eligible for investment of variable contract account assets by domestic insurers under the provisions of this section excluding this clause (i);

(ii) other investments made eligible for investment by domestic insurers by the provisions of this Title that regulate investments by domestic insurers, except for investments made eligible by the provision of chapter 20 of this Title which permits a domestic insurer to make loans or investments not otherwise expressly qualified or permitted up to 3% of total admitted assets, as such provision may be amended from time to time, or any similar or superseding provision corresponding in substance thereto;

(iii) investments authorized, specifically or by classes or otherwise, by the commissioner as appropriate to the nature and purpose of such variable contract account; and

(iv) investments not otherwise eligible under the preceding clauses of this subsection, provided that at the time of making any such investment, and immediately after giving effect thereto, the aggregate cost of all investments held in such variable contract account pursuant to this clause (iv) shall not exceed 3% of the aggregate market value of the assets held in such variable contract account;

provided that (A) any common stock or shares, other than common stock or shares referred to in clause (i) of this subsection issued by an open-end investment company, shall be (1) common stock or shares which are listed or admitted to trading on a securities exchange in the United States of America or Canada, or (2) common stock or shares which are included on the National Association of Securities Dealers' national price listings of "over-the-counter" securities, or (3) other common stock or shares which the commissioner shall have determined are publicly held and traded and as to which market quotations shall be available; (B) the quantitative investment limitations now or hereafter contained in this Title regulating investments by domestic insurers shall not be applicable to variable contract account investments, subject to the qualification that the provision contained in this Title limiting the percentage of voting stock of any one corporation that may be purchased or acquired by a domestic insurer, as such provision may be amended from time to time, or any similar or superseding provision corresponding in substance thereto, shall apply (subject to the provisions of section 17B:20-3 as such provisions may be amended from time to time, or any similar or superseding provisions corresponding in substance thereto), with respect to the aggregate of the voting stock of any one corporation held in all accounts of such insurer, except for all such stock that may be voted at the direction of a person or persons, other than such insurer or any subsidiary or affiliate of such insurer; and provided further that, subject to the next succeeding paragraph of this subsection, no domestic insurer shall purchase for any variable contract account any security (other than common stock or shares referred to in clause (i) of this subsection issued by an open-end investment company) of any corporation, if after such purchase more than 10% of the market value of the assets of such variable contract account would be invested in the securities of such corporation.

Notwithstanding the foregoing provisions of this section or any other provision of law, a domestic insurer may (i) invest the assets, or any part thereof, held in a variable contract account established and maintained solely for one or more group contracts in any investment or investments authorized by the contract or contracts participating in such account, subject only to clause (B) of the proviso in the next preceding paragraph of this subsection relating to the percentage of voting stock of any one corporation that may be purchased or acquired, and (ii) vote any stock or shares held in such an account in accordance with the instructions of such person or persons designated pursuant to such contract or contracts participating in such account. For the purpose of this paragraph, a group contract shall not include, (1) a contract which provides benefits to individuals based upon the investment results of such an account unless such contract implements a plan (a) which covers at least 100 individuals at the time of execution of such contract and (b) under which, if the crediting to such an account of the contributions made by any individual would affect his benefits under the plan, no portion of his contributions in excess of 50% is so credited, unless he is offered an alternative to having such portion so credited or, (2) except with the consent of the commissioner, a contract the holder of which is an association of individuals or the representative thereof.

Except as otherwise provided in this subsection, the investments held in the variable contract accounts of any domestic insurer shall be disregarded in determining whether the other investments of such insurer comply with the provisions of this Title that regulate investments by domestic insurers as such provisions may be amended from time to time, or any similar or superseding provisions corresponding in substance thereto.

(b) Notwithstanding any other provision of law, in order to comply with the Investment Company Act of 1940, a domestic insurer may, with respect to any variable contract account or any portion thereof

(i) exercise any voting rights of any stock or shares in accordance with instructions from the persons having the beneficial interests in such account ratably according to their respective interests in such account, or

(ii) establish a committee for such account, the members of which may be directors or officers or other employees of such insurer, or persons having no such relationship to such insurer, or any combination thereof, who may be elected to

such membership by the vote of the persons having the beneficial interests in such account ratably according to their respective interests in such account. Such committee may have the power, which may be exercisable alone or in conjunction with others, or which may be delegated to such insurer or any other person, as investment manager or investment adviser, to authorize purchases and sales of investments for such account, provided that as long as such insurer or any subsidiary or affiliate of such insurer shall be the investment manager or investment adviser of such account, the investments of such account shall be eligible under the provisions of subsection (a) of this section. If compliance with the Investment Company Act of 1940 shall involve only a portion of a variable contract account, such insurer may establish such a committee for only such portion, and its members may be elected by the vote of the persons having the beneficial interests in such portion. Any such committee for only a portion of a variable contract account may be given the further power to require the subdivision of such account into 2 accounts so that the portion of the account with respect to which such committee shall be acting shall constitute a separate variable contract account. If such committee shall so require, the insurer shall segregate from the account being so subdivided a portion of each asset held with respect to the reserve liabilities of such account. Such portion shall be in the same proportion to the total of such asset as the reserve liability for the portion of the account with respect to which such committee is acting bears to the total reserve liability of such account; and notwithstanding any other provision of law, the assets so segregated shall be transferred to a separate variable contract account with respect to which such committee shall act.

(c) The investments held in a variable contract account and the liabilities chargeable against it shall at all times be clearly identifiable and distinguishable from the other investments and liabilities of the insurer. To the extent provided in the applicable contract or contracts, assets held in a variable contract account shall not be chargeable with liabilities arising out of any other business of the corporation.

No sale, transfer or exchange of investments may be made between a variable contract account and any other investment account of the insurer, except with the prior consent of the

commissioner, and no investments held in a variable contract account shall be pledged or transferred as collateral for a loan.

(d) The term "Investment Company Act of 1940" as used in this section shall mean an act of Congress approved August 22, 1940 entitled "Investment Company Act of 1940" as amended from time to time, or any similar statute enacted in substitution therefor.

17B:28-10 Valuation of assets.

The valuation of variable contract account assets for all purposes, including annual reports of the insurer to the commissioner, shall be determined in accordance with the market value of such assets notwithstanding the application of other valuation methods to assets of the insurer other than the assets of variable contract accounts. The net asset value of common stock or shares of any investment company which is an open-end company shall be deemed to be the market value thereof. Such valuation may be made as of such valuation dates as the insurer shall establish from time to time, except as otherwise required for such annual reports to the commissioner.

17B:28-11 Reserve liability.

The reserve liability for contracts on a variable basis shall be established by the commissioner pursuant to the requirements of section 17B:19-8 (the Standard Valuation Law) in accordance with actuarial procedures that recognize the variable nature of the benefits provided.

17B:28-12 Annuities.

Any insurer which establishes one or more variable contract accounts and issues variable annuity contracts may in its discretion, but need not, require in any case the purchase of annuities which provide for benefits of predetermined dollar amount in specified proportions in combination with the purchase of annuities providing for benefits of variable dollar amount.

17B:28-13 Distribution to stockholders.

Any stock insurer which establishes and operates one or more variable contract accounts may withdraw therefrom for distribution to or for the benefit of stockholders as to any calendar year an amount which, when added to amounts so withdrawn as to the 4 preceding calendar years, does not exceed 3% of the aggregate of gross investment earnings and the net of profits and losses of such account for such 5 calendar years.

17B:28-14 Regulation of contracts issued on a variable basis, insurers issuing the same and sales agents.

The commissioner shall have the sole and exclusive authority to regulate the issuance and sale of contracts on a variable basis; and such contracts, the insurers which issue them and the agents or other persons who sell them shall not be subject to the Uniform Securities Law (1967) (P. L. 1967, c. 93) as amended or supplemented, in the issuance or sale of such contracts.

CHAPTER 29**CREDIT LIFE AND HEALTH INSURANCE**

- 17B:29-1 Scope.
- 17B:29-2 Definitions.
- 17B:29-3 Forms of credit life insurance and credit health insurance.
- 17B:29-4 Amount of credit life insurance and credit health insurance.
- 17B:29-5 Term of credit life insurance and credit health insurance.
- 17B:29-6 Provisions of policies and certificates of insurance: disclosure to debtors.
- 17B:29-7 Filing of forms and premium rate schedules.
- 17B:29-8 Premiums and refunds.
- 17B:29-9 Issuance of policies.
- 17B:29-10 Claims.
- 17B:29-11 Existing insurance—choice of insurer.
- 17B:29-12 Enforcement.
- 17B:29-13 Judicial review.

17B:29-1 Scope.

All life insurance and all health insurance in connection with loans or other credit transactions shall be subject to the provisions of this chapter, except such insurance in connection with a loan or other credit transaction of more than ten years duration; nor shall insurance be subject to the provisions of this chapter where the issuance of such insurance is an isolated transaction on the part of the insurer not related to an agreement or a plan for insuring debtors of the creditor.

17B:29-2 Definitions.

a. "Credit life insurance" means insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction;

b. "Credit health insurance" means insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy;

c. "Creditor" means the lender of money or vendor or lessor of goods, services, property, rights or privileges, for which payment is arranged through a credit transaction, or any successor to the right, title or interest of any such lender, vendor, or lessor, and an affiliate, associate or subsidiary of any of them or any director, officer or employee of any of them or any other person in any way associated with any of them;

d. "Debtor" means a borrower of money or a purchaser or lessee of goods, services, property, rights or privileges for which payment is arranged through a credit transaction, and includes each partner who is jointly and severally liable for a partnership indebtedness. An officer of a corporation is not a debtor in connection with a corporation indebtedness unless he is personally liable for such indebtedness as a co-debtor. Where husband and wife are jointly obligated to a creditor in connection with an indebtedness, either, but not both, may be the debtor for the purposes of this chapter.

e. "Indebtedness" means the total amount payable by a debtor to a creditor in connection with a loan or other credit transaction.

17B:29-3 Forms of credit life insurance and credit health insurance.

Credit life insurance and credit health insurance shall be issued only in the following forms:

a. Individual policies of life insurance issued to debtors on the term plan;

b. Individual policies of health insurance issued to debtors on a term plan or disability benefit provisions in individual policies of credit life insurance;

c. Group policies of life insurance issued to creditors providing insurance upon the lives of debtors on the term plan;

d. Group policies of health insurance issued to creditors on a term plan insuring debtors or disability benefit provisions in group credit life insurance policies to provide such coverage.

17B:29-4 Amount of credit life insurance and credit health insurance.**a. Credit Life Insurance**

(1) The initial amount of credit life insurance shall not exceed the total amount repayable under the contract of indebtedness and, where an indebtedness is repayable in substantially equal installments, the amount of insurance shall at no time exceed the scheduled or actual amount of unpaid indebtedness, whichever is greater.

(2) Notwithstanding the provisions of the above paragraph, insurance on agricultural credit transaction commitments, not exceeding 18 months in duration, may be written up to the amount of the loan commitment, on a nondecreasing or level term plan.

(3) Notwithstanding the provisions of paragraph a. (1) of this or any other subsection, insurance on educational credit transaction commitments may be written for the amount of the portion of such commitment that has not been advanced by the creditor.

b. Credit Health Insurance

The total amount of periodic indemnity payable by credit health insurance in the event of disability, as defined in the policy, shall not exceed the aggregate of the periodic scheduled unpaid installments of the indebtedness; and the amount of each periodic indemnity payment shall not exceed the original indebtedness divided by the number of periodic installments.

17B:29-5 Term of credit life insurance and credit health insurance.

The term of any credit life insurance or credit health insurance shall, subject to acceptance by the insurer, commence on the date when the debtor becomes obligated to the creditor, except that, where a group policy provides coverage with respect to existing obligations, the insurance on a debtor with respect to such indebtedness shall commence on the effective date of the policy. Where evidence of insurability is required and such evidence is furnished more than 30 days after the date when the debtor becomes obligated to the creditor and such evidence is determined by the insurer to be satisfactory, the term of the insurance may commence on the date on which the evidence is furnished to the insurer and in such event there shall be an appropriate refund or adjustment of any charge to the debtor for insurance. The term of such insurance shall not extend more than 15 days beyond the scheduled maturity date of the indebtedness except when extended without additional cost to the debtor. If the indebtedness is discharged due to renewal or refinancing prior to the scheduled maturity date, the insurance in force shall be terminated before any new insurance

may be issued in connection with the renewed or refinanced indebtedness. In all cases of termination prior to scheduled maturity, a refund shall be paid or credited as provided in section 17B:29-8.

17B:29-6 Provisions of policies and certificates of insurance: disclosure to debtors.

a. All credit life insurance and credit health insurance sold shall be evidenced by an individual policy, or in the case of group insurance by a certificate of insurance, which individual policy or group certificate of insurance shall be delivered to the debtor.

b. Each individual policy or group certificate of credit life insurance and each individual policy or group certificate of credit health insurance shall, in addition to other requirements of law, set forth the name and home office address of the insurer, the identity by name or otherwise of the person or persons insured, the rate of premium separately in connection with credit life insurance and credit health insurance if a payment therefor is collected from the debtor, a description of the coverage including any exceptions, limitations and restrictions, and shall state that the benefits shall be paid to the creditor to reduce or extinguish the unpaid indebtedness and, wherever the amount of insurance may exceed the unpaid indebtedness, that any such excess shall be payable to a beneficiary, other than the creditor, named by the debtor or to his estate. For the purpose of this section, a payment for such insurance is deemed to have been collected from the debtor if an amount therefor is separately stated or is included in a total charge for insurance and other services.

c. Said individual policy or group certificate of insurance shall be delivered to the insured debtor at the time the indebtedness is incurred except as hereinafter provided.

d. If said individual policy or group certificate of insurance is not delivered to the debtor at the time the indebtedness is incurred, a copy of the application for such policy or a notice of proposed insurance, signed by the debtor and setting forth the name and home office address of the insurer, the name or names of the debtor, the amount of payment, separately in connection with credit life insurance and credit health insurance coverage, and a brief description of the coverage provided shall be delivered to the debtor at the time such indebtedness is incurred. The copy of the application for, or notice of proposed insurance shall also refer exclusively to insurance coverage, and shall be separate and apart from the loan, sale or other credit statement of account, instrument or agreement, except that, when the information required by this subsec-

tion is adequately set forth therein, this requirement may be waived by the commissioner. Upon acceptance of the insurance and within 30 days of the date upon which the indebtedness is incurred, the insurer shall cause the individual policy or group certificate of insurance to be delivered to the debtor. Said application or notice of proposed insurance shall state that upon acceptance by the insurer, the insurance shall become effective as of the date the indebtedness is incurred.

e. Any policy, group certificate, copy of the application or notice of proposed insurance, as referred to in this section, may specify an age beyond which the insurance on a debtor will not become effective or on which a debtor's insurance will terminate; provided, however, that no charge shall be made to a debtor for coverage beyond the limiting age.

17B:29-7 Filing of forms and premium rate schedules.

a. All forms of policies, certificates of insurance, notice of proposed insurance, applications for insurance, endorsements and riders delivered or issued for delivery in this State and the schedules of premium rates pertaining thereto shall be submitted to the commissioner for filing.

b. At the expiration of 30 days after submission the form or the schedule of premium rates shall be deemed filed unless prior thereto it has been affirmatively filed or disapproved by order of the commissioner.

c. If any such form or the schedule of premium rates pertaining thereto is disapproved by the commissioner during said 30-day period the form may not be so delivered or issued for delivery unless and until such disapproval is withdrawn or reversed in accordance with the procedure described in the Administrative Procedure Act (P. L. 1968, c. 410) and any rules adopted thereunder. Any such form which is filed by the commissioner or deemed filed may be so delivered or issued for delivery until such time as any subsequent withdrawal of the filing by the commissioner, following an opportunity for a hearing held in accordance with the Administrative Procedure Act (P. L. 1968, c. 410) and any rules adopted thereunder, becomes final in accordance therewith.

d. The commissioner may extend the 30-day period referred to above not more than 30 additional days by giving written notice of such extension before the expiration of the initial 30-day period. In the event of such extension all the provisions of this section relating to the 30-day period, except this provision for extension, shall apply to the extended period instead of to the 30-day period.

e. The disapproval for filing or the withdrawal of the filing of any such form or schedule of premium rates by the commissioner must state in writing the grounds therefor in such detail as reasonable to inform the insurer thereof. The disapproval for filing or the withdrawal of the filing of any such form or schedule of premium rates may only be on one or both of the following grounds that may be applicable:

(1) the premium rates charged or to be charged are excessive in relation to benefits, or

(2) such form contains provisions which are unjust, unfair, inequitable, misleading, deceptive, or encourage misrepresentation of the coverage, or are contrary to any provision of this code or of any rule or regulation promulgated thereunder.

f. If a group policy of credit life insurance or credit health insurance

(1) has been delivered in this State before the effective date of this chapter, or

(2) has been or is delivered in another State before or after the effective date of this chapter,

the insurer shall be required to submit for filing only the group certificate and notice of proposed insurance delivered or issued for delivery in this State as specified in subsections b. and d. of section 17B:29-6 of this chapter and such forms shall be filed by the commissioner if they conform with the requirements specified in said subsections and if the schedules of premium rates applicable to the insurance evidenced by such certificate or notice are not in excess of the insurer's schedules of premium rates filed with the commissioner.

17B:29-8 Premiums and refunds.

a. Any insurer may revise its schedules of premium rates from time to time, and shall file such revised schedules with the commissioner. No insurer shall issue any credit life insurance policy or credit health insurance policy for which the premium rate exceeds that determined by the schedules of such insurer as then on file with the commissioner.

b. Each individual policy, or group certificate shall provide that in the event of termination of the insurance prior to the scheduled maturity date of the indebtedness, any refund of an amount paid by the debtor for insurance shall be paid or credited promptly to the person entitled thereto; provided, however, that the commissioner shall prescribe a minimum refund and no refund which would be less than such minimum need be made. The formula to

be used in computing such refund shall be filed with and approved by the commissioner.

c. If a creditor requires a debtor to make any payment for credit life insurance or credit health insurance and an individual policy or group certificate of insurance is not issued, the creditor shall immediately give written notice to such debtor and shall promptly make an appropriate credit to the account.

d. The amount charged to a debtor for any credit life or credit health insurance shall not exceed the premiums charged by the insurer, as computed at the time the charge to the debtor is determined.

e. Nothing in this chapter shall be construed to legalize any charge now illegal under any statute or rule of law governing credit transactions.

17B:29-9 Issuance of policies.

All policies of credit life insurance and credit health insurance shall be delivered or issued for delivery in this State only by an insurer authorized to do an insurance business therein, and shall be issued only through holders of licenses or authorizations issued by the commissioner. The commissioner may require that a restricted license as referred to in section 17B:22-12d be obtained by a group policyholder.

17B:29-10 Claims.

a. All claims shall be promptly reported to the insurer or its designated claim representative, and the insurer shall maintain adequate claim files. All claims shall be settled as soon as possible and in accordance with the terms of the insurance contract.

b. All claims shall be paid either by draft drawn upon the insurer or by check of the insurer to the order of the claimant to whom payment of the claim is due pursuant to the policy provisions, or upon direction of such claimant to one specified.

c. No plan or arrangement shall be used whereby any person, firm or corporation other than the insurer or its designated claim representative shall be authorized to settle or adjust claims. The creditor shall not be designated as claim representative for the insurer in adjusting claims; provided, that a group policyholder may, by arrangement with the group insurer, draw drafts or checks in payment of claims due to the group policyholder subject to audit and review by the insurer.

17B:29-11 Existing insurance—choice of insurer.

When credit life insurance or credit health insurance is required as additional security for any indebtedness, the debtor shall, upon request to the creditor, have the option of furnishing the required amount of insurance through existing policies of insurance owned or controlled by him or of procuring and furnishing the required coverage through any insurer authorized to transact an insurance business within this State.

17B:29-12 Enforcement.

Whenever the commissioner finds that there has been a violation of this chapter or any rules or regulations issued pursuant thereto, and after written notice thereof and hearing given to the insurer or other person authorized or licensed by the commissioner, he shall set forth the details of his findings together with an order for compliance by a specified date. Such order shall be binding on the insurer and other person authorized or licensed by the commissioner on the date specified unless sooner withdrawn by the commissioner or a stay thereof has been ordered by a court of competent jurisdiction.

17B:29-13 Judicial review.

Any party to the proceeding affected by an order of the commissioner shall be entitled to judicial review by following the procedure set forth in the Administrative Procedure Act (P. L. 1968, c. 410) and any rules adopted thereunder.

CHAPTER 30**TRADE PRACTICES AND DISCRIMINATIONS**

- 17B:30-1 Declaration of purpose.
- 17B:30-2 Practices prohibited.
- 17B:30-3 Misrepresentations and false advertising of policies or annuity contracts.
- 17B:30-4 False information and advertising.
- 17B:30-5 False financial statements.
- 17B:30-6 "Twisting" prohibited.
- 17B:30-7 Defamation.
- 17B:30-8 Boycott, coercion and intimidation.
- 17B:30-9 Stock operations and advisory board contracts.
- 17B:30-10 Stock acquisition, common management.
- 17B:30-11 Interlocking directorate.
- 17B:30-12 Unfair discrimination.
- 17B:30-13 Rebates and special inducements.

- 17B:30-14 Exceptions to discrimination and rebates.
- 17B:30-15 Enumeration of acts not exclusive.
- 17B:30-16 Commissioner's powers of investigation.
- 17B:30-17 Desist orders for prohibited practices.
- 17B:30-18 Procedures as to undefined practices.
- 17B:30-19 Appeal by intervenor.
- 17B:30-20 Violation of cease and desist order; penalty.
- 17B:30-21 Provisions of chapter additional to existing laws.
- 17B:30-22 Immunity from prosecution.

17B:30-1 Declaration of purpose.

The principal purpose of chapter 30 is to regulate trade practices in the business of life insurance, health insurance and annuities in accordance with the intent of Congress as expressed in the Act of Congress of March 9, 1945 (Public Law 15, 79th Congress), by defining, or providing for the determination of, all such practices in this State which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.

17B:30-2 Practices prohibited.

No person shall engage in this State in any trade practice which is defined in this chapter as or determined pursuant to this chapter to be an unfair method of competition or an unfair or deceptive act or practice in the business of life insurance, health insurance or annuity. The practices described in sections 17B:30-3 to 17B:30-13 as modified by section 17B:30-14 are hereby defined to be such practices.

17B:30-3 Misrepresentations and false advertising of policies or annuity contracts.

No person shall make, issue, circulate or cause to be made, issued or circulated, any estimate, illustration, circular or statement misrepresenting the terms of any policy or annuity contract issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon, or make any false or misleading statement as to the dividends or share of surplus previously paid on similar policies or annuity contracts, or make any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates, or use any name or title of any policy or annuity contract or class of policies or annuity contracts misrepresenting the true nature thereof.

17B:30-4 False information and advertising.

No person shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, pub-

lished, disseminated, circulated, or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance and annuities or with respect to any person in the conduct of his insurance and annuity business, which is untrue, deceptive or misleading.

17B:30-5 False financial statements.

a. No person shall file with any supervisory or other public official, or make, publish, disseminate, circulate or deliver to any person, or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive.

b. No person shall make any false entry in any book, report or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom such insurer is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omit to make a true entry of any material fact pertaining to the business of such insurer in any book, report or statement of such insurer.

17B:30-6 "Twisting" prohibited.

No person shall make any misleading representations or incomplete or fraudulent comparison of any insurance policies or annuity contracts or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, or convert any insurance policy or annuity contract, or to take out a policy of insurance or annuity contract in another insurer.

17B:30-7 Defamation.

No person shall make, publish, disseminate, or circulate, directly or indirectly, or aid, abet or encourage the making, publishing, disseminating or circulating of any oral or written statement or any pamphlet, circular, article or literature which is false or maliciously critical of or derogatory to the financial condition of an insurer and which is calculated to injure any person engaged in the business of insurance or annuity.

17B:30-8 Boycott, coercion and intimidation.

No person or persons shall enter into any agreement to commit, or by any concerted action commit, any act of boycott, coercion or

intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance or annuity.

17B:30-9 Stock operations and advisory board contracts.

No person shall issue or deliver or permit agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common-law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance or annuity.

17B:30-10 Stock acquisition, common management.

No insurer shall retain, invest in or acquire the whole or any part of the capital stock of any other insurer or insurers, or have a common management with any other insurer or insurers which shall by reason of such retention, investment or acquisition of such capital stock, or common management, substantially lessen competition generally in the business of insurance or annuity or create a monopoly therein.

17B:30-11 Interlocking directorate.

No person shall be a director of 2 or more competing insurers so as to substantially lessen competition generally in the business of insurance or annuity or to create a monopoly therein.

17B:30-12 Unfair discrimination.

a. No person shall discriminate against any person or group of persons because of race, creed, color, national origin or ancestry of such person or group of persons in the issuance, withholding, extension or renewal of any policy of life or health insurance or annuity or in the fixing of the rates, terms or conditions therefor, or in the issuance or acceptance of any application therefor.

b. No person shall use any form of policy of life or health insurance or contract of annuity which expresses, directly or indirectly, any limitation, or discrimination as to race, creed, color, national origin or ancestry or any intent to make any such limitation or discrimination.

c. No person shall make or permit any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any policy of life insurance or contract of annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such policy of life insurance or contract of annuity.

d. No person shall make or permit any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees, or rates charged for

any policy or contract of health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such policy or contract, or in any other manner whatever.

e. Nothing contained in this section shall be construed to require any agent or company to take or receive the application for insurance or annuity of any person or to issue a policy of insurance or contract of annuity to any person.

17B:30-13 Rebates and special inducements.

Except as otherwise expressly provided by law, no person shall knowingly make, permit to be made or offer to make any contract of life insurance, annuity or health insurance, or agreement as to such contract other than as plainly expressed in the contract issued thereon, or pay or allow, or give or offer to pay, allow, or give, directly or indirectly, as an inducement to such insurance, or annuity, any rebate of premiums or considerations payable on the contract or of any agent's, solicitor's or broker's commission relating thereto, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; or give, or sell, or purchase or offer to give, sell, or purchase as an inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract.

17B:30-14 Exceptions to discrimination and rebates.

Nothing in sections 17B:30-12 or 17B:30-13 shall be construed as including within the definition of discrimination or rebates any of the following practices:

a. In the case of any contract of life or health insurance or annuity, paying bonuses to policyholders or contract holders or otherwise abating their premiums or considerations in whole or in part out of surplus accumulated from nonparticipating insurance or annuity, provided that any such bonuses or abatement of premiums or considerations shall be fair and equitable to policyholders and contract holders and for the best interests of the company and its policyholders and contract holders.

b. In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense.

c. Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year.

d. Issuing life or health insurance policies or annuity contracts on a salary savings, bank draft, preauthorized check or payroll deduction plan or other similar plan at a rate which is lower than that charged when the policies are not issued on such plan or with special underwriting considerations, such rate or underwriting considerations being reasonably related to the savings made by the use of such plan.

e. Issuance of life, health insurance policies or annuity contracts at rates less than the usual rates of premiums or considerations for such policies or contracts or modification of premium or consideration based on amount of insurance or annuity; but any such issuance or modification shall not result in reduction of premium or consideration in excess of savings in administration and issuance expenses reasonably attributable to such policies or contracts.

17B:30-15 Enumeration of acts not exclusive.

The enumeration in this chapter of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance or annuities is not exclusive or restrictive or intended to limit the powers of the commissioner or any court of review under the provisions of this code.

17B:30-16 Commissioner's powers of investigation.

The commissioner shall have power to examine and investigate into the affairs of every person acting as an insurer or engaged in the business of insurance in this State in order to determine whether such person has been or is engaged in any unfair method of competition or in any unfair or deceptive act or practice prohibited by this chapter.

17B:30-17 Desist orders for prohibited practices.

a. If the commissioner has reason to believe that any person has been engaged or is engaging in this State in any unfair method of competition, or any unfair or deceptive act or practice expressly prohibited in this chapter, and that a proceeding by him in respect thereto would be to the interest of the public, he shall issue and serve upon such person a statement of the charges in that respect and a notice of a hearing thereon as provided in the Administrative Procedure Act (P. L. 1968, c. 410) and any rules adopted thereunder.

b. If, after such hearing, the commissioner shall determine that the method of competition or the act or practice in question is defined in this chapter and that the person complained of has engaged in such method of competition, act or practice in violation of this chapter, he shall make his findings in writing and shall issue and cause to be served upon the person charged with the violation an order requiring such person to cease and desist from engaging in such method of competition, act or practice.

c. Until the expiration of the time limited for judicial review, if no proceeding for review has been instituted within such time or, if a proceeding for review has been instituted within such time, then until the transcript of the record in the proceeding has been filed in the Superior Court, as hereinafter provided, the commissioner may at any time, upon such notice and in such manner as he shall deem proper, modify or set aside in whole or in part any order issued by him under this section.

d. After the expiration of the time limited for judicial review if no such proceeding has been instituted within such time, the commissioner may at any time, after notice and opportunity for hearing, reopen and alter, modify or set aside, in whole or in part, any order issued by him under this section, whenever in his opinion the facts or the laws have so changed as to require such action or if the public interest shall so require.

e. No order or proceeding, or absence of such order or proceeding of the commissioner pursuant to this chapter or order of court to enforce such order, if made, shall in any way relieve or absolve any person affected thereby from any other liability, penalty or forfeiture provided by another law.

17B:30-18 Procedures as to undefined practices.

Whenever the commissioner shall have reason to believe that any person engaged in the business of insurance or annuities is engaging in this State in any method of competition or in any act or practice in the conduct of such business which is not defined in this chapter, and that such method of competition is unfair or that such act or practice is unfair or deceptive and that a proceeding by him in respect thereto would be to the interest of the public, he may issue and serve upon such person a statement of the charges in that respect and a notice of a hearing thereon as provided in the Administrative Procedure Act (P. L. 1968, c. 410) and any rules adopted thereunder. Each such hearing shall be conducted in the same manner as the hearing provided for in the Adminis-

trative Procedure Act (P. L. 1968, c. 410) and any rules adopted thereunder.

17B:30-19 Appeal by intervenor.

If the determination of the commissioner does not charge a violation of this chapter, then any intervenor in the proceedings before him may, within 30 days after the service of such determination, institute an action in the Superior Court to enjoin and restrain any method of competition, act or practice.

17B:30-20 Violation of cease and desist order; penalty.

Any person who violates a cease and desist order of the commissioner issued under this chapter shall be liable to a penalty not exceeding \$5,000.00 to be collected by the commissioner in the name of the State in a summary proceeding in accordance with the Penalty Enforcement Law (N. J. S. 2A:58-1 et seq.). The commissioner in his discretion may revoke or suspend the license or certificate of authority of any such person.

17B:30-21 Provisions of Chapter additional to existing laws.

The powers vested in the commissioner by this chapter shall be additional to any other powers to enforce any penalties, fines or forfeitures authorized by law with respect to the methods, acts and practices hereby declared to be unfair or deceptive.

17B:30-22 Immunity from prosecution.

If any person shall ask to be excused from testifying or from producing any books, papers, records, correspondence or other documents at any hearing on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture, and shall notwithstanding be directed to give such testimony or produce such evidence, he must nonetheless comply with such direction, but he shall not thereafter be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may testify or produce evidence pursuant thereto, and no testimony so given or evidence produced shall be received against him upon any criminal action, investigation or proceeding; provided, however, that no such individual so testifying shall be exempt from prosecution or punishment for any perjury committed by him while so testifying and the testimony or evidence so given or produced shall be admissible against him upon any criminal action, investigation or proceeding concerning such perjury, nor shall he be exempt from the refusal, revocation or suspension of any license, permission or authority conferred, or to be conferred, pursuant to the insurance laws of this State. Any such person may execute,

acknowledge and file in the office of the commissioner a statement expressly waiving such immunity or privilege in respect to any transaction, matter or thing specified in such statement and thereupon the testimony of such person or such evidence in relation to such transaction, matter or thing may be received or produced before any judge, court, tribunal, grand jury or other officer or body, and if so received or produced such person shall not be entitled to any immunity or privilege on account of any testimony or evidence he may so give or produce.

CHAPTER 31
UNCLAIMED FUNDS

- 17B:31-1 Definitions.
- 17B:31-2 Exclusive method for disposition of unclaimed funds.
- 17B:31-3 Reports to State Treasurer.
- 17B:31-4 Notice of unclaimed funds; publication.
- 17B:31-5 Payment to State Treasurer; actions authorized.
- 17B:31-6 Custody of funds in State; insurers exonerated.
- 17B:31-7 Special trust fund; administration.
- 17B:31-8 Claims against funds; powers of State Treasurer; action in Superior Court.
- 17B:31-9 Payment of allowed claims; liability of treasurer.
- 17B:31-10 Records required.
- 17B:31-11 Annual report.

17B:31-1 Definitions.

“Unclaimed funds” within the meaning of this chapter shall mean and include all moneys, debts and other obligations of \$3.00 or more due and payable by any insurer organized under the laws of this State or any insurer organized under the laws of any other State and authorized to do business in this State which became due and payable on or after July 13, 1945 and have remained due and payable but unclaimed by the person entitled thereto for a period of 5 years or more and which are payable to any person whose last known address according to the insurer’s records is within this State; provided, that for the purposes of this act, the amount of insurance under a policy of life insurance payable upon proof of the death of the insured shall be deemed to become due and payable not later than the end of the calendar year in which the insured, if living, would have attained the limiting age under the mortality table upon which the reserves are based. However,

“unclaimed funds” as defined herein shall not include any such funds which any domestic or foreign insurer in good faith has reported paid or escheated to any State other than the State of New Jersey pursuant to the statute or statutes of such other State prior to the effective date of this chapter. If a person other than an insured or annuitant is entitled to unclaimed funds payable under a policy of insurance or an annuity contract issued by the insurer and no address of such person is known to the insurer or if it is not definite and certain from the insurer’s records what person is entitled to the funds, it shall be presumed that the last known address of the person entitled to the unclaimed funds is the same as the last known address of the insured or annuitant according to the insurer’s records. If a person other than an insured or annuitant is entitled to the unclaimed funds payable on a policy of insurance or an annuity contract issued by any insurer organized under the laws of this State and there is no last known address according to the insurer’s records of either such person or the insured or the annuitant, it shall be presumed that the last known address of the person entitled to the unclaimed funds is within this State.

17B:31-2 Exclusive method for disposition of unclaimed funds.

Chapter 31 shall provide the exclusive method for the disposition of unclaimed funds held by any insurer incorporated under the laws of this State or any insurer organized under the laws of any other State and authorized to do business in this State. Shares of capital stock of any insurer shall so far as applicable remain subject to the provisions of article 2, chapter 37, Title 2A of the New Jersey Statutes.

In the event any proceedings to escheat personal property under articles 2 or 3 of chapter 37, Title 2A of the New Jersey Statutes (2A:37-11 to 2A:37-44 inclusive) have been commenced in the Superior Court against any domestic insurer or any insurer organized under the laws of any other State with respect to any unclaimed funds as defined therein and the cause is pending and has not proceeded to judgment before June 15, 1961 such company may pay the unclaimed funds, which are required to be reported under section 2 of chapter 154 of the laws of 1946 as of the end of the calendar year preceding June 15, 1961 to the State Treasurer in accordance with the provisions of chapter 154 of the laws of 1946 in lieu of proceeding in the cause pending in the Superior Court. Upon receipt of payment of said unclaimed funds from any such insurer the State Treasurer shall so inform the court in the cause then pending and, as directed by the court, shall pay

the escheator, if any, 5% of the moneys so paid to the State Treasurer and the fees and expenses of the attorney at law who prosecuted the action and such action shall thereupon be dismissed.

17B:31-3 Reports to State Treasurer.

On or before June 1 of each year, every insurer organized under the laws of this State and every insurer organized under the laws of any other State and authorized to do business in this State shall make a report in writing to the State Treasurer, which shall contain a true and accurate statement as to all unclaimed funds as defined in section 17B:31-1 of this chapter which have been unclaimed prior to the end of the preceding calendar year. Such report shall be verified by an officer of such insurer and shall include the names and last known addresses of the persons, as shown by the records of the insurer, entitled to such unclaimed funds, the nature of such unclaimed funds and the individual amounts thereof, and shall be made upon forms furnished by the State Treasurer for that purpose. If any such insurer has no unclaimed funds, it shall, on or before the date herein specified, make a report to the State Treasurer so stating, which report shall be verified as hereinbefore provided. The State Treasurer is authorized to waive any report when in his judgment the expense of reporting the last known addresses of the persons entitled to such unclaimed funds and the individual amounts thereof would be unreasonable in respect to the amount involved, in which case such insurer may report such unclaimed funds in the aggregate.

17B:31-4 Notice of unclaimed funds; publication.

Every insurer which reports any unclaimed funds under the provisions of this chapter shall cause to be published during the month of July in each year in a newspaper of general circulation published in the county of this State in which, according to the last known address shown by the insurer's records, the person to whom the amount is payable resided, or in a newspaper in the county in this State in which the principal office of the insurer is located, or in Mercer county of this State, a notice entitled "Notice of unclaimed funds held by (name of insurer)." Such notice shall be in such form as shall be approved by the State Treasurer and shall list in alphabetical order the names, with such last known addresses, of the persons to whom amounts are payable and whose names appeared on the last report filed pursuant to section 17B:31-3 of this chapter, exclusive of any funds which have ceased to be unclaimed prior to the date of publication. The State Treasurer is authorized to waive any publication when in his judg-

ment the expense thereof would be unreasonable in respect to the amount involved. The insurer shall file with the State Treasurer, on or before October 1 of each year, proof by affidavit of such publication. The expenses attendant upon such publication may be charged equally against the amounts owing to the persons whose names were so published.

17B:31-5 Payment to State Treasurer; actions authorized.

On or before October 1 of each year, all unclaimed funds which were contained in the last preceding report required to be filed by section 17B:31-3 of this chapter and which have not been claimed, less a sum equal to 5% of such unclaimed funds, which sum the insurer shall be entitled to retain for expenses in connection with the preparation of such report, and less the cost of publication pursuant to section 17B:31-4 of this chapter shall be paid over to the State Treasurer.

The State Treasurer shall have the power, for cause shown, to extend for a period of not more than 1 year the time within which any insurer shall file any report and make any publication required by this act, and he shall have the power, for cause shown, to extend for a period of not more than 1 year the time within which any insurer shall make any payment to him required by this chapter. Any insurer which willfully fails to make the report in writing as required by section 17B:31-3 of this chapter or which willfully fails to pay over to the State Treasurer the unclaimed funds as required by this section shall be subject to a penalty of \$25.00 for each day the said willful failure to make a report or willful failure to pay the moneys continues, which penalty may be recovered in a summary manner as provided in the Penalty Enforcement Law.

17B:31-6 Custody of funds in State; insurers exonerated.

Upon the payment of such unclaimed funds to the State Treasurer, the State shall assume, for the benefit of those entitled to receive the same and for the safety of the moneys so paid, the custody of such unclaimed funds. The payment of such unclaimed funds to the State Treasurer shall automatically operate as a full, absolute and unconditional release and discharge of the insurer from any and all claims or demands of or liability to any person whose moneys have been paid to the State Treasurer, or to any other claimant or State, and such payment may be pleaded as an absolute bar to any action brought against the insurer by any person entitled thereto, or by any other claimant or State. The insurer making such payment shall immediately and thereafter be relieved of and held harmless by the State from any and

all liabilities for any claim or claims which exist at such time with reference to such unclaimed funds or which may thereafter be made or may come into existence on account of or in respect to any such unclaimed funds. Any right to such unclaimed funds which any person entitled thereto, or any other claimant or State, may have shall thereby be transferred against, and shall become the obligation of, the State of New Jersey. In the event legal proceedings are instituted by any person entitled to such unclaimed funds, or any other claimant or State, in this State or in any other State with respect to the unclaimed funds paid to the State Treasurer, the insurer shall notify the Attorney General of this State of such proceedings and the Attorney General may, in his discretion, intervene therein. If after the insurer has actively defended a judgment in such proceedings is entered against the insurer for any amount paid to the State Treasurer under this chapter, the State Treasurer shall, upon being furnished with proof of payment in satisfaction of said judgment, immediately reimburse the insurer the amount so paid to the State Treasurer.

17B:31-7 Special trust fund; administration.

Upon the receipt of any unclaimed funds from insurers by the State Treasurer, he shall pay forthwith three-fourths of the amount thereof into the State treasury for the use of the State. The remaining one-fourth shall be administered by him as a special trust fund for the purpose hereinafter provided. Such special trust fund shall be deposited in the manner provided by law for the deposit of State funds. At the end of each calendar year, any amount of such unclaimed funds which shall have been a part of such special trust fund for a period of 5 years or longer shall be paid into the State treasury for the use of the State. Any interest received upon any such deposit of unclaimed funds shall be the property of the State.

17B:31-8 Claims against funds; powers of State Treasurer; action in Superior Court.

A claim for any unclaimed funds may be filed at any time with the State Treasurer by or in behalf of any person entitled to receive the same. The State Treasurer shall possess full and complete authority to accept or reject any such claim. In event any such claim is rejected by him, the claimant may institute an action in the Superior Court to enforce such claim. The court may proceed in the action in a summary manner or otherwise.

17B:31-9 Payment of allowed claims; liability of treasurer.

Any claim which is accepted by the State Treasurer or ordered to be paid by him by a court of competent jurisdiction shall be paid out of the special trust fund in his custody, and in the event

such special trust fund shall be insufficient, it shall be paid out of the general unappropriated funds of the State, to the extent of the total of the unclaimed funds paid to the State Treasurer and unexpended in payment of such claims. The State Treasurer shall not be liable in any action for any payment of a claim thus made by him in good faith.

17B:31-10 Records required.

The State Treasurer shall keep in his office a record of each payment of unclaimed funds received by him from any insurer which shall be open to any person who has an interest therein.

The insurer shall retain its records in connection with the unclaimed funds for a period of 5 years after payment of such unclaimed funds to the State Treasurer, and such records shall be made available to the State Treasurer upon request in the event of any claim against the State for payment of all or any part of such unclaimed funds by the person entitled thereto.

17B:31-11 Annual report.

The State Treasurer shall include in the annual report required by law to be made by him to the Legislature a statement of the unclaimed funds received and paid out by him pursuant to the provisions of this act.

CHAPTER 32

REHABILITATION AND LIQUIDATION

- 17B:32-1 Definitions.
- 17B:32-2 Jurisdiction of delinquency proceedings.
- 17B:32-3 Exclusive remedy—Appeal.
- 17B:32-4 Commencement of delinquency proceeding.
- 17B:32-5 Injunctions.
- 17B:32-6 Grounds for rehabilitation—Domestic insurers.
- 17B:32-7 Nature of rehabilitation order—Termination of rehabilitation—Domestic insurers.
- 17B:32-8 Grounds for liquidation.
- 17B:32-9 Order of liquidation—Domestic insurers.
- 17B:32-10 Order of liquidation—Alien insurers.
- 17B:32-11 Grounds for conservation—Foreign insurers.
- 17B:32-12 Grounds for conservation—Alien insurers.
- 17B:32-13 Conservation or ancillary receivership—Foreign insurers.

- 17B:32-14 Conservation or ancillary receivership—Alien insurers.
- 17B:32-15 Conduct of delinquency proceedings—Domestic insurers.
- 17B:32-16 Conduct of delinquency proceedings—Foreign and alien insurers.
- 17B:32-17 Deputies and assistants.
- 17B:32-18 Claims of nonresidents against domestic insurers.
- 17B:32-19 Claims against foreign insurers.
- 17B:32-20 Form of claim—Notice—Hearing.
- 17B:32-21 Priority of certain claims.
- 17B:32-22 Attachment and garnishment of assets.
- 17B:32-23 Uniform Insurers Liquidation Act.
- 17B:32-24 Borrowing on pledge of assets.
- 17B:32-25 Voidable transfers.
- 17B:32-26 Priority of claims for compensation.
- 17B:32-27 Offsets.
- 17B:32-28 Allowance of certain claims.
- 17B:32-29 Allowance of secured claims.
- 17B:32-30 Time to file claims.

17B:32-1 Definitions.

For the purposes of this chapter:

a. "Impairment or insolvency" means the capital of a stock insurer or the surplus of a mutual insurer, shall be deemed to be impaired and the insurer shall be deemed to be insolvent, when such insurer is not possessed of assets at least equal to all liabilities and required reserves together with its total issued and outstanding capital stock if a stock insurer, or the minimum surplus if a mutual insurer, required by this code to be maintained for the kind or kinds of insurance it is then authorized to transact.

b. "Insurer" shall have the meaning set forth in section 17B:17-2 but shall also include a person subject to the insurance supervisory authority of, or to liquidation, rehabilitation, reorganization or conservation by, the commissioner or the equivalent insurance supervisory official of another State; also all persons purporting to be engaged as insurers in this State, and persons in process of organization to become insurers.

c. "Delinquency proceeding" means any proceeding commenced against an insurer pursuant to this chapter for the purpose of liquidating, rehabilitating, reorganizing or conserving such insurer.

d. "Domiciliary State" means the State in which an insurer has its domicile, or in the case of an alien insurer the State in

which such insurer, having become authorized to do business in such State, has at the commencement of delinquency proceedings, the largest amount of its assets held in trust and assets held on deposit for the benefit of its policyholders or policyholders and creditors in the United States, and any such insurer is deemed to be domiciled in such State.

e. "Ancillary State" means any State other than a domiciliary State.

f. "Reciprocal State" means any State other than this State in which in substance and effect the provisions of the Uniform Insurers Liquidation Act, as defined in section 17B:32-23 of this Code, are in force, including the provisions requiring that the commissioner or equivalent insurance supervisory official be the receiver of a delinquent insurer.

g. "General assets" means all property, real, personal or otherwise, not specifically mortgaged, pledged, deposited or otherwise encumbered for the security or benefit of specified persons or a limited class or classes of persons, and as to such specifically encumbered property the term includes all such property or its proceeds in excess of the amount necessary to discharge the sum or sums secured thereby. Assets held in trust and assets held on deposit for the security or benefit of all policyholders or all policyholders and creditors in the United States shall be deemed general assets.

h. "Preferred claim" means any claim with respect to which the law of the State or of the United States accords priority of payment from the general assets of the insurer.

i. "Special deposit claim" means any claim secured by a deposit made pursuant to statute for the security or benefit of a limited class or classes of persons, but not including any general assets.

j. "Secured claim" means any claim secured by mortgage, trust, deed, pledge, deposit as security, escrow or otherwise, but not including special deposit claim or claims against general assets. The term also includes claims which more than 4 months prior to the commencement of delinquency proceedings in the State of the insurer's domicile have become liens upon specific assets by reason of judicial process.

k. "Receiver" means receiver, liquidator, rehabilitator or conservator as the context may require.

17B:32-2 Jurisdiction of delinquency proceedings.

The Superior Court shall have original jurisdiction of delinquency proceedings under this chapter.

17B:32-3 Exclusive remedy—appeal.

Delinquency proceedings pursuant to this chapter shall constitute the sole and exclusive method of liquidating, rehabilitating, reorganizing or conserving an insurer, and no court shall entertain a petition for the commencement of such proceedings, or any other similar procedure, unless the same has been instituted by the commissioner.

17B:32-4 Commencement of delinquency proceeding.

a. The commissioner shall commence any such proceeding by an application to the court or to any judge thereof, for an order directing the insurer to show cause why the commissioner should not have the relief prayed for.

b. The application shall be by verified petition, setting forth the ground or grounds for the proceeding and the relief demanded.

c. If the court is satisfied from reading the commissioner's petition that the facts therein alleged, if established, would constitute grounds for a delinquency proceeding under this chapter, it shall issue an order to show cause as referred to in a. above.

d. On the return of the order to show cause, the court shall either deny the application or grant the application, together with such other relief as the nature of the case and the interests of the policyholders, creditors, stockholders, members, subscribers or the public may require.

17B:32-5 Injunctions.

a. Upon application by the commissioner for such an order to show cause, or at any time thereafter, the court may, without notice, issue an injunction restraining the insurer, its officers, directors, stockholders, policyholders, agents, and all other persons from the transaction of its business or the waste or disposition of its property until the further order of the court.

b. The court may, at any time during a proceeding under this chapter, issue such other injunctions or orders as may be deemed necessary to prevent interference with the commissioner or the proceeding, or waste of the assets of the insurer, or the commencement or prosecution of any actions, or the obtaining of preferences, judgments, attachments or other liens, or the making of any levy against the insurer or against its assets or any part thereof.

17B:32-6 Grounds for rehabilitation—domestic insurers.

The commissioner may apply to the court for an order directing him to rehabilitate a domestic insurer upon one or more of the following grounds: That the insurer

- a. Is impaired or insolvent; or
- b. Has refused to submit its books, records, accounts or affairs to the reasonable examination of the commissioner; or,
- c. Has concealed or removed records or assets in violation of regulations which the commissioner may adopt; or,
- d. Has failed to comply with the commissioner's order, made pursuant to law, to make good an impairment of capital (if a stock insurer) or an impairment of surplus (if a mutual insurer) within the time prescribed by law; or,
- e. Has transferred or attempted to transfer substantially its entire property or business, or has entered into any transaction the effect of which is to merge substantially its entire property or business in that of any other insurer without first having obtained the written approval of the commissioner; or,
- f. Is found, after examination, to be in such condition that its further transaction of business will be hazardous to its policyholders, or to its stockholders, or to its creditors, or to the public; or,
- g. Has willfully violated its charter or any law of this State; or,
- h. Has an officer, director, or manager who has unlawfully refused to be examined under oath, concerning its affairs; or,
- i. Has failed or refused to take such steps as may be necessary to remove from office any officer or director whom the commissioner has found, after notice to and hearing of such insurance company and of such officer or director, to be a dishonest or untrustworthy person; or,
- j. Has been the subject of an application for the appointment of a receiver, trustee, custodian or sequestrator of the insurer or of its property, otherwise than pursuant to the provisions of this Code but only if such appointment has been made or is imminent; or,
- k. Has consented to such an order through a majority of its directors, stockholders, or policyholders; or,
- l. Has failed to pay a final judgment rendered against it in any State upon any insurance contract issued or assumed by it,

within 30 days after the judgment became final or within 30 days after time for taking an appeal has expired, or within 30 days after dismissal of an appeal before final determination, whichever date is the later.

17B:32-7 Nature of rehabilitation order—termination of rehabilitation—domestic insurers.

a. An order to rehabilitate a domestic insurer shall direct the commissioner forthwith to take possession of the property of the insurer and to conduct the business thereof, and to take such steps toward removal of the causes and conditions which have made rehabilitation necessary, as the court may direct.

b. If at any time the commissioner deems that further efforts to rehabilitate the insurer would be useless, he may apply to the court for an order of liquidation.

c. The commissioner, or any interested person upon due notice to the commissioner, at any time may apply for an order terminating the rehabilitation proceeding and permitting the insurer to resume possession of its property and the conduct of its business.

17B:32-8 Grounds for liquidation.

The commissioner may apply to the court for an order directing him to liquidate the business of a domestic insurer or of the United States branch of an alien insurer having trusted assets in this State, regardless of whether or not there has been a prior order directing him to rehabilitate such insurer, upon any of the grounds specified in section 17B:32-6, or upon any one or more of the following grounds: That the insurer

a. Has ceased transacting business for a period of 1 year; or

b. Is an insolvent insurer and has commenced voluntary liquidation or dissolution, or attempts to commence or prosecute any action or proceeding to liquidate its business or affairs, or to dissolve its corporate charter, or to procure the appointment of a receiver, trustee, custodian, or sequestrator under any laws except this code; or,

c. Has not organized or completed its organization and obtained a certificate of authority as an insurer.

17B:32-9 Order of liquidation—domestic insurers.

a. An order to liquidate the business of a domestic insurer shall direct the commissioner forthwith to take possession of the property of the insurer, to liquidate its business, to deal with the insurer's property and business in his own name as commissioner or in the name of the insurer as the court may direct and to give

notice to all creditors who may have claims against the insurer to present such claims.

b. The commissioner may apply under this chapter for an order dissolving the corporate existence of a domestic insurer:

(1) Upon his application for an order of liquidation of such insurer, or at any time after such order has been granted; or,

(2) Upon the grounds specified in section 17B:32-8 c., regardless of whether an order of liquidation is sought or has been obtained.

17B:32-10 Order of liquidation—alien insurers.

An order to liquidate the business of a United States branch of an alien insurer having trusted assets in this State shall be in the same terms as those prescribed for domestic insurers, save and except only that the assets of the business of such United States branch shall be the only assets included therein.

17B:32-11 Grounds for conservation—foreign insurers.

The commissioner may apply for an order directing him to conserve the assets within this State of a foreign insurer upon any one or more of the following grounds:

a. Upon any of the grounds specified in section 17B:32-6, and in section 17B:32-8 b.

b. That its property has been sequestered in its domiciliary sovereignty or in any other sovereignty.

17B:32-12 Grounds for conservation—alien insurers.

The commissioner may apply for an order directing him to conserve the assets within this State of an alien insurer upon any one or more of the following grounds:

a. Upon any of the grounds specified in section 17B:32-6, and in section 17B:32-8 b.

b. Upon the ground that the insurer has failed to comply, within the time designated by the commissioner, with an order made by him to make good an impairment of its trusted funds, or

c. Upon the ground that the property of the insurer has been sequestered in its domiciliary sovereignty or elsewhere.

17B:32-13 Conservation or ancillary receivership—foreign insurers.

a. An order to conserve the assets of a foreign insurer shall direct the commissioner forthwith to take possession of the property of the insurer within this State and to conserve it, subject to the further direction of the court.

b. Whenever a domiciliary receiver is appointed for any such insurer in its domiciliary State, the court shall, on application of the commissioner, appoint the commissioner as the ancillary receiver in this State.

c. An order to liquidate the assets in this State of a foreign insurer shall require the commissioner forthwith to take possession of the property of the insurer within this State and to liquidate it subject to the orders of the court and with due regard to the rights and powers of the domiciliary receiver, as provided in this chapter.

17B:32-14 Conservation or ancillary receivership—alien insurers.

An order to conserve the assets of an alien insurer shall direct the commissioner forthwith to take possession of the property of the insurer within this State and to conserve it, subject to the further direction of the court.

17B:32-15 Conduct of delinquency proceedings—domestic insurers.

a. Whenever under the laws of this State a receiver is to be appointed in delinquency proceedings for a domestic insurer, the court shall appoint the commissioner as such receiver. The court shall direct the commissioner forthwith to take possession of the assets of the insurer and to administer the same under the orders of the court.

b. As domiciliary receiver, the commissioner shall be vested, by operation of law, with the title to all property, contracts, and rights of action, and all of the books and records of the insurer wherever located, as of the date of entry of the order directing him to rehabilitate or liquidate a domestic insurer and he shall have the right to recover the same and reduce the same to his possession.

c. The filing or recording of the order, directing possession to be taken, or a certified copy thereof, in the office where instruments affecting title to property are required to be filed or recorded, shall impart the same notice as would be imparted by a deed, bill of sale, or other evidence of title duly filed or recorded.

d. The commissioner, as domiciliary receiver, shall be responsible on his official bond for the proper administration of all assets coming into his possession or control. The court may at any time require an additional bond from him or his deputies, if deemed desirable for the protection of the assets.

e. Upon taking possession of the assets of an insurer, the domiciliary receiver shall, subject to the direction of the court, immediately proceed to conduct the business of the insurer or to take such steps as are authorized by the laws of this State for the purpose of liquidating, rehabilitating, reorganizing, or conserving the affairs of the insurer.

17B:32-16 Conduct of delinquency proceedings—foreign and alien insurers.

a. Whenever under this chapter an ancillary receiver is to be appointed in delinquency proceedings for an insurer not domiciled in this State, the court shall appoint the commissioner as ancillary receiver. The commissioner shall file a petition requesting the appointment on the grounds set forth in section 17B:32-13 b. of this chapter:

(1) If he finds that there are sufficient assets of the insurer located in this State to justify the appointment of an ancillary receiver, or

(2) If 10 or more persons resident in this State having claims against such insurer file a petition with the commissioner requesting the appointment of such ancillary receiver.

b. The domiciliary receiver for the purpose of liquidating an insurer domiciled in a reciprocal State shall be vested by operation of law with the title to all of the property, contracts and rights of action, and all of the books and records of the insurer located in this State, and he shall have the immediate right to recover balances due from local agents and to obtain possession of any books and records of the insurer found in this State. He shall also be entitled to recover the other assets of the insurer located in this State, except that upon the appointment of an ancillary receiver in this State, the ancillary receiver shall during the ancillary receivership proceedings have the sole right to recover such other assets. The ancillary receiver shall, as soon as practicable, liquidate from their respective securities those special deposit claims and secured claims which are proved and allowed in the ancillary proceedings in this State, and shall pay the necessary expenses of the proceedings. All remaining assets he shall promptly transfer to the domiciliary receiver. Subject to the foregoing provisions, the ancillary receiver and his deputies shall have the same powers and be subject to the same duties with respect to the administration of such assets as a receiver of an insurer domiciled in this State.

c. The domiciliary receiver of an insurer domiciled in a reciprocal State may sue in this State to recover any assets of such insurer to which he may be entitled under the laws of this State.

17B:32-17 Deputies and assistants.

In connection with delinquency proceedings, the commissioner may appoint one or more special deputy commissioners to act for him, and may employ such counsel, clerks, and assistants as he deems necessary. The compensation of the special deputies, counsel, clerks, or assistants, and all expenses of taking possession of the insurer and of conducting the proceedings, shall be fixed by the receiver subject to the approval of the court, and shall be paid out of funds or assets of the insurer. Within the limits of the duties imposed upon them, special deputies shall possess all the powers given to, and, in the exercise of those powers, shall be subject to all of the duties imposed upon the receiver with respect to such proceedings.

17B:32-18 Claims of nonresidents against domestic insurers.

a. In a delinquency proceeding begun in this State against a domestic insurer, claimants residing in reciprocal States may file claims either with the ancillary receivers, if any, in their respective States or with the domiciliary receiver. All such claims must be filed on or before the last date fixed for the filing of claims in the domiciliary delinquency proceedings.

b. Controverted claims belonging to claimants residing in reciprocal States may either:

(1) Be proved in this State; or

(2) If ancillary proceedings have been commenced in such reciprocal States, may be proved in those proceedings. In the event a claimant elects to prove his claim in ancillary proceedings, if notice of the claim and opportunity to appear and be heard is afforded the domiciliary receiver of this State, as provided in section 17B:32-19 of this chapter with respect to ancillary proceedings in this State, the final allowance of such claim by the courts in the ancillary State shall be accepted in this State as conclusive as to its amount and shall also be accepted as conclusive as to its priority, if any, against special deposits or other security located within the ancillary State.

17B:32-19 Claims against foreign insurers.

a. In a delinquency proceeding in a reciprocal State against an insurer domiciled in that State, claimants against such insurer who reside within this State may file claims either with the ancillary receiver, if any, appointed in this State, or with the domiciliary receiver. All such claims must be filed on or before the last date

fixed for the filing of claims in the domiciliary delinquency proceedings.

b. Controverted claims belonging to claimants residing in this State may either:

(1) Be proved in the domiciliary State as provided by the law of that State, or

(2) If ancillary proceedings have been commenced in this State, be proved in those proceedings. In the event that any such claimant elects to prove his claim in this State, he shall file his claim with the ancillary receiver and shall give notice in writing to the receiver in the domiciliary State, either by registered mail or by personal service at least 40 days prior to the date set for hearing. The notice shall contain a concise statement of the amount of the claim, the facts on which the claim is based, and the priorities asserted, if any. If the domiciliary receiver within 30 days after the giving of such notice shall give notice in writing to the ancillary receiver and to the claimant, either by registered mail or by personal service of his intention to contest such claim, he shall be entitled to appear or to be represented in any proceeding in this State involving adjudication of the claim. The final allowance of the claim by the courts of this State shall be accepted as conclusive as to its amount and shall also be accepted as conclusive as to its priority, if any, against special deposits or other security located within this State.

17B:32-20 Form of claim—notice—hearing.

a. All claims against an insurer against which delinquency proceedings have been begun shall set forth in reasonable detail the amount of the claim, or the basis upon which such amount can be ascertained, the facts upon which the claim is based, and the priorities asserted, if any. All such claims shall be verified by the affidavit of the claimant, or someone authorized to act on his behalf and having knowledge of the facts, and shall be supported by such documents as may be material thereto.

b. All claims filed in this State shall be filed with the receiver, whether domiciliary or ancillary, in this State, on or before the last date for filing as specified in this chapter.

c. Within 10 days of the receipt of any claim, or within such further period as the court may fix, the receiver shall report the claim to the court, specifying in such report his recommendation with respect to the action to be taken thereon. Upon receipt of such

report, the court shall fix a time for hearing the claim and shall direct that the claimant or the receiver, as the court shall specify, shall give such notice as the court shall determine to such persons as shall appear to the court to be interested therein. All such notices shall specify the time and place of the hearing and shall concisely state the amount and nature of the claim, the priorities asserted, if any, and the recommendation of the receiver with reference thereto.

d. At the hearing all persons interested shall be entitled to appear and the court shall enter an order allowing, allowing in part, or disallowing the claim. Any such order shall be deemed to be an appealable order.

17B:32-21 Priority of certain claims.

a. In a delinquency proceeding against an insurer domiciled in this State, claims owing to residents of ancillary States shall be preferred claims if like claims are preferred under the laws of this State. All such claims owing to residents or nonresidents shall be given equal priority of payment from general assets regardless of where such assets are located.

b. In a delinquency proceeding against an insurer domiciled in a reciprocal State, claims owing to residents of this State shall be preferred if like claims are preferred by the laws of that State.

c. The owners of special deposit claims against an insurer for which a receiver is appointed in this or any other State shall be given priority against their several special deposits in accordance with the provisions of the statutes governing the creation and maintenance of such deposits. If there is a deficiency in any such deposit so that the claims secured thereby are not fully discharged therefrom, the claimants may share in the general assets, but such sharing shall be deferred until general creditors, and also claimants against other special deposits who have received smaller percentages from their respective special deposits, have been paid percentages of their claims equal to the percentage paid from a special deposit.

d. The owner of a secured claim against an insurer for which a receiver has been appointed in this or any other State may surrender his security and file his claim as a general creditor, or the claim may be discharged by resort to the security, in which case the deficiency, if any, shall be treated as a claim against the general assets of the insurer on the same basis as claims of unsecured creditors. If the amount of the deficiency has been adjudicated in ancillary

proceedings as provided in this chapter, or if it has been adjudicated by a court of competent jurisdiction in proceedings in which the domiciliary receiver has had notice and opportunity to be heard, such amounts shall be conclusive; otherwise the amount shall be determined in the delinquency proceeding in the domiciliary State.

17B:32-22 Attachment and garnishment of assets.

During the pendency of delinquency proceedings in this or any reciprocal State, no action or proceeding in the nature of an attachment, garnishment or execution shall be commenced or maintained in the courts of this State against the delinquent insurer or its assets. Any lien obtained by any such action or proceeding within 4 months prior to the commencement of any such delinquency proceeding or at any time thereafter shall be void as against any rights arising in such delinquency proceeding.

17B:32-23 Uniform Insurers Liquidation Act.

a. Subsections b. through k. of section 17B:32-1, subsections a. and c. of section 17B:32-4, together with sections 17B:32-5 and 17B:32-15 through 17B:32-23 constitute and may be referred to as the Uniform Insurers Liquidation Act.

b. The Uniform Insurers Liquidation Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those States that enact it. To the extent that its provisions when applicable conflict with other provisions of this chapter, the provisions of such act shall control.

17B:32-24 Borrowing on pledge of assets.

For the purpose of facilitating the rehabilitation, liquidation, conservation or dissolution of an insurer pursuant to this chapter, the commissioner may, subject to the approval of the court, borrow money and execute, acknowledge and deliver notes or other evidences of indebtedness therefor, and secure the payment of the same by the mortgage, pledge, assignment, transfer in trust, or hypothecation of any or all of the property of such insurer, whether real, personal or mixed, and the commissioner, subject to the approval of the court, shall have power to take any and all other action necessary and proper to consummate any such loans and to provide for the repayment thereof. The commissioner shall be under no obligation personally or in his official capacity as commissioner to repay any loan made pursuant to this chapter.

17B:32-25 Voidable transfers.

a. Any transfer of, or lien upon, the property of an insurer which is made or created within 4 months prior to the granting of an order to show cause under this chapter with the intent of giving to any creditor or of enabling him to obtain a greater percentage of his debt than any other creditor of the same class, and which is accepted by such creditor having reasonable cause to believe that such a preference will occur, shall be voidable.

b. Every director, officer, employee, stockholder, policyholder, and any other person acting on behalf of such insurer who shall be concerned in any such act or deed and every person receiving thereby any property of such insurer or the benefit thereof, shall be personally liable therefor and shall be bound to account to the commissioner.

c. The commissioner, as receiver in any proceeding under this chapter, may avoid any transfer of, or lien upon the property of an insurer which any creditor, stockholder or policyholder of such insurer might have avoided, and may recover the property so transferred, or its value from the person to whom it was transferred, unless such person was a bona fide holder for value prior to the date of the granting of an order to show cause under this chapter. Such property or its value may be recovered from anyone who has received it, except a bona fide holder for value as above specified.

17B:32-26 Priority of claims for compensation.

a. Compensation actually owing to employees other than officers of an insurer, for services rendered within 3 months prior to the commencement of a proceeding against the insurer under this chapter, but not exceeding \$1,000 for each such employee, shall be paid prior to the payment of any other debt or claim, and in the discretion of the commissioner, may be paid as soon as practicable after the proceeding has been commenced; except, that at all times the commissioner shall reserve such funds as will, in his opinion, be sufficient for the expenses of administration.

b. Such priority shall be in lieu of any other similar priority which may be authorized by law as to the wages or compensation of such employees.

17B:32-27 Offsets.

a. In all cases of mutual debts or mutual credits between the insurer and another person in connection with any action or proceeding under this chapter, such credits and debts shall be set off

and the balance only shall be allowed or paid, except as provided in subsection b. below.

b. No offset shall be allowed in favor of any such person where

(1) The obligation of the insurer to such person would not at the date of the entry of any liquidation order, or at such other date determined by the court for fixing the rights and liabilities with respect to the estate of the insurer, have entitled him to share as a claimant in the assets of the insurer, or

(2) The obligation of the insurer to such person was purchased by or transferred to such person with a view of its being used as an offset, or

(3) The obligation of such person is to pay a balance upon a subscription to the capital stock of a stock insurer.

17B:32-28 Allowance of certain claims.

a. No contingent claim shall share in a distribution of the assets of an insurer which has been adjudicated to be insolvent by an order made pursuant to section 17B:32-30, except that such claims shall be considered, if properly presented, and may be allowed to share where

(1) Such claim becomes absolute against the insurer on or before the last day fixed for filing of proofs of claim against the assets of such insurer, or

(2) There is a surplus and the liquidation is thereafter conducted upon the basis that such insurer is solvent.

b. Where an insurer has been so adjudicated to be insolvent, any person who has a cause of action against an insured of such insurer, shall have the right to file a claim in the liquidation proceeding, regardless of the fact that such claim may be contingent, and such claim may be allowed

(1) If it may be reasonably inferred from the proof presented upon such claim that such person would be able to obtain a judgment upon such cause of action against such insured; and,

(2) If such person shall furnish suitable proof, unless the court, for good cause shown, shall otherwise direct, that no further valid claims against such insurer arising out of his cause of action, other than those already presented, can be made; and

(3) If the total liability of such insurer to all claimants arising out of the same act of its insured shall be no greater

than its maximum liability would be, were it not in liquidation.

c. No judgment against such an insured, taken after the date of the entry of the liquidation order, shall be considered in the liquidation proceedings as evidence of liability, or of the amount of damages, and no judgment against an insured taken by default, inquest or by collusion prior to the entry of the liquidation order, shall be considered as conclusive evidence in the liquidation proceeding, either of the liability of such insured to such person upon such cause of action, or of the amount of damages to which such person is therein entitled.

17B:32-29 Allowance of secured claims.

No claim of any secured claimant shall be allowed at a sum greater than the difference between the value of the claim without security and the value of the security itself as of the date of the entry of the order of liquidation, or such other date set by the court for fixation of rights and liabilities, unless the claimant shall surrender his security to the commissioner, in which event the claim shall be allowed in the full amount for which it is valued.

17B:32-30 Time to file the claims.

a. If upon the granting of an order of liquidation under this chapter, or at any time thereafter during the liquidation proceeding, the insurer shall not be clearly solvent, the court shall, after such notice and hearing as it deems proper, make an order declaring the insurer to be insolvent. Thereupon, regardless of any prior notice which may have been given to creditors, the commissioner shall notify all persons who may have claims against such insurer and who have not filed proper proofs thereof, to present the same to him, at a place specified in such notice, within 4 months from the date of the entry of such order, or, if the commissioner shall certify that it is necessary, within such longer time as the court shall prescribe. The last day for the filing of proofs of claims shall be specified in the notice. Such notice shall be given in a manner determined by the court.

b. Proofs of claim may be filed subsequent to the date specified, but no such claim shall share in the distribution of the assets until all allowed claims, proofs of which have been filed before said date, have been paid in full, with interest.

CHAPTER 33

UNAUTHORIZED INSURERS' PROCESS

- 17B:33-1 Short Title.
- 17B:33-2 Acts constituting commissioner as process agent.
- 17B:33-3 Service of process on commissioner as process agent.
- 17B:33-4 Service of process on persons acting on behalf of unauthorized insurer.
- 17B:33-5 Service of process by other means.
- 17B:33-6 Judgment by default.
- 17B:33-7 Deposit of bond by unauthorized insurer.
- 17B:33-8 Damages for unjustified refusal to pay.
- 17B:33-9 Misrepresentation by unauthorized insurer; notice to domiciliary supervisory official; action.

17B:33-1 Short title.

This chapter shall be known as the Unauthorized Insurers' Process Act.

a. The purpose of this chapter is to subject unauthorized insurers to the jurisdiction of the commissioner and to the courts of this State in suits by or on behalf of insureds or beneficiaries under insurance contracts or when such insurers place or send into this State any advertising designed to induce residents of this State to purchase insurance. It is in the interest of the State and of those residents of this State who purchase insurance from insurers which solicit insurance business in this State in the manner set forth in the preceding sentence that such insurers be subject to the provisions of this chapter and also that those residents who hold policies issued or delivered in this State by unauthorized insurers not be subjected to the obstacle of resorting to distant forums for the purpose of asserting legal rights under any policies. In furtherance of such state interest, there is provided herein a method of substituted service of process upon such insurers which is declared to be in the exercise of a state's power to protect its residents pursuant to the powers and privileges available to the State by virtue of Public Law 15, 79th Congress of the United States, Chapter 20, 1st Session, s. 340, which declares that the business of insurance and every person engaged therein shall be subject to the laws of the several states; the authority provided herein to be in addition to any existing powers of this State.

b. The provisions of this act shall be liberally construed.

17B:33-2 Acts constituting commissioner as process agent.

Any of the following acts in this State by an unauthorized insurer, whether effected by mail or other means, shall be equivalent to and shall constitute an appointment of the commissioner and of any other person discharging the duties of his office to be the true and lawful attorney of such insurer for the service upon him of all lawful process and other papers required by the practice of this State to be served in any action or proceeding instituted by or on behalf of an insured or beneficiary arising out of any contracts of insurance of the kinds defined in sections 17B:17-3, 17B:17-4 and 17B:17-5 and any such act shall signify its agreement that the service of such process and other papers shall have the same legal force, validity and effect as personal service of the same in this State upon such insurer:

- a. the issuance or delivery of contracts of insurance to residents of this State or to corporations authorized to do business therein;
- b. the solicitation or negotiation of applications for such insurance;
- c. the collection of premiums, membership fees or dues, assessments or other considerations for such contracts;
- d. any other transaction of business in relation to such contracts of insurance.

17B:33-3 Service of process on commissioner as process agent.

Service of process and other papers upon the commissioner as the true and lawful attorney of an unauthorized insurer pursuant to this chapter may be effected by any person lawfully authorized to serve process and other papers in civil actions generally by delivering or by mailing by certified or registered mail, return receipt requested, 2 copies thereof, together with the fee prescribed by law, to the commissioner or to someone designated by him in his office. Such service shall be effective and valid notwithstanding that the county in which the court is situated or in which venue is laid is a county other than that in which the commissioner's office is located. Upon receipt of any such service, the commissioner shall within 2 days thereafter (excluding Saturdays, Sundays and holidays) mail one of said copies by certified or registered mail, return receipt requested to the defendant addressed to it at its principal place of business, or to its registered office or to a registered agent for service. The commissioner shall keep a record of all process and papers so served upon him and of the mailing thereof to defendant. Upon so giving notice to the defendant of the service made

upon him on its behalf, the commissioner shall forward to the clerk of the court for filing his certificate of the service upon him and of the notice given by him.

17B:33-4 Service of process on persons acting on behalf of unauthorized insurer.

In addition to other methods authorized for the service of process and other papers upon an unauthorized insurer, such service may be made upon any agent, servant, employee or representative thereof within this State acting in the discharge of his duties. In addition to other forms of activity, any such person shall be deemed to be acting in this State on behalf of such insurer when he a. solicits or negotiates insurance, or b. makes, issues or delivers any contract of insurance, or c. collects or receives any premium, membership fees or dues, assessment or other consideration for insurance.

17B:33-5 Service of process by other means.

Nothing in this chapter shall be taken or construed to limit or abridge the means or methods by which any process or other papers may be served according to law or rules or orders of court now or hereafter provided.

17B:33-6 Judgment by default.

Whenever the service of process is effected by a method authorized by this chapter, the time within which the defendant shall be allowed to serve answer shall be the same as is otherwise provided in the case of service by mail or publication in civil actions generally, and no default or judgment based thereon shall be entered until after the expiration of such time.

17B:33-7 Deposit of bond by unauthorized insurer.

Before any unauthorized insurer shall file or cause to be filed any pleading or other paper in any action or proceeding instituted against it in any court of this State, such insurer shall either a. deposit with the clerk of the court cash or securities or file with such clerk a bond approved by the court as to the sureties and in an amount fixed by it sufficient to secure the payment of any final judgment which may be rendered; provided, however, that the court may, on notice and hearing, dispense with such deposit or bond upon being satisfied that the insurer maintains, in a State of the United States, funds or securities, in trust or otherwise, sufficient and available to satisfy any final judgment which may be entered; or b. procure a certificate of authority to transact the business of insurance in this State.

17B:33-8 Damages for unjustified refusal to pay.

In any action against an unauthorized foreign or alien insurer upon a contract of insurance issued or delivered in this State to a

resident thereof or to a corporation authorized to do business therein, if it shall be shown that the insurer failed for 30 days after written demand accompanied by a copy of this section, all prior to the institution of the action, to make payment in accordance with the terms of the contract without presenting a colorable defense in law or fact, the plaintiff shall be entitled to recover consequential damages for such unjustified refusal as part of his cause of action, the said damages to be measured by the reasonable costs and expenses incurred by plaintiff, including costs and expenses for the services of counsel and for investigation, as well as interest, and the same shall be included in the damages set forth in the final judgment; but no item recoverable as costs in the action shall be included in such damages.

17B:33-9 Misrepresentation by unauthorized insurer; notice to domiciliary supervisory official; action.

No unauthorized insurer shall make, issue, circulate or cause to be made, issued or circulated, to residents of this State any estimate, illustration, circular, pamphlet, or letter, or cause to be made in any newspaper, magazine or other publication, any announcement or statement to such residents misrepresenting its financial condition or the terms of any contracts issued or to be issued or the benefits or advantages promised thereby, or the dividends or share of the surplus to be received thereon in violation of chapter 30 of Title 17B of the Revised Statutes and whenever the commissioner shall have reason to believe that any such insurer is engaging in such unlawful advertising, he shall give notice of such fact by registered or certified mail to such insurer and to the insurance supervisory official of the domiciliary State of such insurer. For the purpose of this section, the domiciliary State of an alien insurer shall be deemed to be the State of entry or the State of the principal office in the United States.

If after 30 days following the giving of notice, such insurer has failed to cease making, issuing, or circulating such false misrepresentations or causing the same to be made, issued or circulated in this State, and if the Commissioner has reason to believe that a proceeding by him in respect to such matters would be to the interest of the public, and that such insurer is issuing or delivering contracts of insurance to residents of this State or collecting premiums on such contracts or doing any of the acts enumerated in section 17B:33-2, the commissioner shall issue and serve upon such unauthorized insurer a statement of the charges in that respect and a notice of hearing pursuant to the Administrative Procedure Act (P. L. 1968, c. 410) and any rules adopted thereunder for an order to cease and desist.

CHAPTER 34

PROCEDURE AND ADMINISTRATION

- 17B:34-1 Applicability of chapter.
- 17B:34-2 General policy.
- 17B:34-3 Subsequently enacted laws.
- 17B:34-4 Filing.
- 17B:34-5 Submission for approval or determination.
- 17B:34-6 Effect of withdrawals, approvals and the like.
- 17B:34-7 Number of copies.
- 17B:34-8 Subpoenas.
- 17B:34-9 Orders pending hearing.
- 17B:34-10 Judicial review; stay.
- 17B:34-11 Matters not otherwise provided for.
- 17B:34-12 Effect of chapter.

17B:34-1 Applicability of chapter.

The provisions of this chapter shall apply to all matters in respect to which a particular section directs that proceedings shall be governed by this chapter, and to matters to be dealt with by the commissioner in respect to any person coming within the scope of this Code in those instances where and to the extent that the section or sections involved do not contain specific provisions for procedure, administration or the like.

17B:34-2 General policy.

Provisions for procedure, administration and the like, set out in this Code shall be construed and applied so as to aid in the operation of applicable law in a fashion compatible with the reasonable, flexible and efficient operation and conduct of the regulated activity and with the interests of the public. To that end, administrative action shall be prospective whenever feasible and appropriate; it shall provide a suitable period of time, and shall allow suitable and practicable means, for achieving and implementing the purposes of the action taken, either by provision in the step embodying the action taken or by proceedings supplementary thereto.

17B:34-3 Subsequently enacted laws.

Laws hereafter enacted by way of amendment or supplement to this Code shall be dealt with in respect to matters of procedure, administration and the like with the same effect as though they

had been part of said Code when originally enacted, unless the same shall expressly provide otherwise. Any reference to the Revised Statutes or laws of New Jersey in this Code shall be deemed to refer to such Revised Statutes or laws of New Jersey as enacted and heretofore or hereafter amended or supplemented.

17B:34-4 Filing.

Whenever any matter is required to be filed with the commissioner, the same shall be deemed to have been filed on the date it is received by mail, addressed to the commissioner, or on which it is delivered by means other than mailing. The commissioner shall not return or refuse to file any matter required to be filed with him because of any technical defect of form or content, but in any such case he shall notify the person involved of the defect or defects and of a reasonable date by which a correction, amendment or supplement shall be supplied. Unless the commissioner states that intervening rights or interests are or may be affected, or unless the person making the same shall indicate otherwise, the correction, amendment or supplement shall relate back to the date of the initial filing of the matter. In the alternative, the person filing the matter may withdraw the defective filing.

17B:34-5 Submission for approval or determination.

Whenever any matter is required to be submitted, filed or otherwise presented so that it may be brought to the attention of the commissioner, then, unless a different time is specified in the applicable provision, the same shall be taken to have been approved upon the expiration of 30 days after the filing thereof if no notice of disapproval, or of suspension and inquiry, shall be issued and if the matter is not withdrawn, within such time. The commissioner may extend the 30 day period referred to in the preceding sentence for not more than 30 additional days by giving written notice of such extension before the expiration of the initial 30 day period. In the event of such extension, the provisions of this section, except the provision for extension, relating to the initial 30 day period, shall apply to the extended period instead of such initial 30 day period. Approvals taking effect pursuant to this section may be relied upon by all persons with like effect as though there had been an affirmative written approval, during such a period as may ensue thereafter prior to the making of a subsequent order of disapproval on notice and hearing.

17B:34-6 Effect of withdrawals, approvals and the like.

The withdrawal of any matter shall be without prejudice unless expressly stated to be with prejudice. Approvals resulting from the lapse of time shall not be a bar to subsequent disapproval or modified approval by order after notice and hearing unless the same be waived, but any such order shall be prospective only from a date specified therein or in an order on supplemental proceedings.

17B:34-7 Number of copies.

One copy of any paper or other matter to be filed, submitted or otherwise presented shall be sufficient. Additional copies if thereafter requested by the commissioner shall be furnished to him in a reasonable number in accordance with the needs of the matter but in any case where it is indicated to the commissioner that the furnishing of additional copies would be burdensome he may request, in lieu thereof, that a copy or copies be placed on deposit at a specified place or places, during stated hours and for a stated period, for the reasonable inspection thereof by persons having a proper interest therein.

17B:34-8 Subpoenas.

Subpoenas to witnesses shall be issued in the name of the commissioner by him or by any deputy commissioner or other employee designated by him at the request of any person interested in the proceeding, but no subpoena duces tecum shall be issued except for good cause shown. All subpoenas shall be subject to modification or cancellation on application and upon a showing that the same is oppressive or unreasonable, that the witness or evidence to be produced is not reasonably related to the matter, or on any other proper ground. Any person failing or refusing to comply with the command of a subpoena may be ordered by a judge of a County Court or of the Superior Court, on application made by the commissioner or by the person at whose instance the subpoena was issued, and to be proceeded upon in a summary manner, to comply with the terms of the subpoena or else to be punished by the court for contempt.

17B:34-9 Orders pending hearing.

In any formal proceeding, where the commissioner finds that the interests of the public require that immediate action be taken pending the completion of the hearings, the making of a determination thereon and the entry of a final order, he may enter an appropriate order to be effective pending the hearing and until the entry of a final order. Such orders may be entered on ex parte proofs where the proofs are strong and the need is great, but ex parte orders

shall be subject to application to vacate on 2 days' notice, and a preliminary hearing on the ex parte order shall be held in any event within not more than 20 days after entry thereof. In the alternative, or in addition thereto, the commissioner shall be authorized to institute a proceeding in the Superior Court, to be conducted in a summary manner, for an injunction against specified acts or conduct in aid of the proceedings pending before him, including temporary injunctions and interim restraints, upon a showing that such remedy would be more effective and complete.

17B:34-10 Judicial review; stay.

Orders of the commissioner, whether temporary or final, shall be subject to judicial review. Any party intending to seek judicial review may request the commissioner to amend his order so that it will not take effect until such review has been completed, or to stay or suspend its taking effect, and the commissioner is authorized to do so as requested or on terms so long as it does not appear that the public interest will be prejudiced thereby. Any such action on the part of the commissioner shall be subject to modification or revocation.

17B:34-11 Matters not otherwise provided for.

In the administration of any matter, the procedure for which is not specified by any applicable provision of law or of any rule or regulation, a specific procedure may be authorized by the commissioner by analogy to any statute or rule of court calculated to achieve a fair, efficient and proper presentation, management and disposition of the matter involved.

17B:34-12 Effect of Chapter.

The enactment of the provisions of this Chapter shall provide an alternative method of action and shall in no way be deemed to repeal the provisions of Chapters 66 and 68 of the Laws of 1958 nor the provisions of Chapter 12 of the Laws of 1970.

CHAPTER 35

CONSTRUCTION; TRANSITION

17B:35-1. Every certificate of authority of an insurer in force immediately prior to the effective date of this act and existing under any law herein repealed shall be valid until midnight of the last day of April next following such effective date, unless earlier terminated in accordance with this act. Such certificate of authority upon first renewal under this act shall be replaced by a certificate of authority in form as consistent with this act, and shall thereafter be subject to continuance, suspension, revocation or termination as though originally issued under this act.

17B:35-2. Every license in force immediately prior to the effective date of this act and existing under any law herein repealed shall be valid until midnight of the day such license would have expired under such law, unless earlier suspended, revoked, or terminated in accordance with this act. Such license upon first renewal under this act shall be replaced by a license in form consistent with this act, and shall thereafter be subject to continuation, suspension, revocation, or termination as though originally issued under this act.

17B:35-3. Every form of insurance document and every rate or other filing lawfully in use immediately prior to the effective date of this act may continue to be so used or be effective until the commissioner otherwise prescribes pursuant to this act; except, that before expiration of one year from and after such effective date neither this act nor the commissioner shall prohibit the use of any such document, rate, or filing because of any power, prohibition, or requirement contained in this act which did not exist under laws in force immediately prior to such effective date, unless expressly otherwise provided in this act.

17B:35-4. Any deposit made in this State under any law repealed herein, with or through the Department of Insurance or the commissioner, or by any insurer in compliance with a condition precedent to or in connection with its certificate of authority to

transact insurance in this State, and so on deposit immediately prior to the effective date of this act, shall be given full recognition as fulfillment, to the extent of such deposit, or any deposit so required for similar purposes under this act. The deposit shall hereafter be held for the purpose applicable thereto as specified in this act, and shall be subject in all respects to the provisions of this act applicable to similar deposits newly made under this act.

17B:35-5. Any laws of New Jersey, other than this act, remaining in force after the effective date of this act which refer to certain provisions of law repealed under this act, shall be deemed to refer to those provisions of this act which are in substance the same or substantially the same as such repealed provisions.

17B:35-6. This act shall not impair or affect any act done, offense committed, or right accruing, accrued, or acquired, or liability, penalty, forfeiture or punishment incurred, prior to the time this act takes effect, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted, as fully and to the same extent as if this act had not been passed.

17B:35-7. The repeal by this code of the whole or any part of any act under which there was organized any insurer in existence on the effective date of this code shall not work a dissolution of such insurer, but the existence of such insurer and the tenure of its officers and directors shall be preserved and such insurer, its officers, directors and policyholders shall have the same rights and shall be subject to the same limitations, restrictions, liabilities and penalties as those prescribed by this code for insurers organized under this code, their officers, directors and policyholders.

CHAPTER 36

ACTS SAVED FROM REPEAL; ACTS REPEALED; ACTS
PARTIALLY REPEALED; EFFECTIVE DATE

17B:36-1. The following sections, acts, and parts of acts, together with all amendments and supplements thereto, are saved from repeal.

a. The following sections of the Revised Statutes are saved from repeal:

17:17-13.

17:18-2.

17:20-5.

17:21-3.

17:24-1, 17:24-3, 17:24-5 through 17:24-12, both inclusive.

17:28-2.

17:29-7, 17:29-10 through 17:29-12, both inclusive.

17:32-4, 17:32-5, 17:32-8, 17:32-9, 17:32-10, 17:32-13.

b. The following acts are saved from repeal:

P. L. 1951, Chapter 206 (C. 17:17-14).

P. L. 1938, Chapter 289, §§ 6, 7, 8 (C. 17:18-13, 17:18-14, 17:18-15).

P. L. 1966, Chapter 50 (C. 17:22-6.2a).

P. L. 1944, Chapter 175, §§ 5, 15, 18, 19, 22, 23, 26, 27, 28 (C. 17:22-6.5, 17:22-6.15, 17:22-6.18, 17:22-6.19, 17:22-6.22, 17:22-6.23, 17:22-6.26, 17:22-6.27, 17:22-6.28).

P. L. 1948, Chapter 462 (C. 17:22-6.35 and C. 17:22-6.36).

P. L. 1960, Chapter 32, §§ 6-33, both inclusive, 1, 2 (C. 17:22-6.40 to 17:22-6.67, both inclusive, 17:22-6.68 and 17:22-6.69).

P. L. 1967, Chapter 201, §§ 9, 10 (C. 17:24-25, 17:24-26).

P. L. 1938, Chapter 259 (C. 17:27-5A).

P. L. 1968, Chapter 385 (C. 17:28-1.1, 17:28-1.2).

P. L. 1939, Chapter 74 (C. 17:28-4 through 17:28-7, both inclusive).

P. L. 1950, Chapter 271, § 2 (C. 17:28A-3).

P. L. 1947, Chapter 379, § 14 (C. 17:29B-14).

P. L. 1968, Chapter 234, § 7 (C. 17:32-22).

P. L. 1968, Chapter 318, § 14 (C. 17:35B-14).
P. L. 1959, Chapter 168 (C. 17:38-1.1 and 17:38-1.2).
P. L. 1951, Chapter 237, § 13 (C. 17:38-13.12).
P. L. 1970, Chapter 22 (C. 17:27A-1 to C. 17:27A-14, both inclusive).

17B:36-2. The following sections, acts, and parts of acts, together with all amendments and supplements thereto, are hereby repealed.

a. The following sections of the Revised Statutes are repealed entirely:

~~17:24-4.~~
~~17:34-4 through 17:34-6, both inclusive; 17:34-8 through 17:34-17, both inclusive; 17:34-19 through 17:34-21, both inclusive.~~
~~17:34-22.~~
~~17:34-23 through 17:34-25.1, both inclusive.~~
~~17:34-26 and 17:34-27.~~
~~17:34-31 and 17:34-32.~~
~~17:34-33 through 17:34-43, both inclusive.~~
~~17:34-44 through 17:34-48, both inclusive.~~
~~17:38-1.~~

b. The following acts are repealed entirely:

P. L. 1944, Chapter 175, § 24 (C. 17:22-6.24).
P. L. 1949, Chapter 248, § 3 (C. 17:24-15).
P. L. 1967, Chapter 201, §§ 1 through 8, both inclusive, and 11 (C. 17:24-17 through C. 17:24-24, both inclusive, and C. 17:24-27).
P. L. 1950, Chapter 276 (C. 17:28A-1).
P. L. 1950, Chapter 271, § 1 (C. 17:28A-2).
P. L. 1943, Chapter 15 (C. 17:34-3.2 through C. 17:34-3.10, both inclusive).
P. L. 1949, Chapter 198, § 2 (C. 17:34-3.11).
P. L. 1953, Chapter 156 (C. 17:34-3.12 through C. 17:34-3.22, both inclusive).
P. L. 1943, Chapter 148, §§ 1 and 2 (C. 17:34-21.1 and C. 17:34-25.2).
P. L. 1946, Chapter 119 (C. 17:34-22.1).
P. L. 1957, Chapter 62, § 3 (C. 17:34-25.3).
P. L. 1950, Chapter 301, § 3 (C. 17:34-32.2).
P. L. 1969, Chapter 97 (C. 17:34-32.3).

P. L. 1940, Chapter 208, §§ 1 through 5, both inclusive, and 7 (C. 17:34-43.1 through C. 17:34-43.5 and C. 17:34-43.7).

P. L. 1946, Chapter 154 (C. 17:34-49, C. 17:34-50 through C. 17:34-58).

P. L. 1961, Chapter 82, § 82 (C. 17:34-49.1).

P. L. 1959, Chapter 122, §§ 1 through 5 (C. 17:35A-1 through C. 17:35A-5).

P. L. 1959, Chapter 123 (C. 17:35A-6 through C. 17:35A-13).

P. L. 1968, Chapter 318, §§ 1 through 13 (C. 17:35B-1 through C. 17:35B-13).

P. L. 1951, Chapter 237, §§ 2 through 4, 6 through 12 (C. 17:38-13.1 through C. 17:38-13.3, both inclusive, C. 17:38-13.5 through C. 17:38-13.11, both inclusive).

P. L. 1967, Chapter 33 (C. 17:38-13.13).

P. L. 1939, Chapter 305, §§ 1, 2, 4, 5, 6 and 7 (C. 17:38-14, C. 17:38-15, C. 17:38-17 through C. 17:38-20).

P. L. 1967, Chapter 35 (C. 17:38-20.1).

P. L. 1967, Chapter 276 (C. 17:38-20.2).

P. L. 1958, Chapter 169 (C. 17:38A-1 through C. 17:38A-15).

P. L. 1949, Chapter 156 (C. 17:18-12.1).

17B:36-3. Partial Repealers. a. The following sections of the Revised Statutes are hereby repealed insofar as they apply to the formation of and subsequent authorization of companies to do life insurance, health insurance or annuities business:

17:17-1 to 17:17-11, both inclusive.

b. The following sections of the Revised Statutes are hereby repealed insofar as they apply to any company authorized to do one or more of the following kinds of business as defined in Title 17B: life insurance, health insurance and annuities:

17:18-1, 17:18-3, 17:18-4, 17:18-5, 17:18-6, 17:18-8 through 17:18-10, both inclusive; 17:18-12 and 17:18-16.

17:20-1 through 17:20-4, both inclusive.

17:21-1 through 17:21-2, both inclusive.

17:23-1, 17:23-2, 17:23-4 and 17:23-5.

17:25-1 through 17:25-7, both inclusive.

17:26-1, 17:26-2 through 17:26-6, both inclusive.

17:27-1 through 17:27-5, both inclusive.

17:30-1 through 17:30-8, both inclusive.

17:32-1 through 17:32-3, both inclusive; and 17:32-14.

c. The following acts are hereby repealed insofar as they apply to any company authorized to do one or more of the following kinds of business as defined in Title 17B: life insurance, health insurance and annuities:

P. L. 1948, Chapter 157 (C. 17:17A-1 to C. 17:17A-4, both inclusive).

P. L. 1966, Chapter 85 (C. 17:20-6).

P. L. 1958, Chapter 15 (C. 17:23-6 to C. 17:23-7, both inclusive).

P. L. 1949, Chapter 248, §§ 1, 2 and 4 (C. 17:24-13, C. 17:24-14, C. 17:24-16).

P. L. 1943, Chapter 14 (C. 17:26-1.1).

P. L. 1956, Chapter 149 (C. 17:27-5.1 to C. 17:27-5.4, both inclusive).

P. L. 1947, Chapter 379, §§ 1 through 13, both inclusive (C. 17:29B-1 to C. 17:29B-13, both inclusive).

P. L. 1950, Chapter 231 (C. 17:32-15).

P. L. 1968, Chapter 234, §§ 1 through 6, inclusive (C. 17:32-16 to C. 17:32-21, both inclusive).

P. L. 1952, Chapter 330 (C. 17:51-1 to C. 17:51-5, both inclusive).

d. The following act is hereby repealed as it applies to any company solely authorized to do one or more of the following kinds of business as defined in Title 17B: life insurance, health insurance and annuities:

P. L. 1970, Chapter 215 (C. 17:29D-1).

e. The following sections of the Revised Statutes are hereby repealed insofar as they apply to any company authorized to do one or more of the following kinds of business as defined in Title 17B: life insurance, health insurance and annuities, and insofar as said sections apply to the health insurance business of any company transacting any insurance not defined in Title 17B:

17:33-1 and 17:33-2.

f. The following acts are hereby repealed insofar as they apply to any aspect of the licensing of, business of or any other matter pertaining to any agent, solicitor or broker which aspect relates to life insurance, health insurance or annuities, and insofar as applicable to the health insurance business of any company transacting any insurance not defined in Title 17B:

P. L. 1944, Chapter 175, §§ 1, 2, 3, 4, 6 through 14, both inclusive, 16, 17, 20 and 25 (C. 17:22-6.1, C. 17:22-6.2, C. 17:22-6.3, C. 17:22-6.4, C. 17:22-6.6 through C. 17:22-6.14, both inclusive, C. 17:22-6.16, C. 17:22-6.17, C. 17:22-6.20 and C. 17:22-6.25).

P. L. 1962, Chapter 211 (C. 17:22-6.16a).

P. L. 1960, Chapter 32, §§ 3, 4 and 5 (C. 17:22-6.37, C. 17:22-6.38 and C. 17:22-6.39).

g. The following section of the Revised Statutes is hereby repealed insofar as it applies to any company authorized to do one or more of the following kinds of business as defined in Title 17B: life insurance, health insurance and annuities, and insofar as it applies to any aspect of the licensing of, business of or any other matter pertaining to any agent, solicitor or broker which aspect relates to life insurance, health insurance or annuities; and insofar as it applies to the health insurance business of any company transacting any insurance not defined in Title 17B:

17:17-12.

h. The following section of the Revised Statutes is hereby repealed insofar as it applies to any aspect of the licensing of, business of or any other matter pertaining to any agent, solicitor or broker which aspect relates to life insurance, health insurance or annuities and insofar as applicable to the health insurance business of any company transacting any insurance not defined in Title 17B:

17:22-6.

i. The following sections of the Revised Statutes are hereby repealed as to life insurance, health insurance and annuities:

17:28-1 and 17:28-3.

17B:36-4. Except as otherwise expressly provided this act shall take effect January 1, 1972.

Approved May 20, 1971.

TITLE 17B. LIFE AND HEALTH INSURANCE

SCHEDULE OF ALLOCATIONS OF SOURCE MATERIAL

<i>Source Sections</i>	<i>Revised Sections</i>	<i>Source Sections</i>	<i>Revised Sections</i>
17:17-1	17B:18-4	17:18-9	Omitted
17:17-2	17B:18-4	17:18-10	17B:18-48
17:17-3	17B:18-4	17:18-11	Repealed P. L. 1940, Chapter 91
17:17-4	17B:18-4	17:18-12	17B:24-8
17:17-5	17B:18-5	17:18-12.1	Omitted
17:17-6	17B:18-35	17:18-13	Saved from repeal
17:17-7	17B:18-36	17:18-14	Saved from repeal
17:17-8	17B:18-41	17:18-15	Saved from repeal
17:17-9	17B:18-37	17:18-16	17B:18-50
17:17-10	17B:18-42	CHAPTER 19	
17:17-11	Omitted	17:19-1	
17:17-12	{ 17B:17-13 17B:18-42 17B:22-31 17B:23-1	through	
17:17-13	Saved from repeal	17:19-12 ..	Repealed as to life insurance c o m - panies P. L. 1967, Chapter 201
17:17-14	Saved from repeal	17:20-1	17B:18-37
17:17A-1	17B:30-10	17:20-2	17B:18-38
17:17A-2	17B:30-11	17:20-3	17B:32-2 17B:32-3 17B:32-21
17:17A-3	17B:30-17	17:20-4	17B:18-39
17:17A-4	Omitted	17:20-5	Saved from repeal
17:18-1	17B:18-43	17:20-6	17B:18-40
17:18-2	Saved from repeal	17:21-1	17B:18-30
17:18-3	{ 17B:18-45 17B:20-1b	17:21-2	17B:18-51
17:18-4	17B:18-44	17:21-3	Saved from repeal
17:18-4.1	Repealed P. L. 1967, Chapter 201	17:22-1 to	
17:18-5	17B:18-64	17:22-5.1 ..	Repealed P. L. 1944, Chapter 175
17:18-6	7B:18-8		
17:18-7	Repealed P. L. 1939, Chapter 305		
17:18-8	Omitted		

<i>Source Sections</i>	<i>Revised Sections</i>	<i>Source Sections</i>	<i>Revised Sections</i>
17:22-5.2	Omitted	17:22-6.18	Saved from repeal
17:22-6	Omitted	17:22-6.19	Saved from repeal
17:22-6.1	17B:22-1	17:22-6.20	17B:22-6 and 17B:22-8
17:22-6.2	17B:22-2	17:22-6.21 ...	Repealed P. L. 1960, Chapter 32
17:22-6.2a	Saved from repeal	17:22-6.22	Saved from repeal
17:22-6.3	17B:22-5	17:22-6.23	Saved from repeal
17:22-6.4	17B:17-2	17:22-6.24	17B:22-3, 17B:22-6 to 17B:22-16, 17B:22-18, 17B:22-20, 17B:22-23, 17B:22-25 and 17B:22-27
17:22-6.5	Saved from repeal	17:22-6.25	17B:22-31
17:22-6.6	17B:22-4, 17B:22-8, 17B:22-9, 17B:22-13, 17B:22-14, 17B:22-17, 17B:22-18, 17B:22-20, 17B:22-21 and 17B:22-23	17:22-6.26	Saved from repeal
17:22-6.7	17B:22-24	17:22-6.27	Saved from repeal
17:22-6.8	17B:22-24	17:22-6.28	Saved from repeal
17:22-6.9	17B:22-9 to 17B:22-12, 17B:22-15 to 17B:22-17, 17B:22-19 to 17B:22-24	17:22-6.29 to	
17:22-6.10	17B:22-7 and 17B:22-12	17:22-6.34 ..	Repealed P. L. 1960, Chapter 32
17:22-6.11	17B:22-26	17:22-6.35	Saved from repeal
17:22-6.12	17B:22-25	17:22-6.36	Saved from repeal
17:22-6.13	17B:22-23	17:22-6.37	17B:22-32
17:22-6.14 ...	17B:22-22 and 17B:22-23	17:22-6.38	17B:22-33
17:22-6.15	Saved from repeal	17:22-6.39	Omitted
17:22-6.16	17B:22-27	17:22-6.40 to	
17:22-6.16(a)	17B:22-27	17:22-6.67	Saved from repeal
17:22-6.17 ..	See 17B:34-1 et seq. and State Administrative Procedure Act		

<i>Source Sections</i>	<i>Revised Sections</i>	<i>Source Sections</i>	<i>Revised Sections</i>
17:22-6.68	Saved from repeal	17:24-14	17B:19-1
17:22-6.69	Saved from repeal	17:24-15	17B:19-1
17:23-1	17B:21-1	17:24-16	17B:19-1
17:23-2	17B:21-2	17:24-17	17B:20-1
17:23-3	Repealed P. L. 1944, Chapter 175	17:24-18	17B:20-2
17:23-4	17B:21-3	17:24-19	17B:20-3
17:23-5	17B:21-4	17:24-20	17B:20-4
17:23-6	17B:21-5	17:24-21	17B:20-5
17:23-7	17B:21-6	17:24-22	17B:20-6
17:24-1	Repealed—Life Co.—P. L. 1967, Chapter 201	17:24-23	17B:20-7
17:24-2	Repealed P. L. 1967, Chapter 201	17:24-24	17B:20-8
17:24-3	Repealed—Life Co.—P. L. 1967, Chapter 201	17:24-25	Saved from repeal
17:24-4	17B:25-8	17:24-26	Saved from repeal
17:24-5	Repealed—Life Co.—P. L. 1967, Chapter 201	17:24-27	17B:34-3
17:24-6	Saved from repeal	17:25-1	17B:18-4
17:24-7	Saved from repeal	17:25-2	17B:18-6
17:24-8	Saved from repeal	17:25-3	Omitted
17:24-9	Saved from repeal	17:25-4	Omitted
17:24-10	Repealed—Life Co.—P. L. 1967, Chapter 201	17:25-5	Omitted
17:24-11	Repealed—Life Co.—P. L. 1967, Chapter 201	17:25-6	Omitted
17:24-12	Repealed—Life Co.—P. L. 1967, Chapter 201	17:25-7	Omitted
17:24-13	17B:19-1	17:26-1	17B:18-56
		17:26-1.1	17B:18-57
		17:26-2	17B:18-47
		17:26-3	17B:18-58
		17:26-4	Omitted
		17:26-5	Omitted
		17:26-6	Omitted
		17:27-1	17B:18-60
		17:27-2	17B:18-60
		17:27-3	17B:18-60
		17:27-4	17B:18-60
		17:27-5	17B:18-60
		17:27-5A	Saved from repeal
		17:27-5.1	17B:18-61
		17:27-5.2	17B:18-61
		17:27-5.3	17B:18-61
		17:27-5.4	17B:18-61
		17:27A-1 to 17:27A-14	Saved from repeal

<i>Source Sections</i>	<i>Revised Sections</i>	<i>Source Sections</i>	<i>Revised Sections</i>
17:28-1	17B:24-12	17:29B-4	17B:30-3, 4, 5, 7, 8, 9, 12, 13, 14, 15
17:28-1.1	Saved from repeal	17:29B-5	17B:30-16
17:28-1.2	Saved from repeal	17:29B-6	17B:30-17
17:28-2	Saved from repeal	17:29B-7	17B:30-17
17:28-3	Omitted	17:29B-8	17B:34-1 et seq. and State Administrative Procedure Act
17:28-4	Saved from repeal	17:29B-9	17B:30-18
17:28-5	Saved from repeal	17:29B-10	17B:30-19
17:28-6	Saved from repeal	17:29B-11	17B:30-20
17:28-7	Saved from repeal	17:29B-12	17B:30-21
17:28A-1	17B:27-52	17:29B-13	17B:30-22
17:28A-2	17B:27-53	17:29B-14	Saved from repeal
17:28A-3	Saved from repeal	17:29C-1 to 29C-13	Saved from repeal
17:29-1 to 5 ..	Repealed P. L. 1944, Chapter 27	17:29D-1	Omitted
17:29-6	Repealed P. L. 1944, Chapter 27	17:30-1 to 17:30-8	17B:32-1 et seq.
17:29-7	Saved from repeal	17:31-1 to 5	Saved from repeal
17:29-8, 9	Repealed P. L. 1944, Chapter 27	17:32-1	17B:23-1
17:29-10	Saved from repeal	17:32-2	17B:23-2
17:29-11	Saved from repeal	17:32-3	17B:23-3
17:29-12	Saved from repeal	17:32-4	Saved from repeal
17:29A-1 to 32 ..	Saved from repeal	17:32-5	Saved from repeal
17:29B-1	17B:30-1	17:32-6	Repealed P. L. 1944, Chapter 175
17:29B-2	Omitted	17:32-7	Repealed P. L. 1945, Chapter 132
17:29B-3	17B:30-2	17:32-8	Saved from repeal
		17:32-9	Saved from repeal

<i>Source Sections</i>	<i>Revised Sections</i>	<i>Source Sections</i>	<i>Revised Sections</i>
17:32-10	Saved from repeal	17:34-3.12	17B:18-18
17:32-11	Repealed P. L. 1944, Chapter 175	17:34-3.13	17B:18-19
17:32-12	Repealed P. L. 1945, Chapter 132	17:34-3.14	17B:18-20
17:32-13	Saved from repeal	17:34-3.15	17B:18-21
17:32-14	17B:23-4	17:34-3.16	17B:18-22
17:32-15	17B:23-5	17:34-3.17	17B:18-23
17:32-16	17B:23-6	17:34-3.18	17B:18-24
17:32-17	17B:23-7	17:34-3.19	17B:18-25
17:32-18	17B:23-8	17:34-3.20	17B:18-26
17:32-19	17B:23-9	17:34-3.21	17B:18-27
17:32-20	17B:23-10	17:34-3.22	17B:18-28
17:32-21	17B:23-11	17:34-4	17B:18-52
17:32-22	Saved from repeal	17:34-5	17B:18-29
17:33-1	17B:21-7	17:34-6	17B:22-6
17:33-2	17B:21-2	17:34-7	Repealed P. L. 1957, Chapter 150
17:34-1	Repealed P. L. 1945, Chapter 228	17:34-8	17B:18-9
17:34-2	Repealed P. L. 1945, Chapter 228	17:34-9	Omitted
17:34-3	Repealed P. L. 1949, Chapter 198	17:34-10	Omitted
17:34-3.1	Repealed P. L. 1949, Chapter 198	17:34-11	17B:18-49
17:34-3.2	17B:18-7, 10	17:34-12	17B:18-46
17:34-3.3	17B:18-7	17:34-13	17B:18-64
17:34-3.4	17B:18-11	17:34-14	17B:32-15
17:34-3.5	17B:18-12	17:34-15	17B:25-2 to 11, 13, 14
17:34-3.6	17B:18-13	17:34-16	17B:25-15
17:34-3.7	17B:18-14	17:34-17	17B:25-2c
17:34-3.8	17B:18-15	17:34-18	Repealed P. L. 1968, Chapter 318
17:34-3.9	17B:18-16	17:34-19	17B:25-2
17:34-3.10	17B:18-17	17:34-20	17B:17-3
17:34-3.11	Omitted	17:34-21	17B:25-19
		17:34-21.1	17B:25-19
		17:34-22	17B:19-2
		17:34-22.1	17B:19-3
		17:34-23	17B:19-4
		17:34-24	Omitted
		17:34-25	17B:19-6
		17:34-25.1	17B:19-7
		17:34-25.2	17B:19-8
		17:34-25.3	17B:19-9
		17:34-26	Omitted

<i>Source Sections</i>	<i>Revised Sections</i>	<i>Source Sections</i>	<i>Revised Sections</i>
17:34-27	Omitted	17:35A-10	17B:28-10
17:34-28	Repealed P. L. 1968, Chapter 318	17:35A-11	17B:28-11
17:34-29	Repealed P. L. 1968, Chapter 318	17:35A-12	17B:28-12
17:34-30	Repealed P. L. 1968, Chapter 318	17:35A-13	17B:28-13
17:34-31	17B:27-1 to 8	17:35B-1	17B:24-1
17:34-32	17B:27-10 to 23	17:35B-2	17B:24-2
17:34-32.1	Repealed P. L. 1950, Chapter 271	17:35B-3	17B:24-3
17:34-32.2	17B:27-24	17:35B-4	17B:25-18
17:34-32.3	17B:24-4	17:35B-5	{ 17B:25-2 17B:26-2
17:34-33 to		17:35B-6	17B:24-4
17:34-43.7	17B:18-59	17:35B-7	17B:24-5
17:34-44	17B:30-12	17:35B-8	17B:24-6
17:34-45	17B:30-13	17:35B-9	17B:24-6
17:34-46	17B:30-20	17:35B-10	17B:24-7
17:34-47	17B:30-20	17:35B-11	17B:24-8, 9
17:34-48	17B:30-14	17:35B-12	17B:24-10
17:34-49	17B:31-1	17:35B-13	17B:24-11
17:34-49.1	17B:31-2	17:35B-14	Saved from repeal
17:34-50	17B:31-3	17:38-1	17B:26-1
17:34-51	17B:31-4	17:38-1.1	Omitted
17:34-52	17B:31-5	17:38-1.2	Omitted
17:34-53	17B:31-6	17:38-2 to 13	Repealed P. L. 1951, Chapter 237
17:34-54	17B:31-7	17:38-13.1	17B:26-2
17:34-55	17B:31-8	17:38-13.2	17B:26-3 to 31
17:34-56	17B:31-9	17:38-13.3	17B:26-32, 33
17:34-57	17B:31-10	17:38-13.4	Repealed P. L. 1968, Chapter 318
17:34-58	17B:31-11	17:38-13.5	17B:26-35
17:35A-1	17B:28-1	17:38-13.6	17B:26-36
17:35A-2	17B:28-2	17:38-13.7	17B:30-12
17:35A-3	17B:28-3	17:38-13.8	17B:26-37
17:35A-4	17B:28-4	17:38-13.9	17B:26-38
17:35A-5	17B:28-5 and 6	17:38-13.10	Omitted
17:35A-6	17B:28-7	17:38-13.11	Omitted
17:35A-7	17B:28-8	17:38-13.12	Saved from repeal
17:35A-8	Omitted	17:38-13.13	17B:26-2
17:35A-9	17B:28-9	17:38-14	17B:27-26
		17:38-15	17B:27-27 to 31

<i>Source Sections</i>	<i>Revised Sections</i>	<i>Source Sections</i>	<i>Revised Sections</i>
17:38-16	Repealed P. L. 1950, Chapter 302	17:38A-7	17B:29-7
17:38-17	17B:27-32	17:38A-8	17B:29-8
17:38-18	17B:27-33 to 46	17:38A-9	17B:29-9
17:38-19	17B:27-47, 48	17:38A-10	17B:29-10
17:38-20	17B:27-49	17:38A-11	17B:29-11
17:38-20.1	17B:27-51	17:38A-12	17B:29-12
17:38-20.2	17B:27-50	17:38A-13	17B:29-13
17:38A-1	17B:29-1	17:38A-14	17B:17-14
17:38A-2	17B:29-2	17:38A-15	Omitted
17:38A-3	17B:29-3	17:51-1	17B:33-2 to 6
17:38A-4	17B:29-4	17:51-2	17B:33-7
17:38A-5	17B:29-5	17:51-3	Omitted
17:38A-6	17B:29-6	17:51-4	Omitted
		17:51-5	17B:33-1

CHAPTER 145

AN ACT to amend “An act to regulate and control the teaching and practice of nursing and to prescribe penalties for the violations thereof (Revision of 1947),” approved June 11, 1947 (P. L. 1947, c. 262).

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

1. Section 2 of P. L. 1947, c. 262 (C. 45:11-24) is amended to read as follows:

C. 45:11-24 The board; appointment of members; terms; oath of office.

2. The board; appointment of members; terms; oath of office.

a. The board; appointment; terms. The New Jersey Board of Nursing shall consist of five members, four of whom shall be registered professional nurses and one of whom shall be a licensed practical nurse. Appointments to the board shall be for terms of 5 years or for the unexpired portion of a term in the case of a vacancy for any cause within a term, and until a successor shall be appointed and qualified. The licensed practical nurse member shall be appointed to fill any existing vacancy formerly held by a registered

professional nurse or to fill the first such vacancy hereafter occurring. Appointments shall be made by the Governor who shall give due consideration to, but shall not be bound by, recommendations submitted by the various nurses' professional associations of this State. Upon notice and hearing, the Governor may remove from office any member of the board for neglect of duty, incompetency, unprofessional or dishonorable conduct.

b. Qualifications for appointment. Each registered professional nurse member of the board shall be a citizen of the United States and a resident of this State; shall be a graduate from a college or university or have had equivalent preparation as determined by the board of directors of the New Jersey State Nurses' Association; shall be a graduate of an accredited school of nursing within the United States; shall be a registered nurse in this State; shall have had at least 5 years' experience in professional nursing following graduation from an accredited school of nursing and at least 2 years' executive or teaching experience in nursing education; and shall at the time of appointment be actively engaged in nursing or work relating thereto. The licensed practical nurse member of the board shall be a citizen of the United States and a resident of this State; shall hold a valid license to practice practical nursing in this State; shall have had at least 3 years' experience in practical nursing; and shall at the time of appointment be actively engaged in practical nursing or work related thereto.

c. Oath or affirmation of office. Within 30 days after receipt of the commission, each appointee shall take, subscribe and file in the office of the Secretary of State the oath or affirmation prescribed by law.

d. Duties and powers. The board shall have the following duties and powers: (1) It shall hold annual meetings and such other meetings as it may deem necessary at such times and places as the board shall prescribe and a majority of the board including one officer shall constitute a quorum. (2) It shall elect from its members and prescribe the duties of a president and secretary-treasurer, each of whom shall serve for 1 year and until a successor is elected. (3) It shall appoint and prescribe the duties of an executive secretary to the board who need not be a member thereof but who shall be a citizen of the United States, a graduate of a college or university with a major in nursing education, a registered nurse of this State with at least 5 years' experience in teaching or administration or both in an accredited school of professional nursing, or have equivalent qualifications as determined by the board. The executive

secretary shall hold office during the will and pleasure of the board. (4) It shall employ and prescribe the duties of such persons as in its judgment shall be necessary for the proper performance and execution of the duties and powers of the board. (5) It shall determine and pay reasonable compensation and necessary expenses of the executive secretary and all employees of the board. (6) It shall pay to each member of the board the compensation hereinafter provided. (7) It shall have a common seal, keep an official record of all its meetings, and through its secretary-treasurer report annually to the Governor the work of the board. (8) It shall examine applicants for a license or renewals thereof, issue, renew, revoke and suspend licenses, as hereinafter provided. (9) It shall in its discretion investigate and prosecute all violations of provisions of this act. (10) It shall keep an official record which shall show the name, age, nativity and permanent place of residence of each applicant and licensee and such further information concerning each applicant and licensee as the board shall deem advisable. The record shall show also whether the applicant was examined, licensed or rejected under this and any prior act. Copies of any of the entries of the record or of any certificate issued by the board may be authenticated by any member of the board under its seal and when so authenticated shall be evidence in all courts of this State of the same weight and force as the original thereof. For authenticating a copy of any entry or entries contained in its record the board shall be paid a fee of \$3.00, but such authentication, if made at the request of any public agency of this or any other jurisdiction, may be without fee. (11) In its discretion it may publish at such times as it shall determine a list of nurses licensed under this act, a list of schools of nursing accredited or approved under this act, and such other information as it shall deem advisable. (12) It shall prescribe standards and curricula for schools of nursing and evaluate and approve courses for affiliation. (13) It shall hear and determine applications for accreditation of schools of professional nursing, conduct investigations before and after accreditation of such schools and institutions with which they are affiliated, and issue, suspend or revoke certificates of accreditation as hereinafter provided. (14) It shall approve schools of practical nursing which shall conform to the standards, curricula, and requirements prescribed by the board, and suspend or revoke approval for violations thereof; provided, that this power shall not extend to schools operated by any board of education in this State. (15) It may consult with the Medical Society of New Jersey and the New Jersey

Hospital Association with respect to any matter relating to the administration of this act and shall consult with those associations with respect to standards and curricula and any change thereof for schools of nursing. (16) It shall issue subpoenas for the attendance of witnesses and production of documents at any hearing before the board authorized by this act and any member of the board shall administer an oath or affirmation to persons appearing to give testimony at such hearings. (17) It may conduct any investigations, studies of nursing and nursing education and related matters, and prepare and issue such publications as in the judgment of the board will advance the profession of nursing and its service to the public. (18) It shall perform all other functions which are provided in this act to be performed by it or which in the judgment of the board are necessary or proper for the administration of this act. (19) It shall from time to time prescribe rules and regulations not inconsistent with this act.

e. Compensation. Each member of the board shall receive \$15.00 per day for each day in which such member is actually engaged in the discharge of duties and traveling and other expenses necessarily incurred in the discharge of duties.

2. This act shall take effect immediately.

Approved May 20, 1971.

CHAPTER 146

AN ACT to amend "An act to authorize the board of chosen freeholders of certain counties of the second or fifth class to establish the office of superintendent of elections for said county and providing for the appointment, term of office and compensation of such superintendent of elections and fixing his powers and duties, and supplementing Title 19 of the Revised Statutes," approved May 20, 1947 (P. L. 1947, c. 167), as said Title was amended by chapter 84 of the laws of 1953.

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

1. Section 1 of P. L. 1947, c. 167 (C. 19:32-26) is amended to read as follows:

C. 19:32-26 Second-class counties; establishment of office of superintendent of elections; appointment, term, salary, vacancies.

1. In any county of the second class, other than those having a population between 275,000 and 325,000 and other than those having a population between 350,000 and 400,000 according to the 1950 Census, and in any county of the fifth class having a population in excess of 200,000 according to the 1950 Census, or less than 200,000 according to the 1970 Census, the board of chosen freeholders may establish, by resolution, the office of superintendent of elections for the county, and said office when once established shall not be altered or abolished.

The board of chosen freeholders shall file a certified copy of such resolution, attested by the director and clerk of the board, in the office of the Secretary of State within 10 days after the adoption of the resolution, and the resolution shall take effect at the expiration of 30 days after the next primary election for the general election, or the next general election, after the adoption of such resolution, whichever shall occur first.

The office so established shall be filled by some suitable person who shall be nominated by the Governor with the advice and consent of the Senate for a term of 5 years from the date of his appointment and until his successor is appointed and shall have qualified. In the event that no such appointment to such office is made within 30 days following the taking effect of the resolution, heretofore or hereafter adopted, of the board of chosen freeholders of the county, as herein provided, then the said board of chosen freeholders of the county shall appoint some suitable person to fill such office for a term of 5 years from the date of appointment and until the successor of such person is in the same manner appointed and shall have qualified. The board shall file notice of such appointment in the office of the Secretary of State.

Each superintendent so appointed in a county of the fifth class shall receive a salary of \$4,000.00 per annum and each superintendent so appointed in a county of the second class shall receive a salary in such amount, not less than \$4,000.00 per annum, as shall be fixed by the board of chosen freeholders; such salaries shall be paid by the county treasurer and the superintendent shall have his office in the county for which he is appointed.

Any vacancy occurring in such office of superintendent of elections shall be filled in the same manner as the original appointment to such office was made, but for the unexpired term only.

2. This act shall take effect immediately.

Approved May 20, 1971.

CHAPTER 147

AN ACT concerning public support of bus services, amending P. L. 1969, c. 134, and making an appropriation therefor.

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

1. Section 8 of P. L. 1969, c. 134 is amended to read as follows:

8. This act shall take effect immediately but shall terminate on July 1, 1972.

2. There is hereby appropriated from the General Treasury to the Department of Transportation the sum of \$1,000,000.00 to carry out the purposes of this act for the period July 1, 1971 to July 1, 1972.

3. This act shall take effect immediately.

Approved May 20, 1971.

CHAPTER 148

AN ACT concerning education and the development of performance evaluation to determine the criteria necessary for an individual to demonstrate his competence to teach before being issued an initial teaching certificate in the State of New Jersey and supplementing Title 18A of the New Jersey Statutes, and making an appropriation therefor.

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

C. 18A:6-75 Teacher performance evaluation project authorized.

1. The Commissioner of Education and the State Board of Education shall have the authority and responsibility under this act to plan, establish, and operate a Statewide performance evaluation project. This project, through voluntary cooperation among local school districts, teacher training institutions, professional educational organizations, and the State Department of Education, shall concentrate on developing criteria for professional teaching competence based on performance evaluation prior to the issuance of initial teaching certificates.

C. 18A:6-76 Scope of project.

2. This project:

- a. shall identify the skills, attitudes, and other such pertinent data as the participating groups deem essential for an individual to demonstrate before being issued an initial teaching certificate;
- b. shall determine the method or methods of evaluation of the performance of each candidate for an initial teaching certificate;
- c. shall recommend to the commissioner and to the State Board of Education the minimum standards which an individual must achieve in order to be issued an initial teaching certificate; and
- d. shall procure and use Federal and private resources in combination with State resources to attain State educational goals.

C. 18A:6-77 Implementation of act.

3. The Commissioner of Education shall, with the approval of the State Board of Education, promulgate rules and regulations, establish procedures, employ personnel, and take all other necessary steps to insure the implementation of the provisions of this act.

C. 18A:6-78 Cooperation of other State agencies.

4. Pursuant to the objectives of this act, the State Department of Education may seek the cooperation and involvement of other State agencies.

5. There is hereby appropriated to the Department of Education the sum of \$90,000.00 to carry out the purposes of this act for the period ending on June 30, 1972. Such amounts of this appropriation as approved by the State Board of Education may be allocated to the Department of Education for such purposes as will insure the effective administration and evaluation of the provisions of this act.

6. This act shall take effect immediately.

Approved May 20, 1971.

CHAPTER 149

AN ACT concerning education and the establishment of early child development centers to demonstrate the efficacy of pre-school education in New Jersey and supplementing Title 18A of the New Jersey Statutes, and making an appropriation therefor.

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

C. 18A:6-79 Child development demonstration centers.

1. The Commissioner of Education and the State Board of Education shall have the authority and responsibility to plan for, establish and operate demonstration model early child development centers. These centers, in voluntary cooperation with local school districts or other public agencies, shall concentrate on the cognitive and affective development of children aged 3 to 6; including but not limited to health, dental hygiene, mental health, language and computation skills development, nutrition, socialization, and recreation.

The centers shall design projects within an experimental framework of early childhood education and day care support in order that unproven educational ideas, equipment, methods and approaches, newly developed curriculum materials and reliable educational techniques can be objectively tested and evaluated and their value to local school districts and other early childhood programs be demonstrated. The educational centers shall be planned and developed (1) to demonstrate an educational approach to day care that has widespread use and adaptability to local educational agencies, and (2) to procure and use Federal and private resources in combination with State resources to attain State educational goals.

The Commissioner of Education shall, with the approval of the State Board of Education, promulgate rules and regulations, establish procedures, employ personnel, and take all other necessary steps to insure the implementation of the provisions of this act.

2. There is hereby appropriated to the Department of Education the sum of \$90,000.00 to carry out the purposes of this act for the period ending on June 30, 1972. Such amounts of this appropriation as approved by the State Board of Education may be allocated to the Department of Education for such purposes as will insure the effective administration and evaluation of the provisions of this act.

Pursuant to the objectives of this act, the State Department of Education may seek the cooperation and involvement of other State agencies.

3. This act shall take effect immediately.

Approved May 20, 1971.

CHAPTER 150

AN ACT to amend "An act providing for drug education programs for teachers and pupils as part of their curriculum in certain cases, and supplementing Title 18A of the New Jersey Statutes," approved June 3, 1970 (P. L. 1970, c. 85).

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

1. Section 3 of P. L. 1970, c. 85 (C. 18A:4-28.6) is amended to read as follows:

C. 18A:4-28.6 Additional training programs.

3. In addition to the workshops and training programs provided for in section 2 hereof, the Commissioner of Education is hereby authorized and directed to establish drug education training programs for teachers in school districts containing secondary school grades. Said programs for teachers shall consist of eight sessions, each lasting a minimum of 1½ clock hours, to be given in each of said school districts during the period of September 15, 1970, through December 15, 1970. No more than one session shall be given in any 1 week period. The programs provided for by this section shall be conducted by the teachers attending the summer workshops and training programs, as nearly as may be possible, and shall include the curriculum and the recommended drug education unit, provided for in section 2 hereof. Said programs shall be attended by all teachers in such districts teaching secondary school grades and shall be coordinated with the usual school schedule therein so as to permit said teachers to attend after having completed a minimum of 4 hours of their normal school schedule.

Where the scheduling of such training programs would seriously disrupt the educational programs of a school district, the Commissioner of Education may authorize the following exceptions:

One 3-hour session may be substituted for two of the otherwise required 1½ hour sessions, provided however:

(a) That no more than one session shall be given in any 1 week period;

(b) That no program established by this section shall consist of less than four sessions nor less than a total of 12 hours of instruction;

(c) That such substitution be approved by the Commissioner of Education on the basis of requests submitted by local school districts, prior to October 1, 1970, which requests shall contain such program information as the commissioner shall require.

2. This act shall take effect immediately.

Approved May 20, 1971.

CHAPTER 151

AN ACT to authorize the township of Long Beach in the county of ocean to make permanent the appointment of Edwin Raylman, James V. Ronde, Thomas A. Melega and Arthur S. Maines to the police department of the township of Long Beach.

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

Private act.

1. Pursuant to the provisions of chapter 199 of the laws of 1948, under which a petition for a special law has been filed with the Legislature, the township of Long Beach, in the county of Ocean is authorized to make permanent the appointment of Edwin Raylman, James V. Ronde, Thomas A. Melega and Arthur S. Maines to the police department of Long Beach township notwithstanding their ages are greater than the maximum age limit for appointment thereto set forth in R. S. 40:47-4.

2. The board of trustees of the Police and Firemen's Retirement System of New Jersey shall accept as a member of the retirement system any policeman, otherwise eligible for membership, appointed pursuant to this act provided there is paid into the retirement system, in such manner as the board shall prescribe, the contribution deemed due and payable from the date of original appointment.

3. This act shall take effect upon due adoption of an ordinance of the township of Long Beach for the purpose of adopting same.

Approved May 20, 1971.

CHAPTER 152

AN ACT concerning insurance, regulating rates, underwriting guidelines and agency contracts therefor in certain cases, and amending and supplementing chapter 217 of the laws of 1970 and amending chapter 27 of the laws of 1944.

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

1. Section 1 of P. L. 1970, c. 217 (C. 17:22-6.14a) is amended to read as follows:

C. 17:22-6.14a Contracts with agents; commissions; termination; renewal of business.

1. In the event that a policy is canceled by the insurer, either at its own behest or at the behest of the agent or broker of record, the unearned premium, including the unearned commission shall be returned to the policyholder. In the event that a policy is canceled by the insured, any broker of record may retain his portion of the unearned commission, and the balance of the unearned premium including any balance of unearned commission, shall be returned to the policyholder. Contracts between insurance companies and agents for the appointment of the agent as the representative of the company shall set forth the rates of commission to be paid to the agent for each class of insurance within the scope of such appointment written on all risks or operations in this State except:

- (a) Reinsurance.
- (b) Life insurance.
- (c) Annuities.
- (d) Accident and health insurance.
- (e) Title insurance.
- (f) Mortgage guaranty insurance.
- (g) Hospital service, medical service, or dental service corporations, investment companies, mutual benefit associations, or fraternal beneficiary associations.

Said rates of commission shall continue in force and effect unless changed by mutual written consent or until termination of said contract as hereinafter provided. Failure to achieve such mutual consent shall require that the agent's contract be terminated as hereinbelow provided. The rate of commissions being paid on each

class of insurance on the date of enactment hereof shall be deemed to be pursuant to the existing contract between agent and company.

Termination of any such contract for any reason other than one excluded herein shall become effective after not less than 90 days' notice in writing given by the company to the agent and the Commissioner of Insurance. No new business nor increases in liability on renewal or in force business shall be written by the agent for the company after notice of termination without written approval of the company. However, during the term of the agency contract, including the said 90-day period, the company shall not refuse to renew such business from the agent as would be in accordance with said company's current underwriting standards. The company shall during a period of 9 months from the effective date of such termination, upon request in writing of the terminated agent, renew all contracts of insurance for such agent for said company as may be in accordance with said company's then current underwriting standards and pay to the terminated agent a commission in accordance with the previous agency contract of the terminated agent. Said commission can be paid only to the holder of a New Jersey broker's license. In the event any risk shall not meet the then current underwriting standards of said company, that company may decline its renewal, provided that the company shall give the terminated agent and the insured not less than 60 days' notice of its intention not to renew said contract of insurance.

The agency termination provisions of this act shall not apply to those contracts in which the agent is paid on a salary basis without commission or where he agrees to represent exclusively one company or to the termination of an agent's contract for insolvency, abandonment, gross and willful misconduct, or failure to pay over to the company moneys due to the company after his receipt of a written demand therefor, or after revocation of the agent's license by the Commissioner of Insurance; and in any such case the company shall upon request of the insured, provided he meets the then current underwriting standards of the company, renew any contract of insurance formerly processed by the terminated agent through an active agent, or directly pursuant to such rules and regulations as may be promulgated by the Commissioner of Insurance.

The Commissioner of Insurance, on the written complaint of any person stating that there has been a violation of this act, or when he deems it necessary without a complaint, may inquire and otherwise investigate to determine whether there has been any violation of this act.

All existing contracts between agent and company in effect in the State of New Jersey on the effective date of this act are subject to all provisions of this act.

The Commissioner of Insurance may, if he determines that a company is in unsatisfactory financial condition, exclude such company from the provisions of this act.

Whenever under this act it is required that the company shall renew a contract of insurance, the renewal shall be for a time period equal to one additional term of the term specified in the original contract, but in no event to be less than 1 year.

C. 17:22-6.14a1 Filing of current underwriting guidelines.

2. All property and casualty insurers doing business in New Jersey shall, upon request of the Commissioner of Insurance, file with the Department of Insurance a copy of their current underwriting guidelines, together with any amendments thereto or modification thereof. Such guidelines, amendments or modifications shall not be arbitrary, capricious or unfairly discriminatory.

C. 17:22-6.14a2 Notice of nonrenewal; contents; statements not to constitute cause of action.

3. Where a policy of insurance is not renewed because of failure to meet the then current underwriting standards, the notice of nonrenewal shall identify the underwriting standard and specify in detail the factual basis upon said underwriting standard has not been met.

There shall be no liability on the part of and no cause of action of any nature shall arise against the Commissioner of Insurance or against any insurer, its authorized representative, its agents, its employees, or any firm, person or corporation furnishing to the insurer information as to reasons for nonrenewal, for any statement made by any of them in any written notice of nonrenewal, or in any other communication, oral or written specifying the reasons for nonrenewal, or the providing of information pertaining thereto, or for statements made or evidence submitted at any hearings conducted in connection therewith.

C. 17:22-6.14a3 Rules and regulations.

4. The Commissioner of Insurance is authorized to adopt, promulgate and enforce such rules and regulations as he determines to be necessary to implement this act.

5. Section 15 of P. L. 1944, c. 27 (C. 17:29A-15) is amended to read as follows:

C. 17:29A-15 Rates; rebates.

15. No insurer or employee thereof, and no broker or agent shall knowingly charge, demand or receive a premium for any policy of insurance except in accordance with the respective rating-systems on file with and approved by the commissioner. No insurer, or employee thereof, and no broker or agent shall pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit, or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy of insurance, except to the extent that such rebate, discount, abatement, credit, reduction, favor, advantage or consideration may be provided for in rating-systems filed by or on behalf of such insurer and approved by the commissioner. No insured named in a policy of insurance, nor any employee of such insured, shall knowingly receive or accept, directly or indirectly, any such rebate, discount, abatement, or reduction of premium, or any such special favor or advantage or valuable consideration or inducement. Nothing herein contained shall be construed as prohibiting the payment of commissions or other compensation to regularly appointed and licensed agents and to brokers duly licensed by this State, nor as prohibiting a discount, abatement, or reduction in premium on policies issued to or on behalf of the State of New Jersey.

6. If any section, subsection, subdivision, paragraph, sentence or clause of this act is held invalid or unconstitutional, such decision shall not affect the remaining portions of this act, and to this end the provisions of this act are declared to be severable.

7. This act shall take effect immediately.

Approved May 20, 1971.

CHAPTER 153

AN ACT concerning the hearing of appeals by the Civil Service Commission, providing for the appointment of hearing officers in the Department of Civil Service, supplementing Title 11 of the Revised Statutes and making an appropriation therefor.

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

C. 11:1-20 Appointment of hearing officers.

1. The President of the Civil Service Commission may designate and appoint as hearing officers, such persons who by background and experience are qualified, as may be necessary to keep the schedule of hearings current by conducting hearings and proceedings now or hereafter pending before the commission.

C. 11:1-21 Powers of hearing officer.

2. A hearing officer so designated and appointed by the president of the commission shall have the authority in the conduct of such hearings, including the power to administer oaths, which is vested by Title 11 of the Revised Statutes in a commissioner sitting singly. The hearing officer shall report to the commission his findings and recommendations as to the order or other dispositions to be made.

C. 11:1-22 Rules and regulations.

3. The commission shall adopt rules and regulations relating to hearings conducted by hearing officers, the reports to be made and other recommendations to be submitted for action by the commission, the taking of exceptions to such reports and recommendations and proceedings before the commission on the question of adoption, rejection, or modification by the commission of the report and recommendations made by such hearing officers.

C. 11:1-23 Compensation.

4. Hearing officers shall be entitled to such compensation on a per diem basis for assigned hearings as shall be determined by the president of the commission, but shall not acquire civil service status or tenure by virtue of their appointment or under any law of the State of New Jersey.

C. 11:1-24 Annual report; contents.

5. The President of the Civil Service Commission shall make and submit at the end of each fiscal year a report to the Governor

for his approval concerning appeals heard by the commission indicating for each particular appeal, the date granted, the commissioner or hearing officer conducting the hearing, the dates thereof, the date the decision was rendered and the time devoted thereto expressed in terms of days or fractions of days. Said report shall also disclose the status of appeals pending before the commission, indicating the number thereof, the date each was granted, and any proposed hearings scheduled therefor. No hearing officer shall be assigned to hear appeals in the succeeding year until the annual report is submitted by the President of the Civil Service Commission for the preceding fiscal year and the continuing need for hearing officers shall have been approved and confirmed by the Governor.

6. There is hereby appropriated to the Department of Civil Service the sum of \$40,000.00 to carry out the provisions of this act.

7. This act shall take effect immediately.

Approved May 20, 1971.

CHAPTER 154

AN ACT concerning fees collected by the Department of Labor and Industry, and revising parts of the statutory law.

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

1. Section 11 of P. L. 1965, c. 154 (C. 34:6A-11) is amended to read as follows:

C. 34:6A-11 Registration; fees.

11. The commissioner shall have the power and authority to require that places of employment be registered with the department; and that a certificate of registration be obtained from the department for each place of employment. The application and certificate forms shall be prescribed by the commissioner.

A certificate of registration shall expire 1 year from its effective date, unless sooner revoked or suspended by the commissioner; provided, however, that the commissioner may in his discretion require every employer subject to this chapter to register on a date to be fixed by him, which shall be not sooner than 3 months nor later than 15 months from the effective date of this act. A certificate of

registration may be renewed upon the filing of an application for renewal upon a form prescribed by the commissioner. A certificate of registration shall at all times be prominently displayed at each place of employment of the employer.

The commissioner shall have the power and authority to charge an annual registration fee of not less than \$15.00 nor more than \$50.00 for each certificate of registration issued.

2. Section 3 of P. L. 1962, c. 45 (C. 34:5-168) is amended to read as follows:

C. 34:5-168 Health and safety requirements; compliance by employers in construction industry; registration; fees.

3. Any employer engaging in any activity related to the erection, construction, alteration, demolition, repair or maintenance of buildings, structures, bridges, highways, roadways, dams, tunnels, sewers, underground buildings or structures, pipelines or ducts and all other construction projects or facilities, shall comply with all requirements reasonably necessary for the health and safety of employees and the general public. Such requirements shall be set forth in rules and regulations adopted under the Construction Safety Act. The application and certificate forms shall be prescribed by the commissioner.

A certificate of registration shall expire 1 year from its effective date, unless sooner revoked or suspended by the commissioner. A certificate of registration may be renewed upon the filing of an application for renewal on a form prescribed by the commissioner. A certificate of registration shall at all times be prominently displayed at each place of business of the employer.

The commissioner shall have the power and authority to charge an annual registration fee of not less than \$15.00 nor more than \$50.00 for each certificate of registration issued.

3. Section 4 of P. L. 1954, c. 197 (C. 34:6-98.4) is amended to read as follows:

C. 34:6-98.4 Authority and duties of the commissioner; registration; fees.

4. a. The commissioner shall administer the provisions of this act and may promulgate, make, amend and repeal necessary and reasonable rules and regulations not inconsistent with the provisions of this act. Such rules and regulations shall have the force and effect of law and shall be enforced in the same manner. It is the policy and intent of this section that the physical plant, operations and methods of the mining industry or any part thereof shall be so constructed, equipped, arranged, operated, maintained and

conducted in all respects as to provide for reasonable and adequate protection to the lives, health and safety of miners and others employed in the mining industry and frequenting the same, as well as the protection of property. The commissioner shall be guided by the standards and recommendations of the United States Bureau of Mines, and recognized mine safety authorities in the preparation of the rules and regulations.

b. When requested to do so, the commissioner may make tests, or have same made, to determine if any device, safeguard or equipment may be approved for use in connection with any provisions of this act. He may charge a fee for such approval, payable by the approval applicant, in any amount commensurate with the cost to the State for making such tests or have same made, in which case he may require the applicant to pay all cost directly to the private agency making the test.

c. The commissioner shall appoint all personnel pursuant to the provisions of Title 11, Revised Statutes, and arrange for all services necessary to administer the provisions of this act. He shall arrange for operations to be conducted in branch offices located near the mining centers of the State if, in his opinion, the effectiveness of the service can be thereby improved.

d. If, upon examination or inspection, it shall appear to an inspector that a mine or part thereof is, from any cause, in a dangerous condition, or fails to comply with the provisions of this act or any rule or regulation promulgated hereunder, he shall so report to the bureau and the commissioner shall at once notify the operator in charge thereof, such notice to be in writing and to be served by copy upon the operator. Said notice shall state in detail in what particular said mine or part thereof is deemed dangerous, insecure and not in compliance with the provisions of this act, and provide a reasonable specified time to comply. The operator of said mine shall forthwith make such change in order to comply with the requirements of this act.

e. In case of any civil or criminal proceedings at law against the parties so notified, on account of loss of life or bodily injuries sustained by an employee, subsequent to such notice, and in consequence of such dangerous condition, and without an affirmative and diligent effort having been made to remedy the same to the satisfaction of the commissioner, a certified copy of the notice served by the commissioner shall be prima facie evidence of the negligence of such party or parties.

f. If it appears from a reexamination of the mine by the inspector that such changes or compliances have not been made within the time specified in such notice, and that the mine or part of such mine is still in an unlawful condition or dangerous to life, health or property and in the opinion of the commissioner, it is necessary for the protection of life, health or property that such mine or a part of the mine be vacated, the commissioner shall forthwith order the cessation of the operation and working of said mine or part of mine, and order that the employees shall not be permitted therein for any purpose other than to remedy the defects complained of, until the provisions of this act are complied with to the satisfaction of the commissioner. The operator of said mine shall forthwith obey said order.

g. If a representative of the bureau finds conditions in any mine which in his opinion are dangerous to the health and lives of employees he shall report the facts forthwith to the bureau. The commissioner shall order all workings stopped in the particular section of the mine in which the dangerous condition was found, if in his opinion such an action is necessary to preserve life and limb. Work shall not be resumed until the commissioner so authorizes.

h. The commissioner shall have the power and authority to require that every mine, pit or quarry of any operator be registered with him and that a certificate of registration be obtained before the opening of such mine, pit or quarry. The application and certificate forms shall be prescribed by the commissioner.

A certificate of registration shall expire 1 year from its effective date, unless sooner revoked or suspended by the commissioner. A certificate of registration may be renewed upon the filing of an application of renewal on a form prescribed by the commissioner. A certificate of registration shall at all times be prominently displayed at each mine, pit or quarry of the operator.

The commissioner shall have the power and authority to charge an annual registration fee of not less than \$15.00 nor more than \$50.00 for each certificate of registration issued.

4. Section 7 of P. L. 1960, c. 55 (C. 21:1A-134) is amended to read as follows:

C. 21:1A-134 Investigation of applicants; qualifications; denial or revocation of permit; duration of permits; renewal; fees.

7. Upon receipt of an application for a permit to manufacture, store, sell, transport or use explosives, and before the permit is issued, the commissioner shall make or cause to be made an

investigation for the purpose of ascertaining if all applicable requirements of this act have been met. The commissioner shall not issue a permit to manufacture, sell, store, transport or use explosives unless all the requirements of this act have been met. All permits issued in accordance with the provisions of this act shall be subject to any amendments hereafter made to this act.

A. An applicant for a permit shall, at his own expense, furnish whatever pertinent information the commissioner may require in addition to that specified herein. Application forms shall be furnished by the Department of Labor and Industry.

B. An applicant for a permit to manufacture, sell, transport, store or use explosives must:

- (a) be at least 21 years of age;
- (b) have a reasonable understanding of the English language;
- (c) present satisfactory evidence of experience in the manufacture, sale, transportation, storage or use of explosives;
- (d) demonstrate by written, oral or field examination, as the commissioner may direct, adequate knowledge of the safe manufacture, sale, transportation, storage or use of explosives and of the provisions of this act; and
- (e) be of good moral character and must never have been disloyal to the United States; and

it shall be within the sole discretion of the commissioner to determine whether an applicant who has been convicted of a crime involving moral turpitude has the good moral character necessary for a permit. It shall also be within the reasonable discretion of the commissioner to deny the issuance of a permit where he concludes, after a full examination of the qualifications of an applicant, that to grant a permit would be dangerous to the health, safety and welfare of the people of the State of New Jersey. The failure of a holder of a permit to maintain the qualifications stated herein shall be good cause for the revocation of the permit.

C. When the applicant for a permit to manufacture, sell, transport, store or use explosives is a firm, association or corporation, the applicant must demonstrate that such activities with regard to explosives will be under the direct supervision of a person who meets the qualifications stated above.

D. Permits shall be valid for 1 year unless sooner revoked. Permits which expire on July 1, 1960 may be renewed by the commissioner at his discretion for a period of not less than 3 months

nor more than 15 months, and permits renewed after such a period shall thereafter be valid for 1 year unless sooner revoked. The fee for all permits shall be fixed by the commissioner on a yearly basis or, for periods of less than a year, in amounts proportionately less than the annual fee.

E. The application for any permit must be accompanied by a fee established by regulation in accordance with the following schedule:

- (a) To manufacture—not less than \$50.00 nor more than \$500.00;
- (b) To sell—not less than \$25.00 nor more than \$200.00;
- (c) To transport—\$20.00;
- (d) To store—not less than \$25.00 nor more than \$150.00; but if the explosives are in excess of 30,000 pounds, then the fee shall be not less than \$150.00 nor more than \$300.00;
- (e) To use—not more than \$100.00;
- (f) For storage, transportation, and use of smokeless powder in amounts in excess of 36 pounds, but not in excess of 100 pounds and black powder in amounts in excess of 5 pounds but not in excess of 100 pounds which is used by private persons for the hand loading of small arms ammunition and which is not for resale—not less than \$2.00 nor more than \$10.00; where any such smokeless and black powder is in excess of 100 pounds, the fee shall be increased \$10.00 for each additional 100 pounds, or fraction thereof.

5. R. S. 34:1-23 is amended to read as follows:

Fees for approval of plans, specifications, buildings or new work; computation; disposition.

34:1-23. The commissioner may charge a fee of not less than \$15.00 nor more than \$1,000.00 for issuing a certificate of approval of any plans or specifications, or both, required by law or regulation of the department to be submitted to him for approval.

In fixing the amount of such fees required by the preceding paragraph, the commissioner shall make the computation on the following basis: A fee of \$15.00 for the first \$15,000.00 of approved valuation or any part thereof, and thereafter \$1.00 per \$1,000.00 of approved valuation or part thereof, up to a maximum fee of \$1,000.00. Before a valuation is submitted to the commissioner on a form for that and other purposes for approval, the commissioner may prepare or order to be prepared by the applicant an estimate of cost and the decision of the commissioner as to the proper amount to be considered the approved valuation for the work shall be final.

The commissioner may charge a fee of not less than \$5.00 nor more than \$20.00 for issuing a certificate of approval of (a) any

building or premises or the occupancy of said building or premises coming under his jurisdiction, where such approval is required to be issued by him for a specific purpose by law or regulation of the department, or (b) new work performed in such building on recommendation of the commissioner; provided, that nothing contained herein shall be construed to decrease the amount of any fee provided for by any other statute or regulation of the department.

In fixing the amount of such fees provided for in the preceding paragraph the commissioner shall be governed by the amount of work and expense involved in the examination of such building.

Notwithstanding the provisions of any other general, local or special laws, all fees and moneys derived from the operation of this section shall be remitted to the State Treasurer and by him deposited in the General State Fund and the cost of administration of this section shall be included in the annual appropriation law.

6. Section 8 of P. L. 1941, c. 308 (C. 34:6-136.8) is amended to read as follows:

C. 34:6-136.8 Fees.

8. A fee of \$150.00 shall be paid to the Department of Labor and Industry for the original issuance of an employer's permit. For each annual renewal of such permit, the employer shall pay to the department a fee of: (1) \$150.00, where at no time during the preceding calendar year did the employer directly or indirectly have business relations with more than 25 home workers; (2) \$300.00, where at any time during the preceding calendar year the employer directly or indirectly had business relations with more than 25 home workers.

7. Section 8 of P. L. 1951, c. 337 (C. 34:8-31) is amended to read as follows:

C. 34:8-31 Fees for licenses.

8. The licenses hereunder shall be issued upon an annual basis and the fees therefor shall be as follows:

- | | |
|--|----------|
| (1) An employment agency owner's license | |
| (a) In any municipality having a population of 150,000 or more | \$360.00 |
| (b) In any municipality having a population of less than 150,000 but not less than 100,000 . . . | 270.00 |
| (c) In any municipality having a population of less than 100,000 but not less than 50,000 . . . | 180.00 |
| (d) In any municipality having a population of less than 50,000 | 90.00 |
| (2) For an employment agency operator's license | 15.00 |

8. R. S. 34:11-67 is amended to read as follows:

Fees and costs.

34:11-67. No filing fee shall be charged by the wage collection division, for accepting a wage claim, and no advance fees shall be charged by constables making service of process on wage claims of the wage collection division, nor shall any fee be charged by any county clerk for filing of any award or determination of the wage collection division or sheriff for execution and levy but the collection of any wage claim either by execution or otherwise shall carry taxed costs of service, filing, recording fees executions, and similar items, in accordance with the schedule of costs as prescribed for county district courts. All moneys received by way of taxed costs shall be retained by the wage collection division and at the end of each calendar year shall be paid into the State treasury for the use of the State.

9. R. S. 34:7-14 is amended to read as follows:

Boilers subject to test and inspection; fees; exceptions.

34:7-14. a. All steam or hot water boilers or similar equipment potentially capable of generating steam, except steam boilers having adequate relief devices set to discharge at a pressure not greater than 15 pounds per square inch, gage, or hot water boilers having adequate relief devices set to discharge at a pressure not greater than 160 pounds per square inch, gage, and which hot water boilers are reliably limited to temperatures not exceeding 250 degrees Fahrenheit, when such steam or hot water boilers serve dwellings of less than six-family units or other dwellings with accommodations for less than 25 persons, shall be inspected and be subject to a hydrostatic test, if necessary, at least once in each year, at 12-month intervals, by an inspector of the Mechanical Inspection Bureau, excepting, however, such as may be insured after having been regularly inspected in accordance with the terms of this article by insurance companies, whose inspectors shall have satisfactorily passed an examination or received certificates of competency approved by the commissioner. Such inspection shall be as completely internal and external as construction permits. The inspection of any equipment described in this chapter by a certified inspector of an insurance company shall be acceptable in lieu of State inspection. This article shall not apply to any boiler having less than 10 square feet of heating surface or a heat input of less than 10 kilowatts or 40,000 British Thermal Units per hour or to equipment under the jurisdiction and control of the United States Government, the in-

spection of which is actively regulated by a Federal agency, or to equipment used solely for the propulsion of motor vehicles regulated by the Motor Vehicle Act, Title 39, of the Revised Statutes.

b. All other pressure vessels may be inspected and be subject to test after installation and periodically at such intervals as the commissioner may by rule establish. Inspection and test shall be performed by an inspector of the Mechanical Inspection Bureau, excepting, however, such as may be insured after having been regularly inspected in accordance with the terms of this article, by insurance companies, whose inspectors shall have satisfactorily passed an examination or received certificates of competency approved by the commissioner, or such as may be regularly inspected by a certified user-inspector of a registered inspection agency approved by the commissioner. Such user-inspector shall have passed an examination or received a certificate of competency from the commissioner, and the inspection shall be conducted in such manner as the commissioner may by rule provide. The inspection of any equipment described in this subsection by a certified inspector of an insurance company or a certified user-inspector of a registered inspection agency shall be acceptable in lieu of State inspection where such inspections are recorded with the Mechanical Inspection Bureau accompanied by fees in accordance with the following schedule: one to 25 vessels, \$3.00 each; 26 to 100 vessels, \$75.00; 101 to 500 vessels, \$150.00; and over 500 vessels, \$300.00. These fees are to be collected from the owner or user but payable by the inspection agency to the Department of Labor and Industry. This subsection shall not apply to any pressure vessel:

(1) Subject to internal or external pressure not exceeding 15 psig; or

(2) Having inside diameter not exceeding 6 inches; or

(3) Used for water storage purposes serving dwellings of less than 6-family units or other dwellings with accommodations for less than 25 persons, when none of the following limitations is exceeded:

(a) 200 degrees Fahrenheit

(b) 120 gallons water containing capacity

(c) 160 psig; or

(4) Under the jurisdiction and control of the United States Government, the inspection of which is actively regulated by a Federal agency; or to equipment used solely for the propulsion of Motor Vehicles regulated by the Motor Vehicle Act, Title 39, of the Revised Statutes.

10. R. S. 34:7-15 is amended to read as follows:

Fees for inspecting and testing; inspection of new vessels or vessels under construction.

34:7-15 a. For each annual internal and external inspection of vessels specified in section 34:7-14a. of this Title, which shall include hydrostatic test if found necessary, the owner, lessee or operator of the vessel shall pay to the Department of Labor and Industry a fee of \$10.00 for vessels having 10 and not over 60 square feet of heating surface, \$15.00 for vessels over 60 and not over 1,000 square feet of heating surface and \$25.00 for vessels over 1,000 square feet of heating surface; plus the actual travel expense of the inspector.

b. For each inspection of vessels specified in section 34:7-14b. of this Title, the owner, lessee or operator of the vessel shall pay to the Department of Labor and Industry the actual travel expense of the inspector and a fee of \$5.00 for vessels not over 30 square feet size, \$10.00 for vessels over 30 but not over 60 square feet size, \$15.00 for vessels over 60 but not over 100 square feet size, \$20.00 for vessels over 100 square feet size. In determining size rating, the extreme diameter multiplied by the vessel length, or equivalent dimensions, shall be used.

c. The Mechanical Inspection Bureau shall maintain an inspection service for the purpose of providing shop inspection of those vessels regulated by chapter 7 of Title 34, which are under construction or new, or which are to be used for a purpose other than that for which originally approved, or which have never been subjected to a previous inspection in New Jersey. This service shall be provided for New Jersey builders, owners or users of such vessels upon their request only. The fees for this service, exclusive of the actual travel expense of the inspector, which also shall be paid, shall be set by the commissioner and shall be: (1) Not more than \$25.00 for each vessel inspected, provided that he may establish a charge for each visit, for the purpose of inspection, of not less than \$50.00 nor more than \$150.00; (2) For construction review of vessel not designed in accordance with standards set by the Board of Boiler, Pressure Vessel and Refrigeration Rules, not less than \$200.00, nor more than \$500.00.

11. R. S. 34:7-16 is amended to read as follows:

Additional external inspection; fee.

34:7-16. In addition to the annual internal and external inspection, there may be an external inspection if found necessary of

each vessel specified in section 34:7-14 a. of this Title, which shall be made as nearly as may be at the expiration of six months from each annual inspection and for which the owner, lessee or operator shall pay to the inspector a fee of \$10.00, in addition to the actual cost of travel incurred by the inspector in going to and returning from the place of inspection. Each vessel insured by an insurance company may also be given an external inspection by a certified inspector.

12. R. S. 34:7-17 is amended to read as follows:

Commissioner may order additional inspections.

34:7-17. Whenever it shall be deemed necessary by the commissioner, additional inspections may be made of vessels specified in section 34:17-14 a. of this Title, which shall be paid for in accordance with section 34:7-16 of this Title.

13. R. S. 34:7-18 is amended to read as follows:

Rules and regulations.

34:7-18. The commissioner may make such rules and regulations covering the manner of conducting inspections, the method of collecting fees, the settlement of accounts and payment of money on the part of certified inspectors by insurance companies or registered inspection agencies as he may deem necessary.

14. R. S. 34:7-21 is amended to read as follows:

Unfit vessels not to be used.

34:7-21. If after inspection it is found that any vessel specified in section 34:7-14 of this Title is unfit for use the inspector shall order its use to be discontinued until properly repaired or replaced. The owner before resuming its use shall cause proper repairs or replacements to be made and shall on the completion thereof notify the commissioner who shall cause a further inspection to be made. If the inspector finds such vessel fit for use he shall deliver to the owner evidence of approval for further use.

15. R. S. 34:7-25 is amended to read as follows:

Refrigeration systems; inspection; fees; certificate.

34:7-25. All refrigeration systems using flammable or toxic refrigerants of over three tons of refrigerating capacity or requiring over six driving horsepower, and all refrigeration systems using nonflammable and nontoxic refrigerants of over 18 tons of refrigerating capacity or requiring over 36 driving horsepower, having relief devices set over 15 pounds per square inch gage and used

in a plant of any size or storage capacity, shall be inspected annually by an inspector of the Mechanical Inspection Bureau or of an insurance company, as provided in section 34:7-14 a. of this Title; and the owner, lessee or operator shall comply with the recommendations of the inspector in conformity with the rules and regulations adopted by the Board of Boiler, Pressure Vessel and Refrigeration Rules of the Mechanical Inspection Bureau and approved by the commissioner.

The fees for such inspection by an inspector of the Mechanical Inspection Bureau shall be as follows:

a. Refrigeration systems of 25 tons and over, but less than 300 tons of refrigerating capacity, the sum of \$25.00 for each inspection, plus the actual travel expense of the inspector;

b. Refrigeration systems under 25 tons and over 3 tons of refrigerating capacity, the sum of \$15.00 for each inspection, plus the actual travel expense of the inspector;

c. Refrigeration systems of 300 tons or over of refrigerating capacity, the sum of \$35.00 for each inspection, plus the actual travel expense of the inspector.

The fees and travel expenses shall be paid to the inspector, at the time of inspection, by the owner, lessee or operator of the refrigeration system.

The annual inspection and inspection reports of refrigeration systems by insurance companies licensed to do business within this State and otherwise complying with this chapter shall be accepted in lieu of other inspections. Each insurance company shall file with the commissioner a report of each inspection and shall pay to him a fee of \$5.00 for each annual refrigeration system inspection, to be collected by the insurer from the owner or lessee of the plant inspected. After the owner, lessee or operator has complied with the rules or regulations, a certificate shall be issued by the Mechanical Inspection Bureau, which certificate shall be valid for 1 year and be the authority for the operation of the refrigeration system during such time. Upon expiration, the certificate shall be renewed by the Mechanical Inspection Bureau if the refrigeration system is found to be in proper condition for operation within the prescribed rules of the Mechanical Inspection Bureau. All fees collected under this act shall be paid by the commissioner or his duly authorized representative into the State Treasury and shall become a part of the State General Fund.

16. Section 2 of P. L. 1961, c. 33 (C. 34:8A-2) is amended to read as follows:

C. 34:8A-2 Crew leader certificate of registration; forms; duration; renewal; not transferable; fee.

2. No person shall act as a crew leader until he has applied for and received a crew leader certificate of registration from the Department of Labor and Industry. The application and certificate forms shall be prescribed by the commissioner.

A certificate of registration shall expire at midnight on December 31 of the year for which it is granted, unless sooner revoked or suspended by the commissioner. A certificate of registration may be renewed each year upon the filing of an application for renewal on a form prescribed by the commissioner. The certificate of registration, once issued, shall not be transferable, shall be kept by the registrant in his immediate personal possession and shall be displayed by the registrant upon request of the commissioner.

The department shall charge an annual registration fee of \$10.00 for each certificate of registration issued.

17. This act shall take effect immediately.

Approved May 20, 1971.

CHAPTER 155

AN ACT concerning fees established by the Department of Environmental Protection, revising parts of the statutory laws and amending P. L. 1954, c. 212, P. L. 1958, c. 116 and P. L. 1947, c. 377.

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

1. Section 9 of P. L. 1954, c. 212 (C. 26:2C-9) is amended to read as follows:

C. 26:2C-9 Department's duties; fees.

9. The department shall control air pollution in accordance with the provisions of any applicable code, rule or regulation promulgated by the department and for this purpose shall have power to—

(a) Conduct and supervise research programs for the purpose of determining the causes, effects and hazards of air pollution;

(b) Conduct and supervise Statewide programs of air pollution control education including the preparation and distribution of information relating to air pollution control;

(c) Require the registration of persons engaged in operations which may result in air pollution and the filing of reports by them containing information relating to location, size of outlet, height of outlet, rate and period of emission and composition of effluent, and such other information as the department shall prescribe to be filed relative to air pollution, all in accordance with applicable codes, rules or regulations established by the department. Registration reports filed with the department shall be privileged and not admissible in evidence in any court;

(d) Enter and inspect any building or place, except private residences, for the purpose of investigating an actual or suspected source of air pollution and ascertaining compliance or noncompliance with any code, rules and regulations of the department. Any information relating to secret processes or methods of manufacture or production obtained in the course of such inspection, investigation or determination, shall be kept confidential and shall not be admissible in evidence in any court or in any other proceeding except before the department as herein defined. If samples are taken for analysis, a duplicate of the analytical report shall be furnished promptly to the person suspected of causing air pollution;

(e) Receive or initiate complaints of air pollution, hold hearings in connection with air pollution and institute legal proceedings for the prevention of air pollution and for the recovery of penalties, in accordance with this act;

(f) With the approval of the Governor, cooperate with, and receive money from, the Federal Government, the State Government, or any county or municipal government or from private sources for the study and control of air pollution;

(g) The department may in accordance with a fee schedule adopted as a rule or regulation establish and charge fees for any of the services it performs, which fees shall be annual or periodic as the department shall determine. The fees charged by the department pursuant to this section shall not be less than \$10.00 nor more than \$500.00 based on criteria contained in the fee schedule.

2. Section 9 of P. L. 1958, c. 116 (C. 26:2D-9) is amended to read as follows:

C. 26:2D-9 Department's duties; fees.

9. The department shall:

(a) Administer this act and codes, rules or regulations promulgated by the commission;

(b) Provide the commission with the necessary personnel required to carry out its duties;

(c) Develop comprehensive policies and programs for the evaluation and determination of hazards associated with the use of radiation, and for their amelioration;

(d) Advise, consult, and cooperate with other agencies of the State, the Federal Government, other states and interstate agencies, and with affected groups, political subdivisions and industries;

(e) Accept and administer according to law loans, grants or other funds or gifts from the Federal Government and from other sources, public or private, for carrying out its functions under this act;

(f) Encourage, participate in or conduct studies, investigations, training, research and demonstrations relating to the control of radiation hazard, the measurement of radiation, the effects on health of exposure to radiation and related problems as it may deem necessary or advisable for the discharge of its duties under this act;

(g) Collect and disseminate health education information relating to radiation protection;

(h) Require registration of sources of radiation, and require records concerning sources of radiation to be kept in such manner as may be prescribed by codes, rules or regulations of the commission;

(i) Review plans and specifications on the design and shielding for radiation sources submitted pursuant to codes, rules or regulations of the commission for the purpose of determining possible radiation hazards;

(j) Inspect radiation sources, their shielding and immediate surroundings and records concerning their operation for the determination of any possible radiation hazard;

(k) Have power, to be exercised subject to codes, rules and regulations of the commission, to require, issue, renew, amend, suspend and revoke licenses for the construction, operation or maintenance of sources of radiation including byproduct materials, source materials and special nuclear materials in quantities not sufficient to form a critical mass. The codes, rules and regulations may provide for recognition of other State or Federal licenses, subject to the registration requirements prescribed by or under the authority of this act;

(l) Have the power in accordance with a fee schedule adopted as a rule or regulation in accordance with the "Administrative

Procedure Act'' P. L. 1968, c. 410 (C. 52:14B-1 et seq.), to establish and charge fees for any of the services it performs, which fees shall be annual or periodic as the department shall determine. The fees charged by the department pursuant to this section shall not be less than \$10.00 nor more than \$500.00 based on criteria contained in the fee schedule.

3. Section 10 of P. L. 1947, c. 377 (C. 58:4A-14) is amended to read as follows:

C. 58:4A-14 Permit to drill well; report after drilling well.

10. No well shall be drilled until a permit therefor where required by the provisions of this act, has been secured from the said department. Application for each such permit shall be made upon forms prescribed and supplied by the department, and the applicant for a permit shall give such information pertaining to the proposed well as the commissioner shall require. Each application shall be accompanied by a fee of \$5.00. As a further condition to the issuance of such permit, the division may require that accurate samples of the materials encountered in sinking the proposed well shall be preserved and delivered to the State Geologist or one of his authorized representatives. Within 60 days of the completion of the drilling of any well, a report, on forms prescribed and supplied by the department, shall be filed by the driller with the department giving the log (i.e. description of materials penetrated), the size and depth of the well, the diameters and lengths of casing and screen installed therein, the static and pumping levels and the yield of the well, and such other information pertaining to the construction or operation of the well as the department may require.

Any driller failing to file the report required by this section within the time specified or to deliver the samples of material required in this section, or who shall willfully file an incomplete or incorrect report, shall be liable to a penalty of \$25.00 which may be collected and enforced in an action by the department in the name of the State in a court of competent jurisdiction in a summary manner, without a jury, in accordance with the procedure prescribed in "The Penalty Enforcement Law" (N. J. S. 2A:58-1 et seq.). All penalties and costs collected in such actions shall be payable to the municipality in which the offense occurred.

4. This act shall take effect on the first day of the month following enactment.

Approved May 20, 1971.

CHAPTER 156

AN ACT concerning license fees under the food and drug statutes and amending sections 24:12-5 and 24:14-3 of the Revised Statutes.

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

1. R. S. 24:12-5 is amended to read as follows:

License to engage in bottling; fee.

24:12-5. No person engaged in the business of bottling water for drinking purposes or of bottling any nonalcoholic drink within this State shall sell or deliver any such water or nonalcoholic drink without first obtaining a license from the State department authorizing him to engage in the business of bottling water for drinking purposes or of bottling any nonalcoholic drink. A fee of \$25.00 shall be charged for any license so issued.

2. R. S. 24:14-3 is amended to read as follows:

Taking or sale of shellfish from condemned beds without permit prohibited; fee.

24:14-3. The State department shall prohibit the taking of oysters, clams or other shellfish from a place which has been condemned by the department pursuant to section 24:14-2 of this Title, and shall also prohibit the distribution, sale, offering for sale or having in possession of any such shellfish so taken, without a permit so to take, distribute, sell, offer to sell, or have in possession, first obtained from the department, under such rules and regulations as it shall adopt. A fee of \$25.00 shall be charged for any permit so issued.

3. This act shall take effect immediately.

Approved May 20, 1971.

CHAPTER 157

AN ACT to amend “An act relating to public health; providing for the establishment in the Executive Branch of the State Government of a State Department of Health, defining its organization, functions, powers and duties, providing thereby for the consolidation and coordination of public health activities; abolishing the offices of Perth Amboy port health officer and deputy Perth Amboy port health officer; transferring to, and vesting in said State Department of Health the functions, powers and duties of the Perth Amboy port health officer and of the deputy Perth Amboy port health officer; amending section 26:1-1, repealing sections 26:2-1 to 26:2-55, inclusive, 26:4-111, 26:4-114, 26:4-115, and supplementing Title 26 of the Revised Statutes,” approved May 22, 1947 (P. L. 1947, c. 177).

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

1. Section 39 of P. L. 1947, c. 177 (C. 26:1A-39) is amended to read as follows:

C. 26:1A-39 Examinations for health officers, inspectors and laboratory technicians; application; fees.

39. The commissioner shall cause examinations to be conducted in such manner and at such times and places as he may prescribe, for the purpose of determining the qualifications of applicants for licenses as health officers, sanitary inspectors, food and drug inspectors, milk inspectors, meat inspectors, plumbing inspectors, and public health laboratory technicians of the classes and grades set forth in section 41 hereof. Application for examination in any of the classes and grades enumerated in section 41 of this act must be made in writing upon forms supplied by the department. The department shall collect from each applicant who shall be admitted to the examination the following fees: For each examination for a health officer's license, \$25.00; for each examination for a sanitary inspector's license of the first grade, \$25.00; for each examination for a milk inspector's license, \$25.00; for each examination for a food and drug inspector's license, \$25.00; for each examination for a veterinary meat inspector's license, \$25.00; for each examination for a meat inspector's license, \$25.00; for each examination for a sanitary inspector's license of the second grade, \$25.00; for

each examination for public health laboratory technician's license, \$25.00; for each examination for a plumbing inspector's license of the first grade, \$25.00; and for each examination for a plumbing inspector's license of the second grade, \$25.00.

2. Section 42 of P. L. 1947, c. 177 (C. 26:1A-42) is amended to read as follows:

C. 26:1A-42 License; issuance, renewal, fee.

4. Each applicant whose examination shall be approved by the commissioner shall receive the initial license to which his examination may entitle him. All licenses issued by the commissioner shall expire on December 31 of each year and may be renewed upon the payment of a renewal fee of \$10.00.

3. This act shall take effect immediately.

Approved May 20, 1971.

CHAPTER 158

AN ACT concerning fees for licensing of various establishments subject to chapter 15 of Title 24 of the Revised Statutes and supplementing chapter 15 of Title 24 of the Revised Statutes.

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

C. 24:15-13 License required; exception.

1. Every establishment falling within the scope of this chapter shall be licensed by the Commissioner of Health with a fee to be charged therefor, except that a license pursuant to this chapter need not be secured by any such establishment, the activities of which are subject to licensure pursuant to any other provision of this Title or to inspection and licensure by a local department of health.

C. 24:15-14 License and inspection fees.

2. Where no other fee is provided by law or regulation, the commissioner may in accordance with a fee schedule adopted by him as a rule or regulation establish and charge reasonable fees for any service performed in the licensing and inspection of any premises coming within the provisions of this chapter. The fees charged as provided for by this section shall be no more than \$250.00 based on criteria set forth in the rule or regulation.

3. This act shall take effect immediately.

Approved May 20, 1971.

CHAPTER 159

AN ACT concerning the breeding of horses and development of the horse industry in New Jersey, regulating the distribution of pari-mutuel pools, amending P. L. 1940, c. 17, and repealing section 5 of P. L. 1971, c. 85.

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

1. Section 46 of P. L. 1940, c. 17 (C. 5:5-66) is amended to read as follows:

C. 5:5-66 Percentage payable to commission; report of contributions; other license fees or taxes.

46. Every permitholder engaged in the business of conducting horse race meetings under this act shall make disposition of the deposits remaining undistributed pursuant to section 44 as follows:

a. In the case of harness races:

(1) Pay to the commission 6% of so much of the total contributions to all pari-mutuel pools conducted or made during such calendar year on any and every horse race track granted a permit under this act as does not exceed \$40,000,000.00; and 7% of so much of such total contributions as exceeds \$40,000,000.00.

(2) Hold and set aside in an account designated as a special trust account 1% of such total contributions to be used and distributed as hereinafter provided and as provided in section 5 of P. L. 1967, c. 40, for the following purposes and no other:

(a) 42½% thereof to increase purses and grant awards for starting horses as provided or as may be provided by rules of the New Jersey Racing Commission with payment to be made in the same manner as payment of other purses and awards;

(b) 49% thereof for the establishment of a Sire Stakes Program for standardbred horses with payment to be made to the Department of Agriculture for administration as hereinbefore provided;

(c) 5½% thereof for contributions and awards designed to improve and promote the standardbred breeding industry in New Jersey through payment of awards to owners and breeders of registered New Jersey bred horses which earn portions of purses in open events on New Jersey tracks, and to owners of

stallions posted on the official stallions roster of the Standard-bred Breeders' and Owners' Association of New Jersey which sire such registered New Jersey bred money earners;

(d) 3% thereof for other New Jersey horse breeding and promotion conducted by the New Jersey Department of Agriculture.

(3) Retain 10% of so much of such total contributions as does not exceed \$40,000,000.00 and 9% of so much of such total contributions as exceed \$40,000,000.00 for his own uses and purposes.

b. In the case of other races:

(1) Pay to the commission 9.15% of so much of the total contributions to all pari-mutuel pools conducted or made during such calendar year on any and every horse race track granted a permit under this act.

(2) Hold and set aside in an account designated as a special trust account 15% of 1% of such total contributions to be used and distributed as hereinafter provided and as provided in section 5 of P. L. 1967, c. 40, for the following purposes and no other:

(a) 10% of 1% thereof for contributions and awards designed to improve and promote the thoroughbred breeding industry in New Jersey through payment of awards to owners and breeders of registered New Jersey bred horses which earn portions of purses in open events on New Jersey tracks, and to owners of stallions posted on the official stallion rosters of the Thoroughbred Breeders' Association of New Jersey which sire such registered New Jersey bred money earners;

(b) 5% of 1% thereof for State horse breeding and development programs, research, fairs, horse shows, youth activities, promotion and administration.

(3) Distribute as purse money 3.74% of such total contributions. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the organization or organizations representing the horsemen and the tracks.

(4) Retain 3.96% of such total contributions for his own uses and purposes.

Payment on account of such sums to be paid to the commission shall be made every seventh day of any and every race meeting in the amount then due as determined in the manner provided above, and shall be accompanied by a report under oath showing the total of all such contributions, together with such other information as the commission may require. Except as otherwise

provided by law, no admission or amusement tax, excise tax, license or horse racing fee of any kind shall be assessed or collected from any permitholder by the State of New Jersey, or by any county or municipality, or by any other body having power to assess or collect license fees or taxes.

Repealer.

2. Section 5 of P. L. 1971, c. 85 (C. 5:5-66) is repealed.

3. This act shall take effect immediately and shall apply retroactively to April 8, 1971.

Approved May 20, 1971.

CHAPTER 160

AN ACT concerning the assessment and collection of taxes in certain cases and supplementing chapter 4 of Title 54 of the Revised Statutes.

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

1. Whenever the governing body of a municipality shall, prior to June 1, 1971, certify to the county board of taxation that it has transferred funds to the local board of education on or before said date and during the 1971 tax year, and the amount of the transfer has been included in the adopted municipal budget as a line item appropriation, and that such transfer has been reviewed and approved by the Division of Local Finance in the Department of Community Affairs and by the Director of the Division of Taxation in the Department of the Treasury, and that the transfer of such funds had not been previously anticipated, the county board of taxation shall reduce the amount of local taxes to be raised previously certified to the county board of taxation for the purposes of the 1971 county table of aggregates by the amount so certified by said governing body. The county board of taxation shall recalculate and reduce the tax rate of said municipality accordingly.

2. This act shall take effect immediately.

Approved May 20, 1971.

CHAPTER 161

AN ACT concerning interstate regional planning amending the title of "An act concerning regional transportation planning, providing for an interstate compact between the States of New Jersey, New York and Connecticut, creating the Tri-State Transportation Commission, prescribing the functions, powers and duties of the same and providing for the selection of New Jersey representatives," approved April 8, 1965 (C. 32:22B-1 et seq.) so that the same shall read "An act concerning regional planning, providing for an interstate compact between the States of New Jersey, New York and Connecticut, creating the Tri-State Regional Planning Commission, prescribing the functions, powers and duties of the same and providing for the selection of New Jersey members of the commission," and to amend the body of said act, and to repeal section 2 of P. L. 1969, c. 11 (C. 32:22B-21).

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

1. The title of chapter 12 of the laws of 1965 is amended to read as follows:

Title amended.

AN ACT concerning regional planning, providing for an interstate compact between the States of New Jersey, New York and Connecticut, creating the Tri-State Regional Planning Commission, prescribing the functions, powers and duties of the same and providing for the selection of New Jersey members of the commission.

2. Article I, section 1 of the compact (C. 32:22B-2) of which this act is amendatory is amended to read as follows:

C. 32:22B-2 Establishment of Tri-State Regional Planning Commission.

1. The party states, for the purposes of a. continuing the regional transportation and related land use studies commenced by the Tri-State Transportation Committee and Commission, b. expanding the role of the commission to embrace responsibility for comprehensive planning for the compact region, and c. assuring the continued qualification of the party states for Federal funds from the United States Departments of Transportation and Housing

and Urban Development and other related Federal sources, do hereby establish and create the Tri-State Regional Planning Commission.

3. Article I, section 2 of the compact (C. 32:22B-3) of which this act is amendatory is amended to read as follows:

C. 32:22B-3 Transfer of personnel, files, records, etc.

2. There is hereby transferred to the commission all of the personnel and employees and all of the studies, files, books, papers, records, equipment and other property of the Tri-State Transportation Commission.

4. Article II, section 2 of the compact (C. 32:22B-5) of which this act is amendatory is amended to read as follows:

C. 32:22B-5 Membership; apportionment.

2. (a) The commission shall be composed of members representing the party states, the city of New York and the Federal Government apportioned as follows:

(1) Five representatives from each of the party states; provided, however, in the case of the State of New York, one of the representatives shall be the chairman of the planning commission of the city of New York; and

(2) To the extent consistent with Federal law and policies of the Federal agencies involved, an officer or employee of the Federal Government representing the Departments of Housing and Urban Development, Transportation and such other departments or agencies of the Federal Government the policies of which significantly relate to the activities of the commission; provided, however, that such representatives of the Federal Government shall not be entitled to vote on any action of the commission but may attend and otherwise participate in commission meetings and may make recommendations to the commission.

The representatives of the party states shall be appointed in such manner as shall be specified by the laws of the respective states; provided, however, the chairman of the planning commission of the city of New York shall be a member by virtue of and so long as he shall hold such office. The Federal representatives shall be appointed by the officer or officers having the power to appoint them to the Federal offices they then hold. Each member shall hold office at the pleasure of the appointing authority. The commission shall elect a chairman from among its members.

(b) The commission's functions shall be performed and carried out by its members, advisory committees and panels representative of citizens and political subdivisions and other governmental agencies in the compact region as may be established by the commission, and by such officers, agents and employees as may be appointed by the commission, subject to its direction and control. All such officers, agents and employees shall hold office at the pleasure of the commission, which shall prescribe their powers, duties and qualifications and fix their compensation and other terms of their employment.

(c) A quorum of the commission for the purpose of transacting business at any commission meeting shall exist only when there are present, in person, at least three members from each of the party states. No action of the commission shall be effective or binding unless a majority of each party state's representatives who are present at such commission meeting shall vote in favor thereof. Certified copies of the minutes of each commission meeting shall be sent to each of the Governors of the party states within 10 days of said meeting. The vote of any one or more of the representatives from each party state may be vetoed and canceled by the Governor of any such state within 10 days, Saturdays, Sundays and legal holidays of the particular state excepted, after receipt by the said Governor of the certified copy of the minutes of the meeting at which such vote was cast, the intent being to empower the Governor of each party state to nullify the commission's action upon which such vote had been taken.

(d) The members of the commission shall receive no compensation for their services pursuant to this compact but they shall be entitled to be paid the expenses actually and necessarily incurred by them in the performance of their duties.

(e) No member of the commission who is otherwise a public officer or employee shall suffer a forfeiture of his office or employment, or any loss or diminution in the rights and privileges appertaining thereto, by reason of such membership.

5. Article III, section 1 of the compact (C. 32:22B-6) of which this act is amendatory is amended to read as follows:

C. 32:22B-6 Function of commission.

1. (a) The function of the commission shall be to act as an official comprehensive planning agency of the party states for the compact region. It shall conduct surveys, make studies, submit recommendations and prepare plans designed to aid in solving immediate

and long-range problems, including but not limited to plans for development of land, housing, transportation and other public facilities.

The commission shall not engage in or undertake any functions related to the operation of transportation, housing or other public facilities except that it may engage in experimental projects relating to any matters under its consideration including mass transportation demonstration projects financed as provided in Article IV of this compact.

(b) The commission shall also act as a liaison to encourage coordination among and between all agencies and entities, governmental and private, charged with or having a substantial interest in the planning or providing of transportation and other public or private facilities within any part of the compact region, or in the regulation of such facilities or of their services, or in the solving of problems connected with land development. In furtherance of this function, the commission shall, through advisory committees or panels, provide for the representation and participation of officials of political subdivisions and other governmental agencies in the compact region in the development of policies, plans and programs and shall report to the party states on the regional implications of any development plans or programs proposed by any such agency or entity.

6. Article III, section 2 of the compact (C. 32:22B-7) of which this act is amendatory is amended to read as follows:

C. 32:22B-7 Powers and duties.

2. (a) The commission shall have power to adopt a corporate seal and to enter into contracts.

(b) The commission shall have power to apply for and receive and accept grants of property, money and services and other assistance offered or made available to it by any person, government, or agency whatever, which it may use to meet necessary expenses and for any other use within the scope of its functions, and to negotiate for the same upon such terms and conditions as may be necessary or advisable.

(c) The commission shall have power to hire, lease, acquire and dispose of property to the extent necessary to carry out its functions, powers and duties as the same may be constituted from time to time.

(d) Without diminution of its general power to contract, the commission shall have power to contract with any government or

agency whatever, including the respective departments of the party states, for the performance of services by the commission which relate to its functions, powers and duties, and to accept compensation or reimbursement therefor.

(e) The commission shall have power to expend, or to authorize the expenditure of, funds appropriated to it or for its purposes by the party states, but such expenditures shall at all times be within the terms of an annual budget to be adopted by the commission, by resolution, in advance of each fiscal period of the commission, which budget may be amended or modified from time to time. Each of the party states reserves the right to require such audit or audits as such state may from time to time consider proper.

(f) The commission shall have such additional powers incidental to the express powers granted to it by this compact, as may be necessary or proper for the effective performance of its functions.

7. Article III, section 3 of the compact (C. 32:22B-8) of which this act is amendatory is amended to read as follows:

C. 32:22B-8 Use of existing information; duty of governmental agencies to furnish information; service on advisory committees.

3. To avoid duplication of effort and in the interests of economy, the commission shall make use of existing studies, surveys, plans, data and other materials in the possession of the governmental agencies of the party states and their respective political subdivisions. Each such agency is hereby authorized to make such materials available to the commission and otherwise to assist it in the performance of its functions. At the request of the commission, each such agency which is engaged in land use or development planning, or which is charged with the duty of providing or regulating any transportation facility or any other public facility, is further authorized to provide the commission with information regarding its plans and programs affecting the compact region so that the commission may have available to it current information with respect thereto. The officers and personnel of such agencies, and of any other government or agency whatever, may serve at the request of the commission upon such advisory committees and panels as the commission shall determine to create; and such officers and personnel may serve upon such committees and panels without forfeiture of office or employment and with no loss or diminution in the status, rights and privileges which they otherwise enjoy.

8. Article IV, section 1 of the compact (C. 32:22B-9) of which this act is amendatory is amended to read as follows:

C. 32:22B-9 Apportionment of costs and expenses.

1. Subject to the availability of funds appropriated pursuant to the applicable laws of the respective party states, the cost and expense of supporting, administering and operating the activities of the commission shall be apportioned among the party States in the ratio of 10% for the State of Connecticut, 45% for the State of New Jersey and 45% for the State of New York except with regard to mass transportation demonstration or experimental projects. In the case of a mass transportation demonstration or experimental project, all expenses for and related thereto, but not inclusive of the cost and expense of supporting, administering and operating the commission, and less any Federal aid or other contributions received therefor, shall be for the account of the party state in which any such project is conducted and shall be paid out of appropriations made available by such party state.

9. Article V, section 1 of the compact (C. 32:22B-13) of which this act is amendatory is amended to read as follows:

C. 32:22B-13 Definitions.

1. For the purpose of this compact, unless the context plainly requires a different meaning:

(a) "Party state" means the States of Connecticut, New Jersey and New York;

(b) "Commission" means the Tri-State Regional Planning Commission created and established by this compact;

(c) "Concurrent legislation" means a statute enacted by one of the party states which is concurred in by the other party states in the form of enactments having like effect; and

(d) "Compact region" means the geographical area described as follows: the counties of Rockland, Orange, Dutchess, Putnam, Westchester, Nassau, Suffolk, New York, Kings, Queens, Bronx and Richmond in the State of New York; the counties of Bergen, Essex, Hudson, Middlesex, Monmouth, Morris, Passaic, Somerset and Union in the State of New Jersey; and the South Western, Housatonic Valley, Greater Bridgeport, Valley, South Central Connecticut and Central Naugatuck Valley planning regions in the State of Connecticut. Such area may be enlarged or reduced by concurrent legislation hereafter enacted.

10. Article V, section 3 of the compact (C. 32:22B-15) of which this act is amendatory is amended to read as follows:

C. 32:22B-15 Duration of commission.

3. The commission shall continue in existence until revoked by one or more of the party states.

11. Article V, section 6 of the compact (C. 32:22B-18) of which this act is amendatory is amended to read as follows:

C. 32:22B-18 Short title.

6. This compact shall be known and may be cited as the Tri-State Regional Planning Compact.

12. Section 2 of P. L. 1965, c. 12 (C. 32:22B-19) is amended to read as follows:

C. 32:22B-19 New Jersey representatives; terms of public members; vacancies.

2. The five representatives from this State on the Tri-State Regional Planning Commission shall consist of the State Transportation Commissioner or his designated representative, the Commissioner of Community Affairs or his designated representative, and three public members appointed by the Governor with the advice and consent of the Senate. Two of the three appointed members shall be chosen from among the members of county boards of freeholders or mayors of municipalities in the compact region. The appointed members shall be appointed for terms of 2 years and until their successors shall have been appointed and qualify. Any vacancy in the office of an appointed member shall be filled for the unexpired term only in the same manner as the original appointment.

C. 32:22B-21 Repealed.

13. Section 2 of P. L. 1969, c. 11 (C. 32:22B-21) is repealed.

14. This act shall take effect upon the enactment by the States of New York and Connecticut of legislation having like effect as sections 1 through 11 and 13 hereof.

Approved May 24, 1971.

CHAPTER 162

A SUPPLEMENT to “An act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1971, and regulating the disbursement thereof,” approved June 15, 1970 (P. L. 1970, c. 96).

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

1. The following sum is hereby appropriated out of the General Treasury for the purposes hereinafter specified:

DEPARTMENT OF TRANSPORTATION

612-100. CONSTRUCTION OF THE STATE HIGHWAY SYSTEM

For construction, reconstruction, improvement or rebuilding of State highways, including resurfacing, major bridge repairs or rehabilitation	\$1,750,000
--	-------------

2. This act shall take effect immediately.

Approved May 24, 1971.

CHAPTER 163

A SUPPLEMENT to “An act relating to the public transportation system of the State and making appropriations for the improvement of State highways and the improvement of mass transportation facilities,” approved January 23, 1969 (P. L. 1968, c. 424).

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

1. There is hereby appropriated from the State Transportation Fund the sum of \$170,892,133.00, or so much thereof as may be necessary, for State highways, and for the improvement of State highways on the following highway projects for the purposes indicated:

A. CONSTRUCTION PROJECTS

Route	Route Description	County	
7	Newark Turnpike to Fish House Road	Hudson	
15 Fwy.	Lake Forest Drive to NYSWRR	Morris	
17	Pedestrian overpass-vicinity of Linwood Avenue ..	Bergen	
18 Fwy.	New Street to Sutphen Road	Middlesex	
18 Fwy.	Route U. S. 9 to Route 35 Fwy. west of Garden State Pkwy.	Monmouth	
23	Interchange at New York Ave.	Passaic	
23	Pedestrian Overpass—Hamburg	Sussex	
29 Fwy.	Lamberton Rd. to Route I-295—includes Rt. 129 Sec. 10A	Mercer	
29 Fwy.	Willow Street to Ferry Street—Landscaping ...	Mercer	
55 Fwy.	Garden Road to Route 40	Cumberland	\$136,366,903
70	Intersection at Route 73—Circle Revision	Burlington	
70	Intersection at Route 41—Circle Revision	Camden	
130	Bridge over PCRR & Rt. 33	Mercer	
174 Fwy.	Whitehead Road to Route U. S. 1	Mercer	
202	Intersection at Route 206—Circle Revision	Somerset	
202 Fwy.	Route 29 to Route U.S. 202	Hunterdon	
440 Fwy.	Route 95 to Outerbridge Crossing	Middlesex	
	Pedestrian overpass, Garden State Parkway—Fords	Middlesex	
	Contract Adjustments, Utilities, Emergency Highway Safety Improvements	Statewide	

B. RIGHT-OF-WAY PROJECTS

Route	Route Description	County	
1	Route 18 to Union Co. Line	Middlesex	\$19,872,615
1	Intersection at Route 130— Circle Revision	Middlesex	
9	West Farms Road to Adel- phia Road	Monmouth	
10	Cooper-Miller Road—Den- ville	Morris	
18 Fwy.	New Street to George Street	Middlesex	
21 Fwy.	Clifton Avenue to Passaic River Bridge	Passaic	
23	Riverdale Circle	Morris	
33 Fwy.	Manalapan Bk. to Route 79	Monmouth	
33 Fwy.	Route 79 to Route 33	Monmouth	
47	Woodbury Rd. to Normal Blvd.	Gloucester	
79	Conover Rd.—Marlboro Twp.	Monmouth	
90 Fwy.	Route 130 to Route 73	Camden— Burlington	
92 Fwy.	Route 33 to Route 130	Middlesex	
130	Bridge over PCRR & Route 33	Mercer	
322	Route 130 to Route 295 ... Advance Acquisition, Re- location, Contract Ad- justment	Gloucester Statewide	

C. DESIGN PROJECTS

Route	Route Description	County	
1	Route 18 to Route 9	Middlesex	\$14,652,615
1	Intersection at Route 130— Circle Revision	Middlesex	
1 & 9	West End Avenue.—Ton- nelle Ave.	Hudson	
7	Newark Turnpike to Fish House Road	Hudson	
15 Fwy.	Lake Forest Drive to Blue Heron Road	Morris	
17	Lake Street Interchange . .	Bergen	
17	Linwood Avenue to Route 202 Widening	Bergen	
18	Route 1 to New Jersey Turnpike	Middlesex	
18 Fwy.	Route 9 to Route 35 Free- way	Monmouth	
18 Fwy.	New Street to George Street	Middlesex	
23	New York Avenue to Kiel Ave.	Passaic	
24 Fwy.	Brooklake Road to Rt. 287	Morris	
41	Route 70 to Route 28— Widening	Camden	
41 & 42	Interchange Improvements	Gloucester	
49	Bridgeton to Millville—Re- construction	Cumberland	
70	Route 9 to Route 528	Ocean	
70	Route 73 to Route 72	Burlington	
92 Fwy.	Route 33 to Route 130	Middlesex	
130	Bridge over Rancocas Creek	Burlington	
147	North Wildwood to Route 9	Cape May	
152	Longport to Somers Point	Atlantic	
202 Fwy.	Route 29 to Route 202	Hunterdon	
	Preliminary Field Sur- veys for Design	Statewide	
	Bridge reconstruction—de- sign	Statewide	

C. DESIGN PROJECTS—continued

Route	Route Description	County
	Contract Adjustment for Professional Services ..	Statewide
	Elizabeth River Flood Control—Bridge Reconstruction	Union
4 & 17	Interchange Reconstruction	Bergen
4 & 208	Interchange Reconstruction	Bergen
	Preliminary Planning for Design	Statewide
Total		\$170,892,133

2. There is hereby appropriated from the State Transportation Fund the sum of \$69,500,000.00 or so much thereof as may be necessary, for mass transportation facilities and for the improvement of mass transportation facilities, as indicated:

A. NEW AND REHABILITATED EQUIPMENT

Penn Central	}	\$24,300,000
New York and Long Branch		
Erie Lackawanna		

B. GENERAL SUBURBAN RAIL IMPROVEMENTS

Station Improvements	}	
Penn Central		
New York and Long Branch		
Erie Lackawanna	}	\$43,500,000
Electrification, Signal and Communication		
Penn Central		
New York and Long Branch		
Central RR of New Jersey	}	
Erie Lackawanna		
Right of Way Improvements	}	
Penn Central		
New York and Long Branch		
Central RR of New Jersey		

C. BUS SERVICE

Purchase of new buses and rehabilitation of other buses; acquisition of or lease of park and ride lots for use by bus commuters.	\$1,700,000
Total	\$69,500,000

3. This act shall take effect immediately.

Approved May 24, 1971.

CHAPTER 164

AN ACT authorizing the creation of a debt of the State of New Jersey by issuance of bonds of the State in the sum of \$155,000,000.00 for higher education buildings, their construction, reconstruction, development, extension, improvement and equipment; providing the ways and means to pay the interest of said debt, and also to pay and discharge the principal thereof; and providing for the submission of this act to the people at a general election.

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

1. This act shall be cited as the "New Jersey Higher Education Buildings Construction Bond Act of 1971."

2. The Legislature hereby finds that:

a. The Governor's Commission to evaluate the capital needs of New Jersey in 1968 estimated the immediate need for \$500,000,000.00 to finance high priority higher education construction projects.

b. The voters in November of 1968 authorized \$202,500,000.00 for higher education construction projects and this commitment of funds constituted a first installment toward meeting the total requirement.

c. The State of New Jersey requires a second step be taken in the comprehensive and integrated program for the construction of higher education buildings begun in 1968. Since this essential

program for the construction of public buildings will serve the people of the State for many years, financing of the same by a bond issue is deemed to be in the public interest.

d. Consistent with the goals set forth by the New Jersey Board of Higher Education in 1970, there continues an urgent need to increase significantly the enrollment capacity for undergraduate students at public institutions of higher education, to provide for commensurate increases in the enrollment capacity for graduate and professional students at these institutions and to provide for the construction of additional county college facilities.

3. Except as the context may otherwise require:

a. "Higher education buildings" shall mean buildings, structures and facilities required for the operation of State institutions of higher education and county colleges.

b. "Construction of higher education buildings" means the erection, acquisition, improvement, reconstruction, development and extension of public buildings, including all equipment and facilities necessary to the operation thereof and includes the acquisition of land necessary for said purposes.

c. "State institutions of higher education" shall mean Rutgers, The State University, the State Colleges, Newark College of Engineering, and the College of Medicine and Dentistry of New Jersey.

d. "County colleges" shall mean colleges operated pursuant to the provisions of chapter 41, P. L. 1962, as amended or supplemented (N. J. S. 18A:64A-1, et seq.).

4. Bonds of the State of New Jersey in the sum of \$155,000,000.00 are hereby authorized for the purpose of capital expenditure for cost of the construction of higher education buildings.

5. Said bonds shall be serial bonds and known as "Higher Education Construction Bonds" and, as to each series, the last annual installment thereof (subject to redemption prior to maturity) shall mature and be paid not later than 35 years from the date of its issuance, but may be issued in whole or in part for a shorter term.

6. Said bonds shall be issued from time to time as the issuing officials herein named shall determine.

7. The Governor, State Treasurer and Comptroller of the Treasury or any two of such officials (hereinafter referred to as "the issuing officials") are hereby authorized to carry out the provisions of this act relating to the issuance of said bonds, and shall determine all matters in connection therewith subject to provisions hereof. In case any of said officials shall be absent from the State or incapable of acting for any reason, his powers and duties shall

be exercised and performed by such person as shall be authorized by law to act in his place as a State official.

8. Bonds issued in accordance with the provisions of this act shall be a direct obligation of the State of New Jersey and the faith and credit of the State are pledged for the payment of the interest thereon as same shall become due and the payment of the principal at maturity. The principal and interest of such bonds shall be exempt from taxation by the State or by any county, municipality or other taxing district of the State.

9. Said bonds shall be signed in the name of the State by the Governor or by his facsimile signature, under the Great Seal of the State, and attested by the Secretary of State, or an assistant Secretary of State, and shall be countersigned by the facsimile signature of the Comptroller of the Treasury. Interest coupons attached to said bonds shall be signed by the facsimile signature of the Comptroller of the Treasury. Such bonds may be issued notwithstanding that any of the officials signing them or whose facsimile signatures appear on the bonds or coupons shall cease to hold office at the time of such issue or at the time of the delivery of such bonds to the purchaser.

10. Such bonds shall recite that they are issued for the purpose set forth in section 4 of this act and that they are issued in pursuance of this act and that this act was submitted to the people of the State at the general election held in the month of November, 1971, and that it was approved by a majority of the legally qualified voters of the State voting thereon at such election. Such recital in said bonds shall be conclusive evidence of the authority of the State to issue said bonds and of their validity. Any bonds containing such recital shall in any suit, action or proceeding involving their validity be conclusively deemed to be fully authorized by this act and to have been issued, sold, executed and delivered in conformity herewith and with all other provisions of statutes applicable thereto, and shall be incontestable for any cause. Such bonds shall be issued in such denominations and in such form or forms, whether coupon or registered as to both principal and interest, and with or without such provisions for interchangeability thereof, as may be determined by the issuing officials.

11. When the bonds are issued from time to time, the bonds of each issue shall constitute a separate series to be designated by the issuing officials. Each series of bonds shall bear such rate or rates of interest, not exceeding 6% per annum, as may be determined by the issuing officials, which interest shall be payable semiannually;

provided, that the first and last interest periods may be longer or shorter, in order that intervening semiannual payments may be at convenient dates.

12. Said bonds shall be issued and sold at such price not less than the par value thereof and accrued interest thereon, and under such terms, conditions and regulations, as the issuing officials may prescribe, after notice of said sale, published at least once in at least three newspapers published in the State of New Jersey, and at least once in a publication carrying municipal bond notices and devoted primarily to financial news, published in the city of New York or in New Jersey, the first notice to be at least 5 days prior to the day of bidding. The said notice of sale may contain a provision to the effect that any or all bids made in pursuance thereof may be rejected. In the event of such rejection or of failure to receive any acceptable bid, the issuing officials, at any time within 60 days from the date of such advertised sale, may sell such bonds at private sale at such price not less than the par value thereof and accrued interest thereon and under such terms and conditions as the issuing officials may prescribe. The issuing officials may sell all or part of the bonds of any series as issued to any State fund or to the Federal Government or any agency thereof, at private sale, without advertisement.

13. Until permanent bonds can be prepared, the issuing officials may, in their discretion, issue in lieu of such permanent bonds temporary bonds in such form and with such privileges as to registration and exchange for permanent bonds as may be determined by the issuing officials.

14. The proceeds from the sale of the bonds shall be paid to the State Treasurer and be held by him in a separate fund, and be deposited in such depositories as may be selected by him to the credit of the fund, which fund shall be known as the "Higher Education Buildings Construction Fund."

15. The moneys in said Higher Education Buildings Construction Fund are hereby specifically dedicated and shall be applied to the cost of the higher education buildings purpose set forth in section 4 of this act, and all of such moneys are hereby appropriated for such purpose. The Board of Higher Education shall be empowered to make specific allocations of funds to projects, but no such moneys shall be expended for such purpose (except as otherwise hereinbelow authorized) without the specific appropriation thereof by the Legislature, but bonds may be issued as herein provided notwithstanding that the Legislature shall not have then adopted an act making specific appropriation of any of said moneys.

At any time prior to the issuance and sale of bonds under this act, the State Treasurer is hereby authorized to transfer from any available money in the Treasury of the State to the credit of the Higher Education Buildings Construction Fund such sum as may be deemed necessary for the purpose of this act by the State House Commission, which said sum so transferred shall be returned to the Treasury of this State by the treasurer thereof from the proceeds of the sale of the first issue of bonds.

Pending their application to the purpose provided in this act, moneys in the Higher Education Buildings Construction Fund may be invested and reinvested as other trust funds in the custody of the State Treasurer in the manner provided by law. Net earnings received from the investment or deposit of such fund shall be paid into the General Treasury and become a part of the General State Fund.

16. In case any coupon bonds or coupons thereunto appertaining or any registered bond shall become lost, mutilated, or destroyed, a new bond shall be executed and delivered of like tenor, in substitution for the lost, mutilated or destroyed bonds or coupons, upon the owner furnishing to the issuing officials evidence satisfactory to them of such loss, mutilation or destruction and proof of ownership and such security and indemnity and reimbursement for expenses as the issuing officials may require.

17. Accrued interest received upon the sale of said bonds shall be applied to the discharge of a like amount of interest upon said bonds when due. Any expense incurred by the issuing officials for advertising, engraving, printing, clerical, legal or other services necessary to carry out the duties imposed upon them by the provisions of this act shall be paid from the proceeds of the sale of said bonds, by the State Treasurer upon warrant of the Comptroller of the Treasury, in the same manner as other obligations of the State are paid.

18. Bonds of each series issued hereunder shall mature in annual installments commencing not later than the tenth year and ending not later than the thirty-fifth year from the date of issue of such series, and in such amounts as shall be determined by the issuing officials, and the issuing officials may reserve to the State by appropriate provision in the bonds of any series the power to redeem all or any of such bonds prior to maturity at such price or prices and upon such terms and conditions as may be provided in such bonds.

19. The issuing officials may at any time and from time to time issue refunding bonds for the purpose of refunding in whole or in part an equal principal amount of the bonds of any series issued and outstanding hereunder, which by their terms are subject to redemption prior to maturity, providing such refunding bonds shall mature at any time or times not later than the latest maturity date of such series, and the aggregate amount of interest to be paid on the refunding bonds, plus the premium, if any, to be paid on the bonds refunded, shall not exceed the aggregate amount of interest which would be paid on the bonds to be refunded if such bonds were not so refunded. Refunding bonds shall constitute direct obligations of the State of New Jersey, and the faith and credit of the State are pledged for the payment of the principal thereof and the interest thereon. The proceeds received from the sale of refunding bonds shall be held in trust and applied to the payment of the bonds refunded thereby. Refunding bonds shall be entitled to all the benefits of this act and subject to all of its limitations except as to the maturities thereof and to the extent herein otherwise expressly provided.

20. To provide funds to meet the interest and principal payment requirements for the bonds issued under this act and outstanding, there is hereby appropriated in the order following:

a. Revenue derived from the collection of taxes as provided by the "Sales and Use Tax Act" (P. L. 1966, c. 30) as amended and supplemented, or so much thereof as may be required; and

b. If in any year or at any time funds, as hereinabove appropriated, necessary to meet interest and principal payments upon outstanding bonds issued under this act, be insufficient or not available, then and in that case there shall be assessed, levied and collected annually in each of the municipalities of the counties of this State a tax on real and personal property upon which municipal taxes are or shall be assessed, levied and collected, sufficient to meet the interest on all outstanding bonds issued hereunder and on such bonds as it is proposed to issue under this act in the calendar year in which such tax is to be raised and for the payment of bonds falling due in the year following the year for which the tax is levied. The tax thus imposed shall be assessed, levied and collected in the same manner and at the same time as other taxes upon real and personal property are assessed, levied and collected. The governing body of each municipality shall cause to be paid to the county treasurer of the county in which such municipality is located, on or before December 15 in each year, the amount of tax

herein directed to be assessed and levied, and the county treasurer shall pay the amount of said tax to the State Treasurer on or before December 20 in each year.

If on or before December 31 in any year the issuing officials shall determine that there are moneys in the General State Fund beyond the needs of the State, sufficient to meet the principal of bonds falling due and all interest payable in the ensuing calendar year, then and in that event such issuing officials shall by resolution so find and shall file the same in the office of the State Treasurer, whereupon the State Treasurer shall transfer such moneys to a separate fund to be designated by him, and shall pay the principal and interest out of said fund as the same shall become due and payable, and the other sources of payment of said principal and interest provided for in this section shall not then be available, and the receipts for said year from the tax specified in subsection a. of this section shall thereupon be considered and treated as part of the General State Fund, available for general purposes.

21. Should the State Treasurer, by December 31 of any year, deem it necessary, because of insufficiency of funds to be collected from the sources of revenues as hereinabove provided, to meet the interest and principal payments for the year after the ensuing year, then the treasurer shall certify to the Comptroller of the Treasury the amount necessary to be raised by taxation for such purposes, the same to be assessed, levied and collected for and in the ensuing calendar year. In such case the Comptroller of the Treasury shall, on or before March 1 following, calculate the amount in dollars to be assessed, levied and collected as herein set forth in each county. Such calculation shall be based upon the corrected assessed valuation of such county for the year preceding the year in which such tax is to be assessed, but such tax shall be assessed, levied and collected upon the assessed valuation of the year in which the tax is assessed and levied. The Comptroller of the Treasury shall certify said amount to the county board of taxation and the county treasurer of each county. The said county board of taxation shall include the proper amount in the current tax levy of the several taxing districts of the county in proportion to the ratables as ascertained for the current year.

22. For the purpose of complying with the provisions of the State Constitution this act shall at the general election to be held in the month of November, 1971, be submitted to the people. In order to inform the people of the contents of this act it shall be the duty of the Secretary of State, after this section shall take

effect, and at least 15 days prior to the said election, to cause this act to be published in at least 10 newspapers published in the State and to notify the clerk of each county of this State of the passage of this act, and the said clerks respectively, in accordance with the instructions of the Secretary of State, shall cause to be printed on each of the said ballots, the following:

If you approve the act entitled below, make a cross (×), plus (+), or check (✓) mark in the square opposite the word "Yes."

If you disapprove the act entitled below, make a cross (×), plus (+), or check (✓) mark in the square opposite the word "No."

If voting machines are used, a vote of "Yes" or "No" shall be equivalent to such markings respectively.

	Yes.	NEW JERSEY HIGHER EDUCATION BUILDINGS CONSTRUCTION BOND ISSUE Shall the act entitled "An act authorizing the creation of a debt of the State of New Jersey by issuance of bonds of the State in the sum of \$155,000,000.00 for higher education buildings, their construction, reconstruction, development, extension, improvement and equipment; providing the ways and means to pay the interest of said debt, and also to pay and discharge the principal thereof; and providing for the submission of this act to the people at a general election," be approved?
	No.	

The fact and date of the approval or passage of this act, as the case may be, may be inserted in the appropriate place after the title in said ballot. No other requirements of law of any kind or character as to notice or procedure except as herein provided need be adhered to.

The said votes so cast for and against the approval of this act, by ballot or voting machine, shall be counted and the result thereof returned by the election officer, and a canvass of such election had in the same manner as is provided for by law in the case of the election of a Governor, and the approval or disapproval of this act so determined shall be declared in the same manner as the result

of an election for a Governor, and if there shall be a majority of all the votes cast for and against it at such an election in favor of the approval of this act, then all the provisions of this act not made effective theretofore shall take effect forthwith.

23. This section and section 22 of this act shall take effect immediately and the remainder of the act shall take effect as and when provided in the preceding section.

Approved May 26, 1971.

CHAPTER 165

AN ACT authorizing the creation of a debt of the State of New Jersey by issuance of bonds of the State in the sum of \$80 million to provide money for public acquisition of lands for recreation and conservation purposes to meet the future needs of the expanding population; to enable the State to acquire such lands and to provide for State grants to assist municipalities and counties and other units of local government to acquire such lands; providing the ways and means to pay the interest of said debt and also to pay and discharge the principal thereof; and providing for the submission of this act to the people at a general election.

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

1. This act may be cited as the "New Jersey Green Acres Bond Act of 1971."

2. The Legislature hereby finds that:

(a) The provision of lands for public recreation and the conservation of natural resources promotes the public health, prosperity and general welfare and is a proper responsibility of government;

(b) Lands now provided for such purposes will not be adequate to meet the needs of an expanding population in years to come;

(c) The expansion of population, while increasing the need for such lands, will continually diminish the supply and tend to increase the cost of public acquisition of lands available and appropriate for such purposes;

(d) The State of New Jersey must act now to acquire and to assist local governments to acquire substantial quantities of such lands as are now available and appropriate for such purposes so that they may be used and preserved for use for such purposes; and

(e) The sum of \$80 million is needed now to make such acquisition possible.

3. Bonds of the State of New Jersey in the sum of \$80 million are hereby authorized to provide money to meet the cost of public acquisition of lands for recreation and conservation purposes.

Of the total moneys available for the public acquisition of lands under this act \$40 million is hereby allocated for acquisition of lands by the State and the remaining \$40 million is allocated for State grants to municipalities and counties for municipal and county acquisitions.

The cost of public acquisition of such lands shall include the full cost of acquisition of any such lands by the State and, subject to legislation and the conditions prescribed therein, not more than 50% of the cost of acquisition of any such lands by any municipality or county.

Acquisition of lands actively devoted to agriculture shall be avoided whenever possible and in lieu thereof, whenever feasible, development rights, conservation easements and other interests less than a fee simple shall be acquired.

4. Except as the context may otherwise require:

(a) "Recreation and conservation purposes" means use of lands for parks, natural areas, forests, camping, fishing, water reserves, wildlife, reservoirs, hunting, boating, winter sports and similar uses for public outdoor recreation and conservation of natural resources;

(b) "Lands" means real property, including improvements thereof or thereon, rights of way, water, riparian and other rights, easements, privileges and all other rights or interests of any kind or description in, relating to or connected with real property; and

(c) "Cost," as used with respect to cost of acquisition, shall include, in addition to the usual connotations thereof, the cost of all things deemed necessary or useful and convenient in connection with the acquisition of lands by or with the assistance of the State, for recreation and conservation purposes, including interest or discount on bonds, cost of issuance of bonds, the cost of engineering, inspection, legal, financial, geological, hydrological and other pro-

fessional services, estimates and advice, the cost of organizational, administrative and other work and services, and the cost of reimbursement of any fund from which moneys shall have been advanced to the State Recreation and Conservation Land Acquisition Fund, created herein.

(d) "Municipality" and "county" shall mean any political subdivision of this State, and any agency thereof.

5. To the end that municipalities may not suffer loss of taxes by reason of the acquisition and ownership by the State of New Jersey of property under the provisions of this act, the State shall pay annually on October 1 to each municipality in which property is so acquired, for a period of 13 years following such acquisition the following amounts—in the first year a sum of money equal to that last paid as taxes upon such land and the improvements thereon for the taxable year immediately prior to the time of its acquisition, and thereafter the following percentages of the amount paid in the first year, to wit, second year 92%; third year 84%; fourth year 76%; fifth year 68%; sixth year 60%; seventh year 52%; eighth year 44%; ninth year 36%; tenth year 28%; eleventh year 20%; twelfth year 12%; thirteenth year 4%.

All sums of money received by the respective municipalities as compensation for loss of tax revenue pursuant to this section shall be applied to the same purposes as is the tax revenue from the assessment and collection of taxes on real property of the said municipalities, and to accomplish this end such sums shall be apportioned in the same manner as the general tax rate of the municipality for the tax year preceding the year of receipt.

6. Said bonds shall be serial bonds and known as "State Recreation and Conservation Land Acquisition Bonds" and, as to each series, the last installment thereof (subject to redemption prior to maturity) shall mature and be paid not later than 35 years from the date of its issuance.

7. Said bonds shall be issued from time to time as money is required for the purpose aforesaid, as the issuing officials herein named shall determine.

8. The Governor, State Treasurer and Comptroller of the Treasury or any two of such officials (hereinafter referred to as "the issuing officials") are hereby authorized to carry out the provisions of this act relating to the issuance of said bonds, and shall determine all matters in connection therewith subject to provisions hereof. In case any of said officials shall be absent from the State or incapable of acting for any reason his powers and duties

shall be exercised and performed by such person as shall be authorized by law to act in his place as a State official.

9. Bonds, issued in accordance with the provisions of this act shall be a direct obligation of the State of New Jersey and the faith and credit of the State are pledged for the payment of the interest thereon as same shall become due and the payment of the principal at maturity. The principal and interest of such bonds shall be exempt from taxation by the State or by any county, municipality or other taxing district of the State.

10. Said bonds shall be signed in the name of the State by the Governor or by his facsimile signature, under the Great Seal of the State, and attested by the Secretary of State, or an assistant Secretary of State, and shall be countersigned by the facsimile signature of the Comptroller of the Treasury. Interest coupons attached to said bonds shall be signed by the facsimile signature of the Comptroller of the Treasury. Such bonds may be issued notwithstanding that any of the officials signing them or whose facsimile signatures appear on the bonds or coupons shall cease to hold office at the time of such issue or at the time of the delivery of such bonds to the purchaser.

11. (a) Such bonds shall recite that they are issued for the purpose set forth in section 3 of this act and that they are issued in pursuance of this act and that this act was submitted to the people of the State at the general election held in the month of November, 1971, and that it was approved by a majority of the legally qualified voters of the State voting thereon at such election. Such recital in said bonds shall be conclusive evidence of the authority of the State to issue said bonds and of their validity. Any bonds containing such recital shall in any suit, action or proceeding involving their validity be conclusively deemed to be fully authorized by this act and to have been issued, sold, executed and delivered in conformity herewith and with all other provisions of statutes applicable thereto, and shall be incontestable for any cause.

(b) Such bonds shall be issued in such denominations and in such form or forms, whether coupon or registered as to both principal and interest, and with or without such provisions for interchangeability thereof, as may be determined by the issuing officials.

12. When the bonds are issued from time to time, the bonds of each issue shall constitute a separate series to be designated by the issuing officials. Each series of bonds shall bear such rate or rates of interest, that the aggregate amount of interest payable over the life of such series, less the premium, if any, received

upon the sale thereof, shall not exceed an amount not in excess of the maximum rate of interest per annum fixed pursuant to R. S. 31:1-1 computed over the life of such series, as may be determined by the issuing officials, which interest shall be payable semiannually; provided, that the first and last interest periods may be longer or shorter, in order that intervening semiannual payments may be at convenient dates.

13. Said bonds shall be issued and sold at such price not less than the par value thereof and accrued interest thereon, and under such terms, conditions and regulations, as the issuing officials may prescribe, after notice of said sale, published at least three times in at least three newspapers published in the State of New Jersey, and at least once in a publication carrying municipal bond notices and devoted primarily to financial news, published in the city of New York or in New Jersey, the first notice to be at least 7 days prior to the day of bidding. The said notice of sale may contain a provision to the effect that any or all bids made in pursuance thereof may be rejected. In the event of such rejection or of failure to receive any acceptable bid, the issuing officials, at any time within 60 days from the date of such advertised sale, may sell such bonds at private sale upon terms not less favorable to the State than the terms offered by any rejected bid. The issuing officials may sell all or part of the bonds of any series as issued to any State fund or to the Federal Government or any agency thereof, at private sale, without advertisement.

14. Until permanent bonds can be prepared, the issuing officials may, in their discretion, issue in lieu of such permanent bonds temporary bonds in such form and with such privileges as to registration and exchange for permanent bonds as may be determined by the issuing officials.

15. The proceeds from the sale of the bonds shall be paid to the State Treasurer and be held by him in a separate fund, and be deposited in such depositories as may be selected by him to the credit of the fund, which fund shall be known as the "State Recreation and Conservation Land Acquisition Fund."

16. The moneys in the said State Recreation and Conservation Land Acquisition Fund are hereby specifically dedicated to meeting the cost of public acquisition of lands for recreation and conservation purposes and shall not be expended except in accordance with appropriations from said fund made by law.

At any time prior to the issuance and sale of bonds under this act, the State Treasurer is hereby authorized to transfer from any

available money in the treasury of the State to the credit of the State Recreation and Conservation Land Acquisition Fund such sum as may be deemed necessary for the purposes of this act by the State House Commission, which said sum so transferred shall be returned to the treasury of this State by the treasurer thereof from the proceeds of the sale of the first issue of bonds.

Pending their application to the purposes provided in this act, moneys in the State Recreation and Conservation Land Acquisition Fund may be invested and reinvested as other trust funds in the custody of the State Treasurer in the manner provided by law. All earnings received from the investment or deposit of such funds shall be paid into the General Treasury and become a part of the General State Fund.

17. In case any coupon bonds and coupons thereunto appertaining or any registered bond shall become lost, mutilated or destroyed, a new bond shall be executed and delivered of like tenor, in substitution for the lost, mutilated or destroyed bonds or coupons, upon the owner furnishing to the issuing officials evidence satisfactory to them of such loss, mutilation or destruction and also such security and indemnity as the issuing officials may require.

18. Accrued interest received upon the sale of said bonds shall be applied to the discharge of a like amount of interest upon said bonds when due. Any expense incurred by the issuing officials for advertising, engraving, printing, clerical, legal or other services necessary to carry out the duties imposed upon them by the provisions of this act shall be paid from the proceeds of the sale of said bonds, by the State Treasurer upon warrant of the Comptroller of the Treasury, in the same manner as other obligations of the State are paid.

19. Bonds of each series issued hereunder shall mature in installments commencing not later than the fifth year and ending not later than the thirty-fifth year from the date of issue of such series, and in such amounts as shall be determined by the issuing officials, but the issuing officials may reserve to the State by appropriate provision in the bonds of any series the power to redeem all or any of such bonds prior to maturity at such price or prices and upon such terms and conditions as may be provided in such bonds.

20. The issuing officials may at any time and from time to time issue refunding bonds for the purpose of refunding in whole or in part an equal principal amount of the bonds of any series issued and outstanding hereunder, which by their terms are

subject to redemption prior to maturity, providing such refunding bonds shall mature at any time or times not later than the latest maturity date of such series, and the aggregate amount of interest to be paid on the refunding bonds, plus the premium, if any, to be paid on the bonds refunded, shall not exceed the aggregate amount of interest that would be paid on the bonds refunded if such bonds were not so refunded. Refunding bonds shall constitute direct obligations of the State of New Jersey, and the faith and credit of the State are pledged for the payment of the principal thereof and the interest thereon. The proceeds received from the sale of refunding bonds shall be held in trust and applied to the payment of the bonds refunded thereby. Refunding bonds shall be entitled to all the benefits of this act and subject to all its limitations except as to the maturities thereof and to the extent herein otherwise expressly provided.

21. To provide funds to meet the interest and principal payment requirements for the bonds issued under this act and outstanding, there is hereby appropriated in the order following:

(a) Revenue derived by the State from fees and other charges of any nature made for the use of State parks and other State recreational facilities or so much thereof as may be required;

(b) Revenue derived from the tax collected under and by virtue of the provisions of the Corporation Business Tax Act (1945) (P. L. 1945, c. 162, as amended and supplemented), or so much thereof as may be required; and

(c) If in any year or at any time funds, as hereinabove appropriated, necessary to meet interest and principal payments upon outstanding bonds issued under this act, be insufficient or not available, then and in that case there shall be assessed, levied and collected annually in each of the municipalities of the counties of this State a tax on real and personal property upon which municipal taxes are or shall be assessed, levied and collected, sufficient to meet the interest on all outstanding bonds issued hereunder and on such bonds as it is proposed to issue under this act in the calendar year in which such tax is to be raised and for the payment of bonds falling due in the year following the year for which the tax is levied. The tax thus imposed shall be assessed, levied and collected in the same manner and at the same time as other taxes upon real and personal property are assessed, levied and collected. The governing body of each municipality shall cause to be paid to the county treasurer of the county in which such municipality is located, on or before December 15 in each year, the amount of tax herein directed

to be assessed and levied, and the county treasurer shall pay the amount of said tax to the State Treasurer on or before December 20 in each year.

If on or before December 31 in any year the issuing officials shall determine that there are moneys in the General State Fund beyond the needs of the State, sufficient to meet the principal of bonds falling due and all interest payable in the ensuing calendar year, then and in that event such issuing officials shall by resolution so find and shall file the same in the office of the State Treasurer, whereupon the State Treasurer shall transfer such moneys to a separate fund to be designated by him, and shall pay the principal and interest out of said fund as the same shall become due and payable, and the other sources of payment of said principal and interest provided for in this section shall not then be available, and the receipts for said year from the fees, charges and taxes specified in subsections (a) and (b) of this section treated as part of the General State Fund, available for general purposes.

22. Should the State Treasurer by December 31 of any year deem it necessary, because of insufficiency of funds to be collected from the sources of revenues as hereinabove provided, to meet the interest and principal payments for the year after the ensuing year, then the treasurer shall certify to the Comptroller of the Treasury the amount necessary to be raised by taxation for such purposes, the same to be assessed, levied and collected for and in the ensuing calendar year. In such case the Comptroller of the Treasury shall, on or before March 1 following, calculate the amount in dollars to be assessed, levied and collected as herein set forth in each county. Such calculation shall be based upon the corrected assessed valuation of such county for the year preceding the year in which such tax is to be assessed, but such tax shall be assessed, levied and collected upon the assessed valuation of the year in which the tax is assessed and levied. The Comptroller of the Treasury shall certify said amount to the county board of taxation and the county treasurer of each county. The said county board of taxation shall include the proper amount in the current tax levy of the several taxing districts of the county in proportion to the ratables as ascertained for the current year.

23. For the purpose of complying with the provisions of the State Constitution this act shall, at the general election to be held in the month of November, 1971, be submitted to the people. In order to inform the people of the contents of this act it shall be the duty of the Secretary of State, after this section shall take effect,

and at least 15 days prior to the said election, to cause this act to be published in at least ten newspapers published in the State and to notify the clerk of each county of this State of the passage of this act, and the said clerks respectively shall cause to be printed on each of the said ballots, the following:

If you approve the act entitled below, make a cross X, plus +, or check ✓ mark in the square opposite the word "Yes."

If you disapprove the act entitled below, make a cross X, plus +, or check ✓ mark in the square opposite the word "No."

If voting machines are used, a vote of "Yes" or "No" shall be equivalent to such marking respectively.

	Yes.	GREEN ACRES BOND ISSUE Shall the act entitled "An Act authorizing the creation of a debt of the State of New Jersey by the issuance of bonds of the State in the sum of \$80 million to provide money for public acquisition of lands for recreation and conservation purposes to meet the future needs of the expanding population; to enable the State to acquire such lands and to provide for State grants to assist municipalities and counties and other units of local government to acquire such lands; providing the ways and means to pay the interest of said debt and also to pay and discharge the principal thereof; and providing for the submission of this act to the people at a general election" be approved?
	No.	

The fact and date of the approval or passage of this act, as the case may be, may be inserted in the appropriate place after the title in said ballot. No other requirements of law of any kind or character as to notice or procedure except as herein provided need be adhered to.

The said votes so cast for and against the approval of this act, by ballot or voting machine, shall be counted and the result thereof

returned by the election officer, and a canvass of such election had in the same manner as is now provided for by law in the case of the election of a Governor, and the approval or disapproval of this act so determined shall be declared in the same manner as the result of an election for a Governor, and if there shall be a majority of all the votes cast for and against it at such an election in favor of the approval of this act, then all the provisions of this act shall take effect forthwith.

24. This section and section 23 of this act shall take effect immediately and the remainder of the act shall take effect as and when provided in the preceding section.

Approved May 26, 1971.

CHAPTER 166

AN ACT to validate certain proceedings of municipalities for the reclassification of school districts and any school district reclassified pursuant to such proceedings.

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

Validating act.

1. All proceedings heretofore had or taken by any municipality for or with respect to the reclassification of a Type I school district to a Type II school district pursuant to the provisions of chapter 9 of Title 18A, Education, of the New Jersey Statutes, and the reclassification, organization and existence of any Type II school district reclassified pursuant to such proceedings, are hereby validated, ratified and confirmed notwithstanding that the question of such reclassification submitted to the voters at an election held in such municipality did not conform with requirements of said chapter 9, provided, however, that no action, suit or other proceedings of any nature to contest the validity of such proceedings has heretofore been instituted prior to the date on which this act takes effect and within the time fixed therefor by or pursuant to law or rule of court, or when such time has not heretofore expired, is instituted within 30 days after the effective date of this act.

2. This act shall take effect immediately.

Approved May 27, 1971.

CHAPTER 167

AN ACT to validate certain proceedings for the issuance of bonds of school districts and any bonds or other obligations issued or to be issued in pursuance of such proceedings.

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

Validating act.

1. All proceedings heretofore had or taken by any school district or at any school district election for the authorization or issuance of bonds of the school district, and any bonds or other obligations of the school district issued or to be issued in pursuance of a proposal adopted by the legal voters at such election, are hereby ratified, validated and confirmed, notwithstanding that the supplemental debt statement and school debt statement required by section 18:5-87 or section 18A:24-16 of the New Jersey Statutes were not prepared and filed as required by said section 18:5-87 or by section 18A:24-17 of the New Jersey Statutes, provided however that a supplemental debt statement and a school debt statement shall have been made, sworn to and filed in the places required by said section 18:5-87 or by said section 18A:24-17 within 20 days after the effective date of this act; and provided further that no action, suit or other proceeding of any nature to contest the validity of such proceedings has heretofore been instituted prior to the date on which this act takes effect and within the time fixed therefor by or pursuant to law or rule of court, or when such time has not heretofore expired, is instituted within 30 days after the effective date of this act.

2. This act shall take effect immediately.

Approved May 27, 1971.

CHAPTER 168

AN ACT concerning filing fees under the Uniform Commercial Code and amending sections 12A:9-403, 12A:9-404, 12A:9-405, 12A:9-406 and 12A:9-407 of the New Jersey Statutes.

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

1. N. J. S. 12A:9-403 is amended to read as follows:

What constitutes filing; duration of filing; effect of lapsed filing; duties of filing officer.

12A:9-403. What constitutes filing; duration of filing; effect of lapsed filing; duties of filing officer.

(1) Presentation for filing of a financing statement, tender of the filing fee and acceptance of the statement by the filing officer constitutes filing under this chapter.

(2) A filed financing statement which states a maturity date of the obligation secured of 5 years or less is effective until such maturity date and thereafter for a period of 60 days. Any other filed financing statement is effective for a period of 5 years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of such 60-day period after a stated maturity date or on the expiration of such 5-year period, as the case may be, unless a continuation statement is filed prior to the lapse. Upon such lapse the security interest becomes unperfected. A filed financing statement which states that the obligation secured is payable on demand is effective for 5 years from the date of filing.

(3) A continuation statement may be filed by the secured party (i) within 6 months before and 60 days after a stated maturity date of 5 years or less, and (ii) otherwise within 6 months prior to the expiration of the 5-year period specified in subsection (2). Any such continuation statement must be signed by the secured party, identify the original statement by file number and state that the original statement is still effective. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for 5 years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement.

New Jersey State Library

(4) A filing officer shall mark each statement with a consecutive file number and with the date and hour of filing and shall hold the statement for public inspection. In addition, the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement. A financing statement covering collateral which is or is to become a fixture or fixtures, or crops growing or to be grown, shall also be indexed in the name of the record owner of the realty.

(5) The uniform fee for filing, indexing and furnishing filing data for an original or a continuation statement or any amendment of either shall be \$10.00.

2. N. J. S. 12A :9-404 is amended to read as follows :

Termination statement.

12A :9-404. Termination statement.

(1) Whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must on written demand by the debtor send the debtor a statement that he no longer claims a security interest under the financing statement, which shall be identified by the filing officer's file number. A termination statement signed by a person other than the secured party of record must include or be accompanied by the assignment or a statement by the secured party of record that he has assigned the security interest to the signer of the termination statement. The uniform fee for filing and indexing such an assignment or statement thereof shall be \$10.00. If the affected secured party fails to send such a termination statement within 10 days after proper demand therefor he shall be liable to the debtor for \$100.00, and in addition for any loss caused to the debtor by such failure.

(2) On presentation to the filing officer of such a termination statement he must note it in the index and attach it to the original financing statement. The filing officer shall mark terminated the financing statement and any continuation statement, statement of assignment, or statement of release, pertaining thereto.

(3) The uniform fee for filing, attaching and indexing a termination statement including sending or delivering the financing statement shall be \$5.00.

3. N. J. S. 12A :9-405 is amended to read as follows :

Assignment of security interest; duties of filing officer; fees.

12A :9-405. Assignment of security interest; duties of filing officer; fees.

(1) A financing statement may disclose an assignment of a security interest in the collateral described in the statement by indication in the statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. Either the original secured party or the assignee may sign this statement as the secured party. On presentation to the filing officer of such a financing statement the filing officer shall mark the same as provided in 12A :9-403 (4). The uniform fee for filing, indexing and furnishing filing data for a financing statement so indicating an assignment shall be \$5.00.

(2) A secured party may assign of record all or a part of his rights under a financing statement by the filing of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned. On presentation to the filing officer of such a separate statement, the filing officer shall mark such separate statement with the date and hour of filing. He shall note the assignment on the index of the financing statement. The uniform fee for filing, indexing and furnishing filing data about such a separate statement of assignment shall be \$5.00.

(3) After the disclosure or filing of an assignment under this section, the assignee is the secured party of record.

4. N. J. S. 12A :9-406 is amended to read as follows :

Release of collateral; duties of filing officer; fees.

12A :9-406. Release of collateral; duties of filing officer; fees.

A secured party of record may by his signed statement release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. Upon presentation of such a statement to the filing officer he shall mark the statement with the hour and date of filing and shall note the same upon the index of the filing of the financing statement. The uniform fee for filing and noting such a statement of release shall be \$5.00.

5. N. J. S. 12A:9-407 is amended to read as follows:

Information from filing officer.

12A:9-407. Information from filing officer.

(1) If the person filing any financing statement, amendment, termination statement, statement of assignment, or statement of release, furnishes the filing officer a copy thereof, the filing officer shall upon request note upon the copy the file number and date and hour of the filing of the original and deliver or send the copy to such person.

(2) Upon request of any person, the Secretary of State may issue his certificate showing whether there is on file on the date and hour stated therein, any presently effective financing statement naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each statement and the names and addresses of each secured party therein. The uniform fee for such a certificate shall be \$10.00. Upon request the filing officer shall furnish a copy of any filed financing statement, continuation statement, termination statement, statement of assignment, or statement of release for a fee of \$1.00 per page.

6. This act shall take effect immediately.

Approved June 1, 1971.

CHAPTER 169

AN ACT concerning filing fees for collection agencies and amending
R. S. 45:18-4.

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

1. R. S. 45:18-4 is amended to read as follows:

Record of bonds; filing fee.

45:18-4. The Secretary of State shall keep a record of such bonds, with the names, places of residence and places of business of the principals and sureties, and the name of the officer before whom the bond was executed or acknowledged, and the record shall be open to public inspection. There shall be paid a filing fee of \$25.00 to the Secretary of State for the filing of each bond.

2. This act shall take effect immediately.

Approved June 1, 1971.

CHAPTER 170

AN ACT concerning filing fees for registration of hotel and motel names and amending R. S. 29:3-10.

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

1. R. S. 29:3-10 is amended to read as follows:

Fees of Secretary of State and county clerks.

29:3-10. For services herein enumerated pursuant to this chapter, the Secretary of State and the county clerk shall each receive the following fees:

a. for filing and recording a petition or certificate of registration of name, proof of publication of registration of name, an assignment of a name or a certificate of abandonment, \$20.00;

b. for a certificate of filing or a certified copy of any of the above, \$5.00.

2. This act shall take effect immediately.

Approved June 1, 1971.

CHAPTER 171

AN ACT concerning filing fees and amending and supplementing "An act to provide for the registration and protection of trademarks, and repealing sections 56:3-1 to 56:3-13 of the Revised Statutes," approved September 6, 1966 (P. L. 1966, c. 263), and amending R. S. 56:3-16.

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

1. Section 3 of P. L. 1966, c. 263 (C. 56:3-13.3) is amended to read as follows:

C. 56:3-13.3 Application for registration.

3. Application for registration.

Subject to the limitations set forth in this act, any person who adopts and uses a mark in this State may file in the office of the

Secretary of State, on a form to be furnished by the Secretary of State, an application for registration of that mark setting forth, but not limited to, the following information:

(a) the name and business address of the person applying for such registration; and, if a corporation the State of incorporation;

(b) the goods or services in connection with which the mark is used and the mode or manner in which the mark is used in connection with such goods or services and the class in which such goods or services fall;

(c) the date when the mark was first used anywhere and the date when it was first used in this State by the applicant or his predecessor in business; and

(d) a statement that the applicant is the owner of the mark and that no other person has the right to use such mark in this State either in the identical form thereof or in such near resemblance thereto as might be calculated to deceive or to be mistaken therefor.

The application shall be signed and verified by the applicant or by a member of the firm or an officer of the corporation or association applying.

The application shall be accompanied by a specimen or facsimile of such mark in triplicate.

The application for registration shall be accompanied by a filing fee of \$20.00 payable to the Secretary of State.

2. Section 4 of P. L. 1966, c. 263 (C. 56:3-13.4) is amended to read as follows:

C. 56:3-13.4 Certificate of registration.

4. Certificate of registration.

Upon compliance by the applicant with the requirements of this act, the Secretary of State shall cause a certificate of registration to be issued and delivered to the applicant. The certificate of registration shall be issued under the signature of the Secretary of State and the Seal of the State, and it shall show the name and business address and, if a corporation, the state of incorporation, of the person claiming ownership of the mark, the date claimed for the first use of the mark anywhere and the date claimed for the first use of the mark in this State, the class of goods or services and a description of the goods or services on which the mark is used, a reproduction of the mark, the registration date and the term of the registration.

A certified copy of said certificate of registration may be obtained from the Secretary of State upon the payment of a fee of \$10.00.

Any certificate of registration issued by the Secretary of State under the provisions hereof or a copy thereof duly certified by the Secretary of State shall be admissible in evidence as competent and sufficient proof of the registration of such mark in any action or judicial proceedings in any court of this State.

3. Section 5 of P. L. 1966, c. 263 (C. 56:3-13.5) is amended to read as follows:

C. 56:3-13.5 Duration and renewal.

5. Duration and renewal.

Registration of a mark hereunder shall be effective for a term of 10 years from the date of registration and, upon application filed within 6 months prior to the expiration of such term, on a form to be furnished by the Secretary of State, which includes a statement that the mark is still in use in this State, the registration may be renewed for a like term. A renewal fee of \$20.00, payable to the Secretary of State, shall accompany the application for renewal of the registration.

A mark registration may be renewed for successive periods of 10 years in like manner.

The Secretary of State shall notify registrants of marks hereunder of the necessity of renewal within the year next preceding the expiration of the 10 years from the date of registration, by writing to the last known address of the registrants.

Any registration in force on the date on which this act shall become effective shall expire 10 years from the date of the registration or of the last renewal thereof or 1 year after the effective date of this act, whichever is later, and may be renewed by filing an application with the Secretary of State on a form furnished by him and paying the aforementioned renewal fee therefor within 6 months prior to the expiration of the registration.

The Secretary of State shall within 6 months after the effective date of this act notify all registrants of marks under previous acts of the date of expiration of such registrations unless renewed in accordance with the provisions of this act, by writing to the last known address of the registrants.

4. Section 6 of P. L. 1966, c. 263 (C. 56:3-13.6) is amended to read as follows:

C. 56:3-13.6 Assignment.

6. Assignment.

Any mark and its registration hereunder shall be assignable with the good will of the business in which the mark is used, or with that

part of the good will of the business connected with the use of and symbolized by the mark. Assignment shall be by instruments in writing duly executed and may be recorded with the Secretary of State upon the payment of a fee of \$10.00, payable to the Secretary of State who, upon recording of the assignment, shall issue in the name of the assignee a new certificate for the remainder of the term of the registration or of the last renewal thereof. An assignment of any registration under this act shall be void as against any subsequent purchaser for valuable consideration without notice, unless it is recorded with the Secretary of State within 3 months after the date thereof or prior to such subsequent purchase.

C. 56:3-13.7a Certificate of availability.

5. Upon request of any person, the Secretary of State shall issue upon the payment of a fee of \$10.00 a certificate of availability of a mark (1 to 3 marks).

6. R. S. 56:3-16 is amended to read as follows:

Description of names, marks or devices filed with county clerk and Secretary of State.

56:3-16. The registration of names, marks or other devices shall be by filing in the office of the clerk of the county in which the principal office of the person or corporation seeking registration is situated and in the office of the Secretary of State, descriptions of such names, marks or other devices. If the applicant for registration has no principal office in this State the names, marks or other devices may be registered by filing descriptions thereof in the office of the clerk of any county in which the applicant does business and in the office of the Secretary of State.

For each filing as herein provided the Secretary of State shall receive a fee of \$20.00 and the county clerk shall receive a fee of \$5.00.

7. This act shall take effect immediately.

Approved June 1, 1971.

CHAPTER 172

AN ACT to amend "An act for the establishment of a police and firemen's retirement system for the police and firemen of a municipality, county or political subdivision thereof," approved May 23, 1944 (P. L. 1944, c. 255).

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

1. Section 8 of P. L. 1944, c. 255 (C. 43:16A-8) is amended to read as follows:

C. 43:16A-8 Medical examination; report of medical board; restoration to active service.

8. (1) Upon the receipt by the retirement system of a written application for a disability retirement allowance, the system shall refer the application to the medical board, which shall designate a physician or physicians to examine the applicant and the report of the medical board shall be considered by the board of trustees in acting upon such application.

(2) Any beneficiary under the age of 55 years who has been retired on a disability retirement allowance under this act, on his request or upon the request of the board of trustees shall be given a medical examination and he shall submit to an examination by a physician or physicians designated by the medical board at such place to be mutually agreed upon, twice a year for a period of 3 years and once a year thereafter in order to determine whether or not the disability which existed at the time he was retired has vanished or has materially diminished. If the report of the medical board shall show that such beneficiary is able to perform either his former duty or any other available duty in the department which his employer is willing to assign to him, the beneficiary shall report for duty within 10 days. If the beneficiary fails to submit to any such medical examination or fails to return to duty within 10 days after being ordered so to do, or within such further time as may be allowed by the board of trustees for valid reason, as the case may be, the pension shall be discontinued during such default.

(3) (Deleted by amendment.)

(4) A beneficiary restored to active service at a salary not less than the salary he received at the time he was retired shall become a member of the retirement system and shall be entitled to his previous total service credit, but on his subsequent retirement, he shall not receive a greater pension on account of his service rendered before his previous retirement than he was entitled to receive at the time of his restoration, anything to the contrary notwithstanding.

2. This act shall take effect immediately.

Approved June 1, 1971.

CHAPTER 173

AN ACT concerning the prevention and abatement of pollution of the waters of this State resulting from the discharge therein of petroleum products, debris and hazardous substances, and amending R. S. 23:5-28, 23:9-36 and 23:9-52.

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

C. 58:10-23.1 Short title.

1. This act shall be known and may be cited as the “New Jersey Water Quality Improvement Act of 1971.”

C. 58:10-23.2 Legislature’s findings.

2. The Legislature finds and declares that the discharge of petroleum products, debris and of hazardous substances into the waters of this State is inimical to the best interests of the people and constitutes a threat to the environment. The Legislature intends by the passage of this bill to exercise the police powers of this State through the Department of Environmental Protection by conferring upon said department the power to deal with damage caused by the unlawful discharge of said substances by requiring the prompt containment and removal of such pollution and substances.

C. 58:10-23.3 Definitions.

3. For the purposes of this act, unless the context clearly requires a different meaning, the following words shall have the following meaning:

a. “Petroleum products” shall mean oil or petroleum of any kind and in any form including, but not limited to, oil, petroleum, fuel oil, sludge, oil refuse, oil mixed with other wastes and crude oils.

b. “Hazardous substances” shall mean and include such elements and compounds which, when discharged in any quantity into, upon or in a manner which allows flow and runoff into the waters of this State or adjoining shorelines, presents a serious danger to the public health or welfare, including but not limited to, damage to the environment, fish, shellfish, wildlife, vegetation, shorelines, stream banks, and beaches.

c. "Discharge" shall mean, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping.

d. "Remove" or removal shall mean and include the removal of the petroleum products, debris or hazardous substances from the water and shorelines or the taking of such other actions as may be necessary to minimize or mitigate damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches.

e. "Waters" shall mean the lakes, streams, rivers, inlets, tidal bays, and the coastal waters of New Jersey.

f. "Department" shall mean the Department of Environmental Protection.

g. "Person" shall mean and include an individual, firm, corporation, association or a partnership, public or private.

h. "Act of God" shall mean and include an act occasioned by an unanticipated grave natural disaster.

i. "Debris" shall mean and include all forms of solid waste and liquid waste of any composition whatsoever.

C. 58:10-23.4 Discharge of certain substances prohibited.

4. The discharge of hazardous substances, debris and petroleum products into, or in a manner which allows flow or runoff into or upon the waters of this State and the banks or shores of said waters is prohibited.

C. 58:10-23.5 Removal of discharge.

5. Any person responsible for discharging petroleum products, debris or hazardous substances in the manner prohibited by section 4 shall immediately undertake to remove such discharge to the department's satisfaction. If the person responsible fails immediately to undertake to remove the discharge to the department's satisfaction, the department may undertake the removal of such discharge and may retain agents and contractors for such purpose who shall operate under the direction of the department. The department may authorize a third person, affected by such an unlawful discharge, to expend funds to remove said discharge at the expense of the person responsible for same.

C. 58:10-23.6 Notification to department; penalty.

6. Any person responsible for discharging petroleum products, debris or hazardous substances in the manner prohibited by section 4, as soon as he has knowledge of a discharge, shall immediately notify the department. Any such person who fails to notify the department immediately shall be liable to a penalty of not more than

\$3,000.00 for each offense, to be collected in a summary proceeding under the Penalty Enforcement Law, N. J. S. 2A :58-1 et seq., or in any case in a court of competent jurisdiction wherein injunctive relief has been requested. The Superior Court, County Court, and county district court shall have jurisdiction to enforce said Penalty Enforcement Law. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense. The department is hereby authorized and empowered to compromise and settle any claim for a penalty arising under this section in such amount in the discretion of the department as may appear appropriate and equitable under all the circumstances.

C. 58:10-23.7 Liability for discharge.

7. Any person who has discharged any petroleum products, debris or hazardous substances into the waters of this State and is therefore responsible for removing same from said waters and shall be liable for moneys expended for the removal of said discharges by (a) himself, (b) the department, and (c) third persons so authorized by the department, but not to an extent greater than \$14,000,000.00, except that where the department can show such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the person responsible, such person shall be liable for the full amount of the costs. Nothing herein shall be deemed to exclude or impair any other liability imposed by law.

C. 58:10-23.8 Injunctive relief; recovery of moneys expended.

8. If any person violates any of the provisions of this act, the department may institute a civil action in the Superior Court for injunctive relief to prohibit and prevent such violation or violations and said court may proceed in a summary manner. The department may also bring an action in the Superior Court against any person in violation of this act to recover any moneys expended by it or any moneys expended by third persons which the department so authorized.

C. 58:10-23.9 Act not to supersede certain ordinances or regulations.

9. No ordinances or regulations of any county or municipality and no provisions of any other State law or regulation, which shall be more stringent than this act, shall be superseded by this act. No existing civil or criminal remedy for any wrongful act shall be excluded or impaired by this act.

C. 58:10-23.10 Discharge resulting from act of war or act of God.

10. No person shall be liable for the removal of any discharge of petroleum products, debris or hazardous substances which occur as a result of (a) an act of war or (b) an act of God, however this shall not relieve such person from the obligation of mitigating damages to the extent practicable.

11. R. S. 23:5-28 is amended to read as follows:

Pollution of fresh or tidal waters; penalty.

23:5-28. No person shall put or place into, turn into, drain into, or place where it can run, flow, wash or be emptied into, or where it can find its way into any of the fresh or tidal waters within the jurisdiction of this State any petroleum products, debris, hazardous, deleterious, destructive or poisonous substances of any kind; provided, however, that the use of chemical by any State, county or municipal government agency in any program of mosquito or other pest control or the use of chemical by any person on agricultural, horticultural or forestry crops, or in connection with livestock, or aquatic weed control or structural pest and rodent control, in a manner approved by the State Department of Environmental Protection or discharges from facilities for the treatment, or the disposal of sewage or other wastes in a manner which conforms to rules and regulations promulgated by the State Department of Environmental Protection, shall not constitute a violation of this section. In case of pollution of said waters by any substances injurious to fish, birds or mammals, it shall not be necessary to show that the substances have actually caused the death of any of these organisms. A person violating this section shall be liable to a penalty of not more than \$6,000.00 for each offense, to be collected in a summary proceeding under the Penalty Enforcement Law (N. J. S. 2A:58-1 et seq.), and in any case before a court of competent jurisdiction wherein injunctive relief has been requested. The Superior Court, County Court, and county district court shall have jurisdiction to enforce said Penalty Enforcement Law. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense. The department is hereby authorized and empowered to compromise and settle any claim for a penalty arising under this section in such amount in the discretion of the department as may appear appropriate and equitable under all of the circumstances. The department may institute a civil action in a court of competent jurisdiction for injunctive relief to prohibit and prevent any person from violating the provisions of this section and said court may proceed in the action in a summary manner.

12. R. S. 23:9-36 is amended to read as follows:

Pollution of certain waters; penalty.

23:9-36. No person shall put or place in the waters mentioned in section 23:9-22 of this Title, any explosive or poisonous substances whatsoever, or any drug or any poison bait for the purpose of catching, taking, killing or injuring the fish, and no person shall put or place into, turn into, drain into, or place where it can run, flow, wash or be emptied into, or where it can find its way into said waters within the jurisdiction of this State any petroleum products, debris, hazardous, deleterious, destructive or poisonous substances of any kind; provided, however, that the use of chemical by any State, county or municipal government agency in any program of mosquito or other pest control or the use of chemical by any person on agricultural, horticultural or forestry crops, or in connection with livestock, or aquatic weed control or structural pest and rodent control, in a manner approved by the State Department of Environmental Protection, or discharges from facilities for the treatment, or the disposal of sewage or other wastes in a manner which conforms to rules and regulations promulgated by the State Department of Environmental Protection, shall not constitute a violation of this section. In the case of the pollution of said waters by any substances injurious to fish, birds or mammals, it shall not be necessary to prove that such substances have actually caused the death of any of these organisms. Any person violating any of the provisions of this section shall be subject to a fine of not more than \$6,000.00 for each offense, to be collected in a summary proceeding under the Penalty Enforcement Law (N. J. S. 2A:58-1 et seq.), and in any case before a court of competent jurisdiction wherein injunctive relief has been requested. The Superior Court, County Court, and county district court shall have jurisdiction to enforce said Penalty Enforcement Law. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense. The department is hereby authorized and empowered to compromise and settle any claim for a penalty arising under this section in such amount in the discretion of the department as may appear appropriate and equitable under all of the circumstances. The department may institute a civil action in a court of competent jurisdiction for injunctive relief to prohibit and prevent any person from violating the provisions of this section and said court may proceed in the action in a summary manner.

13. R. S. 23:9-52 is amended to read as follows :

Pollution of certain waters; penalty.

23:9-52. No person shall put or place, in the waters mentioned in section 23:9-39 of this Title, any explosive or poisonous substances, drug or poison bait for the purpose of catching, taking, killing or injuring the fish, and no person shall put or place into, turn into, drain into, or place where it can run, flow, wash or be emptied into, or where it can find its way into said waters within the jurisdiction of this State any petroleum products, debris, hazardous, deleterious, destructive or poisonous substances of any kind; provided, however, that the use of chemical by any State, county or municipal government agency in any program of mosquito or other pest control or the use of chemical by any person on agricultural, horticultural or forestry crops, or in connection with livestock, or aquatic weed control or structural pest and rodent control, in a manner approved by the State Department of Environmental Protection, or discharges from facilities for the treatment, or the disposal of sewage or other wastes in a manner which conforms to rules and regulations promulgated by the State Department of Environmental Protection, shall not constitute a violation of this section. In the case of the pollution of said waters by any substances injurious to fish, birds or mammals, it shall not be necessary to prove that these substances have actually caused the death of any of these organisms. A person violating this section shall be subject to a fine of not more than \$6,000.00 for each offense, to be collected in a summary proceeding under the Penalty Enforcement Law (N. J. S. 2A:58-1 et seq.), and in any case before a court of competent jurisdiction wherein injunctive relief has been requested. The Superior Court, County Court, and county district court shall have jurisdiction to enforce said Penalty Enforcement Law. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense. The department is hereby authorized and empowered to compromise and settle any claim for a penalty arising under this section in such amount in the discretion of the department as may appear appropriate and equitable under all of the circumstances. The department may institute a civil action in a court of competent jurisdiction for injunctive relief to prohibit and prevent any person from violating the provisions of this section and said court may proceed in the action in a summary manner.

14. This act shall take effect immediately.

Approved June 1, 1971.

CHAPTER 174

AN ACT respecting pollution of the Delaware river between New Jersey and Pennsylvania and amending R. S. 23:9-18.

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

1. R. S. 23:9-18 is amended to read as follows:

Pollution of certain waters; penalty.

23:9-18. No person shall put or place in the Delaware river above or below Trenton falls, any explosive or poisonous substances whatsoever, or any drug or any poison bait for the purpose of catching, taking, killing or injuring the fish, and no person shall put or place into, turn into, drain into, or place where it can run, flow, wash or be emptied into, or where it can find its way into said waters within the jurisdiction of this State any petroleum product or any hazardous, deleterious, destructive or poisonous substances of any kind; provided, however, that the use of chemicals by any State, county or municipal governmental agency in any program of mosquito or other pest control or the use of chemicals by any person on agricultural, horticultural or forestry crops, or in connection with livestock, or aquatic weed control or structural pest and rodent control in a manner approved by the State Department of Environmental Protection or discharges from facilities for the treatment, or the disposal of sewage or other wastes in a manner which conforms to rules and regulations promulgated by the State Department of Environmental Protection shall not constitute a violation of this section. In case of the pollution of said waters by any substances injurious to fish, birds or mammals, it shall not be necessary to prove that such substances have actually caused the death of any of these organisms. Any person violating any of the provisions of this section shall be subject to a fine of up to \$1,000.00 for the first offense and up to \$3,000.00 for any subsequent offense to be collected in a summary proceeding under The Penalty Enforcement Law (N. J. S. 2A:58-1 et seq.) in the Superior Court, County Court, county district court, or a municipal court, all of which shall have jurisdiction to enforce said penalty enforcement law in connection with this act. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense.

2. This act shall take effect upon the enactment into law by the State of Pennsylvania of similar legislation, but if the State of Pennsylvania shall have already enacted such legislation this act shall take effect immediately.

Approved June 1, 1971.

CHAPTER 175

AN ACT concerning the police and firemen's retirement system for the police and firemen of a municipality, county or political subdivision thereof and revising parts of the statutory law.

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

1. Section 1 of P. L. 1944, c. 255 (C. 43:16A-1) is amended to read as follows:

C. 43:16A-1 Definitions.

1. As used in this act:

(1) "Retirement system" shall mean the Police and Firemen's Retirement System of New Jersey as defined in section 2 of this act.

(2) "Policeman or fireman" shall mean any permanent and full-time active uniformed employee, and any active permanent and full-time employee who is a detective, lineman, fire alarm operator or inspector of combustibles of any police or fire department of a municipality or a fire department of a fire district located in a township or a county police or park police department.

(3) "Member" shall mean any policeman or fireman included in the membership of the retirement system as provided in section 3 of this act.

(4) "Board of trustees" or "board" shall mean the board provided for in section 13 of this act.

(5) "Medical board" shall mean the board of physicians provided for in section 13 of this act.

(6) "Employer" shall mean the county, municipality or political subdivision thereof which pays the particular policeman or fireman.

(7) "Service" shall mean service as a policeman or fireman or county policeman paid for by an employer.

(8) "Creditable service" shall mean service rendered for which credit is allowed as provided under section 4 of this act.

(9) "Regular interest" shall mean interest as determined annually by the State Treasurer after consultation with the Directors of the Divisions of Investment and Pensions and the actuary of the system. It shall bear a reasonable relationship to the percentage rate of earnings on investments but shall not exceed 105% of such percentage rate.

(10) "Aggregate contributions" shall mean the sum of all the amounts, deducted from the compensation of a member or contributed by him or on his behalf, standing to the credit of his individual account in the annuity savings fund.

(11) "Annuity" shall mean payments for life derived from the aggregate contributions of a member.

(12) "Pension" shall mean payments for life derived from contributions by the employer.

(13) "Retirement allowance" shall mean the pension plus the annuity.

(14) "Earnable compensation" shall mean the full rate of the salary that would be payable to an employee if he worked the full normal working time for his position. In cases where salary includes maintenance, the retirement system shall fix the value of that part of the salary not paid in money which shall be considered under this act.

(15) "Average final compensation" shall mean the average annual salary upon which contributions are made for the 3 years of creditable service immediately preceding his retirement or death, or it shall mean the average annual salary for which contributions are made during any 3 fiscal years of his or her membership providing the largest possible benefit to the member or his beneficiary.

(16) "Retirement" shall mean the termination of the member's active service with a retirement allowance granted and paid under the provisions of this act.

(17) "Annuity reserve" shall mean the present value of all payments to be made on account of any annuity or benefit in lieu of any annuity computed upon the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(18) "Pension reserve" shall mean the present value of all payments to be made on account of any pension or benefit in lieu of any pension computed upon the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(19) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(20) "Beneficiary" shall mean any person receiving a retirement allowance or other benefit as provided by this act.

(21) "Child" shall mean a deceased member's or retirant's unmarried child either (a) under the age of 18 or (b) of any age who, at the time of the member's or retirant's death, is disabled because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and his impairment has lasted or can be expected to last for a continuous period of not less than 12 months, as affirmed by the medical board.

(22) "Parent" shall mean the parent of a member who was receiving at least $\frac{1}{2}$ of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

(23) "Widower" shall mean the man to whom a member or retirant was married at least 5 years before the date of her death and to whom she continued to be married until the date of her death and who was receiving at least $\frac{1}{2}$ of his support from the member or retirant in the 12-month period immediately preceding the member's or the retirant's death or the accident which was the direct cause of the member's death. The dependency of such a widower will be considered terminated by marriage of the widower subsequent to the death of the member or retirant. In the event of the payment of an accidental death benefit, the 5-year qualification shall be waived.

(24) "Widow" shall mean the woman to whom a member or retirant was married at least 5 years before the date of his death and to whom he continued to be married until the date of his death and who was receiving at least $\frac{1}{2}$ of her support from the member or retirant in the 12-month period immediately preceding the member's or the retirant's death or the accident which was the

direct cause of the member's death. The dependency of such a widow will be considered terminated by the marriage of the widow subsequent to the member's or the retirant's death. In the event of the payment of an accidental death benefit, the 5-year qualification shall be waived.

(25) "Fiscal year" shall mean any year commencing with July 1, and ending with June 30, next following.

(26) "Compensation" shall mean the base salary, for services as a member as defined in this act, which is in accordance with established salary policies of the member's employer for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary duties beyond the regular work day.

2. Section 5 of P. L. 1944, c. 255 (C. 43:16A-5) is amended to read as follows:

C. 43:16A-5 Members fifty-five years old; members sixty-five years old; allowance; death benefits.

5. (1) Any member in service who has attained age 55 years may retire on a service retirement allowance upon filing a written and duly executed application to the retirement system, setting forth at what time, not less than 1 month subsequent to the filing thereof, he desires to be retired. Any member in service who attains age 65 years shall be retired on a service retirement allowance forthwith on the first day of the next calendar month.

(2) Upon retirement for service a member shall receive a service retirement allowance which shall consist of:

(a) An annuity which shall be the actuarial equivalent of his aggregate contributions and

(b) A pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of $\frac{1}{60}$ of his average final compensation multiplied by the number of years of his creditable service, or 2% of his average final compensation multiplied by the number of years of his creditable service up to 25 plus 1% of his final compensation multiplied by the number of years of creditable service over 25, whichever is greater.

(3) Upon the receipt of proper proofs of the death of a member who has retired on a service retirement allowance, there shall be paid to his beneficiary an amount equal to $\frac{1}{2}$ of the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service.

3. Section 6 of P. L. 1944, c. 255 (C. 43:16A-6) is amended to read as follows:

C. 43:16A-6 Members who have had five years of service; allowance; death benefits.

6. (1) Upon the written application by a member in service, by one acting in his behalf or by his employer, any member, under 55 years of age, who has had 5 or more years of creditable service may be retired, not less than 1 month next following the date of filing such application, on an ordinary disability retirement allowance; provided, that the medical board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the performance of his usual duty and of any other available duty in the department which his employer is willing to assign to him and that such incapacity is likely to be permanent and to such an extent that he should be retired.

(2) Upon retirement for ordinary disability, a member shall receive an ordinary disability retirement allowance which shall consist of:

(a) An annuity which shall be the actuarial equivalent of his aggregate contributions and

(b) A pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of $1\frac{1}{2}\%$ of average final compensation multiplied by his number of years of creditable service but in no event shall the total allowance be less than 40% of the member's average final compensation.

(3) Upon the receipt of proper proofs of the death of a member who has retired on an ordinary disability retirement allowance, there shall be paid to such member's beneficiary, an amount equal to $3\frac{1}{2}$ times the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service; provided, however, that if such death shall occur after the member shall have attained 55 years of age the amount payable shall equal $\frac{1}{2}$ of such compensation instead of $3\frac{1}{2}$ times such compensation.

4. Section 7 of P. L. 1944, c. 255 (C. 43:16A-7) is amended to read as follows:

C. 43:16A-7 Retirement for accidental disability; allowance; death benefits.

7. (1) Upon the written application by a member in service, by one acting in his behalf or by his employer any member may be retired, not less than 1 month next following the date of filing such

application, on an accidental disability retirement allowance; provided, that the medical board, after a medical examination of such member, shall certify that the member is permanently and totally disabled as a direct result of a traumatic event occurring during and as a result of the performance of his regular or assigned duties and that such disability was not the result of the member's willful negligence and that such member is mentally or physically incapacitated for the performance of his usual duty and of any other available duty in the department which his employer is willing to assign to him. The application to accomplish such retirement must be filed within 5 years of the original traumatic event, but the board of trustees may consider an application filed after the 5-year period if it can be factually demonstrated to the satisfaction of the board of trustees that the disability is due to the accident and the filing was not accomplished within the 5-year period due to a delayed manifestation of the disability or to other circumstances beyond the control of the member.

(2) Upon retirement for accidental disability, a member shall receive an accidental disability retirement allowance which shall consist of:

(a) An annuity which shall be the actuarial equivalent of his aggregate contributions and

(b) A pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of $\frac{2}{3}$ of the member's actual annual compensation for which contributions were being made at the time of the occurrence of the accident.

(3) Upon receipt of proper proofs of the death of a member who has retired on accidental disability retirement allowance, there shall be paid to such member's beneficiary, an amount equal to $3\frac{1}{2}$ times the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service; provided, however, that if such death shall occur after the member shall have attained 55 years of age the amount payable shall equal $\frac{1}{2}$ of such compensation instead of $3\frac{1}{2}$ times such compensation.

(4) Permanent and total disability resulting from a cardiovascular, pulmonary or musculo-skeletal condition which was not a direct result of a traumatic event occurring in the performance of duty shall be deemed an ordinary disability.

5. Section 8 of P. L. 1944, c. 255 (C. 43:16A-8) is amended to read as follows:

C. 43:16A-8 Medical examination; report of medical board; amount of pension; restoration to active service.

8. (1) Upon the receipt by the retirement system of a written application for a disability retirement allowance, the system shall refer the application to the medical board, which shall designate a physician or physicians to examine the applicant and the report of the medical board shall be considered by the board of trustees in acting upon such application.

(2) Any beneficiary under the age of 55 years who has been retired on a disability retirement allowance under this act, on his request shall, or upon the request of the retirement system may, be given a medical examination and he shall submit to an examination by a physician or physicians designated by the medical board once a year for at least a period of 5 years following his retirement in order to determine whether or not the disability which existed at the time he was retired has vanished or has materially diminished. If the report of the medical board shall show that such beneficiary is able to perform either his former duty or any other available duty in the department which his employer is willing to assign to him, the beneficiary shall report for duty; such a beneficiary shall not suffer any loss of benefits while he awaits his restoration to active service. If the beneficiary fails to submit to any such medical examination or fails to return to duty within 10 days after being ordered so to do, or within such further time as may be allowed by the board of trustees for valid reason, as the case may be, the pension shall be discontinued during such default.

(3) If such beneficiary is engaged in an occupation paying more than the difference between (a) his retirement allowance and (b) the salary now attributable to his former position in the police or fire department plus 25% in excess of such salary, the amount of his pension shall be reduced to an amount which, together with his annuity and the amount of his earnings, shall equal the amount of the salary now attributable to his former position in the police and fire department plus 25% in excess of such salary. Should his earnings be later changed, the amount of his pension shall be further modified; provided, that the new pension shall not exceed the amount of the pension originally granted.

(4) If a disability beneficiary is restored to active service, his retirement allowance and the right to any death benefit as a result of his former membership, shall be cancelled until he again retires.

Such person shall be reenrolled in the retirement system and shall contribute thereto at a rate based on his age at the time of his prior enrollment. Such person shall be treated as an active member for determining disability or death benefits while in service.

Upon subsequent retirement of such member, he shall receive a retirement allowance based on all his service as a member computed in accordance with applicable provisions of this act, but the total retirement allowance upon subsequent retirement shall not be a greater proportion of his average final compensation than the proportion to which he would have been entitled had he remained in service during the period of his prior retirement. Any death benefit to which such member shall be eligible shall be based on his latest retirement.

6. Section 9 of P. L. 1944, c. 255 (C. 43:16A-9) is amended to read as follows:

C. 43:16A-9 Death in active service; allowance to beneficiary; death benefits; death within 30 days of retirement.

9. (1) Upon the receipt of proper proof of the death of a member in active service on account of which no accidental death benefit is payable under section 10 there shall be paid to such member's beneficiary:

(a) The member's aggregate contributions at the time of death and

(b) An amount equal to $3\frac{1}{2}$ times the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service.

(2) a. For the purposes of this section and section 10 (5), a member of the Police and Firemen's Retirement System shall be deemed to be an active member for a period of no more than 93 days while on official leave of absence without pay when such leave is due to any reason other than illness, and for a period of not more than 1 year in the event of an official leave (a) due to the member's maternity, or (b) to fulfill a residency requirement for an advanced degree, or (c) as a full-time student at an institution of higher education, and (1) while he is disabled due to sickness or injury arising out of or in the course of his employment as a member to whom this act applies, is not engaged in any gainful occupation, and is receiving or entitled to receive periodic benefits (including any commutation of, or substitute for, such benefits) for loss of time on account of such disability under or by reason of workmen's compensation law, occupational disease law or similar legislation

and has not retired or terminated his membership; or (2) for a period of no more than 2 years while on official leave of absence without pay if satisfactory evidence is presented to the retirement system that such leave of absence without pay is due to the member's personal illness other than an illness to which (1) above applies.

b. If a member dies within 30 days after the date of retirement or the date of board approval, whichever is later, a death benefit shall be payable only if he is deemed to be an active member in accordance with this section; provided, however, a member applying for disability benefits shall be deemed an active member if he was covered by the death benefit provisions of the act at the termination of employment, filed the application for disability retirement with the retirement system within 30 days following such termination of employment and dies within 30 days after the date of retirement or the date of board approval, whichever is later.

7. Section 13 of P. L. 1944, c. 255 (C. 43:16A-13) is amended to read as follows:

C. 43:16A-13 Board of trustees; membership, appointment or election, oath, vacancies, compensation, duties; medical board.

13. (1) Subject to the provisions of chapter 70 of the laws of 1955, the general responsibility for the proper operation of the retirement system is hereby vested in a board of trustees.

(2) The board shall consist of nine trustees as follows:

(a) Four members to be appointed by the Governor, who shall serve at the pleasure of the Governor and until their successors are appointed and who shall be private citizens of the State of New Jersey who are neither an officer thereof nor an active or retired member of any police or fire department thereof.

(b) The State Treasurer or the Deputy State Treasurer, when designated for that purpose by the State Treasurer.

(c) Two policemen and two firemen who shall be members of the system and who shall be elected by the members of the system for a term of 4 years according to such rules and regulations as the board of trustees shall adopt to govern such election.

(3) Each trustee shall, after his appointment or election, take an oath of office that, so far as it devolves upon him he will diligently and honestly fulfill his duties as a board member, and that he will not knowingly violate or willingly permit to be violated any of the provisions of the law applicable to the retirement system. Such oath shall be subscribed by the member making it, and certified by

the officer before whom it is taken, and immediately filed in the office of the Secretary of State.

(4) If a vacancy occurs in the office of a trustee, the vacancy shall be filled in the same manner as the office was previously filled.

(5) The trustees shall serve without compensation, but they shall be reimbursed for all necessary expenses that they may incur through service on the board.

(6) Each trustee shall be entitled to one vote in the board. Five trustees must be present at any meeting of said board for the transaction of its business.

(7) Subject to the limitations of this act, the board of trustees shall annually establish rules and regulations for the administration of the funds created by this act and for the transaction of its business. Such rules and regulations shall be consistent with those adopted by the other pension funds within the Division of Pensions in order to permit the most economical and uniform administration of all such retirement systems.

(8) The board of trustees shall elect from its membership a chairman. The Chief of the Bureau of Police and Fire Funds of the Division of Pensions of the State Department of the Treasury shall be the secretary of the board. The administration of the program shall be performed by the personnel of the Division of Pensions.

(9) The board of trustees shall keep a record of all of its proceedings which shall be open to public inspection. The retirement system shall publish annually a report showing the fiscal transactions of the retirement system for the preceding year, the amount of the accumulated cash and securities of the system, and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the assets and liabilities of the retirement system.

(10) The Attorney General of the State of New Jersey shall be the legal advisor of the board of trustees.

(11) The State Treasurer shall designate a medical board after consultation with the Director of the Division of Pensions, subject to veto by the board of trustees for valid reason. It shall be composed of three physicians who are not eligible to participate in the retirement system. The medical board shall pass upon all medical examinations required under the provisions of this act, shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retire-

ment, and shall report in writing to the retirement system its conclusions and recommendations upon all matters referred to it.

(12) The actuary of the system shall be designated by the State Treasurer after consultation with the Director of the Division of Pensions, subject to veto by the board for valid reason. He shall be the technical advisor of the board of trustees on matters regarding the operation of the funds created by the provisions of this act, and shall perform such other duties as are required in connection therewith.

(13) Once in each 5-year period the actuary shall make an actuarial investigation into the mortality, service and compensation experience of the members and beneficiaries of the retirement system and, with the advice of the actuary, the board of trustees shall adopt for the retirement system such mortality, service and other tables as shall be deemed necessary and shall certify the rates of contribution payable under the provisions of this act.

(14) (Deleted by amendment.)

(15) On the basis of such tables recommended by the actuary as the board of trustees shall adopt and regular interest, the actuary shall make an annual valuation of the assets and liabilities of the funds of the system created by this act.

(16) The various funds created by this act shall be subject to the supervision of the Department of Insurance of the State of New Jersey.

(17) Each policeman or fireman member of the board of trustees shall be entitled to time off from his municipal or county duty, with pay, during the periods of his attendance upon regular or special meetings of the board of trustees, and such time off shall include reasonable travel time required in connection therewith.

8. Section 15 of P. L. 1944, c. 255 (C. 43:16A-15) is amended to read as follows:

C. 43:16A-15 Contributions.

15. (1) The contributions required for the support of the retirement system shall be made by members and their employers.

(2) Upon the basis of such tables recommended by the actuary as the board shall adopt and regular interest, the actuary of the retirement system shall determine for each age at entrance into the system the percentage of compensation of the member entering at such age, exclusive of the additional contribution prescribed by subsection (15) (3) (c), which, if deducted from each payment of his prospective earnable compensation throughout active service, is

computed to be sufficient to provide for all benefits on account of his membership.

(3) (a) The percentage contribution rate of each member, exclusive of the additional contribution prescribed by subsection (15) (3) (c), shall be fixed according to his age at entrance into membership and shall be $\frac{1}{2}$ of the total percentage contribution rate calculated for such age to be required to provide all benefits except the pensions upon accidental disability and the benefits payable upon death.

(b) Notwithstanding the provisions of subsection (15) (3) (a), the percentage contribution rates for members of the retirement system exclusive of the additional contribution prescribed by subsection (15) (3) (c), shall be fixed at the contribution rates in effect as of July 1, 1967.

(c) Effective July 1, 1968, all proportions of compensation are increased by an additional 1% of compensation which is subject to deductions from the compensation of members or contributions made on their behalf by their employers in lieu of such deductions.

(4) Each employer shall make a contribution equal to that made by each member in its employ and in addition shall make a contribution equal to the percentage of the compensation of each such member certified by the retirement system to be required to provide the cost of accidental disability pensions and any death benefits on his account. Notwithstanding this provision, the retirement system shall certify an average and uniform rate for payments by all employers, which shall be set on the basis of the annual actuarial valuations to be sufficient to provide with previous contributions of employers all benefits for which employers are responsible. This shall be known as the "normal contribution."

(5) In addition each employer shall make such contributions, if any, as is certified by the retirement system to be required to provide for accrued liability arising out of all prior service granted to members chargeable to such employer.

(6) The percentage rates of contribution payable by future members and all employers shall be subject to adjustment from time to time by the board of trustees with the advice of the actuary on the basis of annual actuarial valuations and experience investigations as provided under section 13, so that the value of future contributions of members and employers, when taken with present assets, shall be equal to the value of prospective benefit payments.

(7) The retirement system shall certify to the chief fiscal officer of each employer the percentage of salary payable by each member

and by the employer in behalf of his employee members. The employer shall cause to be deducted from the salary of each member the percentage of earnable compensation of each member. The retirement system shall certify to each employer the proportion of each member's compensation to be deducted, and to facilitate the making of deductions it may modify the deduction required of any member by such an amount as shall not exceed $\frac{1}{10}$ of 1% of the compensation upon the basis of which such deduction is to be made.

(8) The deductions provided for herein shall be made notwithstanding that the minimum salary provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for herein, and payment of salary or compensation less said deduction shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the service rendered by such person during the period covered by such payment, except as to the benefits provided under this act. The chief fiscal officer of each employer shall certify to the retirement system in such manner as the retirement system may prescribe, the amounts deducted; and when deducted shall be paid into said annuity savings fund, and shall be credited to the individual account of the member from whose salary said deduction was made.

(9) Upon the basis of such tables recommended by the actuary as the board adopts and regular interest, the actuary shall compute the amount of the unfunded liability as of June 30, 1971 which has accrued on the basis of service rendered prior to July 1, 1971 by all members, including the amount of the liability arising out of prior service as certified by the retirement system, and including the accrued liabilities established by chapter 241 of the laws of 1964 and chapter 250 of the laws of 1967. Using the total amount of this unfunded accrued liability, he shall compute the amount of the flat annual payment, which, if paid in each succeeding fiscal year commencing with July 1, 1972, for a period of 40 years, will provide for this liability. This shall be known as the "accrued liability contribution."

The normal and accrued liability contributions as certified by the retirement system shall be included in the budget of the employer and levied and collected in the same manner as any other taxes are levied and collected for the payment of the salaries of members.

(10) The treasurer or corresponding officer of the employer shall pay on or before March 31 in each year to the State Treasurer the amount so certified as payable by the employer, and shall pay

monthly to the State Treasurer the amount of the deductions from the salary of the members in the employ of the employer, and the State Treasurer shall credit such amount to the appropriate fund or funds, of the retirement system.

If payment of the full amount of the employer's obligation is not made within 30 days of the due date established by this act, interest at the rate of 6% per annum shall commence to run against the unpaid balance thereof on the first day after such thirtieth day.

If payment in full, representing the monthly transmittal and report of salary deductions, is not made within 15 days of the due date established by the retirement system, interest at the rate of 6% per annum shall commence to run against the total transmittal of salary deductions for the period on the first day after such fifteenth day.

(11) The expenses of administration of the retirement system shall be paid by the State of New Jersey. Each employer shall reimburse the State for a proportionate share of the amount paid by the State for administrative expense. This proportion shall be computed as the number of members under the jurisdiction of such employer bears to the total number of members in the system. The pro rata share of the cost of administrative expense shall be included with the certification by the retirement system of the employer's contribution to the system.

(12) Notwithstanding anything to the contrary, the retirement system shall not be liable for the payment of any pension or other benefits on account of the employees or beneficiaries of any employer participating in the retirement system, for which reserves have not been previously created from funds, contributed by such employer or its employees for such benefits.

9. Section 16 of P. L. 1944, c. 255 (C. 43:16A-16) is amended to read as follows:

C. 43:16A-16 Funds to be established.

16. (1) All the assets of the retirement system shall be credited according to the purpose for which they are held to one of four funds, namely, the annuity savings fund, the pension accumulation fund, the retirement reserve fund, and the special reserve fund.

(2) The annuity savings fund shall be a fund in which shall be credited accumulated contributions by members or on their behalf to provide for their allowances. The aggregate contributions of a member withdrawn by him or paid to his estate or his designated beneficiary in event of his death as provided in this act shall be paid from the annuity savings fund. Upon the retirement of a member

where the aggregate contributions of the member are to be provided in the form of an annuity, the aggregate contributions of the member shall be transferred from the annuity savings fund to the retirement reserve fund.

(3) The pension accumulation fund shall be the fund in which shall be credited contributions made by employers. Upon the death of a member either before or after retirement any lump sum benefit payable shall be charged to the pension accumulation fund. Upon the retirement or death of a member the reserve of any pension payable to or on his account shall be transferred to the retirement reserve fund. The retirement system at the end of each fiscal year shall allow interest on the balance of the retirement reserve fund as of the beginning of said fiscal year at the regular interest rate applicable thereto to cover the interest creditable for the year. The amount so allowed shall be due and payable and shall be credited annually. All other income received on the securities, funds and investments of the retirement system shall be credited to the pension accumulation fund, except as provided by subsection (5) of this section. The retirement system, upon the advice of the actuary, shall transfer to and from the pension accumulation fund any surplus or deficit in the retirement reserve fund.

(4) The retirement reserve fund shall be the fund from which all retirement allowances and benefits in lieu thereof shall be paid. If the retirement allowance of a member who has been retired is subsequently canceled, the appropriate reserve shall be transferred to the pension accumulation fund and the annuity savings fund.

(5) The special reserve fund shall be the fund to which any earnings in excess of the amounts annually allowed under the provisions of subsection (3) of this section shall be transferred. No additional amounts shall be credited to the special reserve fund at any time when the total accumulations in such fund equal 1% of the book value of the investments of the retirement system. In this event, any such excess shall be credited to the pension accumulation fund. All losses from the sale of securities shall be charged against the special reserve fund. The special reserve fund shall be considered for valuation purposes by the actuary as an asset of the retirement system.

10. Section 18 of P. L. 1964, c. 241 (C. 43:16A-16.1) is amended to read as follows:

C. 43:16A-16.1 Loans to members; repayment.

18. Any member who has at least 3 years of service to his credit for which he has contributed as a member may borrow from the retirement system, an amount equal to not more than 50% of the amount of his aggregate contributions, but not less than \$50.00; provided that the amount so borrowed, together with interest thereon, can be repaid by additional deductions from salary, not in excess of 25% of the member's salary, made at the time the salary is paid to the member but not after the attainment of age 55. The amount so borrowed, together with interest at the rate of 4% per annum on any unpaid balance thereof, shall be repaid to the retirement system in equal installments by deductions from the salary of the member at the time the salary is paid or in such lump sum amount to repay the balance of the loan but such installments shall be at least equal to the member's rate of contribution to the retirement system and at least sufficient to repay the amount borrowed with interest thereon by the time the member attains age 55. Not more than two loans may be granted to any member in any calendar year. Notwithstanding any other law affecting the salary or compensation of any person or persons to whom this act applies or shall apply, the additional deductions required to repay the loan shall be made. Any unpaid balance of a loan at the time any benefit may become payable shall be deducted from the benefit otherwise payable.

Loans shall be made to a member from his aggregate contributions. The interest earned on such loans shall be treated in the same manner as interest earned from investments of the retirement system.

11. Section 18 of P. L. 1944, c. 255 (C. 43:16A-18) is amended to read as follows:

C. 43:16A-18 False statements, or records; penalty; correction of errors.

18. Any person who shall knowingly make any false statement or shall falsify or permit to be falsified any record or records of this retirement system in any attempt to defraud such system as a result of such act shall be guilty of a misdemeanor and shall be punishable therefor under the laws of the State of New Jersey. Should any change or error in the records result in any member or person receiving from the retirement system more or less than he would have been entitled to receive had the records been correct, the retirement system shall correct such error, and as far as practicable, shall adjust the payments in such manner that the actuarial

equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid. The actuarial equivalent of any shortage in required contributions at the time of retirement on account of misstatement of age, leave of absence, or clerical error, shall be deducted from the retirement allowance otherwise payable.

12. Section 16 of P. L. 1964, c. 241 (C. 43:16A-11.1) is amended to read as follows:

C. 43:16A-11.1 Resignation before reaching service retirement age; retirement allowance in lieu of payment.

16. Should a member resign after having established 25 years of creditable service and having attained the age of 51 years but not the age of 55 years, he may elect "special retirement," provided, that such election is communicated by such member to the retirement system by filing a written application, duly attested, stating at what time subsequent to the execution and filing thereof he desires to be retired. He shall receive, in lieu of the payment provided in section 11, a retirement allowance which shall consist of:

(1) An annuity which shall be the actuarial equivalent of his aggregate contributions, and

(2) A pension in the amount which, when added to the member's annuity will provide a total retirement allowance of 2% of his average final compensation multiplied by the number of years of his creditable service up to 25 plus 1% of his average final compensation multiplied by the number of years of creditable service over 25.

The board of trustees shall retire him at the time specified or at such other time within 1 month after the date so specified as the board finds advisable.

Upon the receipt of proper proofs of the death of such a retired member, there shall be paid to his beneficiary an amount equal to $\frac{1}{2}$ of the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service.

13. Section 17 of P. L. 1964, c. 241 (C. 43:16A-11.2) is amended to read as follows:

C. 43:16A-11.2 Separation from service before reaching service retirement age; election of payments or deferred retirement allowance.

17. Should a member, after having established 15 years of creditable service, be separated voluntarily or involuntarily

from the service, before reaching age 55, and not by removal for cause or charges of misconduct or delinquency, such person may elect to receive the payments provided for in section 11 of chapter 255 of the laws of 1944 or section 16 of chapter 241 of the laws of 1964, or a deferred retirement allowance, beginning on the first day of the month following his attainment of age 55 and the filing of an application therefor, which shall consist of:

(1) An annuity which shall be the actuarial equivalent of his aggregate contributions at the time of his severance from the service and

(2) A pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of 2% of his average final compensation multiplied by the number of years of his creditable service up to 25 plus 1% of his average final compensation multiplied by the number of years of creditable service over 25, provided that such inactive member may elect to receive payments provided under section 11 of chapter 255 of the laws of 1944 or section 16 of chapter 241 of the laws of 1964 if he had qualified under that section at the time of leaving service, except that in order to avail himself of the option, he must exercise such option at least 30 days before the effective date of his retirement. If such inactive member shall die before attaining age 55, his aggregate contributions shall be paid in accordance with section 11 of chapter 255 of the laws of 1944 and, in addition if such inactive member shall die after attaining age 55 but before filing an application for retirement benefits pursuant to this section or section 16 of chapter 241 of the laws of 1964 and has not withdrawn his aggregate contributions, or in the event of death after retirement, an amount equal to $\frac{1}{2}$ of the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service shall be paid to such member's beneficiary.

Any member who, having elected to receive a deferred retirement allowance, again becomes an employee covered by the retirement system while under the age of 55, shall thereupon be reenrolled. If he had discontinued his service for more than 2 consecutive years, subsequent contributions shall be at his former rate increased for the years of his inactive membership. He shall be credited with all service as a member standing to his credit at the time of his election to receive a deferred retirement allowance.

14. Section 19 of P. L. 1964, c. 241 (C. 43:16A-17.1) is amended to read as follows:

C. 43:16A-17.1 Deductions for health insurance or State Health Benefits premiums.

19. If possible, whenever any beneficiary shall, in writing, request the Division of Pensions to make deductions from his retirement allowance or pension for the purpose of paying premiums for the pensioners' group health insurance plan or the State Health Benefits program, the division may make such deductions and transmit the sums so deducted to the companies carrying the policies. Any such written authorization may be withdrawn by any beneficiary upon filing notice of such withdrawal with the division.

15. Section 25 of P. L. 1967, c. 250 (C. 43:16A-11.3) is amended to read as follows:

C. 43:16A-11.3 Members of Police and Firemen's Retirement System; coverage for death benefits; evidence of insurability.

25. a. Any person entitled to become a member of the Police and Firemen's Retirement System shall not be allowed any of the death benefits established by sections 5, 6, 7(3), 9 and 10(5) of chapter 255 of the laws of 1944, and sections 16 and 17 of chapter 241 of the laws of 1964, if (1) he makes application for membership beyond the year after he first became eligible for membership or (2) he is eligible for membership on the basis of special legislation, unless the member furnishes satisfactory evidence of insurability and on the effective date of his membership is actively at work and performing all his regular duties at his customary place of employment. The effective date of coverage for such death benefits shall be the first day of the month which immediately follows the date when such evidence is determined to be satisfactory.

b. Such evidence of insurability will not be required of any person becoming a member of the Police and Firemen's Retirement System upon transfer from another State-administered retirement system, if such system provided death benefits of a similar nature and the transferring member was covered by such benefits at the time of the transfer. If such transferring member was not covered by such benefits at the time of the transfer, he may be allowed the death benefits of the Police and Firemen's Retirement System subject to the provisions of subsection a. of this section; provided, however, that any such member must furnish satisfactory evidence of insurability under the provisions of subsection a. of this section if he had been unable or failed to give such evidence as a member of the system from which he transferred.

c. Any person who must furnish satisfactory evidence of insurability under the provisions of this section and who ceases to be a member of the retirement system without such evidence having been given, shall continue to be subject to the same requirement if he subsequently becomes a member.

16. Section 26 of P. L. 1967, c. 250 (C. 43:16A-12.1) is amended to read as follows:

C. 43:16A-12.1 Widows' or widowers' pension; increased benefits; minimum annual amount.

26. a. Upon the death after retirement of any member of the retirement system there shall be paid to his widow or widower a pension of 25% of average final compensation for the use of herself or himself, to continue during her or his widowhood, plus 15% of such compensation payable to one surviving child or an additional 25% of such compensation to two or more children; if there is no surviving widow or widower or in case the widow or widower dies or remarries, 20% of average final compensation will be payable to one surviving child, 35% of such compensation to two surviving children in equal shares and if there be three or more children, 50% of such compensation would be payable to such children in equal shares.

b. The increased pension benefits payable under this act shall apply only to cases where such policeman or fireman retires on or after December 18, 1967 and shall not affect pensions paid or to be paid as a result of retirements occurring prior to said date.

c. As of December 18, 1967, all widows' pensions previously granted pursuant to the provisions of section 10 of chapter 255 of the laws of 1944, as amended, and all such pensions previously granted, or to be granted where retirement for accidental disability occurred prior to said date, pursuant to the provisions of section 7(3) of chapter 255 of the laws of 1944, as amended, will be subject to a minimum, annual, aggregate payment of \$1,600.00.

17. Section 29 of P. L. 1967, c. 250 (C. 43:16A-15.1) is amended to read as follows:

C. 43:16A-15.1 Compulsory enrollment in retirement system; purchase of membership credit; contributions.

29. a. In the case of any person who (1) was required to become a member of the retirement system as a condition of employment, and whose application for enrollment in the retirement system or whose application for transfer from one employer to another within the system was filed beyond the effective date for his compulsory

enrollment in the system or his transfer within the system or (2) is eligible for membership on the basis of special legislation, such person shall be required to purchase membership credit for his compulsory coverage by paying into the annuity savings fund the amount required by applying, in accordance with section 15 of chapter 255 of the laws of 1944, his full rate of contribution on his current base salary subject to the retirement system for each year of previous service during which he was required to have been a member.

b. If more than 1 year has elapsed from the time that contributions would have been required from such person, $\frac{1}{2}$ of the employee's cost, established by the computation provided by subsection a. of this section, will be required of his employer and shall be included in the next budget subsequent to the certification of this special liability by the retirement system. The amount certified by the system shall be payable by the employer to the pension accumulation fund and shall be due and owing to the system even if the employee is no longer in the employ of the employer by the date such moneys are to be paid to the system.

c. The employee's obligation may be satisfied by regular installments, equal to at least $\frac{1}{2}$ the normal contribution to the retirement system, over a maximum period of 10 years.

d. In the case of any person coming under the provisions of this section, full pension credit for the period of employment for which arrears are being paid by the employee shall be given upon the payment of at least $\frac{1}{2}$ of the total employee's arrearage obligation and the completion of 1 year of membership and the making of such arrears payments, except that in the case of retirement pursuant to section 5 of chapter 255 of the laws of 1944 and sections 16 and 17 of chapter 241 of the laws of 1964, the total membership credit for such service shall be in direct proportion as the amount paid bears to the total amount of the arrearage obligation of the employee.

18. Section 30 of P. L. 1967, c. 250 (C. 43:16A-15.2) is amended to read as follows:

C. 43:16A-15.2 Receipt of workmen's compensation benefits; payment of salary deductions by employer; reduction of pension.

30. a. If any member of the retirement system receives periodic benefits payable under the Workmen's Compensation Law during the course of his active service, in lieu of his normal compensation, his regular salary deductions shall be paid to the retirement system by his employer. Such payments shall be computed, in accordance with section 15 of chapter 255 of the laws of 1944, at the rate of

contribution on the base salary subject to the retirement system, just prior to the receipt of the workmen's compensation benefits. The moneys paid by the employer shall be credited to the member's account in the annuity savings fund and shall be treated as employee contributions for all purposes. The employer will terminate the payment of these moneys when the periodic benefits payable under the Workmen's Compensation Law are terminated or when the member retires.

The member for whom the employer is making such payments, will be considered as if he were in the active service.

b. An application for retirement benefits may be approved by the board of trustees while the member, applying for such benefits, is in receipt of periodic benefits under the Workmen's Compensation Law. In this event the actuarial equivalent of such periodic benefits remaining to be paid shall be computed and will serve to reduce the pension portion of the retirement allowance payable to the retirant, subject to the provisions of section 19 of this amendatory and supplementary act.

C. 43:16A-12.4 Minimum service credit for death benefit coverage; minimum monthly retirement allowance.

19. Any other provision of this act notwithstanding, (a) no beneficiary of a pensioner who enrolled as a member on or after July 1, 1971 and who retired for any reason other than disability shall be entitled to receive benefits pursuant to the death benefit coverages provided by section 5 of chapter 255 of the laws of 1944 and sections 16 and 17 of chapter 241 of the laws of 1964, if the pensioner had less than 10 years of service credit for retirement purposes at the time of retirement; and (b) no member or beneficiary shall be entitled to receive a monthly retirement allowance or other benefit payable pursuant to this chapter unless the amount of the allowance or benefit would be at least \$25.00 per month.

C. 43:16A-15.3 Eligibility for membership in system after retirement; reenrollment.

20. If a former member of the retirement system who has been granted a retirement allowance for any cause other than disability, becomes employed again in a position which makes him eligible to be a member of the retirement system, his retirement allowance and the right to any death benefit as a result of his former membership, shall be canceled until he again retires.

Such person shall be reenrolled in the retirement system and shall contribute thereto at a rate based on his age at the time of reenrollment. Such person shall be treated as an active member for

determining disability or death benefits while in service. Upon subsequent retirement of such member, his former retirement allowance shall be reinstated based on his former membership. In addition, he shall receive an additional retirement allowance based on his subsequent service as a member computed in accordance with applicable provisions of this chapter; provided, however, that his total retirement allowance upon such subsequent retirement shall not be a greater proportion of his average final compensation than the proportion to which he would have been entitled had he remained in service during the period of his prior retirement. Any death benefit to which such member shall be eligible shall be based on his latest retirement, but shall not be less than the death benefit that was applicable to his former retirement.

C. 43:16A-15.4 Payment of accrued liability by employer.

21. The accrued liability contribution of any employer adopting the retirement system after July 1, 1971 for the purpose of providing prior service credit, shall be payable by the employer to the pension accumulation fund over a period of not less than 25 years following the initial valuation of such liability by the actuary of the retirement system.

22. This act shall take effect immediately.

Approved June 1, 1971.

CHAPTER 176

AN ACT relating to the regulation and control of pesticides by the State Department of Environmental Protection, and establishing a Pesticide Control Council.

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

C. 13:1F-1 Short title.

1. This act shall be known, and may be cited, as the "Pesticide Control Act of 1971."

C. 13:1F-2 Declaration of policy.

2. New Jersey, as the most urban State in the Nation, must be especially alert to any possibilities of disturbing natural ecological balance. It is essential to coordinate the activities of State agencies involved in the use of pesticides and, in addition, to formulate State

policies regulating the use, transportation, storage, sale and disposal of pesticides and their containers. This requires consideration of many factors, including long term effects on the environment, as well as the safety and effectiveness of pesticides.

The Legislature finds and declares that pesticides have been of value in preventing the outbreak of diseases and insuring bountiful production of agricultural crops, however, indiscriminate use of pesticides in this State would constitute a serious threat to the environment; and that this threat can be eliminated only by the adoption and enforcement of regulations governing the sale, use and application of all pesticides.

C. 13:1F-3 Definitions.

3. For purposes of this act, unless the context clearly requires a different meaning:

a. "Person" means and shall include corporations, companies, associations, societies, firms, partnerships and joint stock companies as well as individuals, and shall also include all political subdivisions of this State or any agencies or instrumentalities thereof.

b. "Pesticide" means and includes any substance or mixture of substances labeled, designed, intended for or capable of use in preventing, destroying, repelling, sterilizing or mitigating any insects, rodents, nematodes, predatory animals, fungi, weeds and other forms of plant or animal life or viruses, except viruses on or in living man or other animals. The term "pesticide" shall also include any substance or mixture of substances labeled, designed or intended for use as a defoliant, desiccant or plant regulator.

c. "Commissioner" means the Commissioner of Environmental Protection in the State Department of Environmental Protection.

d. "Department" means the State Department of Environmental Protection.

e. "Council" means the Pesticide Control Council.

C. 13:1F-4 Rules and regulations.

4. The commissioner shall have the power to formulate and promulgate, amend and repeal orders, rules and regulations prohibiting, conditioning and controlling the sale, purchase, transportation, labeling, use and application, or any thereof, of pesticides which cause or may tend to cause adverse effects on man or the environment by any person within this State. State rules and regulations with respect to the labeling of any pesticide, the

labeling of which is prescribed by Federal law and regulations, shall to the extent practicable conform to the Federal requirements.

C. 13:1F-5 Public hearings; notice of determination.

5. No rule or regulation, and no amendment or repeal thereof, shall be adopted except after 30 days prior notice thereof by public advertisement of the date, time and place of such hearing at which opportunity to be heard by the department with respect thereto shall be given to the public, except as to emergent matters presenting imminent peril to the public health, safety or welfare and provided, further, that no rule or regulation and no such amendment or repeal shall be or become effective, except as otherwise provided, until after notice and public hearing before the department as required under the Administrative Procedure Act (C. 52:14B-1 et seq.). Any interested party heard at such public hearing shall be given written notice of the determination of the department.

C. 13:1F-6 Pesticide Control Council; membership, appointment, officers, terms, vacancies, compensation.

6. a. There is hereby created in the department a Pesticide Control Council which shall consist of nine members, three of whom shall be the Secretary of Agriculture, the Commissioner of Health, the Dean of the College of Agriculture and Environmental Science of Rutgers, The State University, or their designees, who shall serve as ex officio, and six citizens of the State representing the general public to be appointed by the Governor, to serve at his pleasure, of whom one shall be a farmer, one a toxicologist and one an ecologist. The Governor shall designate a chairman and a vice chairman of the council from the public members who shall serve at the will of the Governor.

b. Of the six members first to be appointed, two shall be appointed for terms of 2 years, two for terms of 3 years and two for terms of 4 years. Thereafter all appointments shall be made for terms of 4 years. All appointed members shall serve after the expiration of their terms until their respective successors are appointed and shall qualify, and any vacancy occurring in the appointed membership of the council shall be filled in the same manner as the original appointment for the unexpired term only, notwithstanding that the previous incumbent may have held over and continued in office as aforesaid.

c. Members of the council shall serve without compensation, but shall be entitled to reimbursement for expenses in attendance at

meetings of the council and in performance of their duties as members thereof.

C. 13:1F-7 Council's powers and duties.

7. The Pesticide Control Council shall be the advisory body in the Department of Environmental Protection in matters relating to the control, regulation and use of pesticides and is empowered to:

a. Request from the commissioner such information concerning pesticides as it may deem necessary;

b. Study and consider any matter relating to the improvement of pesticide control programs and advise the commissioner thereon;

c. From time to time submit to the commissioner such recommendations and reports which it deems necessary for the proper conduct and improvement of pesticide control programs;

d. Study the use, application and disposal of pesticides and advise the commissioner thereon;

e. Study pesticide control programs and make reports and recommendations thereon to the commissioner as it may deem necessary;

f. Study any regulations promulgated by the department or any other governmental entity in regard to the control of pesticides and make such recommendations thereon to the commissioner as it may deem appropriate;

g. Study and investigate the state of the art and the technical capabilities and limitations of regulations concerning use and control of pesticides and their relation to the environment and ecology and report its findings and recommendations thereon to the commissioner;

h. Study and investigate the need for programs for long range technical support of pesticide control programs and report its findings and recommendations thereon to the commissioner; and

i. Hold periodic public hearings concerning the use and application of pesticides and upon the state of the art and technical capabilities and limitations in pesticide control and report its recommendations thereon to the commissioner.

C. 13:1F-8 Commissioner to consult with council.

8. The commissioner shall consult with the council to afford them an opportunity to furnish advice concerning any proposed regulation at least 30 days prior to the public advertisement thereof.

C. 13:1F-9 Department's powers.

9. The department shall have power, in addition to those granted by any other law, to

a. Conduct and supervise research programs for the purpose of determining the effects and hazards of the use and application of pesticides on man and his environment; and in furtherance of this research effort the commissioner shall consider the School of Agriculture of Rutgers, the State University, as a primary source of assistance;

b. Conduct and supervise State-wide programs of pesticide control education including the preparation and distribution of information relating to pesticide control;

c. Enter and inspect any building or place, except private residences, for the purpose of investigating an actual or suspected violation of law relating to pesticides and ascertaining compliance or noncompliance with any rules, regulations or orders of the department.

d. Receive or initiate complaints of violations of applicable laws, rules, regulations and orders relating to pesticides and institute legal proceedings for the prevention of such violations and for the recovery of penalties, in accordance with law;

e. With the approval of the Governor, cooperate with, and receive money from, the Federal Government, the State Government, or any county or municipal government or from private sources for the study and control of pesticides.

C. 13:1F-10 Injunctive relief; penalties.

10. If any person violates any of the provisions of this act or any rule, regulation or order promulgated pursuant to the provisions of this act, the department may institute a civil action in a court of competent jurisdiction for injunctive relief to prohibit and prevent such violation or violations and the said court may proceed in the action in a summary manner.

Any person who violates the provisions of this act or any rule, regulation or order promulgated pursuant to this act shall be liable to a penalty of not more than \$3,000.00 for each offense, to be collected in a civil action by a summary proceeding under the Penalty Enforcement Law (N. J. S. 2A:58-1 et seq.) or in any case before a court of competent jurisdiction wherein injunctive relief has been requested. The Superior Court, County Court and county district court shall have jurisdiction to enforce said Penalty Enforcement Law. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense.

The department is hereby authorized and empowered to compromise and settle any claim for a penalty under this section in such amount in the discretion of the department as may appear appropriate and equitable under all of the circumstances.

C. 13:1F-11 Notice of detention or embargoing of pesticide.

11. Whenever an agent of the department finds, or has probable cause to believe that any pesticide is being sold, labeled, used or applied in violation of any provision of this act or any rule, regulation or order promulgated pursuant to this act, he may affix to such pesticide a tag or other appropriate marking giving notice that such pesticide has been detained or embargoed, and warning all persons not to remove, dispose, or use such pesticide until permission is given by the department or the court. It shall be a violation of this act for any person to remove, dispose, or use any detained or embargoed pesticide without such permission.

C. 13:1F-12 Provisions of act not to limit certain powers and duties of Department.

12. The powers, duties and functions vested in the State Department of Environmental Protection under the provisions of this act shall not be construed to limit in any manner the functions, powers and duties vested in the State Department of Environmental Protection under any other provisions of law.

C. 13:1F-13 Ordinances, rules or regulations not to be superseded.

13. No ordinances of any governing body of a municipality or county or board of health more stringent than this act or any rules or regulations promulgated pursuant thereto shall be superseded by this act. Nothing in this act or in any rules or regulations promulgated pursuant thereto shall preclude the right of any governing body of a municipality or county or board of health, subject to the approval of the department, to adopt ordinances or regulations more stringent than this act or any rules or regulations promulgated pursuant thereto.

C. 13:1F-14 Construction of act.

14. This act shall be liberally construed to effectuate the purpose and intent thereof.

15. This act shall take effect immediately.

Approved June 1, 1971.

CHAPTER 177

AN ACT to control and prevent the threat to the quality of the waters of the State caused by the dumping of waste materials in waters adjacent to the State, and to empower the Commissioner of the Department of Environmental Protection to adopt rules and regulations concerning the loading and the handling of materials within the State which are to be disposed of at sea.

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

C. 58:10-23.25 Short title.

1. This act shall be known and may be cited as the "Clean Ocean Act."

C. 58:10-23.26 Declaration of policy.

2. The Legislature finds and determines that the ocean off the coast of the State is being used increasingly for the disposal of wastes, including sewage sludge, industrial wastes and dredged spoils; that ocean-dumped wastes contain materials which may have adverse effects on the public health, safety, and welfare; that many of these materials are toxic to human and marine life, and are damaging to the fish population and the food chain supporting all life including man, as well as to other valuable natural and economic resources; and that therefore the State must regulate and control this practice and encourage the development and utilization of advanced methods of waste disposal which do not utilize the ocean as the repository for harmful materials.

C. 58:10-23.27 Definitions.

3. For the purposes of this act unless the context clearly indicates another meaning:

a. "Commissioner" means the Commissioner of Environmental Protection;

b. "Department" means the Department of Environmental Protection;

c. "Vessel" means every description of watercraft or any other artificial contrivance used, or capable of being used, as a means of transportation on or into water;

d. "Person" means and shall include corporations, companies, associations, societies, firms, partnerships and joint stock companies as well as individuals, and shall also include all political subdivisions of this State, and any other state, or any agencies or instrumentalities thereof.

C. 58:10-23.28 Rules and regulations.

4. The commissioner shall have the power to formulate and promulgate, amend and repeal rules and regulations preventing, conditioning and controlling the loading of a vessel within the State with materials of any composition whatsoever and the handling of such materials which if disposed of at sea cause, or may tend to cause, adverse effects on the waters of the State.

C. 58:10-23.29 Authority to require permit; fees.

5. a. The commissioner may by rule or regulation require that the person responsible for the loading of a vessel or the handling of materials of any composition whatsoever which are to be disposed of at sea first obtain a permit.

The department may, in accordance with a fee schedule adopted as a rule or regulation, establish and charge fees for any of the services it performs in connection with this act, including the issuance of permits, which fees shall be annual or periodical as the department shall deem. The fees charged by the department pursuant to this section shall not be less than \$100.00 nor more than \$1,500.00 based on criteria contained in the fee schedule.

b. The permit required by this section may be conditioned upon compliance with all rules and regulations adopted pursuant to this act.

C. 58:10-23.30 Injunctive relief; penalties.

6. If any person violates any of the provisions of this act, or any rule or regulation promulgated pursuant to the provisions of this act, the department may institute an action in a court of competent jurisdiction for injunctive relief to prohibit and prevent such violation or violations and the said court may proceed in the action in a summary manner. Any person who violates any of the provisions of this act, or any rule or regulation promulgated pursuant to this act shall be liable to a penalty of not more than \$3,000.00 for each offense to be collected in a summary proceeding under the Penalty Enforcement Law (N. J. S. 2A :58-1 et seq.), and in any case before a court of competent jurisdiction wherein injunctive relief has been requested. The Superior Court, County Court and county district court shall have jurisdiction to enforce

said Penalty Enforcement Law. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense. The department is hereby authorized and empowered to compromise and settle any claim for a penalty under this section in such amount in the discretion of the department as may appear appropriate and equitable under all of the circumstances.

C. 58:10-23.31 Provisions of act not to limit certain powers and duties of department.

7. The powers, duties and functions vested in the department under the provisions of this act shall not be construed to limit in any manner the powers, duties and functions vested therein or in any person under any other provisions of law or any civil or criminal remedies now or hereafter available.

C. 58:10-23.32 Partial invalidity.

8. If any provision of this act or the application thereof to any person or circumstances is held invalid, the remainder of the act and the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

C. 58:10-23.33 Construction of act.

9. This act shall be liberally construed to effectuate the purpose and intent thereof.

10. This act shall take effect immediately.

Approved June 1, 1971.

CHAPTER 178

AN ACT appropriating certain funds from the Water Conservation Fund for loans and grants for the planning and construction of sewerage treatment facilities by local governmental units and authorizing offers of grants from such fund subject to future appropriation upon ascertainment of construction costs.

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

1. There is hereby appropriated to the Division of Water Resources in the State Department of Environmental Protection from the Water Conservation Fund created pursuant to the Water Con-

servation Bond Act (P. L. 1969, c. 127) the sum of \$14,000,000.00 for the purpose of making loans to local governmental units pursuant to the "State Public Sanitary Sewerage Facilities Assistance Act of 1965," P. L. 1965, c. 121 (C. 26:2E-1 et seq.).

2. There is hereby appropriated from the proceeds of the Water Conservation Fund to the Division of Water Resources in the State Department of Environmental Protection a sum not to exceed \$17,147,358.00 for the purpose of providing grants, not exceeding 25% of the cost of that portion of approved sewerage projects which qualify for Federal assistance, pursuant to the provisions of the "State Public Sanitary Sewerage Facilities Assistance Act of 1965," P. L. 1965, c. 121 (C. 26:2E-1 et seq.), for approved sewerage projects to the following municipalities and authorities:

Municipality or Authority	State I.D. Project Number
Bayshore Regional Sewerage Authority	90
Bridgeton City	81
Bridgewater Township Sewerage Authority	100
Eatontown Sewerage Authority	107
Ewing-Lawrence Sewerage Authority	21
Monmouth County Bayshore Outfall Authority ..	104
Monroe Municipal Utilities Authority	89
Paramus Borough	95
Parsippany-Troy Hills Township	112
Passaic Valley Sewerage Commissioners	97
Red Bank Borough	102
Sayreville Borough-South Amboy City	105
North Plainfield-Watchung Interceptor	...
Englishtown Borough	...
Scotch Plains Township	99
Landis Sewerage Authority	50
Northfield City	106
Denville Township	108
Lumberton Municipal Utilities Authority	103
Somerville Borough	120

Of the said sum of \$17,147,358.00 there may be paid over to said municipalities and authorities during the calendar year 1971 the sum of \$5,861,860.00.

3. The sum of \$9,862,965.00 is hereby authorized to be disbursed from the prior appropriation of \$44,589,306.00 under P. L. 1970, c. 26 for the purpose of providing additional grant payments, which

together with all grant payments heretofore made by the State shall not exceed 25% of the cost of that portion of approved sewerage projects which qualify for Federal assistance, pursuant to the provisions of the "State Public Sanitary Sewerage Facilities Assistance Act of 1965," P. L. 1965, c. 121 (C. 26:2E-1 et seq.), for approved sewerage projects to the following municipalities and authorities:

Municipality or Authority	State I.D. Project Number
Dover Sewerage Authority (Phase II)	47
Middletown Township Sewerage Authority	27
Passaic Valley Sewerage Commissioners	85
Rahway Valley Sewerage Authority	22
Raritan Township Municipal Utilities Authority	14
Somerset-Raritan Valley Sewerage Authority ...	55
Sea Bright Borough	74
Bergen County Sewer Authority	67
Bergen County Sewer Authority	64
Gloucester County Sewerage Authority	52
Bergen County Sewer Authority	78
Bergen County Sewer Authority	79
Mt. Laurel Township Municipal Utilities Author- ity	88
Roxbury Township	82

All of the said sum of \$9,862,965.00 may be paid over to said municipalities and authorities during the calendar year 1971.

4. The sum of \$402,227 is hereby authorized to be disbursed from the prior appropriation of \$446,919.00 under P. L. 1970, c. 271 for the purpose of additional grant payments, which together with all grant payments heretofore made by the State shall not exceed 25% of the cost of that portion of approved sewerage projects which qualify for Federal assistance, pursuant to the provisions of the "State Public Sanitary Sewerage Facilities Assistance Act of 1965," P. L. 1965, c. 121 (C. 26:2E-1 et seq.), for approved sewerage projects to the following municipalities and authorities:

Municipality or Authority	State I.D. Project Number
New Providence Borough	84
Montvale Borough	83

All of the said sum of \$402,227.00 may be paid over to said municipalities and authorities during the calendar year 1971.

5. There is hereby appropriated from the proceeds of the Water Conservation Fund to the Division of Water Resources in the State Department of Environmental Protection a sum not to exceed \$405.00 for the purpose of providing grants, which together with all grants heretofore made by the State shall not exceed 25% of the cost of that portion of approved sewerage projects which qualify for Federal assistance, pursuant to the provisions of the "State Public Sanitary Sewerage Facilities Assistance Act of 1965," P. L. 1965, c. 121 (C. 26:2E-1 et seq.), for approved sewerage projects to the following municipalities and authorities:

Municipality or Authority	State I.D. Project Number
Allentown Borough	31

All of the said sum of \$405.00 may be paid over to said municipalities and authorities during the calendar year 1971.

6. This act shall take effect immediately.

Approved June 1, 1971.

CHAPTER 179

AN ACT concerning the pension fund of police and firemen, amending sections 43:16-5 and 43:16-7 of the Revised Statutes, supplementing P. L. 1944, c. 253 and amending and repealing certain sections thereof, amending section 5 of P. L. 1952, c. 358 and repealing chapter 165 of the laws of 1947, and sections 2 and 3 of chapter 142 of the laws of 1965.

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

1. R. S. 43:16-5 is amended to read as follows:

Pension fund; consolidation; contributions.

43:16-5. For the purpose of paying the pensions provided by this chapter, all pension funds heretofore created and in existence pursuant to the provisions of an act entitled "An act providing for the retirement of policemen and firemen of the police and fire depart-

ments in municipalities of this State, including all police officers having supervision or regulation of traffic upon county roads, and providing a pension for such retired policemen and firemen and members of the police and fire departments, and the widows, children and sole dependent parents of deceased members of said departments," approved April 15, 1920 (P. L. 1920, c. 160), and chapter 16 of Title 43 of the Revised Statutes, shall, from and after July 1, 1953, be consolidated, and, as so consolidated, shall be transferred to and placed under the Consolidated Police and Firemen's Pension Fund created by the provisions of this chapter. All rights and privileges created and extended to members of a municipal police department or of a paid or part-paid fire department or of a county police department, including members of the paid or part-paid fire department of any fire district located in any township which has adopted said act or said chapter of the Revised Statutes are hereby expressly preserved, continued and transferred from said pension funds to said consolidated fund. Nothing herein contained shall be deemed to affect or impair the right of any beneficiary of any of the funds so created, but all rights of such beneficiaries which have accrued or may accrue in or against any such pension fund shall be deemed to have accrued or to accrue against the funds so consolidated. Said consolidated fund shall be maintained as follows:

(a) There shall be deducted from every payment of salary to each member, as defined in the supplement to this chapter enacted by laws of 1944, c. 253, s. 12, as amended and supplemented, and paid into said consolidated fund 6% of the amount thereof.

(b) All employers, as defined in the supplement to this chapter enacted by laws of 1944, c. 253, s. 12, as amended and supplemented, shall contribute to the said consolidated fund in the following manner and amounts:

(1) An amount equal to 6% of the total of salaries annually paid to the members of the consolidated fund under said employer's jurisdiction, which shall be known as the employer's normal contribution, and which shall be paid into said fund on July 1 of each year, commencing July 1, 1953.

(2) An additional amount annually for a period of 30 years, commencing July 1, 1953, equal to $66\frac{2}{3}\%$ of the share of the particular employer of the annual amortization payment determined by the actuary to be required to bring the fund to a state of actuarial solvency at the end of the said 30-year period. In determining an employer's share of said annual amortization payment, the actuary shall determine separately, and give

due credit to the value of the assets transferred by such employer to said consolidated fund. The amount of each of such annual payments shall be certified by the fund to the treasurer of each employer prior to the first day of the year in which such payment is required to be made, and said amount shall be appropriated in said employer's budget for that year. Said annual payment, which shall be known as the employer's accrued liability contribution, shall be made in two equal portions; the first on the first day of each year, and the second on July 1 of each year.

(3) An additional amount to be paid each year following the termination of the 30-year period provided for in subsection (b) (2) of this section, sufficient to meet the requirements of the fund.

(4) A fee, payable on July 1 of each year and consisting of such proportion of the administrative expense of the consolidated fund as the number of active and retired members under the jurisdiction of such employer, or their beneficiaries, then bears to the total number of active and retired members and beneficiaries in the consolidated fund.

(c) The State of New Jersey shall contribute annually, throughout a period of 20 years, commencing July 1, 1972, such amount as may be necessary to make up the balance of the accrued liability of the consolidated fund. The amount of such annual contributions by the State shall be certified to the State Treasurer by the actuary at the time required for other State departmental budgetary certifications. All funds necessary to meet the State's share of said annual payments shall be included in the annual State budget and appropriated by the Legislature.

(d) If payment of the full amount of the employer's obligation is not made within 30 days of the due date established by the act, interest at the rate of 6% per annum shall commence to run against unpaid balance thereof on the first day after such thirtieth day.

If payment in full, representing the monthly transmittal and report of salary deductions, is not made within 15 days of the due date established by the pension fund, interest at the rate of 6% per annum shall commence to run against the total transmittal of salary deductions for the period on the first day after such fifteenth day.

(e) The accrued liability contribution of any employer shall be payable by the employer for the entire period of the financing of such liability and shall continue to be due and owing to the fund even when there are no longer any beneficiaries entitled to benefits.

2. Section 5 of P. L. 1952, c. 358 (C. 43:16-6.1) is amended to read as follows:

C. 43:16-6.1 Consolidated Police and Firemen's Pension Fund Commission.

5. There is hereby established in the Division of Pensions in the Department of the Treasury a commission which shall be known as the Consolidated Police and Firemen's Pension Fund Commission, and shall consist of nine members; two of whom shall be elected by the policemen, and two of whom shall be elected by the firemen, who are members of the consolidated fund, four of which members shall be appointed by the Governor, with the advice and consent of the Senate who shall serve at the pleasure of the Governor and until their successors are appointed and who shall be private citizens of the State of New Jersey who are neither an officer thereof nor active or retired public employees, and the remaining member whereof shall be the State Treasurer, or, when so designated by him, the Deputy State Treasurer. The term of office of elected members of the commission shall be 4 years. Any vacancy occurring in said commission shall be filled as the office was originally filled. In each municipality and county in which a pension fund consolidated by the provisions of this act existed, elections shall be held on the second Wednesday of June in each year in which a member of said commission is to be elected by the policemen or firemen hereunder. At every such election each policeman and fireman who was a member of any pension fund consolidated and a member of the pension fund created by this act shall be eligible to vote for any of such candidates who shall have been nominated for the office of elective member of said commission. The elections shall be held according to such rules and regulations as the commission shall adopt, subject to the provisions of this act, to govern the holding of such elections and the method of nominating candidates for the office to be voted for thereat.

Each member of the commission shall after his appointment or election, take and subscribe an oath that, so far as it devolves upon him, he will diligently and honestly fulfill his duties as a member, and that he will not knowingly violate nor willingly permit to be violated any of the provisions of law applicable to such fund. Each of such oaths, when certified by the officer before whom it is taken, shall be filed in the office of the Secretary of State. The members of the commission shall serve without compensation, but shall be reimbursed for all necessary expenses incurred in discharging their duties as members of said commission.

The State Treasurer shall designate a medical board after consultation with the Director of the Division of Pensions, subject to veto by the commission for valid reason. It shall be composed of three physicians who are not eligible to participate in the pension fund. The medical board shall pass upon all medical examinations required under the provisions of the act, shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement, and shall report in writing to the pension fund its conclusions and recommendations upon all matters referred to it.

3. R. S. 43:16-7 is amended to read as follows:

Trustees of funds; rules and regulations; payment of moneys and assets over to State Treasurer; exemption of pensions; investments.

43:16-7. The commission shall be and are hereby constituted trustees of all funds established by this act. The commission may make all necessary rules and regulations with regard thereto. Such rules and regulations shall be consistent with those adopted by the other pension funds within the Division of Pensions in order to permit the most economical and uniform administration of all such retirement systems. All moneys and assets of and belonging to the funds consolidated and required by this chapter to be consolidated and transferred to the pension fund, together with all increments and contributions thereto shall be received and paid over to the State Treasurer, whose official bond shall cover the same. No moneys shall be paid out of the consolidated fund except upon the warrant of the fund, signed by the chairman and secretary. All pensions granted under this chapter shall be exempt from execution, garnishment, attachment, sequestration or other legal process. All moneys not needed for the immediate payment of pensions under this chapter shall be invested for the commission by the Director of the Division of Investment established pursuant to the provisions of chapter 270 of the laws of 1950, subject to the limitations contained in section 11 of said chapter. A member of the commission, to be designated by a majority vote thereof, shall serve on the State Investment Council as a representative of said commission.

4. Section 12 of P. L. 1944, c. 253 (C. 43:16-17) is amended to read as follows:

C. 43:16-17 Definitions.

12. The following words and phrases as used in this act, unless a different meaning is plainly required by the context, shall have the following meaning:

(1) "Member" shall mean a person who on July 1, 1944, was a member of a municipal police department or paid or part-paid fire department or county police department or a paid or part-paid fire department of a fire district located in a township and who has contributed to the pension fund established under chapter 16 of Title 43 of the Revised Statutes and shall hereafter contribute to said fund.

(2) "Active member" shall mean any "member" who is a policeman, fireman, detective, lineman, driver of police van, fire alarm operator or inspector of combustibles and who is subject to call for active service or duty as such.

(3) "Employee member" shall mean any "member" who is not subject to call for active service or duty as a policeman, fireman, detective, lineman, driver of police van, fire alarm operator or inspector of combustibles.

(4) "Commission" shall mean the board having the general responsibility for the proper operation of the pension fund created by this act, subject to the provisions of chapter 70 of the laws of 1955.

(5) "Physician or surgeon" shall mean the medical board composed of physicians who shall be called upon to determine the disability of members as provided by this act.

(6) "Employer" shall mean the county, municipality or agency thereof, by which a member is employed.

(7) "Service" shall mean service rendered while a member is employed by a municipal police department, paid or part-paid fire department, county police department or paid or part-paid fire department of a fire district located in a township prior to the effective date of this act for such service to such departments thereafter.

(8) "Pension" shall mean the amount payable to a member or his beneficiary under the provisions of this act.

(9) "Average salary" shall mean the average salary paid during the last 3 years of a member's service.

(10) "Beneficiary" shall mean any person or persons, other than a member, receiving or entitled to receive a pension or benefit as provided by this act.

(11) "Parent" shall mean the parent of a member who was receiving at least $\frac{1}{2}$ of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

(12) "County police" shall mean all police officers having supervision or regulation of traffic upon county roads.

(13) "Widower" shall mean the man to whom a member was married before the date of her retirement or at least 5 years before the date of her death and to whom she continued to be married until the date of her death and who was receiving at least $\frac{1}{2}$ of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widower will be considered terminated by marriage of the widower subsequent to the death of the member.

(14) "Widow" shall mean the woman to whom a member was married before the date of his retirement or at least 5 years before the date of his death and to whom he continued to be married until the date of his death and who was receiving at least $\frac{1}{2}$ of her support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widow will be considered terminated by the marriage of the widow subsequent to the member's death.

(15) "Child" shall mean a deceased member's unmarried child either (a) under the age of 18 or (b) of any age who, at the time of the member's death, is disabled because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and his impairment has lasted or can be expected to last for a continuous period of not less than 12 months, as affirmed by the examining physicians of the fund.

(16) "Regular interest" shall mean interest as determined annually by the State Treasurer after consultation with the Directors of the Divisions of Investment and Pensions and the actuary of the fund, as such will be considered by the actuary in determining the liabilities of the fund. It shall bear a reasonable relationship to the percentage rate of earnings on investments but shall not exceed 105% of such percentage rate.

C. 43:16-1.2 Effective date and payment of pension.

5. A pension granted under the provisions of the act, to which this act is amendatory and supplementary, shall be effective only on the first day of a month, shall be paid in equal monthly installments, and shall not be decreased, increased, revoked or repealed, except as otherwise provided by the statutory law. No pension shall be due to a member or beneficiary unless it constitutes a payment for an entire month.

Repealers.

6. a. Sections 11 and 13 of chapter 253 of the laws of 1944 (C. 43:16-15 and C. 43:16-16) are repealed.

b. Chapter 165 of the laws of 1947 (C. 43:16-17.1) is repealed.

c. Sections 2 and 3 of chapter 142 of the laws of 1965 (C. 43:16-17.3 and C. 43:16-17.4) are repealed.

7. This act shall take effect immediately.

Approved June 1, 1971.

CHAPTER 180

AN ACT to amend and supplement "An act respecting the issuance of special deer hunting licenses and supplementing chapter 3, Title 23, of the Revised Statutes," approved May 19, 1959 (P. L. 1959, c. 37).

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

1. Section 1 of P. L. 1959, chapter 37 (C. 23:3-56.1) is amended to read as follows:

C. 23:3-56.1 Limited harvest of deer of either sex; special licenses; issuance; fee.

1. When the Fish and Game Council has established a season for deer of either sex in an area so limited in size that the number of hunters participating in the harvest must be limited and has fixed a certain number of licenses to be issued for such harvest, the division is authorized to charge a fee of \$5.00 for each license so issued, which fee shall be in addition to any other fees authorized by law. No such fee shall be required of the occupant of a farm in this State, who actually resides thereon, or the immediate members of his family who also reside thereon, provided such person or persons are otherwise authorized to participate in such limited harvest. The exemption of this paragraph shall not apply to a person residing on the farm or in a tenant house thereon who is not a member of the occupant's family, nor to a servant of the occupant.

C. 23:3-56.2 Hunting without license; penalties.

2. Any person, including members of the armed services, who shall hunt for, pursue, shoot at, take, kill or wound, or attempt to take, kill or wound a deer as permitted by this section or the State

Fish and Game Code, without having a license as herein prescribed on his person and displayed in a conspicuous place on his outer clothing, or who alters or changes in any manner, or loans or transfers to another a license issued under this act, or violates any other provision of this act, or any regulation established under the State Fish and Game Code in connection herewith, shall be liable to a penalty of not less than \$100.00 nor more than \$300.00 for the first offense, and not less than \$300.00 nor more than \$500.00 for the second and subsequent offense.

3. This act shall take effect immediately.

Approved June 1, 1971.

CHAPTER 181

AN ACT to amend and supplement the "State Police Retirement System Act," approved June 9, 1965 (P. L. 1965, c. 89).

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

1. Section 1 of P. L. 1965, c. 89 (C. 53:5A-1) is amended to read as follows:

C. 53:5A-1 Repealer.

1. Chapter 5 of Title 53 of the Revised Statutes of New Jersey and all amendments and supplements thereto, designated as the "State Police Retirement and Benevolent Fund," is repealed as of July 1, 1965.

2. Section 2 of P. L. 1965, c. 89 (C. 53:5A-2) is amended to read as follows:

C. 53:5A-2 Provisos as to repeal.

2. Repeal of chapter 5 of Title 53 of the Revised Statutes of New Jersey and all amendments and supplements thereto is subject to the following provisos:

a. Any person retired under any of the provisions of said chapter and receiving or entitled to receive benefits thereunder, prior to its repeal, shall continue to receive the same benefits or shall continue to be entitled to receive the same benefits, to the same extent and in the same manner, as if such chapter had not been repealed.

b. Any beneficiary receiving an allowance or eligible to receive an allowance under such chapter shall continue to receive or be eligible to receive such allowance as provided under such chapter.

c. Any person electing to have deductions for medical and hospital insurance subtracted from his pension shall continue to have such deductions subtracted as if such chapter had not been repealed.

d. Any person retired for disability under such chapter and receiving benefits or entitled to receive benefits thereunder and any person receiving death benefits as a result of the death of a member under such chapter, prior to its repeal, shall continue to receive the same, or shall continue to be entitled to receive the same to such extent and in such manner as if such chapter had not been repealed.

e. Deleted by amendment.

f. Deleted by amendment.

g. Interest on the contributions made by persons pursuant to the provisions of such chapter shall cease to accrue as of June 30, 1965.

h. Deleted by amendment.

i. Deleted by amendment.

j. Deleted by amendment.

k. Deleted by amendment.

3. Section 3 of P. L. 1965, c. 89 (C. 53:5A-3) is amended to read as follows:

C. 53:5A-3 Definitions.

3. As used in this act:

a. "Aggregate contributions" means the sum of all the amounts, deducted from the salary of a member or contributed by him or on his behalf, standing to the credit of his individual account in the Annuity Savings Fund. Interest credited on contributions to the former "State Police Retirement and Benevolent Fund" shall be included in a member's aggregate contributions.

b. "Annuity" means payments for life derived from the aggregate contributions of a member.

c. "Annuity reserve" means the present value of all payments to be made on account of any annuity or benefit in lieu of an annuity, computed upon the basis of such mortality tables recommended by the actuary as the board of trustees adopts and regular interest.

d. "Beneficiary" means any person entitled to receive any benefit pursuant to the provisions of this act by reason of the death of a member or retirant.

e. "Board of trustees" or "board" means the board provided for in section 30 of this act.

f. "Child" means a deceased member's or retirant's unmarried child either (a) under the age of 18 or (b) of any age who, at the time of the member's or retirant's death, is disabled because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and his impairment has lasted or can be expected to last for a continuous period of not less than 12 months, as affirmed by the medical board.

g. "Creditable service" means service rendered for which credit is allowed on the basis of contributions made by the member or the State.

h. "Parent" means the parent of a member who was receiving at least $\frac{1}{2}$ of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

i. "Final compensation" means the average compensation received by the member in the last 12 months of creditable service preceding his retirement or death. Such term includes the value of the member's maintenance allowance for this same period.

j. "Final salary" means the average salary received by the member in the last 12 months of creditable service preceding his retirement or death. Such term shall not include the value of the member's maintenance allowance.

k. "Fiscal year" means any year commencing with July 1 and ending with June 30 next following.

l. "Medical board" means the board of physicians provided for in section 30 of this act.

m. "Member" means any full-time, commissioned officer, non-commissioned officer or trooper of the Division of State Police of the Department of Law and Public Safety of the State of New Jersey enrolled in the retirement system established by this act.

n. "Pension" means payment for life derived from contributions by the State.

o. "Pension reserve" means the present value of all payments to be made on account of any pension or benefit in lieu of any pension computed on the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees and regular interest.

p. "Regular interest" means interest as determined annually by the State Treasurer after consultation with the Directors of the Divisions of Investment and Pensions and the actuary of the system. It shall bear a reasonable relationship to the percentage rate of earnings on investments but shall not exceed 105% of such percentage rate.

q. "Retirant" means any former member receiving a retirement allowance as provided by this act.

r. "Retirement allowance" means the pension plus the annuity.

s. "State Police Retirement System of New Jersey," herein also referred to as the "retirement system," is the corporate name of the arrangement for the payment of retirement allowances and of the benefits under the provisions of this act including the several funds placed under said system. By that name, all of its business shall be transacted, its funds invested, warrants for moneys drawn, and payments made and all of its cash and securities and other property held. All assets held in the name of the former "State Police Retirement and Benevolent Fund" shall be transferred to the retirement system established by this act.

t. "Widow" means the woman to whom a member or a retirant was married before he attained 50 years of age and to whom he continued to be married until the date of his death and who was receiving at least $\frac{1}{2}$ of her support from the member or retirant in the 12-month period immediately preceding the member's or the retirant's death or the accident which was the direct cause of the member's death. The dependency of such a widow will be considered terminated by the marriage of the widow subsequent to the member's or the retirant's death. In the event of the payment of an accidental death benefit, the 5-year qualification shall be waived.

u. "Compensation" for purposes of computing pension contributions means the base salary, for services as a member as defined in this act, which is in accordance with established salary policies of the State for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary duties beyond the regular work day or shift.

4. Section 6 of P. L. 1965, c. 89 (C. 53:5A-6) is amended to read as follows:

C. 53:5A-6 Purchase of previous service credit; creditable service.

6. a. Service as a full time commissioned officer, noncommissioned officer or trooper rendered as a member, and service credit which was transferred from the former "State Police Retirement and Benevolent Fund," shall, if the required contributions are made by the State and the member, be considered as creditable service. A member on suspension shall be considered in service for the period of the suspension, but the period of suspension shall not be considered as creditable service unless the member receives salary therefor.

If an employee's membership has been terminated and he is re-enrolled as a member of the retirement system, he may purchase credit for all of his previous membership service by paying into the annuity savings fund the amount required by applying the factor, supplied by the actuary, as being applicable to his age at the time of the purchase, to his salary at that time. Such purchase may be made in regular installments equal to at least $\frac{1}{2}$ the normal contribution to the retirement system, over a maximum period of 10 years. In order to give such person the same credit for such service as he had at the time of termination, his pension credit shall be restored as it was at the time of his termination upon the completion of 1 year of membership after his election to make the purchase and the payment of at least $\frac{1}{2}$ the total amount due, except that in the case of retirement pursuant to sections 8, 27 and 28 of chapter 89 of the laws of 1965, the credit granted for the service being purchased shall be in direct proportion as the amount paid bears to the total amount of the arrearage obligation.

b. Any member of the retirement system, who, prior to becoming a member, had established service credits in another retirement system supported in whole or in part by the State, or who had rendered service to the State prior to becoming a member, for which he desires to establish credit in this retirement system, shall be permitted to purchase such credit. If such credit is established, it shall be included in the computation of a retirement allowance on the basis of 1% of final compensation for each year of such service credit.

c. Not more than 1 year shall be credited for all service in a calendar year.

d. In computing service, time during which a member was absent on an official leave without pay shall be credited if such leave was for a period of (1) less than 3 months or (2) up to a maximum of 2 years if the leave was due to the member's personal illness and the

period of leave is allowed for retirement purposes within 1 year following his return to service after the termination of such leave.

e. The method of computation and the terms of the purchase of service permitted by subsections b. and d. of this section shall be identical to those stipulated for the purchase of previous membership service by members of the system as provided by subsection a. of this section.

5. Section 7 of P. L. 1965, c. 89 (C. 53:5A-7) is amended to read as follows:

C. 53:5A-7 Cessation of membership.

7. Membership in the retirement system shall cease upon retirement, withdrawal or death or if service is discontinued for more than 2 consecutive years.

6. Section 8 of P. L. 1965, c. 89 (C. 53:5A-8) is amended to read as follows:

C. 53:5A-8 Retirement for service and age; service retirement allowance; payments upon death.

8. a. Any member of the retirement system who was a member of the former "State Police Retirement and Benevolent Fund" on June 30, 1965, may retire on a service retirement allowance upon the attainment of age 50 years and the completion of at least 20 years of creditable service as a State policeman. Upon the filing of a written and duly executed application with the retirement system, setting forth at what time, not less than 1 month, subsequent to the filing thereof he desires to be retired, any such member retiring for service shall receive a service retirement allowance which shall consist of:

(1) An annuity which shall be the actuarial equivalent of his aggregate contributions and

(2) A pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of 50% of his final compensation plus 1% of his final compensation multiplied by his number of years of creditable service which exceed 25 years of such service.

Any member of the retirement system who was a member of the former "State Police Retirement and Benevolent Fund" on June 30, 1965, who has completed at least 25 years of creditable service and who has attained the age of 55 years shall be retired forthwith on the first day of the next calendar month.

b. Any member of the retirement system who was not a member of the former "State Police Retirement and Benevolent Fund" on

June 30, 1965 who has attained the age of 55 years shall be retired forthwith on the first day of the next calendar month provided, however, such member, at his option, may continue in the employment of the Division of State Police upon the request of the superintendent, and with the concurrence of the Attorney General, for an additional year beyond the date upon which he would otherwise be required to retire hereunder, and such member may thereafter in each succeeding year continue in the employment of the Division of State Police upon the request of the superintendent, with the concurrence of the Attorney General, until he has attained the age of 65 years, whereupon he shall be retired forthwith on the first day of the next calendar month. Any such member retiring for service hereunder shall receive a service retirement allowance which shall consist of:

(1) An annuity which shall be the actuarial equivalent of his aggregate contributions and

(2) A pension in the amount which when added to the member's annuity will provide a total retirement allowance of 2% of his final compensation multiplied by his number of years of creditable service up to 25 plus 1% of his final compensation multiplied by his number of years of creditable service over 25.

c. Upon the receipt of proper proofs of the death of a member who has retired on a service retirement allowance, there shall be paid to the member's beneficiary, an amount equal to $\frac{1}{2}$ of the final compensation received by the member.

7. Section 9 of P. L. 1965, c. 89 (C. 53:5A-9) is amended to read as follows:

C. 53:5A-9 Retirement on ordinary disability retirement allowance; payments upon death.

9. a. Upon the written application by a member in service, by one acting in his behalf or by the State, any member, under 55 years of age, who has had 4 or more years of creditable service as a State policeman may be retired, not less than 1 month next following the date of filing such application with the retirement system, on an ordinary disability retirement allowance; provided, that the medical board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the performance of his usual duty and of any other available duty in the Division of State Police which the Superintendent of State Police is willing to assign to him and that such incapacity is likely to be permanent and of such an extent that he should be retired.

b. Upon retirement for ordinary disability, a member shall receive an ordinary disability retirement allowance which shall consist of:

(1) An annuity which shall be the actuarial equivalent of his aggregate contributions and

(2) A pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of $1\frac{1}{2}\%$ of final compensation multiplied by his number of years of creditable service but in no event shall the total allowance be less than 40% of final compensation.

c. Upon the receipt of proper proofs of the death of a member who has retired on an ordinary disability retirement allowance, there shall be paid to the member's beneficiary, an amount equal to $3\frac{1}{2}$ times the final compensation received by the member in the last year of creditable service; provided, however, that if such death shall occur after the member shall have attained 55 years of age the amount payable shall equal $\frac{1}{2}$ of such compensation instead of $3\frac{1}{2}$ times such compensation.

8. Section 10 of P. L. 1965, c. 89 (C. 53:5A-10) is amended to read as follows:

C. 53:5A-10 Retirement on accidental disability retirement allowance; payments upon death.

10. a. Upon the written application by a member in service, by one acting in his behalf or by the State, any member may be retired, not less than 1 month next following the date of filing such application, on an accidental disability retirement allowance, provided, that the medical board, after a medical examination of such member, shall certify that the member is permanently and totally disabled as a direct result of a traumatic event occurring during and as a result of the performance of his regular or assigned duties and that such disability was not the result of the member's willful negligence and that such member is mentally or physically incapacitated for the performance of his usual duties in the Division of State Police which the Superintendent of State Police is willing to assign to him. The application to accomplish such retirement must be filed within 5 years of the original traumatic event, but the board of trustees may consider an application filed after the 5-year period if it can be factually demonstrated to the satisfaction of the board of trustees that the disability is due to the accident and the filing was not accomplished within the 5-year

period due to a delayed manifestation of the disability or to the member's continued employment in a restricted capacity consistent with the nature of his disability in the Division of the State Police upon and at the written request of the superintendent, with the concurrence of the Attorney General, or to other circumstances beyond the control of the member.

b. Upon retirement for accidental disability, a member shall receive an accidental disability retirement allowance which shall consist of:

(1) An annuity which shall be the actuarial equivalent of his aggregate contributions and

(2) A pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of $\frac{2}{3}$ of his final compensation.

c. Upon the receipt of proper proofs of the death of a member who has retired on an accidental disability retirement allowance, there shall be paid to the member's beneficiary, an amount equal to $3\frac{1}{2}$ times the final compensation received by the member in the last year of creditable service; provided, however, that if such death shall occur after the member shall have attained 55 years of age the amount payable shall equal $\frac{1}{2}$ of such compensation instead of $3\frac{1}{2}$ times such compensation.

d. Permanent and total disability resulting from a cardiovascular, pulmonary or musculo-skeletal condition which was not a direct result of a traumatic event occurring in the performance of duty shall be deemed an ordinary disability.

9. Section 11 of P. L. 1965, c. 89 (C. 53:5A-11) is amended to read as follows:

C. 53:5A-11 Retirement for disability, medical examination; report; reduction of allowance.

11. a. Upon the receipt by the retirement system of a written application for a disability retirement allowance, the system shall refer the application to the medical board, which shall designate a physician or physicians to examine the applicant and the report of the medical board shall be considered by the board of trustees in acting upon such application.

b. If a disability retirant, under age 55, who was not a member of the former "State Police Retirement and Benevolent Fund" on June 30, 1965, is engaged in an occupation paying more than the difference between (1) his retirement allowance and (2) the salary and maintenance now attributable to his former position in the

Division of State Police, the amount of his pension shall be reduced to an amount which, together with the annuity and the amount of his earnings, shall equal the amount of the salary and maintenance now attributable to his former position in the Division of State Police. Should his earnings be later changed, the amount of his pension shall be further modified, provided, that the new pension shall not exceed the amount of the pension originally granted.

10. Section 12 of P. L. 1965, c. 89 (C. 53:5A-12) is amended to read as follows:

C. 53:5A-12 Death benefits; former members of State Police Retirement and Benevolent Fund.

12. a. Upon the receipt of proper proofs of the death in active service of a member of the retirement system who was a member of the former "State Police Retirement and Benevolent Fund" on account of which no accidental death benefit is payable, there shall be paid to his widow a pension of 50% of final compensation for the use of herself and children of the deceased, to continue during her widowhood; if there is no surviving widow or in case the widow dies or remarries, 20% of final compensation will be payable to one surviving child, 35% of final compensation to two surviving children in equal shares and if there be three or more children, 50% of final compensation will be payable to such children in equal shares.

If there is no surviving widow or child, 25% of final compensation will be payable to one surviving parent or 40% of final compensation will be payable to two surviving parents in equal shares.

b. If there is no surviving widow, child or parent, there shall be paid to any other beneficiary of the deceased member his aggregate contributions at the time of death.

c. In no case shall the death benefit provided in subsection a. be less than that provided under subsection b.

d. In addition to the foregoing benefits payable under subsection a. or b., there shall also be paid in one sum to the member's beneficiary, an amount equal to $3\frac{1}{2}$ times final compensation.

e. Deleted by amendment.

f. Deleted by amendment.

11. Section 13 of P. L. 1965, c. 89 (C. 53:5A-13) is amended to read as follows:

C. 53:5A-13 Death benefits; members not former members of State Police Retirement and Benevolent Fund.

13. a. Upon the receipt of proper proofs of the death in active service of a member of the retirement system who was not a member

of the former "State Police Retirement and Benevolent Fund" on account of which no accidental death benefit is payable, there shall be paid to his widow a pension of 25% of final compensation for the use of herself, to continue during her widowhood, plus 15% of final compensation payable to one surviving child or plus 25% of final compensation to two or more surviving children; if there is no surviving widow or in case the widow dies or remarries, 20% of final compensation will be payable to one surviving child, 35% of final compensation to two surviving children in equal shares and if there be three or more children, 50% of final compensation will be payable to such children in equal shares.

If there is no surviving widow or child, 25% of final compensation will be payable to one surviving parent or 40% of final compensation will be payable to two surviving parents in equal shares.

b. If there is no surviving widow, child or parent, there shall be paid to any other beneficiary of the deceased member his aggregate contributions at the time of death.

c. In no case shall the death benefit provided in subsection a. be less than that provided in subsection b.

d. In addition to the foregoing benefits payable under subsection a. or b., there shall also be paid in one sum to the member's beneficiary, an amount equal to $3\frac{1}{2}$ times final compensation.

e. Deleted by amendment.

f. Deleted by amendment.

12. Section 14 of P. L. 1965, c. 89 (C. 53:5A-14) is amended to read as follows:

C. 53:5A-14 Accidental death benefit; filing of accident report.

14. a. Upon the death of a member in active service as a result of an accident met in the actual performance of duty at some definite time and place, and such death was not the result of the member's willful negligence, an accidental death benefit shall be payable if a report of the accident is filed in the office of the Division of State Police within 60 days next following the accident, but the board of trustees may waive such time limit, for a reasonable period, if in the judgment of the board the circumstances warrant such action. No such application shall be valid or acted upon unless it is filed in the office of the retirement system within 5 years of the date of such death.

b. Upon the receipt of proper proofs of the death of a member on account of which an accidental death benefit is payable, there shall be paid to his widow a pension of 50% of final compensation for

the use of herself and children of the deceased, to continue during her widowhood; if there is no surviving widow or in case the widow dies or remarries, 20% of final compensation will be payable to one surviving child, 35% of final compensation to two surviving children in equal shares and if there be three or more children, 50% of final compensation will be payable to such children in equal shares.

If there is no surviving widow or child, 25% of final compensation will be payable to one surviving parent or 40% of final compensation will be payable to two surviving parents in equal shares.

In the event of accidental death occurring in the first year of creditable service, the benefits, payable pursuant to this subsection, shall be computed at the annual rate of compensation.

c. If there is no surviving widow, child or parent, there shall be paid to any other beneficiary of the deceased member, his aggregate contributions at the time of death.

d. In no case shall the death benefits provided in subsection b. be less than that provided under subsection c.

e. In addition to the foregoing benefits payable under subsection a. or b., there shall also be paid in one sum to the member's beneficiary, an amount equal to $3\frac{1}{2}$ times final compensation.

f. Deleted by amendment.

g. Deleted by amendment.

13. Section 15 of P. L. 1965, c. 89 (C. 53:5A-15) is amended to read as follows:

C. 53:5A-15 Death benefit coverage; officers, noncommissioned officers or troopers covered under pre-existing group life program.

15. a. In the case of any officer, noncommissioned officer or trooper of the Division of State Police of the Department of Law and Public Safety of the State of New Jersey becoming a member of the retirement system who was covered on the day immediately prior to July 1, 1965 under the then existing group life insurance program of the New Jersey State Police, the State Treasurer shall provide for death benefit coverage, in the amount described in this subsection for such member after he retires and receives a retirement allowance pursuant to the provisions of this act, subject to the conditions hereinafter stated.

(1) In order to obtain the coverage during retirement as herein provided, the member must make written request therefor to the

retirement system within 90 days of July 1, 1965 and must agree to make, after retirement, the contributions required for such coverage as described by subsection c. of this section, except that if any such officer, noncommissioned officer or trooper was disabled on July 1, 1965 but subsequently recovers from such disability and becomes a member of the retirement system, such request may be made within 90 days after the date he becomes a member of the retirement system.

(2) Each such officer, noncommissioned officer and trooper may cancel his request for the death benefit coverage described herein, either before or after retirement, by giving written notice to the retirement system.

The amounts of death benefits provided for under this subsection while the former member is receiving a retirement allowance pursuant to this act shall be the same amount or amounts as would have been continued for such former member after his retirement under the group life insurance program, hereinabove referred to, had such program remained in effect and unchanged and such former member had remained covered thereunder, less an amount equal to $\frac{1}{2}$ of the member's final compensation.

b. The State Treasurer shall provide on and after July 1, 1965 for death benefit coverage in the amounts described in this subsection for each former officer, noncommissioned officer and trooper who was covered on the day immediately prior to July 1, 1965 under the then existing group life insurance program of the New Jersey State Police and was then retired and receiving retirement benefits under the provisions of the former State Police Retirement and Benevolent Fund, subject to the conditions hereinafter stated:

(1) In order to obtain the death benefit coverage as herein provided, such former officer, noncommissioned officer or trooper must make the contributions required for such coverage as described in subsection c. of this section.

(2) If coverage or benefits are afforded a former officer, noncommissioned officer or trooper under the aforesaid group life insurance program of the New Jersey State Police after July 1, 1965 by reason of his disability, the death benefits provided by this subsection shall in no event apply to him unless such coverage and benefits shall cease by reason of his recovery from disability. In such event the foregoing provisions of this subsection shall apply from the date of such cessation. The amounts of death benefit continued under this subsection shall be the same amount or

amounts as would have been continued for such former officer, non-commissioned officer or trooper after his retirement under the group life insurance program, hereinabove referred to, had such program remained in effect and unchanged during his retirement and he had remained covered thereunder.

c. The contributions required during retirement for the death benefit coverage provided for by this section shall be determined from the schedules of contributions established by the retirement system. Such contributions shall be deducted from the former officer's, noncommissioned officer's or trooper's retirement allowance or benefits but if there be no retirement allowance or benefits available from which such contributions may be deducted, it shall be the obligation of such former officer, noncommissioned officer or trooper to make such contribution directly to the retirement system, as required by the system.

d. Upon receipt of proper proofs of the death of any former officer, noncommissioned officer or trooper of the New Jersey State Police while covered for death benefit coverage pursuant to the provisions of this section, there shall be paid to such former officer's, noncommissioned officer's or trooper's beneficiary, the amount for which he is covered at the time of his death pursuant to said subsection a. or said subsection b., as the case may be.

e. Any other provision of this act notwithstanding, the contributions of any person for death benefit coverage under this section shall not be returnable to such person or his beneficiary or death benefit payee in any manner, or for any reason whatsoever, nor shall such contributions be included in any annuity payable to any such person or his beneficiary.

14. Section 21 of P. L. 1965, c. 89 (C. 53:5A-21) is amended to read as follows:

C. 53:5A-21 Conversion privileges.

21. Any such group policy or policies shall include, with respect to any insurance terminating or reducing because an insured person has ceased to be in active service or has retired, the conversion privilege available upon termination of employment as prescribed by the law relating to group life insurance; and shall also include, with respect to insurance terminating because of termination of the group policy resulting from a termination of all death benefits established under sections 8 c., 9 c., 10 c., 12 d., 13 d., 14 e., 15, 27 b. and 28 the conversion privilege available upon termination of the

group policy as prescribed by such law. Any such group policy or policies shall also provide that if an insured person dies during the 31-day period during which he would be entitled to exercise the conversion privilege, the amount of insurance with respect to which he could have exercised the conversion privilege shall be paid as a claim under the group policy.

If any member who has exercised the conversion privilege under the group policy or policies again becomes a member of the retirement system, and the individual policy obtained pursuant to the conversion privilege is still in force, he shall not again be eligible for any of the death benefits provided by sections 8 c., 9 c., 10 c., 12 d., 13 d., 14 e., 15, 27 b. and 28, unless he furnishes satisfactory evidence of insurability.

When benefits payable upon the death of a member following retirement are determined as though he were an active member at the time of his death, the death benefit payable under the group policy or policies together with the amount of insurance paid under any individual policy obtained under the conversion privilege, shall in no event exceed the amount of insurance for which the member was insured under the group policy or policies immediately prior to the date the right of conversion arose.

15. Section 23 of P. L. 1965, c. 89 (C. 53:5A-23) is amended to read as follows:

C. 53:5A-23 Manner of payment; arrangements for settlement.

23. Any such group policy or policies shall provide that payment of any death benefits which are payable by the insurance company may be made in one sum directly to the beneficiary as hereinafter provided, in equal installments over a period of years or as a life annuity or in such other manner as may be made available by the insurance company. An insured person may make such arrangements for settlement, and may alter from time to time during his lifetime any arrangement previously made, by making written request to the insurance company through the policyholder. Upon the death of an insured person, a beneficiary to whom a benefit is payable in one sum by the insurance company may likewise arrange for a settlement as described above. If an insured person's or beneficiary's request for settlement of any death benefit in equal installments over a period of years or as a life annuity pursuant to the foregoing is approved by the policyholder, the

amount of such installments or such life annuity, as the case may be, shall be determined on the basis of such applicable mortality tables as shall have been adopted by the retirement system and are in effect at the death of the insured person. Any arrangement for payment under the group policy to a beneficiary shall be in lieu of that provided by sections 8 c., 9 c., 10 c., 12 d., 13 d., 14 e., 15, 27 b. and 28.

16. Section 26 of P. L. 1965, c. 89 (C. 53:5A-26) is amended to read as follows:

C. 53:5A-26 Withdrawal from service or cessation of membership; return of contributions.

26. A member who withdraws from service or ceases to be a member for any cause other than death or retirement shall receive the amount of his aggregate contributions less any outstanding loan upon the filing of a written application as required by the retirement system. If such member shall die before filing an application for withdrawal or before endorsing the check constituting the return of his aggregate contributions, such contributions shall be paid to his beneficiary.

No member shall be entitled to withdraw the amounts contributed by the State covering his military leave unless he shall have returned to the payroll and contributed to the retirement system for a period of 90 days.

17. Section 27 of P. L. 1965, c. 89 (C. 53:5A-27) is amended to read as follows:

C. 53:5A-27 Resignation of certain personnel; retirement allowance in lieu of return of contributions.

27. a. Should a member resign after having established 25 years of creditable service as a full time commissioned officer, noncommissioned officer or trooper of the Division of State Police, before reaching age 55, he may elect "early" retirement, provided, that such election is communicated by such member to the retirement system by filing a written application, duly attested, stating at what time subsequent to the execution and filing thereof he desires to be retired. He shall receive, in lieu of the payment provided in section 26, a retirement allowance which shall consist of:

(1) an annuity which shall be the actuarial equivalent of his aggregate contributions and,

(2) a pension in the amount, which when added to the member's annuity will provide a total retirement allowance of 2% of his final

compensation multiplied by his number of years of creditable service up to 25 plus 1% of his final compensation multiplied by his number of years of creditable service over 25; provided, however, that such retirement allowance shall be reduced in accordance with a table of actuarial equivalents recommended by the actuary and adopted by the retirement system reflecting all months that the member lacks of being age 55.

The board of trustees shall retire him at the time specified or at such other time within 1 month after the date so specified as the board finds advisable.

b. Upon the receipt of proper proof of the death of such a retired member, there shall be paid to the member's beneficiary, an amount equal to $\frac{1}{2}$ of the final compensation received by the member.

18. Section 28 of P. L. 1965, c. 89 (C. 53:5A-28) is amended to read as follows:

C. 53:5A-28 Separation of certain personnel from service; election to receive deferred retirement allowance.

28. a. Should a member, after having established 15 years of creditable service as a full time commissioned officer, noncommissioned officer or trooper of the Division of State Police, be separated voluntarily or involuntarily from the service, before reaching age 55, and not by removal for cause or charges of misconduct or delinquency, such person may elect to receive the payments provided for in sections 26 or 27 or a deferred retirement allowance, beginning on the first day of the month following his attainment of age 55 and the filing of an application therefor, which shall consist of:

(1) an annuity which shall be the actuarial equivalent of his aggregate contributions at the time of his severance from the service, and

(2) a pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of 2% of his final compensation multiplied by his number of years of creditable service up to 25 plus 1% of his final compensation multiplied by his number of years of creditable service over 25, provided that such inactive member may elect to receive payments provided under sections 26 or 27 if he had qualified under that latter section at the time of leaving service, except that in order to avail himself of the option, he must exercise such option at least 1 month before

the effective date of his retirement. If such inactive member shall die before attaining age 55, his aggregate contributions shall be paid in accordance with section 26 and, in addition if such inactive member shall die after attaining age 55 but before filing an application for retirement benefits pursuant to this section or section 27 and for which benefits he would have qualified and has not withdrawn his aggregate contributions, or in the event of death after retirement, an amount equal to $\frac{1}{2}$ of the final compensation received by the member shall be paid to such member's beneficiary.

b. Deleted by amendment.

c. Any member who, having elected to receive a deferred retirement allowance, again becomes an employee covered by the retirement system while under the age of 55, shall thereupon be reenrolled. He shall be credited with all service as a member standing to his credit at the time of his election to receive a deferred retirement allowance.

19. Section 29 of P. L. 1965, c. 89 (C. 53:5A-29) is amended to read as follows:

C. 53:5A-29 Loans.

29. Any member who has at least 3 years of service to his credit for which he has contributed as a member may borrow from the retirement system, an amount equal to not more than 50% of the amount of his aggregate contributions, but not less than \$50.00; provided, that the amount so borrowed, together with interest thereon, can be repaid by additional deductions from salary, not in excess of 25% of the member's salary, made at the time the salary is paid to the member but not after the attainment of age 55. The amount so borrowed, together with interest at the rate of 4% per annum on any unpaid balance thereof, shall be repaid to the retirement system in equal installments by deductions from the salary of the member at the time the salary is paid or in such lump sum amount to repay the balance of the loan but such installments shall be at least equal to the member's rate of contribution to the retirement system and at least sufficient to repay the amount borrowed with interest thereon by the time the member attains age 55. Not more than two loans may be granted to any member in any calendar year. Notwithstanding any other law affecting the salary or compensation of any person or persons to whom this act applies or shall apply, the additional deductions required to repay the loan shall be made. Any unpaid balance of a loan at the time any benefit

may become payable shall be deducted from the benefit otherwise payable.

Loans shall be made to a member from his aggregate contributions. The interest earned on such loans shall be treated in the same manner as interest earned from investments of the retirement system.

20. Section 30 of P. L. 1965, c. 89 (C. 53:5A-30) is amended to read as follows:

C. 53:5A-30 Board of trustees; membership, appointment, oath, vacancies, compensation, powers and duties.

30. a. Subject to the provisions of chapter 70 of the laws of 1955, the general responsibility for the proper operation of the retirement system is hereby vested in the board of trustees.

b. The board shall consist of five trustees as follows:

(1) Two active members of the system who shall be appointed by the Superintendent of State Police, who shall serve at the pleasure of the superintendent and until their successors are appointed and one of whom shall be a commissioned officer of the Division of State Police.

(2) Two members to be appointed by the Governor, who shall serve at the pleasure of the Governor and until their successors are appointed and who shall be private citizens of the State of New Jersey who are neither an officer thereof nor active or retired members of the system.

(3) The State Treasurer ex officio. The Deputy State Treasurer, when designated for that purpose by the State Treasurer, may sit as a member of the board of trustees and when so sitting shall have all the powers and shall perform all the duties vested by this act in the State Treasurer.

c. Each trustee shall, after his appointment, take an oath of office that, so far as it devolves upon him, he will diligently and honestly fulfill his duties as a board member, that he will not knowingly violate or permit to be violated any of the provisions of the law applicable to the retirement system. Such oath shall be subscribed by the member taking it, and certified by the official before whom it is taken, and immediately filed in the office of the Secretary of State.

d. If a vacancy occurs in the office of a trustee, the vacancy shall be filled in the same manner as the office was previously filled.

e. The trustees shall serve without compensation, but they shall be reimbursed by the State for all necessary expenses that they

may incur through service on the board. No employee member shall suffer loss of salary through the serving on the board.

f. Except as otherwise herein provided, no member of the board of trustees shall have any direct interest in the gains or profits of any investments of the retirement system; nor shall any member of the board of trustees directly or indirectly, for himself or as an agent in any manner use the moneys of the retirement system, except to make such current and necessary payments as are authorized by the board of trustees; nor shall any member of the board of trustees become an endorser or surety, or in any manner an obligor for moneys loaned to or borrowed from the retirement system.

g. Each trustee shall be entitled to one vote in the board. A majority vote of all trustees shall be necessary for any decision by the trustees at any meeting of said board.

h. Subject to the limitations of this act, the board of trustees shall annually establish rules and regulations for the administration of the funds created by this act and for the transactions of its business. Such rules and regulations shall be consistent with those adopted by the other pension funds within the Division of Pensions in order to permit the most economical and uniform administration of all such retirement systems.

i. The actuary of the system shall be designated by the State Treasurer after consultation with the Director of the Division of Pensions, subject to veto by the board for valid reason. He shall be the technical adviser of the board on matters regarding the operation of the funds created by the provisions of this act and shall perform such other duties as are required in connection herewith.

j. The Attorney General shall be the legal adviser of the retirement system.

k. The Chief of the Bureau of Police and Fire Funds of the Division of Pensions of the State Department of the Treasury shall be the secretary of the board.

l. The board of trustees shall keep a record of all of its proceedings which shall be open to public inspection. The retirement system shall publish annually a report showing the fiscal transactions of the retirement system for the preceding year, the amount of the accumulated cash and securities of the system and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the assets and liabilities of the retirement system.

m. The State Treasurer shall designate a medical board after consultation with the Director of the Division of Pensions, subject to veto by the board of trustees for valid reason. It shall be composed of three physicians. The medical board shall pass on all medical examinations required under the provisions of this act, and shall report in writing to the retirement system its conclusions and recommendations upon all matters referred to it.

n. The various funds created by this act shall be subject to the supervision of the Department of Insurance of the State of New Jersey.

21. Section 31 of P. L. 1965, c. 89 (C. 53:5A-31) is amended to read as follows:

C. 53:5A-31 Administration of funds.

31. a. The board of trustees shall be and are hereby constituted trustees of all the various funds established by this act except the group insurance premium fund; provided, however, that all functions, powers, and duties relating to the investment or reinvestment of moneys of, and purchase, sale, or exchange of any investments or securities, of or for any fund established under this act, shall be exercised and performed by the Director of the Division of Investment in accordance with the provisions of c. 270, P. L. 1950, as amended and supplemented.

b. The secretary of the board shall determine from time to time the cash requirements of the various funds established by this act and the amount available for investment, all of which shall be certified to the Director of the Division of Investment.

c. A member of the board of trustees to be designated by a majority vote thereof shall serve on the State Investment Council as a representative of said board of trustees, for a term of 1 year and until his successor is elected and qualified.

d. The Treasurer of the State of New Jersey shall be the custodian of the several funds. All payments from said funds shall be made by him only upon vouchers signed by the secretary and the chairman of the board of trustees. A duly attested copy of the resolution of the board of trustees designating the chairman and bearing on its face specimen signatures of the chairman and the secretary shall be filed with the treasurer as his authority for making payments upon such vouchers.

e. The administration of the program shall be performed by the personnel of the Division of Pensions of the State Department of

the Treasury and the costs of administration shall be borne by the State.

22. Section 32 of P. L. 1965, c. 89 (C. 53:5A-32) is amended to read as follows:

C. 53:5A-32 Duties of actuary.

32. The actuary shall recommend such data as shall be necessary for actuarial valuation of the various funds created by this act. Once in every 5-year period the actuary shall make an actuarial investigation into the mortality, service and compensation experience of the members and beneficiaries and shall make a valuation of the assets and liabilities of the various funds created by this act. Upon the basis of such investigation and valuation, with the advice of the actuary, the board shall adopt for the retirement system such mortality, service and other tables as shall be deemed necessary.

23. Section 34 of P. L. 1965, c. 89 (C. 53:5A-34) is amended to read as follows:

C. 53:5A-34 Contingent reserve fund.

34. The Contingent Reserve Fund shall be the fund in which shall be credited contributions made by the State.

a. Upon the basis of such tables recommended by the actuary as the board adopts and regular interest, the actuary shall compute annually the amount of the contribution, expressed as a proportion of the salaries paid to all members, which, if paid monthly during the entire prospective service of the members, will be sufficient to provide for the pension reserves required at the time of the discontinuance of active service, to cover all pensions to which they may be entitled or which are payable on their account and to provide for the amount of the death and accidental disability benefits payable on their account, which amount is not covered by other contributions to be made as provided in this section and the funds in hand available for such benefits. This shall be known as the "normal contribution."

b. Upon the basis of such tables recommended by the actuary as the board adopts, and regular interest, the actuary shall compute the amount of the unfunded liability as of June 30, 1971 which has accrued on the basis of service rendered prior to July 1, 1971 by all members, including the amount of the liability accrued by reason of allowances to be granted on account of services rendered by members of the former "State Police Retirement and Benevolent Fund"

which has not already been covered by previous State contributions to the former system, and including the accrued liabilities established by chapter 89 of the laws of 1965. Using the total amount of this unfunded accrued liability he shall compute the amount of the flat annual payment, which, if paid in each succeeding fiscal year, commencing with July 1, 1972, for a period of 40 years, will provide for this liability. This shall be known as the "accrued liability contribution."

c. The actuary shall certify annually the aggregate amount payable to the Contingent Reserve Fund in the ensuing year, which amount shall be equal to the sum of the proportion of the earnable salary of all members, computed as described in subsection a. hereof and of the State's accrued liability contribution, payable in the ensuing year, as described in subsection b. hereof. The State shall pay into the Contingent Reserve Fund during the ensuing year the amount so determined. In the event the amount certified to be paid by the State includes amounts due for services rendered by members to specific instrumentalities or authorities the total amounts so certified shall be paid to the retirement system by the State; provided, however, the full cost attributable to such services rendered to such instrumentalities and authorities shall be computed separately by the actuary and the State shall be reimbursed for such amounts by such instrumentalities or authorities.

The cash death benefits, payable as the result of contribution by the State under the provisions of this act upon the death of a member in active service and after retirement shall be paid from the Contingent Reserve Fund.

24. Section 35 of P. L. 1965, c. 89 (C. 53:5A-35) is amended to read as follows:

C. 53:5A-35 Annuity savings fund.

35. The Annuity Savings Fund shall be the fund in which shall be credited aggregate contributions by members or on their behalf to provide for their allowances. The aggregate contributions of a member withdrawn by him or paid to his estate or his designated beneficiary in the event of his death as provided in this act shall be paid from the Annuity Savings Fund. Upon the retirement of a member where the aggregate contributions of the member are to be provided in the form of an annuity, the aggregate contributions of the member shall be transferred from the Annuity Savings Fund to the Retirement Reserve Fund.

25. Section 36 of P. L. 1965, c. 89 (C. 53:5A-36) is amended to read as follows:

C. 53:5A-36 Retirement reserve fund.

36. The Retirement Reserve Fund shall be the fund from which all retirement allowances and pensions shall be paid.

Upon the retirement of a member, his aggregate contributions shall be transferred to the Retirement Reserve Fund from the Annuity Savings Fund. The reserve needed to produce the balance of the retirement allowance shall be transferred from the Contingent Reserve Fund. If the retirement allowance of a member who has been retired is subsequently canceled, the appropriate reserve shall be transferred to the Annuity Savings Fund and the Contingent Reserve Fund.

Any surplus or deficit developing in the Retirement Reserve Fund shall be adjusted from time to time by transfer to or from the Contingent Reserve Fund by appropriate action of the retirement system upon the advice of the actuary.

26. Section 42 of P. L. 1965, c. 89 (C. 53:5A-42) is amended to read as follows:

C. 53:5A-42 Fraud; penalty; correction of errors.

42. Any person who shall knowingly make any false statement or shall falsify or permit to be falsified any record or records of this retirement system in any attempt to defraud such system as a result of such act shall be guilty of a misdemeanor and shall be punishable therefor under the laws of the State of New Jersey. Should any change or error in the records result in any member or person receiving from the retirement system more or less than he would have been entitled to receive had the records been correct, the retirement system shall, as far as practicable, correct such error and adjust the payments in such manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid. The actuarial equivalent of any shortage in required contributions at the time of retirement on account of misstatement of age, leave of absence, or clerical error, shall be deducted from the retirement allowance otherwise payable.

27. Section 44 of P. L. 1965, c. 89 (C. 53:5A-44) is amended to read as follows:

C. 53:5A-44 Deductions for health insurance or State Health Benefits premiums.

44. If possible, whenever any retirant or beneficiary shall, in writing, request the Division of Pensions to make deductions from

his retirement allowance or pension for the purpose of paying premiums for the pensioners' group health insurance plan or the State Health Benefits program, the division may make such deductions and transmit the sums so deducted to the companies carrying the policies. Any such written authorization may be withdrawn by any retirant or beneficiary upon filing notice of such withdrawal with the division.

C. 53:5A-15.1 Active membership defined.

28. For the purposes of sections 12 d., 13 d., and 14 e. a member of the State Police Retirement System shall be deemed to be an active member for a period of no more than 93 days while on official leave of absence without pay when such leave is due to any reason other than illness, and for a period of not more than 1 year in the event of an official leave (a) to fulfill a residency requirement for an advanced degree, or (b) as a full-time student at an institution of higher education, and (1) while he is disabled due to sickness or injury arising out of or in the course of his employment as a member to whom this chapter applies, is not engaged in any gainful occupation, and is receiving or entitled to receive periodic benefits (including any commutation of, or substitute for, such benefits) for loss of time on account of such disability under or by reason of workmen's compensation law, occupational disease law or similar legislation and has not retired or terminated his membership; or (2) for a period of no more than 2 years while on an official leave of absence without pay if satisfactory evidence is presented to the retirement system that such leave of absence without pay is due to the member's personal illness other than an illness to which (1) above applies.

If a member dies within 30 days after the date of retirement or the date of board approval, whichever is later, a death benefit shall be payable only if he is deemed to be an active member in accordance with this section; provided, however, a member applying for disability benefits shall be deemed an active member if he was covered by the death benefit provisions of the act at the termination of employment, filed the application for disability retirement with the retirement system within 30 days following such termination of employment and dies within 30 days after the date of retirement or the date of board approval, whichever is later.

C. 53:5A-15.2 Designation of beneficiary.

29. The designation of beneficiary by a member or retirant shall be made in writing on a form satisfactory to the retirement system,

and filed with the retirement system. The member or retirant may, from time to time and without the consent of his death benefit designee, change the beneficiary by filing written notice of the change with the system on a form satisfactory to it. The new nomination will be effective on the date the notice, in proper form, is received by the system, and any prior nomination shall thereupon become void.

If more than one beneficiary is nominated and in such nomination the member or retirant has failed to specify their respective interests, the beneficiaries shall share equally. If any beneficiary predeceases the member or retirant, the interest of such beneficiary shall terminate and shall be shared equally by such of the beneficiaries as survive the member or retirant, unless the member or retirant has made written request to the contrary in his beneficiary nomination.

Any amounts due for which there is no beneficiary at the death of a member, retirant or beneficiary shall be payable to the estate of such member, retirant or beneficiary.

Except with regard to the payment of the member's aggregate contributions and the payment of $\frac{1}{2}$ of final compensation upon the death of a retirant as provided in sections 8 c., 9 c., 10 c., 15, 27 b., and 28 of chapter 89 of the laws of 1965, a member may elect, by making written request to the retirement system, that the whole or any part of his death benefits be made payable to his beneficiary either as a life annuity or in equal installments over a period of years specified in such election, and may alter such election from time to time during his lifetime by again making such written request. In the event of a change of beneficiary, any previous arrangement by the member or retirant under this paragraph shall be void. The election set forth in this paragraph shall not apply or be available when the beneficiary is an estate, or a corporation, partnership, association, institution, trustee, or any fiduciary.

If at the member's death, an amount of death benefit would be payable to the beneficiary in a single sum, any election with regard to such amount which was available to the member immediately prior to his death in accordance with the provisions of the immediately preceding paragraph shall then be available to such beneficiary for the benefit of such beneficiary.

C. 53:5A-38.1 Receipt of workmen's compensation benefits; payment of salary deductions by employer; reduction of pension.

30. a. If any member of the retirement system receives periodic benefits payable under the Workmen's Compensation Law during the course of his active service, in lieu of his normal compensation, his regular salary deductions shall be paid to the retirement system by his employer. Such payments shall be computed, in accordance with section 38 of chapter 89 of the laws of 1965, at the rate of contribution on the base salary subject to the retirement system, just prior to the receipt of the workmen's compensation benefits. The moneys paid by the employer shall be credited to the member's account in the annuity savings fund and shall be treated as employee contributions for all purposes. The employer will terminate the payment of these moneys when the periodic benefits payable under the Workmen's Compensation Law are terminated or when the member retires.

The member for whom the employer is making such payments, will be considered as if he were in the active service.

b. An application for retirement benefits may be approved by the board of trustees while the member, applying for such benefits, is in receipt of periodic benefits under the Workmen's Compensation Law. In this event the actuarial equivalent of such periodic benefits remaining to be paid shall be computed and will serve to reduce the pension portion of the retirement allowance payable to the retirant, subject to the provisions of section 31 of this amendatory and supplementary act.

C. 53:5A-15.3 Minimum service credit for death benefit coverage; minimum monthly retirement allowance.

31. Any other provision of this act notwithstanding, (a) no beneficiary of a retirant who enrolled as a member on or after July 1, 1971 and who retired for any reason other than disability shall be entitled to receive benefits pursuant to the death benefit coverages provided by sections 8 c., 27 b. and 28 of chapter 89 of the laws of 1965 if the retirant had less than 10 years of service credit for retirement purposes at the time of retirement; and (b) no member or beneficiary shall be entitled to receive a monthly retirement allowance or other benefit payable pursuant to chapter 89 of the laws of 1965 unless the amount of the allowance or benefit would be at least \$25.00 per month.

C. 53:5A-15.4 Members of State Police Retirement System; coverage for death benefits; evidence of insurability.

32. a. Any person entitled to become a member of the State Police Retirement System shall not be allowed any of the death benefits established by sections 8 c., 9 c., 10 c., 12 d., 13 d., 14 e., 15, 27 b., and 28, if (1) he makes application for membership beyond the year after he first became eligible for membership or (2) he is eligible for membership on the basis of special legislation, unless the member furnishes satisfactory evidence of insurability and on the effective date of his membership is actively at work and performing all his regular duties at his customary place of employment.

The effective date of coverage for such death benefits shall be the first day of the month which immediately follows the date when such evidence is determined to be satisfactory.

b. Such evidence of insurability will not be required of any person becoming a member of the State Police Retirement System upon transfer from another State-administered retirement system, if such system provided death benefits of a similar nature and the transferring member was covered by such benefits at the time of the transfer. If such transferring member was not covered by such benefits at the time of the transfer, he may be allowed the death benefits of the State Police Retirement System subject to the provisions of subsection a. of this section; provided, however, that any such member must furnish satisfactory evidence of insurability under the provisions of subsection a. of this section if he had been unable or failed to give such evidence as a member of the system from which he transferred.

c. Any person who must furnish satisfactory evidence of insurability under the provisions of this section and who ceases to be a member of the retirement system without such evidence having been given, shall continue to be subject to the same requirement if he subsequently becomes a member.

33. This act shall take effect immediately.

Approved June 1, 1971.

CHAPTER 182

AN ACT for the more effectual regulation of the conduct of State officers and employees and members of the Legislature, repealing the "New Jersey Conflicts of Interest Law" (P. L. 1967, c. 229), and supplementing Title 52 of the Revised Statutes.

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

C. 52:13D-12 Legislature's findings and policy declaration.

1. The Legislature finds and declares:

(a) In our representative form of government, it is essential that the conduct of public officials and employees shall hold the respect and confidence of the people. Public officials must, therefore, avoid conduct which is in violation of their public trust or which creates a justifiable impression among the public that such trust is being violated.

(b) To ensure propriety and preserve public confidence, persons serving in government should have the benefit of specific standards to guide their conduct and of some disciplinary mechanism to ensure the uniform maintenance of those standards amongst them. Some standards of this type may be enacted as general statutory prohibitions or requirements; others, because of complexity and variety of circumstances, are best left to the governance of codes of ethics formulated to meet the specific needs and conditions of the several agencies of government.

(c) It is also recognized that under a free government it is both necessary and desirable that all citizens, public officials included, should have certain specific interests in the decisions of government, and that the activities and conduct of public officials should not, therefore, be unduly circumscribed.

C. 52:13D-13 Definitions.

2. As used in this act, and unless a different meaning clearly appears from the context, the following terms shall have the following meaning:

(a) "State agency" means any of the principal departments in the Executive Branch of the State Government, and any division,

board, bureau, office, commission or other instrumentality within or created by such department, the Legislature of the State and any office, board, bureau or commission within or created by the Legislative Branch, and any independent State authority, commission, instrumentality or agency. A county or municipality shall not be deemed an agency or instrumentality of the State.

(b) "State officer or employee" means any person, other than a member of the Legislature, holding an office or employment in a State agency, excluding special State officers or employees as defined in subsection (e) of this section.

(c) "Member of the Legislature" means any person elected to serve in the General Assembly or the Senate.

(d) "Head of a State agency" means (1) in the case of the Executive Branch of government, the department head or, if the agency is not assigned to a department, the Governor, and (2) in the case of the Legislative Branch, the chief presiding officer of each house of the Legislature.

(e) "Special State officer or employee" means any person holding an office or employment in a State agency, for which office or employment (1) no compensation is authorized or provided by law, or (2) no compensation other than a sum in reimbursement of expenses, whether payable per diem or per annum, is authorized or provided by law.

(f) "Person" means any natural person, association or corporation.

(g) "Interest" in a corporation means the ownership or control of more than 10% of the stock of the corporation.

C. 52:13D-14 Acceptance of gifts or emoluments prohibited.

3. No State officer or employee, special State officer or employee, or member of the Legislature shall accept from any person, whether directly or indirectly and whether by himself or through his spouse or any member of his family or through any partner or associate, any gift, favor, service, employment or offer of employment or any other thing of value which he knows or has reason to believe is offered to him with intent to influence him in the performance of his public duties and responsibilities. This section shall not apply to the acceptance of contributions to the campaign of an announced candidate for elective public office.

C. 52:13D-15 Certain representations prohibited; exception.

4. No member of the Legislature or State officer or employee shall represent, appear for, or negotiate on behalf of, or agree to represent, appear for, or negotiate on behalf of, whether by himself or by or through any partnership, firm or corporation in which he has an interest or by any partner, officer or employee of any such partnership, firm or corporation any person or party other than the State in any negotiations for the acquisition or sale by the State or a State agency of any interest in real or tangible or intangible personal property, or in any proceedings relative to such acquisition or sale before a condemnation commission or court; provided, however, nothing contained in this section shall be deemed to prohibit any person from representing himself in negotiations or proceedings concerning his own interest in real property.

C. 52:13D-16 Certain representations prohibited; exceptions.

5. (a) No special State officer or employee, nor any partnership, firm or corporation in which he has an interest, nor any partner, officer or employee of any such partnership, firm or corporation, shall represent, appear for, or negotiate on behalf of, or agree to represent, appear for, or negotiate on behalf of, any person or party other than the State in connection with any cause, proceeding, application or other matter pending before the State agency in which such special State officer or employee holds office or employment.

(b) No State officer or employee or member of the Legislature, nor any partnership, firm or corporation in which he has an interest, nor any partner, officer or employee of any such partnership, firm or corporation, shall represent, appear for, or negotiate on behalf of, or agree to represent, appear for, or negotiate on behalf of, any person or party other than the State in connection with any cause, proceeding, application or other matter pending before any State agency; provided, however, this subsection shall not be deemed to prohibit a member of the Legislature from making an inquiry for information on behalf of a constituent, if no fee, reward or other thing of value is promised to, given to or accepted by the member of the Legislature, whether directly or indirectly nor shall anything contained herein be deemed to prohibit any such partnership, firm or corporation from appearing on its own behalf.

(c) Nothing contained in this section shall be deemed to prohibit any legislator, or any State officer or employee or special State officer or employee from representing, appearing for or negotiating on behalf of, or agreeing to represent, appear for, or negotiate on

behalf of, any person or party other than the State in connection with any proceeding pending before any court of record of this State, any proceeding in regard to a claim for compensation arising under chapter 15 of Title 34 of the Revised Statutes (Workmen's Compensation), any proceeding in connection with the determination or review of transfer inheritance or estate taxes, any proceeding before the Division of Tax Appeals, any proceeding in connection with the filing of corporate or other documents in the office of the Secretary of State, any proceeding before the Division of Civil Rights, the New Jersey State Board of Mediation or the New Jersey Public Employment Relations Commission, or any successor thereof or any proceeding on behalf of a county, municipality or school district, or any authority, agency or commission of any thereof except where the State is an adverse party in the proceeding and provided he is not holding any office or employment in the State agency in which any such proceeding is pending.

C. 52:13D-17 Certain representations prohibited; penalty; 2-year limitation.

6. (a) No State officer or employee or special State officer or employee, subsequent to the termination of his office or employment in any State agency, shall represent, appear for or negotiate on behalf of, or agree to represent, appear for, or negotiate on behalf of, whether by himself or through any partnership, firm or corporation in which he has an interest or through any partner, officer or employee thereof, any person or party other than the State in connection with any cause, proceeding, application or other matter with respect to which such State officer or employee or special State officer or employee shall have made any investigation, rendered any ruling, given any opinion, or been otherwise directly involved at any time during the course of his office or employment. Any person who willfully violates the provisions of this section is a disorderly person, and shall be subject to a fine not to exceed \$500.00 or imprisonment not to exceed 6 months, or both.

(b) No State officer or employee or special State officer or employee, within the 2 years next subsequent to the termination of his office or employment in any State agency, shall represent, appear for or negotiate on behalf of, or agree to represent, appear for or negotiate on behalf of, any person or party other than the State in connection with any cause, proceeding, application or other matter pending before the State agency in which the State officer or employee or special State officer or employee formerly held office or employment.

C. 52:13D-18 Participation by legislators in certain legislation.

7. (a) No member of the Legislature shall participate by voting or any other action, on the floor of the General Assembly or the Senate, or in committee or elsewhere, in the enactment or defeat of legislation in which he has a personal interest until he files with the Clerk of the General Assembly or the Secretary of the Senate, as the case may be, a statement (which shall be entered verbatim on the journal of the General Assembly or the Senate) stating in substance that he has a personal interest in the legislation and that notwithstanding such interest, he is able to cast a fair and objective vote and otherwise participate in connection with such legislation.

(b) A member of the Legislature shall be deemed to have a personal interest in any legislation within the meaning of this section if, by reason of his participation in the enactment or defeat of any legislation, he has reason to believe that he will derive a direct monetary gain or suffer a direct monetary loss. No member of the Legislature shall be deemed to have a personal interest in any legislation within the meaning of this section if, by reason of his participation in the enactment or defeat of any legislation, no benefit or detriment could reasonably be expected to accrue to him, as a member of a business, profession, occupation or group, to any greater extent than any such benefit or detriment could reasonably be expected to accrue to any other member of such business, profession, occupation or group.

C. 52:13D-19 Participation in certain contracts, agreements, etc., prohibited; exceptions.

8. No member of the Legislature or State officer or employee shall knowingly himself, or by his partners or through any corporation which he controls or in which he owns or controls more than 10% of the stock, or by any other person for his use or benefit or on his account, undertake or execute, in whole or in part, any contract, agreement, sale or purchase of the value of \$25.00 or more, made, entered into, awarded or granted by any State agency; provided, however, that the provisions of this section shall not apply to (a) purchases, contracts, agreements or sales which (1) are made or let after public notice and competitive bidding or which (2), pursuant to section 5 of chapter 48 of the laws of 1944 (C. 52:34-10), may be made, negotiated or awarded without public advertising or bids, or (b) any contract of insurance entered into by the Director of the Division of Purchase and Property pursuant to section 10 of article 6 of chapter 112 of the laws of 1944 (C. 52:27B-62), if such purchases, contracts or agreements, including change orders

and amendments thereto, shall receive prior approval of the Joint Legislative Committee on Ethical Standards if a member of the Legislature or State officer or employee in the Legislative Branch has an interest therein which would otherwise be forbidden by this section, or the Executive Commission on Ethical Standards if a State officer or employee in the Executive Branch has an interest therein which would otherwise be forbidden by this section.

C. 52:13D-20 Acting as officer or agent prohibited; exception.

9. No member of the Legislature or State officer or employee or special State officer or employee shall act as officer or agent for a State agency for the transaction of any business with himself or with a corporation, company, association or firm in the pecuniary profits of which he has an interest (except that ownership or control of 10% or less of the stock of a corporation shall not be deemed an interest within the meaning of this section).

C. 52:13D-21 Executive Commission on Ethical Standards; continuance, membership, appointment, officers, compensation, legal adviser, clerical assistants, powers and duties; penalties.

10. (a) The Executive Commission on Ethical Standards created pursuant to P. L. 1967, chapter 229 is continued and established in the Department of Law and Public Safety and shall constitute the first commission under this act.

(b) The commission shall be composed of seven members appointed by the Governor from among State officers and employees serving in the Executive Branch. Each member shall serve at the pleasure of the Governor during the term of office of the Governor appointing him and until his successor is appointed and qualified. The Governor shall designate one member to serve as chairman and one member to serve as vice-chairman of the commission.

(c) Each member of the said commission shall serve without compensation but shall be entitled to be reimbursed for all actual and necessary expenses incurred in the performance of his duties.

(d) The Attorney General shall act as legal adviser and counsel to the said commission. He shall upon request advise the commission in the rendering of advisory opinions by the commission, in the approval and review of codes of ethics adopted by State agencies in the Executive Branch and in the recommendation of revisions in codes of ethics or legislation relating to the conduct of State officers and employees in the Executive Branch.

(e) The said commission may, within the limits of funds appropriated or otherwise made available to it for the purpose, employ such other professional, technical, clerical or other assistants, ex-

cepting legal counsel, and incur such expenses as may be necessary for the performance of its duties.

(f) The said commission, in order to perform its duties pursuant to the provisions of this act, shall have the power to conduct investigations, hold hearings, compel the attendance of witnesses and the production before it of such books and papers as it may deem necessary, proper and relevant to the matter under investigation. The members of the said commission and the persons appointed by the commission for such purpose are hereby empowered to administer oaths and examine witnesses under oath.

(g) The said commission is authorized to render advisory opinions as to whether a given set of facts and circumstances would, in its opinion, constitute a violation of the provisions of this act or of a code of ethics promulgated pursuant to the provisions of this act.

(h) The said commission shall have jurisdiction to initiate, receive, hear and review complaints regarding violations, by any State officer or employee or special State officer or employee in the Executive Branch, of the provisions of this act or of any code of ethics promulgated pursuant to the provisions of this act. Any complaint regarding a violation of a code of ethics may be referred by the commission for disposition in accordance with subsection 12 (d) of this act.

(i) Any State officer or employee or special State officer or employee found guilty by the commission of violation any provision of this act or of a code of ethics promulgated pursuant to the provisions of this act shall be fined not less than \$100.00 nor more than \$500.00, which penalty may be collected in a summary proceeding pursuant to the Penalty Enforcement Law (N. J. S. A. 2A:58-1), and may be suspended from his office or employment by order of the commission for a period of not in excess of 1 year. If the commission finds that the conduct of such officer or employee constitutes a willful and continuous disregard of the provisions of this act or of a code of ethics promulgated pursuant to the provisions of this act, it may order such person removed from his office or employment and may further bar such person from holding any public office or employment in this State in any capacity whatsoever for a period of not exceeding 5 years from the date on which he was found guilty by the commission.

C. 52:13D-22 Joint Legislative Committee on Ethical Standards; continuance, membership, appointment, officers, legal adviser, clerical assistants, powers and duties; penalties.

11. (a) The Joint Legislative Committee on Ethical Standards created pursuant to the provisions of P. L. 1967, chapter 229 is continued and established in the Legislative Branch of State Government and shall constitute the first joint committee under this act.

(b) The joint committee shall be composed of four members of the Senate appointed by the President thereof, no more than two of whom shall be of the same political party, and four members of the General Assembly, appointed by the Speaker thereof, no more than two of whom shall be of the same political party. The members of the said joint committee shall be appointed annually, as soon as may be after the commencement of the legislative year, to serve during the legislative year.

(c) The said joint committee shall organize annually, as soon as may be after the appointment of its members, by the selection of a chairman and vice chairman from among its membership and the appointment of a secretary who need not be a member of the joint committee.

(d) The Chief Counsel of the Law Revision and Legislative Services Commission shall act as legal adviser to the said joint committee. He shall, upon request, assist and advise the joint committee in the rendering of advisory opinions by the joint committee, in the approval and review of codes of ethics adopted by State agencies in the Legislative Branch, and in the recommendation of revisions in codes of ethics or legislation relating to the conduct of members of the Legislature or State officers and employees in the Legislative Branch.

(e) The said joint committee may, within the limits of funds appropriated or otherwise available to it for the purpose, employ such other professional, technical, clerical or other assistants, excepting legal counsel, and incur such expenses as may be necessary to performance of its duties.

(f) The said joint committee shall have all the powers granted pursuant to chapter 13 of Title 52 of the Revised Statutes.

(g) The said joint committee is authorized to render advisory opinions as to whether a given set of facts and circumstances would, in its opinion, constitute a violation of the provisions of this act or of a code of ethics promulgated pursuant to the provisions of this act.

(h) The said joint committee shall have jurisdiction to initiate, receive, hear and review complaints regarding violations of the

provisions of this act or of a code of ethics promulgated pursuant to the provisions of this act. It shall further have such jurisdiction as to enforcement of the rules of either House of the Legislature governing the conduct of the members thereof as the rules of such House may confer upon the joint committee. A complaint regarding violation of a code of ethics promulgated pursuant to the provisions of this act may be referred by the joint committee for disposition in accordance with subsection 12 (d) of this act.

(i) Any State officer or employee or special State officer or employee in the Legislative Branch found guilty by the joint committee of violating any provisions of this act or of a code of ethics promulgated pursuant to the provisions of this act shall be fined not less than \$100.00 nor more than \$500.00, which penalty may be collected in a summary proceeding pursuant to the Penalty Enforcement Law (N. J. S. 2A:58-1), and may be suspended from his office or employment by order of the joint committee for a period not in excess of 1 year. If the joint committee finds that the conduct of such officer or employee constitutes a willful and continuous disregard of the provisions of this act or of a code of ethics promulgated pursuant to the provisions of this act, it may order such person removed from his office or employment and may further bar such person from holding any public office or employment in this State in any capacity whatsoever for a period of not exceeding 5 years from the date on which he was found guilty by the joint committee.

(j) A member of the Legislature who shall be found guilty by the joint committee of violating the provisions of this act or of a code of ethics promulgated pursuant to the provisions of this act shall be fined not less than \$100.00 nor more than \$500.00, which penalty may be collected in a summary proceeding pursuant to the Penalty Enforcement Law (N. J. S. 2A:58-1), and shall be subject to such further action as may be determined by the House of which he is a member. In such cases the joint committee shall report its findings to the appropriate House and shall recommend to the House such further action as the joint committee deems appropriate, but it shall be the sole responsibility of the House to determine what further action, if any, shall be taken against such member.

C. 52:13D-23 Code of ethics; promulgation, approval, violations, general standards.

12. (a) The head of each State agency, or the principal officer in charge of a division, board, bureau, commission or other instrumentality within a department of State Government designated by the head of such department for the purposes hereinafter set

forth, shall within 6 months from the date of enactment, promulgate a code of ethics to govern and guide the conduct of the members of the Legislature or the State officers and employees in the agency to which said code is applicable. Such code shall conform to the general standards hereinafter set forth in this section, but it shall be formulated with respect to the particular needs and problems of the agency to which said code is to apply.

(b) A code of ethics formulated pursuant to this section to govern and guide the conduct of the State officers and employees in any State agency in the Executive Branch, or any portion of such a code, shall not be effective unless it has first been approved by the Executive Commission on Ethical Standards. When a proposed code is submitted to the said commission it shall be accompanied by an opinion of the Attorney General as to its compliance with the provisions of this act and any other applicable provision of law. Nothing contained herein shall prevent officers of State agencies in the Executive Branch from consulting with the Attorney General or with the Executive Commission on Ethical Standards at any time in connection with the preparation or revision of such codes of ethics.

(c) A code of ethics formulated pursuant to this section to govern and guide the conduct of the members of the Legislature and State officers and employees in any State agency in the Legislative Branch, or any portion of such code, shall not be effective unless it has first been approved by the Legislature by concurrent resolution. When a proposed code is submitted to the Legislature for approval it shall be accompanied by an opinion of the chief counsel as to its compliance with the provisions of this act and any other applicable provisions of law. Nothing contained herein shall prevent officers of State agencies in the Legislative Branch from consulting with the Chief Legislative Counsel or the Joint Legislative Committee on Ethical Standards at any time in connection with the preparation or revision of such codes of ethics.

(d) Violations of a code of ethics promulgated pursuant to this section shall be cause for removal, suspension, demotion or other disciplinary action by the State officer or agency having the power of removal or discipline. When a person who is in the classified civil service is charged with a violation of such a code of ethics, the procedure leading to such removal or discipline shall be governed by any applicable provisions of the Civil Service Law and the Rules of the Department of Civil Service. No action for removal or discipline shall be taken under this subsection except upon the re-

ferral or with the approval of the Executive Commission on Ethical Standards or the Joint Legislative Committee on Ethical Standards, whichever is authorized to exercise jurisdiction with respect to the complaint upon which such action for removal or discipline is to be taken.

(e) A code of ethics for officers and employees of a State agency shall conform to the following general standards:

(1) No State officer or employee should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity, which is in substantial conflict with the proper discharge of his duties in the public interest.

(2) No State officer or employee should engage in any particular business, profession, trade or occupation which is subject to licensing or regulation by a specific agency of State Government without promptly filing notice of such activity with the Executive Commission on Ethical Standards, if he is an officer or employee in the Executive Branch, or with the Joint Legislative Committee on Ethical Standards, if he is an officer or employee in the Legislative Branch.

(3) No State officer or employee should use or attempt to use his official position to secure unwarranted privileges or advantages for himself or others.

(4) No State officer or employee should act in his official capacity in any matter wherein he has a direct or indirect personal financial interest that might reasonably be expected to impair his objectivity or independence of judgment.

(5) No State officer or employee should undertake any employment or service, whether compensated or not, which might reasonably be expected to impair his objectivity and independence of judgment in the exercise of his official duties.

(6) No State officer or employee should accept any gift, favor, service or other thing of value under circumstances from which it might be reasonably inferred: that such gift, service or other thing of value was given or offered for the purpose of influencing him in the discharge of his official duties.

(7) No State officer or employee should knowingly act in any way that might reasonably be expected to create an impression or suspicion among the public having knowledge of his acts that he may be engaged in conduct violative of his trust as a State officer or employee.

(8) Rules of conduct adopted pursuant to these principles should recognize that under our democratic form of government public officials and employees should be drawn from all of our society, that citizens who serve in government can not and should not be expected to be without any personal interest in the decisions and policies of government; that citizens who are government officials and employees have a right to private interests of a personal, financial and economic nature; that standards of conduct should separate those conflicts of interest which are unavoidable in a free society from those conflicts of interest which are substantial and material, or which bring government into disrepute.

(f) The code of ethics for members of the Legislature shall conform to subsection (e) hereof as nearly as may be possible.

C. 52:13D-24 Solicitation or receipt of compensation, gift, etc., for service, advice or assistance; exceptions.

13. No State officer or employee, special State officer or employee, or member of the Legislature shall solicit, receive or agree to receive, whether directly or indirectly, any compensation, reward, employment, gift or other thing of value from any source other than the State of New Jersey, for any service, advice, assistance or other matter related to his official duties, except reasonable fees for speeches or published works on matters within his official duties and except, in connection therewith, reimbursement of actual expenditures for travel and reasonable subsistence for which no payment or reimbursement is made by the State of New Jersey. This section shall not apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective public office.

C. 52:13D-25 Willful disclosure or use of certain information prohibited.

14. No State officer or employee, special State officer or employee, or member of the Legislature shall willfully disclose to any person, whether or not for pecuniary gain, any information not generally available to members of the public which he receives or acquires in the course of and by reason of his official duties. No State officer or employee, special State officer or employee, or member of the Legislature shall use for the purpose of pecuniary gain, whether directly or indirectly, any information not generally available to members of the public which he receives or acquires in the course of and by reason of his official duties.

C. 52:13D-26 Inducement to violate code of ethics; penalties.

15. No person shall induce or attempt to induce any State officer or employee, special State officer or employee, or member of the Legislature to violate any provision of this act or any code of ethics promulgated thereunder. Any person who willfully violates any provision of this section is a disorderly person, and shall be subject to a fine not to exceed \$500.00 or imprisonment not to exceed 6 months, or both.

16. If any section, subsection, paragraph, sentence or other part of this act is adjudged unconstitutional or invalid, such 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 said judgment shall have been rendered.

C. 52:13D-27 Short title.

17. This act shall be known as, and may be cited as, the "New Jersey Conflicts of Interest Law."

18. Nothing in this act shall be deemed to alter, limit, restrict, enlarge or otherwise affect the rights or obligations of any State officer or employee, special State officer or employee, or member of the Legislature pursuant to any transaction entered into or agreement made in good faith prior to the effective date of this act.

19. Chapter 229 of the laws of 1967 is repealed as of the effective date of this act, but any rules, regulations and opinions of the Executive Commission on Ethical Standards and the Joint Legislative Committee on Ethical Standards made or issued pursuant to said act shall remain in force and effect until superseded by codes, rules, regulations or opinions made or issued pursuant to this act.

20. This act shall take effect January 11, 1972.

Approved June 2, 1971.

CHAPTER 183

AN ACT to require the public disclosure of certain information by certain persons seeking to influence legislation in this State, providing penalties for noncompliance, and repealing the "Legislative Activities Disclosure Act," approved October 16, 1964 (P. L. 1964, c. 207).

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

C. 52:13C-18 Declaration of intent.

1. Declaration of intent. The Legislature affirms that the preservation of responsible government requires that the fullest opportunity be afforded to the people of the State to petition their government for the redress of grievances and to express freely to individual legislators and to committees of the Legislature their opinion on legislation and current issues. The Legislature finds, however, that the preservation and maintenance of the integrity of the legislative process requires the identification in certain instances of persons and groups who seek to influence the content, introduction, passage or defeat of legislation. It is the purpose of this act to require adequate disclosure in certain instances in order to make available to the Legislature and the public information relative to the activities of persons who seek to influence the content, introduction, passage or defeat of legislation by such means.

C. 52:13C-19 Short title.

2. Short title. This act shall be known as the "Legislative Activities Disclosure Act of 1971."

C. 52:13C-20 Definitions.

3. Definitions. For the purposes of this act, unless the context clearly requires a different meaning:

a. The term "person" includes an individual, partnership, committee, association, corporation, and any other organization or group of persons.

b. The term "legislation" includes all bills, resolutions, amendments, nominations and appointments pending or proposed in

either House of the Legislature, and all bills and resolutions which, having passed both Houses, are pending approval by the Governor.

c. The term "Legislature" includes the Senate and General Assembly of the State of New Jersey, the members and members-elect thereof and each of them, all committees and commissions established by the Legislature or by either House and all members of any such committee or commission, and all staff, assistants and employees of the Legislature whether or not they receive compensation from the State of New Jersey.

d. The term "Governor or his staff" includes the Governor or the Acting Governor, the Secretary to the Governor, the Counsel to the Governor, and all other employees of the Chief Executive's Office.

e. The term "communication to the Legislature" or "to the Governor or his staff" means any communication, oral or in writing or any other medium, addressed, delivered, distributed or disseminated to the Legislature or the Governor or his staff or to any part thereof or member thereof as distinguished from the general public including but not limited to the Legislature or the Governor or his staff. If any person shall obtain, reproduce or excerpt any communication or part thereof which in its original form was not a communication to the Legislature or the Governor or his staff and shall cause such excerpt or reproduction to be addressed, delivered, distributed or disseminated to the Legislature or the Governor or his staff or any part thereof or member thereof, such communication, reproduction or excerpt shall be deemed a communication to the Legislature or the Governor or his staff by such person.

f. The term "legislative agent" means any person who receives or agrees to receive, directly or indirectly, compensation, in money or anything of value including reimbursement of his expenses where such reimbursement exceeds \$100.00 in any 3-month period, to influence legislation by communication, personally or through any intermediary, to the Legislature or the Governor or his staff, or who holds himself out as engaging in the business of influencing legislation by such means, or who incident to his regular employment engages in influencing legislation by such means; provided, however, that a person shall not be deemed a legislative agent who, in relation to the duties or interests of his employment or at the request or suggestion of his employer, communicates to the Legislature or the Governor or his staff concerning any legislation, if such communication is an isolated, exceptional or infrequent activity in

relation to the usual duties of his employment. The Attorney General shall develop and promulgate reasonable rules and guidelines for ascertaining whether a person's communication or communications are isolated, exceptional or infrequent within the intent of this subsection, and shall include such rules and guidelines in the summary and explanation of the registration and reporting requirements of this act which he is required, under subsection i. of section 6 of this act, to prepare and publish for the use and guidance of those persons who may be required to file statements under this act.

g. The term "influence legislation" means to make any attempt, whether successful or not, to secure or prevent the initiation of any legislation, or to secure or prevent the passage, defeat, amendment or modification thereof by the Legislature, or the approval, amendment or disapproval thereof by the Governor in accordance with his Constitutional authority.

h. The term "statement" includes a notice of representation or a report required by this act.

C. 52:13C-21 Notice of representation; filing, contents, separate notices.

4. a. Any person who, on or after the effective date of this act, is employed, retained or engages himself as a legislative agent shall, prior to any communication to the Legislature or to the Governor or his staff, and in any event within 30 days of the effective date of this act or of such employment, retainer or engagement, whichever occurs later, file a signed notice of representation with the Attorney General in such detail as the Attorney General may prescribe, identifying himself and persons by whom he is employed or retained, and the persons in whose interests he is working, and the general nature of his proposed services as a legislative agent for such persons, which notice shall contain the following information:

- (1) his name, business address and regular occupation;
- (2) the name, business address and occupation of the person from whom he receives compensation for acting as a legislative agent;
- (3) the name, business address and occupation of any person in whose interest he acts as a legislative agent in consideration of the aforesaid compensation, if such person is another than the person from whom said compensation is received;
- (4) whether the person from whom he receives said compensation employs him solely as a legislative agent, or whether he is a regular employee performing services for his employer which include but are not limited to the influencing of legislation;

(5) the length of time for which he will be receiving compensation from the person aforesaid for acting as a legislative agent, if said length of time can be ascertained at the time of filing;

(6) the type of legislation or the particular legislation in relation to which he is to act as legislative agent in consideration of the aforesaid compensation, and any particular legislation or type of legislation which he is to promote or oppose;

(7) a full and particular description of any agreement, arrangement or understanding according to which his compensation, or any portion thereof, is or will be contingent upon the success of any attempt to influence legislation.

b. Any legislative agent who receives compensation from more than one person for his services as a legislative agent shall file a separate notice of representation with respect to each such person; except that a legislative agent whose fee for acting as such in respect to the same legislation or type of legislation is paid or contributed to by more than one person may file a single statement, in which he shall detail the name, business address and occupation of each person so paying or contributing.

C. 52:13C-22 Quarterly report.

5. a. Every legislative agent shall file with the Attorney General a signed quarterly report of his activity in attempting to influence legislation during each such quarter.

b. The quarterly reports required under this section shall be made in the form and manner prescribed by the Attorney General and shall be filed between the first and tenth days of each calendar quarter for such activity during the preceding calendar quarter. The Attorney General may, in his discretion, permit joint reports by persons subject to this act.

c. Each such quarterly report shall

(1) describe the particular items of legislation and any general category or type of legislation regarding which the legislative agent acted as a legislative agent during the quarter, and any particular items or general types of legislation which he actively promoted or opposed during the quarter; and

(2) supply any information necessary to make the notice of representation filed by the legislative agent pursuant to section 4 of this act current and accurate as of the final day of the calendar quarter covered by the report.

C. 52:13C-23 Attorney General's duties.

6. The Attorney General shall

- a. permit public inspection of all statements filed pursuant to this act;
- b. compile and summarize information contained in statements filed pursuant to this act, and report the same to the Legislature and the Governor;
- c. ascertain whether any persons have failed to file statements as required by this act, or have filed incomplete or inaccurate statements, and give notice to such persons to file such statements as will conform to the requirements of this act;
- d. investigate and prosecute violations of this act, and report to the Legislature and the Governor thereon;
- e. make such recommendations to the Legislature and the Governor as will tend to further the objectives of this act and take such other action as shall be necessary and proper to effectuate the purposes of this act;
- f. report to the Legislature and the Governor annually on the administration of this act;
- g. develop and prescribe methods and forms for statements required to be filed by this act, and require the use of such forms by persons subject to this act;
- h. compile and publish at least once each month a list of all legislative agents then registered, together with the information contained in their notices of representation and last quarterly report, which compilation shall be distributed to all members of the Legislature and the Governor, and published in the New Jersey Register;
- i. prepare and publish a summary and explanation of the registration and reporting requirements of this act for the use and guidance of those persons who may be required to file statements under this act.

C. 52:13C-24 Preservation of records; exception.

7. Any person engaged in activity which makes him subject to filing a statement under this act shall keep and preserve all records of his receipts, disbursements and other financial transactions in the course of and as a part of his activities as a legislative agent. Such records shall be preserved for a period of 3 calendar years next succeeding the calendar year in which they were made. The provisions of this section shall not apply to any legislative agent with respect to any quarterly period within which the total of his compensation including reimbursement of expenses is less than \$500.00.

C. 52:13C-25 Legislative agent's responsibilities.

8. a. Every legislative agent shall file a notice of termination report within 30 days after his activity shall cease, on such form as the Attorney General shall prescribe, and any person who engages a legislative agent may file a notice of termination after such agent ceases to represent such person.

b. A legislative agent who receives or agrees to receive compensation for acting as such from any person not named in the notice of representation filed pursuant to section 4 of this act or in any subsequent supplement or amendment thereto shall, within 15 days of receiving or agreeing to receive such compensation, file an appropriate notification thereof in writing with the Attorney General.

c. A legislative agent shall notify the Attorney General in writing of any material change in the information supplied by him in the notice of representation filed pursuant to section 4 of this act within 15 days of the effective date of such change.

C. 52:13C-26 Public records; inspection, preservation.

9. The statements required by this act to be filed with the Attorney General (a) shall constitute part of the public records of his office and shall be available for public inspection; and (b) shall be preserved by the Attorney General for a period of 5 years from the date of filing.

C. 52:13C-27 Act not applicable to certain activities.

10. This act shall not apply to the following activities:

a. the publication or dissemination, in the ordinary course of business, of news items, advertising, editorials or other comments by a newspaper, book publisher, regularly published periodical radio or television station including an owner, editor or employee thereof;

b. acts of an officer or employee of the Government of this State or any of its political subdivisions, or of the Government of the United States or of any State or territory thereof or any of their political subdivisions, in carrying out the duties of their public office or employment;

c. acts of bona fide religious groups acting solely for the purpose of protecting the public right to practice the doctrines of such religious groups;

d. acts of a duly organized national, State or local committee of a political party; and

e. acts of a person in testifying before a legislative committee or commission, or at a public hearing duly called by the Governor on legislative proposals or on legislation passed and pending his

approval in behalf of a nonprofit organization incorporated as such in this State who receives no compensation therefor beyond the reimbursement of necessary and actual expenses, and who makes no other communication to the Legislature or the Governor or his staff in connection with the subject of his testimony.

f. acts of a person in communicating with the Legislature or the Governor or his staff if such communication is undertaken by him as a personal expression and not incident to his employment, even if it is upon a matter relevant to the interests of a person by whom or which he is employed, and if he receives no additional compensation or reward, in money or otherwise, for or as a result of such communication.

C. 52:13C-28 Wearing of name tag.

11. Every legislative agent who is in the State House for the purpose of influencing legislation shall at all times wear a descriptive name tag of a type prescribed by the Attorney General.

C. 52:13C-29 Prohibited activities; penalty.

12. All staff, assistants and employees of the Legislature who receive for their services a stated salary or similar compensation from the State of New Jersey are forbidden to act as legislative agents or to seek, receive or agree to receive, directly or indirectly, compensation, in money or any thing of value, for influencing or purporting to influence legislation. Whoever violates this section is guilty of a misdemeanor.

C. 52:13C-30 Falsification of statement, notice or report; penalty.

13. Any person who knowingly and willfully falsifies all or any part of any statement, notice or report under this act shall, upon conviction, be guilty of a misdemeanor.

C. 52:13C-31 False communication or signature; penalty.

14. Any person who shall transmit, utter or publish to the Legislature or the Governor or his staff any communication relating to any legislation or be a party to the preparation thereof, knowing such communication or any signature thereto is false, forged, counterfeit, or fictitious, shall upon conviction, be guilty of a misdemeanor.

C. 52:13C-32 Failure to comply with provisions of act; penalty.

15. Upon the failure to comply with any provisions of this act by any person subject thereto the Attorney General may institute a civil action to enjoin such person from engaging in activity covered by this act until such time as he shall perform any duty imposed thereby and to require him to file any statement required

by this act for the period he acted in violation thereof, and the court may proceed in a summary manner.

C. 52:13C-33 Failure to file notice of representation; penalty.

16. Any legislative agent required to file a notice of representation or report or maintain any record under this act who fails to file such a notice or report or maintain such record shall, upon conviction, be guilty of a misdemeanor.

C. 52:13C-34 Obligation to file statement.

17. Every officer, or person performing the functions of an officer, of any person required by this act to file any statement shall be under obligation to cause such person to file such statement within the time prescribed by this act.

The obligation of any person to file any statement required by this act shall continue from day to day, and discontinuance of the activity out of which the obligation arises shall not relieve any person from the obligation to file any statement required for any period of time prior to such discontinuance.

C. 52:13C-35 Voluntary statements; acceptance, filing and reporting.

18. The Attorney General shall make provision to accept statements similar to statements required by this act from persons who are not required by law to file such statements but who choose to make reports upon their activities in influencing legislation. The Attorney General shall have full discretion in prescribing the form and detail of such voluntary statements, and he may by general rules delimit classes of voluntary filings which will or will not be accepted by him in order to further the purposes of this act and the efficient administration thereof. The information contained in such voluntary statements as are accepted by the Attorney General shall be included in the periodic reports and summaries required to be made by him.

C. 52:13C-36 Attorney General's powers.

19. a. When it shall appear to the Attorney General that a person required to file any statement under this act has failed to file such required statement, or has filed a statement false, inaccurate or incomplete in any material matter, or has otherwise violated the provisions of this act; or when the Attorney General believes it to be in the public interest that an investigation should be made to ascertain whether a person has in fact violated any of the provisions of this act, he may apply to the Superior Court for an order or orders directing

(1) that any such person or persons to make available to his inspection, or to the inspection of any of his authorized deputies or

agents, such records as are required to be kept by that person pursuant to section 7 of this act; or,

(2) that any such person file a statement or report in writing under oath concerning the facts and circumstances upon which the Attorney General's belief in the necessity of an investigation is based; or,

(3) that any person submit to examination under oath by the Attorney General in connection with said circumstances, and produce any and all records, books and other documents which may be specified by order of the court; or,

(4) that the Attorney General may impound any record, book or other documents specified by order of the court.

b. Such application by the Attorney General shall set forth all the facts and circumstances upon which his belief in the necessity of an investigation is based. The court may proceed on such application in a summary manner; and if the court determines that from the evidence submitted it appears that a person required to file any statement under this act has failed to file such statement, or has filed a statement false, inaccurate or incomplete in any material respect, or has otherwise violated any of the provisions of this act, or that it is the public interest that an investigation be held to determine whether such violation has occurred, the court shall issue such order pursuant to subsection a. of this section as it may deem necessary and proper.

c. The Attorney General shall hold as confidential all statements, books, records, testimony and other information or sources of information coming into his possession or knowledge as a result of an investigation pursuant to this section; and he shall not disclose or divulge any such materials or information to anyone except the court under whose order such material or information comes into his knowledge or possession, unless the court shall order its disclosure to a grand jury of this State or other appropriate authorities for the purposes of enforcing the provisions of this act or any other law.

d. If any person shall refuse to testify or produce any book, paper or other document in any proceeding under this section as ordered by the court on the grounds that the testimony or evidence, documentary or otherwise, which is required of him may tend to incriminate him, convict him of a crime, or subject him to a penalty or forfeiture, and shall, notwithstanding, be directed to testify or to produce such book, paper or document, he shall comply with such direction. A person who is entitled by law to assert such privilege,

and does so assert, and thereafter complies with such direction, shall not thereafter be prosecuted or subjected to any penalty or forfeiture in any criminal proceeding which arises out of and relates to the subject matter of the proceeding. No person so testifying shall be exempt from prosecution or punishment for perjury on false swearing committed by him in giving such testimony.

20. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Repealer.

21. The "Legislative Activities Disclosure Act," approved October 16, 1964 (P. L. 1964, c. 207) is repealed. All the functions, powers and duties of the Secretary of State under the said act are hereby terminated; and all files, books, papers, records and other property relating to such functions, powers and duties are hereby transferred to the custody and control of the Attorney General.

22. This act shall take effect 60 days after its enactment, but such actions as may be necessary to prepare for its effectuation may be taken prior thereto.

Approved June 2, 1971.

CHAPTER 184

AN ACT concerning alcoholic beverage control and supplementing chapter 1 of Title 33 of the Revised Statutes.

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

C. 33:1-40.3 Sale of malt alcoholic beverages in original containers.

1. Whenever the sale of alcoholic beverages for consumption on the premises and off the premises or either thereof is authorized in any municipality by ordinance or rule or regulation of the Division of Alcoholic Beverage Control, by the holder of a retail consumption or retail distribution license, such ordinance or rule shall authorize the sale of malt alcoholic beverage in original bottle or can containers for consumption off the premises on the same

days and during the same hours as the sale of alcoholic beverages for consumption on the premises is permitted and authorized in said municipality.

All parts of ordinances and regulations of the Director of the Division of Alcoholic Beverage Control inconsistent with the provisions of this act are superseded to the extent of such inconsistency.

2. This act shall take effect 30 days after enactment.

Approved June 2, 1971.

CHAPTER 185

AN ACT concerning the taking of clams and amending R. S. 50:2-10 and 50:4-2.

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

1. R. S. 50:2-10 is amended to read as follows:

Taking shellfish with power boat.

50:2-10. No boat, or vessel, propelled wholly or in part by steam, naphtha, gasoline, electricity or any other mechanical motive power, shall engage in the catching or taking of shellfish from any of the natural beds, under the tidal waters of this State, while so mechanically propelled, except as otherwise specifically provided in sections 50:3-6 and 50:4-2 of this Title.

2. R. S. 50:4-2 is amended to read as follows:

Dredge, drag or scrape prohibited upon natural beds; exceptions.

50:4-2. No person shall use or cause to be used any dredge with bag or pocket, drag or scrape upon any of the natural oyster or clam beds under the tidal waters of the Atlantic seaboard of this State and tributaries thereof, except Delaware bay, and no license shall be issued by the board contrary to this section; but this section shall not prohibit the use of any fork, hoe or drag used by hand in the taking of soft clams; nor shall it prohibit the catching of oysters with hand power dredges from the natural oyster grounds of this State north of Shrewsbury river; nor shall it

prohibit the taking of clams with power dredges from specified leased lands under said waters, except Delaware bay, with the approval of the Commissioner of Environmental Protection and under such conditions and supervision as he may prescribe, and under rules and regulation of the Shell Fisheries Council.

3. This act shall take effect immediately.

Approved June 2, 1971.

CHAPTER 186

AN ACT concerning female labor and repealing R. S. 34:2-24 through R. S. 34:2-28.2 and P. L. 1969, c. 308.

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

Repealer.

1. R. S. 34:2-24 through R. S. 34:2-28.2 and P. L. 1969, chapter 308 (C. 34:2-24.1) are repealed.

2. This act shall take effect immediately.

Approved June 2, 1971.

CHAPTER 187

AN ACT to amend "An act concerning claims against the State," approved June 15, 1970 (P. L. 1970, c. 98).

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

1. Section 1 of P. L. 1970, c. 98 (C. 52:4A-1) is amended to read as follows:

C. 52:4A-1 Claims against the State.

1. Except for actions founded upon the Constitution of this State or the United States or an express provision of the statutory laws

of this State, no action shall be instituted or continued against the State or any department or other agency thereof for the recovery of money damages, whether based on contract or tort, where the cause of action accrues prior to April 1, 1972.

2. This act shall take effect immediately.

Approved June 2, 1971.

CHAPTER 188

AN ACT to amend "An act to provide for the issuance by banks of convertible and nonconvertible capital notes and debentures, and supplementing 'An act concerning banking and banking institutions (Revision of 1948), approved April 29, 1948 (P. L. 1948, c. 67),' approved September 6, 1966 (P. L. 1966, c. 272)."

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

1. Section 3 of P. L. 1966, c. 272 (C. 17:9A-131.22) is amended to read as follows:

C. 17:9A-131.22 Capital notes issued for cash; conversion of convertible capital notes into common stock; limitations.

3. Capital notes may be issued only for cash. Convertible capital notes issued by a bank may be converted only into common stock of the issuing bank or of a company as such term is defined in P. L. 1957, c. 70, s. 1 (C. 17:9A-344), as amended, owning more than 25% of the capital stock of such bank.

2. This act shall take effect immediately.

Approved June 2, 1971.

CHAPTER 189

AN ACT authorizing appointment of an acting clerk or an acting deputy clerk of the municipal court in certain cases and supplementing chapter 8 of Title 2A.

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

C. 2A:8-13.2 Designation of acting clerk or acting deputy clerk.

1. Each judge of a municipal court may, in the absence of the clerk or a deputy clerk, where one has been appointed, designate in writing an acting clerk or acting deputy clerk, who temporarily shall have the authority to perform the duties of the clerk or deputy clerk. Any such acting clerk or acting deputy clerk shall serve with such compensation, not to exceed the rate of compensation fixed by the governing body for the clerk or deputy clerk, as the judge of the municipal court shall fix in such writing. Such appointment shall be effective until the return of the clerk or deputy clerk or until the governing body of the municipality provides by ordinance or resolution for an acting clerk or acting deputy clerk to serve during the absence of the clerk or deputy clerk, whichever first occurs.

2. This act shall take effect immediately.

Approved June 2, 1971.

CHAPTER 190

AN ACT to amend "An act to create a regional agency by inter-governmental compact for the continuing comprehensive, co-ordinated regional planning for the Delaware Valley Urban Area, and defining the functions, powers and duties of such agency," approved June 18, 1966 (P. L. 1966, c. 149).

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

1. Part I, article I, section 7 of P. L. 1966, c. 149 (C. 32:27-7) is amended to read as follows:

C. 32:27-7 Duration of compact.

7. This compact shall continue in existence until December 31, 1972. Thereafter it shall continue only upon the adoption of concurrent legislation by the party States.

2. This act shall take effect immediately.

Approved June 2, 1971.

CHAPTER 191

AN ACT concerning veterinary medical education and supplementing Title 18A of the New Jersey Statutes, and making an appropriation.

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

C. 18A:63A-1 Legislature's findings.

1. It is hereby determined and declared as a matter of legislative finding:

a. That there is a pressing need for increased numbers of doctors of veterinary medicine in New Jersey; and

b. That at the present time there is no educational program in the State for the professional training of students in the field of veterinary medicine; and

c. That only two schools of veterinary medicine are willing to accept very limited numbers of students from New Jersey without contractual agreement between the states; and

d. That it is essential that New Jersey assist in providing for the education of veterinarians in order to provide for the health and protection of all animals and the production of food and fibre for man.

C. 18A:63A-2 Contracts for acceptance of students in schools of veterinary medicine.

2. The State Board of Higher Education is hereby authorized to contract with any and all accredited schools of veterinary medicine in the United States for the acceptance of students who are residents of New Jersey for at least 12 months and desire to study veterinary medicine, and beginning September, 1971, to expend annually within the limits of available appropriations such sums as are necessary to accomplish the intent of this act.

C. 18A:63A-3 Advisory committee; function, membership, terms.

3. All such contracts shall only be entered into by the New Jersey State Board of Higher Education on behalf of the State with the advice and consent of an advisory committee consisting of the following: (1) Dean of the College of Agriculture and Environmental Science or his designee; (2) President of the New Jersey Veterinary Medical Association; (3) Secretary of the New Jersey

Veterinary Medical Examining Board and (4) four New Jersey veterinarians appointed by the Governor for terms of 4 years each. The first four appointees shall be appointed one for 1 year, one for 2 years, one for 3 years and one for 4 years, as designated by the Governor.

C. 18A:63A-4 Advisory committee; organization, compensation.

4. Said advisory committee shall organize annually by the appointment of one of its members as chairman and one as vice chairman. Members shall serve without compensation, but, shall be entitled to all necessary expenses.

5. There is hereby appropriated to the Department of Higher Education for the purposes of this act for the fiscal year 1971-1972 the sum of \$100,000.00.

6. This act shall take effect immediately.

Approved June 3, 1971.

CHAPTER 192

AN ACT requiring the registration of farm labor crew leaders, and providing penalties for its violation, repealing P. L. 1961, c. 33 (C. 34:8A-1 et seq.) and supplementing Title 34 of the Revised Statutes.

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

C. 34:8A-7 Definitions.

1. As used in this act:

a. "Crew leader" means any person who transports, recruits, supplies, or hires farm or food processing laborers and who, for any money or other valuable consideration paid or promised to be paid, directs, supervises or controls all or any part of the work of such workers, but shall not include any owner or lessee of a farm or food processing plant who recruits or hires laborers for work on his farm or in his plant, or any employment agency licensed in this State.

b. "Commissioner" means the Commissioner of the Department of Labor and Industry or his authorized representative.

c. "Seasonal farm worker" means any person who is engaged in seasonal or temporary farm work and is a term that may be used interchangeably with the terms "migrant laborer" and "temporary farm worker."

C. 34:8A-8 Certificate of registration as crew leader; employment requirement; expiration, renewal, display.

2. No person shall act as a crew leader, nor shall any person employ a crew leader unless he possesses a current and valid certificate of registration issued by the Department of Labor and Industry. The application and certificate of registration forms shall be prescribed by the commissioner.

A certificate of registration shall expire at midnight on December 31 of the year for which it is granted unless sooner revoked or suspended by the commissioner. A certificate of registration may be renewed each year upon the filing of an application of renewal on a form prescribed by the commissioner. The certificate of registration, once issued, shall not be transferable, shall be kept by the registrant in his immediate personal possession and shall be displayed by the registrant upon request of the commissioner or any properly designated representatives of the commissioner or upon the request of the person by whom the crew leader is employed.

C. 34:8A-9 Evidence to be furnished; transportation of workers.

3. All applicants for a crew leader certificate of registration shall furnish evidence satisfactory to the commissioner of his good character, knowledge of and experience with the labor laws applicable to crew leaders and farmers and food processing laborers and any other evidence which the commissioner may establish by rule and regulation. In addition, any applicant transporting seasonal farm workers shall furnish proof satisfactory to the commissioner of compliance with the statutory and regulatory requirements of the New Jersey Division of Motor Vehicles. The commissioner may refuse to issue a certificate of registration to any applicant who does not meet the requirements of this section or any applicable rules or regulations issued hereunder.

The commissioner may, however, at his discretion and upon receipt of a signed application from a crew leader stating seasonal farm workers will not be transported by him issue a registration certificate on which the words "not authorized to transport" are conspicuously placed.

C. 34:8A-10 Crew leader's additional responsibilities.

4. In addition to any other responsibilities imposed by law upon the crew leader, he shall:

a. Keep records of place of work, gross payments, deductions, and names and addresses of all workers to whom payments are made. In addition, for workers employed on a time basis, the number of units of time employed and the rate per unit of time shall be recorded on the payroll records, and for workers employed on a piece-rate basis, the number of units of work performed and the rate per unit shall be recorded on such records;

b. Ascertain and disclose to each seasonal farm worker at the time the worker is recruited the following information to the best of his knowledge and belief: (1) the area of employment, (2) the crops and operations on which he may be employed, (3) the transportation, housing and insurance to be provided him, (4) the wage rates to be paid him, and (5) the charges to be made by the crew leader for his services.

C. 34:8A-11 Authority to revoke, suspend or refuse to renew certificate of registration.

5. The commissioner may refuse to renew and may revoke or suspend any certificate of registration after a hearing upon reasonable notice if the applicant:

a. Fails to comply with the provisions of this act or any rules and regulations promulgated hereunder;

b. Knowingly misrepresents to any seasonal farm worker facts relating to working conditions and hours or to the wages to be paid;

c. Knowingly misrepresents any material fact in his application for a crew leader certificate of registration; or

d. Violates any State or Federal labor or criminal law.

Such action by the commissioner shall be in addition to any other penalties provided by law.

C. 34:8A-12 Penalties.

6. Any person who violates any of the provisions of this act or of the rules and regulations promulgated hereunder shall be a disorderly person and upon conviction, for each violation, shall be punished by a fine of not less than \$50.00 and not more than \$500.00, or imprisonment for not more than 30 days, or both.

C. 34:8A-13 Injunctive relief.

7. Upon a violation of any of the provisions of this act, any aggrieved seasonal farm worker, the commissioner or the Attorney

General are specifically authorized to institute a civil action in a court of competent jurisdiction for injunctive relief to restrain the violation and for such other further relief as the court shall deem proper. In such an action the court may proceed in a summary manner. Neither the institution of the action, nor any of the proceedings therein, shall relieve any party to such proceedings from the penalty prescribed for a violation of this act.

C. 34:8A-14 Additional penalties.

8. In addition to any other sanctions herein or otherwise provided by law, the commissioner, upon notice and hearing, may impose a penalty not exceeding \$500.00 for any violation of this act or of any rule or regulation duly issued hereunder. Such penalty shall be used for, and recovered by and in the name of the commissioner in a civil action by a summary proceeding under the Penalty Enforcement Law (N. J. S. 2A:58-1). Where any violation of this act or of any rule or regulation duly issued hereunder is of a continuing nature, each day during which such violation continues after the date fixed by the commissioner in any order or notice for the correction or termination of such violation, shall constitute an additional separate and distinct offense, except during the time an appeal from said order or notice may be taken or is pending. It shall be a complete defense to any action for a penalty pursuant to this section for the defendant to prove that the violation complained of is solely the result of the willful destruction by the occupants of any camp; provided, that proof of such fact shall not alter any duty to correct or terminate said violation as ordered by the commissioner.

C. 34:8A-15 Enforcement.

9. The Commissioner of the Department of Labor and Industry is specifically authorized to enforce the provisions of this act and to promulgate all rules and regulations which, in his discretion, are necessary to carry out the provisions of this act.

Repealer.

10. P. L. 1961, chapter 33 (C. 34:8A-1 et seq.) is repealed.

11. This act shall take effect immediately.

Approved June 7, 1971.

CHAPTER 193

AN ACT to require the furnishing of drinking water and toilet facilities to seasonal farm workers while working in the fields, and providing penalties for violations.

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

C. 34:9A-37 Definitions.

1. As used in this act:

(a) "Farm operator" means any individual, corporation, partnership, joint venture, firm, company, or other legal entity, or any officers or agents thereof, in immediate possession of any farm as owner or lessee, and, as such, responsible for its management and condition.

(b) "Seasonal farm worker" means any person who is engaged in seasonal or temporary farm work and is a term that may be used interchangeably with the terms "migrant laborer" and "temporary farm worker."

C. 34:9A-38 Facilities to be provided in working area.

2. At any farm where seasonal farm workers labor in a field that is an unreasonable distance from central facilities, the farm operator shall provide in the working area a sufficient supply of cool, potable water, and for each sex sufficient, suitable and separate privies or other toilet facilities which shall be properly screened, ventilated and kept clean and suitable facilities for the washing of hands.

C. 34:9A-39 Enforcement; rules and regulations.

3. The Commissioner of the Department of Labor and Industry is authorized to enforce this act and to promulgate all reasonable rules and regulations which, in his discretion, are necessary to carry out the provisions of this act.

C. 34:9A-40 Penalties.

4. Any farm operator who violates any of the provisions of this act or the rules and regulations promulgated hereunder shall be subject to a penalty of not less than \$50.00 nor more than \$500.00 to be collected in a civil action commenced by the commissioner by a summary proceeding under The Penalty Enforcement Law (N. J. S.

2A:58-1 et seq.) in the Superior Court, County Court, county district court, or a municipal court, all of which shall have jurisdiction to enforce said Penalty Enforcement Law in connection with this act. If the violation is of a continuing nature, each day during which it continues after the date given by which the violation must be eliminated in accordance with the order of the department shall constitute an additional, separate and distinct offense.

It shall be a complete defense to any action for a penalty pursuant to this section for the defendant to prove that the violation complained of is solely the result of the willful destruction by the occupants of any camp; provided, that proof of such fact shall not alter any duty to correct or terminate said violation as ordered by the commissioner.

C. 34:9A-41 Injunctive relief.

5. Upon a violation of this act or of any rules and regulations promulgated hereunder, any aggrieved seasonal farm worker and the Commissioner of the Department of Labor and Industry shall be entitled to institute a civil action in a court of competent jurisdiction for injunctive relief to restrain such violation and for such other relief as the court shall deem proper, and the court may proceed in a summary manner in such action. Neither the institution of such action, nor any of the proceedings therein shall relieve any party to such proceedings from the penalty prescribed for a violation of this act.

6. This act shall take effect 90 days after enactment.

Approved June 7, 1971.

CHAPTER 194

A SUPPLEMENT to the "Seasonal Farm Labor Act," approved April 2, 1945 (P. L. 1945, c. 71) as said short title was amended by chapter 91 of the laws of 1967.

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

C. 34:9A-7.1 Definition.

1. As used in this act "seasonal worker" shall mean any person who is engaged in any seasonal or temporary work.

C. 34:9A-7.2 Spanish language interpreters to be provided.

2. The Commissioner of the Department of Labor and Industry shall provide for and establish in the Bureau of Migrant Labor a permanent staff of certified Spanish language interpreters and other personnel as necessary to aid and assist seasonal workers in interpreting language in connection with matters involving any Federal, State, county or local governmental agency.

In addition to said permanent staff, the commissioner shall maintain a roster of certified Spanish language interpreters to be available at such times and places on a temporary basis as the commissioner determines.

C. 34:9A-7.3 Employment of permanent and temporary interpreters.

3. Interpreters and other employees for the permanent staff shall be appointed and employed by the commissioner subject to the provisions of Title 11 of the Revised Statutes. Temporary interpreters shall not be appointed pursuant to Title 11 of the Revised Statutes and they shall receive payment for their services on a per diem or such other basis as the commissioner determines to be appropriate.

C. 34:9A-7.4 Qualification and certification of interpreters.

4. The commissioner is authorized to adopt, promulgate and enforce such rules and regulations pertaining to the qualification and certification of interpreters and their duties and such other matters as he determines necessary to implement this act.

5. There is hereby appropriated to the Department of Labor and Industry pursuant to all the restrictions contained in the annual appropriations act the sum of \$50,000.00 to effectuate the purposes of this act.

6. This act shall take effect immediately.

Approved June 7, 1971.

CHAPTER 195

AN ACT to amend “An act concerning minimum wage standards; providing for the enforcement of such standards and the orders and regulations made with respect thereto; prescribing penalties for the violation thereof, and supplementing Title 34 of the Revised Statutes,” approved June 17, 1966 (P. L. 1966, c. 113).

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

1. Section 5 of P. L. 1966, c. 113 (C. 34:11-56a4) is amended to read as follows:

C. 34:11-56a4 Minimum rate; overtime rate; exceptions.

5. Every employer shall (a) on and after the expiration of 180 days following the date of enactment of this act pay to each of his employees wages at a rate of not less than \$1.25 per hour, and (b) on and after January 1, 1968 at a rate of not less than \$1.40 per hour, and (c) on and after January 1, 1969 at a rate of not less than \$1.50 per hour for 40 hours of working time in any week and $1\frac{1}{2}$ times such employee's regular hourly wage for each hour of working time in excess of 40 hours in any week, except this overtime rate shall not include any individual employed in a bona fide executive, administrative, or professional capacity or, if an applicable wage order has been issued by the commissioner under section 17 of this act, not less than the wages prescribed in said order. The wage rates fixed in this section shall not be applicable to employees engaged in domestic service in the home of the employer, to persons under the age of 18 not possessing a special vocational school graduate permit issued pursuant to section 15 of chapter 153 of the laws of 1940 (C. 34:2-21.15) or to persons employed as salesmen of motor vehicles; or to persons employed as outside salesmen as such term shall be defined and delimited in regulations adopted by the commissioner.

The provisions of this section for the payment to an employee of not less than $1\frac{1}{2}$ times such employee's regular hourly rate for each hour of working time in excess of 40 hours in any week shall not apply to employees engaged to labor on a farm, or employed in a hotel or to an employee of a common carrier of passengers by

motor bus or employees engaged in labor relative to the raising or care of livestock.

Day haul employees engaged on a piece-rate basis to labor on a farm shall be paid for each day worked not less than the minimum hourly wage rate multiplied by the total number of hours worked. For the purposes of this act, day haul employees shall mean persons employed to labor on a farm on a daily basis without provision for living quarters at the place of his employment.

2. This act shall take effect immediately.

Approved June 7, 1971.

CHAPTER 196

AN ACT to amend "An act concerning alcoholic beverages; limiting the number of licenses to sell alcoholic beverages at retail, and supplementing chapter 1, Title 33, of the Revised Statutes," approved May 1, 1947 (P. L. 1947, c. 94).

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

1. Section 2 of P. L. 1947, chapter 94 (C. 33:1-12.14) is amended to read as follows:

C. 33:1-12.14 Limitation on number of new retail licenses in municipality.

2. Except as otherwise provided in this act, no new plenary retail consumption or seasonal retail consumption license shall be issued in a municipality unless and until the combined total number of such licenses existing in the municipality is fewer than one for each 3,000 of its population as shown by the last then preceding Federal census; and no new plenary retail distribution license shall be issued in a municipality unless and until the number of such licenses existing in the municipality is fewer than one for each 7,500 of its population as shown by the last then preceding Federal census.

2. This act shall take effect immediately but remain inoperative until the promulgation of the 1970 decennial Federal census.

Approved June 7, 1971.

CHAPTER 197

AN ACT concerning county and municipal fire and police departments, revising parts of the statutory law, and enacting an additional chapter to Title 40A of the New Jersey Statutes.

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

Section 1

TITLE 40A.

CHAPTER 14

FIRE AND POLICE

- A. Fire — Counties
- B. Fire — Municipalities
- C. Police — Counties
- D. Police — Municipalities
- E. Repeals

A. ANALYSIS

- 40A:14-1 County fire marshal; appointment; salary.
- 40A:14-2 County fire marshal; powers and duties.
- 40A:14-3 Acting county fire marshal.
- 40A:14-4 Removal or destruction of buildings or other structures constituting fire hazards; notice, service and filing.
- 40A:14-5 Statement of costs filed; lien.
- 40A:14-6 County fire marshal's powers not to conflict.

40A:14-1 County fire marshal; appointment; salary.

The board of chosen freeholders of any county, by resolution, may create the office of county fire marshal and such assistant fire marshals as deemed necessary and appoint a person or persons to hold such office for a term of one year commencing January 15, except that the first appointee's term of office shall terminate on January 15 following his appointment. The board of chosen freeholders shall fix the amount of the annual salary of the county fire marshal and the assistant fire marshals, if any.

Source: R. S. 40:22-16 amended 1941, c. 127; 1961, c. 60; 1967, c. 227, s. 1.

40A:14-2 County fire marshal; powers and duties.

The county fire marshal shall act in an advisory capacity to all of the fire companies in the county, conduct investigations pertaining to the elimination of fire hazards and in reference thereto make recommendations to the board of chosen freeholders. The said board may act upon such recommendations and take action for the abatement of fire hazards.

The county fire marshal, subject to the approval of the said board, may:

- (1) regulate the use, storage, sale and disposal of inflammable or combustible materials;
- (2) provide for the protection of life and property from danger of fires and explosions; and
- (3) provide for the inspection of fire hazards in buildings, docks, wharves, warehouses and other places.

Source: R. S. 40:22-17.

40A:14-3 Acting county fire marshal.

In the event that a county fire marshal shall become incapacitated or otherwise disabled, the board of chosen freeholders of the county may appoint an acting fire marshal to hold such office during the period of such incapacity or disability. The acting fire marshal shall exercise all the powers of the fire marshal and shall serve without any additional compensation for his service. The said board of chosen freeholders may pay the county fire marshal his usual salary during his incapacity or disability.

Source: C. 40:22-16.1 (1940, c. 157 amended 1967, c. 227, s. 2).

40A:14-4 Removal or destruction of buildings or other structures constituting fire hazards; notice, service and filing.

The county fire marshal may take action for the removal or destruction of any building or other structure which is or is likely to become a fire hazard, but only on written notice to the owner or person in control of said premises. Such notice shall afford the owner or person in control a period of not less than 30 days in which to eliminate the fire hazard and shall state that in the event the owner or person in control fails so to do, the county fire marshal will eliminate such hazards. Any such notice shall be served in the same or substantially similar manner as in the case of the service of a summons issuing out of a court of record. Proof of service shall be filed within 10 days after service with the county clerk and the clerk of the municipality wherein the premises are located.

Source: R. S. 40:22-17; 40:22-18; 40:22-19; 40:22-20.

40A:14-5 Statement of costs filed; lien.

Whenever any such removal or destruction shall have been undertaken and completed by the county fire marshal an accurate account of the cost shall be kept and a true statement thereof, under oath, shall be filed by him with the county clerk and collector of taxes for the taxing district wherein the premises are situated. The amount of such cost shall be a lien upon the real estate whereon such building or structure was located.

Source: R. S. 40:22-21.

40A:14-6 County fire marshal's powers not to conflict.

The powers, functions and duties of a county fire marshal shall not be deemed to conflict with the ordinances of any municipality relating to the removal of fire hazards nor shall a county fire marshal have any powers or jurisdiction for the prevention, extinguishing, investigation or reporting of fire in the forests, brush lands, wild lands or woodlands in the State delegated by law to the Department of Conservation and Economic Development.

Source: R. S. 40:22-22.

B. ANALYSIS

- 40A:14-7 Creation and establishment of fire departments and forces.
- 40A:14-8 Acquisition of lands and buildings; construction and maintenance of buildings.
- 40A:14-9 General qualifications of members; temporary appointments; absences from duty.
- 40A:14-10 Residence requirements waived in certain cases.
- 40A:14-10.1 Residence requirements for persons discharged or released from the military service.
- 40A:14-11 Certain municipalities under 30,000 population, 6-month residence for appointees not required; conditions.
- 40A:14-11.1 Municipalities under 5,000 population, 6-month residence not required; conditions.
- 40A:14-12 Age requirements for members.
- 40A:14-13 Appointment of temporary members and officers; termination of temporary employment.
- 40A:14-14 Delay in qualifying because of military service.
- 40A:14-15 Temporary vacancy due to military service.
- 40A:14-16 Leaves of absence with pay to certain members and officers.
- 40A:14-17 Indeterminate terms of office.

- 40A:14-18 Minimum salary for firemen in municipalities located in counties other than of the first or second class.
- 40A:14-19 Suspension and removal of members and officers.
- 40A:14-20 Hearings.
- 40A:14-21 Suspension pending hearing; commencement of hearing.
- 40A:14-22 Review of disciplinary conviction in non-civil service municipalities.
- 40A:14-23 Judicially determined illegal suspension or dismissal; member or officer entitled to recover salary; proviso.
- 40A:14-24 Chaplains.
- 40A:14-25 Decrease of force for reasons of economy.
- 40A:14-26 Assistance of fire department or force in other municipalities; members' and officers' compensation rights unaffected in case of casualty or death.
- 40A:14-27 Special compensation for permanently disabled members or officers.
- 40A:14-28 Defense for members and officers sued for damages occasioned from or incidental to their performance of duty.
- 40A:14-29 Promotion of members and officers in certain municipalities.
- 40A:14-30 Removal from fire hazards of tangible personal property; custody; arrest of offenders.
- 40A:14-31 Transfer of a fire patrol to a municipality.
- 40A:14-32 Use of fire fighting equipment by training organizations.
- 40A:14-33 Municipality may contribute money for general purposes of incorporated volunteer fire department.
- 40A:14-34 Municipality may appropriate moneys for equipment to boards of fire commissioners of fire districts and volunteer fire companies.
- 40A:14-35 Appropriation of money to aid fire companies in adjoining municipalities; nonliability for damages.
- 40A:14-36 Compensation for losses sustained by volunteer firemen.
- 40A:14-37 Group life insurance for volunteer firemen.
- 40A:14-38 Governing body may continue insurance for volunteer firemen.
- 40A:14-39 Other compensation not to affect eligibility to receive insurance benefits.
- 40A:14-40 Payment of premiums for certain insurance.

- 40A:14-41 Conversion of volunteer to paid fire department; referendum.
- 40A:14-42 Appointment of volunteer firemen or other persons to paid positions.
- 40A:14-43 Appointment of volunteer firemen or other persons to newly established paid fire department.
- 40A:14-44 Appointment of volunteer firemen or other persons to a part-paid fire department.
- 40A:14-45 Service credits and conditions upon appointments to paid or part-paid fire departments.
- 40A:14-46 Two-platoon system in certain municipalities having a paid fire department and force.
- 40A:14-47 Two-platoon system for fire department in certain municipalities; establishment; referendum.
- 40A:14-48 Two-platoon system for fire department in cities of the first class; emergency service; compensatory time off.
- 40A:14-49 Fifty-six hour week for members and officers; referendum.
- 40A:14-50 Certain emergency service and compensation.
- 40A:14-51 Emergency service; compensatory time off.
- 40A:14-52 Schedule of hours of actual duty.
- 40A:14-53 Traffic regulations in fire areas.
- 40A:14-54 Firemen in the performance of their duties to have powers of police officers.
- 40A:14-55 Definitions relating to fire departments and exempt firemen.
- 40A:14-56 Exempt fireman certificate; eligibility.
- 40A:14-57 Verified list of nonexempt members to be filed with municipal clerk.
- 40A:14-58 Members of volunteer fire company on disbandment entitled to exempt fireman certificates.
- 40A:14-59 Exempt fireman certificates; issuance.
- 40A:14-60 Tenure of exempt firemen in office, position or employment of State, county, municipality, school board or board of education; removal upon charges after hearing.
- 40A:14-61 Exempt firemen entitled to certain rights, privileges or benefits.
- 40A:14-62 Tenure of exempt fireman in office, position or employment of intermunicipal commissions.
- 40A:14-63 Office or position held by an exempt fireman not to be abolished or changed or emoluments reduced to terminate services.

- 40A:14-64 Tenure in office held by an exempt fireman.
 - 40A:14-65 Office not to be abolished for economy reasons or otherwise to terminate services of an exempt fireman having tenure; exceptions.
 - 40A:14-66 Contract for intermunicipal fire department.
 - 40A:14-67 Intermunicipal fire departments and forces.
 - 40A:14-68 Contracts with volunteer fire companies.
 - 40A:14-69 Conveyance of land for a fire house.
 - 40A:14-70 Establishment of fire districts; board of fire commissioners; meetings.
 - 40A:14-70.1 Establishment of a volunteer fire company within a fire district.
 - 40A:14-71 Candidates; nominations.
 - 40A:14-72 Determination as to money to be raised.
 - 40A:14-73 Ballots for election of commissioners.
 - 40A:14-74 Elections; notice; eligibility of voters.
 - 40A:14-75 Use of voting machines.
 - 40A:14-76 Polls; hours.
 - 40A:14-77 Manner of conducting elections.
 - 40A:14-78 Appropriations and other matters to be voted upon.
 - 40A:14-79 Assessment and collection of money authorized by voters; repayment.
 - 40A:14-80 Borrowing money in anticipation of revenue.
 - 40A:14-81 Board of fire commissioners; general powers.
 - 40A:14-82 Limitation of average hours of duty for uniformed members of fire district fire departments.
 - 40A:14-83 Leasing space in building of fire district.
 - 40A:14-84 Revenue for fire district purposes; limitations; meetings.
 - 40A:14-85 Acquisition of property and equipment for fire districts; limitations; referendum for issuance of bonds.
 - 40A:14-86 Voting on bond issue of fire district; issuance and sale.
 - 40A:14-87 Assessment and collection; borrowing money; bond payments.
 - 40A:14-88 Compensation for members of boards of fire commissioners.
 - 40A:14-89 Fire district treasurer, custodian of money; bond; annual audit.
 - 40A:14-90 Enlargement of fire district.
 - 40A:14-91 Dissolution of fire district.
-

- 40A:14-92 Cancellation of taxes or refunds on dissolution of fire district.
- 40A:14-93 Illegally created fire district; abatements or refunds.
- 40A:14-94 Formation of new municipalities; abolition of fire district; apportionment of assets and liabilities.
- 40A:14-95 Establishment of Junior Firemen's Auxiliary.
- 40A:14-96 Eligibility for membership in the Junior Firemen's Auxiliary.
- 40A:14-97 Insurance coverage for members.
- 40A:14-98 Rules and regulations governing activities of Junior Firemen's Auxiliary.
- 40A:14-99 Blank.
- 40A:14-100 Section 40:47-51 of the Revised Statutes saved from repeal.
- 40A:14-101 Section 40:151-41 of the Revised Statutes saved from repeal.
- 40A:14-102 Sections 40:151-48 to 40:151-53 both inclusive of the Revised Statutes saved from repeal.
- 40A:14-103 Section 40:151-54 of the Revised Statutes saved from repeal.
- 40A:14-104 Sections 40:174-62 to 40:174-64 both inclusive of the Revised Statutes saved from repeal.
- 40A:14-105 Sections 40:174-120 to 40:174-125 both inclusive of the Revised Statutes saved from repeal.

40A:14-7 Creation and establishment of fire departments and forces.

The governing body of any municipality, by ordinance, may create and establish a paid or part-paid fire department and force and provide for the maintenance, regulation and control thereof, and except as otherwise provided by law, appoint such members, officers and personnel as shall be deemed necessary, determine their terms of office, fix their compensation and prescribe their powers, functions and duties and adopt and promulgate rules and regulations for the government of the department and force and for the discipline of its members.

Source: R. S. 40:47-1.

40A:14-8 Acquisition of lands and buildings; construction and maintenance of buildings.

The governing body of the municipality, by ordinance, may provide for the acquisition of such lands and buildings as shall be

deemed useful and necessary for the purposes and requirements of the fire department and force, and may construct, furnish, equip and maintain said buildings.

Source: R. S. 40:47-2.

40A:14-9 General qualifications of members; temporary appointments; absences from duty.

Except as otherwise provided by law, no person shall be appointed as a member of the paid or as a paid member of a part-paid fire department and force, unless he:

(1) is a citizen of the United States and has been a resident of the municipality, in which he is to be appointed, for at least 6 months next preceding his appointment;

(2) is sound in body and of good health sufficient to satisfy the board of trustees of the police and firemen's retirement system of New Jersey as to his eligibility for membership in the retirement system;

(3) is able to read, write and speak the English language well and intelligently;

(4) is of good moral character; and

(5) has not been convicted of any criminal offense involving moral turpitude.

The appointing body, officer or officers of the municipality when authorized so to do, may employ such officers and other personnel for said paid or part-paid fire department and force as temporary employees in emergencies, or for certain specified parts of the year, as needed.

Except as otherwise provided by law, any permanent paid member or officer of such paid or part-paid fire department and force, who is absent from duty without just cause or leave of absence, for a continuous period of 5 days, shall cease to be a member of such paid or part-paid fire department.

Source: R. S. 40:47-3 amended 1945, c. 218; 1954, c. 241; 1969, c. 267, s. 1.

40A:14-10 Residence requirements waived in certain cases.

Any municipality may, by ordinance, authorize the appointment and the retention in its employ of present and future officers or members of the paid or part-paid fire department and force, notwithstanding that the same do not meet the residence requirements specified by any other applicable law; provided, however, that such ordinance shall not be adopted unless the governing body of said municipality finds as a fact that adherence to said residence requirements would seriously impede its ability to establish and

maintain competent personnel for its paid or part-paid fire department and force.

No person shall be appointed pursuant to said ordinance waiving residence requirements unless at the time of his appointment there shall be a vacancy in the paid or part-paid fire department and force, as the case may be, which cannot be filled by a qualified resident, or unless he has been a resident of the State of New Jersey for at least 6 months, and lives in such proximity to the municipality in question as will satisfy the appointing authority that he will be able to fully perform his duties as a member of its paid or part-paid fire department and force.

Source: C. 40:47-3.3 (1966, c. 292, s. 1); C. 40:47-3.4 (1966, c. 292, s. 2); C. 40:47-3.5 (1966, c. 292, s. 3 amended 1969, c. 267, s. 3).

40A:14-10.1 Residence requirements for persons discharged or released from the military service.

Any person who has served in the armed services of the United States and been discharged or released from such service under conditions other than dishonorable within 6 months prior to making application to any municipality for appointment as a member or officer of the paid or part-paid fire department, may be appointed a member or officer of such paid or part-paid fire department if otherwise qualified notwithstanding that he is not and has not been a resident of said municipality for 6 months preceding his appointment; provided, at the time of making application for appointment said person signs a notice of intention and agreement to become a resident of the municipality within 6 months from the date of appointment.

In the event such appointee fails to become a resident of the municipality within the aforementioned 6-month period, he shall then cease to be a member or officer of said paid or part-paid fire department or force. The governing body shall cause to be served on the officer or member at least 15 days before the expiration of the period of nonresidency permitted, a notice that he is required to become a resident of the municipality within the time mentioned, and in the event such notice is not given for the officer or member to become a resident of the municipality the time for the officer or member to become a resident of the municipality is extended until such notice is given.

Source: C. 40:47-3.6 (1970, c. 187).

40A:14-11 Certain municipalities under 30,000 population, 6-month residence for appointees not required; conditions.

In any municipality not operating under Title 11 (Civil Service) of the Revised Statutes, having a population of less than 30,000 and more than 5,000, any qualified person may be appointed as a paid member or officer of the fire department and force although he has not been a resident of the municipality in which he is to be appointed for at least 6 months next preceding his appointment, if he has been a resident of the county in which said municipality is located for at least 6 months next preceding his appointment and agrees to become a resident of said municipality within 3 years from the date of his appointment; provided, that there has been publication requesting application for appointment to the fire department and force, once a week for at least 4 weeks in a newspaper circulating in such municipality, and that no qualified person, having the minimum required residence, has applied for such appointment at the time fixed for the submission of such applications.

The governing body of the municipality, if it shall be deemed necessary, by resolution, may extend the said time requirement from 3 years to 5 years.

In the event such appointee fails to become a resident within the aforementioned 3- or 5-year period, whichever is applicable, he shall then cease to be a member of the fire department and force. The governing body of said municipality shall serve written notice on such member or officer of the applicable expiration date at least 15 days prior thereto and if no such notice shall be given the said appointee shall have 15 days after such notice is given to become a resident.

Source: C. 40:47-3.1 (1946, c. 25 amended 1953, c. 107, s. 2; 1954, c. 243; 1956, c. 187, s. 1; 1969, c. 267, s. 2); C. 40:47-3.2 (1953, c. 107, s. 3 amended 1956, c. 187, s. 2).

40A:14-11.1 Municipalities under 5,000 population, 6-month residence not required; conditions.

Any person may be appointed an officer or member of the fire department or force of a municipality having a population of less than 5,000 inhabitants, notwithstanding that he has not been a resident of such municipality for 6 months preceding his appointment, if he is otherwise qualified and is a resident of the county wherein such municipality is situate.

Source: C. 40:47-20.8 (1956, c. 147 amended 1969, c. 267, s. 5).

40A:14-12 Age requirements for members.

Except as otherwise herein provided, no person shall be appointed as a member or officer of the paid fire department or force or as a paid member or officer of a part-paid fire department or force in any municipality, who is under 21 or over 35 years of age.

In any municipality wherein Title 11 (Civil Service) of the Revised Statutes is operative, any person who shall have met the age requirements herein, at the announced closing date of a civil service examination for the position, shall be considered within the age requirements while the civil service list promulgated as a result of that examination is in effect.

Nothing herein contained shall affect the employment or continuance in office of any person, as a permanent fireman, employed by said municipality prior to the adoption of the ordinance creating and establishing a paid or part-paid fire department or force.

The provisions of this section are subject to chapter 98 of the laws of 1944 (C. 38:23A-2), relating to maximum age limits for persons serving in the armed forces of the United States as therein provided.

Source: R. S. 40:47-4 amended 1939, c. 318; 1945, c. 219; 1948, c. 161; 1953, c. 299, s. 1; 1962, c. 149, s. 1; 1968, c. 276, s. 1.

40A:14-13 Appointment of temporary members and officers; termination of temporary employment.

In any municipality wherein Title 11 (Civil Service) of the Revised Statutes is in operation, whenever a vacancy occurs in the fire department or force by reason of the granting of a leave of absence as provided by law, the appointing authority shall certify to the Civil Service Commission the reason for such vacancy, the name of the person and his office or position.

The appointing authority may fill temporarily such office or position by the appointment of any person who:

- (1) is over 21 and not over 45 years of age;
- (2) is a citizen of the United States and has been a resident of the municipality, in which he is to be appointed, for at least 6 months next preceding his appointment;
- (3) is able to read, write and speak the English language well and intelligently;
- (4) is of good moral character; and
- (5) has not been convicted of any criminal offense involving moral turpitude.

Such temporary employment shall terminate upon the date when the appointee's predecessor returns to his duties, or when it is de-

terminated that said predecessor will not return, or sooner when deemed advisable by said appointing authority.

Source: C. 40:47-4.2 (1943, c. 163, s. 1); C. 40:47-4.4 (1943, c. 163, s. 3 amended 1969, c. 267, s. 4); C. 40:47-4.5 (1943, c. 163, s. 4).

40A:14-14 Delay in qualifying because of military service.

Any person who has been, or shall be, appointed as a member or officer of the paid or part-paid fire department or force while serving in the armed services of the United States, and who has been, or shall be, delayed in qualifying and becoming a member of such paid or part-paid fire department or force as a result of such service and who shall qualify and become a member or officer of such paid or part-paid fire department or force within 6 months after an honorable discharge or release under conditions other than dishonorable from such service, shall be considered for the purpose of determining his years of service, rank, grade, increase in pay or any other rights or benefits, as having become a qualified member of such department or force as of the date of his appointment.

Source: C. 40:11-13.1 (1946, c. 87).

40A:14-15 Temporary vacancy due to military service.

When any member or officer of the fire department or force of any municipality is granted a leave of absence pursuant to any law authorizing the granting of leaves of absence to persons entering the military service of the United States, or of this State, the appointing authority may make a temporary appointment to the position held by said person and such temporary appointee shall not be obligated to contribute to any pension fund, nor shall he acquire any pension or tenure rights or civil service status.

Source: C. 40:47-4.3 (1943, c. 163, s. 2).

40A:14-16 Leaves of absence with pay to certain members and officers.

The governing body of any municipality, by ordinance, may provide for granting leaves of absence with pay not exceeding one year, to members and officers of its paid or part-paid fire department and force who shall be injured, ill or disabled from any cause, provided that the examining physician appointed by said governing body, shall certify to such injury, illness or disability.

Source: R. S. 40:11-9.

40A:14-17 Indeterminate terms of office.

Except as otherwise provided by law, in any municipality having permanent members and officers of a paid or part-paid fire department and force, the employment of said members and officers shall

be for an indeterminate term and continuous during good behavior, efficiency and required residency.

Source: R. S. 40:47-5.

40A:14-18 Minimum salary for firemen in municipalities located in counties other than of the first or second class.

Except as otherwise provided by law or whenever a higher minimum annual salary has been legally fixed by appropriate action, every municipal fireman in a municipality located in a county other than a first or second class county, shall be entitled to a minimum annual salary of \$2,250.00.

Source: C. 40:11-20 (1949, c. 283).

40A:14-19 Suspension and removal of members and officers.

Except as otherwise provided by law no permanent member or officer of the paid or part-paid fire department or force shall be removed from his office, employment or position for political reasons or for any cause other than incapacity, misconduct, non-residence, or disobedience of rules and regulations established for the government of the paid or part-paid fire department and force, nor shall such member or officer be suspended, removed, fined or reduced in rank from or in office, employment or position therein except for just cause as hereinabove provided and then only upon a written complaint, setting forth the charge or charges against such member or officer. Said complaint shall be filed in the office of the body, officer or officers having charge of the department or force wherein the complaint is made and a copy thereof shall be served upon the member or officer so charged, with notice of a hearing thereon designating its time and place by the proper authorities, which shall be not less than 15 nor more than 30 days from the date of service of the complaint. A failure to substantially comply with said provisions as to the service of the complaint shall require a dismissal of the complaint.

Source: R. S. 40:47-6 amended 1947, c. 292, s. 1.

40A:14-20. Hearings.

Except as otherwise provided by law the officer, board or authority empowered to hear and determine the charge or charges made against a member or officer of the paid or part-paid fire department or force shall have the power to subpoena witnesses and documentary evidence. The Superior Court shall have jurisdiction to enforce any such subpoena.

Source: R. S. 40:47-7.

40A:14-21 Suspension pending hearing; commencement of hearing.

If any member or officer of the paid or part-paid fire department or force shall be suspended pending a hearing as a result of charges made against him such hearing, except as otherwise provided by law, shall be commenced within 30 days from the date of the service of the copy of the complaint upon him; in default of which the charges shall be dismissed and said member or officer may be returned to duty.

Source: R. S. 40:47-8 amended 1947, c. 292, s. 2.

40A:14-22 Review of disciplinary conviction in non-civil service municipalities.

Any member or officer of a paid or part-paid fire department or force in a municipality wherein Title 11 (Civil Service) of the Revised Statutes is not in operation, who has been tried and convicted upon any charge or charges may obtain a review thereof by the County Court of the county wherein such municipality is located. Such review shall be obtained by serving a written notice of an application therefor upon the officer or board whose action is to be reviewed within 10 days after written notice to the member or officer of the conviction. The officer or board shall transmit to said County Court a copy of the record of such conviction, and of the charge or charges for which the applicant was tried. The County Court shall hear the cause de novo and may either affirm, reverse or modify such conviction. If the applicant shall have been removed from his office, employment or position the court may direct that he be restored to such office, employment or position and to all his rights pertaining thereto, and may make such other order or judgment as said court shall deem proper.

Source: R. S. 40:47-9 amended 1953, c. 37, s. 167; 40:47-10 supplemented 1938, c. 298; amended 1953, c. 37, s. 168.

40A:14-23 Judicially determined illegal suspension or dismissal; member or officer entitled to recover salary; proviso.

Whenever any member or officer of a paid or part-paid fire department or force shall be suspended or dismissed from his office, employment or position and such suspension or dismissal shall be judicially determined to be illegal, said member or officer shall be entitled to recover his salary from the date of such suspension or dismissal, provided a written application therefor shall be filed with the municipal clerk within 30 days after such judicial determination.

Source: R. S. 40:46-34 amended 1948, c. 163; 1948, c. 395.

40A:14-24 Chaplains.

The governing body of any municipality, by ordinance, may provide for the appointment of one or more chaplains to the paid or part-paid fire department and force of the municipality. Any person so appointed to qualify shall be an ordained clergyman in good standing in the religious body from which he is selected. The chaplains shall become members of the municipal paid or part-paid fire department and force with the rank of battalion chief. Their salaries shall be fixed by the governing body of the municipality and payable in the same manner as in the case of the other paid members of the fire department and force.

Source: R. S. 40:174-77; 40:174-78; 40:174-79; 40:174-80.

40A:14-25 Decrease of force for reasons of economy.

The governing body of any municipality, if they shall deem it necessary for reasons of economy, may decrease the number of members and officers of the paid or part-paid fire department or force or their grades or ranks. In case of demotion from the higher ranks, the officers or members to be so demoted shall be in the inverse order of their appointment. When the service of members or officers is terminated, such termination shall be in the inverse order of their appointment. Any member or officer who is demoted or whose service is terminated by reason of such decrease shall be placed on a special employment list, and in the case of subsequent promotions, a person so demoted shall be reinstated to his original rank, and in the case of termination of service and new appointment, prior consideration shall be given to the persons on said special employment list.

Source: R. S. 40:11-10; 40:11-11; 40:11-12 amended 1942, c. 52, s. 1; 40:11-13 amended 1938, c. 80; 1942, c. 52, s. 2; 40:47-11.

40A:14-26 Assistance of fire department or force in other municipalities; members' and officers' compensation rights unaffected in case of casualty or death.

In the event of an emergency the chief or head of any municipal fire department or force or the mayor or chief executive officer of any municipality may request from the chief or the head of the fire department or force of any other municipality assistance to protect life and property outside the normal territorial jurisdiction of the department to which such request is directed.

If any member or officer of such other fire department or force in rendering such assistance shall suffer any casualty or death he or his next of kin shall be entitled to all salary, pension rights, workmen's compensation and other benefits as if such casualty or

death occurred in the performance of his duties in his own municipality or other jurisdiction in which his duties are normally carried on.

Source: C. 40:47-12.1 (1941, c. 277 amended 1966, c. 104; 1968, c. 174; 1968, c. 211; 1969, c. 33).

40A:14-27 Special compensation for permanently disabled members or officers.

If a member or officer of the paid or part-paid fire department or force is permanently disabled from injuries received while in the performance of his duties and the chief or official in charge of such fire department or force shall recommend that special compensation be granted and a physician appointed by the governing body of said municipality shall certify as to the probable permanency of such disability, the governing body of the municipality in their discretion, by ordinance, may provide for special compensation to said disabled member or officer designating the amount thereof and manner of payment, either in a lump sum or by an annual allowance, but such special compensation plus any pension paid and any award for workmen's compensation shall not exceed the salary payable at the time of the sustaining of the injuries. The governing body of said municipality shall include appropriate budget items and provide for the payment of such special compensation.

Source: C. 40:47-12.10 (1948, c. 304, s. 1); C. 40:47-12.11 (1948, c. 304, s. 2); R. S. 40:174-201.

40A:14-28 Defense for members and officers sued for damages occasioned from or incidental to their performance of duty.

Whenever a member or officer of a municipal fire department or force is sued for damage arising from or incidental to a performance of his duties the governing body of the municipality shall provide said member or officer with necessary means for the defense of such suit, other than for his defense in a disciplinary or criminal proceeding instituted against him by the municipality.

Source: C. 40:11-19 (1946, c. 67 amended 1947, c. 103, s. 2).

40A:14-29 Promotion of members and officers in certain municipalities.

In any municipality except in cities of the first class a promotion of any member or officer of the paid or part-paid fire department or force to a superior position shall be made from the membership of such department or force. No person shall be eligible for promotion to be a superior officer unless he shall have previously served as a permanent paid fireman for at least 3 years in such department or force.

Source: R. S. 40:47-21.

40A:14-30 Removal from fire hazards of tangible personal property; custody; arrest of offenders.

Any member or officer of a municipal fire department or force subject to the rules and regulations thereof in connection with a fire may remove any tangible personal property involved therein and hold such property for the owner. The members and officers of the fire department or force, during the continuance of the fire, shall have the powers of a peace officer and may apprehend or arrest without warrant any person interfering with the removal or custody of such property. Any such person so apprehended or arrested shall be brought before the local municipal court or any other court of competent jurisdiction, to be dealt with according to law.

Source: R. S. 40:47-23 amended 1953, c. 37, s. 169.

40A:14-31 Transfer of a fire patrol to a municipality.

In any municipality wherein there is a fire patrol or protective association organized pursuant to the provisions of chapter 9, Title 15 of the Revised Statutes, such fire patrol or protective association upon its discontinuance may grant or donate to the said municipality their lands, buildings, apparatus and equipment or any part thereof. Upon acquisition the municipality may operate same as part of the fire department. In the event of a gift and acceptance thereof by the municipality any or all of the personnel of such fire patrol or protective association may be employed by the municipality but they shall not be entitled to tenure or benefits established as a municipal or department pension or retirement system unless they are qualified in accordance with the provisions specified in the law governing such pension or retirement system. Upon the acquisition of any or all of the lands, buildings, apparatus and equipment of such fire patrol or protective association and the employment of any or all of the personnel thereof, the governing body of said municipality, by ordinance, may create and regulate a subdivision in its fire department to be known as the salvage company. The governing body of the municipality may provide for the employment of such personnel but only in the divisions or bureaus of the fire department. The governing body of the municipality, if they shall deem it necessary, may assign any member of the fire department to the salvage company but said member shall retain his then existing status and rights as a member of the fire department.

Source: C. 40:47-25.1 (1951, c. 170, s. 1); C. 40:47-25.2 (1951, c. 170, s. 2); C. 40:47-25.3 (1951, c. 170, s. 3); C. 40:47-25.4 (1951,

c. 170, s. 4); C. 40:47-25.5 (1951, c. 170, s. 5); C. 40:47-25.6 (1951, c. 170, s. 6); C. 40:47-25.7 (1951, c. 170, s. 7).

40A:14-32 Use of fire fighting equipment by training organizations.

The governing body of any municipality or the board of fire commissioners of any fire district, by resolution, may authorize the use of their fire fighting equipment no longer required for operation by any county firemen's organization for the training and instruction of firemen in the county in the latest methods, procedures and techniques of fire fighting.

Source: C. 40:47-25.8 (1959, c. 87).

40A:14-33 Municipality may contribute money for general purposes of incorporated volunteer fire department.

In any municipality where there is an incorporated volunteer fire department which is limited to raising in any one year for the purposes of the department a definite sum, the governing body of said municipality may contribute to such volunteer fire department such sums of money as they shall deem necessary, subject to the limitations of section 40A:14-34.

Source: R. S. 40:47-26.

40A:14-34 Municipality may appropriate moneys for equipment to boards of fire commissioners of fire districts and volunteer fire companies.

The governing body of any municipality may raise and appropriate funds to be granted to the boards of fire commissioners of any fire district or volunteer fire companies located therein, up to a total appropriation of \$24,000.00 annually. In any municipality in which there are more than three such boards or companies, or both, the governing body may raise and appropriate an additional \$8,000.00 annually for each such additional board or company. Any such board or company shall use not less than 50% of the funds received pursuant to this section for the purchase of fire equipment, materials and supplies. All funds appropriated under this section shall be accounted for to the governing body annually.

Any municipality may appropriate such additional sums as it may deem necessary for the purchase of fire equipment, supplies and materials for use by fire companies or boards, the title to which shall remain with the municipality, provided that the funds shall be controlled and disbursed by the municipality.

Source: R. S. 40:47-27 amended 1941, c. 140; 1945, c. 126; 1951, c. 77; 1954, c. 171; 1956, c. 155; 1957, c. 77; 1967, c. 45.

40A:14-35 Appropriation of money to aid fire companies in adjoining municipalities; nonliability for damages.

The governing body of a municipality may appropriate such sums of money as shall be deemed necessary to aid a municipal

paid or part-paid fire department and force in an adjoining municipality, or annually appropriate a sum of money not exceeding \$8,000.00, to aid a board of fire commissioners in a fire district or an independent or a volunteer fire company in an adjoining municipality if such department and force, or fire district or company own and maintain their own apparatus and equipment and habitually respond to fires in the first named municipality.

In any instance wherein any of the members of such a fire department and force, fire district or fire company are either answering or returning from a call for the purpose of aiding an adjoining municipality they shall not be liable for personal injuries or property damages caused by them in rendering such aid.

Source: R. S. 40:47-28 amended 1953, c. 323; 1964, c. 246; 1970, c. 48; 40:47-29 amended 1938, c. 257.

40A:14-36 Compensation for losses sustained by volunteer firemen.

The governing body of a municipality, by resolution, may appropriate annually such sums of money as they shall deem necessary for the purpose of compensating any volunteer fireman, not in receipt of compensation for his services, for any losses sustained by him while performing his duties as such volunteer fireman.

Source: R. S. 40:47-30.

40A:14-37 Group life insurance for volunteer firemen.

In any municipality or fire district maintaining a volunteer fire department, or wherein there shall exist one or more incorporated volunteer fire companies affording fire protection to said municipality or fire district, the membership whereof are serving under the jurisdiction of and with the consent of said municipality or fire district and have formed, or may hereafter form themselves into a group or groups, for the purpose of obtaining the advantages of the group plan of life insurance, in any of the plans now in vogue, or any plan which may hereafter be inaugurated, it shall be lawful for the governing body of such municipality, or the board of commissioners of such fire district, by resolution, to appropriate moneys for the purpose of defraying the cost of such insurance and to pay the premiums therefor.

No governing body of any municipality or commissioners of any fire district shall pay any premiums on account of any policy of group life insurance as provided herein where the amount payable upon the death of each assured under the terms of said policy exceeds the sum of \$10,000.00.

Source: C. 40:47-30.1 (1945, c. 47, s. 1 amended 1964, c. 192).

40A:14-38 Governing body may continue insurance for volunteer firemen.

In any municipality, or fire district in this State maintaining a volunteer fire department, or wherein there shall exist one or more incorporated volunteer fire companies affording fire protection to said municipality or fire district, it shall be lawful for the governing body of such municipality, or the board of commissioners of such fire district, to effect, maintain and continue any and all forms of insurance covering the members of said volunteer fire department or incorporated volunteer fire company or companies, other than that provided for in the group life insurance for volunteer firemen, which the governing body, or board of fire commissioners may determine to be necessary or desirable for the protection, safety and welfare of the members, and for the protection and safety of the equipment and apparatus of said volunteer fire department, or incorporated volunteer fire company or companies, or for the protection of said municipality, or fire district, and by resolution, to appropriate from time to time, and pay, such sums of money as may be required to cover the premiums and costs of said insurance, or such portion of the same as said governing body, or board of fire commissioners, in their discretion, may consider proper and advisable.

Source: C. 40:47-30.2 (1945, c. 47, s. 2 amended 1966, c. 245, s. 2).

40A:14-39 Other compensation not to affect eligibility to receive insurance benefits.

No member of any volunteer fire department or of any incorporated volunteer fire company shall be considered ineligible to receive said insurance benefits because he may otherwise receive any form of compensation, wages or salary from the municipality or fire district for any services rendered.

Source: C. 40:47-30.3 (1945, c. 47, s. 3).

40A:14-40 Payment of premiums for certain insurance.

All moneys required and appropriated for the payment of any premiums or costs of said insurance shall be raised, collected and paid as are other moneys to maintain the fire department, or to provide for the fire protection in said municipality, or fire district.

Source: C. 40:47-30.4 (1945, c. 47, s. 4).

40A:14-41 Conversion of volunteer to paid fire department; referendum.

No municipality having a volunteer fire department shall establish a paid fire department and convert its volunteer force into a paid fire department unless and until the ordinance providing therefor shall have been submitted to and adopted by the legal

voters of said municipality at an election called for the purpose as herein provided.

The municipal clerk shall give public notice thereof at least 20 days prior to such election, by publishing in a newspaper circulating within the municipality, and posting in 10 conspicuous places, in said municipality, such notice of the election including a copy of the ordinance for the proposed establishment of a paid fire department and the conversion thereof into of their volunteer force.

The question to the legal voters of the municipality of the adoption of said ordinance shall be submitted as a public question in substantially the following form:

“Shall the (insert the title of the ordinance) be adopted?”

The ballot shall contain two squares to the left of the question, one with the word “Yes”, the other with the word “No”, respectively, to the right of the squares. The ballot shall contain instructions to voters to vote by marking a cross (X), or plus sign (+) or check mark (✓) in the square according to their choice. If voting machines are used a vote of “Yes” or “No” shall be equivalent to such markings, respectively.

The municipal clerk shall forthwith canvass the returns of the election and shall certify the results of his canvass to the governing body of said municipality. If a majority of the legal voters voting on the question shall vote “Yes”, the ordinance shall become operative and the governing body may then proceed to establish a paid fire department and to convert the volunteer force into said department according to the provisions of the ordinance. Except as otherwise provided herein, this section shall not be construed to repeal any existing law, regulating the tenure, hours of service or compensation of the officers and members of any municipal fire department or force, for the organization or maintenance of any volunteer company or department therein, or providing for the creation or maintenance of fire districts therein.

Source: R. S. 40:47-32; 40:47-33; 40:47-34; 40:47-35; 40:47-36; 40:47-37.

40A:14-42 Appointment of volunteer firemen or other persons to paid positions.

In any municipality where there is a volunteer fire company or force, maintained and controlled by the municipality, having no paid fireman and thereafter a paid position therein is created or established by the governing body of said municipality, such position shall be filled by a member of the volunteer fire company or force who shall have served as an active fireman for at least 2 years

next preceding said appointment or by an exempt fireman of the company or force. If no such member or exempt fireman is available for such appointment, the appointment may be made to any qualified person. Said appointee shall not be under 21 or over 40 years of age at the time of the appointment.

Source: C. 40:47-37.1 (1938, c. 131, s. 1).

40A:14-43 Appointment of volunteer firemen or other persons to newly established paid fire department.

In any municipality where there is a volunteer fire company or force, maintained and controlled by the municipality, and the governing body of the municipality, by ordinance, shall provide for the establishment of a paid fire department, the appointments thereto shall be made from the members of the volunteer fire company or force who shall have served as active firemen for at least 2 years next preceding said appointment or from among the exempt firemen of the company or force. If no such member or exempt fireman is available for such appointment, any qualified person may be appointed thereto. Said appointees shall not be under 21 or over 40 years of age at the time of the appointment.

Source: C. 40:47-37.2 (1938, c. 131, s. 2).

40A:14-44 Appointment of volunteer firemen or other persons to a part-paid fire department.

In any municipality where there is a volunteer fire company or force, maintained and controlled by the municipality and a part-paid fire department composed of both paid and volunteer firemen, any appointment to such part-paid fire department shall be made from the members of the volunteer fire company or force, who shall have served as active firemen for at least 2 years next preceding such appointment or from among the exempt firemen of the company or force. If no such member or exempt fireman is available for such appointment, any qualified person may be appointed thereto. Said appointees shall not be under 21 or over 40 years of age at the time of the appointment.

Source: C. 40:47-37.3 (1938, c. 131, s. 3).

40A:14-45 Service credits and conditions upon appointments to paid or part-paid fire departments.

In any municipality where an examination is scheduled to determine appointments to the paid or part-paid fire department and force, any qualified fireman having served in the volunteer fire company or force of the municipality for at least 2 years next preceding such appointment shall be entitled, in addition to his earned rating, to service credits of not less than 3 nor more than 10

points as may be determined by the governing body of the municipality or the authority in charge. Said appointee shall be over 21 but not more than 40 years of age at the time of the appointment.

Nothing herein contained shall establish a preference over a paid fireman temporarily dismissed or on leave of absence for reasons of economy, or the appointment of a paid fireman to a superior position at the time of promotion in said fire department or force.

Source: C. 40:47-37.4 (1938, c. 131, s. 4); C. 40:47-37.5 (1938, c. 131, s. 5).

40A:14-46 Two-platoon system in certain municipalities having a paid fire department and force.

The governing body of a municipality, having a paid fire department and force, by resolution, may divide the members and officers of such department and force into 2 platoons, one platoon serving 24 hours of duty while the other is off duty for the same period of time.

Source: R. S. 40:47-38.

40A:14-47 Two-platoon system for fire department in certain municipalities; establishment; referendum.

In municipalities, except cities of the first class, wherein a proposal for a 2-platoon system shall have been adopted the governing body of the municipality, or the board or officer in charge of a paid or part-paid fire department and force, shall divide the paid members and officers of the said department and force into 2 platoons, one designated as a day force, the other as a night force. Each force, respectively, shall alternate the hours of duty on every fourth day. The hours of duty of the day force shall be from 8:00 A. M. to 6:00 P. M. and the night force from 6:00 P. M. to 8:00 A. M. the following morning, except that on every fourth day, for the purpose of such alternation the number of said hours of duty may be exceeded but one force shall be off duty at all times, except as otherwise provided by law.

The 2-platoon system shall be inoperative unless and until a proposal for such a system shall have been submitted to and adopted by the legal voters of the municipality at a primary or general election or at an election held for that purpose. It may be submitted as a public question, in the manner prescribed by law, by resolution of the governing body, or by filing with the governing body of the municipality a petition for such submission signed by at least 10% of the legal voters of the municipality in substantially the following form:

“(Insert the name of the municipality and state the question.)” The ballot shall contain 2 squares to the left of the question, one with the word “Yes”, the other with the word “No”, respectively, to the right thereof. The ballot shall also contain instructions to voters to vote by marking a cross (×), or plus sign (+) or check mark (✓) in the square according to their choice. If voting machines are used a vote of “Yes” or “No” shall be equivalent to such markings, respectively.

The municipal clerk shall forthwith canvass the returns of the election and shall certify the results thereof to the governing body of the municipality. If a majority of the legal voters voting on the question shall vote “Yes”, the 2-platoon system shall become operative and the governing body or the board or officer in charge of said paid or part-paid fire department and force shall then proceed to establish such system.

This section shall not be construed to repeal or modify in any form any existing law relating to salaries, annual vacations, sick or disability leave of any of the members or officers of the paid or part-paid fire department or force.

Source: R. S. 40:47-39; 40:47-40 amended 1938, c. 276; 40:47-42; 40:47-43; 40:47-44; 40:47-45; 40:47-46; 40:47-47; 40:174-66; 40:174-67; 40:174-68; 40:174-69; 40:174-70; 40:174-71; 40:174-72.

40A:14-48 Two-platoon system for fire department in cities of the first class; emergency service; compensatory time off.

In cities of the first class, the governing body, by resolution, or the board of fire commissioners or officials in charge of a fire department and force, may divide the members and officers of such fire department and force into 2 platoons, one serving while the other is off duty. Each platoon, respectively, shall alternate the hours of duty for the purpose of alternating the day force with the night force and vice versa, and for the purpose of giving each platoon 24 hours off duty every 6 days. The hours of duty of the day force shall be from 8:00 A. M. to 6:00 P. M. and the night force from 6:00 P. M. to 8:00 A. M. the following morning.

In cases of conflagration or other emergency the officials in charge of the fire department and force shall have authority to retain on duty any or all members and officers of such department and force during the period of the emergency, but in any such case and within 12 months thereafter, such members or officers shall be given a day or proportion thereof off for extra time so served by them during the emergency.

Nothing contained herein shall be deemed to repeal or modify existing laws relating to salaries, annual vacations or sick or disability leaves of the members or officers of such department or force.

Source: R. S. 40:174-132; 40:174-133; 40:174-134; 40:174-135; 40:174-136; 40:174-137; 40:174-138; 40:174-139; 40:174-140.

40A:14-49 Fifty-six hour week for members and officers; referendum.

The governing body of any municipality, by ordinance, may adopt a schedule of hours of actual duty for the members and officers of a paid or part-paid fire department and force based upon an average of 56 hours per week in any 6-week cycle, but in cases of emergency the officials in charge shall have authority to retain any uniformed member or officer on duty during the period of the emergency, and in any such case and within 12 months thereafter such member or officer shall be given hours off from the average of 56 hours per week in any 6-week cycle to compensate him for the extra hours served by him during such emergency.

Any such ordinance shall be inoperative unless and until it shall be submitted to and adopted by the legal voters of the municipality at a primary or general election or an election held for such purpose.

Said adoption may be submitted as a public question in the manner prescribed by law, by resolution of the governing body or by filing with the governing body a petition for such submission, signed by at least 10% of the registered voters of the municipality. The question shall be submitted substantially on the ballot as follows:

Insert the name of the municipality and state the question. "Shall the ordinance providing that the uniformed members and officers of its fire department and force shall be maintained in such manner as to provide that no member or officer thereof shall be required to remain on duty in excess of 56 hours per week in any 6-week cycle except in cases of emergency be adopted?"

If a majority of the legal voters voting on such question vote in favor of the adoption, the ordinance on and after January 1 following such election shall become operative.

Source: C. 40:47-47.2 (1948, c. 73, s. 1 amended 1949, c. 100, s. 2); C. 40:47-47.3 (1948, c. 73, s. 2 amended 1949, c. 100, s. 3); C. 40:47-47.4 (1948, c. 73, s. 3 amended 1949, c. 100, s. 4).

40A:14-50 Certain emergency service and compensation.

“Emergency” as used herein shall include any unusual conditions caused by any circumstances or situation including shortages in the personnel of the paid or part-paid fire department and force caused by vacancies, sickness or injury, or by the taking of accrued vacation or sick leave or both, whereby the safety of the public is endangered or imperiled, as shall be determined within the sole discretion of the officer, board or official having charge of the paid or part-paid fire department and force in any municipality.

In any municipality in which the officer, board or official having charge or control of the paid or part-paid fire department and force has authority, in times of any such emergency to summon and keep on duty any paid members of the paid or part-paid fire department and force for a period of time or times in excess of the hours of ordinary duty, the governing body may provide compensation for some or all of such emergency duty by any such fireman at his prevailing wage, which compensation shall be in lieu of any compensatory time off otherwise due for the emergency duty so compensated.

The governing body of the municipality, if necessary, may make emergency appropriations to provide funds for the payment of such compensation as provided by law.

Source: C. 40:47-12.12 (1966, c. 247, s. 1); C. 40:47-12.13 (1966, c. 247, s. 2); C. 40:47-12.14 (1966, c. 247, s. 3).

40A:14-51 Emergency service; compensatory time off.

In cases of conflagration or other emergency, the officials in charge of the paid or part-paid fire department and force in any municipality, shall have authority to retain on duty any member and officer of such department and force during the period of the emergency, but in any such case and within 12 months thereafter, such member or officer shall be given a day off or proportion thereof for the extra time so served by him during the emergency.

Source: R. S. 40:47-47.1.

40A:14-52 Schedule of hours of actual duty.

In any municipality, other than those located in counties of the fifth or sixth class, the governing body, by ordinance, may adopt a schedule of hours of actual duty for the paid officers and members of the fire department and force, to average for each 42 hours per week in any 8-week cycle, except in cases of emergency the official in charge shall have authority to retain on duty any member or officer during the emergency, but in any such case and within 12

months thereafter such member or officer shall be given compensatory time off for all hours worked in excess of the said average, so served by him during the emergency.

Source: C. 40:47-47.5 (1960, c. 120).

40A:14-53 Traffic regulations in fire areas.

The governing body of any municipality, by ordinance, may authorize the officials in charge of the paid or part-paid fire department and force to establish fire areas to regulate traffic and parking therein and provide penalties for violations.

Source: R. S. 40:47-48.

40A:14-54 Firemen in the performance of their duties to have powers of police officers.

The members and officers of the paid or part-paid fire department and force of a municipality shall have the powers and authority of police officers within the municipality, to be exercised while going to, attending and returning from a fire.

Source: R. S. 40:47-49.

40A:14-55 Definitions relating to fire departments and exempt firemen.

"Fire department and force," "fire department or force" or "fire department" means the officers and members organized to fight fires in the municipality;

"Fire duty" means active participation in the usual duties of a fireman under the direction and supervision of the official in charge of the fire department and force;

"60% of duty" means actual recorded attendance and rendering of fire service at not less than 60% of regular alarms of fire answerable by the members during any calendar year; the total number of alarms used in computing said percentage may include not more than 20 fire drills called at the direction of the official in charge of the fire department and force.

Source: R. S. 40:47-52.

40A:14-56 Exempt fireman certificate; eligibility.

Any member of the fire department and force of a municipality shall be entitled to an exempt fireman certificate when it appears that at the time of his appointment he was a resident of the municipality, a citizen of the United States, of good moral character and was not under 21 or over 40 years of age and that he had performed during a period of 7 years, 60% of fire duty, in each year, respectively. In cases where the appointment was made during the war years the age limit shall be extended 10 years. Service in the United States armed forces during said war years shall be considered as fire duty service.

Service in more than one municipal fire department, for separate periods not concurrent, amounting in the aggregate to 7 years, shall be deemed equivalent to 7 years service in a single municipal fire department and any fireman so serving shall be entitled to an exempt fireman certificate from the department and force in the municipality wherein he is serving at the time when he becomes entitled to said certificate. The prior service shall be certified by the chief executive officer of the municipality or municipalities wherein said member served and attested by the municipal clerk or clerks.

Source: R. S. 40:47-53 amended 1944, c. 246; 1952, c. 167; 1970, c. 201; 40:47-54; 40:47-56.

40A:14-57 Verified list of nonexempt members to be filed with municipal clerk.

The official in charge of the fire department and force shall annually file with the municipal clerk a verified list of all of the members not having exempt fireman certificates. The list shall contain their names and residences and information relevant subsequently to their qualifications for such certificates.

Source: R. S. 40:47-55.

40A:14-58 Members of volunteer fire company on disbandment entitled to exempt fireman certificates.

Whenever a volunteer fire company is disbanded and replaced by a paid or part-paid fire department and force, the members of such company who shall have served as such at least 2 years immediately preceding such replacement shall be entitled to exempt fireman certificates.

Source: R. S. 40:47-57.

40A:14-59 Exempt fireman certificates; issuance.

The governing body of a municipality shall issue exempt fireman certificates to members of the fire department and force entitled thereto, within 90 days of the date of attaining eligibility. The certificate shall be issued in triplicate, in form, substantially as follows:

EXEMPT FIREMAN CERTIFICATE

It is hereby certified that a member of the fire department and force, has qualified for and is entitled to this certificate of exemption pursuant to law.

Date of appointment Date when
 member became entitled to exemption
 Record of prior service (if any) Date
 of issue

.....
 Official in charge of fire
 department and force.

Attest:

(seal)

.....
 Municipal Clerk

.....
 Chief Executive Officer
 of Municipality.

Filed in the office of the clerk of county.

Date
 County Clerk.

Within 60 days of issuance one copy of the certificate shall be filed with the county clerk of the county wherein it was issued. At the time of issuance one copy shall be transmitted to the New Jersey State Exempt Firemen's Association. The remaining copy shall be delivered to the member. There shall be no fee for issuance of the certificate and it shall be signed by the official in charge of the fire department and force and the chief executive officer of the municipality. The municipal clerk shall affix the municipal seal, attest the certificate and cause the filing and delivery of the copies.

Source: R. S. 40:47-58; 40:47-59.

40A:14-60 Tenure of exempt firemen in office, position or employment of State, county, municipality, school board or board of education; removal upon charges after hearing.

Whenever any person possessing an exempt fireman certificate holds an office, position or employment of the State, or a county or municipality or a school board or board of education for an indeterminate term, such person shall hold his office, position or employment during good behavior and shall not be removed therefrom for political reasons but only for good cause after a fair and impartial hearing.

For the purposes herein no term of office, position or employment of any such person shall be deemed to be fixed by law or co-terminous with that of a noncontinuous appointing or employing board or body; provided, however, that in no event is it intended that this provision shall apply to appointments made for a fixed or stated period of time.

Any hearing for removal of an exempt fireman shall be upon a written complaint setting forth the charge or charges and filed with the authority in charge. A copy thereof shall be served upon the person so charged with notice of the time and place of the hearing thereon. The person so charged shall have the right to be represented by counsel and to subpoena witnesses and documentary evidence.

Source: R. S. 40:47-60 amended 1967, c. 291, s. 1; 40:47-61.

40A:14-61 Exempt firemen entitled to certain rights, privileges or benefits.

Whenever in any law any rights, privileges or benefits are granted to exempt firemen holding appointive offices, positions, or employments in either the State, county or municipal government, such law shall be deemed to include all exempt firemen engaged in the public service in any of its branches within the State. No distinction shall be made by reason of the source of the public funds involved or because of a transfer of office, position or employment to a different branch of government within the State.

Source: C. 40:47-62.7 (1967, c. 291, s. 2).

40A:14-62 Tenure of exempt fireman in office, position or employment of intermunicipal commissions.

Whenever any person possessing an exempt fireman certificate holds an office, position or employment under a commission elected or appointed by the governing bodies of 2 or more municipalities, whose term of such office, position or employment is not fixed by law, the said person shall hold his office, position or employment during good behavior and shall not be removed therefrom for political reasons but only for good cause after a fair and impartial hearing.

No such commission shall abolish, change the title or reduce the emoluments of any office, position or employment held by an exempt fireman for the purpose of terminating his said service.

For the herein purposes no term of office, position or employment of any such person shall be deemed to be fixed by law or coterminous with that of a noncontinuous appointing or employing board or body.

Source: C. 40:47-62.8 (1967, c. 291, s. 3).

40A:14-63 Office or position held by an exempt fireman not to be abolished or changed or emoluments reduced to terminate services.

No department of the State government nor any board of chosen freeholders of a county, or governing body of a municipality, or a school board or board of education shall abolish, change the title

or reduce the emoluments of any office or position held by an exempt fireman for the purpose of terminating his service.

Source: R. S. 40:47-62.

40A:14-64 Tenure in office held by an exempt fireman.

Whenever an exempt fireman holds a State, county, municipal or a board of education office not created by the Constitution, he shall hold such office during good behavior and shall not be removed unless for good cause after a fair and impartial hearing, provided he has or shall have served in said office for a term of 3 consecutive years.

Any such hearing shall be upon a written complaint setting forth the charge or charges and filed with the authority in charge. A copy thereof shall be served upon the person so charged with notice of the time and place of the hearing thereon. The person so charged shall have the right to be represented by counsel and to subpoena witnesses and documentary evidence.

Nothing herein contained shall be construed to give tenure of office to such exempt fireman in a paid or part-paid fire department and force.

Source: C. 40:47-63 (1938, c. 385, s. 1); C. 40:47-64 (1938, c. 385, s. 2); C. 40:47-65 (1938, c. 385, s. 3); C. 40:47-67 (1938, c. 385, s. 5).
Note: These sections are in R. S. C. S. at 40:47-60.1; 40:47-60.2; 40:47-60.3; 40:47-60.5.

40A:14-65 Office not to be abolished for economy reasons or otherwise to terminate services of an exempt fireman having tenure; exceptions.

No department of the State government, nor any board of chosen freeholders of a county, governing body of a municipality or board of education shall abolish, change the title or reduce the emoluments of any office held by an exempt fireman having tenure therein, for economy reasons or otherwise, for the purpose of terminating his services, except in time of a widespread economic depression or mandatory retrenchment, but in any such case, the termination or reduction shall be made in the same ratio as in the case of other employees.

Source: C. 40:47-66 (1938, c. 385, s. 4). Note: This section is in R. S. C. S. at 40:47-60.4.

40A:14-66 Contract for intermunicipal fire department.

The governing bodies of 2 or more municipalities, by reciprocal ordinances, may contract with each other for mutual aid in case of fire emergencies. In any such contract, provisions may be included to provide for the reimbursement of the municipality or

New Jersey State Library

municipalities rendering such aid, for any damage to its fire equipment or other property and for payment to any member of their fire department and force for injuries sustained by him, while so serving, or to his widow or other dependents when death resulted therefrom.

The governing bodies, in any such contract, may provide for the organization of a joint meeting of the contracting municipalities and for the selection of a chairman, secretary and any other necessary officers or personnel. The contract may contain such other provisions as shall be deemed necessary and it may be altered from time to time by mutual agreement.

The governing bodies may provide for the acquisition of lands and the establishment and maintenance of a central office. Real and personal property, so acquired, shall be held by the municipalities as tenants in common.

The members of the fire department and force in each such municipality, while on duty and rendering such aid to another municipality, shall be deemed to be engaged in a governmental function and entitled to the same police powers, privileges and immunities as in the case of extinguishing a fire within their own municipality.

Source: C. 40:47-68 (1938, c. 260, s. 1); C. 40:47-69 (1938, c. 260, s. 2); C. 40:47-70 (1938, c. 260, s. 3); C. 40:47-71 (1938, c. 260, s. 4); C. 40:47-72 (1938, c. 260, s. 5). Note: These sections are in R. S. C. S. at 40:47-63; 40:47-64; 40:47-65; 40:47-66; 40:47-67.

40A:14-67 Intermunicipal fire departments and forces.

The governing bodies of 2 or more adjoining municipalities, by reciprocal ordinances, may provide for the establishment and maintenance of a joint fire department and force, or for their contributions for the maintenance and operation of a volunteer fire company serving such municipalities. The said governing bodies, by mutual agreement, may allocate their respective contributions for such maintenance and operation upon such terms and conditions as shall be deemed necessary.

Nothing herein contained shall affect the employment or continuance in office or tenure or pension rights of any paid fireman in any such municipality.

Source: C. 40:47-73 (1943, c. 206, s. 1); C. 40:47-74 (1943, c. 206, s. 2); C. 40:47-75 (1943, c. 206, s. 3).

40A:14-68 Contracts with volunteer fire companies.

In any municipality not having a paid or part-paid fire department and force, the governing body, by ordinance, may contract

with a volunteer fire company or companies in such municipality, for purposes of extinguishing fires, upon such terms and conditions as shall be deemed proper. The members of any such company shall be under the supervision and control of said municipality and in performing fire duty shall be deemed to be exercising a governmental function.

Source: R. S. 40:149-8.

40A:14-69 Conveyance of land for a fire house.

The governing body of any municipality, not having a paid or part-paid fire department and force, by ordinance, may provide for the conveyance of land or lands, for a nominal consideration, to a duly incorporated fire company in such municipality, organized for the purpose of protecting life and property from fire therein. The land or lands so conveyed shall be limited to use for a fire house.

Source: R. S. 40:149-9.

40A:14-70 Establishment of fire districts; board of fire commissioners; meetings.

In any municipality not having a paid or part-paid fire department and force, the governing body, upon application of at least 20 legal voters, by ordinance, shall designate a territorial location or locations for use as a fire district or fire districts and, by resolution, provide for the election of a board of fire commissioners for the district or each district to consist of 5 persons, residents therein, and specify the time and place for such election.

The district or each district shall be assigned a number and the commissioners thereof and their successors shall be a body corporate, to be known as "the commissioners of fire district No. in (name of municipality), county of (name of county)". The said body corporate shall have the power to acquire real and personal property for its purposes. It may adopt and use a corporate seal, sue or be sued and shall have such powers, duties and functions as are usual and necessary for said purposes.

At the time and place specified for the election of the first board the clerk of the municipality shall conduct the election and shall preside at the meeting until the board shall have been elected.

At the first meeting of a newly elected board of fire commissioners of a district the board shall choose a chairman and fix the time and place for the annual election. The members of the board shall divide themselves by lot into 3 classes: the first to consist of 2 members to be elected for terms of one year; the second, 2 mem-

bers for terms of 2 years; and the third, one member for a term of 3 years. Upon the expiration of said terms their successors shall be elected for terms of 3 years.

Any vacancy in the membership shall be filled by the remaining members until the next succeeding annual election, at which time a resident of the district shall be elected for the unexpired term.

Source: R. S. 40:151-1 amended 1970, c. 241; 40:151-2; 40:151-3; 40:151-4; 40:151-5.

40A:14-70.1 Establishment of a volunteer fire company within a fire district.

Any persons desiring to form a volunteer fire company to be located within or otherwise servicing the area encompassing a fire district or other type of volunteer organization which has as its objective the prevention of fires or regulation of fire hazards to life and property therein shall first present to the board of fire commissioners a written application for the organization of such company. Such application shall be in the form of a duly verified petition signed by them stating the kind of company which they desire to organize, the name or title thereof, the number and names of the proposed members thereof, and their places of residence. The board of fire commissioners, after considering such application and approving the members of the proposed company, may by resolution grant the petition and constitute such applicants a volunteer fire company of the district.

Source: R. S. 40:151-1 amended 1970, c. 241.

40A:14-71 Candidates; nominations.

Candidates for membership in the board shall be nominated by verified petitions. Any such petition shall be in writing, addressed to the municipal clerk or the clerk of the board, as the case may be, stating that the signers thereof are qualified voters and residents in the district and requesting that the name of the candidate be placed on the official ballot. The petition shall state the residence of the candidate and certify his qualification for membership. The candidate's consent to his nomination shall be annexed to the petition and shall constitute his agreement to serve in the event of his election. The petition shall contain the name of only one candidate, but several petitions may nominate the same person. Each petition shall be signed by not less than 10 qualified voters and shall be filed at least 10 days before the date of the election.

If a petition is found to be defective, either in form or substance, the municipal clerk or the clerk of the board, as the case may be,

shall forthwith notify the candidate to cause it to be corrected before the petition is given consideration.

Source: R. S. 40:151-7; 40:151-8; 40:151-9; 40:151-10; 40:151-11 amended 1961, c. 75; 40:151-12.

40A:14-72 Determination as to money to be raised.

An election shall be held annually in each fire district for the election of members of the board according to the expiration of terms.

The legal voters thereat shall determine the amount of money to be raised for the ensuing year and determine such other matters as may be required.

Source: R. S. 40:151-6.

40A:14-73 Ballots for election of commissioners.

The ballots shall be written or printed on opaque paper, uniform in size and quality.

Each ballot shall have at the top, a coupon, at least one inch wide extending across the ballot above a perforated line. The coupons shall be numbered consecutively. The coupon shall contain the following statements: "To be torn off by the clerk" and "Fold to this line." Below the perforated line shall be printed or written, "Fire district election ballot," then the official designation of the fire district and polling place and date of the election. It shall bear the signature or facsimile signature of the municipal clerk, or the clerk of the board of fire commissioners, as the case may be. The heading shall be set apart from the body of the ballot by a marked-off space. In said space, the voters shall be instructed how to indicate their choice of candidates and the number to be voted upon as follows: "To vote for any person whose name appears on this ballot mark a cross (×), plus (+) or check (✓) in black ink or lead pencil in the place or square at the left of the name of such person." Underneath these instructions shall be directions as to the number of candidates to be voted for and the name of each qualified candidate, without grouping, to be placed according to the alphabetical order of their surnames.

The ballot shall be substantially as follows:

No.

To be torn off by the Clerk.

Fold to this line.

FIRE DISTRICT ELECTION BALLOT
Fire District No. 1,
Township of Webster, Warren County,

Date

Polling District No. 1.
Unexcelled Fire House.

John Henry Doe,
Clerk.

To vote for any person whose name appears on this ballot mark a cross (X), plus (+) or check (✓) with black ink or lead pencil in the place or square at the left of the name of such person.

For membership to Board of Fire Commissioners.—

Full Term.

Vote for Two.

☐

Rutherford B. Fallon.

☐

William F. Seibel.

☐

James A. Stephens.

☐

Thomas Templeton.

For membership to Board of Fire Commissioners.—

Unexpired One-Year Term.

Vote for One.

☐

Francis R. Loori.

☐

Arthur H. Patterson.

using as much of the form as may be applicable to the current fire district election and extending the same to provide for cases not herein specified.

Source: R. S. 40:151-13; 40:151-14; 40:151-15; 40:151-16.

40A:14-74 Elections; notice; eligibility of voters.

The municipal clerk or the clerk of the board of fire commissioners, as the case may be, shall advertise the holding of such election for at least one week prior thereto in a newspaper circulating in said fire district.

At least 7 days prior to the election the municipal clerk or the clerk of the board, as the case may be, shall obtain the registry list for the municipality or municipalities and election districts comprised within such fire district for the preceding general election. No person shall be permitted to vote at the election unless his name appears on the registry list or he shall have become of legal age and is otherwise qualified and shall file an application to vote with the clerk at least 2 days prior thereto.

Source: R. S. 40:151-17; 40:151-18.

40A:14-75 Use of voting machines.

The superintendent of elections of any county having a superintendent of elections or the county board of elections of any county not having a superintendent of elections, may upon application of the board of commissioners of any fire district, loan or rent to said board, one or more voting machines owned by the county, for a period of time which does not conflict with any State, county, municipal or school district election, for the purpose of conducting a fire district election as required by law. The loan or rental of a voting machine or machines for this purpose shall be upon such terms and conditions as may be determined by the board of chosen freeholders of the county.

In any case in which voting machines are made available for such purpose, the use thereof for any fire district election shall be held as provided herein.

Source: C. 40:151-24.1 (1968, c. 192, s. 1); C. 40:151-24.2 (1968, c. 192, s. 2).

40A:14-76 Polls; hours.

Upon petition of 25 or more voters, filed with the clerk of the board at least 20 days prior to the date of any election, after the first election, the board of fire commissioners, by resolution, may divide the fire district into 2 or more polling places.

The polls for any election shall be opened between the hours of 2:00 and 9:00 P. M., but the board may designate a later closing hour on the same day. The board shall furnish the necessary books for the entries of the names and addresses of the voters.

Source: R. S. 40:151-19; 40:151-20.

40A:14-77 Manner of conducting elections.

Before the opening of the polls a public proclamation shall be made by the chairman of the board or the clerk or his or their representative as to the purpose of the voting. Two tellers for each polling place shall be appointed by the chairman or clerk and thereupon the polls shall be opened and the balloting shall continue without recess until the closing of the polls. Immediately after the close of the polls the clerk and tellers shall forthwith canvass the vote and certify the results. The clerk shall publicly announce the results.

Source: R. S. 40:151-21; 40:151-22; 40:151-23.

40A:14-78 Appropriations and other matters to be voted upon.

Any appropriation or other matter to be voted upon at such election shall be in the form of a question, placed upon the ballot immediately following the names of the candidates for members of the board of fire commissioners, in substantially the following form:

	YES.	(Question to be voted on)
	NO.	

The voter shall indicate his approval or opposition by making a cross (×), plus (+) or check (✓) mark in black ink or lead pencil in the appropriate square.

Source: R. S. 40:151-24.

40A:14-79 Assessment and collection of money authorized by voters; repayment.

The board of fire commissioners shall certify the amount of money voted at the annual district meeting to the assessor of the municipality, in which said district is situate, who shall assess the amount thereof against the taxable property therein, in the same manner as municipal taxes are assessed and the said amount shall be assessed, levied and collected at the same time and in the same manner as other municipal taxes.

The collector or treasurer of the municipality, in which said district is situate, shall pay over all moneys so assessed to the treasurer or custodian of funds of said fire district one-half on or before July 1 in the year for which said taxes are levied and the other half on or before January 1 of the following year, to be held and expended for the purpose of providing and maintaining means for extinguishing fires in such district.

The commissioners may also pay back, or cause to be paid back to such municipality, any funds or any part thereof paid to the treasurer or custodian of funds of such fire district by the collector or treasurer of the municipality, representing taxes levied for fire district purposes but not actually collected in cash by said collector or treasurer.

Source: R. S. 40:151-25 amended 1942, c. 183; 1943, c. 81.

40A:14-80 Borrowing money in anticipation of revenue.

The commissioners of any fire district, by resolution, may borrow after March 1 and before December 31 following, a sum not to exceed the amount appropriated at the preceding annual election held in the district, for current expenses and necessary repairs to fire apparatus and fire houses within the district, less any sums received from the collector of taxes or municipal treasurer on account of such appropriation. They may execute evidences of such indebtedness and pay the amount so borrowed, together with interest thereon, at a rate not exceeding 5% per annum.

Source: R. S. 40:151-26.

40A:14-81 Board of fire commissioners; general powers.

The commissioners of a fire district shall have the powers, duties and functions within said district to the same extent as in the case of municipalities, relating to the prevention and extinguishment of fires and the regulation of fire hazards.

Nothing contained herein shall be deemed to affect the powers, duties and functions of the State Department of Environmental Protection pertaining to forest fire services.

Source: R. S. 40:151-27.

40A:14-82 Limitation of average hours of duty for uniformed members of fire district fire departments.

The board of commissioners of a fire district having a uniformed paid or part-paid fire department, by resolution, may adopt a schedule of hours of actual duty for the members of such district fire department based upon an average of 56 hours per week in any 6-week cycle, but in cases of emergency the official in charge shall have authority to retain any uniformed member on duty during the period of the emergency and in any such case and within 12 months thereafter such member shall be given hours off from the average 56 hours per week in any 6-week cycle to compensate him for the extra hours served by him during such emergency.

Any such resolution shall be inoperative unless and until it shall have been submitted to and adopted by the legal voters within said

fire district at the annual election held for commissioners of the board, or at a special election for such purpose.

The resolution shall be submitted as a public question in the manner prescribed by law, by resolution of said board, or by filing with the clerk of the board of fire commissioners of such district a petition for such submission, signed by at least 20% of the legal voters who voted in the next preceding annual election for members of the board of fire commissioners.

The question shall be submitted substantially as follows :

“Insert the name and number of the fire district and state the question as to whether the fire department of the district shall be maintained in such manner as to provide that no uniformed member thereof shall be required to remain on duty in excess of 56 hours per week in any 6-week cycle except in cases of emergency.”

If a majority of the legal voters voting on such question vote in favor of the adoption, the resolution on and after January 1 following such election shall become operative.

Source: C. 40:151-27.1 (1951, c. 297, s. 1); C. 40:151-27.2 (1951, c. 297, s. 2); C. 40:151-27.3 (1951, c. 297, s. 3).

40A:14-83 Leasing space in building of fire district.

The board of fire commissioners of a fire district may lease at a nominal rental space in any of its buildings to the municipality in which the district is located.

Source: C. 40:151-27.4 (1964, c. 91).

40A:14-84 Revenue for fire district purposes; limitations; meetings.

The legal voters, at the annual meeting or at a special meeting called by the commissioners of the fire district, may vote to raise money for a fire house, apparatus and appliances in connection therewith for fire extinguishing purposes, in an amount not exceeding 5 mills on the dollar of the last assessed valuation of the property in the fire district. The amount so voted for shall be assessed in the manner provided by law and the revenue derived therefrom shall be expended for said purposes by the commissioners as they shall deem necessary and proper.

Any such special meeting shall be called on 10 days notice by the board of fire commissioners, to be posted in 5 public places in the district, setting forth the time, place and object of the meeting and the legal voters shall determine the amount of money to be raised.

Source: R. S. 40:151-28; 40:151-29.

40A:14-85 Acquisition of property and equipment for fire districts; limitations; referendum for issuance of bonds.

The board of commissioners of a fire district may purchase fire engines, apparatus or other appliances for the extinguishment of fires and acquire lands or buildings or erect buildings for the housing of such equipment, at a cost not exceeding \$60,000.00 or 2% of the assessed valuation of the taxable property in the district, whichever amount is larger, the money to be raised by a bond issue. Any such bond issue shall be authorized by a resolution of the commissioners specifying the amount and the purpose thereof. The resolution shall be inoperative unless and until it shall have been submitted to and approved by the legal voters within said fire district at the annual election held for the election of commissioners and appropriation of money for fire extinguishing purposes, or at a special election for such purpose.

The resolution shall be written or printed and the election shall be upon notice stating the time and place. If said election is to be the annual one, the notices shall be posted by the clerk of the board of fire commissioners in 10 public places, at least 10 days prior to the date of the election. The board of commissioners and the clerk, in their or his discretion, may advertise the election in a newspaper, published in the fire district, if any, otherwise in a newspaper published in the county of said district and circulating in such district. When a special election is specified notices shall be posted in 10 public places, at least 21 days prior to the date of election, and the clerk of said board shall advertise said notice in such a newspaper at least twice prior to the election date.

Source: R. S. 40:151-30 amended 1970, c. 216; 40:151-31; 40:151-33 amended 1955, c. 83.

40A:14-86 Voting on bond issue of fire district; issuance and sale.

The legal voters, at any election held for the purpose of raising money by issuance of bonds, shall vote by ballot on the question. The election shall be conducted in the same manner as other fire district elections.

If a majority of the legal voters voting on the question favor the issuance of such bonds the board of fire commissioners shall be authorized to issue them.

Said bonds shall be serial bonds issued in the corporate name of the fire district, in the authorized amount, not exceeding in the aggregate \$60,000.00 or 2% of the assessed valuation of the taxable property of the district, whichever amount is larger. They shall be in the amounts and payable at the time directed, with interest at a rate not exceeding 6% per annum, payable semi-

annually. The bonds shall not be issued for longer than a 30-year period. They shall be signed by the chairman of the board of fire commissioners and attested by the clerk, who shall affix thereto the corporate seal. The bonds shall have coupons attached for the payment of interest, signed by the clerk and numbered to correspond to the bonds. A proper registry shall be kept by the clerk of the board, of each bond issued, numbered consecutively. The bonds shall be sold at public or private sale for the best obtainable price but not less than par and accrued interest.

Source: R. S. 40:151-32; 40:151-33 amended 1955, c. 83.

40A:14-87 Assessment and collection; borrowing money; bond payments.

Whenever bonds have been duly issued the clerk of the board of fire commissioners shall annually certify to the assessor of the taxing district in which the fire district is situate, the amount required to meet the interest payments and pay the bonds maturing in the ensuing year, together with interest thereon. The assessor shall assess the amount thereof against the taxable property in the fire district. The amount of the assessment shall be payable to the collector of the municipality who, on or before July 1 following, shall pay the full amount of the assessment to the treasurer or custodian of funds of the fire district. The board of fire commissioners shall cause the principal and interest on said bonds to be paid as they become due.

If no funds are currently available to pay the maturing bonds or interest, the board of fire commissioners may borrow money and execute evidences of indebtedness for the purpose of making such payments in the same manner as in other cases of borrowing.

Source: R. S. 40:151-34.

40A:14-88 Compensation for members of boards of fire commissioners.

The secretary and treasurer shall be members of the board and their appointments shall be for terms of one year. Each member of the board of fire commissioners shall receive as compensation such amounts as the board shall fix subject to review by the governing body wherein the fire district is located.

Source: R. S. 40:151-35 amended 1953, c. 356.

40A:14-89 Fire district treasurer, custodian of money; bond; annual audit.

The treasurer of the fire district shall be the custodian and disbursing officer of the moneys of the said district. Moneys shall be

disbursed by warrants signed by a majority of the board. The treasurer shall be bonded by a surety company, authorized to do business in New Jersey, in such an amount as the board shall prescribe.

The board of fire commissioners shall cause his records to be audited at least once a year, within 30 days after expiration of the fiscal year and such audit shall be reported to the board at the next regular meeting, following. Within 10 days thereafter the clerk of the board of fire commissioners shall advertise such audit at least twice in a newspaper circulating in said district. The expense of the bond and audit shall be borne by the district.

Source: R. S. 40:151-36; 40:151-37.

40A:14-90 Enlargement of fire district.

The governing body of a municipality having a fire district therein, upon application as herein provided, by ordinance, may enlarge such fire district by extending the boundaries thereof to include additional territory in such municipality but not included in another fire district.

Such ordinance shall only be adopted upon an application in writing designating the area proposed to be included, submitted by at least 10 legal voters residing in such area. Upon the adoption of any such ordinance and publication thereof as required by law the additional territory shall become part of said fire district.

Nothing contained herein shall affect the terms or tenure of members of the board of fire commissioners or officers or personnel thereof, nor the bonds and obligations, if any, of such fire district.

Source: R. S. 40:151-38; 40:151-39; 40:151-40.

40A:14-91 Dissolution of fire district.

Upon a written application therefor, of at least 20 legal voters residing in a fire district, the governing body of the municipality, wherein the fire district is located, shall consider the dissolution of the fire district. Upon receipt of such an application the governing body of said municipality shall fix a time and place for a hearing thereon. The municipal clerk shall advertise the notice of hearing in a newspaper circulating in the county wherein the municipality is located at least once and not less than 10 days prior to the meeting.

After the hearing the governing body of said municipality shall determine the question of the proposed dissolution.

If a resolution be adopted that the fire district be dissolved, any moneys remaining in the fire district treasury shall be disposed of as the said governing body shall direct.

Source: R. S. 40:151-42; 40:151-43.

40A:14-92 Cancellation of taxes or refunds on dissolution of fire district.

In any municipality wherein a fire district is dissolved the governing body of the municipality may cancel unpaid tax levies for the fire district or refund fully or proportionately without interest any moneys paid by the taxpayers in said fire district to the collector of the municipality, but the total amount of any such refunds shall not exceed the amount of money on hand for the account of the fire district upon said dissolution.

Source: R. S. 40:151-44.

40A:14-93 Illegally created fire district; abatements or refunds.

Upon a written application therefor, of at least 20 legal voters residing in a fire district, alleging that the fire district was not created in accordance with law, and upon a determination by the governing body that said allegation is fully supported by uncontradicted evidence and that taxes have been assessed on their property, the governing body of the municipality, by resolution, may abate and remit all of such unpaid taxes and authorize refunds of taxes paid to the taxpayers.

Source: R. S. 40:151-45.

40A:14-94 Formation of new municipalities; abolition of fire district; apportionment of assets and liabilities.

A fire district shall be deemed abolished when the municipality in which it is located shall be divided and formed into or become part of 2 or more new municipalities.

Upon such abolition the governing bodies of the new municipalities and the treasurer or custodian of the funds of said fire district shall meet at a time and place to be designated by the clerk of the new municipality wherein the fire district or greater part thereof is located. The notice of the meeting shall be served personally or by certified mail upon each member of the board of said fire district, not less than 10 days prior to the meeting. At the meeting the property of the fire district shall be apportioned between or among said new municipalities in proportion to the aggregate value of the buildings and contents of such fire district located respectively therein as ascertained from the last assessment for said fire district.

A written report of such apportionment, signed by the members of the governing bodies present at said meeting, shall be made.

The report shall set forth the current assets and liabilities and the division of the money and property of the fire district. The taxpayers of the respective new municipalities shall be liable to pay their proportion of the debts, if any, of said fire district.

Upon the ascertainment of the amount of money to be paid and the property to be distributed and the manner of such payment and distribution to each municipality, the treasurer or custodian of funds of said fire district shall pay and transfer said moneys and property accordingly.

Source: R. S. 40:151-46; 40:151-47.

40A:14-95 Establishment of Junior Firemen's Auxiliary.

In any municipality or fire district in this State maintaining a volunteer fire department, or where there shall exist one or more incorporated volunteer fire companies affording fire protection to said municipality or fire district the membership whereof are serving under the jurisdiction of and with the consent of said municipality or fire district, it shall be lawful for the governing body of such municipality, or the board of commissioners of such fire district to provide, by ordinance or resolution, for the establishment of an auxiliary to any such volunteer fire department or company to be known as the Junior Firemen's Auxiliary.

Source: C. 40:47-30.6 (1968, c. 309, s. 1).

40A:14-96 Eligibility for membership in the Junior Firemen's Auxiliary.

No person shall be eligible for membership in the Junior Firemen's Auxiliary who is less than 16 or more than 21 years of age. Persons between the ages of 16 and 21 shall be required to obtain permission to join the auxiliary from their parents or guardian. Such permission shall be in writing and acknowledged or proved in the manner required by law for deeds to real estate to be recorded.

Source: C. 40:47-30.7 (1968, c. 309, s. 2; amended 1970, c. 310).

40A:14-97 Insurance coverage for members.

Members of the auxiliary shall be insured with the same coverage and in the same amounts provided for the regular volunteer firemen of the municipality or fire district.

Source: C. 40:47-30.8 (1968, c. 309, s. 3).

40A:14-98 Rules and regulations governing activities of Junior Firemen's Auxiliary.

The governing body of the municipality or the board of commissioners of the fire district shall, before authorizing the establishment of any Junior Firemen's Auxiliary, formulate rules and

regulations to govern the activities of the auxiliary. The rules and regulations shall provide for the training of the auxiliary for eventual membership in the volunteer fire department of the municipality or fire district or in any such volunteer fire company or companies affording fire protection therein, and shall further provide that no junior fireman shall be required to perform duties which would expose him to the same degree of hazard as a regular member of a volunteer fire company.

Source: C. 40:47-30.9 (1968, c. 309, s. 4).

40A:14-99 Blank.

40A:14-100 Section 40:47-51 of the Revised Statutes saved from repeal.

Section 40:47-51 of the Revised Statutes is saved from repeal. [The act saved from repeal by said section, which section is now saved from repeal, provided that cities and municipalities not having a paid fire department prior to March 1, 1886 may create and maintain such a fire department and are authorized to establish said department by referendum and provide for the appointment, powers and duties of a board of fire commissioners.]

Source: R. S. 40:47-51.

40A:14-101 Section 40:151-41 of the Revised Statutes saved from repeal.

Section 40:151-41 of the Revised Statutes is saved from repeal. [The act (P. L. 1930, c. 96) saved from repeal by said section, which section is now saved from repeal, provided a method for proving the existence of certain fire districts created before April 14, 1930, the records of such creation having been lost, destroyed or mislaid.]

Source: R. S. 40:151-41.

40A:14-102 Sections 40:151-48 to 40:151-53 both inclusive of the Revised Statutes saved from repeal.

Sections 40:151-48 to 40:151-53 both inclusive of the Revised Statutes are saved from repeal. [These sections provide for the effect on an existing fire district when its territory is made part of another district.]

Source: R. S. 40:151-48; 40:151-49; 40:151-50; 40:151-51; 40:151-52; 40:151-53 amended 1953, c. 37, s. 288.

40A:14-103 Section 40:151-54 of the Revised Statutes saved from repeal.

Section 40:151-54 of the Revised Statutes is saved from repeal. [The act saved from repeal by said section, which section is

now saved from repeal, provided for bond issues for the payment by township fire districts of the arrearages for water service existing prior to 1935. It provides for the fixing of the rate of interest, maturity dates and amount of the annual installments for amortization of said bonds.]

Source: R. S. 40:151-54.

40A:14-104 Sections 40:174-62 to 40:174-64 both inclusive of the Revised Statutes saved from repeal.

Sections 40:174-62 to 40:174-64 both inclusive of the Revised Statutes are saved from repeal. [The act (P. L. 1892, c. 19) compiled by the above sections and saved from repeal by this section provides for the creation, establishment, operation and maintenance of a paid fire department by cities, adopting the provisions of P. L. 1885, c. 250.]

Source: R. S. 40:174-62; 40:174-63; 40:174-64.

40A:14-105 Sections 40:174-120 to 40:174-125 both inclusive of the Revised Statutes saved from repeal.

Sections 40:174-120 to 40:174-125 both inclusive of the Revised Statutes are saved from repeal. [The act (P. L. 1906, c. 249) compiled by the above sections and saved from repeal by this section provides that the board of fire commissioners or other official in charge of a fire department, in cities of the first class, may create the positions of inspectors of combustibles and fire risks and make appointments thereto.]

Source: R. S. 40:174-120; 40:174-121; 40:174-122; 40:174-123; 40:174-124; 40:174-125.

C. ANALYSIS

- 40A:14-106 County police; establishment.
- 40A:14-107 General powers of county police.
- 40A:14-108 Hours of service for uniformed members and officers; referendum.
- 40A:14-109 Doorman and mechanic have rank of patrolman.
- 40A:14-110 Minimum salary for county and county park policemen in counties other than of the first and second class.
- 40A:14-111 Promotion of members and officers in certain cases.
- 40A:14-112 Appearance as witness; no loss in compensation.
- 40A:14-113 Leaves of absence with pay to certain members and officers.

- 40A:14-114 Delay in qualifying because of military service.
 40A:14-115 Decrease of force for reasons of economy.
 40A:14-116 Special compensation for permanently disabled members or officers; conditions.
 40A:14-117 Defense for members and officers sued for damages occasioned from or incidental to their performance of duty.

40A:14-106 County police; establishment.

The board of chosen freeholders of any county, adopting rules for the regulation of traffic upon the county highways and roads and for the enforcement of laws pertaining thereto, by resolution, may create and establish a county police department and force and provide for its maintenance, regulation and control. Except as otherwise provided by law, the said board may appoint a chief of the department and such other members, officers and personnel as shall be deemed necessary, determine their terms of office, fix their compensation and prescribe their powers, functions and duties. The said board shall adopt and promulgate rules and regulations for the government of the department and force and for the discipline of its members.

Source: R. S. 40:22-1; 40:22-3; 40:22-4; 40:22-6.

40A:14-107 General powers of county police.

The members and officers of a county police department and force, in addition to any and all other powers prescribed by law, shall have the power to enforce:

- (1) all rules and regulations made and promulgated by the board of chosen freeholders of the county governing the use of by the public, and the welfare of the public on, county highways and roads;
- (2) all provisions of chapter 171 (Sunday observances) of Title 2A of the New Jersey Statutes;
- (3) all provisions of Title 39 (Motor Vehicles and Traffic Regulation) of the Revised Statutes; and
- (4) all provisions of Subtitle 10 (Crimes) of Title 2A of the New Jersey Statutes.

The said members and officers shall have authority to arrest for the commission of any crime anywhere in the county of their appointment.

Source: R. S. 40:22-2; 40:22-5 amended 1953, c. 37, s. 39.

40A:14-108 Hours of service for uniformed members and officers; referendum.

The hours of employment of the uniformed members and officers of any county police department or force having supervision and

regulation of traffic on county highways and roads or of a county park police system shall not exceed 8 continuous hours in any one day nor more than 40 hours in any one week. No such member or officer shall be required to perform any police duty which would involve more time than herein specified except in cases of emergency.

The provisions herein shall be inoperative unless and until adopted by resolution of the board of chosen freeholders or the county park police commission, as the case may be, and if the resolution so provides, this section shall remain inoperative until approved by a majority of legal voters of the county voting thereon at an election held at the next general election. Such an election shall be held when so directed but such direction shall not be made unless so made at least 40 days preceding such next general election.

The adoption thereof when submitted shall be in the form of a question to the legal voters of the county, in the manner prescribed by law, in substantially the following form on the ballot: "Shall the 8-hour day and 40-hour week plan for the county policemen (county park policemen) be adopted?" The ballot shall contain 2 squares to the left of the question, one with the word "Yes", the other with the word "No", respectively, to the right of the squares. The ballot shall contain instructions to the voters, to vote by marking a cross (X), or plus (+) or check mark (✓) in the appropriate square according to their choice. If voting machines are used, the word "Yes" or "No" shall be equivalent to such markings, respectively. If a majority of the legal voters voting on such question at said election vote in favor of the adoption, the plan shall become operative in the county in which it was adopted to the extent thereof.

Source: C. 40:11-13.2 (1948, c. 341, s. 1); C. 40:11-13.3 (1948, c. 341, s. 2); C. 40:11-13.4 (1948, c. 341, s. 3); C. 40:11-13.5 (1948, c. 341, s. 4); C. 40:11-13.6 (1948, c. 341, s. 5); C. 40:11-13.7 (1948, c. 341, s. 6).

40A:14-109 Doorman and mechanic have rank of patrolman.

Any person employed as a county police doorman or mechanic prior to the effective date of this law shall be a member of the county police department and force with the rank of patrolman and entitled to the same salary, rights and privileges as patrolman. Source: R. S. 40:22-15.

40A:14-110 Minimum salary for county and county park policemen in counties other than of the first and second class.

Except as otherwise provided by law or whenever a higher minimum annual salary has been legally fixed by appropriate action, every county or county park policeman in a county other than of the first or second class county, shall be entitled to a minimum salary of \$2,250.00.

Source: C. 40:11-20 (1949, c. 283).

40A:14-111 Promotion of members and officers in certain cases.

In any county wherein Title 11 (Civil Service) of the Revised Statutes is not in operation, except as otherwise provided by law, a member or officer of the county police department or force shall not be promoted until he has served at least 3 years in such department or force.

Source: C. 40:11-18 (1940, c. 20).

40A:14-112 Appearance as witness; no loss in compensation.

The board of chosen freeholders of a county, or the county park commissioners may, by resolution, provide that whenever any member of the county police department, county boulevard police system or county park police system shall be required to appear before any grand jury or at any County, Superior or Supreme Court proceeding, except in a civil action, the time during which he is so engaged shall be considered a time of assignment to, and performance of duty. When such appearance occurs during the member's assigned duty hours, he shall suffer no loss in compensation. When such appearance occurs outside his assigned duty hours he shall receive either compensatory time off from his regular duty hours or additional compensation.

Source: C. 40:11-13.9 (1968, c. 264, s. 1); C. 40:11-13.10 (1968, c. 264, s. 2).

40A:14-113 Leaves of absence with pay to certain members and officers.

The board of chosen freeholders of any county, by resolution, may provide for granting leaves of absence with pay not exceeding one year, to members and officers of its police department and force who shall be injured, ill or disabled from any cause, provided that the board appointed examining physician, shall certify to such injury, illness or disability.

Source: R. S. 40:11-9.

40A:14-114 Delay in qualifying because of military service.

Any person who has been, or shall be, appointed as a member or officer of the county police department and force while serving in

the armed services of the United States, and who has been, or shall be, delayed in qualifying and becoming a member of such police department and force as a result of such service and who shall qualify and become a member or officer of such police department and force within 6 months after an honorable discharge or release under conditions other than dishonorable from such service, shall be considered for the purpose of determining his years of service, rank, grade, increase in pay or any other rights or benefits, as having qualified and to have become a member of such department and force as of the date of his appointment.

Source: C. 40:11-13.1 (1946, c. 87).

40A:14-115 Decrease of force for reasons of economy.

The board of chosen freeholders of any county, if they shall deem it necessary for reasons of economy, may decrease the number of members and officers of the police department or force or their grades or ranks. In case of demotion from the higher ranks, the officers or members to be so demoted shall be in the inverse order of their appointment. When the service of members or officers is terminated, such termination shall be in the inverse order of their appointment. Any member or officer who is demoted or whose service is terminated by reason of such decrease shall be placed on a special employment list, and in the case of subsequent promotions, a person so demoted shall be reinstated to his original rank, and in the case of termination of service and new appointment, prior consideration shall be given to the persons on said special employment list.

Source: R. S. 40:11-10; 40:11-11; 40:11-12 amended 1942, c. 52, s. 1; 40:11-13 amended 1938, c. 80; 1942, c. 52, s. 2.

40A:14-116 Special compensation for permanently disabled members or officers; conditions.

If a member or officer of a county police department or force is permanently disabled from injuries received while in the performance of his duties and the chief or authority in charge of such police department or force shall recommend that special compensation be granted and a physician, appointed by the board of chosen freeholders of the county, shall certify as to the probable permanency of such disability, the board of chosen freeholders of the county, by resolution, in their discretion, may provide for special compensation to said disabled member or officer and the amount thereof and manner of payment, either in a lump sum or by an annual allowance during such disability, but such special compensation, plus any pension paid and any award for workmen's compensation

shall not exceed the salary payable at the time of the sustaining of the injuries. The board of chosen freeholders of the county shall include appropriate budget items and provide for the payment of such special compensation.

Source: C. 40:22-3.1 (1952, c. 350, s. 1); C. 40:22-3.2 (1952, c. 350, s. 2).

40A:14-117 Defense for members and officers sued for damages occasioned from or incidental to their performance of duty.

Whenever a member or officer of a county police department or force is sued for damages arising from or incidental to a performance of his duties, the board of chosen freeholders of the county shall provide said member or officer with necessary means for the defense of such suit, other than for his defense in a disciplinary or criminal proceeding instituted against him by the county.

Source: C. 40:11-19 (1946, c. 67 amended 1947, c. 103, s. 2).

D. ANALYSIS

- 40A:14-118 Creation and establishment of police department and force; regulation; members.
- 40A:14-119 Acquisition of lands and buildings; construction and maintenance of buildings.
- 40A:14-120 Lease of buildings; term and renewal.
- 40A:14-121 Contracts for police vehicles and ambulance services.
- 40A:14-122 General qualifications of members of police department and force; temporary appointments; absences from duty.
- 40A:14-123 Residence requirements waived in certain cases.
- 40A:14-123.1 Residence requirements for persons discharged or released from the military service.
- 40A:14-124 Certain municipalities under 30,000 population, 6-month residence not required; conditions.
- 40A:14-125 Municipalities under 5,000 population, 6-month residence not required; conditions.
- 40A:14-126 Municipalities having a population in excess of 5,000 but not more than 5,500, 6-month residence not required; conditions.
- 40A:14-127 Age requirements.
- 40A:14-128 Indeterminate term of office.
- 40A:14-129 Promotion of members and officers in certain municipalities.
- 40A:14-130 Promotion of members and officers in certain cases.

- 40A:14-131 Minimum salary for policemen in municipalities located in counties other than of the first or second class.
- 40A:14-132 Hours of service for uniformed members and officers; referendum.
- 40A:14-133 Days of employment and days off; emergency.
- 40A:14-134 Certain emergencies; compensation.
- 40A:14-135 Appearance as witness; no loss in compensation.
- 40A:14-136 Leave of absence without pay; retention of pension and retirement benefits.
- 40A:14-137 Leaves of absence with pay to certain members and officers.
- 40A:14-138 Delay in qualifying because of military service.
- 40A:14-139 Clerks.
- 40A:14-140 Drivers and attendants of police vehicles; other personnel.
- 40A:14-141 Chaplains.
- 40A:14-142 Municipal prison keepers.
- 40A:14-143 Decrease of force for reasons of economy.
- 40A:14-144 Temporary appointments.
- 40A:14-145 Appointment of temporary members and officers; general qualifications; termination of employment.
- 40A:14-146 Special police; appointment; qualifications; duties.
- 40A:14-146.1 Security officers.
- 40A:14-147 Suspension and removal of members and officers; complaint; hearing.
- 40A:14-148 Hearings.
- 40A:14-149 Suspension pending hearing; commencement of hearing.
- 40A:14-150 Review of disciplinary conviction in non-civil service municipalities.
- 40A:14-151 Judicially determined illegal suspension or dismissal; member or officer entitled to recover salary; proviso.
- 40A:14-152 Members and officers shall have powers of peace officers and constables.
- 40A:14-153 Records and badges of awards to members and officers.
- 40A:14-154 Special compensation for permanently disabled members or officers; conditions.
- 40A:14-155 Defense for members and officers sued for damages occasioned from or incidental to their performance of duty.

- 40A:14-156 Police assistance in other municipalities; pension and compensation rights unaffected in case of casualty or death.
- 40A:14-157 Tangible personal property found or recovered; disposition.
- 40A:14-158 Special joint municipal police force.
- 40A:14-159 Chapter 151 of the laws of 1958 saved from repeal.
- 40A:14-159.1 Chapter 303 of the laws of 1969 saved from repeal.
- 40A:14-160 Section 40:47-12 of the Revised Statutes saved from repeal.
- 40A:14-161 Chapter 188 of the laws of 1959 saved from repeal.
- 40A:14-162 Chapter 56 of the laws of 1962 saved from repeal.
- 40A:14-163 Chapter 187 of the laws of 1964 saved from repeal.
- 40A:14-164 Chapter 288 of the laws of 1966 saved from repeal.
- 40A:14-165 Sections 40:174-6 to 40:174-25 both inclusive of the Revised Statutes saved from repeal.
- 40A:14-166 Section 40:174-26 of the Revised Statutes saved from repeal.
- 40A:14-167 Sections 40:174-88 to 40:174-91 both inclusive of the Revised Statutes saved from repeal.
- 40A:14-168 Sections 40:174-92 and 40:174-93 of the Revised Statutes saved from repeal.
- 40A:14-169 Sections 40:174-95 to 40:174-112 both inclusive of the Revised Statutes saved from repeal.
- 40A:14-170 Sections 40:174-113 and 40:174-114 of the Revised Statutes saved from repeal.
- 40A:14-171 Sections 40:174-144 to 40:174-146 both inclusive of the Revised Statutes saved from repeal.
- 40A:14-172 Section 40:174-148 of the Revised Statutes saved from repeal.
- 40A:14-173 Section 40:174-149 of the Revised Statutes saved from repeal.
- 40A:14-174 Sections 40:174-151 to 40:174-170 both inclusive of the Revised Statutes saved from repeal.
- 40A:14-175 Sections 40:174-181 to 40:174-200 both inclusive of the Revised Statutes saved from repeal.
- 40A:14-118 Creation and establishment of police department and force; regulation; members.**

The governing body of any municipality, by ordinance, may create and establish a police department and force and provide for the maintenance, regulation and control thereof, and except as otherwise provided by law, appoint such members, officers and

personnel as shall be deemed necessary, determine their terms of office, fix their compensation and prescribe their powers, functions and duties and adopt and promulgate rules and regulations for the government of the department and force and for the discipline of its members.

Source: R. S. 40:47-1.

40A:14-119 Acquisition of lands and buildings; construction and maintenance of buildings.

The governing body of the municipality, by resolution, may provide for the acquisition of such lands and buildings as shall be deemed useful and necessary for the purposes and requirements of the police department and force, and may construct, furnish, equip and maintain said buildings.

Source: R. S. 40:47-2.

40A:14-120 Lease of buildings; term and renewal.

The governing body of any municipality, by resolution, may provide for the leasing of any building, or part thereof, for use of the police department and force for a period not exceeding 5 years and for the renewal thereof for a similar term within one year prior to the expiration of the term.

Source: R. S. 40:47-13.

40A:14-121 Contracts for police vehicles and ambulance services.

The governing body of any municipality, by resolution, may provide by contract, for the furnishing of vehicles, ambulances and services incidental thereto for use of the police department and force.

Source: R. S. 40:47-14.

40A:14-122 General qualifications of members of police department and force: temporary appointments; absences from duty.

Except as otherwise provided by law, no person shall be appointed as a member of the police department and force, unless he:

(1) is a citizen of the United States and has been a resident of the municipality, in which he is to be appointed, for at least 6 months next preceding his appointment;

(2) is sound in body and of good health sufficient to satisfy the board of trustees of the police and firemen's retirement system of New Jersey as to his eligibility for membership in the retirement system;

(3) is able to read, write and speak the English language well and intelligently;

(4) is of good moral character, and has not been convicted of any criminal offense involving moral turpitude.

The appointing body, officer or officers of the municipality when authorized so to do, may employ such officers and other personnel for said police department and force as temporary employees in emergencies, or for certain specified parts of the year, as needed.

Except as otherwise provided by law, any permanent member or officer of such police department and force who shall be absent from duty without just cause or leave of absence, for a continuous period of 5 days, shall cease to be a member of such police department and force.

Source: R. S. 40:47-3 amended 1945, c. 218; 1954, c. 241; 1969, c. 267, s. 1.

40A:14-123 Residence requirements waived in certain cases.

Any municipality, by ordinance, may authorize the appointment and the retention in its employ of present and future officers or members of its police department and force, notwithstanding that the same do not meet the residence requirements specified by any other applicable law.

Such ordinance, however, shall not be adopted unless the governing body of said municipality finds as a fact that adherence to said residence requirements would seriously impede its ability to establish and maintain competent personnel for its police department and force.

No person shall be appointed pursuant to said ordinance waiving residence requirements unless at the time of his appointment there shall be a vacancy in the police department or force which cannot be filled by a qualified resident.

No person shall be appointed pursuant to said ordinance waiving residence requirements unless he has been a resident of the State of New Jersey for at least 6 months and lives in such proximity to the municipality in question as will satisfy the appointing authority that he will be able to fully perform his duties as a member of its police department and force.

Source: C. 40:47-3.3 (1966, c. 292, s. 1); C. 40:47-3.4 (1966, c. 292, s. 2; C. 40:47-3.5 (1966, c. 292, s. 3 amended 1969, c. 267, s. 3).

40A:14-123.1 Residence requirements for persons discharged or released from the military service.

Any person who has served in the armed services of the United States and been discharged or released from such service under conditions other than dishonorable within 6 months prior to making application to any municipality for appointment as a member

or officer of the police department or force, may be appointed a member or officer of such police department or force if otherwise qualified notwithstanding that he is not and has not been a resident of said municipality for 6 months preceding his appointment; provided, at the time of making application for appointment said person signs a notice of intention and agreement to become a resident of the municipality within 6 months from the date of appointment.

In the event such appointee fails to become a resident of the municipality within the aforementioned 6-month period, he shall then cease to be a member or officer of said police department or force. The governing body shall cause to be served on the officer or member at least 15 days before the expiration of the period of nonresidency permitted, a notice that he is required to become a resident of the municipality within the time mentioned, and in the event such notice is not given for the officer or member to become a resident of the municipality the time for the officer or member to become a resident of the municipality is extended until such notice is given.

Source: C. 40:47-3.6 (1970, c. 187).

40A:14-124 Certain municipalities under 30,000 population, 6-month residence not required; conditions.

Any person, if he is otherwise qualified, may be appointed as a member or officer of the police department or force of a municipality, having a population of at least 5,000 but not more than 30,000, notwithstanding he has not been a resident of such municipality for 6 months preceding his appointment.

No such appointment shall be made unless prior thereto, the governing body of such municipality, by resolution, shall have determined that adherence to said residence requirement in each particular case would seriously impede its ability to establish and maintain competent personnel for its police department and force and that the appointment or continued employment of a named member or officer of its police department or force is deemed necessary to the proper establishment in operation of said police department and force provided that the person to be appointed or continued in employment shall reside in the area included within a radius of 15 miles from such municipality's police headquarters.

Source: C. 40:47-3.1 (1946, c. 25, amended 1953, c. 107, s. 2; 1954, c. 243; 1956, c. 187, s. 1; 1969, c. 267, s. 2); C. 40:47-3.2 (1953, c. 107, s. 3 amended 1956, c. 187, s. 2); C. 40:47-20.13 (1965, c. 177 amended 1969, c. 267, s. 7).

40A:14-125 Municipalities under 5,000 population, 6-month residence not required; conditions.

In any municipality having a population of less than 5,000 any person may be appointed as a member or officer of the police department or force, notwithstanding he has not been a resident of the municipality in which he is to be appointed, for at least 6 months next preceding his appointment, if he is otherwise qualified and is a resident of the county wherein such municipality is situate.

Source: C. 40:47-20.8 (1956, c. 147 amended 1969, c. 267, s. 5).

40A:14-126 Municipalities having a population in excess of 5,000 but not more than 5,500, 6-month residence not required; conditions.

Any person may be appointed an officer or member of the police department or force of a municipality having a population in excess of 5,000 but not more than 5,500, notwithstanding that he has not been a resident of such municipality for 6 months preceding his appointment, if he is otherwise qualified and is either a resident of the municipality or agrees to become a resident of the municipality within one year of his appointment.

Source: C. 40:47-20.14 (1965, c. 218 amended 1969, c. 267, s. 8).

40A:14-127 Age requirements.

Except as otherwise herein provided, no person shall be appointed as a member or officer of the police department or force in any municipality who is under 21 or over 35 years of age.

In any municipality wherein Title 11 (Civil Service) of the Revised Statutes is operative, any person who shall have met the age requirements herein at the announced closing date of a civil service examination for the position, shall be considered within the age requirements while the civil service list promulgated as a result of that examination is in effect.

Nothing herein contained shall affect the employment or continuance in office of any person as a permanent policeman, employed by said municipality prior to the adoption of the ordinance, creating and establishing a paid police department or force.

The provisions of this section are subject to chapter 98 of the laws of 1944 (C. 38:23A-2) relating to maximum age limits for persons serving in the armed forces of the United States as therein provided.

Source: R. S. 40:47-4 amended 1939, c. 318; 1945, c. 219; 1948, c. 161; 1953, c. 299, s. 1; 1962, c. 149, s. 1; 1968, c. 276, s. 1.

40A:14-128 Indeterminate term of office.

Except as otherwise provided by law, in any municipality having permanent members and officers of a police department and force,

the employment of said members and officers shall be indeterminate and continuous during good behavior, efficiency and required residency.

Source: R. S. 40:47-5.

40A:14-129 Promotion of members and officers in certain municipalities.

In any municipality wherein Title 11 (Civil Service) of the Revised Statutes is not in effect, and except in cities of the first and second class, a promotion of any member or officer of the police department or force to a superior position shall be made from the membership of such department or force. Due consideration shall be given to the member or officer so proposed for the promotion, to the length and merit of his service and preference shall be given according to seniority in service.

No person shall be eligible for promotion to be a superior officer unless he shall have previously served as a patrolman in such department or force.

Source: R. S. 40:47-18.

40A:14-130 Promotion of members and officers in certain cases.

In any municipality wherein Title 11 (Civil Service) of the Revised Statutes is not in operation, except as otherwise provided by law, a member or officer of the municipal police department or force shall not be promoted until he has served at least 3 years in such department or force.

Source: C. 40:11-18 (1940, c. 20).

40A:14-131 Minimum salary for policemen in municipalities located in counties other than of the first or second class.

Except as otherwise provided by law or whenever a higher minimum annual salary has been legally fixed by appropriate action, every municipal policeman in a municipality located in a county other than a first or second class county, shall be entitled to a minimum annual salary of \$2,250.00.

Source: C. 40:11-20 (1949, c. 283).

40A:14-132 Hours of service for uniformed members and officers; referendum.

The hours of employment of the uniformed members and officers of the police department and force in any municipality shall not exceed 8 continuous hours in any one day nor more than 40 hours in any one week. No such member or officer shall be required to perform any police duty which would involve more time than herein specified except in cases of emergency.

The provisions herein shall be inoperative unless and until adopted by ordinance of the governing body of the municipality

and, if the ordinance so provides, this section shall remain inoperative until approved by a majority of legal voters of the municipality voting thereon at an election held at the next general election. Such an election shall be held when so directed but such direction shall not be made unless so made at least 40 days preceding such next general election.

Upon the filing with the governing body of the municipality a petition for the submission of the question signed by at least 20% of the legal voters of the municipality, the governing body shall adopt an ordinance with a provision that it shall be inoperative until approved by a majority of legal voters of the municipality voting thereon in the same manner as in the case of the adoption of such an ordinance and providing for such submission where no such petition is submitted.

The adoption thereof when submitted shall be in the form of a question to the legal voters of the municipality in the manner prescribed by law, in substantially the following form on the ballot: "Shall the 8-hour day and 40-hour week plan for the municipal policemen be adopted?" The ballot shall contain 2 squares to the left of the question, one with the word "Yes", the other with the word "No", respectively, to the right of the squares. The ballot shall contain instructions to the voters to vote by marking a cross (X), or plus (+) or check mark (✓) in the appropriate square according to their choice. If voting machines are used the word "Yes" or "No" shall be equivalent to such markings, respectively. If a majority of the legal voters voting on such question at said election vote in favor of the adoption, the plan shall become operative in the municipality in which it was adopted to the extent thereof.

Source: C. 40:11-13.2 (1948, c. 341, s. 1); C. 40:11-13.3 (1948, c. 341, s. 2); C. 40:11-13.4 (1948, c. 341, s. 3); C. 40:11-13.5 (1948, c. 341, s. 4); C. 40:11-13.6 (1948, c. 341, s. 5); C. 40:11-13.7 (1948, c. 341, s. 6); R. S. 40:47-16 amended 1941, c. 340.

40A:14-133 Days of employment and days off; emergency.

The days of employment of any member or officer of the police department or force, including any officer having supervision or regulation of traffic upon county roads, parks and parkways shall not exceed 6 days in any one week, except in cases of emergency the officer, board or official in charge of such police department or force shall have authority to retain on duty any member or officer during the period of the emergency, but in any such case and within 12

months thereafter, such member or officer shall be given a day off for each extra day so served by him during the emergency.

Source: R. S. 40:47-17.

40A:14-134 Certain emergencies; compensation.

“Emergency” as used herein shall include any unusual conditions caused by any circumstances or situation including shortages in the personnel of the police department or force caused by vacancies, sickness or injury, or by the taking of accrued vacation or sick leave or both, whereby the safety of the public is endangered or imperiled, as shall be determined within the sole discretion of the officer, board or official having charge of the police department or force in any municipality.

In any municipality in which the officer, board or official having charge or control of the police department or force has authority, in times of any such emergency to summon and keep on duty any paid members of the police department or force for a period of time or times in excess of the hours of ordinary duty, the governing body may provide compensation for some or all of such emergency duty by any such policeman at his prevailing wage, which compensation shall be in lieu of any compensatory time off otherwise due for the emergency duty so compensated.

The governing body of the municipality may, if necessary, make emergency appropriations to provide funds for the payment of such compensation as provided by law.

Source: C. 40:47-12.12 (1966, c. 247, s. 1); C. 40:47-12.13 (1966, c. 247, s. 2); C. 40:47-12.14 (1966, c. 247, s. 3).

40A:14-135 Appearance as witness; no loss in compensation.

The governing body of any municipality may, by ordinance, provide that whenever any member of the police department or force shall be required to appear before any grand jury or at any County, Superior or Supreme Court proceeding, except in a civil action, the time during which he is so engaged shall be considered a time of assignment to, and performance of duty. When such appearance occurs during the member's assigned duty hours, he shall suffer no loss in compensation. When such appearance occurs outside his assigned duty hours, he shall receive either compensatory time off from his regular duty hours or additional compensation.

Source: C. 40:11-13.9 (1968, c. 264, s. 1); C. 40:11-13.10 (1968, c. 264, s. 2).

40A:14-136 Leave of absence without pay; retention of pension and retirement benefits.

Leave of absence without pay may be granted by the authority in charge, to a member or officer of a municipal police department or force, in order that his services may be made available to the State or a county, or to a State or county department or agency. A request for a leave of absence shall be made in writing by the member or officer and the State or county, or the State or county department or agency, desiring his service, but no such leave of absence shall be used to displace an incumbent. Any such leave of absence shall not be for more than one year, but may be extended, in the same manner as originally granted, but in the aggregate, shall not exceed 5 years. Neither membership in the municipal police department or force, nor pension or retirement rights shall be affected by such leaves of absence, but pension contributions shall be payable notwithstanding such leaves of absence. Upon the expiration of any such leave of absence, the member or officer shall return to his original duties and resume his office, position or employment with the said department or force and be entitled to all salary adjustments, increments, seniority and pension rights, as if no leave had been granted.

Source: C. 40:47-20.3 (1954, c. 144, s. 1); C. 40:47-20.4 (1954, c. 144, s. 2); C. 40:47-20.5 (1954, c. 144, s. 3); C. 40:47-20.6 (1954, c. 144, s. 4).

40A:14-137 Leaves of absence with pay to certain members and officers.

The governing body of any municipality, by ordinance, may provide for granting leaves of absence with pay not exceeding one year, to members and officers of its police department and force who shall be injured, ill or disabled from any cause, provided that the examining physician appointed by said governing body, shall certify to such injury, illness or disability.

Source: R. S. 40:11-9.

40A:14-138 Delay in qualifying because of military service.

Any person who has been, or shall be, appointed as a member or officer of the municipal police department or force while serving in the armed services of the United States, and who has been, or shall be, delayed in qualifying and becoming a member of such police department or force as a result of such service and who shall qualify and become a member or officer of such police department or force within 6 months after an honorable discharge or release under conditions other than dishonorable from such service, shall be considered for the purpose of determining his years of service,

rank, grade, increase in pay or any other rights or benefits, as having qualified and to have become a member of such department or force as of the date of his appointment.

Source: C. 40:11-13.1 (1946, c. 87).

40A:14-139 Clerks.

The governing body of any municipality, in their discretion, by ordinance, may provide for the appointment of a clerk for the police department or force and in any such ordinance shall prescribe his powers, functions and duties and fix the amount of his compensation, which shall be payable in the same manner as in the case of other members of the police department or force. The clerk when so appointed shall become a member of the municipal police department or force and be entitled to all the rights and privileges as such member.

Source: R. S. 40:174-87.

40A:14-140 Drivers and attendants of police vehicles; other personnel.

The governing body of any municipality, by ordinance, may provide for the appointment of drivers and attendants of police vehicles and for the appointment of electrical equipment servicemen, janitors and matrons for said department or force, and upon their appointments they shall become members thereof.

Source: R. S. 40:174-84.

40A:14-141 Chaplains.

The governing body of any municipality, by ordinance, may provide for the appointment of one or more chaplains to the police department or force. Any person appointed as chaplain shall be an ordained clergyman in good standing in the religious body from which he is selected. Said chaplain shall become a member of the municipal police department or force with the rank of captain. His salary shall be fixed by the governing body of the municipality and payable in the same manner as in the case of other members of the police department or force.

Source: R. S. 40:174-2; 40:174-3; 40:174-4; 40:174-5.

40A:14-142 Municipal prison keepers.

In any municipality having a municipal prison the governing body, by ordinance, may provide for the appointment of a prison keeper and upon such appointment he shall become a member of the police department or force of said municipality.

Source: R. S. 40:174-82.

40A:14-143 Decrease of force for reasons of economy.

The governing body of any municipality, if they shall deem it necessary for reasons of economy, may decrease the number of members and officers of the police department or force or their grades or ranks. In case of demotion from the higher ranks, the officers or members to be so demoted shall be in the inverse order of their appointment. When the service of members or officers is terminated, such termination shall be in the inverse order of their appointment. Any member or officer who is demoted or whose service is terminated by reason of such decrease shall be placed on a special employment list, and in the case of subsequent promotions, a person so demoted shall be reinstated to his original rank and in the case of termination of service and new appointment, prior consideration shall be given to the persons on said special employment list.

Source: R. S. 40:11-10; 40:11-11; 40:11-12 amended 1942, c. 52, s. 1; 40:11-13 amended 1938, c. 80; 1942, c. 52, s. 2; 40:47-11.

40A:14-144 Temporary appointments.

When any member or officer of the police department or force of any municipality is granted a leave of absence pursuant to any law authorizing the granting of leaves of absence to persons entering the military service of the United States, or of this State, the appointing authority may make a temporary appointment to the position held by said person and such temporary appointee shall not be obligated to contribute to any pension fund, nor shall he acquire any pension or tenure rights or civil service status.

Source: C. 40:47-4.3 (1943, c. 163, s. 2).

40A:14-145 Appointment of temporary members and officers; general qualifications; termination of employment.

In any municipality wherein Title 11 (Civil Service) of the Revised Statutes is in operation, and a vacancy occurs in the police department or force by reason of the granting of a leave of absence, as provided by law, the appointing authority shall certify to the Civil Service Commission the reason for such vacancy, the name of the person and his office or position.

The appointing authority may fill temporarily such office or position by the appointment of any person who:

- (1) is over 21 and under 45 years of age;
- (2) is a citizen of the United States and has been a resident of the municipality in which he is to be appointed, for at least 2 years next preceding his appointment;

- (3) is able to read, write and speak the English language well and intelligently;
- (4) is of good moral character; and
- (5) has not been convicted of any criminal offense involving moral turpitude.

Such temporary employment shall terminate upon the date the appointee's predecessor returns to his duties, or when it is determined that said predecessor will not return, or sooner, when deemed advisable by said appointing authority.

Source: C. 40:47-4.2 (1943, c. 163, s. 1); C. 40:47-4.4 (1943, c. 163, s. 3 amended 1969, c. 267, s. 4); C. 40:47-4.5 (1943, c. 163, s. 4).

40A:14-146 Special police; appointment; qualifications; duties.

The governing body of any municipality, whenever they shall deem it necessary, may appoint special policemen for terms not exceeding one year and revoke such appointments without cause or hearing. They shall not be members of the police force, and their powers and duties shall cease at the expiration of the terms for which they were appointed or upon revocation of their appointments. They may be furnished with badges upon the deposit of sums to be fixed by the governing body, which may be refunded on the return of the badges. A fee to be fixed by the governing body may be charged for issuing to any such special policeman a certificate of appointment.

No person shall be appointed as a special policeman unless he:

- (1) is a citizen of the United States;
- (2) is able to read, write and speak the English language well and intelligently;
- (3) is sound in body and of good health;
- (4) is of good moral character; and
- (5) has not been convicted of any criminal offense involving moral turpitude.

No such special policeman shall carry a revolver or other similar weapon when off duty.

Every such special policeman shall have his fingerprints taken and they shall be filed with the Division of State Police and the Federal Bureau of Investigation. He shall be under the supervision and direction of the chief of police of the municipality wherein he is appointed and shall perform his duties only in such municipality unless in fresh pursuit of any person pursuant to chapter 156 (uniform act on intrastate fresh pursuit) of Title 2A of the New Jersey Statutes. He shall comply with the rules and

regulations applicable to the conduct and decorum of the regular policemen of the municipality.

Before any such appointment is made the chief of police of the municipality shall ascertain the eligibility and qualifications of the applicant and make a report thereon to the governing body.

Source: R. S. 40:47-19 amended 1953, c. 228; 1957, c. 163.

40A:14-146.1 Security officers.

In any city of the first class, the governing body may create the title of security officers under the classified service of civil service, and may appoint and commission as many security officers as it may deem necessary to patrol the grounds, buildings and other areas and facilities of all schools, libraries, museums, hospitals, housing projects, municipal parks and municipal buildings, owned or leased by such municipality. The municipality shall organize such security officers into a separate division or unit of its police department or force, and they shall have all the powers conferred by law on police officers or constables in the enforcement of the laws of this State, and the apprehension of offenders. Security officers shall be subject to and receive training in the same manner as other members of the municipal police force.

Those individuals who are employed in cities of the first class under the title of housing guard or housing patrolman that have been appointed in accordance with Title 11 (Civil Service) on October 2, 1969 shall be eligible for appointment under the title of security officer and shall be so certified to the Civil Service Commission without the requirement of a civil service examination. Such persons shall, from said date, hold their positions or employments subject to and in accordance with the provisions of Title 11 (Civil Service) of the Revised Statutes.

Source: C. 40:47-19.1 (1969, c. 173, s. 1); C. 40:47-19.2 (1969, c. 173, s. 2).

40A:14-147 Suspension and removal of members and officers; complaint; hearing.

Except as otherwise provided by law, no permanent member or officer of the police department or force shall be removed from his office, employment or position for political reasons or for any cause other than incapacity, misconduct, nonresidence, or disobedience of rules and regulations established for the government of the police department and force, nor shall such member or officer be suspended, removed, fined or reduced in rank from or in office, employment or position therein, except for just cause as hereinbefore provided and then only upon a written complaint

setting forth the charge or charges against such member or officer. Said complaint shall be filed in the office of the body, officer or officers having charge of the department or force wherein the complaint is made and a copy shall be served upon the member or officer so charged, with notice of a designated hearing thereon by the proper authorities, which shall be not less than 15 nor more than 30 days from date of service of the complaint. A failure to comply with said provisions as to the service of the complaint shall require a dismissal of the complaint.

Source: R. S. 40:47-6 amended 1947, c. 292, s. 1.

40A:14-148 Hearings.

Except as otherwise provided by law, the officer, board or authority empowered to hear and determine the charge or charges made against a member or officer of the police department or force, shall have the power to subpoena witnesses and documentary evidence. The Superior Court shall have jurisdiction to enforce any such subpoena.

Source: R. S. 40:47-7.

40A:14-149 Suspension pending hearing; commencement of hearing.

If any member or officer of the police department or force shall be suspended pending a hearing as a result of charges made against him, such hearing, except as otherwise provided by law, shall be commenced within 30 days from the date of the service of the copy of the complaint upon him, in default of which the charges shall be dismissed and said member or officer may be returned to duty.

Source: R. S. 40:47-8 amended 1947, c. 292, s. 2.

40A:14-150 Review of disciplinary conviction in non-civil service municipalities.

Any member or officer of a police department or force in a municipality wherein Title 11 (Civil Service) of the Revised Statutes is not in operation, who has been tried and convicted upon any charge or charges, may obtain a review thereof by the County Court of the county wherein such municipality is located. Such review shall be obtained by serving a written notice of an application therefor upon the officer or board whose action is to be reviewed within 10 days after written notice to the member or officer of the conviction. The officer or board shall transmit to said County Court a copy of the record of such conviction, and of the charge or charges for which the applicant was tried. The County Court shall hear the cause de novo and may either affirm, reverse or modify such conviction. If the applicant shall have been re-

moved from his office, employment or position the court may direct that he be restored to such office, employment or position and to all his rights pertaining thereto, and may make such other order or judgment as said court shall deem proper.

Source: R. S. 40:47-10 supplemented 1938, c. 298; amended 1953, c. 37, s. 168.

40A:14-151 Judicially determined illegal suspension or dismissal; member or officer entitled to recover salary; proviso.

Whenever any member or officer of a municipal police department or force shall be suspended or dismissed from his office, employment or position and said suspension or dismissal shall be judicially determined to be illegal, said member or officer shall be entitled to recover his salary from the date of such suspension or dismissal, provided a written application therefor shall be filed with the municipal clerk within 30 days after such judicial determination.

Source: R. S. 40:46-34 amended 1948, c. 163; 1948, c. 395.

40A:14-152 Members and officers shall have powers of peace officers and constables.

The members and officers of a police department and force, within the territorial limits of the municipality, shall have all the powers of peace officers and upon view may apprehend and arrest any disorderly person or any person committing a breach of the peace. Said members and officers shall have the power to serve and execute process issuing out of the courts having local criminal jurisdiction in the municipality and shall have the powers of a constable in all matters other than in civil causes arising in such courts.

Source: R. S. 40:47-15.

40A:14-153 Records and badges of awards to members and officers.

Whenever an award shall be made to a member or officer of the police department or force for heroic or meritorious service by a governmental or voluntary agency, a record of such award shall be made by the chief or other person in charge of the department or force of which the recipient is a member or officer, and it shall constitute part of his service record. If the recipient receives a bar or other similar device representing said award which conveniently can be worn, upon authorization, it shall be worn above the police badge. Unauthorized persons shall not wear any such bar or device or imitation thereof.

Source: C. 40:47-20.1 (1948, c. 104, s. 1); C. 40:47-20.2 (1948, c. 104, s. 2).

40A:14-154 Special compensation for permanently disabled members or officers; conditions.

If a member or officer of the municipal police department or force is permanently disabled from injuries received while in the performance of his duties, and the chief or authority in charge of such police department or force shall recommend that special compensation be granted, and a physician appointed by the governing body of said municipality shall certify as to the probable permanency of such disability, the governing body of the municipality, in their discretion, by ordinance, may provide for special compensation to said disabled member or officer, designating the amount thereof and manner of payment either in a lump sum or by an annual allowance, but such special compensation plus any pension paid and any award for workmen's compensation shall not exceed the salary payable at the time of the sustaining of the injuries. The governing body of said municipality shall include appropriate budget items and provide for the payment of such special compensation.

Source: C. 40:47-12.10 (1948, c. 304, s. 1); C. 40:47-12.11 (1948, c. 304, s. 2).

40A:14-155 Defense for members and officers sued for damages occasioned from or incidental to their performance of duty.

Whenever a member or officer of a municipal police department or force is sued for damages arising from or incidental to a performance of his duties, the governing body of the municipality shall provide said member or officer with necessary means for the defense of such suit, but not for his defense in a disciplinary or criminal proceeding instituted against him by the municipality.

Source: C. 40:11-19 (1946, c. 67 amended 1947, c. 103, s. 2).

40A:14-156 Police assistance in other municipalities; pension and compensation rights unaffected in case of casualty or death.

In the event of an emergency the chief or other head of any municipal police department or force or any park police department or system or the mayor or chief executive officer of the municipality may request, from the chief or other head of the police department or force of any municipality, assistance outside the territorial jurisdiction of the department to which such request is directed for police aid, in order to protect life and property or to assist in suppressing a riot or disorder and while so acting, the members of the police department or force supplying such aid shall have the same powers and authority as have the members of the police department or force of the municipality in which such aid is being rendered.

If any member or officer of such other police department or force in rendering such assistance shall suffer a casualty or death, he shall be entitled to all pension and compensation rights as if such casualty or death occurred in the performance of his duties in his own municipality or other territorial jurisdiction in which his duties are normally carried on.

Source: C. 40:47-12.1 (1941, c. 277 amended 1966, c. 104; 1968, c. 174; 1968, c. 211; 1969, c. 33).

40A:14-157 Tangible personal property found or recovered; disposition.

Where tangible personal property comes into the possession of the police department or force of a municipality, by finding or recovery, and if the owner or his whereabouts is unknown and cannot be ascertained, or if said owner shall refuse to receive such property, then the said property shall not be disposed of for 6 months, except in cases of motor vehicles, which shall be for 3 months. In any such case the governing body of said municipality, by resolution, may then provide for the sale, in whole or in part of any such property, at public auction, after notice of a designated time and place therefor, not less than 10 days prior thereto, published in a newspaper circulating within the municipality. Perishable items may be sold without reference to the said periods of time. Moneys received from the sale of any such property shall be paid into the police pension fund, if any, otherwise into the general municipal treasury.

All unclaimed moneys coming into the possession of any municipal police department or force shall be turned over within 48 hours to the municipal treasurer for retention in a trust account and, after 6 months, be paid into the police pension fund, if any, otherwise into the general municipal treasury.

Source: R. S. 40:47-20 amended 1957, c. 223.

40A:14-158 Special joint municipal police force.

Any 2 or more municipalities abutting upon the ocean or coastal waters may create by reciprocal ordinances a special joint municipal police force to control the said waters abutting such municipalities, to secure the enforcement of the laws prohibiting the discharge of debris, refuse or any waste or other matter or material into or upon said waters from any vessel afloat thereon, which may or shall tend to litter any established bathing beach or any beach customarily used for bathing purposes or which may or shall tend to pollute the waters adjacent to any such beach, and may organize the said force into a police system to be known as the "Special Joint Municipal Police of"
(Names of such municipalities)

The police system shall consist of a chief and such subordinate officers and patrolmen as shall be deemed necessary and proper to enforce the said laws.

The governing bodies of the municipalities having such ordinances shall adopt reciprocal rules and regulations for the appointment and compensation, and for the management and control of the members of such police system for the securing of their proper discipline and efficiency, and may provide for the joint acquisition and maintenance of necessary vessels for the use of the said force by purchase, lease or otherwise.

The members of such police force may arrest on or after view and without warrant, and take before a court having local criminal jurisdiction in any of such municipalities any person found within any of such municipalities to have violated or violating the said laws. The said members shall have all the powers conferred by law on police officers or constables in the enforcement of the laws of this State and the apprehension of violators thereof.

For the purposes of this section, the waters of this State abutting any municipality shall be deemed to be a part of the territory of such municipality.

Source: C. 40:47-76 (1956, c. 116, s. 1); C. 40:47-77 (1956, c. 116, s. 2); C. 40:47-78 (1956, c. 116, s. 3); C. 40:47-79 (1956, c. 116, s. 4); C. 40:47-80 (1956, c. 116, s. 5).

40A:14-159 Chapter 151 of the laws of 1958 saved from repeal.

Chapter 151 of the laws of 1958 (C. 40:11-22 to C. 40:11-25 both inclusive) is saved from repeal. [The act saved from repeal by this section provides for the granting of noncontributory pensions by municipalities and counties to dependents of police and firemen who die as a result of an accident sustained in the performance of duty.]

This act is to be included in a revision of Title 43 of the Revised Statutes.

Source: C. 40:11-22 (1958, c. 151, s. 1); C. 40:11-23 (1958, c. 151, s. 2); C. 40:11-24 (1958, c. 151, s. 3); C. 40:11-25 (1958, c. 151, s. 4).

40A:14-159.1 Chapter 303 of the laws of 1969 saved from repeal.

Chapter 303 of the laws of 1969 (C. 40:47-11.1 and C. 40:47-11.2) is saved from repeal. [The act saved from repeal by this section provides for the reappointment of certain members of the police department and force and of the paid or part-paid fire department,

and for their reinstatement in the pension system created pursuant to P. L. 1944, c. 255 or P. L. 1954, c. 84.]

Source: C. 40:47-11.1 (1969, c. 303, s. 1); C. 40:47-11.2 (1969, c. 303, s. 2).

40A:14-160 Section 40:47-12 of the Revised Statutes saved from repeal.

Section 40:47-12 of the Revised Statutes is saved from repeal. [The act saved from repeal by said section, which section is now saved from repeal, provided for the tenure of office and compensation for certain members and officers of the police department and force and of the paid or part-paid fire department in certain cases of annexation and in certain cases where newly created municipalities have been formed.]

Source: R. S. 40:47-12.

40A:14-161 Chapter 188 of the laws of 1959 saved from repeal.

Chapter 188 of the laws of 1959 (C. 40:47-20.9) is saved from repeal. [The act saved from repeal by this section provided for the validation of certain appointments of members or officers of the municipal police department or force, notwithstanding the appointees were under 21 years of age at the time of their appointments.]

Source: C. 40:47-20.9 (1958, c. 188).

40A:14-162 Chapter 56 of the laws of 1962 saved from repeal.

Chapter 56 of the laws of 1962 (C. 40:47-20.10 and C. 40:47-20.11) is saved from repeal. [The act saved from repeal by this section provided for the validation of certain appointments of members or officers of the municipal police department or force, and of their pension and retirement rights, notwithstanding the appointees were over the maximum age at the time of their appointments.]

Source: C. 40:47-20.10 (1962, c. 56, s. 1); C. 40:47-20.11 (1962, c. 56, s. 2).

40A:14-163 Chapter 187 of the laws of 1964 saved from repeal.

Chapter 187 of the laws of 1964 (C. 40:47-20.12), as amended by P. L. 1969, c. 267, s. 6, is saved from repeal. [The act saved from repeal by this section provides that in any municipality where no police department or force existed and subsequently upon the creation of such a department or force, any person, if otherwise qualified, may be appointed as chief of police of such department or force, notwithstanding he is over the maximum age as therein prescribed, or was not a resident of said municipality for 6 months preceding his appointment, provided he

agrees to become a resident of said municipality within 3 years from the date of his appointment.]

Source: C. 40:47-20.12 (1964, c. 187 amended 1969, c. 267, s. 6).

40A:14-164 Chapter 288 of the laws of 1966 saved from repeal.

Chapter 288 of the laws of 1966 (C. 40:149-3.2 and C. 40:149-3.3) is saved from repeal. [The act saved from repeal by this section provides for the validating of appointments of certain members and officers of a police department or force in a township and their eligibility for membership in the police and firemen's retirement system.]

Source: C. 40:149-3.2 (1966, c. 288, s. 1); C. 40:149-3.3 (1966, c. 288, s. 2).

40A:14-165 Sections 40:174-6 to 40:174-25 both inclusive of the Revised Statutes saved from repeal.

Sections 40:174-6 to 40:174-25 both inclusive of the Revised Statutes are saved from repeal. [The act (P. L. 1907, c. 45) compiled by the above sections and saved from repeal by this section provides for the establishment of a board of fire and police commissioners in cities, having a population of not less than 133,000 nor more than 200,000 and investing said board with certain powers and duties for the regulation, control and maintenance of the fire department and police department or force of such cities.]

Source: R. S. 40:174-6; 40:174-7; 40:174-8; 40:174-9; 40:174-10; 40:174-11; 40:174-12; 40:174-13; 40:174-14; 40:174-15; 40:174-16; 40:174-17; 40:174-18; 40:174-19; 40:174-20; 40:174-21; 40:174-22; 40:174-23; 40:174-24; 40:174-25.

40A:14-166 Section 40:174-26 of the Revised Statutes saved from repeal.

Section 40:174-26 of the Revised Statutes is saved from repeal. [The compiled act (P. L. 1920, c. 243, a supplement to P. L. 1907, c. 45) saved from repeal by this section provides that in all cities having an established board of fire and police commissioners pursuant to P. L. 1907, c. 45, on organizing, the mayor shall preside at the meeting of the board, and in event of a tie shall be entitled to vote for a president of the board.]

Source: R. S. 40:174-26.

40A:14-167 Sections 40:174-88 to 40:174-91 both inclusive of the Revised Statutes saved from repeal.

Sections 40:174-88 to 40:174-91 both inclusive of the Revised Statutes are saved from repeal. [The act (P. L. 1920, c. 212) compiled by the above sections and saved from repeal by this section

provides for the government of the police department or force in cities other than cities of the first class.]

Source: R. S. 40:174-88; 40:174-89; 40:174-90; 40:174-91.

40A:14-168 Sections 40:174-92 and 40:174-93 of the Revised Statutes saved from repeal.

Sections 40:174-92 and 40:174-93 of the Revised Statutes are saved from repeal. [The act (P. L. 1927, c. 274) compiled by the above sections and saved from repeal by this section provides for fixing the salary of chief of police in cities having a population of not less than 30,000 nor more than 50,000.]

Source: R. S. 40:174-92; 40:174-93.

40A:14-169 Sections 40:174-95 to 40:174-112 both inclusive of the Revised Statutes saved from repeal.

Sections 40:174-95 to 40:174-112 both inclusive of the Revised Statutes are saved from repeal. [The act (P. L. 1909, c. 95) compiled by the above sections and saved from repeal by this section provides for the establishing of a board of police commissioners in cities, having a population of not less than 50,000 nor more than 130,000, adopting the provisions thereof by referendum and investing said board with certain powers and duties for the regulation, control and maintenance of the police department or force of such cities.]

Source: R. S. 40:174-95; 40:174-96; 40:174-97; 40:174-98; 40:174-99; 40:174-100; 40:174-101; 40:174-102; 40:174-103; 40:174-104; 40:174-105; 40:174-106; 40:174-107; 40:174-108; 40:174-109; 40:174-110; 40:174-111; 40:174-112.

40A:14-170 Sections 40:174-113 and 40:174-114 of the Revised Statutes saved from repeal.

Sections 40:174-113 and 40:174-114 of the Revised Statutes are saved from repeal. [The act (P. L. 1915, c. 356) compiled by the above sections and saved from repeal by this section provides for the reinstatement upon recovery of members of the fire department and police department or force in cities of the first class who have been retired because of a physical disability or other incapacity.]

Source: R. S. 40:174-113; 40:174-114.

40A:14-171 Sections 40:174-144 to 40:174-146 both inclusive of the Revised Statutes saved from repeal.

Sections 40:174-144 to 40:174-146 both inclusive of the Revised Statutes are saved from repeal. [The act (P. L. 1902, c. 43) compiled by the above sections and saved from repeal by this section

provides for the grading and promotion of members of the police department or force in cities of the first class.]

Source: R. S. 40:174-144; 40:174-145; 40:174-146.

40A:14-172 Section 40:174-148 of the Revised Statutes saved from repeal.

Section 40:174-148 of the Revised Statutes is saved from repeal. [The compiled act (P. L. 1920, c. 163) saved from repeal by this section provides that in cities of the first class, a member of the police department or force holding the position of detective for a period of at least 5 years, shall not be reduced to a lower position except upon charges and after hearing.]

Source: R. S. 40:174-148.

40A:14-173 Section 40:174-149 of the Revised Statutes saved from repeal.

Section 40:174-149 of the Revised Statutes is saved from repeal. [The compiled act (P. L. 1914, c. 179) saved from repeal by this section provides for the government of the police department or force in cities of the first class.]

Source: R. S. 40:174-149.

40A:14-174 Sections 40:174-151 to 40:174-170 both inclusive of the Revised Statutes saved from repeal.

Sections 40:174-151 to 40:174-170 both inclusive of the Revised Statutes are saved from repeal. [The act (P. L. 1906, c. 270) compiled by the above sections and saved from repeal by this section provides for the establishing of a board of fire commissioners and a board of police commissioners, in cities of the second class, having a population of less than 50,000, adopting the provisions thereof by referendum and investing said boards with certain powers and duties for the regulation, control and maintenance of the fire department and police department or force.]

Source: R. S. 40:174-151; 40:174-152; 40:174-153; 40:174-154; 40:174-155; 40:174-156; 40:174-157; 40:174-158; 40:174-159; 40:174-160; 40:174-161; 40:174-162; 40:174-163; 40:174-164; 40:174-165; 40:174-166; 40:174-167; 40:174-168; 40:174-169; 40:174-170.

40A:14-175 Sections 40:174-181 to 40:174-200 both inclusive of the Revised Statutes saved from repeal.

Sections 40:174-181 to 40:174-200 both inclusive of the Revised Statutes are saved from repeal. [The act (P. L. 1895, c. 194) compiled by the above sections and saved from repeal by this section provides for, in cities of the second class, having a population, by the last census, not exceeding 35,000, the governing bodies of such cities wherein provisions thereof shall have been adopted, shall

create and establish a board of police commissioners for the government, control and management of the police department or force.]

Source: R. S. 40:174-181; 40:174-182; 40:174-183; 40:174-184; 40:174-185; 40:174-186; 40:174-187; 40:174-188; 40:174-189; 40:174-190; 40:174-191; 40:174-192; 40:174-193; 40:174-194; 40:174-195; 40:174-196; 40:174-197; 40:174-198; 40:174-199; 40:174-200.

E. REPEALS

40A:14-176 Statutes repealed.

The following sections, acts and parts of acts, together with all amendments and supplements thereto, are hereby repealed.

Revised Statutes Sections.

40:11-9 to 40:11-11 both inclusive
 40:11-12 amended 1942, c. 52
 40:11-13 amended 1938, c. 80; 1942, c. 52
 40:22-1 to 40:22-3 both inclusive
 40:22-4
 40:22-5 amended 1953, c. 37
 40:22-6 to 40:22-15 both inclusive
 40:22-16 amended 1941, c. 127; 1961, c. 60; 1967, c. 227
 40:22-17 to 40:22-22 both inclusive
 40:47-1, 40:47-2
 40:47-3 amended 1945, c. 218; 1954, c. 241
 40:47-4 amended 1939, c. 318; 1945, c. 219; 1948, c. 161; 1953, c. 299; 1962, c. 149; 1968, c. 276
 40:47-5
 40:47-6 amended 1947, c. 292
 40:47-7
 40:47-8 amended 1947, c. 292
 40:47-9 amended 1953, c. 37
 40:47-10 supplemented 1938, c. 298; amended 1953, c. 37
 40:47-11
 40:47-13 to 40:47-15 both inclusive
 40:47-16 amended 1941, c. 340
 40:47-17, 40:47-18
 40:47-19 amended 1953, c. 228; 1957, c. 163
 40:47-20 amended 1957, c. 223
 40:47-21, 40:47-22
 40:47-23 amended 1953, c. 37
 40:47-24 amended 1953, c. 37
 40:47-26

40:47-27 amended 1941, c. 140; 1945, c. 126; 1951, c. 77; 1954, c. 171; 1956, c. 155; 1957, c. 77; 1967, c. 45
40:47-28 amended 1953, c. 323; 1964, c. 246; 1970, c. 48
40:47-29 amended 1938, c. 257
40:47-30
40:47-32 to 40:47-37 both inclusive
40:47-38, 40:47-39
40:47-40 amended 1938, c. 276
40:47-42 to 40:47-47.1 both inclusive
40:47-48 to 40:47-50 both inclusive
40:47-52
40:47-53 amended 1944, c. 246; 1952, c. 167; 1970, c. 201
40:47-54 to 40:47-59 both inclusive
40:47-60 amended 1967, c. 291
40:47-61, 40:47-62
40:149-1 amended 1953, c. 37
40:149-2
40:149-4, 40:149-5
40:149-6 amended 1962, c. 94
40:149-7 to 40:149-15 both inclusive
40:151-1 amended 1970, c. 241
40:151-2 to 40:151-10 both inclusive
40:151-11 amended 1961, c. 75
40:151-12 to 40:151-24 both inclusive
40:151-25 amended 1942, c. 183; 1943, c. 81
40:151-26, 40:151-27
40:151-28, 40:151-29
40:151-30 amended 1970, c. 216
40:151-31, 40:151-32
40:151-33 amended 1955, c. 83
40:151-34
40:151-35 amended 1953, c. 356
40:151-36 to 40:151-40 both inclusive
40:151-42 to 40:151-47 both inclusive
40:174-1 to 40:174-5 both inclusive
40:174-27 to 40:174-61 both inclusive
40:174-65 to 40:174-85 both inclusive
40:174-87
40:174-94
40:174-115 to 40:174-119 both inclusive
40:174-126 to 40:174-143 both inclusive
40:174-147

40:174-147A (added)

40:174-150

40:174-171 to 40:174-180 both inclusive

40:174-201 to 40:174-205 both inclusive

Pamphlet Laws.

Laws of 1938, c. 131 (C. 40:47-37.1 to C. 40:47-37.5 both inclusive)

Laws of 1938, c. 260 (C. 40:47-68 to C. 40:47-72 both inclusive)

Laws of 1938, c. 385 (C. 40:47-63 to C. 40:47-67 both inclusive)

Laws of 1940, c. 20 (C. 40:11-18)

Laws of 1940, c. 157 (C. 40:22-16.1)

Schedule of Amendments of Laws of 1940, c. 157.

Section 1 amended by P. L. 1967, c. 227

Laws of 1941, c. 277 (C. 40:47-12.1)

Schedule of Amendments of Laws of 1941, c. 277.

Section 1 amended by P. L. 1966, c. 104; 1968, c. 174; 1968, c. 211;
1969, c. 33

Laws of 1943, c. 163 (C. 40:47-4.2 to C. 40:47-4.5 both inclusive)

Schedule of Amendments of Laws of 1943, c. 163.

Section 3 amended by P. L. 1969, c. 267

Laws of 1943, c. 206 (C. 40:47-73 to C. 40:47-75 both inclusive)

Laws of 1945, c. 47 (C. 40:47-30.1 to 40:47-30.5 both inclusive)

Schedule of Amendments of Laws of 1945, c. 47.

Section 1 amended by P. L. 1964, c. 192

Section 2 amended by P. L. 1966, c. 245

Laws of 1946, c. 25 (C. 40:47-3.1)

Schedule of Amendments of Laws of 1946, c. 25.

Section 1 amended by P. L. 1953, c. 107; 1954, c. 243; 1956, c. 187;
1969, c. 267

Laws of 1946, c. 67 (C. 40:11-19)

Schedule of Amendments of Laws of 1946, c. 67.

Section 1 amended by P. L. 1947, c. 103

Laws of 1946, c. 87 (C. 40:11-13.1)

Laws of 1948, c. 73 (C. 40:47-47.2 to C. 40:47-47.4 both inclusive)

Schedule of Amendments of Laws of 1948, c. 73.

Sections 2, 3 and 4 amended by P. L. 1949, c. 100

Laws of 1948, c. 104 (C. 40:47-20.1, C. 40:47-20.2)

Laws of 1948, c. 304 (C. 40:47-12.10, C. 40:47-12.11)

Laws of 1948, c. 341 (C. 40:11-13.2 to C. 40:11-13.7 both inclusive)

Laws of 1949, c. 283 (C. 40:11-20)

Laws of 1951, c. 170 (C. 40:47-25.1 to C. 40:47-25.7 both inclusive)

Laws of 1951, c. 297 (C. 40:151-27.1 to C. 40:151-27.3 both in-
clusive)

Laws of 1952, c. 350 (C. 40:22-3.1, 40:22-3.2)

Laws of 1953, c. 107 (C. 40:47-3.2, supplemental)

Schedule of Amendments of Laws of 1953, c. 107.

Section 3 amended by P. L. 1956, c. 187

Laws of 1954, c. 144 (C. 40:47-20.3 to C. 40:47-20.7 both inclusive)

Laws of 1955, c. 66 (C. 40:149-3.1)

Laws of 1956, c. 116 (C. 40:47-76 to C. 40:47-80 both inclusive)

Laws of 1956, c. 147 (C. 40:47-20.8)

Schedule of Amendments of Laws of 1956, c. 147.

Section 1 amended by P. L. 1969, c. 267

Laws of 1959, c. 87 (C. 40:47-25.8)

Laws of 1960, c. 120 (C. 40:47-47.5)

Laws of 1964, c. 91 (C. 40:151-27.4)

Laws of 1965, c. 177 (C. 40:47-20.13)

Schedule of Amendments of Laws of 1965, c. 177.

Section 1 amended by P. L. 1969, c. 267

Laws of 1965, c. 218 (C. 40:47-20.14)

Schedule of Amendments of Laws of 1965, c. 218.

Section 1 amended by P. L. 1969, c. 267

Laws of 1966, c. 247 (C. 40:47-12.12 to C. 40:47-12.14 both inclusive)

Laws of 1966, c. 292 (C. 40:47-3.3 to C. 40:47-3.5 both inclusive)

Schedule of Amendments of Laws of 1966, c. 292.

Section 3 amended by P. L. 1969, c. 267

Laws of 1967, c. 291 (C. 40:47-62.7, C. 40:47-62.8)

Laws of 1968, c. 192 (C. 40:151-24.1, C. 40:151-24.2)

Laws of 1968, c. 264 (C. 40:11-13.9, C. 40:11-13.10)

Laws of 1968, c. 309 (C. 40:47-30.6 to C. 40:47-30.9 both inclusive)

Schedule of Amendments of Laws of 1968, c. 309.

Section 2 amended by P. L. 1970, c. 310

Laws of 1969, c. 173 (C. 40:47-19.1, C. 40:47-19.2)

Laws of 1970, c. 187 (C. 40:47-3.6)

Section 2

Effective Date.

This act shall take effect July 1, 1971.

Approved June 9, 1971.

TITLE 40A. COUNTIES AND MUNICIPALITIES

FIRE AND POLICE

SCHEDULE OF ALLOCATIONS OF SOURCE MATERIAL

<i>Source Sections</i>	<i>Revised Sections</i>
R. S. 40:11-9	{ 40A:14-16 40A:14-113 40A:14-137
R. S. 40:11-10	{ 40A:14-25 40A:14-115 40A:14-143
R. S. 40:11-11	{ 40A:14-25 40A:14-115 40A:14-143
R. S. 40:11-12 ... As am. L. 1942, c. 52, s. 1	{ 40A:14-25 40A:14-115 40A:14-143
R. S. 40:11-13 ... As am. L. 1938, c. 80; L. 1942, c. 52, s. 2 ..	{ 40A:14-25 40A:14-115 40A:14-143
C. 40:11-13.1 L. 1946, c. 87	{ 40A:14-14 40A:14-114 40A:14-138
C. 40:11-13.2 L. 1948, c. 341, s. 1	{ 40A:14-108 40A:14-132
C. 40:11-13.3 L. 1948, c. 341, s. 2	{ 40A:14-108 40A:14-132
C. 40:11-13.4 L. 1948, c. 341, s. 3	{ 40A:14-108 40A:14-132
C. 40:11-13.5 L. 1948, c. 341, s. 4	{ 40A:14-108 40A:14-132
C. 40:11-13.6 L. 1948, c. 341, s. 5	{ 40A:14-108 40A:14-132
C. 40:11-13.7 L. 1948, c. 341, s. 6	{ 40A:14-108 40A:14-132
C. 40:11-13.8 L. 1967, c. 225	{ Repealed L. 1968, c. 264, s. 3

<i>Source Sections</i>	<i>Revised Sections</i>
C. 40:11-13.9 L. 1968, c. 264, s. 1	{ 40A:14-112 40A:14-135
C. 40:11-13.10 L. 1968, c. 264, s. 2	{ 40A:14-112 40A:14-135
C. 40:11-18 L. 1940, c. 20	{ 40A:14-111 40A:14-130
C. 40:11-19 L. 1946, c. 67; As am. L. 1947, c. 103, s. 2	{ 40A:14-28 40A:14-117 40A:14-155
C. 40:11-20 L. 1949, c. 283, s. 1	{ 40A:14-18 40A:14-110 40A:14-131
C. 40:11-21 L. 1949, c. 283, s. 2	Not Enacted
C. 40:11-22 L. 1958, c. 151, s. 1	40A:14-159
C. 40:11-23 L. 1958, c. 151, s. 2	40A:14-159
C. 40:11-24 L. 1958, c. 151, s. 2	40A:14-159
C. 40:11-25 L. 1958, c. 151, s. 4	40A:14-159
R. S. 40:22-1	40A:14-106
R. S. 40:22-2	40A:14-107
R. S. 40:22-3	40A:14-106
C. 40:22-3.1 L. 1952, c. 350, s. 1	40A:14-116
C. 40:22-3.2 L. 1952, c. 350, s. 2	40A:14-116
R. S. 40:22-4	40A:14-106
R. S. 40:22-5 As am. L. 1953, c. 37, s. 39	40A:14-107
R. S. 40:22-6	40A:14-106
R. S. 40:22-7 } thru	Not Enacted
R. S. 40:22-14 }	
R. S. 40:22-15	40A:14-109
R. S. 40:22-16 As am. L. 1941, c. 127; L. 1961, c. 60; L. 1967, c. 227, s. 1	{ 40A:14-1
C. 40:22-16.1 L. 1940, c. 157; As am. L. 1967, c. 227, s. 2	{ 40A:14-3
R. S. 40:22-17	{ 40A:14-2 40A:14-4
R. S. 40:22-18	40A:14-4
R. S. 40:22-19	40A:14-4
R. S. 40:22-20	40A:14-4
R. S. 40:22-21	40A:14-5
R. S. 40:22-22	40A:14-6

<i>Source Sections</i>	<i>Revised Sections</i>
R. S. 40:47-6 As am. L. 1947, c. 292, s. 1	{ 40A :14-19 40A :14-147
R. S. 40:47-7	{ 40A :14-20 40A :14-148
R. S. 40:47-8 As am. L. 1947, c. 292, s. 2	{ 40A :14-21 40A :14-149
R. S. 40:47-9 As am. L. 1953, c. 37, s. 167 . .	40A :14-22
R. S. 40:47-10 As suppl. L. 1938, c. 298; }	{ 40A :14-22 40A :14-150
As am. L. 1953, c. 37, s. 168 }	
R. S. 40:47-11	{ 40A :14-25 40A :14-143
C. 40:47-11.1 L. 1969, c. 303, s. 1	40A :14-159.1
C. 40:47-11.2 L. 1969, c. 303, s. 2	40A :14-159.1
R. S. 40:47-12	40A :14-160
C. 40:47-12.1 L. 1941, c. 277; }	{ 40A :14-26 40A :14-156
As am. L. 1966, c. 104;	
L. 1968, c. 174;	
L. 1968, c. 211;	
L. 1969, c. 33	
C. 40:47-12.2 } L. 1944, c. 254	{ Repealed L. 1952, c. 271
C. 40:47-12.9 }	
C. 40:47-12.10 L. 1948, c. 304, s. 1	{ 40A :14-27 40A :14-154
C. 40:47-12.11 L. 1948, c. 304, s. 2	{ 40A :14-27 40A :14-154
C. 40:47-12.12 L. 1966, c. 247, s. 1	{ 40A :14-50 40A :14-134
C. 40:47-12.13 L. 1966, c. 247, s. 2	{ 40A :14-50 40A :14-134
C. 40:47-12.14 L. 1966, c. 247, s. 3	{ 40A :14-50 40A :14-134
R. S. 40:47-13	40A :14-120
R. S. 40:47-14	40A :14-121
R. S. 40:47-15	40A :14-152
R. S. 40:47-16 As am. L. 1941, c. 340	40A :14-132
R. S. 40:47-17	40A :14-133
R. S. 40:47-18	40A :14-129
R. S. 40:47-19 As am. L. 1953, c. 228; }	40A :14-146
L. 1957, c. 163	

<i>Source Sections</i>		<i>Revised Sections</i>
C. 40:47-19.1	L. 1969, c. 173, s. 1	40A:14-146.1
C. 40:47-19.2	L. 1969, c. 173, s. 2	40A:14-146.1
R. S. 40:47-20	As am. L. 1957, c. 223	40A:14-157
C. 40:47-20.1	L. 1948, c. 104, s. 1	40A:14-153
C. 40:47-20.2	L. 1948, c. 104, s. 2	40A:14-153
C. 40:47-20.3	L. 1954, c. 144, s. 1	40A:14-136
C. 40:47-20.4	L. 1954, c. 144, s. 2	40A:14-136
C. 40:47-20.5	L. 1954, c. 144, s. 3	40A:14-136
C. 40:47-20.6	L. 1954, c. 144, s. 4	40A:14-136
C. 40:47-20.7	L. 1954, c. 144, s. 5	Not Enacted
C. 40:47-20.8	L. 1956, c. 147; As am. L. 1969, c. 267, s. 5	40A:14-125
C. 40:47-20.9	L. 1959, c. 188	40A:14-161
C. 40:47-20.10	L. 1962, c. 56, s. 1	40A:14-162
C. 40:47-20.11	L. 1962, c. 56, s. 2	40A:14-162
C. 40:47-20.12	L. 1964, c. 187 As am. L. 1969, c. 267, s. 6	40A:14-163 40A:14-11.1
C. 40:47-20.13	L. 1965, c. 177; As am. L. 1969, c. 267, s. 7	40A:14-124
C. 40:47-20.14	L. 1965, c. 218; As am. L. 1969, c. 267, s. 8	40A:14-126
R. S. 40:47-21		40A:14-29
R. S. 40:47-22		Not Enacted
R. S. 40:47-23	As am. L. 1953, c. 37, s. 169	40A:14-30
R. S. 40:47-24	As am. L. 1953, c. 37, s. 170	Not Enacted
R. S. 40:47-25		Blank
C. 40:47-25.1	L. 1951, c. 170, s. 1	40A:14-31
C. 40:47-25.2	L. 1951, c. 170, s. 2	40A:14-31
C. 40:47-25.3	L. 1951, c. 170, s. 3	40A:14-31
C. 40:47-25.4	L. 1951, c. 170, s. 4	40A:14-31
C. 40:47-25.5	L. 1951, c. 170, s. 5	40A:14-31
C. 40:47-25.6	L. 1951, c. 170, s. 6	40A:14-31
C. 40:47-25.7	L. 1951, c. 170, s. 7	40A:14-31
C. 40:47-25.8	L. 1959, c. 87	40A:14-32
R. S. 40:47-26		40A:14-33
R. S. 40:47-27	As am. L. 1941, c. 140; L. 1945, c. 126; L. 1951, c. 77; L. 1954, c. 171; L. 1956, c. 155; L. 1957, c. 77; L. 1967, c. 45	40A:14-34

<i>Source Sections</i>	<i>Revised Sections</i>
R. S. 40:47-28 . . . As am. L. 1953, c. 323; L. 1964, c. 246; L. 1970, c. 48	} 40A:14-35
R. S. 40:47-29 . . . As am. L. 1938, c. 257	40A:14-35
R. S. 40:47-30	40A:14-36
C. 40:47-30.1 L. 1945, c. 47, s. 1; . . . As am. L. 1964, c. 192	} 40A:14-37
C. 40:47-30.2 L. 1945, c. 47, s. 2; . . . As am. L. 1966, c. 245, s. 2	} 40A:14-38
C. 40:47-30.3 L. 1945, c. 47, s. 3 . . .	40A:14-39
C. 40:47-30.4 L. 1945, c. 47, s. 4 . . .	40A:14-40
C. 40:47-30.5 L. 1945, c. 47, s. 5 . . .	Not Enacted
C. 40:47-30.6 L. 1968, c. 309, s. 1 . . .	40A:14-95
C. 40:47-30.7 L. 1968, c. 309, s. 2; . . . L. 1970, c. 310	} 40A:14-96
C. 40:47-30.8 L. 1968, c. 309, s. 3 . . .	40A:14-97
C. 40:47-30.9 L. 1968, c. 309, s. 4 . . .	40A:14-98
R. S. 40:47-31	Blank
R. S. 40:47-32 } thru } R. S. 40:47-37 }	} 40A:14-41
C. 40:47-37.1 L. 1938, c. 131, s. 1 . . .	40A:14-42
C. 40:47-37.2 L. 1938, c. 131, s. 2 . . .	40A:14-43
C. 40:47-37.3 L. 1938, c. 131, s. 3 . . .	40A:14-44
C. 40:47-37.4 L. 1938, c. 131, s. 4 . . .	40A:14-45
C. 40:47-37.5 L. 1938, c. 131, s. 5 . . .	40A:14-45
R. S. 40:47-38	40A:14-46
R. S. 40:47-39	40A:14-47
R. S. 40:47-40 . . . As am. L. 1938, c. 276	40A:14-47
R. S. 40:47-41	Blank
R. S. 40:47-42 } thru } R. S. 40:47-47 }	} 40A:14-47
R. S. 40:47-47.1	40A:14-51
C. 40:47-47.2 L. 1948, c. 73, s. 1; . . . As am. L. 1949, c. 100, s. 2	} 40A:14-49
C. 40:47-47.3 L. 1948, c. 73, s. 2; . . . As am. L. 1949, c. 100, s. 3	} 40A:14-49
C. 40:47-47.4 L. 1948, c. 73, s. 3; . . . As am. L. 1949, c. 100, s. 4	} 40A:14-49
C. 40:47-47.5 L. 1960, c. 120	40A:14-52

<i>Source Sections</i>		<i>Revised Sections</i>
C. 40:47-74	L. 1943, c. 206, s. 2	40A:14-67
C. 40:47-75	L. 1943, c. 206, s. 3	40A:14-67
C. 40:47-76	L. 1956, c. 116, s. 1	40A:14-158
C. 40:47-77	L. 1956, c. 116, s. 2	40A:14-158
C. 40:47-78	L. 1956, c. 116, s. 3	40A:14-158
C. 40:47-79	L. 1956, c. 116, s. 4	40A:14-158
C. 40:47-80	L. 1956, c. 116, s. 5	40A:14-158
R. S. 40:149-1	As am. L. 1953, c. 37	Not Enacted
R. S. 40:149-2		Not Enacted
R. S. 40:149-3		Repealed L. 1953, c. 37, s. 287
C. 40:149-3.1	L. 1955, c. 66	Not Enacted
C. 40:149-3.2	L. 1966, c. 288, s. 1	40A:14-164
C. 40:149-3.3	L. 1966, c. 288, s. 2	40A:14-164
R. S. 40:149-4		Not Enacted
R. S. 40:149-5		Not Enacted
R. S. 40:149-6	As am. L. 1962, c. 94	Not Enacted
R. S. 40:149-7		Not Enacted
R. S. 40:149-8		40A:14-68
R. S. 40:149-9		40A:14-69
R. S. 40:149-10 thru R. S. 40:149-15		Not Enacted
R. S. 40:151-1	As am. L. 1970, c. 241	40A:14-70 40A:14-70.1
R. S. 40:151-2 thru R. S. 40:151-5		40A:14-70
R. S. 40:151-6		40A:14-72
R. S. 40:151-7 thru R. S. 40:151-10		40A:14-71
R. S. 40:151-11	As am. L. 1961, c. 75	40A:14-71
R. S. 40:151-12		40A:14-71
R. S. 40:151-13 thru R. S. 40:151-16		40A:14-73
R. S. 40:151-17		40A:14-74
R. S. 40:151-18		40A:14-74
R. S. 40:151-19		40A:14-76

<i>Source Sections</i>	<i>Revised Sections</i>
R. S. 40:151-20	40A:14-76
R. S. 40:151-21 } thru	40A:14-77
R. S. 40:151-23 }	
R. S. 40:151-24	40A:14-78
C. 40:151-24.1 L. 1968, c. 192, s. 1	40A:14-75
C. 40:151-24.2 L. 1968, c. 192, s. 2	40A:14-75
R. S. 40:151-25 .. As am. L. 1942, c. 183; } L. 1943, c. 81	40A:14-79
R. S. 40:151-26	
R. S. 40:151-27	40A:14-80
C. 40:151-27.1 L. 1951, c. 297, s. 1	40A:14-81
C. 40:151-27.2 L. 1951, c. 297, s. 2	40A:14-82
C. 40:151-27.3 L. 1951, c. 297, s. 3	40A:14-82
C. 40:151-27.4 L. 1964, c. 91	40A:14-82
R. S. 40:151-28	40A:14-83
R. S. 40:151-29	40A:14-84
R. S. 40:151-30 .. As am. L. 1970, c. 216	40A:14-84
R. S. 40:151-31	40A:14-85
R. S. 40:151-32	40A:14-85
R. S. 40:151-33 .. As am. L. 1955, c. 83	40A:14-86
R. S. 40:151-34	
R. S. 40:151-35 .. As am. L. 1953, c. 356	40A:14-87
R. S. 40:151-36	40A:14-88
R. S. 40:151-37	40A:14-89
R. S. 40:151-38 } thru	40A:14-90
R. S. 40:151-40 }	
R. S. 40:151-41	40A:14-91
R. S. 40:151-42	40A:14-91
R. S. 40:151-43	40A:14-91
R. S. 40:151-44	40A:14-92
R. S. 40:151-45	40A:14-93
R. S. 40:151-46	40A:14-94
R. S. 40:151-47	40A:14-94
R. S. 40:151-48 } thru	40A:14-102
R. S. 40:151-52 }	
R. S. 40:151-53 .. As am. L. 1953, c. 37, s. 288 ..	40A:14-102
R. S. 40:151-54	40A:14-103
R. S. 40:174-1	Not Enacted

<i>Source Sections</i>	<i>Revised Sections</i>
R. S. 40:174-2 } thru R. S. 40:174-5 }	40A:14-141
R. S. 40:174-6 } thru R. S. 40:174-25 }	40A:14-165
R. S. 40:174-26	40A:14-166
R. S. 40:174-27 } thru R. S. 40:174-61 }	Not Enacted
R. S. 40:174-62 } thru R. S. 40:174-64 }	40A:14-104
R. S. 40:174-65	Not Enacted
R. S. 40:174-66 } thru R. S. 40:174-72 }	40A:14-47
R. S. 40:174-73 } thru R. S. 40:174-76 }	Not Enacted
R. S. 40:174-77 } thru R. S. 40:174-80 }	40A:14-24
R. S. 40:174-81	Not Enacted
R. S. 40:174-82	40A:14-142
R. S. 40:174-83	Not Enacted
R. S. 40:174-84	40A:14-140
R. S. 40:174-85	Not Enacted
R. S. 40:174-86	{ Repealed L. 1946, c. 254
R. S. 40:174-87	40A:14-139
R. S. 40:174-88 } thru R. S. 40:174-91 }	40A:14-167
R. S. 40:174-92	40A:14-168
R. S. 40:174-93	40A:14-168
R. S. 40:174-94	Not Enacted
R. S. 40:174-95 } thru R. S. 40:174-112 }	40A:14-169

<i>Source Sections</i>	<i>Revised Sections</i>
R. S. 40:174-113	40A:14-170
R. S. 40:174-114	40A:14-170
R. S. 40:174-115 } thru	Not Enacted
R. S. 40:174-119 }	
R. S. 40:174-120 } thru	40A:14-105
R. S. 40:174-125 }	
R. S. 40:174-126 } thru	Not Enacted
R. S. 40:174-131 }	
R. S. 40:174-132 } thru	40A:14-48
R. S. 40:174-140 }	
R. S. 40:174-141 } thru	Not Enacted
R. S. 40:174-143 }	
R. S. 40:174-144 } thru	40A:14-171
R. S. 40:174-146 }	
R. S. 40:174-147	Not Enacted
R. S. 40:174-147A (added) }	Not Enacted
R. S. 40:174-148	40A:14-172
R. S. 40:174-149	40A:14-173
R. S. 40:174-150	Not Enacted
R. S. 40:174-151 } thru	40A:14-174
R. S. 40:174-170 }	
R. S. 40:174-171 } thru	Not Enacted
R. S. 40:174-180 }	
R. S. 40:174-181 } thru	40A:14-175
R. S. 40:174-200 }	
R. S. 40:174-201	40A:14-27
R. S. 40:174-202 } thru	Not Enacted
R. S. 40:174-205 }	

CHAPTER 198

AN ACT concerning local public contracts by municipalities and counties and revising parts of the statutory law.

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

A. GENERAL PROVISIONS

C. 40A:11-1 Short title; citation.

1. Short title; citation. This act shall be known and may be cited as the "Local Public Contracts Law."

Source: New.

C. 40A:11-2 Definitions.

2. Definitions. As used herein the following words have the following definitions, unless the context otherwise indicates:

(1) "Contracting unit" means

(a) Any county, or

(b) Any municipality, or

(c) Any board, commission, committee, officer, department, branch, agency or school district of any county or municipality, or

(d) Any board, commission or agency, which is not a State board, commission or agency, and which has administrative jurisdiction over any district, project, or facility, included or operating in whole or in part, within the territorial boundaries of any county or municipality which exercises functions which are appropriate for the exercise by one or more units of local government, and which has power to make purchases and enter into contracts or agreements for the performance of any work or the furnishing or hiring of any materials or supplies usually required, the cost or contract price of which is to be paid with or out of public funds.

(2) "Governing body" means

(a) The board of chosen freeholders of the county, when the purchase is to be made or the contract or agreement is to be entered into by, or in behalf of, a county, or

(b) The governing body of the municipality, when the purchase is to be made or the contract or agreement is to be entered into by, or on behalf of, a municipality, or

(c) Any board, commission, committee or agency of the character described in subsection (1) (d) of this section.

(3) "Contracting agent" means the governing body of a contracting unit, or any board, commission, committee, officer, department, branch, agency or school district which has power to prepare the advertisements, to advertise for and receive the bids and to make awards for the contracting unit in connection with the purchases, contracts or agreements governed by the provisions of this act.

(4) "Purchase" includes an acquisition by sale, lease, exchange, discount, negotiation, mortgage, pledge, lien, issue or re-issue, or any other voluntary transaction for consideration creating an interest in property not made by contract or agreement.

(5) "Materials" includes goods subject to article 2 of Title 12A of the New Jersey Statutes, apparatus, or any other tangible thing, except real property and capital improvements subject to chapters 32 and 60 of Title 40 of the Revised Statutes relating to lands and buildings.

(6) "Professional services" means:

(a) services rendered or performed by a person authorized by law to practice a recognized profession and whose practice is regulated by law, or

(b) services which are of such a qualitative nature as will not reasonably permit the drawing of specifications or the receipt of competitive bids; provided that, with respect to the definitions under both (a) and (b), the governing body shall state supporting reasons for its action in the resolution awarding the contract, and shall cause a copy of the resolution to be printed in a newspaper of general circulation within the boundaries of the contracting unit no more than 10 days after passage of the resolution.

(7) "Project" means any work, undertaking, development, redevelopment, construction or reconstruction of any area or areas.

(8) "Sale" means the conveyance of any interest in materials or supplies, by sale, lease or otherwise and shall include a security interest subject to chapter 9 of Title 12A of the New Jersey Statutes.

Source: New.

B. PURCHASES, CONTRACTS AND AGREEMENTS,
WHEN TO BE LET BY BIDS

C. 40A:11-3 Purchases, contracts or agreements not required to be advertised for.

3. Purchases, contracts or agreements not required to be advertised for. Any purchase, contract or agreement for the performance of any work or the furnishing or hiring of materials or supplies, the cost or price of which, inclusive of the cost or price of any purchase, contract or agreement for the performance of any work or the furnishing of, or of the use of, any materials or supplies, which: (1) forms a part of the same immediate program, undertaking, activity or project, (2) is to be paid with or out of public funds, and (3) does not exceed in the aggregate the sum of \$2,500.00 in the fiscal year, or in the case of purchases that are not annually recurring in a period of 1 year. These may be made, negotiated or awarded for a contracting unit without public advertising for bids and bidding therefor, notwithstanding that a lesser sum than \$2,500.00 is fixed as a maximum for said purpose in any other law.

Source: New.

C. 40A:11-4 Contracts and agreements required to be advertised for.

4. Contracts and agreements required to be advertised for. Every contract or agreement, for the performance of any work or the furnishing or hiring of any materials or supplies, the cost or the contract price whereof is to be paid with or out of public funds, not included within the terms of section 3 of this act, shall be made or awarded only after public advertising for bids and bidding therefor, except as is provided otherwise in this act or specifically by any other law. No work, materials or supplies shall be undertaken, acquired or furnished for a sum exceeding in the aggregate \$2,500.00, except by contract or agreement.

Source: R. S. 40:25-2, amended 1938, c. 167; 1956, c. 80; 1957, c. 208; 40:50-1, amended 1967, c. 30; 1957, c. 209; 1963, c. 67; 40:50-2.

C. 40A:11-5 Exceptions.

5. Exceptions. Any purchase, contract or agreement of the character described in section 4 of this act may be made, negotiated or awarded without public advertising for bids and bidding therefor if

- (1) The subject matter thereof consists of
 - (a) Professional services,
 - (b) The doing of any work by employees of the contracting unit,

(c) Election expenses, including advertising expenses incidental thereto,

(d) The printing of legal briefs, records and appendices to be used in any legal proceeding in which the contracting party may be a party,

(e) The furnishing of a tax map or maps for the contracting party,

(f) The purchase of perishable foods as a subsistence supply,

(g) The purchase of motor vehicles,

(h) The supplying of any product or the rendering of any service by a public utility, which is subject to the jurisdiction of the Board of Public Utility Commissioners, in accordance with tariffs and schedules of charges made, charged or exacted, filed with said board,

(i) The hiring of supplementary labor, or equipment, for the removal of snow or ice from roads and bridges and other public places required to be maintained by the contracting party during an emergency caused by storm, when the need for the hiring of such labor or equipment is not reasonably foreseeable,

(2) It is to be made or entered into with the United States of America, the State of New Jersey, county or municipality or any board, body, officer, agency or authority, thereof.

(3) The contracting unit has advertised for bids pursuant to section 4 on two occasions and has received no bids in response to its advertisement, and no board, body, officer, agency or authority of the United States, the State of New Jersey or any county or municipality is willing and able to perform any work or furnish or hire any materials or supplies in conformity with the specifications of the municipality. Any such contract or agreement may be made, negotiated or awarded only upon adoption of a resolution by the affirmative vote of $\frac{2}{3}$ of the full membership of the governing body of the contracting unit at a meeting thereof authorizing such a contract or agreement. No such contract or agreement may extend for a period greater than 1 year. Any amendment or modification of the terms, conditions, restrictions and specifications which were the subject of the competitive bidding pursuant to section 4 of this act shall be stated in the resolution awarding the contract.

(4) The contracting unit has advertised for bids pursuant to section 4 on two occasions and the governing body thereof has rejected such bids on each occasion because the contracting unit

has determined that they are not reasonable as to price on the basis of cost estimates prepared for the contracting unit prior to the advertising therefor or have not been independently arrived at in open competition, but no such contract or agreement may be entered into after such rejection of bids, unless:

(a) Notification of the intention to negotiate and a reasonable opportunity to negotiate shall have been given by the contracting unit to each responsible bidder,

(b) The negotiated price is lower than the lowest rejected bid price of a responsible bidder who bid thereon and is the lowest negotiated price offered by any responsible supplier and is a reasonable price for such work materials, supplies or services,

(c) Any amendment or modification of the terms, conditions, restrictions and specifications which were the subject of competitive bidding pursuant to section 4 of this act shall be stated in the resolution awarding the contract, and

(d) The negotiated price is lower than the price of the same or equivalent materials or supplies available from the State or the county in which the contracting unit is located.

Whenever a contracting unit shall determine that a bid was not arrived at independently in open competition pursuant to this subsection 4 of section 5, it shall thereupon notify the county prosecutor of the county in which the contracting unit is located and the Attorney General of the facts upon which its determination is based, and when appropriate, it may institute appropriate proceedings in any State or Federal court of competent jurisdiction for a violation of any State or Federal antitrust law or laws relating to the unlawful restraint of trade.

Any such contract or agreement may be made, negotiated or awarded only upon adoption of a resolution by the affirmative vote of $\frac{2}{3}$ of the full membership of the governing body of the contracting unit at a meeting thereof authorizing such a contract or agreement.

Source: R. S. 40:25-4, amended 1962, c. 158, s. 1; 40:25-5; 40:50-1, amended 1957, c. 30; 1957, c. 209; 1963, c. 67; C. 40:50-5.1 (1943, c. 198, s. 1, amended 1956, c. 6, s. 1); C. 40:50-5.2 (1943, c. 198, s. 2); C. 40:50-5.3 (1943, c. 198, s. 3); C. 40:50-5.4 (1943, c. 198, s. 4, amended 1956, c. 6, s. 2).

C. 40A:11-6 Authorization of certain exceptions.

6. Authorization of certain exceptions. Any such purchase, contract or agreement may be made, negotiated or awarded for a contracting party without public advertising for bids and bidding therefor notwithstanding that the cost or contract price will exceed \$2,500.00, when an emergency requires the immediate delivery of the articles or the performance of the service and when prior to the making of such purchase, contract or agreement or after the same, it is specifically authorized to be so made, negotiated or awarded by resolution, adoption by the affirmative vote of $\frac{2}{3}$ of the full membership of the governing body of the contract unit, for or on behalf of which the same is made, negotiated or awarded if the full membership of such governing body consists of more than four members, or of $\frac{3}{4}$ of all of the members thereof, if the full membership thereof shall be four members, or of $\frac{2}{3}$ of all of the members thereof, if the full membership thereof be three members, provided such resolution describes specifically the circumstances, declares the emergency, and further prescribes the manner in which such purchase, contract or agreement shall be made, negotiated or awarded, which shall be of such character as to be effective to promote free and full competition, whenever competition is practical under the circumstances.

Source: R. S. 40:25-3, 40:50-1, amended 1957, c. 30; 1957, c. 209; 1963, c. 67.

C. 40A:11-7 Contracts not to be divided.

7. Contracts not to be divided. No purchase, contract or agreement, which is single in character or which necessarily or by reason of the quantities required to effectuate the purpose of the purchase, contract or agreement, includes the furnishing of additional services or buying or hiring of materials or supplies or the doing of additional work, shall be subdivided, so as to bring it or any of the parts thereof under the maximum price or cost limitation of \$2,500.00 thus dispensing with the requirement of public advertising and bidding therefor, and in purchasing or contracting for, or agreeing for the furnishing of, any services, the doing of any work or the supplying of any materials or the supplying or hiring of any materials or supplies, included in or incident to the performance or completion of any project, program, activity or undertaking which is single in character or inclusive of the furnishing of additional services or buying or hiring of materials or supplies or the doing of additional work, or which requires the furnishing of more than one article of equipment or buying or hiring of materials

or supplies, all of the services, materials or property requisite for the completion of such project shall be included in one purchase, contract or agreement.

Source: R. S. 40:25-2, amended 1938, c. 167; 1956, c. 80; 1957, c. 208.

C. 40A:11-8 Periodic solicitation for proposals of work or materials and supplies required.

8. Periodic solicitation for proposals of work or materials and supplies required. Every contracting agent shall, at intervals to be fixed by the governing body, solicit by public advertisement the submission of bids for the furnishing of all work, materials and supplies which are and which under section 4 of this act can be purchased or agreed or contracted to be furnished only after public advertisement for bids and bidding therefor and all purchases, or contracts or agreements for the furnishing, of such work, materials and supplies shall be made and awarded only in that manner.

Source: R. S. 40:25-6; 40:50-2.

C. PURCHASING AGENTS, DEPARTMENTS OR BOARDS

C. 40A:11-9 Purchasing agent, department or board; establishment; powers.

9. Purchasing agent, department or board; establishment; powers. The governing body of any local unit may, by ordinance, in the case of a municipality, and resolution, in the case of a county, provide for the appointment of a purchasing agent, or purchasing department or a purchasing board, with authority to purchase, as its contracting agent, such materials and supplies required to be purchased on behalf of the contracting unit, as said governing body shall, by said ordinance, or resolution prescribe and such purchasing agent, purchasing department or purchasing board shall have authority to purchase such materials and supplies on behalf of the contracting unit and prepare the public advertising for bids, to receive the bids and to make the awards in such cases, subject to the approval of the governing body to be given when and in such manner as said governing body shall by such ordinance or resolution prescribe.

Source: R. S. 40:25-7; 40:50-7.

D. JOINT PURCHASING AGREEMENTS

C. 40A:11-10 Joint agreements for purchase of work, materials, supplies; authorization.

10. Joint agreements for purchase of work, materials, supplies; authorization. The governing bodies of two or more contracting

units within the same county, or adjoining counties, may provide by joint agreement for the purchase of work, materials and supplies for use by their respective jurisdictions.

(a) Such agreement shall be entered into by similar ordinances, in the case of municipalities, or resolutions, in the case of other contracting units, adopted by each of the participating governing bodies; which shall set forth the categories of work, materials and supplies to be purchased, the manner of advertising for bids and of awarding of contracts, the method of payment by each participating contracting unit, and other matters deemed necessary to carry out the purposes of the agreement.

(b) Each contracting unit's share of expenditures for purchases under any such agreement shall be appropriated and paid in the manner set forth in the agreement and in the same manner as for other expenses of the contracting unit.

Source: C. 40:50-7.1 (1964, c. 245, s. 1 amended 1966, c. 202, s. 1; 1968, c. 422, s. 5); C. 40:50-7.2 (1964, c. 245, s. 2 amended 1968, c. 422, s. 6); C. 40:50-7.3 (1964, c. 245, s. 3 amended 1968, c. 422, s. 7).

C. 40A:11-11 Additional matters regarding agreements for the purchases of work, materials and supplies.

11. Additional matters regarding agreements for the purchases of work, materials and supplies.

(1) The contracting units entering into a joint agreement pursuant to section 10 of this act may designate a joint purchasing agent, department or board pursuant to section 9 of this act. Any such agent, board or department already designated pursuant to section 9 may serve as the joint agent, department or board designated pursuant to this section.

(2) Purchases, contracts or agreements made pursuant to a joint purchasing agreement shall be subject to all of the terms and conditions of this act.

(3) Any county, municipality or school district serving as a purchasing agent, board or department pursuant to this section 11, may make an appropriation to enable it to perform any such contract and may anticipate as revenue payments to be made and received by it from any other party to the agreement. Any items so included in a local budget shall be subject to the approval of the Director, Division of Local Finance, who shall consider the matter in conjunction with the requirements of chapter 4 of Title 40A of the New Jersey Statutes. The agreement and any subsequent amendment or revisions thereto shall be filed with the Director of

the Division of Local Finance in the Department of Community Affairs. The purchasing agent, pursuant to such an agreement, shall also annually file with the director a report of any purchases, contracts or agreements and the amounts thereof annually. The director may, by regulation, specify the form and content of such reports.

(4) Any agent, department or board so designated pursuant to a joint purchasing agreement shall have the sole responsibility to comply with the provisions of section 23 of this act.

Source: C. 40:23-6.34 (1967, c. 228, s. 1; 1968, c. 422, s. 1); C. 40:23-6.35 (1967, c. 228, s. 2; 1968, c. 422, s. 2); C. 40:23-6.36 (1967, c. 228, s. 3; 1968, c. 422, s. 3); C. 40:23-6.37, (1967, c. 228, s. 4; 1968, c. 422, s. 4).

C. 40A:11-12 Purchases through State agency.

12. Purchases through State agency. Any contracting unit under this act may without advertising for bids, or having rejected all bids obtained pursuant to advertising therefor, purchase any materials, supplies or equipment under any contract or contracts for such materials, supplies or equipment entered into on behalf of the State by the Division of Purchase and Property in the Department of the Treasury.

Source: C. 40:25-4.5 (1969, c. 104).

E. SPECIFICATIONS

C. 40A:11-13 Specifications.

13. Specifications. Any specifications for an acquisition under this act, whether by purchase, contract or agreement, shall be drafted in a manner to encourage free, open and competitive bidding. In particular, no specifications under this act may:

(a) Require any standard, restriction, condition or limitation not directly related to the purpose, function or activity for which the purchase, contract or agreement is made; or

(b) Require that any bidder be a resident of, or that his place of business be located in, the county or municipality in which the purchase will be made or the contract or agreement performed, unless the physical proximity of the bidder is requisite to the efficient and economical purchase or performance of the contract or agreement; or

(c) Discriminate on the basis of race, religion, sex, national origin; or

(d) Require, with regard to any purchase, contract or agreement, the furnishing of any "brand name," but may in all cases require "brand name or equivalent," except that if the materials to be supplied or purchased are patented or copyrighted, such materials or supplies may be purchased by specification in any case in which the ordinance or resolution authorizing the purchase, contract, sale or agreement so indicates, and the special need for such patented or copyrighted materials or supplies is directly related to the performance, completion or undertaking of the purpose for which the purchase, contract or agreement is made; or

(e) Fail to include any option for renewal, extension, or release which the contracting unit may intend to exercise or require; or any terms and conditions necessary for the performance of any extra work; or fail to disclose any matter necessary to the substantial performance of the contract or agreement.

Any specification adopted by the governing body, which knowingly excludes prospective bidders by reason of the impossibility of performance, bidding or qualification by any but one bidder, except as provided herein, shall be null and void and of no effect and subject purchase, contract or agreement shall be readvertised, and the original purchase, contract or agreement shall be set aside by the governing body.

Source: New.

F. CONTRACTS, FORM AND CONTENTS

C. 40A:11-14 Form and execution of contracts and bonds.

14. Form and execution of contracts and bonds. The governing body of any contracting unit may prescribe the form and manner in which all contracts for performing work or furnishing materials for the contracting unit shall be made and executed, and the form and manner of execution and approval of all guarantee, indemnity, fidelity and other bonds required to be given to the contracting unit pursuant to law.

Source: R. S. 40:25-1.

C. 40A:11-15 Contracts for fuel or oil and snow and ice removal; duration.

15. Contracts for fuel or oil and snow and ice removal; duration. Any contracting unit may enter into a contract for the

(1) Supplying of

(a) Fuel for heating purposes, for any term not exceeding in the aggregate, 2 years, or

(b) Fuel or oil for use of airplanes, for any term not exceeding in the aggregate, 3 years, or

(2) The plowing and removal of snow and ice from highways and public places, for any term not exceeding in the aggregate, 1 year, or

(3) The collection and disposal of garbage and refuse, for any term not exceeding in the aggregate, 5 years, notwithstanding that such terms exceed the fiscal year.

Source: C. 40:25-1.1 (1953, c. 395); C. 40:50-5.5 (1945, c. 158); C. 40:50-5.6 (1945, c. 160); C. 40:50-5.7 (1962, c. 168).

C. 40A:11-16 Separate plans for various types of work; bids; contracts.

16. Separate plans for various types of work; bids; contracts. In the preparation of plans and specifications for the erection, alteration or repair of any public building by any political subdivision of this State, when the entire cost of the work will exceed \$2,500.00 in amount, the architect, engineer or other person preparing the plans and specifications, may prepare separate plans and specifications for

- (1) The plumbing and gas fitting and all kindred work,
- (2) Steam power plants, steam and hot water heating and ventilating apparatus and all kindred work,
- (3) Electrical work,
- (4) Structural steel and ornamental iron work, and
- (5) All other work required for the completion of the project.

The contracting agent authorized to award such contract for the erection, construction, alteration or repair of any public building shall advertise for and receive, in the manner provided by law, either (a) separate bids for each of said branches of work, or (b) bids for all the work and materials required to complete the building to be included in a single overall contract, or (c) both. There will be set forth in the bid the name or names of, and evidence of performance security from, all subcontractors to whom the bidder will subcontract the furnishing of plumbing and gas fitting, and all kindred work, and of the steam and hot water heating and ventilating apparatus, steam power plants and kindred work, and electrical work, structural steel and ornamental iron work, each of which subcontractors shall be qualified in accordance with this Title.

Contracts shall be awarded to the lowest responsible bidder. In the event that a contract is advertised in accordance with (c) above said contract shall be awarded in the following manner: If the sum

total of the amounts bid by the lowest responsible bidder for each branch is less than the amount bid by the lowest responsible bidder for all the work and materials, the contracting agent shall award separate contracts for each of such branches to the lowest responsible bidder therefor, but if the sum total of the amount bid by the lowest responsible bidder for each branch is not less than the amount bid by the lowest responsible bidder for all the work and materials, the contracting agent shall award a single overall contract to the lowest responsible bidder for all of such work and materials. In every case in which a contract is awarded under (b) above, all payments required to be made under such contract for work and materials supplied by a subcontractor shall, upon the certification of the contractor of the amount due to the subcontractor, be paid directly to the subcontractor.

Source: R. S. 40:9-3, amended 1968, c. 121, s. 1.

C. 40A:11-17 Number of working days specified.

17. Number of working days specified. All specifications for the doing of any public work for a contracting unit shall fix the date before which the work shall be completed, or the number of working days to be allowed for its completion; and every such contract shall contain a provision for a deduction, from the contract price, or any wages paid by the contracting unit to any inspector or inspectors necessarily employed by it on the work, for any number of days in excess of the number allowed in the specifications.

Source: R. S. 40:25-26; 40:50-3.

C. 40A:11-18 American goods and products to be used where possible.

18. American goods and products to be used where possible. Each local unit shall provide, in the specifications for all contracts for county or municipal work or for work for which it will pay any part of the cost, that only manufactured and farm products of the United States, wherever available, be used in such work.

Source: R. S. 40:15-1.

C. 40A:11-19 Liquidated damages.

19. Liquidated damages. Any contract or agreement made pursuant to this act may include liquidated damages for the violation of any of the terms and conditions thereof or the failure to perform said contract or agreement in accordance with its terms and conditions, or the terms and conditions of this act.

Source: New.

G. BIDDING REQUIREMENTS

C. 40A:11-20 Certificate of bidder showing ability to perform contract.

20. Certificate of bidder showing ability to perform contract. There may be required from any bidder submitting a bid on public work to any contracting unit, duly advertised for in accordance with law, a certificate showing that he owns, leases, or controls all the necessary equipment required by the plans, specifications and advertisements under which bids are asked for and if the bidder is not the actual owner or lessee of any such equipment, his certificate shall state the source from which the equipment will be obtained, and shall be accompanied by a certificate from the owner or person in control of the equipment definitely granting to the bidder the control of the equipment required during such time as may be necessary for the completion of that portion of the contract for which it is necessary.

Source: R. S. 40:25-11; 40:25-12.

C. 40A:11-21 Certified check, cashier's check or bid bond to accompany bid; amount.

21. Certified check, cashier's check or bid bond to accompany bid; amount. There may be required from any person bidding on any contract or agreement, for any contracting unit, advertised in accordance with law, that the bid be accompanied by a certified check, cashier's check or bid bond, payable to the contracting unit as a guarantee that if the contract or agreement is awarded to him he will enter into a contract therefor and will furnish any performance bond or other security required as a guarantee or indemnification. The amount to be so deposited shall be 10% of the bid, but in no case in excess of \$20,000.00.

Source: R. S. 40:25-9.

C. 40A:11-22 Guarantee or surety company; certificate.

22. Guarantee or surety company; certificate. When a surety company bond is required in the advertisement or specifications for a contract or agreement, every contracting unit shall require from any bidder submitting a bid in accordance with plans, specifications and advertisements, as provided for by law, a certificate from a surety company stating that it will provide the contractor with a bond in such sum as is required in the advertisement or in the specifications.

This certificate shall be obtained for a bond—

(1) For the faithful performance of all provisions of the specifications or for all matters which may be contained in the notice

to bidders, relating to the performance of the contract or agreement, and

(2) If any be required, for a guarantee bond for the faithful performance of the contract provisions relating to the repair and maintenance of any work, project or facility and its appurtenances and keeping the same in good and serviceable condition during the term of the bond as provided for in the notice to bidders or in the specifications, or

(3) In such other form as may be provided in the notice to bidders or in the specifications.

If a bidder desires to offer the bond of an individual instead of that of a surety company, he shall submit with his bid a certificate signed by such individual similar to that required of a surety company.

The contracting unit may reject any such bid if it is not satisfied with the sufficiency of the individual surety offered.

Source: R. S. 40:25-13, amended 1957, c. 54; 40:25-14.

C. 40A:11-23 Advertisements for bids; bids; general requirements.

23. Advertisements for bids; bids; general requirements. All advertisements for bids shall be published at least once, 10 days prior to the date fixed for receiving the bids, in a newspaper of general circulation published in this State and circulating within the territory included within or served by the contracting unit. The advertisement shall designate the manner of submitting and the method of receiving the bids and the time and place at which the bids will be received. If the published specifications provide for receipt of bids by mail, those bids which are mailed to the contracting unit shall be sealed and shall only be opened for examination at such time and place as all bids received are unsealed and announced. At such time and place the contracting agent of the contracting unit shall publicly receive the bids, and thereupon immediately proceed to unseal them and publicly announce the contents, which announcement shall be made in the presence of any parties bidding or their agents, who are then and there present, and shall also make proper record of the prices and terms, upon the minutes of the governing body, if the award is to be made by the governing body of the contracting unit, or in a book kept for that purpose, if the award is to be made by other than the governing body, and in such latter case it shall be reported to the governing body of the contracting unit for its action

thereon, when such action thereon is required. No bids shall be received after the time designated in the advertisement.

Source: R. S. 40:25-8; 40:50-4.

H. AWARDS AND EXECUTION OF CONTRACTS

C. 40A:11-24 Time for making award; deposits returned.

24. Time for making award; deposits returned. The contracting agent shall award the contract or contracts, or reject all bids therefor within 30 days after they are received, and all checks or bonds delivered with the bids, except the check or bond of the bidder to whom the contract is awarded, shall be returned within 3 days thereafter, Sundays and holidays excepted. The check or bond of the bidder to whom the contract is awarded shall be retained until a contract is executed and any required performance bond or other security is submitted. If for any reason the contracting agent is unable to make an award within such 30-day period, it shall be lawful for such agent and each of the three lowest responsible bidders and his proposed surety, if any, to agree upon an extension, not exceeding an additional 30 days, for the making of the award, in which event the contracting agent shall make the award or reject such bids on or before the end of such extended period.

Source: R. S. 40:25-10, amended 1955, c. 191.

I. QUALIFICATION OF BIDDERS

(1) IN GENERAL

C. 40A:11-25 General power to provide qualification for bidders.

25. General power to provide qualification for bidders. The governing body of any contracting unit may establish reasonable regulations appropriate for controlling the qualifications of prospective bidders upon contracts to be awarded on behalf of the contracting unit, by the class or category of work to be performed or materials and supplies to be furnished or hired which may fix the qualifications required according to the financial ability and experience of the bidders and the capital and equipment available to them pertinent to and reasonably related to the class or category of work to be performed or materials and supplies to be furnished or hired in the performance of any such contract, and may require each bidder to furnish a statement thereof; and if such governing body is not satisfied with the qualifications of any bidder as founded upon such statement, it may

refuse to furnish him with any plans or specifications for any public contract or consider any bid made by him for any contract.

Prior to the adoption of any such regulations, a contracting unit shall submit them to a public hearing. Notice of the hearing and a general description of the subject matter of the regulations to be adopted shall be published in not less than two newspapers circulating in the county or municipality in which the contracting unit is located. Publication shall precede by at least 20 days the date set in the notice for the hearing. The clerk or secretary of the governing body of the contracting unit shall keep a record of the proceedings and of the testimony of any citizen or prospective bidder. Within 10 days after the completion of the hearings, the proposed regulations and a true copy of the hearings shall be forwarded to the Director of the Division of Local Finance for his approval. This approval shall be indicated by a letter from the director to the governing body of the contracting unit. If the director fails to approve or disapprove the regulations within 30 days of their receipt by him, they shall take effect without his approval. The director may disapprove such proposed regulations only if he finds that:

(a) They are written in a manner which will unnecessarily discourage full, free and open competition; or

(b) They unnecessarily restrict the participation of small businesses in the public bidding process; or

(c) They create undue preferences; or

(d) They violate any other provision of this act, or any other law.

If the director disapproves such proposed regulations within the 30-day period prescribed, they shall be of no force and effect and may not be required as a condition to the acceptance of a bid on any public contract by the contracting unit. Any appeal from a decision of the director to the Local Finance Board shall be subject to the provisions of the Local Government Supervision Act (P. L. 1947, c. 151, C. 52:27BB-1 et seq.).

No qualification rating of any bidder shall be influenced by his race, religion, sex, national origin, nationality or his place of residence or business.

Nothing contained in this act shall limit the right of any court to review a refusal to furnish any such plans or specifications or the consideration or any bid on any contract advertised.

Any such governing body may adopt a standard form of statement or questionnaire for bidders on public works and contracts, and in such case their action shall be governed as provided herein.

Source: R. S. 40:25-16; 40:25-24; 40:50-5.

(2) STANDARD FORM OF QUESTIONNAIRE

C. 40A:11-26 Standard questionnaire; effect of unsatisfactory answers.

26. Standard questionnaire; effect of unsatisfactory answers. The governing body of any contracting unit may adopt a standard form of statement or questionnaire for bidders on public works and contracts and may require from any person proposing to bid upon any such public work or contract a statement or answers showing his financial ability and experience in performing public work and describing the equipment available to such bidder in the performance of such work or contract, and if not satisfied with the sufficiency of this statement or answers may refuse to furnish plans and specifications to him.

Source: R. S. 40:25-16; 40:50-5.

C. 40A:11-27 Standard statements and questionnaires; prospective bidders; responses.

27. Standard statements and questionnaires; prospective bidders; responses. Such statements and questionnaires shall be standardized for like classes of work to be submitted to prospective bidders who may be required to respond to questions under oath. The statement or answer shall disclose fully the financial ability, adequacy of plant and equipment, organization and prior experience of the prospective bidder, and such other pertinent and material facts as may be required.

Source: R. S. 40:25-16.

C. 40A:11-28 Classification of prospective bidders; notice.

28. Classification of prospective bidders; notice. Prospective bidders shall be classified as to the character and amount of public work or contracts as to which they shall be qualified to submit bids, and bids shall be accepted only from persons so qualified. The classification shall be made and an immediate notice thereof shall be sent to the prospective bidders by certified or registered mail within 8 days after the date of receipt of the responsive statement or answers.

Source: R. S. 40:25-17.

C. 40A:11-29 Reclassification of prospective bidders; request for; time limit.

29. Reclassification of prospective bidders; request for; time limit. If any person, after being notified of his classification, shall be dissatisfied therewith or with the classification of other bidders, he may request in writing a hearing before such governing body, and may present such further evidence with respect to the financial responsibility, organization, plant and equipment, or ex-

perience of himself or other prospective bidders as might tend to justify a different classification.

Where a request is made for the change of classification of another prospective bidder, the applicant therefor shall notify such other bidder by certified or registered mail of the time and place of hearing, as fixed by the governing body, and at the hearing shall present satisfactory evidence that the notice was served as herein required, before any matters pertaining to a change of classification of such other bidder shall be taken up. After hearing such evidence the governing body may, in its discretion, by appropriate action, change or retain the classification of any bidder.

No change in classification to be effective for any public work or contract where bidding therefor has been duly advertised, shall be made unless the written request therefor shall have been received at least 20 days before the final day for submission of bids.

All requests for change in classification and notice of any action sent by certified or registered mail to the parties directly affected thereby, shall be acted upon by the governing body concerned at least 8 days prior to the date fixed for the next opening of bids on any contract or contracts for which such persons might be qualified to bid as a result of the reclassification.

Source: R. S. 40:25-18.

C. 40A:11-30 Board of review upon classification; membership, et cetera.

30. Board of review upon classification; membership, et cetera. There is hereby established a board of review upon classification and reclassification of prospective bidders. This board shall consist of one member of the governing body of the contracting unit concerned and two citizens of the county or municipality to be designated by such governing body. In all counties having a county supervisor, he shall be a member of the board of review instead of one of the citizens. The clerk of the contracting unit shall be the secretary of the board of review and shall keep a complete record of its proceedings and decisions. The members of the board shall serve without compensation.

Source: R. S. 40:25-19, amended 1953, c. 37, s. 46.

C. 40A:11-31 Reconsideration by board of review; request for; time limit.

31. Reconsideration by board of review; request for; time limit. Any prospective bidder who is dissatisfied with his original classification or reclassification may upon receipt of notice thereof, request in writing a hearing of the matter before the board

of review. The request shall be filed with the contracting agent and the secretary of the board.

The board shall hold a hearing at which the prospective bidder shall be entitled to be heard and to submit additional information.

The board shall review the responsibility of all prospective bidders who have filed statements or answers, considering both the statement, answers and any additional information given at the hearing, and shall certify to the contracting unit concerned, its decision as to the original classifications or reclassifications, if any. The decisions shall be made by a majority vote.

In order for any change in classification by the board to be effective for public work or contract previously advertised, the request shall be filed not less than 5 days prior to the final day for submission of bids, and the board shall hold a hearing and act upon the request not less than 2 days prior to the date fixed for the next opening of bids on any public work or contract for which such prospective bidders might be qualified to bid as a result of the reclassification.

Source: R. S. 40:25-20.

C. 40A:11-32 Rejection of bids after qualification of bidder; hearing.

32. Rejection of bids after qualification of bidder; hearing. Nothing herein contained shall be construed as depriving any contracting agent of the right to reject a bid at any time prior to the actual award of a public work or contract, where the circumstances of the prospective bidder have changed subsequent to the qualification and classification of the said bidder, which in the opinion of the awarding contracting unit would adversely affect the responsibility of the bidder. Before taking final action on any such bid, the contracting agent concerned shall notify the said bidder and afford him an opportunity to present any additional information which might tend to sustain the existing classification.

No person shall be qualified to bid on any public work or contract unless he shall have submitted a statement or answers as herein required within a period of 6 months preceding the date of opening of bids for the public work or contract, if the bidders thereon are required to be classified hereunder. In any case where the contracting unit shall require classification of the bidders in compliance with these sections, each bidder on any public work or contract shall be required to submit a statement listing the changes in the statement or answers herein required as part of his bid submission.

Source: R. S. 40:25-21.

C. 40A:11-33 Forfeiture of deposit in certain cases.

33. Forfeiture of deposit in certain cases. A deposit made by any person who makes or causes to be made a false, deceptive or fraudulent statement or answers in response to a questionnaire or in the course of a hearing hereunder may be caused to be forfeited, as liquidated damages by and to the contracting unit.

Source: R. S. 40:25-23.

(3) PENALTIES**C. 40A:11-34 Penalties for false statements.**

34. Penalties for false statements. Any person who makes or causes to be made, a false, deceptive or fraudulent statement in the statement or answers in response to the questionnaire, or in the course of any hearing hereunder, shall be guilty of a misdemeanor, and upon conviction shall be punishable by a fine of not less than \$100.00 nor more than \$1,000.00, and shall be permanently disqualified from bidding on all public work or contracts of the contracting unit which submitted the questionnaire; or, in the case of an individual or an officer or employee charged with the duty of responding to the questionnaire for a person, firm, copartnership, association or corporation, by such fine or by imprisonment, not exceeding 6 months, or both.

Source: R. S. 40:25-22.

J. CONTRACTS OF SPECIAL CHARACTER**C. 40A:11-35 Indemnity agreements; Federal projects for benefit of municipality.**

35. Indemnity agreements; Federal projects for benefit of municipality. Any contracting unit may enter into an agreement indemnifying the United States of America, or any board, body, officer or agency thereof, from loss or damage to the property of others resulting from the furtherance of any project, undertaken or to be undertaken by the Federal Government for the benefit of such contracting unit where the cost or any part thereof is to be paid out of Federal funds.

Source: C. 40:50-8 (1949, c. 67).

K. MANNER AND METHOD OF SALE**C. 40A:11-36 Sale or other disposition of personal property.**

36. Sale or other disposition of personal property. Any contracting unit by resolution of its governing body may authorize the sale of its personal property not needed for public use.

(1) If the estimated fair value of the property to be sold exceeds \$2,500.00 in any one sale and it is neither livestock nor perishable goods, it shall be sold at public sale to the highest bidder.

(2) The contracting unit need not advertise for bids when it makes any such sale to the United States, the State of New Jersey, another contracting unit or to any body politic to which it contributes tax raised funds.

(3) Notice of the date, time and place of the public sale together with a description of the items to be sold and the conditions of sale shall be published in a newspaper circulating in the contracting unit. Such sale shall be held not less than 7 nor more than 14 days after the latest publication of the notice thereof.

(4) If no bids are received the property may then be sold at private sale without further publication or notice thereof, but in no event at less than the estimated fair value; or the contracting unit may if it so elect reoffer the property at public sale. As used herein, "estimated fair value" means the market value of the property between a willing seller and a willing buyer less the cost to the municipality to continue storage or maintenance of any personal property not needed for public use to be sold pursuant to this section.

(5) A contracting unit may reject all bids if it determines such rejection to be in the public interest. In any case in which the contracting unit has rejected all bids, it may readvertise such personal property for a subsequent public sale. If it elects to reject all bids at a second public sale, pursuant to this section, it may then sell such personal property without further publication or notice thereof at private sale, provided that in no event shall the negotiated price at private sale be less than the highest price of any bid rejected at the preceding two public sales and provided further that in no event shall the terms or conditions of sale be changed or amended.

Source: New.

L. ASSISTANCE TO CONTRACTING UNITS

C. 40A:11-37 Division of Local Finance to assist contracting units.

37. Division of Local Finance to assist contracting units. The Division of Local Finance is hereby authorized to assist contracting units in all matters affecting the administration of this law.

Source: New.

M. STATUTES REPEALED

C. 40A:11-38 Statutes repealed.

38. Statutes repealed. The following sections, chapter and acts, together with all amendments and supplements thereto, are hereby repealed:

Chapter 25 of Title 40 of the Revised Statutes;

Sections 40:9-3; 40:15-1; 40:50-1 to 40:50-5 inclusive and 40:50-7, of the Revised Statutes;

Laws of 1943, c. 198 (C. 40:50-5.1 to C. 40:50-5.4 inclusive);

Laws of 1945, c. 158 (C. 40:50-5.5);

Laws of 1945, c. 160 (C. 40:50-5.6);

Laws of 1949, c. 67 (C. 40:50-8);

Laws of 1962, c. 168 (C. 40:50-5.7);

Laws of 1953, c. 395 (C. 40:25-1.1);

Laws of 1964, c. 245 (C. 40:50-7.1 to C. 40:50-7.3 inclusive);

Laws of 1967, c. 228 (C. 40:23-6.34 to C. 40:23-6.37 inclusive);

Laws of 1969, c. 104, s. 1 (C. 40:25-4.5).

N. EFFECTIVE DATE

C. 40A:11-39 Effective date.

39. Effective date. This act shall take effect July 1, 1971 but any action, purchase, sale, contract or agreement taken, made or entered into prior to this date pursuant to any of the acts, amendments and supplements hereby repealed are hereby validated and confirmed, provided that in no event shall a lease entered into prior to the effective date of this act be renewed or extended, except in accordance with the terms and provisions of this act.

Approved June 9, 1971.

CHAPTER 199

AN ACT concerning counties and municipalities in relation to lands and buildings and revising parts of the statutory law.

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

C. 40A:12-1 Short title.

1. Short title. This act shall be known and be cited as the "Local Lands and Buildings Law."

Source: New.

C. 40A:12-2 Definitions.

2. Definitions. The following words shall have the following meanings, unless the context clearly indicates the contrary:

(a) "Acquire" shall include acquisition by gift, devise, purchase, exchange, grant, lease or condemnation unless otherwise indicated.

(b) "Buildings" shall include any building or buildings and any structures, improvements, ingress or egress, grounds or plazas, necessary and incidental to the purpose of the building and the safety, comfort and well-being of its occupants.

(c) "Capital improvements" shall include, in addition to buildings, any structures, fixtures, edifices, byways, parking lots, service facilities, and any other facility necessary and incidental to the lawful performance of any function of a county or municipality.

(d) "County" means any county of this State of whatever class.

(e) "Municipality" means any town, township, borough, village or city of whatever class heretofore or hereafter created under general or special charter.

(f) "Personal property" shall mean any personal property necessary and incidental to the furnishing, refurnishing or refurbishing of a building.

(g) "Real property" shall include, in addition to the usual connotations thereof, any right, interest or estate in the area extending above any real property, or capital improvement thereon, to such a height or altitude as any title, interest or estate in real property may extend, commonly known as "air rights."

(h) "Resolution" or "ordinance" when used in connection with the action of a county or municipality means a resolution or ordinance adopted by the governing body of the county or municipality. In any case in which a resolution or ordinance authorizing the expenditure of public moneys is required to be approved by any other board, body or commission of the State, county or municipality, "resolution" or "ordinance" shall mean also adopted or approved by the board, body or commission authorized to take such action on behalf of the State, county or municipality.

(i) "Sale" shall include the conveyance of any estate, interest, easement or title to, or the waiver, release, or modification of any conditions, restrictions or limitations on any real property, capital improvement or personal property of the county or municipality, but shall not include any lease or exchange of such property.

Source: New.

ACQUISITION

C. 40A:12-3 Acquisition of lands and buildings.**3. Acquisition of lands and buildings.**

(a) Any county or municipality may acquire, construct and maintain such buildings or other capital improvements as may be necessary and suitable for the performance of its functions, the accommodation of the courts required to be held in the county or municipality, the conduct of public business and the use of the county and municipal departments, officers, boards, commissions and agencies in charge of institutions and facilities and any other county or municipal public purposes, and from time to time as necessary, repair, alter, enlarge, rebuild, furnish, refurnish, refurbish or rehabilitate such buildings.

(b) Any county or municipality may acquire the necessary land for the construction thereon of buildings or other capital improvements or additions thereto and for suitable surrounding grounds and parking facilities to be used in connection therewith. Any such buildings, capital improvements or facilities may be constructed and maintained upon real property acquired by the county or municipality.

(c) A county or municipality may furnish and equip such buildings, improvements and facilities for the proper use thereof and may from time to time as may be necessary, repair and replace the furnishings and equipment thereof.

Source: R. S. 40:32-3, amended 1955, c. 62; 1965, c. 150; 40:60-6, amended 1954, c. 39.

C. 40A:12-4 Further acquisitions authorized.

4. Further acquisitions authorized. Any county or municipality may acquire:

(a) Any real property, capital improvement, personal property or any interest or estate whatsoever therein, including easements, water, water power, or water rights, either within or without the county or municipality, except that no such property belonging to the State or any of its agencies, a county or any municipality shall be acquired without its express consent, or

(b) Any outstanding easement, right or interest in any real property, capital improvement or personal property previously acquired by the county or municipality which the governing body shall determine to be necessary or useful for the proper exercise of any power conferred or duty imposed upon the county or municipality by this or any other law; but this section shall not operate,

or be construed, to repeal or supersede any law requiring the consent of any other county or municipality, or any State authority, department, agency or commission for the acquisition of any such property.

Source: R. S. 40:32-2; 40:60-2.

C. 40A:12-5 Additional powers.

5. Additional powers. (a) Any county, by resolution, or any municipality, by ordinance, may provide for the acquisition of any real property, capital improvement, or personal property:

(1) By purchase, gift, devise, lease, exchange, or condemnation;

(2) Subject to lawful conditions, restrictions or limitations as to its use by the county or municipality, provided the governing body accepts such lawful conditions, restrictions or limitations. When any county or municipality shall have acquired any real property, capital improvement or personal property upon any lawful condition, restriction or limitation, it is hereby authorized to take such steps as may be necessary and proper to the compliance by the county or municipality with such lawful conditions, restrictions or limitations;

(3) Whether the acquisition of any real property is by lease, purchase, or exchange, the governing body may require the construction or repair of any capital improvement as a condition of acquisition.

(b) Any county or municipality having acquired any real property, capital improvement or personal property or any real estate or interest therein, which acquisition or estate or interest shall have become unsuited or inconvenient for the use for which it was acquired, may, at any time convert a portion or the whole thereof to any other public use unless otherwise provided by law or by the terms of acquisition.

(c) Whenever the governing body of any county or municipality to which there has been conveyed any real property, capital improvement, or personal property subject to such lawful conditions, restrictions or limitations shall by ordinance, in the case of a municipality, and by resolution, in the case of a county, determine that said real property, capital improvement or personal property can no longer be used advantageously for the purposes for which the same were acquired by the county or municipality, said county or municipality may, by ordinance or resolution, authorize the sale or exchange pursuant to section 13 of this act of the interest of the county or municipality in said real property, capital improvement or personal property.

Whenever the county or municipality, by resolution or ordinance, as the case may be, determines that property, which has been acquired by purchase, gift, devise, lease, exchange or otherwise for a nominal or no consideration for a specific purpose, or subject to lawful conditions, restrictions or limitations as to its use, can no longer be used for the purposes for which acquired, it may offer or reconvey said property to the original grantor or his heirs for a similar or no consideration, prior to other disposition pursuant to section 13 of this act.

Source: R. S. 40:32-2; 40:32-10, amended 1953, c. 119; 40:60-2; 40:60-9; C. 40:60-27.4 (1950, c. 7); R. S. 40:60-37; 40:60-38.

C. 40A:12-6 Authorization to incur indebtedness and make appropriations.

6. Authorization to incur indebtedness and make appropriations.

(a) Whenever, pursuant to law, a county or municipality is authorized to acquire or improve any real property or capital improvement, or both, or any personal property, the county or municipality may provide for the payment of the cost of such acquisition or improvement, or both, in whole or in part, by the incurring of indebtedness and issuance of bonds in accordance with the "Local Bond Law," (chapter 2 of Title 40A of the New Jersey Statutes) or by having provided an appropriation in the annual budget for the purpose, pursuant to the provisions of the "Local Budget Law," (chapter 4 of Title 40A of the New Jersey Statutes).

(b) Whenever, pursuant to law, a county or municipality is authorized to maintain or operate any real property, capital improvement, or personal property, or any facility, the county or municipality may provide for the payment of the cost of such maintenance or operation, or both, by budget appropriation in the manner provided by law, any sums obtained from earnings of such property or facility, if any, or from any other lawful revenue source, pursuant to the provisions of the "Local Budget Law" (chapter 4 of Title 40A of the New Jersey Statutes).

Source: New.

C. 40A:12-7 Subsequent acquisition of outstanding interests.

7. Subsequent acquisition of outstanding interests. Any county or municipality having acquired any real property, capital improvement or personal property or any estate or interest therein subject to any lawful conditions, restrictions or limitations upon its use may subsequently acquire such outstanding interest.

In any case in which a county or municipality seeks to acquire such interest or estate by purchase or condemnation, the amount to be paid to the owner of the reversionary or other private right or estate or expectancy shall be the value of such right, subject to the continued use of the property for the purpose or purposes for which it was acquired by the county or municipality.

Source: R. S. 40:60-38.

C. 40A:12-8 Acquisition of interests in lieu of enforcement of claims.

8. Acquisition of interests in lieu of enforcement of claims. When a county or municipality has or shall have acquired a lien or other interests by judgment, mortgage, tax, assessment, sale for taxes or assessments, or otherwise, against any real property, the county or municipality may purchase or otherwise acquire said real property or any interest therein, or any lien thereon, without the necessity of taking or completing the necessary proceedings in any court of competent jurisdiction to enforce its lien or to obtain satisfaction for its interest in said real property.

The consideration to be paid by such acquisition shall not exceed in any one case the approximate amount of the cost of the proceedings ordinarily incidental to the enforcement of the lien, or to obtain satisfaction for its interest in said real property, to be determined by resolution of the governing body of said county or municipality, except that in the case of the purchase or release of any tax lien of the State of New Jersey on real property, or of any right, title, interest or estate of the State in real property, arising out of any tax lien created or existing under Title 54 of the Revised Statutes, the consideration to be paid for the purchase or release of said lien or the assignment or the conveyance of the right, title, interest or estate of the State shall be such amount as may be agreed upon between the governing body of the county or municipality and the Director of the Division of Taxation in the Department of the Treasury, not exceeding the total amount of the tax assessed, with interest and costs, and the director is hereby authorized when in his judgment such action will better serve the interests of the State and the county or municipality (a) to propose a settlement and receive payment in satisfaction thereof, in an amount less than the tax assessed with interest and costs, and (b) to apportion said taxes, interest and costs in those cases where more than one parcel of property is involved.

Source: R. S. 40:60-3, amended 1940, c. 140; 1943, c. 39.

C. 40A:12-9 Joint departmental acquisitions and joint use of buildings.

9. Joint departmental acquisitions and joint use of buildings. Any county or municipality may provide for the construction and maintenance of one or more buildings and structures for the use of any department or for the joint use of two or more departments and may acquire suitable land therefor. Where in any municipality there is a board having certain governmental functions as well as a governing body any two or more such bodies may join in the purchase or condemnation of land and the construction and maintenance of buildings for common use by such departments, parts thereof, or officers of the bodies so joining. Any such governing body may permit any such other body thereof the use of any land or building, or part thereof, controlled by it upon such terms as may be mutually agreed upon.

Source: R. S. 40:60-8.

C. 40A:12-10 Joint purchase of lands and construction of buildings or other capital improvements for joint use.

10. Joint purchase of lands and construction of buildings or other capital improvements for joint use. Any county or municipality may contract with each other or with any other county or municipality for the purpose of acquiring land and constructing thereon a building or buildings or other capital improvements for their joint use. Title thereto shall be taken in the manner and their respective uses provided by agreement between the governing bodies thereof. The expense of acquisition of such land and the construction of a building or buildings or other capital improvements and of the maintenance thereof shall be divided in such manner as the governing bodies shall agree upon.

Source: R. S. 40:32-5.

C. 40A:12-11 Early land acquisition.

11. Early land acquisition. Any county, by resolution, or municipality, by ordinance, may acquire real property and any estate or interest therein, including a lease with option to purchase, which the governing body shall determine will be necessary or useful for the proper exercise of any power conferred upon the county or municipality by this or any other law, notwithstanding that the county or municipality will not make use of such estate or interest for a period not exceeding 10 years if:

(a) In the case of a county or municipality, (1) the county or municipality has adopted a capital budget pursuant to New Jersey Statutes 40A:4-43 to 40A:4-45 which shall include a program or

project for the expenditure of public funds for capital purposes requiring, or likely requiring, the acquisition of such real property, and (2) the proposed use for which the real property may be acquired is in conformity with both the zoning ordinance and master plan of the municipality, where such have been adopted, and

(b) In the case of a county, the county shall enter into an agreement for payments in lieu of taxes with the municipality, in which case said payments shall not be less than the aggregate amount of taxes paid on all real property acquired by the county at the time of acquisition. Said agreement may be limited to the period during which the county has not initiated the program or project of expenditure of public funds for capital purposes adopted pursuant to its capital budget.

During the period prior to the initiation of a program or project for the expenditure of public funds for capital purposes pursuant to the capital budget of the county or municipality, the county or municipality shall have all the powers and duties of a private person for purposes of collection of rents, fees, service charges and the provision of safe, decent and sanitary housing, section 24 to the contrary notwithstanding. Housing facilities in being at the time of acquisition shall be operated, maintained and improved by the county or municipality, or where the county or municipality so elects, by a county or municipal housing authority created pursuant to the Local Housing Authorities Law, (P. L. 1938, c. 19).

Source: New.

C. 40A:12-12 Acquisition of property in other States; necessity for and manner of acquisition.

12. Acquisition of property in other States; necessity for and manner of acquisition. When a county, by resolution, or municipality, by ordinance, determines that any real property located in a foreign state is necessary to the beneficial use of property in this State owned by the county or municipality it may acquire such property located in a foreign state, either in the corporate name of the county or municipality or in the name of a trustee for the county or municipality.

In any case in which real property has been acquired pursuant to this section, and is determined by a county, by resolution, or a municipality, by ordinance, to no longer be necessary to the beneficial use of property in this State, said property shall be sold pursuant to the provisions of section 13 of this act. Such a determination shall be made in any case in which the real property

in this State owned by the county or municipality, for whose beneficial use of which the real property located in the foreign state is purchased, shall have been sold or exchanged by the county or municipality.

Source: R. S. 40:60-4.

SALE, LEASE OR EXCHANGE

C. 40A:12-13 Sales of real property, capital improvements or personal property; exceptions; procedure.

13. Sales of real property, capital improvements or personal property; exceptions; procedure. Any county or municipality may sell any real property, capital improvements or personal property, or interests therein, not needed for public use, as set forth in the resolution or ordinance authorizing the sale, other than county or municipal lands, real property otherwise dedicated or restricted pursuant to law, and, except as otherwise provided by law, all such sales shall be made by one of the following methods:

(a) By public sale to the highest bidder after advertisement thereof in a newspaper circulating in the municipality or municipalities in which the lands are situated by two insertions at least once a week during 2 consecutive weeks, the last publication to be not earlier than 7 days prior to such sale. In the case of public sales, the governing body may by resolution fix a minimum price, or prices, with or without the reservation of the right, to reject all bids where the highest bid is not accepted. Notice of such reservation shall be included in the advertisement of the sale and public notice thereof shall be given at the time of sale. Such resolution may provide, without fixing a minimum price, that upon the completion of the bidding, the highest bid may be accepted or all the bids may be rejected. The invitation to bid may also impose restrictions on the use to be made of such real property, capital improvement or personal property and any conditions of sale as to buildings or structures, or as to the type, size, or other specifications of buildings or structures to be constructed thereon, or as to demolition, repair, or reconstruction of buildings or structures, and the time within which such conditions shall be operative, or any other conditions of sale in like manner and to the same extent as by any other vendor. Such conditions shall be included in the advertisement, as well as the nature of the interest retained by the county or municipality. Such restrictions or conditions shall be related to a lawful public purpose and encourage and promote fair and competitive bidding of the county or municipality and shall

not, in the case of a municipality, be inconsistent with or impose a special or higher standard than any zoning ordinance or building, plumbing, electrical, or similar code or ordinance then in effect in the municipality.

In any case in which a county or municipality intends to retain an estate or interest in any real property, capital improvement or personal property, in the nature of an easement, contingent or reversionary, the invitation to bid and the advertisements required herein shall require each bidder to submit one bid under each Option A and Option B below.

(1) Option A shall be for the real property, capital improvement or personal property subject to the conditions or restrictions imposed, or interest or estate retained, which the county or municipality proposes to retain or impose.

(2) Option B shall be for the real property, capital improvement or personal property to be sold free of all such restrictions, conditions, interests or estates on the part of the county or municipality.

The county or the municipality may elect or reject either or both options and the highest bid for each. Such acceptance or rejection shall be made not later than at the second regular meeting of the governing body following the sale, and, if the governing body shall not so accept such highest bid, or reject all bids, said bids shall be deemed to have been rejected. Any such sale may be adjourned at the time advertised for not more than 1 week without readvertising.

(b) At private sale when authorized by resolution, in the case of a county, or by ordinance, in the case of a municipality, in the following cases:

(1) A sale to any political subdivision, agency, department, commission, board or body corporate and politic of the State of New Jersey or to an interstate agency or body of which the State of New Jersey is a member or to the United States of America or any department or agency thereof.

(2) A sale to a person submitting a bid pursuant to subsection (a) of this section where all bids have been rejected, provided that the terms and price agreed to shall in no event be less than the highest bid rejected and provided further that the terms and conditions of sale shall remain identical.

(3) A sale by any county or municipality when it has or shall have conveyed its right, title and interest in any real property, capital improvement or personal property not needed for

public use, and it was assumed and intended that there should be conveyed a good and sufficient title in fee simple to said real property, capital improvement or personal property, free of all encumbrances and the full consideration has been paid therefor, and it shall thereafter appear that the title conveyed was insufficient or that said county or municipality at the time of said conveyance was not the owner of some estate or interest in said real property, capital improvement or personal property or of some encumbrances thereon and the county or municipality shall thereafter acquire a good and sufficient title in fee simple, free of all encumbrances of said real property, capital improvement or personal property or shall acquire such outstanding estate or interest thereon or outstanding encumbrance thereon and said county or municipality, by resolution of the governing body and without the payment of any additional consideration, has deemed to convey or otherwise transfer to said purchaser, his heirs or assigns, such after-acquired title, or estate or interest in, or encumbrance upon, such real property, capital improvement or personal property to perfect the title or interest previously conveyed.

(4) A sale of an easement upon any real property previously conveyed by any county or municipality may be made when the governing body of any county by resolution, or any municipality, by ordinance, has elected to release the public rights in the nature of easements, in, on, over or under any real property within the county or the municipality, as the case may be, upon such terms as shall be agreed upon with the owner of such lands, if the use of such rights is no longer desirable, necessary or required for public purposes.

In the case of any sale of real property hereafter made pursuant to subsection (b) of this section, in no event shall the price agreed upon with the owner be less than the difference between the highest bid accepted for the real property subject to easements (Option A) and the highest bid rejected for the real property not subject to easements (Option B). After the adoption of the resolution or ordinance, and compliance by the owner of said real property with the terms thereof, said real property shall be free, and entirely discharged of and from such rights of the public and of the county or municipality, as the case may be, but no such release shall affect the right of lawful occupancy or use of any such real property by any

municipal or private utility to occupy or use any such real property lawfully occupied or used by it.

A list of the property so authorized to be sold, pursuant to subsection (b) of this section, together with the minimum prices respectively, as determined by the governing body, shall be included in the resolution or ordinance authorizing the sale, and said list shall be posted on the bulletin board or other conspicuous space in the building which the governing body usually holds its regular meetings, and advertisement thereof made in a newspaper circulating in the municipality or municipalities in which the real property, capital improvement or personal property is situated within 5 days following enactment of said resolution or ordinance. Offers for any or all properties so listed may thereafter be made to the governing body or its designee for a period of 20 days following the advertisement herein required, at not less than said minimum prices, by any prospective purchaser, real estate broker, or other authorized representative. In any such case, the governing body may reconsider its resolution or ordinance, not later than 30 days after its enactment, and advertise the real property, capital improvement, or personal property in question for public sale pursuant to subsection (a) of this section.

Any county or municipality selling any real property, capital improvement or personal property pursuant to subsection (b) of this section shall file with the Director of the Division of Local Finance in the Department of Community Affairs, sworn affidavits verifying the publication of advertisements as required by this subsection.

All sales either public or private may be made for cash or upon credit. A deposit not exceeding 1% of the minimum price or value of the property to be sold may be required of all bidders. When made upon credit, the county or municipality may accept a purchase-money mortgage, upon terms and conditions which shall be fixed by the resolution of the governing body; provided, however, that when such mortgage shall be fully payable within 5 years from the date of the sale and shall bear interest at a rate equal to that authorized under Title 31 of the Revised Statutes, as amended and supplemented, and the regulations issued pursuant thereto, or the rate last paid by the county or municipality upon any issue of notes pursuant to the Local Bond Law (chapter 2 of Title 40A of the New Jersey Statutes), whichever is highest. The governing body may, by resolution, fix the time for closing of title and payment of the consideration.

In all sales made pursuant to this section, the governing body of any county or municipality may provide for the payment of a commission to any real estate broker, or authorized representative other than the purchaser actually consummating such sale, but said commissions shall not exceed, in the aggregate, 5% of the sale price, and be paid, where there has been a public sale, only in the event that the sum of the commission and the highest bid price does not exceed the next highest bid price (exclusive of any realtor's commission).

Source: R. S. 40:9-1; 40:32-8, amended 1950, c. 50; 40:32-9; 40:60-26, amended 1938, c. 300; 1939, c. 66; 1939, c. 344; 1944, c. 160; 1946, c. 106; 1947, c. 417; 1948, c. 245; 1957, c. 86; 40:60-27; 40:60-29; 40:60-36; 40:60-37; C. 40:60-38.1 (1964, c. 109); R. S. 40:60-39, amended 1947, c. 305; 1950, c. 3, s. 1; 1961, c. 96, s. 1; 1970, c. 250, s. 1; 40:60-40, amended 1950, c. 3, s. 2; 1961, c. 96, s. 2; 1970, c. 250, s. 2.

C. 40A:12-14 Leasing of county or municipal real property, capital improvements or personal property.

14. Leasing of county or municipal real property, capital improvements or personal property. Any county or municipality may lease any real property, capital improvement or personal property not needed for public use as set forth in the resolution or ordinance authorizing the lease, other than county or municipal real property otherwise dedicated or restricted pursuant to law, and except as otherwise provided by law, all such leases shall be made in the manner provided by this section.

(a) In the case of a lease to any private person, said lease shall be made by public letting to the highest bidder after advertisement thereof in a newspaper circulating in the municipality or municipalities in which the leasehold is situated by two insertions at least once a week during 2 consecutive weeks; the lease publication to be not earlier than 7 days prior to the letting of the lease. The governing body may, by resolution, fix a minimum rental with the reservation of the right to reject all bids where the highest bid is not accepted. Notice of such reservation shall be included in the advertisement of the letting of the lease and public notice thereof shall be given of the time of the letting of the lease. Such resolution may provide that upon the completion of the bidding, the highest bid may be accepted or all of the bids may be rejected. It shall also set out the conditions, restrictions and limitations upon the tenancy subject to the lease. Acceptance or rejection of the bid or bids shall be made not later than at the second regular meeting of

the governing body following the opening of the bids, and, if the governing body shall not so accept such highest bid, or reject all bids, said bids shall be deemed to have been rejected. Any such award may be adjourned at the time advertised for not more than 1 week without readvertising.

(b) In the case of a lease to a public body, the lease may be upon such terms and conditions and for nominal or other consideration as the governing body of the county or municipality shall approve by ordinance or resolution.

(c) In the case of a lease to a nonprofit corporation for a public purpose, the lease shall be authorized by resolution, in the case of a county, or by ordinance, in the case of a municipality, and may be for nominal or other consideration. Said authorization shall include the nominal or other consideration for the lease; the name of the corporation or corporations who shall be the lessees; the public purpose served by the lessee; the number of persons benefiting from the public purpose served by the lessees, whether within or without the municipality in which the leasehold is located; the term of the lease, and the officer, employee or agency responsible for enforcement of the conditions of the lease. Said ordinance or resolution shall also require any nonprofit corporation holding a lease for a public purpose pursuant to this section, to annually submit a report to the officer, employee or agency designated by the governing body, setting out the use to which the leasehold was put during each year, the activities of the lessee undertaken in furtherance of the public purpose for which the leasehold was granted; the approximate value or cost, if any, of such activities in furtherance of such purpose; and an affirmation of the continued tax-exempt status of the nonprofit corporation pursuant to both State and Federal law.

Source: New.

C. 40A:12-15 Purposes for which leases for a public purpose may be made.

15. Purposes for which leases for a public purpose may be made. A leasehold for a term not in excess of 50 years may be made pursuant to this act and extended for an additional 25 years by ordinance or resolution thereafter for any county or municipal public purpose, including, but not limited to:

(a) The provision of fire protection, first aid, rescue and emergency services by an association duly incorporated for such purposes.

(b) The provision of health care or services by a nonprofit clinic, hospital, residential home, out-patient center or other similar corporation or association.

(c) The housing, recreation, education or health care of veterans of any war of the United States by any nonprofit corporation or association.

(d) Mental health, or psychiatric services or education for the mentally ill, mentally retarded, mentally defective by any nonprofit corporation or association.

(e) Any shelter care or services for persons aged 62 or over receiving Social Security payments, pensions, or disability benefits which constitute a substantial portion of the gross income by any nonprofit corporation or association.

(f) Services or care for the education or treatment of cerebral palsy patients by any nonprofit corporation or association.

(g) Any civic or historic programs or activities by duly incorporated historical societies.

(h) Services, education, training, care or treatment of poor or indigent persons or families by any nonprofit corporation or association.

(i) Any activity for the promotion of the health, safety, morals and general welfare of the community of any nonprofit corporation or association.

In no event shall any lease under this section be entered into for, with, or on behalf of any commercial, business, trade, manufacturing, wholesaling, retailing, or other profit-making enterprise, nor shall any lease pursuant to this section be entered into with any political, partisan, sectarian, denominational or religious corporation or association, or for any political, partisan, sectarian, denominational or religious purpose.

Source: R. S. 40:32-7; 40:32-13; C. 40:32-13.3 (1960, c. 34); C. 40:32-20 (1958, c. 87, amended 1960, c. 185, s. 2; 1963, c. 188, s. 2); C. 40:60-40.1 (1947, c. 87, amended 1964, c. 215); C. 40:60-40.2 (1948, c. 246, amended 1949, c. 61, s. 2); C. 40:60-40.3 (1948, c. 246); C. 40:60-40.4 (1949, c. 61, s. 3); C. 40:60-40.5 (1954, c. 143, amended 1955, c. 127; 1964, c. 75, s. 2; 1968, c. 345, s. 2); R. S. 40:60-43, amended 1962, c. 132; 1964, c. 110; 1968, c. 343; 1969, c. 85, s. 1; R. S. 40:60-44; 40:60-45; C. 40:60-45.1 (1940, c. 145); C. 40:60-45.2 (1947, c. 316); C. 40:60-45.3 (1950, c. 184, amended 1951, c. 132, s. 2; 1955, c. 130; 1957, c. 105; 1965, c. 149; 1966, c. 253, s. 1; 1968, c. 261); C. 40:60-45.4 (1954, c. 184, amended 1966, c. 35);

C. 40:60-45.5 (1965, c. 228); C. 40:60-51.6 (1957, c. 148); C. 40:60-51.11 (1964, c. 71); C. 40:60-51.12 (1966, c. 238).

C. 40A:12-16 Exchanges of certain lands; exceptions.

16. Exchanges of certain lands; exceptions. The governing body of any county, by resolution, or any municipality, by ordinance, may exchange any lands or any rights or interests therein owned by the county or municipality, except lands used for public highways or places, for other lands desired for public use. The county or municipality may exact and receive a cash consideration in addition to such other lands when such exchange shall be authorized, and such governing body determines that the lands to be conveyed to such county or municipality or such lands and the cash consideration to be paid are at least of equal value to, and their acquisition is more advantageous to, the county or municipality for public use, than the lands to be conveyed by the county or municipality, and that it is in the public interest that such exchange of lands be consummated. Any prior dedication or determination for use for park purposes of such land or any part thereof, shall not preclude an exchange thereof under this section but where the lands to be exchanged by a municipality are lands that have been dedicated and determined for use for park purposes, the lands received in exchange therefor by the municipality shall be used for the same purposes. For purposes of this section, any land to be exchanged by the county or municipality shall be valued at not less than the amount for which it was acquired or in the case of an acquisition by gift or devise, in an amount of not less than the "full and fair value" of the land as determined by the assessor of the municipality in which it is located pursuant to section 54:4-23 of the Revised Statutes for the tax year in which the land was acquired by the county or the municipality. Any land which shall be conveyed to the county or municipality in exchange for any county or municipal land shall be valued at no more than the "full and fair value" determined for the land by the assessor of the municipality in which the land is located pursuant to section 54:4-23 of the Revised Statutes for the then current tax year. In any case in which the value of the county or municipal land to be exchanged exceeds the value of the land to be received by the county or municipality, the county or municipality shall exact additional cash consideration, as authorized herein, equal to the difference of the two values as determined pursuant to this section.

Source: C. 40:60-51.1 (1942, c. 199, amended 1946, c. 157; 1958, c. 160); C. 40:60-51.3 (1944, c. 77); C. 40:60-51.4 (1944, c. 77).

C. 40A:12-17 Application of proceeds of disposition of lands.

17. Application of proceeds of disposition of lands. When any county or municipality shall dispose of real property, capital improvements or personal property not acquired at a tax sale, having issued bonds to finance the purchase thereof, and at the time of such disposal any of said bonds are outstanding, the whole proceeds of such disposal or, so much thereof as shall be necessary shall be used for the liquidation of such bonds. Payment of such bonds may be made at or prior to maturity on cancellation.

Source: R. S. 40:60-31.

OTHER MATTERS**C. 40A:12-18 Federal aid.**

18. Federal aid. Every county or municipality making an acquisition, sale, lease or exchange pursuant to this act may apply for, receive and expend such grants, loans, gifts and aids as may be made available to it for such purposes from any source whatsoever, including, but not limited to, the United States of America or any agency or department thereof; the State of New Jersey or any agency or department thereof; of any political subdivision of this State; or any corporation, person, association or society.

Source: New.

C. 40A:12-19 Conveyance of lands for public educational purposes.

19. Conveyance of lands for public educational purposes. When the governing body of a county or municipality shall determine by resolution that all or any part of a tract of land improved or unimproved is no longer needed for public purposes, the governing body may authorize the conveyance of such lands or any portion thereof to the State when so requested or approved by resolution of the State Board of Education or State Board of Higher Education or to any board of education in the county or municipality or to a regional board of education of a regional school district or to a consolidated board of education of a consolidated school district or the board of education of any county vocational school, requesting or approving such conveyance by resolution, for a nominal consideration, to be used by the State for educational purposes, connected with the district board of education or the regional board of education or the consolidated board of education or the board of education of any county vocational school, and may cause the same to be duly conveyed by its proper officers accordingly. A prior dedication or use for park purposes of such land or any

part thereof shall not be deemed to preclude a transfer and conveyance thereof under the provisions of this section.

Source: R. S. 40:9-1; 40:60-39, amended 1947, c. 305; 1950, c. 3, s. 1; 1961, c. 96, s. 1; 1970, c. 250, s. 1; 40:60-40, amended 1950, c. 3, s. 2; 1961, c. 96, s. 2; 1970, c. 250, s. 2.

C. 40A:12-20 Acquisition on behalf of another public body.

20. Acquisition on behalf of another public body. Any county or municipality may acquire, sell, lease or exchange, pursuant to this act, any real property, capital improvement or personal property in trust for, on behalf of, or as agent for, any other political subdivision or body corporate and politic of this State or the United States of America, or any department or agency thereof, upon such terms and conditions as the governing body of the municipality, by ordinance, or the county, by resolution, shall adopt.

Source: New.

C. 40A:12-21 Private sales to certain organizations upon nominal consideration.

21. Private sales to certain organizations upon nominal consideration. When the governing body of any county or municipality shall determine that all or any part of a tract of land, with or without improvements, owned by the county or municipality, is not then needed for county or municipal purposes, as the case may be, said governing body, by resolution or ordinance, may authorize a private sale and conveyance of the same, or any part thereof without compliance with any other law governing disposal of lands by counties and municipalities for a consideration, which may be nominal, and containing a limitation that such lands or buildings shall be used only for the purposes of such organization or association, and to render such services or to provide such facilities as may be agreed upon, and not for commercial business trade or manufacture, and that if said lands or buildings are not used in accordance with said limitation, title thereto shall revert to the county or municipality without any entry or reentry made thereon on behalf of such county or municipality, to

(a) A duly incorporated volunteer fire company or first aid and emergency or volunteer ambulance or rescue squad association of a municipality within the county, in the case of a county, or of the municipality, in the case of a municipality, for the construction thereon of a firehouse or fire school or a first aid and emergency or volunteer ambulance or rescue squad building or for the use of any existing building for any or all of said purposes and any such land or building sold to any duly incorporated volunteer fire com-

pany may be leased by such fire company to any volunteer firemen's association for the use thereof for fire school purposes for the benefit of the members of such association, or

(b) Any nationally chartered organization or association of veterans of any war, in which the United States has or shall have been engaged, by a conveyance for a consideration, a part of which may be an agreement by the organization or association to render service or provide facilities for the general public of the county or municipality, of a kind which the county or municipality may furnish to its citizens and to the general public, or

(c) Any duly incorporated nonprofit hospital association for the construction or maintenance thereon of a general hospital, or

(d) Any paraplegic veteran, that is to say, any officer, soldier, sailor, marine, nurse or other person, regularly enlisted or inducted, who was or shall have been in the active military or naval forces of the United States in any war in which the United States was engaged, and who, at the time he was commissioned, enlisted, inducted, appointed or mustered into such military or naval service, was a resident of and who continues to reside in this State, who is suffering from paraplegia and has permanent paralysis of both legs or the lower parts of the body resulting from injuries sustained through enemy action or accident while in such active military or naval service, for the construction of a home to domicile him, or to any organization or association of veterans, for the construction of a home or homes to domicile paraplegic veterans, with power to convey said lands and premises to the paraplegic veteran or veterans on whose behalf said organization or association shall acquire title to said lands.

Source: C. 40:32-13.3 (1960, c. 34); C. 40:60-40.1 (1947, c. 87, amended 1964, c. 215); C. 40:60-40.2 (1948, c. 246, amended 1949, c. 61, s. 2); C. 40:60-40.3 (1948, c. 246); C. 40:60-40.4 (1949, c. 61, s. 3); C. 40:60-40.5 (1954, c. 143, amended 1955, c. 127; 1964, c. 75, s. 2; 1968, c. 345, s. 2); C. 40:60-51.6 (1957, c. 148).

C. 40A:12-22 Establishment of a central registry.

22. Establishment of a central registry. Each municipality and county shall establish and maintain a central registry of all real property in which it has acquired an interest as of the effective date of this act. This registry shall also include a record of all real property which a county or municipality may hereafter acquire, sell or lease. It shall be in such form and contain such information as the Division of Local Finance in the Department

of Community Affairs shall prescribe within 180 days after the effective date of this act.

The central registry referred to herein shall:

- (a) Constitute a public record;
- (b) Be entitled "Municipal Real Property Registry" or "County Real Property Registry" as may be appropriate;
- (c) Be maintained and available for inspection in the office of the municipal or county clerk, as may be appropriate.

Source: New.

C. 40A:12-23 Display of flags on county and municipal buildings.

23. Display of flags on county and municipal buildings. The governing bodies of the respective counties and municipalities shall procure United States flags, flagstuffs and the appliances therefor for their particular county courthouse and the municipal buildings and shall display the flags upon or near said county courthouses and buildings during business hours and at such other times as the governing bodies may deem proper.

Source: R. S. 40:9-4.

C. 40A:12-24 Rental of lands and buildings or portions thereof not needed for public use; portions of buildings; rental.

24. Rental of lands and buildings or portions thereof not needed for public use; portions of buildings; rental. Every county or municipality may lease for fixed and upon prescribed terms and for private purposes any of the land or buildings or any part thereof not presently needed for public use to the person who will pay the highest rent therefor. The use by the lessee shall be of such character as not to be detrimental to the building or the use of the building or the use of the unleased part of the building.

Source: R. S. 40:32-12; 40:60-42.

C. 40A:12-25 Use of public building by counties and municipalities.

25. Use of public building by counties and municipalities. Each county may authorize any municipality in the county to use, for municipal purposes, a portion of any county building and any municipality may permit the county in which it is located to use for county purposes a portion of any municipal building, not needed for the purposes of the county or the municipality, as the case may be, upon such terms as shall be agreed upon by the governing bodies of the county and the municipality.

Source: R. S. 40:32-11.

C. 40A:12-26 No liability for injuries to persons from use of grounds, buildings or structures.

26. No liability for injuries to persons from use of grounds, buildings or structures. No county or municipality shall be liable for injury to the person from the use of any public grounds, buildings or structures, any law to the contrary notwithstanding.

Source: R. S. 40:9-2.

C. 40A:12-27 Construction.

27. Construction. The language and terms of this act shall be construed broadly, in order that counties and municipalities may have all of the powers necessary and incident to the efficient and economical execution of their public functions, and in order that the officers and employees of counties and municipalities shall have clear and unambiguous standards of conduct in dealing with public real property, capital improvements or personal property and moneys.

Source: New.

C. 40A:12-28 Saving clause.

28. Saving clause. Any acquisition, sale, lease or exchange made prior to the effective date of this act, pursuant to any act repealed or amended pursuant to this act, is hereby validated, confirmed and continued, except that no lease shall be renewed or extended, except in accordance with the provisions of this act.

Source: New.

C. 40A:12-29 Statutes repealed.

29. Statutes repealed. The following sections, chapters and acts, together with all amendments and supplements thereto are hereby repealed:

Sections 40:9-1; 40:9-2; 40:9-4; 40:32-1; 40:32-2; 40:32-3; 40:32-4; 40:32-5; 40:32-7; 40:32-8; 40:32-9; 40:32-10; 40:32-11; 40:32-12; 40:32-13; 40:60-1; 40:60-2; 40:60-3; 40:60-4; 40:60-5; 40:60-6; 40:60-7; 40:60-8; 40:60-9; 40:60-26; 40:60-27; 40:60-29; 40:60-30; 40:60-31; 40:60-36; 40:60-37; 40:60-38; 40:60-39; 40:60-40; 40:60-42; 40:60-43; 40:60-44; 40:60-45; 40:176-1; 40:176-2; 40:176-11; 40:176-12 of the Revised Statutes;

Laws of 1940, c. 145 (C. 40:60-45.1);
Laws of 1942, c. 199 (C. 40:60-51.1);
Laws of 1942, c. 262 (C. 40:32-9.1—C. 40:32-9.2);
Laws of 1944, c. 77 (C. 40:60-51.3—C. 40:60-51.4);
Laws of 1947, c. 87 (C. 40:60-40.1);
Laws of 1947, c. 316 (C. 40:60-45.2);
Laws of 1948, c. 246 (C. 40:60-40.2—C. 40:60-40.3);
Laws of 1949, c. 61 (C. 40:60-40.4);
Laws of 1949, c. 153 (C. 40:60-27.3);
Laws of 1950, c. 7 (C. 40:60-27.4);
Laws of 1950, c. 184 (C. 40:60-45.3);
Laws of 1950, c. 194 (C. 40:23-6.21);
Laws of 1954, c. 18 (C. 40:32-13.1—C. 40:32-13.2);
Laws of 1954, c. 143 (C. 40:60-40.5);
Laws of 1954, c. 184 (C. 40:60-45.4);
Laws of 1957, c. 148 (C. 40:60-51.6);
Laws of 1958, c. 87 (C. 40:32-20);
Laws of 1960, c. 34 (C. 40:32-13.3);
Laws of 1964, c. 71 (C. 40:60-51.11);
Laws of 1964, c. 109 (C. 40:60-38.1);
Laws of 1965, c. 228 (C. 40:60-45.5).

30. Effective date. This act shall take effect July 1, 1971.

Approved June 9, 1971.

CHAPTER 200

AN ACT concerning county and municipal officers and employees,
revising parts of the statutory law, and enacting an additional
chapter to Title 40A of the New Jersey Statutes.

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

SECTION 1

TITLE 40A.

CHAPTER 9

OFFICERS AND EMPLOYEES

- A. Counties and Municipalities
- B. Counties
- C. Municipalities

A. COUNTIES AND MUNICIPALITIES

ANALYSIS

- 40A:9-1 Residence of officers.
- 40A:9-2 Appointees to have the required qualifications in cases of scientific engineering skill.
- 40A:9-3 Discrimination by reason of age; exceptions.
- 40A:9-4 Dual office holding.
- 40A:9-5 Rights of certain employees transferred to other positions.
- 40A:9-6 De facto officers and employees; right to compensation.
- 40A:9-7 Leaves of absence with pay to certain officers and employees.
- 40A:9-8 Salaries; power of Civil Service Commission.
- 40A:9-9 Appointments; permanent and temporary.
- 40A:9-10 Compensation; exceptions.
- 40A:9-10.1 Contracts for lesser salaries, wages or compensation.
- 40A:9-11 Vacancies in office; causes; how filled; change of residence not to cause vacancy in certain cases.
- 40A:9-11.1 Chapter 303 of the laws of 1970 saved from repeal.
- 40A:9-12 Vacancies from any cause other than expiration of term to be filled for unexpired term.
- 40A:9-13 Contracts for group insurance.
- 40A:9-14 Insurance coverage for employees.
- 40A:9-15 Filing copies of contracts with State Employees Health Benefit Commission; report to Governor and Legislature.

- 40A:9-16 Validation of prior contracts; amendment; modification.
- 40A:9-17 Deductions for payment to credit unions.
- 40A:9-18 Awards program; appropriations.
- 40A:9-19 Section 40:11-17 of the Revised Statutes saved from repeal.
- 40A:9-20 Chapter 181 of the laws of 1940 saved from repeal.
- 40A:9-21 Chapter 10 of the laws of 1954 saved from repeal.
- 40A:9-22 Statutes repealed.

40A:9-1 Residence of officers.

Except in the case of counsel, attorney, engineer, health officer, auditor or comptroller or as otherwise provided by law, every person holding an office, the authority and duties of which relate to a county only, or to a municipality only, shall reside within said county or municipality, as the case may be.

Any person holding or attempting to hold any such office in a county or municipality in violation hereof, may be ousted in a proceeding in lieu of prerogative writ.

Source: R. S. 40:11-1 amended 1953, c. 37, s. 7; 40:46-14 amended 1949, c. 62; 1970, c. 240.

40A:9-2 Appointees to have the required qualifications in cases of scientific engineering skill.

No person shall be appointed to or hold any office in a county or municipality in cases where scientific engineering skill is necessary, unless he has the required qualifications for personally performing the duties of such office.

Source: R. S. 40:11-1 amended 1953, c. 37, s. 7.

40A:9-3 Discrimination by reason of age; exceptions.

The board of chosen freeholders of any county, or the governing body of any municipality shall not make any rules or regulations designed to bar any person from holding a county or municipal position or employment or applying therefor, who is 40 years of age or more. This section shall be inapplicable to policemen or firemen or guards employed in the service of any county or municipal penal institution or to court attendants in first and second class counties whose duties require the custody and handling of prisoners.

Source: R. S. 40:11-4 amended 1938, c. 336; 1951, c. 62, s. 1.

40A:9-4 Dual office holding.

(1) It shall be lawful for a person to hold simultaneously an elective county office and an elective municipal office.

(2) It shall be lawful for a member of the Legislature of the State to hold simultaneously any elective or appointive office or position in county or municipal government.

(3) Nothing contained in this section shall be deemed to prevent the incumbent of any office from abstaining from voting in any matter in which he believes he has a conflict of duty or of interest, nor to prevent a challenge of a right to vote on that account under the principles of the common law or any statute.

(4) a. Nothing herein contained shall be deemed to repeal or supersede any statute prohibiting the dual holding of offices or positions.

b. This section shall apply to persons now holding elective offices or positions with the counties and municipalities or now serving as members of the Legislature of the State.

c. For the purposes of this section the term "elective office" shall mean an office to which an incumbent is elected by the vote of the general electorate.

Source: C. 40:11-1.1 (1962, c. 173, s. 1); C. 40:11-1.2 (1962, c. 173, s. 2); C. 40:11-1.3 (1962, c. 173, s. 3); C. 40:11-1.4 (1962, c. 173, s. 4).

40A:9-5 Rights of certain employees transferred to other positions.

Whenever heretofore or hereafter a transfer has been or shall be effected by appointment, assignment or promotion of a municipal employee to any other department or position in municipal employment, or to a position or department of the county government; or of a county employee to any other position or department in county employment, or to a department or position of a municipal government, in counties of the first or second class, the period of such prior service in said county or municipal employment, for any purpose whatsoever, shall be computed as if the whole period of employment of such employee had been in the service of the department, or in the position, to which the said employee had been transferred.

Source: R. S. 40:11-5.

40A:9-6 De facto officers and employees; right to compensation.

Any person who has held or who may hereafter hold, de facto, any office or position in the public service of any county or municipality, and who has or shall have performed the duties thereof, shall be entitled to the emoluments and compensation appropriate to such office or position for the time in fact so held and may recover therefor in any court of competent jurisdiction, notwithstanding any refusal or failure of any other person or officer to approve or authorize the payment of said emoluments and compensation.

Source: R. S. 40:11-7.

40A:9-7 Leaves of absence with pay to certain officers and employees.

The board of chosen freeholders of any county, by resolution, or the governing body of any municipality, by ordinance, may provide for granting leaves of absence with pay not exceeding one year, to any of its officers or employees who shall be injured or disabled resulting from or arising out of his employment, provided that the examining physician appointed by the county or the municipality shall certify to such injury or disability.

Source: R. S. 40:11-8.

40A:9-8 Salaries; power of Civil Service Commission.

Any county or municipality operating under the provisions of subtitle 3 of Title 11 (Civil Service) of the Revised Statutes may request the Civil Service Commission to recommend standards of salaries to be paid to persons filling offices and positions in the classified service, and the county, by resolution, or the municipality, by ordinance, as the case may be, may adopt such recommendations.

Source: R. S. 40:11-14.

40A:9-9 Appointments; permanent and temporary.

In addition to the officers and employees whose appointment is specifically provided for by law, the board of chosen freeholders of the county or the governing body of the municipality, as the case may be, may appoint or provide for the appointment of such other officers, agents and employees as may be required for the execution of the powers conferred upon said board or governing body or any board or officer of the county or municipality.

Whenever any officer or employee is temporarily absent, disabled or disqualified, the board of chosen freeholders of the county or the governing body of the municipality may designate some

person to act in place of any such officer or employee during his temporary absence, disability or disqualification.

Source: R. S. 40:21-3; 40:46-13.

40A:9-10 Compensation; exceptions.

Except as otherwise provided by law, the board of chosen freeholders of the county or the governing body of the municipality shall fix the amount of salary, wages or other compensation to be paid to county and municipal officers and employees unless they are to serve without compensation.

Source: R. S. 40:21-13.

40A:9-10.1 Contracts for lesser salaries, wages or compensation.

The board of chosen freeholders of any county or the governing body of any municipality may enter into a contract with any officer or employee of the county or municipality, as the case may be, to perform the duties of his office, position or employment at a lesser salary, wage or compensation than otherwise fixed and when the contract shall be entered into, it shall control the amount of such salary.

Source: R. S. 40:21-15; 40:46-30.

40A:9-11 Vacancies in office; causes; how filled; change of residence not to cause vacancy in certain cases.

Whenever a county or municipal officer who is required to be a resident shall cease to be a bona fide resident of the county or municipality, as the case may be, or whenever the resignation of any such officer shall have been accepted by the proper authority, his office shall immediately be deemed to be vacant. The county or municipality, by the proper authority, shall thereupon proceed to fill the vacancy in the manner prescribed by law.

A nonresident of any municipality may hold office as counsel, attorney, engineer, health officer, auditor or comptroller of such municipality and no such office shall be deemed vacated by a change of residence of any such person.

Source: R. S. 40:21-5; 40:46-14 amended 1949, c. 62; 1970, c. 240.

40A:9-11.1 Chapter 303 of the laws of 1970 saved from repeal.

Chapter 303 of the laws of 1970 (C. 40:46-14.1) is saved from repeal. [The act saved from repeal by this section provides that a nonresident of any municipality within a county of the fourth class, pursuant to the 1960 Federal Census, may hold office as building inspector of such municipality and no such office shall be deemed

vacant by reason of the removal or nonresidence of any such building inspector.]

Source: C. 40:46-14.1 (1970, c. 303).

40A:9-12 Vacancies from any cause other than expiration of term to be filled for unexpired term.

In any county or municipality, whenever a vacancy in office occurs from any cause other than expiration of the term of office, such vacancy shall be filled for the unexpired term only.

Source: R. S. 40:46-15.

40A:9-13 Contracts for group insurance.

Any municipality, county, school district, or agency thereof, herein referred to as employers, may enter into contracts of group life, accidental death and dismemberment, hospitalization, medical, surgical, major medical expense or health and accident insurance with any insurance company or companies authorized to do business in this State or may contract with a nonprofit hospital service or medical service corporation with respect to the benefits which they are authorized to provide respectively. Such contract or contracts shall provide any one or more of such coverages for the employees of such employer and may include their dependents. "Dependents" shall include an employee's spouse and the employee's unmarried children, including stepchildren and legally adopted children, and, at the option of the employer and the carrier, foster children, under age 19 who live with the employee in a regular parent-child relationship, and may also include, at the option of the employer and the carrier, other unmarried children of the employee under the age of 23 who are dependent upon the employee for support and maintenance. A spouse or child enlisting or inducted into military service shall not be considered a dependent during such military service. Elected officials may be considered, at the option of the employer, to be "employees" for the purposes hereof, but "employees" shall not otherwise include persons employed on a short-term, seasonal, intermittent or emergency basis, persons compensated on a fee basis, or persons whose compensation from the public employer is limited to reimbursement of necessary expenses actually incurred in the discharge of their duties. "Employees" and "dependents" shall also not include persons, active or retired, who are otherwise eligible for coverage hereunder but who, although they meet the age eligibility requirement of the Federal Medicare Program, are not covered by the complete Federal Program.

Retired employees and their dependents may continue to be covered if they were covered by a group contract or contracts or a group remittance plan of the employer as of September 20, 1967, or immediately prior to the employee's retirement. The contract shall exclude from eligibility for any coverage any class or classes of public employees who are eligible for like or similar coverage under another group contract covering such class or classes of employees and may condition the eligibility of any employee for coverage upon satisfying a waiting period stated in the contract. Nothing herein contained shall be deemed to authorize coverage of dependents of an employee under a group life insurance policy or to allow the issuance of a group life insurance policy on which the entire premium is to be derived from funds contributed by the insured employees.

The coverage of any employee, and of his dependents, if any, shall cease upon the discontinuance of his employment or upon cessation of active full-time employment in the classes eligible for coverage subject to such provision as may be made in any contract by his employer for limited continuance of coverage during disability, part-time employment, leave of absence other than leave for military service or layoff, and for continuance of coverage after retirement.

Any contract or contracts permitted hereunder shall contain limitations, exclusions or exceptions so as to avoid duplication of benefits or services otherwise available pursuant to accidental death and dismemberment, hospitalization, medical, surgical, major medical expense or health and accident coverage under any other law of this State or the coverage afforded under the laws of the United States, such as the Federal Medicare Program, and at the option of the employer and the carrier, group insurance or any other arrangement of coverage for individuals in a group, whether on an insured or uninsured basis.

Source: C. 40:11-15.1 (1960, c. 180, s. 1 amended 1964, c. 259, s. 1; 1967, c. 204, s. 1).

40A:9-14 Insurance coverage for employees.

Any employer entering into such a contract is hereby authorized to pay part or all of the premiums or charges for such contracts and may appropriate out of its general funds any money necessary to pay such premiums or charges or portions thereof. The contribution required of any employee toward the cost of such coverage may be deducted from the pay, salary or other compensation

of such employee upon an authorization in writing made to the appropriate disbursing officer.

The continuance of coverage after retirement of any employee may be provided at such rates and under the conditions as shall be prescribed in the contract subject, however, to the requirements hereinafter set forth in this section. The contribution required of any retired employee toward the cost of such coverage may be paid by him to his former employer or in such other manner as the employer shall direct.

Retired employees shall be required to pay for the entire cost of coverage for themselves and their dependents at rates which are deemed to be adequate to cover the benefits, as affected by Medicare, of such retired employees and their dependents on the basis of the utilization of services which may be reasonably expected of such older age classification; provided, however, that the total rate payable by such a retired employee for himself and his dependents, for coverage under the contract and for Part B of Medicare, shall not exceed by more than 25%, the total amount that would have been required to have been paid by the employee and his employer for the coverage maintained had he continued in office or active employment and he and his dependents were not eligible for Medicare benefits.

Nothing herein shall be construed as compelling an employer to pay any portion of the premiums or charges attributable to such contracts.

“Medicare” as used herein means the coverage provided under Title XVIII of the Social Security Act as amended in 1965, or its successor plan or plans.

In the event an insurance company issues a group insurance policy to an employer which includes 2 or more of the coverages authorized hereby, such insurance company shall at the end of each policy year furnish to the employer a summary of the cost of each such coverage.

The employer may reimburse the active employee for his premium charges under Part B of the Federal Medicare Program covering the employee alone.

Any contracts in effect on September 20, 1967 are hereby confirmed as good and effectual until the contract anniversary next

following the first anniversary of said date when such contracts, exclusive of group life insurance, will have to be conformed to satisfy the provisions hereof.

Source: C. 40:11-16.1 (1960, c. 180, s. 2 amended 1964, c. 259, s. 2; 1967, c. 204, s. 2); C. 40:11-16.1a (1967, c. 204, s. 3).

40A:9-15 Filing copies of contracts with State Employees Health Benefit Commission; report to Governor and Legislature.

It shall be the duty of the executive officer of any employer who hereafter enters into such a contract to file a copy thereof with the State Employees Health Benefits Commission. The commission shall prepare and file periodically and not less than every 2 years, a report to the Governor and the Legislature as to such contracts being entered into by employers and shall make such recommendations concerning said contracts and the coverage thereunder as it deems appropriate to achieve uniformity of coverage and benefits for employees throughout the State.

Source: C. 40:11-16.2 (1964, c. 259, s. 3).

40A:9-16 Validation of prior contracts; amendment; modification.

Any such contract heretofore executed between an employer and an authorized insurer which would be valid hereunder is hereby validated and confirmed notwithstanding that such a contract may not have been authorized or properly entered into.

Any such contract heretofore executed between an employer and an authorized insurer which would be valid hereunder except for the provisions requiring the payment of premiums by retired employees, is hereby validated and confirmed but such contracts shall not be renewed or extended unless they are amended or modified to be in accord with the provisions hereof.

It shall not be a defense to the payment or satisfaction of any claim for benefits under any contract or policy hereby validated and confirmed that such contract or policy was ultra vires, improperly entered into or otherwise not authorized by law.

Source: C. 40:11-16.3 (1964, c. 259, s. 4).

40A:9-17 Deductions for payment to credit unions.

Whenever any person holding public office, position or employment, whose compensation is paid by any county or municipality or by any board, body, agency or commission thereof, or any board of education, shall indicate in writing to the proper disbursing

officer his desire to have any deductions made from his compensation for payment to a credit union, organized under the laws of this State or of the United States, the membership of which is limited to public employees, such deductions shall be made by the proper disbursing officer, when directed so to do by resolution of the governing body of any county or municipality or by resolution of the board, body, agency or commission or board of education of which he is the disbursing officer, and shall be transmitted to the treasurer of the credit union. Any such written authorization may be withdrawn upon filing notice of such withdrawal with the proper disbursing officer.

Source: C. 40:11-26 (1966, c. 310).

40A:9-18 Awards program; appropriations.

The board of chosen freeholders of any county or the governing body of any municipality may, by resolution, establish an awards program or programs for county or municipal officers and employees, as the case may be, designed to promote efficiency and economy in governmental functions of the county or municipality and to reward individual officers and employees for heroism, efficiency, meritorious suggestions, professional accomplishments, performance of duty and for service. The board or governing body shall by such resolution provide for the administration of its awards program or programs by an officer or officers named therein and may provide for such advisory committee or committees to assist in the formulation and administration of such programs as they shall determine.

Awards, within available appropriations therefor, may be in the form of cash, medals, certificates, insignia, or other appropriate devices or tokens of appreciation as shall be provided for under an established awards program.

The board of chosen freeholders or governing body may appropriate funds necessary to carry out any program or programs established hereunder.

Source: C. 40:11-27 (1968, c. 91, s. 1); C. 40:11-28 (1968, c. 91, s. 2).

40A:9-19 Section 40:11-17 of the Revised Statutes saved from repeal.

Section 40:11-17 of the Revised Statutes is saved from repeal. [This section of the Revised Statutes saved from repeal by this section provides that the promulgation of the Federal census for

the year 1930, or the passage of an act for the reclassification of counties, shall not affect the counties or municipalities as to the salaries of their officers or employees but such salaries shall continue at the same rate as on April 27, 1931, except the salaries of county clerks, registers of deeds and mortgages, sheriffs, and surrogates. The section further provided that the promulgation of said census shall not operate to fill any additional offices or employments, or grant any pensions or increase any pension payments.]

Source: R. S. 40:11-17 amended 1947, c. 363, s. 1; 1948, c. 45, s. 1.

40A:9-20 Chapter 181 of the laws of 1940 saved from repeal.

Chapter 181 of the laws of 1940 (C. 40:11-17.1) is saved from repeal. [The act saved from repeal by this section provides that the promulgation of the Federal census for the year 1940, or the passage of an act for the reclassification of counties, shall not affect the counties or municipalities as to the salaries of their officers or employees but such salaries shall continue at the same rate as on July 8, 1940, except the salaries of county clerks, registers of deeds and mortgages, sheriffs, and surrogates. The act further provided that the promulgation of said census shall not operate to fill any additional offices or employments, or grant any pensions or increase any pension payments.]

Source: C. 40:11-17.1 (1940, c. 181 amended 1947, c. 363, s. 2; 1948, c. 45, s. 2).

40A:9-21 Chapter 10 of the laws of 1954 saved from repeal.

Chapter 10 of the laws of 1954 (C. 40:11-17.5) is saved from repeal. [The act saved from repeal by this section provides that notwithstanding the provisions of any other law, the number of offices and employments, the granting of pensions or the amount thereof, the salary or compensation of any officer or employee, in any county of the second class having a population in excess of 500,000 and in any county of the fourth class having a population in excess of 45,000 and in any municipality in any such county, shall be governed and determined by the 1950 Federal census.]

Source: C. 40:11-17.5 (1954, c. 10).

40A:9-22 Statutes repealed.

The following sections, acts and parts of acts, together with all amendments and supplements thereto, are hereby repealed.

Revised Statutes Sections

40:11-1 amended 1953, c. 37
 40:11-2 amended 1953, c. 37
 40:11-4 amended 1938, c. 336; 1951, c. 62
 40:11-5 to 40:11-8 both inclusive
 40:11-14
 40:21-3
 40:21-5
 40:21-13
 40:21-15
 40:46-13
 40:46-14 amended 1949, c. 62; 1970, c. 240
 40:46-15
 40:46-30

Pamphlet Laws

Laws of 1960, c. 180 (C. 40:11-15.1, C. 40:11-16.1)

Schedule of Amendments of Laws of 1960, c. 180.

Sections 1 and 2 amended by P. L. 1964, c. 259; 1967, c. 204

Laws of 1962, c. 173 (C. 40:11-1.1 to C. 40:11-1.4 both inclusive)

Laws of 1964, c. 259 (C. 40:11-16.2, C. 40:11-16.3)

Laws of 1966, c. 310 (C. 40:11-26)

Laws of 1967, c. 204, s. 3 (C. 40:11-16.1a)

Laws of 1968, c. 91 (C. 40:11-27, C. 40:11-28)

B. ANALYSIS

40A:9-23 Eligibility of members of the board of chosen freeholders for other offices or positions; conditions; exceptions.
 40A:9-24 Resignation of officers.
 40A:9-25 Removal of officers and employees; procedure.
 40A:9-26 Clerk of board of chosen freeholders; term; duties; tenure; removal.
 40A:9-27 Treasurer; term; duties.
 40A:9-28 Comptroller; term; duties.
 40A:9-29 Auditor; term; duties.
 40A:9-30 Purchasing agent; term; duties.
 40A:9-31 General storekeeper; term; duties.
 40A:9-32 Superintendent of public works; appointment; bond.
 40A:9-33 Blank.

- 40A:9-34 Superintendent of child welfare; tenure of office in certain cases.
- 40A:9-35 Executive director of department of institutions of county of fifth class; tenure.
- 40A:9-36 Supervisor in certain counties.
- 40A:9-37 Supervisor; qualifications; election; term of office.
- 40A:9-38 Supervisor; powers and duties.
- 40A:9-39 Supervisor; investigation of conduct of appointed officers and employees and their removal for cause; judicial review.
- 40A:9-40 Supervisor's veto power; overruling of supervisor's veto by board of chosen freeholders.
- 40A:9-41 Vacancy in office of supervisor.
- 40A:9-42 Administrators; term; duties; compensation.
- 40A:9-43 Counsel; engineer; appointment; term.
- 40A:9-44 Road supervisor; appointment; term.
- 40A:9-45 Blank.
- 40A:9-46 Medical examiners.
- 40A:9-47 Assistant medical examiners, qualifications; toxicologists, scientific experts, clerical assistants and other personnel.
- 40A:9-48 Appointment of licensed physician to act in certain cases.
- 40A:9-49 Duties of officials in respect to unidentified or unclaimed dead bodies; burial; cost of burial.
- 40A:9-50 Court orders pertaining to disinterment of dead bodies and duties of officials therewith.
- 40A:9-51 Morgues, morgue keepers; appointments.
- 40A:9-52 Morgue keepers; duties; burial certificates; fees and expenses.
- 40A:9-53 Delivery of unidentified dead bodies for placing in the morgue.
- 40A:9-54 Unidentified dead bodies in morgues; disposition.
- 40A:9-55 Delivery of identified dead bodies to proper persons; records.
- 40A:9-56 Unidentified dead bodies; disposition where no morgue keepers.
- 40A:9-57 Police to report finding of dead body.

- 40A:9-58 Disposition of personal property of unknown decedent.
- 40A:9-59 Shipwrecked bodies; reports.
- 40A:9-60 Finder's expenses.
- 40A:9-61 Disposition of personal property found on shipwrecked bodies.
- 40A:9-62 Medical examiner's records of shipwrecks.
- 40A:9-63 County clerk; bond.
- 40A:9-64 County clerk's oath.
- 40A:9-65 Performance of duties before giving bond; misdemeanor.
- 40A:9-66 Seals of county clerks.
- 40A:9-67 Supreme Court rules governing county clerks who are attorneys at law.
- 40A:9-68 Duties of county clerk for the courts.
- 40A:9-69 Temporary clerks of courts.
- 40A:9-70 Vacancy in office of county clerk other than by expiration of term.
- 40A:9-71 Moneys received by county clerk; depositories.
- 40A:9-72 Transfer of records and moneys of county clerk to successor in office.
- 40A:9-73 County clerk, powers of notary public or commissioner of deeds.
- 40A:9-74 Personnel in office of county clerk.
- 40A:9-75 County clerk in certain counties may establish court division and registry division.
- 40A:9-76 Salary of county clerk in certain counties.
- 40A:9-77 Compensation of deputy county clerks; chief clerks and other personnel.
- 40A:9-77.1 Chapter 260 of the laws of 1969 saved from repeal.
- 40A:9-78 Section 4 of chapter 96 of the laws of 1959 saved from repeal.
- 40A:9-79 Chapter 223 of the laws of 1939 saved from repeal.
- 40A:9-80 Existing offices of registers of deeds and mortgages confirmed and continued.
- 40A:9-81 Establishment of office of register of deeds and mortgages in certain counties; referendum.
- 40A:9-82 Transfer of records and papers upon the establishment of office of register of deeds and mortgages.

- 40A :9-83 Term of office of register of deeds and mortgages.
- 40A :9-84 Register of deeds and mortgages; bond.
- 40A :9-85 Register of deeds and mortgages; oath.
- 40A :9-86 Performance of duties before giving bond; misdemeanor.
- 40A :9-87 Certain statutory provisions applicable to county clerk where no register of deeds and mortgages.
- 40A :9-88 Vacancy in office of register of deeds and mortgages other than by expiration of term.
- 40A :9-89 Board of chosen freeholders to furnish accommodations and equipment for register of deeds and mortgages.
- 40A :9-90 Register of deeds and mortgages is the county recording officer.
- 40A :9-91 Personnel in the office of register of deeds and mortgages.
- 40A :9-92 Salary of register of deeds and mortgages in certain counties.
- 40A :9-93 Compensation of deputy register of deeds and mortgages, chief clerks and employees.
- 40A :9-94 Eligibility for office of sheriff.
- 40A :9-95 Sheriff's bond.
- 40A :9-96 Sheriff's oath.
- 40A :9-97 Certificate for commission.
- 40A :9-98 Sheriff not to perform duties of office before giving bond and taking oath; misdemeanor.
- 40A :9-99 Sheriff may act in certain cases where commission delayed.
- 40A :9-100 Effective date of commission and expiration of term of office.
- 40A :9-101 Failure of sheriff elect to qualify; effect.
- 40A :9-102 Vacancy in office, other than by expiration of term.
- 40A :9-103 Bond and oath of appointee to fill vacancy.
- 40A :9-104 Salary of sheriff in certain counties.
- 40A :9-105 Expenses payable to sheriffs.
- 40A :9-106 Uncollected fees credited to account of former sheriff.
- 40A :9-107 Sheriff to deliver to his successor moneys and papers.
- 40A :9-108 Sheriff not to hold other civil office.
- 40A :9-109 Amercement of sheriff, acting sheriff.

- 40A:9-110 Amercement; court to designate enforcement officer.
- 40A:9-111 Bonds taken by sheriffs.
- 40A:9-112 Blank.
- 40A:9-113 Acting sheriff or newly-appointed or elected sheriff to execute uncompleted writs and processes.
- 40A:9-114 Exercise of office pending new appointment or election.
- 40A:9-115 Undersheriffs; appointments; oaths.
- 40A:9-116 Limitation on number of undersheriffs.
- 40A:9-117 Undersheriffs, chief clerks and other personnel; compensation.
- 40A:9-118 Compensation of criminal identification bureau personnel.
- 40A:9-119 Status of criminal identification bureau personnel.
- 40A:9-120 Constables; appointment.
- 40A:9-121 Constables; terms of office.
- 40A:9-122 Annual charges payable by constables; badges.
- 40A:9-123 Constables; vacancy.
- 40A:9-124 Constable's oath.
- 40A:9-125 Constable's bond.
- 40A:9-126 Actions on constable's bond.
- 40A:9-126.1 Constable's reports.
- 40A:9-127 Moneys payable to or by constable in certain cases; jurisdiction of courts.
- 40A:9-128 Statutes repealed.

40A:9-23 Eligibility of members of the board of chosen freeholders for other offices or positions; conditions; exceptions.

No member of a board of chosen freeholders during the term for which he is elected shall be eligible for appointment to any office or position required to be filled by the board unless he shall resign and cease to be such a member at least 3 months prior to his appointment, except in cases where such office or position, by law, may be filled by a member of the board or the appointment is to the position of county counsel or county treasurer.

Source: R. S. 40:21-1.

40A:9-24 Resignation of officers.

Any elective county officer desirous of resigning shall send his resignation, in writing, to the Governor. All such resignations shall be filed in the office of the Secretary of State. No resignation made in any other way or pretended to be made, shall be valid.

Source: C. 40:21-17.1 (1953, c. 37, s. 38).

40A:9-25 Removal of officers and employees; procedure.

In any county wherein Title 11 (Civil Service) of the Revised Statutes is not operative and unless otherwise provided by law, any officer or employee of such county who shall be removable from his office or position only for cause, shall not be removed from his office or position until after written charges of the cause of complaint shall have been preferred against him, signed by the person making such charges. The complaint shall be filed with the board of chosen freeholders of such county and a copy thereof shall be served upon the officer or employee so charged, with notice of a designated time and place for the hearing thereon. At the hearing such officer or employee may be represented by counsel.

The said board and the person so charged shall have the power to subpoena witnesses and documentary evidence. The board shall prescribe the rules and regulations for the conduct of the hearing.

No officer or employee shall be removed from his office or position for political reasons.

Source: R. S. 40:21-4.

40A:9-26 Clerk of board of chosen freeholders; term; duties; tenure; removal.

The board of chosen freeholders of each county shall appoint a clerk to the board for a term of 3 years. He shall keep in a book the minutes and a record of the orders and proceedings of the board. He shall have custody of the official seal of the county and all records, documents and other official papers relating to the property and business of the county and perform such services as the board from time to time shall direct.

Any person, appointed to the office of clerk of a board of chosen freeholders, having held such office continuously for a term of 20 years from the date of his original appointment, shall not be removed from his office except for good cause shown after a fair and impartial hearing upon notice and before the entire board. Every such clerk shall hold his office during good behavior and shall not be removed except for cause as aforesaid.

Source: R. S. 40:21-18; 40:21-18.1.

40A:9-27 Treasurer; term; duties.

The board of chosen freeholders of each county shall appoint a county treasurer for a term of 3 years. Except as otherwise provided by law, the county treasurer shall be the custodian of all county funds and disburse said funds only on the order of the board. He shall collect and receive all moneys due the county.

He shall keep adequate records and unless there is a county comptroller, at least once a month report to the board the receipts and disbursements made by him. Where there is a county comptroller, the county treasurer shall report in such manner and at such times as the board shall direct. The county treasurer shall maintain general books of account in accordance with rules and regulations of the Local Finance Board in the Department of Community Affairs. The county treasurer shall perform such other duties as may be assigned to him from time to time by the board.

Source: R. S. 40:21-19 amended 1967, c. 103, s. 1.

40A:9-28 Comptroller; term; duties.

The board of chosen freeholders of any county may, by resolution, create the office of county comptroller and fix his duties and compensation. The county comptroller shall be elected by the board for a term of 3 years.

In any county in which the office of county comptroller is created he shall be responsible for rendering the reports and maintenance of the accounts otherwise required of the county treasurer.

Source: C. 40:21-19.1 (1967, c. 103, s. 2).

40A:9-29 Auditor; term; duties.

The board of chosen freeholders of any county may appoint a county auditor to exercise supervision over the expenditure and receipt of moneys of the county.

His term of office shall be for 3 years.

Source: R. S. 40:21-20.

40A:9-30 Purchasing agent; term; duties.

The board of chosen freeholders of any county may appoint a purchasing agent for a term of 3 years and authorize him to establish classifications and standards for the purchase of supplies and materials for the use of all county institutions, departments and buildings. The county purchasing agent, subject to directions of the board, shall make purchases, execute contracts and perform such functions and duties as may be required and necessary.

Source: R. S. 40:21-21.

40A:9-31 General storekeeper; term; duties.

The board of chosen freeholders of any county may appoint a general storekeeper for a term of 3 years. The storekeeper shall be responsible for the keeping in good condition the materials and

supplies sent to him and shall deliver such materials and supplies to the county institutions, departments and officials according to the directions of the board and upon proper requisition. He shall perform such functions and duties as may be required and necessary.

Source: R. S. 40:21-22.

40A:9-32 Superintendent of public works; appointment; bond.

In any county the board of chosen freeholders in their discretion, by resolution, may provide for the appointment of a county superintendent of public works. Upon any such appointment the board shall fix the compensation and prescribe the powers, duties and functions of said county superintendent. The term of office of the county superintendent of public works shall be 3 years from the date of his appointment and until his successor is chosen and qualified. The said superintendent shall be required to furnish a bond in such amount as the board shall fix. The bond shall be subject to approval as to form by the board or the county counsel.

Source: R. S. 40:21-43; 40:21-44.

40A:9-33 Blank.

40A:9-34 Superintendent of child welfare; tenure of office in certain cases.

Any superintendent of child welfare in a county with a population between 350,000 and 600,000, having been connected with the welfare department of the county for at least 15 years, shall have tenure in office and shall only be removed therefrom after due hearing, upon notice and for just and sufficient cause.

Source: C. 40:21-47.1 (1939, c. 224).

40A:9-35 Executive director of department of institutions of county of fifth class; tenure.

Any person now holding office, position or employment as the executive director of the department of institutions of a county of the fifth class who shall have held such office, position or employment for at least 1 year from the date of his original appointment and who prior thereto served as an elective officer of said county for a continuous period of at least 18 years shall continue to hold the office, position or employment of executive director of the department of institutions of said county during good behavior and shall not be removed therefrom except for cause, and then only upon written charge or charges, specifying the cause or causes, filed with the clerk of the board of chosen freeholders, and

after a public hearing thereon upon notice and with an opportunity to be heard in person or by counsel.

Source: C. 40:21-47.2 (1966, c. 169).

40A:9-36 Supervisor in certain counties.

In counties which had a population of over 600,000 according to the 1950 census, there shall be a chief executive officer to be known as the county supervisor.

Source: R. S. 40:21-48 amended 1961, c. 64, s. 1.

40A:9-37 Supervisor; qualifications; election; term of office.

The county supervisor shall be elected at large. He shall be a citizen and resident of the county in and for which he is elected. The candidate for county supervisor shall be nominated and voted for as provided in Title 19 (Elections) of the Revised Statutes. He shall take office on the first Monday in January next after his election and shall hold said office for 3 years and until his successor has been elected and qualified.

Source: R. S. 40:21-49.

40A:9-38 Supervisor; powers and duties.

The county supervisor shall cause the laws, ordinances and resolutions applicable to the county to be faithfully executed. He may recommend to the board of chosen freeholders such changes or additions to said ordinances or resolutions as he may deem proper. He shall report to the board at its first annual meeting in each year and at such other times, if deemed necessary, as to matters pertaining to the county and make such recommendations as may be deemed proper. He shall perform such other duties as may be provided by law.

Source: R. S. 40:21-50.

40A:9-39 Supervisor; investigation of conduct of appointed officers and employees and their removal for cause; judicial review.

The county supervisor may cause an investigation to be made of the conduct in office of any appointed county officer or employee. He may require such officers or employees to submit to him a written statement or statements under oath containing such information as he may call for relating to their conduct in their respective offices or employment. Upon notice and service of charges and an opportunity to be heard at a public hearing, the county supervisor may remove any such officer or employee for cause. Pending the said hearing and determination the county

supervisor may suspend the officer or employee involved. Said officer or employee shall have the right of judicial review in the Superior Court on both the law and the facts, subject to the rules of the court.

In any such investigation the county supervisor may take testimony and the procedure shall be in accordance with the County and Municipal Investigations Law (P. L. 1953, c. 38).

Source: R. S. 40:21-51; 40:21-52 amended 1953, c. 37, s. 35.

40A:9-40 Supervisor's veto power; overruling of supervisor's veto by board of chosen freeholders.

Every resolution or ordinance adopted by the board of chosen freeholders, before taking effect, shall be certified and presented to the county supervisor by the clerk of the board. Within 10 days thereafter, the county supervisor shall return it to the board either with his approval or disapproval and if disapproved, with his objections.

The board of chosen freeholders at their next meeting, after any resolution or ordinance shall have been disapproved and the objections entered on the minutes, shall proceed to reconsider the resolution or ordinance. A vote thereon shall be taken by the yeas and nays and entered in full on the minutes of the board. If $\frac{2}{3}$ of all the members vote to override the objections, the resolution or ordinance shall take effect.

If the resolution or ordinance shall not be returned within 10 days it shall take effect as though approved by the county supervisor.

Source: R. S. 40:21-55; 40:21-56.

40A:9-41 Vacancy in office of supervisor.

Whenever a vacancy occurs in the office of county supervisor, during the term of office, by death, resignation or otherwise, the board of chosen freeholders shall appoint a person who is a citizen and resident of the county to fill such vacancy for the unexpired term. The said board may appoint one of their members to such office and the appointee upon assuming the duties of county supervisor shall thereupon cease to be a member of the board such appointee shall be of the same political party as that of the previous incumbent.

Source: R. S. 40:21-57 amended 1944, c. 61.

40A:9-42 Administrators; term; duties; compensation.

The board of chosen freeholders of any county, other than a county having a county supervisor, may by resolution create the office of county administrator, to act as the executive officer for the board to have such powers, perform such duties and to receive such compensation as the resolution creating such office shall provide and as may from time to time otherwise be directed by the board by resolution.

In any county creating the position of county administrator the board by majority vote of all its members shall appoint some suitably qualified person to such office for a term of 3 years and until appointment and qualification of his successor.

Source: C. 40:21-18.2 (1967, c. 220, s. 1); C. 40:21-18.3 (1967, c. 220, s. 2).

40A:9-43 Counsel; engineer; appointment; term.

In every county the board of chosen freeholders shall appoint a county counsel and a county engineer. The term of office of the county counsel shall be 3 years and of the county engineer 5 years.

Source: R. S. 40:21-59; 40:21-60 amended 1938, c. 268.

40A:9-44 Road supervisor; appointment; term.

The board of chosen freeholders of any county, by resolution, may provide for the appointment of a county road supervisor and fix his compensation. Unless otherwise provided by law, his term of office shall be 5 years.

Source: R. S. 27:14-24 amended 1948, c. 111.

40A:9-45 Blank.**40A:9-46 Medical examiners.**

In every county the board of chosen freeholders shall appoint a county medical examiner or join in the appointment of an inter-county medical examiner in the manner and for the term provided by law. He shall be a licensed physician, a resident of the county, of recognized ability and good standing in his community, with such training or experience as may be prescribed by standards promulgated by the State Medical Examiner by rule or regulation.

Source: C. 52:17B-83 (1967, c. 234, s. 6).

40A:9-47 Assistant medical examiners, qualifications; toxicologists, scientific experts, clerical assistants and other personnel.

The county medical examiner of any county may, subject to the approval of the board of chosen freeholders, appoint such assistant

medical examiners of the county, toxicologists, scientific experts, clerical assistants and other personnel as shall be deemed necessary and required, fix their compensation and prescribe their powers, duties and functions. The assistant medical examiners of the county shall have the same qualifications as the county medical examiner. The said personnel shall be under the direction and supervision of the county medical examiner.

Source: C. 40:21-30.3 (1944, c. 182, s. 3); C. 40:21-30.4 (1944, c. 182, s. 4); C. 40:21-30.5 (1944, c. 182, s. 5); R. S. 40:21-63 amended 1942, c. 51, s. 2; 40:21-64; 40:21-65; C. 52:17B-78 et seq. (1967, c. 234).

40A:9-48 Appointment of licensed physician to act in certain cases.

If the county medical examiner is unable to perform any duty imposed upon him as such medical examiner, by law, he may appoint a resident licensed physician to act for and in his behalf. The physician so appointed shall have all the powers of the county medical examiner and shall receive compensation for his services to be paid by the county.

Source: R. S. 40:21-27.

40A:9-49 Duties of officials in respect to unidentified or unclaimed dead bodies; burial; cost of burial.

The county medical examiner upon taking charge of unidentified or unclaimed dead bodies shall make burial arrangements. If the decedent left no ascertainable estate, the cost of the burial shall be borne by the county but if an estate able to pay for the burial is found, the cost thereof certified by the official in charge, shall be payable out of such estate.

Source: C. 40:21-30.12 (1944, c. 182, s. 12); R. S. 40:21-72.

40A:9-50 Court orders pertaining to disinterment of dead bodies and duties of officials therewith.

The Superior Court or the County Court of the county, upon the application of a proper party, may order the disinterment of any dead body, where an investigation of the cause of death is authorized, under the supervision and direction of the county medical examiner and authorize said official to remove the body to a public morgue for the purpose of examination or autopsy. The court shall direct the giving of or dispensing with notice.

Source: C. 40:21-30.11 (1944, c. 182, s. 11 amended 1953, c. 37, s. 32); R. S. 40:21-71 amended 1953, c. 37, s. 37.

40A:9-51 Morgues, morgue keepers; appointments.

The board of chosen freeholders of any county, by resolution, may designate not more than 6 places to be used as county public morgues and provide for their maintenance and operation. The said board may appoint the morgue keepers for terms of 5 years from the date of their appointments. The morgue keepers shall be under the supervision and direction of the county medical examiner.

Source: C. 40:21-30.17 (1944, c. 182, s. 17 amended 1965, c. 11, s. 1); R. S. 40:21-77 amended 1942, c. 51, s. 3.

40A:9-52 Morgue keepers; duties; burial certificates; fees and expenses.

The morgue keepers shall be required to provide suitable rooms for the holding of necessary examinations or autopsies. They shall dispose of the dead bodies as directed by the county medical examiner. The said county medical examiner shall grant burial certificates for the unknown or unclaimed dead only to the morgue keepers. The board of chosen freeholders shall fix and pay the fees and expenses incurred by the morgue keepers in the performance of their duties as such.

Source: C. 40:21-30.18 (1944, c. 182, s. 18); R. S. 40:21-38; 40:21-39; 40:21-40; 40:21-78.

40A:9-53 Delivery of unidentified dead bodies for placing in the morgue.

In counties having morgue keepers, unidentified dead bodies shall be delivered to the morgue keeper, and if there be more than one, to the morgue keeper in the area where the body is at the time for such delivery. The morgue keeper shall receive and place the body in the morgue.

Source: R. S. 40:21-34.

40A:9-54 Unidentified dead bodies in morgues; disposition.

Unidentified dead bodies shall be viewed by the county medical examiner or a regularly licensed and practicing physician deputized for that purpose by the county medical examiner. Thereafter the body shall be buried by the morgue keeper at the expense of the county.

Source: R. S. 40:21-35; 40:21-36.

40A:9-55 Delivery of identified dead bodies to proper persons; records.

If any dead body in a morgue received as being unidentified shall thereafter be identified, the morgue keeper, upon the order

of the county medical examiner shall deliver such body to any proper person willing to accept the responsibility therefor. Said person shall state the name and last known residence of the deceased and acknowledge receipt of the body by signing for it in a book to be kept by the morgue keeper for that purpose.

The morgue keeper shall make and keep a record of all bodies received and their disposition.

Source: C. 40:21-30.19 (1944, c. 182, s. 19); R. S. 40:21-37; 40:21-39; 40:21-79.

40A:9-56 Unidentified dead bodies; disposition where no morgue keepers.

In any county where there is no morgue keeper, the procedure as to the disposition of unidentified dead bodies shall be as nearly similar as in counties having a morgue keeper and the duties which would have been performed by the morgue keeper, if there were one, shall be performed by the county medical examiner.

Source: C. 52:17B-78 et seq. (1967, c. 234).

40A:9-57 Police to report finding of dead body.

Where in any municipality the police ascertain the finding or discovery of an unidentified dead body, the chief of police or other police officer on duty shall forthwith notify the county medical examiner of such finding or discovery.

Source: R. S. 40:21-41.

40A:9-58 Disposition of personal property of unknown decedent.

The county medical examiner shall take charge of the personal property found on or pertaining to an unknown decedent. The said county medical examiner shall make an inventory of all such personal property and file a copy thereof with the clerk of the board of chosen freeholders. Within 20 days after the death, the said personal property with a copy of the inventory shall be delivered to the county treasurer. After 20 days following such delivery the county treasurer, in his discretion, may sell said property at public or private sale. If the proceeds of any such sale shall not be claimed by a personal representative of the decedent or person entitled thereto within 2 years after the sale, the said proceeds shall become the property of the county.

Source: R. S. 40:21-26; C. 40:21-30.13 (1944, c. 182, s. 13); R. S. 40:21-67; 40:21-73 amended 1942, c. 80.

40A:9-59 Shipwrecked bodies; reports.

When dead bodies shall be thrown upon the shores or coasts of this State by shipwreck, the county medical examiner of the county in which the bodies are found shall make a written report containing the name of the ship, the date of the wreck, and the place where it occurred, together with a detailed description of the bodies, and time and place of the burial. The report verified under oath shall be filed with the State Medical Examiner.

Source: R. S. 40:40-23.

40A:9-60 Finder's expenses.

Any person reporting the finding of a dead body, thrown upon the shores or coasts of this State by shipwreck, shall be entitled to reimbursement for his expenses in connection with such finding and reporting in an amount as approved either by the State Medical Examiner or county medical examiner and paid by the State Treasurer.

Source: R. S. 40:40-24.

40A:9-61 Disposition of personal property found on shipwrecked bodies.

The county medical examiner shall take possession of all moneys, goods or other personal property found on the body of any such shipwrecked person or which apparently belonged to said person and dispose of the same as herein provided. The county medical examiner shall utilize such personal property as may be reasonably necessary for or in connection with the burial of the body. The remainder of the property shall be delivered by either the State Medical Examiner or county medical examiner to the State Treasurer and if not claimed within 2 years by persons entitled thereto such property shall escheat to the State.

Nothing contained herein shall be deemed to preclude relatives or other persons being lawfully entitled thereto from taking charge of said moneys, goods or other personal property.

Source: R. S. 40:40-26; 40:40-27.

40A:9-62 Medical examiner's records of shipwrecks.

Every county medical examiner shall record in a book kept for that purpose the time and place of burial of any shipwrecked body, the name of the ship or vessel, date and place of the wreck, and a detailed description of the body. The county medical examiner

shall preserve any letters, writings, coins, metals, keepsakes or other articles which may aid in identification.

Source: R. S. 40:40-28.

40A:9-63 County clerk; bond.

Every person who shall be elected clerk of a county, before entering into his office shall give his bond to the State of New Jersey and the county as their interest may appear, with sufficient corporate surety, to be approved by the judge of the County Court if the county has only one county judge but if more than one county judge, by the county judge senior in service, in the sum of \$15,000.00 or in such greater sum not exceeding \$50,000.00 as the judge may order. The Superior Court assignment judge for the county instead of the county judge may fix the amount of, and approve such bond.

The bond shall be conditioned that he will well and truly execute the office of clerk of the county of and
(insert name of county)

faithfully, impartially and justly perform and execute all of the duties pertaining to such office, with respect to the State of New Jersey, the said county and all persons concerned.

The bond approved by the judge together with the oath of office, shall be filed in the office of the Secretary of State of New Jersey and duplicates with the clerk of the board of chosen freeholders of the county.

Source: R. S. 40:38-1 amended 1943, c. 21; 1953, c. 37, s. 98.

40A:9-64 County clerk's oath.

Every person elected or appointed to the office of county clerk, before entering upon the duties of his office, shall take the following oath:

“I,, county clerk of the
county of do solemnly swear (or affirm)
(insert name of county)

to support the Constitution of this State and of the United States and perform the duties of my office as county clerk, faithfully, impartially and justly to the best of my ability.”

Source: R. S. 40:38-1 amended 1943, c. 21; 1953, c. 37, s. 98.

40A:9-65 Performance of duties before giving bond; misdemeanor.

If any person elected county clerk shall assume to perform any of the duties before giving bond as provided by law he shall be guilty of a misdemeanor.

Source: R. S. 40:38-2 amended 1953, c. 37, s. 99.

40A:9-66 Seals of county clerks.

Every county clerk shall have an official seal for the office of county clerk of the county. Until otherwise provided by law, the seals of the clerks of the respective counties now in use shall be continued to be used on official documents required to be sealed by the county clerk. The county clerk in office shall be the custodian of the said seal.

Source: R. S. 40:38-3.

40A:9-67 Supreme Court rules governing county clerks who are attorneys at law.

A county clerk who is an attorney at law shall be subject to the rules of the Supreme Court in respect to limitations upon his practice of law.

Source: R. S. 40:38-4 amended 1953, c. 37, s. 100.

40A:9-68 Duties of county clerk for the courts.

The county clerk shall perform for the Superior Court the duties pertaining thereto in their respective counties as prescribed by law and applicable to the Supreme Court rules for the administration of the courts.

The county clerk, either in person or by deputy, shall attend the sessions of the court of which he is clerk and of the Superior Court held in the county and keep the minutes of the proceedings of said courts. The clerk and his deputy shall be under the supervision of the assignment judge of the Superior Court for the county and the County Court judges. The minutes of said courts shall be open to the public at all proper and reasonable hours.

Source: R. S. 40:38-7 amended 1953, c. 37, s. 101; 40:38-8 amended 1953, c. 37, s. 102.

40A:9-69 Temporary clerks of courts.

If the county clerk or his deputy shall be absent at the sessions of said courts, the assignment judge of the Superior Court of the county may appoint a temporary clerk. The temporary clerk shall be under the supervision of the courts and shall perform such duties as shall be prescribed.

Source: R. S. 40:38-9.

40A:9-70 Vacancy in office of county clerk other than by expiration of term.

When a vacancy shall occur in the office of the county clerk of any county other than by expiration of term, the Governor shall fill such vacancy with the advice and consent of the Senate by appointment of a member of the same political party as that of the previous incumbent of the office, and the commission of said appointee shall expire when a successor is elected and qualified. The successor in such case shall be elected for a term of 5 years at the general election next succeeding the happening of the vacancy unless such vacancy shall occur within 37 days next preceding such election, in which case it shall be filled at the second succeeding general election.

Source: C. 40:38-8.1 (1948, c. 208 amended 1951, c. 122).

40A:9-71 Moneys received by county clerk; depositories.

The county clerk shall be responsible and liable for all moneys received by or deposited with him in his official capacity and in respect to moneys deposited in any court with him, he shall be entitled to retain therefrom fees comparable in amount as in the case of moneys paid into court and deposited with the Clerk of the Superior Court. The county clerk shall account to the county treasurer for all such fees so retained by him.

The Superior Court assignment judge of the county, in writing, shall designate a bank or banks or trust company or trust companies in this State in which the county clerk shall deposit all moneys received by him officially and prescribe the manner in which same may be withdrawn, subject to the Supreme Court rules and regulations applicable to him as clerk of a court. The clerk shall not be personally liable for the safekeeping of moneys so deposited.

Source: R. S. 40:38-10 amended 1953, c. 37, s. 103; 40:38-11 amended 1953, c. 37, s. 104.

40A:9-72 Transfer of records and moneys of county clerk to successor in office.

The county clerk, at the expiration of his term of office or other termination thereof, or his executor or administrator, if said county clerk shall die during said term, shall, in the presence of a Superior or County Court judge, transfer the official records, documents, books, papers or writings and all moneys deposited or held by or for him as such official to his successor in office. Upon said transfer the successor in office shall sign and acknowledge a receipt therefor. The Superior Court or County Court judge shall certify to such transfer and the certificate together with the receipt

shall forthwith be filed in the office of the Secretary of State under the direction of the judge.

Source: R. S. 40:38-23 amended 1953, c. 37, s. 109; 40:38-24 amended 1953, c. 37, s. 110.

40A:9-73 County clerk, powers of notary public or commissioner of deeds.

A county clerk while in office may perform all the duties and exercise the powers pertaining to the office of notary public or commissioner of deeds and upon certifying to any acknowledgment or affidavit shall affix to his signature the designation "county clerk".

Source: R. S. 40:38-12.

40A:9-74 Personnel in office of county clerk.

Every county clerk may appoint a deputy clerk to hold office during the pleasure of the county clerk and upon occurrence of a vacancy in the office of a county clerk by expiration of term, death, resignation or otherwise, the deputy clerk shall have the same powers and perform all the duties of the office of county clerk until the vacancy is filled as provided by law.

During the absence or disability of the county clerk the deputy clerk shall have the powers of the county clerk and perform the duties of the office.

The county clerk may appoint from among the employees in his office special deputy clerks to serve during his pleasure and prescribe their duties. No additional compensation shall be paid for such designation.

During the absence or disability of both the county clerk and deputy clerk, the senior special deputy clerk shall have the powers of the county clerk and perform the duties of the office.

The county clerk shall select and employ necessary clerks and other employees. Every deputy clerk and special deputy clerk shall take and subscribe before a judge of the County Court an oath of office in like form and character as that required to be taken by the county clerk. Appointments and oaths of office shall be filed in the office of the county clerk.

Source: R. S. 40:38-25 amended 1953, c. 37, s. 111; 40:38-26; 40:38-27 amended 1953, c. 37, s. 112; 40:38-28 amended 1948, c. 278.

40A:9-75 County clerk in certain counties may establish court division and registry division.

In any county having a population in excess of 400,000, and not having a register of deeds and mortgages, the county clerk therein

may establish and maintain in his office 2 separate divisions to be known, respectively, as the court division and registry division. The county clerk may appoint a deputy county clerk for each division who shall hold such office during the pleasure of the county clerk but not beyond the term for which the county clerk is elected. The compensation of said deputy county clerks shall be fixed by the board of chosen freeholders of the county and paid by the county. The deputy county clerks before entering upon their duties shall take and subscribe an oath of office in similar form and manner as in the case of county clerks. In performing their duties the deputy clerks shall have the same powers as the county clerk.

Source: C. 40:38-25.2 (1952, c. 96, s. 1); C. 40:38-25.3 (1952, c. 96, s. 2); C. 40:38-25.4 (1952, c. 96, s. 3); C. 40:38-25.5 (1952, c. 96, s. 4).

40A:9-76 Salary of county clerk in certain counties.

The board of chosen freeholders in each county, by resolution, may fix the salary of the county clerk as follows:

In counties having a population in excess of 600,000, not less than \$12,000.00 or more than \$24,000.00 per annum;

In counties having a population in excess of 400,000, but not more than 600,000, not less than \$12,000.00 or more than \$21,000.00 per annum;

In counties having a population in excess of 200,000, but not more than 400,000, not less than \$10,000.00 or more than \$18,000.00 per annum;

In counties having a population of 200,000 or less, not less than \$5,000.00 or more than \$15,000.00.

Nothing in this section shall authorize the fixing of the salary of any person holding the office of county clerk at any amount less than that now payable pursuant to law, so long as the said person shall hold such office during the present and any consecutively ensuing term or terms, nor shall anything in this section authorize the payment of any salary for which a range is established in an amount less than the minimum of said range.

The salary of said officer shall be paid by the proper county disbursing officer in the same manner as county officers and employees are paid.

Source: C. 40:38-6.14 (1959, c. 96, s. 1 amended 1961, c. 15, s. 1; 1967, c. 266, s. 1; 1970, c. 144); C. 40:38-6.15 (1959, c. 96, s. 2); C. 40:38-6.16 (1959, c. 96, s. 3).

40A:9-77 Compensation of deputy county clerks; chief clerks and other personnel.

The annual compensation of the deputy county clerk shall not exceed $\frac{3}{4}$ of the annual compensation of the county clerk. The annual compensation of any chief clerk in the office of county clerk shall not exceed $\frac{3}{5}$ of the annual compensation of the county clerk. The said compensations and that of all other personnel in the office of the county clerk shall be fixed by the board of chosen freeholders of the county upon the recommendation of the county clerk. The compensation of the personnel in the office of the county clerk shall be paid at the same time and in the same manner as county officers and employees are paid. The limitations of the salaries set herein shall not be construed to restrict any of said employees from participating in or benefiting from any cost of living bonus or longevity program provided for or established in the county.

Source: R. S. 40:38-28 amended 1948, c. 278; C. 40:39-22 (1970, c. 336).

40A:9-77.1 Chapter 260 of the laws of 1969 saved from repeal.

Chapter 260 of the laws of 1969 (C. 40:38-28.1) is saved from repeal. [The act saved from repeal by this section provides that in any county of the second class having a population in excess of 500,000, the limitations imposed, pursuant to section 40A:9-77, on the amount of salary payable to the first deputy county clerk or to any executive clerk or chief clerk in the office of the county clerk, shall not be construed to restrict any of said employees from participating in or benefiting from any cost of living bonus or longevity program provided for or established in such county.]

Source: C. 40:38-28.1 (1969, c. 260).

40A:9-78 Section 4 of chapter 96 of the laws of 1959 saved from repeal.

Section 4 of chapter 96 of the laws of 1959 (C. 40:38-6.17) is saved from repeal. [Said section saved from repeal by this section provided for the repeal of sundry sections of the Revised Statutes, the New Jersey Statutes and various acts pertaining to salaries of surrogates, registers of deeds and mortgages, county clerks and sheriffs.]

Source: C. 40:38-6.17 (1959, c. 96, s. 4).

40A:9-79 Chapter 223 of the laws of 1939 saved from repeal.

Chapter 223 of the laws of 1939 (C. 40:38-25.1) is saved from repeal. [The act saved from repeal by this section provides that any deputy county clerk or deputy surrogate, having held said office in any county of the second class, who has attained the age of 51 years and has been continuously employed in such office for a period of at least 16 years, shall have tenure in office and shall not be removed therefrom, except after hearing and for good cause.]

Source: C. 40:38-25.1 (1939, c. 223).

40A:9-80 Existing offices of registers of deeds and mortgages confirmed and continued.

The office of register of deeds and mortgages heretofore established and now in existence in any county is confirmed and shall be continued until altered or abolished as provided by law.

Source: R. S. 40:39-1.

40A:9-81 Establishment of office of register of deeds and mortgages in certain counties; referendum.

In every county having a population of more than 250,000 there shall be a register of deeds and mortgages in and for such county; provided, in any such county wherein the office of register of deeds and mortgages has not been established, the question of the establishment of such office shall first have been submitted to and approved by the legal voters thereof. Where the question of the establishment of such office is to be submitted, it shall be submitted at the general election preceding the one at which the county clerk is to be elected in that county. The county clerk of every such county shall cause the question to be placed upon the official ballot to be used at the general election in the manner provided by law in substantially the following form: "Shall the office of the register of deeds and mortgages be established and a register be elected in county next
(insert name of county)

year?" Immediately to the left of the question there shall be printed the words "Yes" and "No", each with a square, in either of which the voter may make a cross (X), or a plus sign (+) or check mark (✓) according to his choice. There shall also be printed the following: "Place a cross (X), or a plus sign (+) or check mark (✓) in one of the above squares indicating your choice." If voting machines are used, a vote of "Yes" or "No" shall be equivalent to such markings, respectively.

The votes shall be canvassed and returned in the manner provided by law. If a majority of the legal voters, voting on the question, shall vote "Yes", the office of register of deeds and mortgages shall be established and a register of deeds and mortgages shall be elected in such county at the next general election. If a majority of the legal voters voting on the question shall vote "No", the office shall not be established and the county clerk shall continue to perform the duties of a county recording officer and the question shall not be submitted again to the legal voters of that county except upon a petition signed by 10% of the registered voters of the county and not until 5 years shall have elapsed since the prior referendum.

Source: R. S. 40:39-2 amended 1943, c. 92; 40:39-3; 40:39-4; 40:39-5; 40:39-6; 40:39-7.

40A:9-82 Transfer of records and papers upon the establishment of office of register of deeds and mortgages.

When the office of register of deeds and mortgages is established in any county and such a register therein has been elected, all official records, documents, papers or writings which are in the custody of the county clerk and would have been filed or deposited with the register of deeds and mortgages had there been one in office, shall be transferred by the county clerk to the said register of deeds and mortgages who shall give a receipt therefor.

Source: R. S. 40:39-8 amended 1953, c. 37, s. 113.

40A:9-83 Term of office of register of deeds and mortgages.

The register of deeds and mortgages shall be elected by the legal voters of the county for a term of 5 years. He shall be commissioned by the Governor and his commission shall be issued and bear date on the Tuesday next following his election.

Source: R. S. 40:39-9.

40A:9-84 Register of deeds and mortgages; bond.

Every person who shall be elected register of deeds and mortgages of a county, before entering into his office shall give his bond to the State of New Jersey and the county as their interest may appear, with sufficient corporate surety, to be approved by the county judge of the County Court if the county has only one county judge but if more than one county judge, by the judge senior in service, in the sum of \$15,000, or in such greater sum not exceeding \$50,000, as the judge may order. The Superior Court assignment judge for the county instead of the county judge may fix the amount of, and approve such bond.

The bond shall be conditioned that he will well and truly execute the office of register of deeds and mortgages of the county of and faithfully, impartially and justly
(insert name of county)

perform and execute all of the duties pertaining to such office, with respect to the State of New Jersey, the said county and all persons concerned.

The bond approved by the judge together with the oath of office shall be filed in the office of the Secretary of State of New Jersey and duplicates with the clerk of the board of chosen freeholders of the county.

Source: R. S. 40:39-10 amended 1953, c. 37, s. 114.

40A:9-85 Register of deeds and mortgages; oath.

Every person elected or appointed register of deeds and mortgages, before entering upon the duties of his office, shall take the following oath:

“I,, register of deeds and mortgages of the county of do solemnly
(insert name of county)

swear (or affirm) to support the Constitution of this State and the United States and perform the duties of my office as register of deeds and mortgages faithfully, impartially and justly to the best of my ability.”

Source: R. S. 40:39-10 amended 1953, c. 37, s. 114.

40A:9-86 Performance of duties before giving bond; misdemeanor.

If any person elected register of deeds and mortgages shall assume to perform any of the duties before giving bond as provided by law, he shall be guilty of a misdemeanor.

Source: R. S. 40:39-10 amended 1953, c. 37, s. 114.

40A:9-87 Certain statutory provisions applicable to county clerk where no register of deeds and mortgages.

The statutory provisions applicable to powers, functions and duties of the register of deeds and mortgages where there is such a register shall pertain to the county clerk where there is no such register.

Source: R. S. 40:39-10 amended 1953, c. 37, s. 114; 40:39-16 amended 1953, c. 37, s. 117.

40A:9-88 Vacancy in office of register of deeds and mortgages other than by expiration of term.

When a vacancy shall occur in the office of the register of deeds and mortgages of any county other than by expiration of term, the Governor shall fill such vacancy with the advice and consent of the Senate, by appointment of a member of the same political party as that of the previous incumbent of the office, and the commission of said appointee shall expire when a successor is elected and qualified. The successor in such case shall be elected for a term of 5 years at the general election next succeeding the happening of the vacancy unless such vacancy shall occur within 37 days next preceding such election, in which case it shall be filled at the second succeeding general election.

Source: C. 40:38-8.1 (1948, c. 208 amended 1951, c. 122); R. S. 40:39-13.

40A:9-89 Board of chosen freeholders to furnish accommodations and equipment for register of deeds and mortgages.

The board of chosen freeholders shall provide the register of deeds and mortgages with a suitable fireproof place separate and distinct from the office of the county clerk, together with suitable furniture and equipment, all of which shall be the property of the county. The board shall also provide said register with the necessary books and stationery. The records and documents in the office of said register shall be open to the public at all reasonable hours.

Source: R. S. 40:39-14 amended 1953, c. 37, s. 115.

40A:9-90 Register of deeds and mortgages is the county recording officer.

In counties having a register of deeds and mortgages the said register shall be the recording officer of the county as fully as the county clerk is the recording officer in counties not having a register of deeds and mortgages.

Source: R. S. 40:39-15 amended 1953, c. 37, s. 116; 40:39-16 amended 1953, c. 37, s. 117.

40A:9-91 Personnel in the office of register of deeds and mortgages.

Every register of deeds and mortgages may appoint a deputy register of deeds and mortgages to hold office during the pleasure of the said register and upon the occurrence of a vacancy in the office of the register by expiration of term, death, resignation or otherwise, the deputy register shall have the same powers and perform all the duties of the office of the register of deeds and mortgages until the vacancy is filled as provided by law.

During the absence or disability of the register of deeds and mortgages the deputy register shall have the powers of the register and perform the duties of the office. At the register's request and under his supervision, the deputy register shall have full power to perform the duties of the office of register of deeds and mortgages including the signing of the name of the register of deeds and mortgages upon any or all documents left for recording or filing in said office to the same extent as the register of deeds and mortgages himself might sign. The said register may appoint from among the employees in his office special deputy registers to serve during his pleasure and prescribe their duties. During the absence or disability of both the register and the deputy register the senior special deputy register shall have the powers of the register and perform the duties of the office. The register shall select and employ the necessary clerks and other personnel. Every deputy register shall take and subscribe before a judge of a County Court an oath of office in like form and character as that required to be taken by the register. The oath of office of the deputy shall be filed in the office of the Secretary of State.

Source: R. S. 40:39-17; 40:39-18 amended 1953, c. 37, s. 118; 40:39-20.

40A:9-92 Salary of register of deeds and mortgages in certain counties.

The board of chosen freeholders in each county, by resolution, may fix the salary of the register of deeds and mortgages as follows:

In counties having a population in excess of 600,000, not less than \$12,000.00 or more than \$24,000.00 per annum.

In counties having a population in excess of 400,000, but not more than 600,000, not less than \$12,000.00 or more than \$21,000.00 per annum;

In counties having a population in excess of 200,000, but not more than 400,000, not less than \$10,000.00 or more than \$18,000.00 per annum;

In counties having a population of 200,000 or less, not less than \$5,000.00 or more than \$15,000.00.

Nothing in this section shall authorize the fixing of the salary of any person holding the office of register of deeds and mortgages at any amount less than that now payable pursuant to law, so long as the said person shall hold such office during the present and any consecutively ensuing term or terms, nor shall anything in this

section authorize the payment of any salary for which a range is established in an amount less than the minimum of said range.

The salary of said officer shall be paid by the proper county disbursing officer in the same manner as county officers and employees are paid.

Source: C. 40:38-6.14 (1959, c. 96, s. 1 amended 1961, c. 15, s. 1; 1967, c. 266, s. 1; 1970, c. 144); C. 40:38-6.15 (1959, c. 96, s. 2); C. 40:38-6.16 (1959, c. 96, s. 3).

40A:9-93 Compensation of deputy register of deeds and mortgages, chief clerks and employees.

The annual compensation of the deputy register of deeds and mortgages shall not exceed $\frac{3}{4}$ of the annual compensation of the register of deeds and mortgages. The annual compensation of any chief clerk in the office of the register of deeds and mortgages shall not exceed $\frac{3}{5}$ of the annual compensation of the said register. The said compensations and that of all other personnel in the office of the register of deeds and mortgages shall be fixed by the board of chosen freeholders of the county upon the recommendation of the register of deeds and mortgages. The compensation of the personnel in the office of the register of deeds and mortgages shall be paid at the same time and in the same manner as the county officers and employees are paid. The limitations of the salaries set herein shall not be construed to restrict any of said employees from participating in or benefiting from any cost of living bonus or longevity program provided for or established in the county.

Source: R. S. 40:39-21 amended 1948, c. 277; C. 40:39-22 (1970, c. 336).

40A:9-94 Eligibility for office of sheriff.

No person shall be eligible to the office of sheriff of any county unless he shall have been a citizen of the United States and a resident of the county for at least 3 years next preceding his election.

Source: R. S. 40:41-1.

40A:9-95 Sheriff's bond.

Every sheriff shall enter into bond to the State of New Jersey and the county wherein he is sheriff, with sufficient corporate surety to be approved by the judge of the County Court if the county has only one county judge, but if more than one county judge, by the county judge senior in service, in the sum of \$15,000.00, or in such greater sum not exceeding \$50,000.00, as the

said judge may order. The Superior Court assignment judge for the county, instead of the county judge, may fix the amount of, and approve such bond.

The bond shall be conditioned that he will well and truly execute the office of sheriff of the county of
(insert name of county)

and faithfully, impartially and justly perform all of the duties pertaining to such office, with respect to the State of New Jersey, the said county and all persons concerned.

The bond approved by the judge together with the oath of office, shall be filed in the office of the Secretary of State of New Jersey and duplicates with the clerk of the board of chosen freeholders of the county.

Source: R. S. 40:41-2 amended 1943, c. 22, s. 1; 1953, c. 37, s. 134; 40:41-3 amended 1943, c. 22, s. 2; 1953, c. 37, s. 135.

40A:9-96 Sheriff's oath.

Every person elected or appointed to the office of sheriff, before entering upon the duties of his office, shall take the following oath:

"I,, sheriff of the county of do solemnly swear (or affirm) to
(insert name of county)

support the Constitution of this State and of the United States and perform the duties of my office as sheriff, faithfully, impartially and justly to the best of my ability."

Source: R. S. 40:41-4 amended 1953, c. 37, s. 137.

40A:9-97 Certificate for commission.

The taking of the oath of office and the execution of the required bond by a newly elected sheriff shall be certified by the Superior or County Court judge, as the case may be, to the Governor in connection with the issuance of the sheriff's commission.

Source: R. S. 40:41-5 amended 1953, c. 37, s. 138.

40A:9-98 Sheriff not to perform duties of office before giving bond and taking oath; misdemeanor.

If a sheriff elect shall perform any of the duties of his office before giving bond or taking the oath of office as provided by law, he shall be guilty of a misdemeanor.

Source: R. S. 40:41-9.

40A:9-99 Sheriff may act in certain cases where commission delayed.

If the receipt by a newly elected or appointed sheriff of his commission is delayed, the said sheriff may nevertheless act as said sheriff for a period not exceeding one month before receiving his said commission.

Source: R. S. 40:41-10.

40A:9-100 Effective date of commission and expiration of term of office.

The commission of every newly elected sheriff shall bear date and take effect on the Wednesday after the first Tuesday succeeding his election and the term of his office shall be 3 years.

Source: R. S. 40:41-11.

40A:9-101 Failure of sheriff elect to qualify; effect.

When any newly elected sheriff shall fail to qualify by giving the required bond and taking and subscribing his oath of office within 30 days following his election or within the time fixed by the court as herein provided, his office shall be deemed vacant. The Superior Court, for good cause shown, shall have jurisdiction to extend the time for qualification.

Source: R. S. 40:41-12.

40A:9-102 Vacancy in office, other than by expiration of term.

When a vacancy shall occur in the office of sheriff of any county, other than by expiration of term, the Governor shall fill such vacancy with the advice and consent of the Senate by appointment of a member of the same political party as that of the previous incumbent of the office, and the commission of said appointee shall expire when a successor is elected and qualified. The successor in such case shall be elected for a term of 3 years at the general election next succeeding the happening of the vacancy unless such vacancy shall occur within 37 days next preceding such election, in which case it shall be filled at the second succeeding general election.

Source: R. S. 40:41-14 amended 1948, c. 206; 1951, c. 120; 1953, c. 37, s. 139.

40A:9-103 Bond and oath of appointee to fill vacancy.

Every person appointed by the Governor to fill a vacancy in the office of sheriff, before proceeding to execute his office, shall give the bond and take and subscribe the oath in the manner and form prescribed for a sheriff elect.

Source: R. S. 40:41-15 amended 1953, c. 37, s. 140.

40A:9-104 Salary of sheriff in certain counties.

The board of chosen freeholders in each county, by resolution, may fix the salary of the sheriff as follows:

In counties having a population in excess of 600,000, not less than \$12,000.00 or more than \$24,000.00 per annum;

In counties having a population in excess of 400,000, but not more than 600,000 not less than \$12,000.00 or more than \$21,000.00 per annum;

In counties having a population in excess of 200,000, but not more than 400,000, not less than \$10,000.00 or more than \$18,000.00 per annum;

In counties having a population of 200,000 or less, not less than \$5,000.00 or more than \$15,000.00.

Nothing in this section shall authorize the fixing of the salary of any person holding the office of sheriff at any amount less than that now payable pursuant to law, so long as the said person shall hold such office during the present and any consecutively ensuing term or terms, nor shall anything in this section authorize the payment of any salary for which a range is established in an amount less than the minimum of said range.

The salary of said officer shall be paid by the proper county disbursing officer in the same manner as county officers and employees are paid.

Source: C. 40:38-6.14 (1959, c. 96, s. 1 amended 1961, c. 15, s. 1; 1967, c. 266, s. 1; 1970, c. 144); C. 40:38-6.15 (1959, c. 96, s. 2); C. 40:38-6.16 (1959, c. 96, s. 3).

40A:9-105 Expenses payable to sheriffs.

The sheriffs shall be entitled to receive in addition to the salaries provided by law, their actual expenses incurred by them personally in performing their duties such as transportation, telephone, telegraph and postal charges, to be paid by the board of chosen freeholders of the respective counties.

Source: R. S. 40:41-8.

40A:9-106 Uncollected fees credited to account of former sheriff.

All uncollected fees due for services rendered or expenses incurred by a deceased, disabled or disqualified sheriff shall be taxed

and collected by the acting sheriff, or the newly appointed or elected sheriff and credited to the account of the former sheriff.

Source: R. S. 40:41-18.

40A:9-107 Sheriff to deliver to his successor moneys and papers.

When any person shall cease to hold the office of sheriff he shall deliver to his successor all processes, orders, mandates and papers of every kind remaining in his hands unexecuted or unreturned or otherwise outstanding and all moneys held by him as sheriff.

Source: R. S. 40:41-19.

40A:9-108 Sheriff not to hold other civil office.

No person shall hold any other civil office during the time he holds and exercises the office of sheriff and by acceptance of the latter office his former office shall be deemed vacated.

Source: R. S. 40:41-20.

40A:9-109 Amercement of sheriff, acting sheriff.

If a sheriff or acting sheriff fails to perform any duty imposed upon him by law in respect to writs of execution resulting in loss or damage to the judgment creditor, he shall be subject to amercement in the amount of such loss and damage to and for the use of the judgment creditor. Such amercement may be made by the court having jurisdiction of the judgment and proceedings for the enforcement thereof in an action or proceeding for amercement or in the nature of an amercement brought for the purpose. The court may proceed in a summary manner or otherwise. The delinquent sheriff or acting sheriff shall also be subject to attachment or punishment for contempt.

Source: R. S. 40:41-21 amended 1953, c. 37, s. 141.

40A:9-110 Amercement; court to designate enforcement officer.

When an amercement or judgment or order in the nature of an amercement has been obtained against a sheriff or acting sheriff the court shall designate the officer to enforce such amercement.

Source: R. S. 40:41-22.

40A:9-111 Bonds taken by sheriffs.

All bonds required by law to be taken by the sheriff shall be recorded in the office of the county clerk in a book to be provided for that purpose, and upon being so recorded, shall have the force and effect of a recognizance. A copy of the bond duly certified by the county clerk shall be evidential in any court and have the same effect as if the original bond were produced and proven. Where the condition of any such bond shall have been fully com-

plied with, the sheriff shall execute a warrant to cancel the bond and the record thereof. Any such bond may be cancelled and discharged by such warrant or by the County Court or the Superior Court and a notation of said discharge shall be entered in the said book.

Source: R. S. 40:41-23; 40:41-24; 40:41-25 amended 1953, c. 37, s. 142.

40A:9-112 Blank.

40A:9-113 Acting sheriff or newly appointed or elected sheriff to execute un-completed writs and processes.

All writs and processes remaining unexecuted which were in the hands of a sheriff at the time of his death, disability or disqualification, shall be executed or the execution thereof completed by the acting sheriff, if there be one, otherwise the newly appointed or elected sheriff.

All advertisements of sales of real and personal property shall be continued and adjournments of such sales may be made, of which all persons shall take notice without any other than the usual notice required by law for such advertisements, adjournments and sales. Said advertisements, adjournments and sales shall be made by the acting sheriff, if there be one, otherwise the newly appointed or elected sheriff as though the writs and processes had been directed and delivered to such acting sheriff or newly appointed or elected sheriff.

The acting sheriff or newly appointed or elected sheriff shall be entitled to the same fees for his services and be liable to all the penalties and consequences of law for neglect of duty, as if the writs and processes had been originally directed and delivered to him.

Source: R. S. 40:41-17.

40A:9-114 Exercise of office pending new appointment or election.

In any case of vacancy in the office of sheriff, the undersheriff, or if there be more than one undersheriff, the undersheriff who shall have been designated as acting sheriff shall act as sheriff and perform the duties of that office in the county until a new sheriff is appointed or elected and duly qualified.

In each county in which there is more than one undersheriff the sheriff shall designate annually one of the undersheriffs to be acting sheriff, by written designation filed with the county clerk, which designation may be revoked and a new designation made in similar manner. When the new sheriff shall be appointed or

elected and duly qualified, the powers and duties of the undersheriff as acting sheriff shall cease.

Source: R. S. 40:41-16 amended 1952, c. 141.

40A:9-115 Undersheriffs; appointments; oaths.

The appointment of an undersheriff shall be by writing under the hand and seal of the sheriff. Every undersheriff, before he assumes his office, shall take and subscribe before a judge of the County Court of the county or a judge of the Superior Court, an oath that he will well and faithfully, impartially and justly execute the office of undersheriff, according to the best of his ability and judgment. His appointment, with the certificate of his oath indorsed thereon and attested by the judge, shall be filed in the office of the county clerk. Nothing in this section shall prevent the sheriff at his pleasure from removing an undersheriff.

Source: R. S. 40:41-28 amended 1953, c. 37, s. 144.

40A:9-116 Limitation on number of undersheriffs.

In all counties the sheriff may appoint not more than 2 undersheriffs. All such undersheriffs shall hold office during the pleasure of the sheriff making the appointment, or his successor. The undersheriffs shall be included in the unclassified service of the civil service.

Source: R. S. 40:41-30.

40A:9-117 Undersheriffs, chief clerks and other personnel; compensation.

The sheriff shall select and employ the necessary deputies, chief clerks and other personnel. They shall receive such compensation as shall be recommended by the sheriff and approved by the board of chosen freeholders. The annual compensation of the undersheriff shall not exceed $\frac{3}{4}$ of the annual compensation of the sheriff. The compensation of the personnel in the office of sheriff shall be paid at the same time and in the same manner as the county officers and employees are paid. The limitations of the salaries set herein shall not be construed to restrict any of said employees from participating in or benefiting from any cost of living bonus or longevity program provided for or established in the county.

Source: R. S. 40:41-31; C. 40:41-31.1 (1970, c. 337).

40A:9-118 Compensation of criminal identification bureau personnel.

In counties having criminal identification bureaus in the office of the sheriffs of said counties, the board of chosen freeholders, by resolution, shall provide for the appointment and duties of the personnel of said bureau which may include according to the determination of the said board, supervisors, chief identification

officer, deputy chief identification officers, identification officers, identification clerks and junior identification clerks. The board of chosen freeholders of said counties, by resolution, and upon recommendation of the sheriff shall adopt a schedule of minimum and maximum annual salaries for said personnel and provide for the payment of said salaries in semimonthly installments by the county treasurer or in the same manner as other county employees are paid. Annual increases or increments in their compensation may be provided for.

Nothing contained herein shall be deemed to reduce the amount of any salaries being presently paid to the personnel of the criminal identification bureaus in said counties.

Source: C. 40:41-33.1 (1943, c. 191, s. 1 amended 1947, c. 256, s. 1; 1950, c. 277, s. 1; 1953, c. 341, s. 1); C. 40:41-33.2 (1943, c. 191, s. 2 amended 1947, c. 256, s. 2; 1950, c. 277, s. 2; 1953, c. 341, s. 2); C. 40:41-33.3 (1943, c. 191, s. 3 amended 1950, c. 277, s. 3; 1953, c. 341, s. 3); C. 40:41-33.4 (1943, c. 191, s. 4); C. 40:41-33.5 (1943, c. 191, s. 5 amended 1947, c. 256, s. 3; 1950, c. 277, s. 4; 1953, c. 341, s. 4; 1957, c. 155); C. 40:41-33.6 (1943, c. 191, s. 6 amended 1947, c. 256, s. 4; 1953, c. 341, s. 5); C. 40:41-33.7 (1943, c. 191, s. 7); C. 40:41-33.20 (1949, c. 35, s. 1).

40A:9-119 Status of criminal identification bureau personnel.

Identification clerks having served 5 years as such, shall be classified as identification officers and upon reaching such status shall receive the salaries of identification officers starting with the minimum annual salary for said identification officers.

Source: C. 40:41-33.8 (1943, c. 191, s. 8).

40A:9-120 Constables; appointment.

The governing body of any municipality, by resolution, may appoint not less than 2 nor more than 50 constables. To be eligible the persons to be appointed constables shall be residents and qualified voters of the municipality for at least 3 years prior to their appointment. Constables may exercise their functions and perform their duties anywhere in the county wherein the appointing municipality is located.

Source: R. S. 40:41-34; 40:41-35 amended 1943, c. 68; 1949, c. 76; 1967, c. 300.

40A:9-121 Constables; terms of office.

Every constable shall qualify within 30 days of the appointment and shall hold office for a term of 3 years unless the governing body by its resolution of appointment shall fix a one-year term.

Source: R. S. 40:41-36.

40A:9-122 Annual charges payable by constables; badges.

The governing body of any municipality, by resolution, may provide for an annual charge for the privilege of holding the office, to be paid by each constable in an amount not exceeding \$50.00. The municipality shall supply each constable with a badge suitably inscribed, to be returned at the expiration of the constable's term.

Source: R. S. 40:41-37.

40A:9-123 Constables; vacancy.

Vacancies in the office of constable other than by expiration of term resulting from death, resignation, or otherwise may be filled for the unexpired term by the governing body of the municipality within which the vacancy occurs.

Source: R. S. 40:41-38.

40A:9-124 Constable's oath.

Every person appointed as a constable, before entering upon the duties of his office, shall take, subscribe and file with the municipal clerk the following oath:

"I,, constable of the county of do solemnly swear (or affirm) to
(insert name of county)

support the Constitution of this State and of the United States and to perform the duties of my office as constable, faithfully, impartially and justly to the best of my ability."

The oath may be administered by the municipal clerk or by any person authorized by law to administer oaths.

Source: R. S. 40:41-39.

40A:9-125 Constable's bond.

Every person appointed as a constable, before entering upon the execution of his office, shall give bond in such form and amount as the governing body shall prescribe with sufficient surety to be approved by said governing body.

The bond shall be filed in the office of the municipal clerk.

Source: R. S. 40:41-40.

40A:9-126 Actions on constable's bond.

Actions on a constable's bond may be prosecuted in the Superior Court or a County Court in like manner as in the case of actions on a sheriff's bond. Applications incidental to such actions may be made to the Superior Court or County Court in similar manner as in the case of applications incidental to actions and

proceedings on official bonds as provided in Title 2A of the New Jersey Statutes. In any such action or proceeding any party in interest shall be entitled on demand to a jury trial. In any such action or proceeding a municipality shall not be liable for costs unless otherwise provided by the rules of the court.

If any person shall sustain loss by the neglect or default of any constable in the discharge of his official duties such person shall have an action in his own right upon the constable's bond.

Source: R. S. 40:41-41; 40:41-42 amended 1953, c. 37, s. 145; 40:41-43 amended 1953, c. 37, s. 146; 40:41-44 amended 1953, c. 37, s. 147.

40A:9-126.1 Constable's reports.

Every constable shall on or before the first Wednesday following the first Monday of every month file with the governing body by whom he was elected or appointed, a report of his official activities, other than in connection with court or judicial proceedings, for the month immediately past. The governing body shall forward a copy of the report to the municipal chief of police.

The report shall list the names and addresses of all persons contacted by the constable in his official capacity, together with the date, time and purpose of the contact. In addition the report shall contain an accurate statement of all fees collected by the constable and from whom and for what service each fee was collected.

The failure by a constable to file such a report, for 2 consecutive months, unless he was prevented from so doing by reason of his physical incapacity, shall result in his office being deemed vacant and he shall be barred from exercising the rights and privileges thereof.

Any constable who falsifies such a report shall be guilty of a misdemeanor.

Source: C. 40:41-50 (1969, c. 241, s. 1); C. 40:41-51 (1969, c. 241, s. 2); C. 40:41-52 (1969, c. 241, s. 3); C. 40:41-53 (1969, c. 241, s. 4).

40A:9-127 Moneys payable to or by constable in certain cases; jurisdiction of courts.

The Superior Court and the County Court of the county shall have jurisdiction over actions or proceedings involving money payable to or by a constable and may make appropriate orders and judgments, in a summary manner, in the case of absconding, insolvent, incapacitated or deceased constables.

Source: R. S. 40:41-46 amended 1953, c. 37, s. 149; 40:41-48; 40:41-49.

40A:9-128 Statutes repealed.

The following sections, acts and parts of acts, together with all amendments and supplements thereto, are hereby repealed.

Revised Statutes Sections

40:21-1, 40:21-2
40:21-4
40:21-6
40:21-7 amended 1953, c. 37
40:21-16, 40:21-17
40:21-18, 40:21-18.1
40:21-19 amended 1967, c. 103
40:21-20
40:21-21
40:21-22, 40:21-23
40:21-24 amended 1948, c. 78; 1953, c. 37
40:21-25 amended 1953, c. 37
40:21-26
40:21-27
40:21-28 amended 1953, c. 37
40:21-29, 40:21-30
40:21-31
40:21-32 amended 1953, c. 37
40:21-33 amended 1953, c. 37
40:21-34 to 40:21-47 both inclusive
40:21-48 amended 1961, c. 64
40:21-49 to 40:21-51 both inclusive
40:21-52 amended 1953, c. 37
40:21-54 to 40:21-56 both inclusive
40:21-57 amended 1944, c. 61
40:21-58, 40:21-59
40:21-60 amended 1938, c. 268
40:21-61 amended 1942, c. 51
40:21-62
40:21-63 amended 1942, c. 51
40:21-64 to 40:21-70 both inclusive
40:21-71 amended 1953, c. 37
40:21-72
40:21-73 amended 1942, c. 80
40:21-74 to 40:21-76 both inclusive
40:21-77 amended 1942, c. 51
40:21-78 to 40:21-79
40:38-1 amended 1943, c. 21; 1953, c. 37
40:38-2 amended 1953, c. 37

40:38-3
40:38-4 amended 1953, c. 37
40:38-7 amended 1953, c. 37
40:38-8 amended 1953, c. 37
40:38-9
40:38-10 amended 1953, c. 37
40:38-11 amended 1953, c. 37
40:38-12 to 40:38-15 both inclusive
40:38-16 amended 1953, c. 37
40:38-17 amended 1953, c. 37
40:38-19 to 40:38-21 both inclusive
40:38-23 amended 1953, c. 37
40:38-24 amended 1953, c. 37
40:38-25 amended 1953, c. 37
40:38-26
40:38-27 amended 1953, c. 37
40:38-28 amended 1948, c. 278
40:39-1
40:39-2 amended 1943, c. 92
40:39-3 to 40:39-7 both inclusive
40:39-8 amended 1953, c. 37
40:39-9
40:39-10 amended 1953, c. 37
40:39-13
40:39-14 amended 1953, c. 37
40:39-15 amended 1953, c. 37
40:39-16 amended 1953, c. 37
40:39-17
40:39-18 amended 1953, c. 37
40:39-19, 40:39-20
40:39-21 amended 1948, c. 277
40:40-22 to 40:40-28 both inclusive
40:41-1
40:41-2 amended 1943, c. 22; 1953, c. 37
40:41-3 amended 1943, c. 22; 1953, c. 37
40:41-4 amended 1953, c. 37
40:41-5 amended 1953, c. 37
40:41-8 to 40:41-13 both inclusive
40:41-14 amended 1948, c. 206; 1951, c. 120; 1953, c. 37
40:41-15 amended 1953, c. 37
40:41-16 amended 1952, c. 141
40:41-17 to 40:41-20 both inclusive
40:41-21 amended 1953, c. 37

40:41-22 to 40:41-24 both inclusive
 40:41-25 amended 1953, c. 37
 40:41-26
 40:41-27 amended 1953, c. 37
 40:41-28 amended 1953, c. 37
 40:41-29 to 40:41-33 both inclusive
 40:41-34
 40:41-35 amended 1943, c. 68; 1949, c. 76; 1967, c. 300
 40:41-36 to 40:41-41 both inclusive
 40:41-42 amended 1953, c. 37
 40:41-43 amended 1953, c. 37
 40:41-44 amended 1953, c. 37
 40:41-46 amended 1953, c. 37
 40:41-48, 40:41-49

Pamphlet Laws

Laws of 1939, c. 224 (C. 40:21-47.1)
 Laws of 1940, c. 87 (C. 40:41-3.1 to C. 40:41-3.4 both inclusive)
 Laws of 1943, c. 191 (C. 40:41-33.1 to C. 40:41-33.15 both inclusive)

Schedule of Amendments of Laws of 1943, c. 191

Section 1 amended by P. L. 1947, c. 256; 1950, c. 277; 1953, c. 341
 Section 2 amended by P. L. 1947, c. 256; 1950, c. 277; 1953, c. 341
 Section 3 amended by P. L. 1950, c. 277; 1953, c. 341
 Section 5 amended by P. L. 1947, c. 256; 1950, c. 277; 1953, c. 341;
 1957, c. 155

Section 6 amended by P. L. 1947, c. 256; 1953, c. 341

Section 9 amended by P. L. 1947, c. 256

Section 10 amended by P. L. 1947, c. 256

Laws of 1944, c. 125 (C. 40:21-20.1 to C. 40:21-20.3 both inclusive)

Laws of 1944, c. 182 (C. 40:21-30.1 to C. 40:21-30.19 both inclusive)

Schedule of Amendments of Laws of 1944, c. 182

Section 11 amended by P. L. 1953, c. 37

Section 17 amended by P. L. 1965, c. 11

Laws of 1944, c. 252 (C. 40:38-29 to C. 40:38-31 both inclusive)

Laws of 1947, c. 256 (C. 40:41-33.16 to C. 40:41-33.19 both inclusive)

Laws of 1947, c. 403 (C. 40:21-26.6 to C. 40:21-26.10 both inclusive)

Schedule of Amendments of Laws of 1947, c. 403

Section 2 amended by P. L. 1951, c. 309

Laws of 1948, c. 78, s. 2 (C. 40:21-23.1)

Laws of 1948, c. 208 (C. 40:38-8.1) amended by P. L. 1951, c. 122

Laws of 1948, c. 314 (C. 40:38-32 to C. 40:38-34 both inclusive)

Schedule of Amendments of Laws of 1948, c. 314

Section 1 amended by P. L. 1951, c. 256; 1952, c. 178

Laws of 1948, c. 400 (C. 40:21-21.1)
Laws of 1949, c. 35 (C. 40:41-33.20 to C. 40:41-33.22 both inclusive)
 Laws of 1952, c. 96 (C. 40:38-25.2 to C. 40:38-25.5 both inclusive)
Laws of 1953, c. 37, s. 38 (C. 40:21-17.1)
 Laws of 1959, c. 96, ss. 1, 2 and 3 (C. 40:38-6.14 to C. 40:38-6.16 both inclusive)

Schedule of Amendments of Laws of 1959, c. 96

Section 1 amended by P. L. 1961, c. 15; 1967, c. 266; 1970, c. 144

Laws of 1960, c. 19 (C. 40:21-24.1)
Laws of 1966, c. 169 (C. 40:21-47.2)
 Laws of 1967, c. 220 (C. 40:21-18.2, C. 40:21-18.3)
Laws of 1967, c. 103, s. 2 (C. 40:21-19.1)
 Laws of 1969, c. 241 (C. 40:41-50 to C. 40:41-53 both inclusive)
 Laws of 1970, c. 336 (C. 40:39-22)
 Laws of 1970, c. 337 (C. 40:41-31.1)

C. ANALYSIS

40A:9-129 Officials; facsimile of signatures; seal; statement of terms of office to be filed with Secretary of State.
 40A:9-130 Mayor; term.
 40A:9-131 Acting mayor.
 40A:9-132 Mayor to vote in certain cases.
 40A:9-133 Municipal clerk; term.
 40A:9-134 Municipal clerk; tenure of office.
 40A:9-135 Deputy municipal clerk.
 40A:9-136 Administrator; powers and duties.
 40A:9-137 Administrator; appointment; term of office.
 40A:9-138 Administrator; removal from office.
 40A:9-139 Attorney; appointment; term.
 40A:9-140 Engineer; appointment; term.
 40A:9-141 Tax collector; appointment.
 40A:9-142 Tax collector; term of office.
 40A:9-143 Collector of arrears of taxes.
 40A:9-144 Tenure of tax collector.
 40A:9-144.1 Removal of tax collector; complaint; hearing.
 40A:9-145 Tenure for tax collectors completing certain courses of instructions.
 40A:9-146 Tax assessors; appointment.
 40A:9-147 Chapter 205 of the laws of 1968 saved from repeal.
 40A:9-148 Tax assessor; board of assessors; term of office.

- 40A:9-149 Tax assessors; appointment by Governor in certain cases.
- 40A:9-150 Chapter 211 of the laws of 1966 saved from repeal.
- 40A:9-151 Tenure of tax assessors in certain cities having the municipal manager form of government; removal; complaint; hearing.
- 40A:9-152 Tenure of municipal treasurer.
- 40A:9-152.1 Removal of municipal treasurer; complaint; hearing.
- 40A:9-153 Chapter 190 of the laws of 1943 saved from repeal.
- 40A:9-153.1 Section 40:145-13 of the Revised Statutes saved from repeal.
- 40A:9-153.2 Chapter 281 of the laws of 1970 saved from repeal.
- 40A:9-154 Poundkeepers.
- 40A:9-155 Members of governing body ineligible for certain office; exceptions.
- 40A:9-156 Elective and appointive officers; commencement of term of office; exceptions.
- 40A:9-157 Temporary appointments.
- 40A:9-158 Temporary leaves of absence; substitute.
- 40A:9-159 Leave of absence for certain officers and employees entering the armed forces of the United States.
- 40A:9-160 Leave of absence for employees who are members of the Legislature.
- 40A:9-160.1 Compensatory time off for employees who are members of certain volunteer organizations.
- 40A:9-161 Removal of officers and employees; procedure.
- 40A:9-162 Special elections and appointments to fill vacancies in governing body resulting from judicial action.
- 40A:9-163 Change in government; effect on officers.
- 40A:9-164 Delegates to certain conventions.
- 40A:9-165 Salaries, wages or compensation of mayor or other chief executive; officers and employees; exceptions; referendum.
- 40A:9-166 Section 3 of chapter 144 of the laws of 1962 saved from repeal.
- 40A:9-167 Referendum on ordinance fixing salaries, wages or compensation.
- 40A:9-168 Petition for referendum on salaries, wages or compensation.
- 40A:9-169 Blank.
- 40A:9-170 Blank.

- 40A:9-171 Compensation for services notwithstanding statute declared unconstitutional.
- 40A:9-172 Judicially determined illegal suspension or dismissal; officer or employee entitled to recover salary; proviso.
- 40A:9-173 Hospital service or medical service group insurance; authorization for deductions from salaries.
- 40A:9-174 Compensation for injury or death to member of governing body or other officer in performance of duty.
- 40A:9-175 Statutes repealed.

40A:9-129 Officials; facsimile of signatures; seal; statement of terms of office to be filed with Secretary of State.

In every municipality, the mayor or other chief executive and the clerk, upon taking office, shall each file with the Secretary of State a facsimile of his signature and in addition the clerk shall furnish an impression of the municipal seal and a statement of their terms of office, showing the commencement and expiration dates.

The Secretary of State shall cause to be printed the necessary blank forms and forward them to the aforesaid officials. The completed forms when filed shall be public records.

Source: R. S. 40:46-1.

40A:9-130 Mayor; term.

In every municipality, unless otherwise provided by law, the term of office for the mayor shall be 4 years.

Source: R. S. 40:171-19 amended 1970, c. 99, s. 3.

40A:9-131 Acting mayor.

In every municipality, unless otherwise provided by law, if a vacancy occurs in the office of mayor, by reason of death, resignation or otherwise, the presiding officer of the governing body shall become the acting mayor until a successor is elected and qualified.

Source: R. S. 40:171-20.

40A:9-132 Mayor to vote in certain cases.

In every municipality, unless otherwise provided by law, if the governing body shall fail (a) to organize and elect a president or chairman at its annual meeting held for such purpose, (b) to fill any vacancy in office or position, (c) to adopt any resolution or

ordinance or (d) to take any other action whatsoever, by reason of a tie or insufficient vote among the members, the mayor shall vote in aid of said organization, the election of candidates, appointments of officers or others, adoption of resolutions or ordinances or the taking of any other action.

Source: R. S. 40:171-21; 40:171-22; 40:171-23; 40:171-24; C. 40:171-24.1 (1944, c. 90).

40A:9-133 Municipal clerk; term.

In every municipality there shall be a municipal clerk. When so provided by law the municipal clerk shall be elected, otherwise he shall be appointed by the governing body of the municipality. Unless otherwise provided by law his term of office shall be 3 years. If elected, his term shall commence on January 1 following his election and when appointed, his term shall run from January 1 in the year in which he was appointed.

Source: R. S. 40:73-7.

40A:9-134 Municipal clerk; tenure of office.

Any person holding the office of municipal clerk in any municipality and having held such office continuously for 5 years from the date of his original appointment or election shall have tenure in such office and shall not be removed therefrom except for good cause shown after a fair and impartial hearing.

Source: R. S. 40:46-7.

40A:9-135 Deputy municipal clerk.

The governing body of any municipality, by ordinance, may create the office of deputy municipal clerk and provide for appointments thereto, his compensation, term thereof and the powers, duties and functions of such office. During the absence or disability of the municipal clerk, the deputy municipal clerk shall have all the powers of the municipal clerk and shall perform the functions and duties of such office.

Source: C. 40:46-2.1 (1953, c. 322).

40A:9-136 Administrator; powers and duties.

The governing body of any municipality, by ordinance, may create the office of municipal administrator to administer the business affairs of the municipality, to have such powers and perform such duties other than those required by law to be exercised by the governing body itself or by another officer, board or body, and receive such compensation as the ordinance creating such office shall provide and as may from time to time otherwise

be directed by the governing body by ordinance. Such ordinance may provide that a person appointed to the office of municipal administrator need not be a resident of the municipality.

Source: C. 40:46-2.2 (1968, c. 367, s. 1; 1970, c. 146).

40A:9-137 Administrator; appointment; term of office.

Appointment to the office of municipal administrator shall be made by the mayor or chief executive officer of the municipality with the advice and consent of the governing body. In townships and in municipalities with a commission form of government the municipal administrator shall be appointed by majority vote of the governing body. The term of office of the municipal administrator shall be at the pleasure of the governing body.

Source: C. 40:46-2.3 (1968, c. 367, s. 2).

40A:9-138 Administrator; removal from office.

The municipal administrator may be removed by a $\frac{2}{3}$ vote of the governing body. The resolution of removal shall become effective 3 months after its adoption by the governing body. The governing body may provide that the resolution shall have immediate effect; provided, however, that the governing body shall cause to be paid to the administrator forthwith any unpaid balance of his salary and his salary for the next 3 calendar months following adoption of the resolution.

Source: C. 40:46-2.4 (1968, c. 367, s. 3).

40A:9-139 Attorney; appointment; term.

In every municipality the governing body, by ordinance, shall provide for the appointment of a municipal attorney who may be designated as the corporation counsel or municipal attorney and unless otherwise provided by law the term of office of the municipal attorney shall be 1 year.

Source: R. S. 40:46-4; 40:171-48.

40A:9-140 Engineer; appointment; term.

In every municipality the governing body, by ordinance, shall provide for the appointment of a municipal engineer and fix his compensation. Unless otherwise provided by law his term of office shall be 3 years.

Source: C. 40:46-6.23 (1960, c. 81, s. 1); C. 40:46-6.24 (1960, c. 81, s. 2); C. 40:46-6.25 (1960, c. 81, s. 3); R. S. 40:171-49.

40A:9-141 Tax collector; appointment.

The governing body of every municipality, unless otherwise provided by law, by ordinance, shall provide for the appointment

or election of a municipal tax collector and fix his compensation. The office of municipal tax collector and municipal treasurer, or municipal clerk may be held by the same person.

Source: R. S. 40:46-6.1 amended 1945, c. 138; 40:171-93.

40A:9-142 Tax collector; term of office.

Every municipal tax collector shall hold his office for a term of 4 years from the first day of January next following his election or appointment. Vacancies other than due to expiration of term shall be filled by appointment for the unexpired term or until the earlier election and qualification of a successor.

Nothing herein contained shall affect any of the provisions of Title 11 (Civil Service) of the Revised Statutes.

Source: R. S. 40:46-6.1 amended 1945, c. 138.

40A:9-143 Collector of arrears of taxes.

The governing body of every municipality, by ordinance, may provide for the appointment of an officer to be designated as the "municipal collector of arrears of taxes", fix his term of office and compensation, and prescribe his powers and duties.

Source: R. S. 40:171-94; 40:171-96; 40:171-97.

40A:9-144 Tenure of tax collector.

Whenever a person has or shall have held the office of municipal tax collector for 10 consecutive years, the governing body of the municipality may grant tenure in office to such person. In the event the governing body fails to grant tenure in office to a municipal tax collector who has held that office for 10 consecutive years, a petition may be filed for a referendum vote on the question of whether the collector of taxes shall continue to hold office during good behavior and efficiency, and shall not be removed therefrom except for just cause and then only after public hearing upon a written complaint setting forth the charge or charges against him. The petition shall be signed by at least 10% of the registered voters of the municipality and filed with the municipal clerk. Upon the filing of the petition the question shall be submitted to the voters at the next general election which shall occur not less than 60 days thereafter. The municipal clerk shall cause the question to be placed upon the official ballot to be used at the general election in the manner provided by law in substantially the following form: "Shall the collector of taxes continue to hold office during good behavior and efficiency and not be removed therefrom except for just cause and then only after public hearing upon a written complaint setting forth the charge or charges against him?"

Immediately to the left of the question there shall be printed the words "Yes" and "No", each with a square, in either of which the voter may make a cross (X) or a plus sign (+) or check mark (V) according to his choice. There shall also be printed the following: "Place a cross (X), or plus sign (+) or check mark (V) in one of the above squares indicating your choice." Where voting machines are used, voting thereon shall be equivalent to the foregoing.

The election shall be held in accordance with the general law relating to public questions to be voted on in a single municipality at elections as provided for by Title 19 (Elections) of the Revised Statutes.

Source: C. 40:46-6.14 (1947, c. 350, s. 1 amended 1951, c. 173); C. 40:46-6.15 (1947, c. 350, s. 2); C. 40:46-6.16 (1947, c. 350, s. 3); C. 40:46-6.17 (1947, c. 350, s. 4 amended 1953, c. 37, s. 165); C. 40:46-6.18 (1947, c. 350, s. 5); C. 40:46-6.19 (1947, c. 350, s. 6); C. 40:46-6.20 (1947, c. 350, s. 7); C. 40:46-6.21 (1947, c. 350, s. 8); C. 40:46-6.22 (1947, c. 350, s. 9).

40A:9-144.1 Removal of tax collector; complaint; hearing.

Any removal of a municipal tax collector having tenure in office shall be upon a written complaint setting forth the charge or charges against him.

The complaint shall be filed with the municipal clerk and a certified copy thereof shall be served upon the person so charged, with notice of a designated hearing date before the members of the governing body, which shall be not less than 10 days from the date of service of the complaint. The said hearing date shall be fixed by resolution of the governing body.

The person so charged and governing body shall have the right to be represented by counsel and the power to subpoena witnesses and documentary evidence.

The County Court of the county in which said municipality is located shall have jurisdiction to review the determination of the governing body which court shall hear the cause de novo and affirm, modify or set aside such determination.

Source: C. 40:46-6.14 (1947, c. 350, s. 1 amended 1951, c. 173); C. 40:145-14.5 (1952, c. 325, s. 1).

40A:9-145 Tenure for tax collectors completing certain courses of instructions.

Any person who has held or shall have held the office of tax collector in any municipality for a continuous period of not less than 5 years or who shall be reelected or reappointed to said office

upon the completion of one full term of 4 years, upon filing with the clerk of the municipality and with the Division of Local Finance in the Department of Community Affairs a certificate evidencing his satisfactory completion of a course of instruction in the functions and duties of tax collectors approved by the Division of Local Finance as said division shall by regulation provide, shall thereafter continue to hold such office during good behavior and shall not be removed therefrom except for good cause shown after a fair and impartial hearing, notwithstanding that said person was appointed or elected for a fixed term.

The term "tax collector" as used herein shall be construed to mean and include the official charged with the duty of collecting taxes upon real and personal property in each municipality.

Source: C. 40:46-6.22a (1965, c. 243).

40A:9-146 Tax assessors; appointment.

The governing body of every municipality, unless otherwise provided by law, shall provide for the appointment or election of either one or more assessors of taxes or a board of assessors of taxes to consist of not less than 3 nor more than 9 members. The said governing body, by ordinance, shall determine the number and the amount of compensation of such assessors or members of the board of assessors. Any such ordinance shall be subject to alteration, modification or repeal.

Source: R. S. 40:145-19, 40:145-21, 40:145-22.

40A:9-147 Chapter 205 of the laws of 1968 saved from repeal.

Chapter 205 of the laws of 1968 (C. 40:46-6.2c) is saved from repeal. [The act saved from repeal by this section provides that in any municipality wherein tax assessors have been chosen from wards, the governing body, by ordinance, may provide for the appointment of a single assessor for the entire taxing district and fix his compensation for the term of office as provided by law. No such ordinance shall affect the term of any assessor in office on July 19, 1968.]

Source: C. 40:46-6.2c (1968, c. 205).

40A:9-148 Tax assessor; board of assessors; term of office.

Every municipal tax assessor shall hold his office for a term of 4 years from the first day of July next following his election or appointment.

Where there is a board of assessors the governing body of the municipality, by ordinance, shall arrange the terms of office of the members of such board in such manner that the terms of

office of a majority of the members thereof shall not expire at the same time by providing staggered terms of office. To accomplish said purpose the terms may be of 1, 2 or 3 years, but when accomplished, appointments shall be for terms of 4 years.

Vacancies other than due to expiration of term shall be filled by appointment for the unexpired term or until the election and qualification of a successor.

The term "tax assessor" as used herein shall mean and include assessors, members of the board of assessors, and all other persons charged with the duty of assessing property for taxation in municipalities.

Source: C. 40:46-6.2 (1938, c. 386, s. 1); C. 40:46-6.2a (1968, c. 35, s. 1); C. 40:46-6.2b (1968, c. 35, s. 2); C. 40:46-6.3 (1938, c. 386, s. 2).

40A:9-149 Tax assessors; appointment by Governor in certain cases.

In any municipality wherein there shall be the office of tax assessor and no qualified person shall be in such office on the first day of October to perform said duties or the tax assessor holding such office shall neglect or fail to assess the taxes as required by law, the Governor shall cause notice to be given to the mayor or other chief executive officer of the governing body that within 10 days after service of said notice he will appoint an assessor. At the expiration of the 10 days, if the Governor shall be satisfied that said vacancy still exists or the tax assessments were not made, the Governor shall appoint and commission an assessor to perform all the duties of such office. Such appointee shall receive the compensation provided by law for the tax assessor.

Source: R. S. 40:46-16.

40A:9-150 Chapter 211 of the laws of 1966 saved from repeal.

Chapter 211 of the laws of 1966 (C. 40:46-6.13a) is saved from repeal. [The act saved from repeal by this section provides for the granting of tenure to certain municipal tax assessors whose office or position had been abolished as a result of a change in form of government and who subsequently were reappointed to the same office.]

Source: C. 40:46-6.13a (1966, c. 211).

40A:9-151 Tenure of tax assessors in certain cities having the municipal manager form of government; removal; complaint; hearing.

In any city operating under the municipal manager form of government and having a population of more than 45,000, any person holding the office of tax assessor in such a municipality for 15

consecutive years shall continue to hold such office or position during good behavior and efficiency and shall not be removed therefrom except for inefficiency, incapacity, conduct unbecoming an assessor or other just cause and then only after public hearing upon a written complaint, signed by the person making such complaint, setting forth the charge or charges against him. A complaint may be made by any member of the municipal council or any other person.

The complaint shall be filed with the municipal clerk of said municipality and a certified copy thereof shall be served upon the person so charged with notice of a designated hearing date before the municipal council which shall be not less than 10 days from date of service of the complaint.

Source: C. 40:83-8 (1947, c. 362, s. 1); C. 40:83-9 (1947, c. 362, s. 2).

40A:9-152 Tenure of municipal treasurer.

Whenever a person has or shall have held the office of municipal treasurer for 10 consecutive years, the governing body of the municipality may grant tenure in office to such person. In the event the governing body fails to grant tenure in office to a municipal treasurer who has held that office for 10 consecutive years, a petition may be filed for a referendum vote on the question of whether the municipal treasurer shall continue to hold office during good behavior and efficiency, and shall not be removed therefrom except for just cause and then only after public hearing upon a written complaint setting forth the charge or charges against him. The petition shall be signed by at least 10% of the registered voters of the municipality and filed with the municipal clerk. Upon the filing of the petition the question shall be submitted to the voters at the next general election which shall occur not less than 60 days thereafter. The municipal clerk shall cause the question to be placed upon the official ballot to be used at the general election in the manner provided by law in substantially the following form: "Shall the municipal treasurer continue to hold office during good behavior and efficiency and not be removed therefrom except for just cause and then only after public hearing upon a written complaint setting forth the charge or charges against him?"

Immediately to the left of the question there shall be printed the words "Yes" and "No", each with a square, in either of which the voter may make a cross (X), or a plus sign (+) or check mark (V) according to his choice. There shall also be printed the following: "Place a cross (X), or a plus sign (+) or check mark (V) in one

of the above squares indicating your choice.” Where voting machines are used, voting thereon shall be equivalent to the foregoing.

The election shall be held in accordance with the general law relating to public questions to be voted on in a single municipality at elections as provided for by Title 19 (Elections) of the Revised Statutes.

Source: C. 40:145-14.1 (1947, c. 331, s. 1); C. 40:145-14.2 (1947, c. 331, s. 2); C. 40:145-14.3 (1947, c. 331, s. 3); C. 40:145-14.5 (1952, c. 325, s. 1); C. 40:145-14.6 (1952, c. 325, s. 2).

40A:9-152.1 Removal of municipal treasurer; complaint; hearing.

Any removal of a municipal treasurer having tenure in office shall be upon a written complaint setting forth the charge or charges against him.

The complaint shall be filed with the municipal clerk and a certified copy thereof shall be served upon the person so charged, with notice of a designated hearing date before the members of the governing body, which shall be not less than 10 days from the date of service of the complaint. The said hearing date shall be fixed by resolution of the governing body.

The person so charged and the governing body shall have the right to be represented by counsel and the power to subpoena witnesses and documentary evidence.

The County Court of the county in which said municipality is located shall have jurisdiction to review the determination of the governing body which court shall hear the cause de novo and affirm, modify or set aside such determination.

Source: C. 40:145-14.5 (1952, c. 325, s. 1).

40A:9-153 Chapter 190 of the laws of 1943 saved from repeal.

Chapter 190 of the laws of 1943 (C. 40:83-6 and C. 40:83-7) is saved from repeal. [The act saved from repeal by this section provides for the granting of tenure to any veteran of the Armed Forces of the United States honorably discharged, holding the office, position or employment of city engineer under the municipal manager form of government, and having held such office, position or employment of city engineer under the municipal manager form of government continuously for 15 years from the date of the original appointment as city engineer, while said city was governed under the municipal manager government law or under any other law.]

Source: C. 40:83-6 (1943, c. 190, s. 1); C. 40:83-7 (1943, c. 190, s. 2).

40A:9-153.1 Section 40:145-13 of the Revised Statutes saved from repeal.

Section 40:145-13 of the Revised Statutes is saved from repeal. [The section saved from repeal by this section provides for the term of office of certain appointive or elective officers in any township having a population in excess of 24,000, as determined by the last preceding Federal census, and not having the municipal manager form of government, but the provisions of said section shall not be applicable to any person now holding or who may hereafter hold said position or office, having tenure therein. Said section also provides for the filling of a vacancy in an appointive office.]

Source: R. S. 40:145-13 amended 1969, c. 186.

40A:9-153.2 Chapter 281 of the laws of 1970 saved from repeal.

Chapter 281 of the laws of 1970 (C. 40:145-33) is saved from repeal. [The act saved from repeal by this section provides for the granting of tenure to any person holding the office, position or employment of township supervisor or superintendent of public works of the township, and who has held or shall have held one or more such offices, positions or employments with or without additional service as assistant road supervisor or supervisor of public works department acting under appointment by the township committee for a continuous period of not less than 12 years from the date of his original appointment to any of them, and has or shall have held office, position or employment full time in the department of public works or road department in the township for a continuous period of not less than 12 years; provided he has qualified therefor on or prior to January 1, 1971. Said act shall not apply to any township which is subject to the provisions of Title 11, Civil Service, of the Revised Statutes.]

Source: C. 40:145-33 (1970, c. 281).

40A:9-154 Poundkeepers.

Except as otherwise provided by law the governing body of any municipality, by ordinance, may provide for the appointment of poundkeepers as needed. The governing body shall determine the number required and their qualifications, terms of office and method of compensation and prescribe their powers, duties and functions.

Source: R. S. 40:46-9.

40A:9-155 Members of governing body eligible for certain offices; exceptions.

A member of the governing body of a municipality who resigns his office as such may be appointed to an office or position required to be filled by the governing body unless the office or position was created by ordinance adopted during the term of office of the member so resigning. In cases of any such appointment the salary of the holder of said office or position shall not be increased during the term of office of the member so resigning.

Source: R. S. 40:46-5 amended 1938, c. 149; 1948, c. 46; 1955, c. 131; 1967, c. 236, s. 1.

40A:9-156 Elective and appointive officers; commencement of term of office; exceptions.

Except as otherwise provided by law, the terms of office of all elective officers in any municipality shall commence at 12 o'clock noon on January 1 next succeeding their election and continue for the terms prescribed by law, except the term of office of the assessor shall commence on July 1 next following his election or appointment and continue for the prescribed number of years.

The terms of office of all officers appointed by the mayor or other chief executive officer or by the governing body of any municipality, except to fill vacancies, shall commence on January 1 of the year in which they are appointed and continue for the terms prescribed by law.

No appointment of any officer shall be made by the mayor or other chief executive officer or by the governing body of any municipality where the term of the office is to commence after the expiration of the term of the officer making the appointment or of any member of the governing body.

Source: R. S. 40:46-6 amended 1953, c. 37, s. 164.

40A:9-157 Temporary appointments.

Whenever any officer or employee of a municipality is temporarily absent, disabled or disqualified, the governing body of the municipality may designate some person to act in place of any such officer or employee during his temporary absence, disability or disqualification.

Source: R. S. 40:46-13.

40A:9-158 Temporary leave of absence; substitute.

The governing body of any municipality may grant temporary leave of absence, with pay, to any officer or employee receiving a fixed annual salary, wage or compensation. Such leaves of absence shall not exceed 3 months at any one time.

Where it is necessary to employ a substitute to perform the duties of such officer or employee during his absence, the amount of the compensation paid the substitute shall be deducted from the salary, wage or compensation of such officer or employee.

Source: R. S. 40:46-32.

40A:9-159 Leave of absence for certain officers and employees entering the armed forces of the United States.

Every officer or employee not holding his office, position or employment for a fixed term or period, upon entering the armed forces of the United States in time of war for the duration thereof, or for less period, shall be granted leave of absence until such time as he shall be honorably discharged from such service, and shall not be discharged or separated from his office, position or employment by reason of his entry into such service. Such leave of absence may be granted with or without pay as provided by law. Such officer or employee shall be entitled to resume the office, position or employment held by him at the time of entrance into such service, at any time within 3 months after receiving honorable discharge, provided he is not then incapacitated. If he be incapacitated at the time of such discharge, he shall be entitled to resume his office, position or employment at any time within 3 months after complete recovery therefrom, provided such complete recovery is within 2 years after his discharge. Upon resumption of his office, position or employment by such officer or employee, the service of the person temporarily filling said office, position or employment shall immediately cease. If such officer or employee is one of a number of equal rank or like character, the person last appointed to fill any such office, position or employment shall be dismissed and placed upon a special eligible list, which list shall take precedence over all other lists and shall be entitled to reinstatement in the same office or employment as soon as any vacancy shall occur.

Source: R. S. 40:46-11.

40A:9-160 Leave of absence for employees who are members of the Legislature.

Any person employed by any municipality or agency thereof who is a member of the Senate or General Assembly of the State of New Jersey, shall be entitled to time off from his duties as such employee, without loss of pay, during the periods of his attendance at regular or special sessions of the Legislature and hearings or meetings of any legislative committee or commission.

Source: C. 40:46-32.1 (1968, c. 239).

40A:9-160.1. Compensatory time off for employees who are members of certain volunteer organizations.

The governing body of any municipality shall grant time off from work with pay for municipal employees who are members of a volunteer fire company serving the municipality, volunteers in first aid or rescue squads serving the municipality or volunteer drivers of municipally-owned or operated ambulances when such employees are called to respond to alarms occurring during the hours of their employment.

Source: C. 40:46-32.2 (1969, c. 287).

40A:9-161 Removal of officers and employees; procedure.

In any municipality wherein Title 11 (Civil Service) of the Revised Statutes is not operative and unless otherwise provided by law, no officer or employee of such municipality who has tenure in office shall be removed from his office or position except upon written charges, signed by the person making such charges. The complaint shall be filed with the governing body of such municipality and a copy thereof shall be served upon the officer or employee so charged, with notice of a designated time and place for the hearing thereon.

The officer or employee so charged and the governing body shall have the right to be represented by counsel and the power to subpoena witnesses and documentary evidence. The governing body shall prescribe rules and regulations for the conduct of the hearing.

No such officer or employee shall be removed from his office or position for political reasons or except as otherwise provided by law, because of a change in the form of government.

Source: R. S. 40:46-8.

40A:9-162 Special elections and appointments to fill vacancies in governing body resulting from judicial action.

Where a vacancy occurs in the membership of the governing body of any municipality by virtue of a judicial determination ousting from office the person who would otherwise have filled such office, the Superior Court shall have jurisdiction to provide for a special election to fill the vacancy and pending such election to appoint an interim member to the said governing body upon such conditions as the court shall prescribe.

Source: C. 40:46-16.1 (1964, c. 2, s. 1); C. 40:46-16.2 (1964, c. 2, s. 2); C. 40:46-16.3 (1964, c. 2, s. 3); C. 40:46-16.4 (1964, c. 2, s. 4); C. 40:46-16.5 (1964, c. 2, s. 5).

40A:9-163 Change in government; effect on officers.

Except as otherwise provided by law, whenever the form of government of any municipality shall be changed the municipal officers of such municipality, by whatever name they may be known, shall be the officers of the said municipality with all the powers, duties and functions of like officers in such municipality and shall continue in office until the first election of officers to be held in such municipality and until the newly elected officers have been elected and qualified.

Source: R. S. 40:46-10.

40A:9-164 Delegates to certain conventions.

The governing body of any municipality, whenever they shall deem it necessary, by resolution, may provide for the appointment of not more than 5 citizens as delegates to represent the said municipality at any industrial, commercial or civic assembly or convention nonpolitical in character. Said delegates shall receive no compensation but they shall be reimbursed by the municipality for all expenses incurred by them in performing their duties as such delegates.

Source: R. S. 40:72-20.

40A:9-165 Salaries, wages or compensation of mayor or other chief executive; officers and employees; exceptions; referendum.

The governing body of a municipality, by ordinance, shall fix and determine the salaries, wages or compensation to be paid to the officers and employees of the municipality, including the members of the governing body and the mayor or other chief executive, who by law are entitled to salaries, wages or compensation. Such salaries, wages or compensation from time to time, by ordinance, may be increased, decreased or altered but no such ordinance shall reduce the salary of any appointed or elected tax assessor or tax collector during the term for which he shall have been appointed or elected. In municipalities wherein the provisions of Title 11 (Civil Service) of the Revised Statutes are in operation, this section shall be subject thereto.

Where any such ordinance shall provide for increases in salaries, wages or compensation, it shall become operative in 20 days after the publication thereof, after final passage, unless within said 20

days, a petition, signed by voters of such municipality, equal in number to at least 5% of the registered voters of the municipality, protesting against the passage of such ordinance, be presented to the governing body, in which case such ordinance shall remain inoperative unless and until a proposition for the ratification thereof shall be adopted at an election by a majority of the voters voting on said proposition. The submission of the question to the voters shall be governed by the provisions of Title 19 (Elections) of the Revised Statutes, as in the case of public questions to be voted upon in a single municipality.

Source: R. S. 40:46-23 amended 1947, c. 166, s. 1; 1948, c. 282, s. 1; 1958, c. 145, s. 1; 1962, c. 144, s. 1; 1965, c. 227; 40:46-26 amended 1942, c. 53, s. 1; 1944, c. 99, s. 1; 1947, c. 33; 1947, c. 166, s. 2; 1948, c. 282, s. 2; 1949, c. 271; 1952, c. 281; 1955, c. 175; 1962, c. 144, s. 2; C. 40:46-27.1 (1951, c. 339 amended 1962, c. 151; 1967, c. 299, s. 1).

40A:9-166 Section 3 of chapter 144 of the laws of 1962 saved from repeal.

Section 3 of chapter 144 of the laws of 1962 (C. 40:46-26.1) is saved from repeal.

[The section saved from repeal by this section provides that in any municipality, in a county of the third class, wherein an ordinance was theretofore adopted for increases in salaries, wages or compensation payable to the members of the governing body and the mayor or other chief executive, who by law were entitled to salaries, wages or compensation, such ordinance shall remain in force and effect notwithstanding the county by the 1960 census became a county of the second class.]

Source: C. 40:46-26.1 (1962, c. 144, s. 3).

40A-9-167 Referendum on ordinance fixing salaries, wages or compensation.

When the governing body of any municipality shall be required by petition to submit to the voters proposed increases in salaries, wages or compensation or if the governing body shall deem it advisable to have a referendum in respect to the salaries of its members, officers or employees, the governing body shall adopt an ordinance definitely fixing such salaries and the operative date. Where any such ordinance provides for salary increases, they may be made to take effect on a specified date or apportioned to be effective on different specified dates during a period not to exceed 3 years. Any such ordinance may be adopted notwithstanding a prior referendum in respect to salaries, wages or compensation.

The clerk of the municipality shall forthwith forward a certified copy of the ordinance to the officer whose duty it is to prepare the ballots for the election, notifying such officer that there is to be a vote on the question.

Such officer, in the manner and form provided by law, shall place the question upon the ballot, to be used at the election in such municipality, in substantially the following form: "Shall the salaries of the (members of the governing body, the officers or employees) of (name of municipality) be fixed as follows, (amount or amounts) per annum?"

If it is proposed to reduce or increase salaries, the following form shall be used: "Shall the salaries of the (members of the governing body, the officers or employees) of (name of municipality) be reduced (or increased) as follows: (members of the governing body, the officers or employees) from \$..... (amount of present salary) to \$..... (amount of proposed or adopted salary) per annum?"

If a majority of the legal voters of the municipality voting upon such question at the election shall vote "Yes," the salaries so adopted shall be payable to the members of the governing body, the officers or employees on and after the date specified in the ordinance and until again changed in the manner provided by law. The referendum vote shall be binding during the period of 2 years following such vote.

Source: R. S. 40:46-27 amended 1941, c. 144; 1954, c. 271; 1955, c. 186; 1958, c. 145, s. 2.

40A:9-168 Petition for referendum on salaries, wages or compensation.

If there shall be submitted to the governing body of any municipality a petition signed by not less than 10% of the registered voters of the municipality, requesting the submission to the legal voters of the municipality the question of fixing the salaries, wages or compensation of the members of the governing body, officers or employees of said municipality in the amounts stated in the petition, the governing body shall cause the question to be submitted to the legal voters of the municipality at the next general election occurring more than 40 days after the submission of the petition to the governing body.

The result of the vote shall be binding upon the municipality for the following 2 years.

Nothing contained in this section shall be deemed to preclude a referendum vote upon an ordinance increasing salaries, wages or compensation provided by law.

Source: R. S. 40:46-28.

40A:9-169 Blank.

40A:9-170 Blank.

40A:9-171 Compensation for services notwithstanding statute declared unconstitutional.

Whenever a person shall have performed services for any municipality in an office or position created by or pursuant to a statute declared to be unconstitutional after the creation of the office or position, such person shall be compensated for his services prior to the statute being declared to be unconstitutional.

Where the statute so declared to be unconstitutional did not fix the compensation payable to the officer or employee, his compensation for his said services shall be determined by the governing body at the rate fixed for comparable services.

Source: R. S. 40:46-33.

40A:9-172 Judicially determined illegal suspension or dismissal; officer or employee entitled to recover salary; proviso.

Whenever any municipal officer or employee shall be suspended or dismissed from his office, employment or position and such suspension or dismissal shall be judicially determined to be illegal, said officer or employee shall be entitled to recover his salary from the date of such suspension or dismissal, provided a written application therefor shall be filed with the municipal clerk within 30 days after such judicial determination.

Source: R. S. 40:46-34 amended 1948, c. 163; 1948, c. 395.

40A:9-173 Hospital service or medical service group insurance; authorization for deductions from salaries.

Municipal officers and employees participating in hospital or medical service group insurance may authorize the governing body of the municipality to deduct from their salaries premiums for such insurance, and pay the amount thereof to the service corporations. The governing body, by resolution, may authorize such deductions and provide for the said payments subject to such rules and regulations as the governing body may prescribe in the resolution.

No such resolution shall be deemed to impose any prospective liability or responsibility upon the municipality as to future deductions or payments.

Source: C. 40:46-37 (1941, c. 133, s. 1).

40A:9-174 Compensation for injury or death to member of governing body or other officer in performance of duty.

The governing body of any municipality, by resolution, may provide for the payment of a sum not to exceed \$1,500.00 to any officer of the municipality including a member of the governing body who shall have been injured in the performance of duty as such officer. In the event of the death of any such officer in the performance of duty, a similar sum may be paid to the widow or dependents.

Any such resolution shall prescribe the manner and method of payment.

Source: R. S. 40:87-61.

40A:9-175 Statutes repealed.

The following sections, acts and parts of acts, together with all amendments and supplements thereto, are hereby repealed.

Revised Statutes Sections

40:46-1

40:46-3, 40:46-4

40:46-5 amended 1938, c. 149; 1948, c. 46; 1955, c. 131; 1967, c. 236

40:46-6 amended 1953, c. 37

40:46-6.1 amended 1945, c. 138

40:46-7 to 40:46-12 both inclusive

40:46-16

40:46-17, 40:46-18

40:46-23 amended 1947, c. 166; 1948, c. 282; 1958, c. 145; 1962, c. 144; 1965, c. 227

40:46-25

40:46-26 amended 1942, c. 53; 1944, c. 99; 1947, c. 33; 1947, c. 166; 1948, c. 282; 1949, c. 271; 1952, c. 281; 1955, c. 175; 1962, c. 144

40:46-27 amended 1941, c. 144; 1954, c. 271; 1955, c. 186; 1958, c. 145

40:46-28

40:46-29

40:46-32

40:46-33

40:46-34 amended 1948, c. 163; 1948, c. 395

40:46-35, 40:46-36

40:72-20

40:73-7

40:87-61

40:145-19 to 40:145-22 both inclusive

40:171-19 amended 1970, c. 99

40:171-20 to 40:171-24 both inclusive
40:171-48, 40:171-49
40:171-93, 40:171-94
40:171-96, 40:171-97

Pamphlet Laws

Laws of 1938, c. 386 (C. 40:46-6.2, C. 40:46-6.3)
Laws of 1939, c. 286 (C. 40:46-34.1)
Laws of 1941, c. 133 (C. 40:46-37, C. 40:46-38)
Laws of 1944, c. 90 (C. 40:171-24.1)
Laws of 1947, c. 192 (C. 40:46-6.13)
Laws of 1947, c. 331 (C. 40:145-14.1 to C. 40:145-14.4 both inclusive)
Laws of 1947, c. 350 (C. 40:46-6.14 to C. 40:46-6.22 both inclusive)

Schedule of Amendments of Laws of 1947, c. 350

Section 1 amended by P. L. 1951, c. 173

Section 4 amended by P. L. 1953, c. 37

Laws of 1947, c. 362 (C. 40:83-8, C. 40:83-9)
Laws of 1951, c. 339, s. 1 (C. 40:46-27.1 amended by P. L. 1962, c. 151; 1967, c. 299)
Laws of 1952, c. 325 (C. 40:145-14.5, C. 40:145-14.6)
Laws of 1953, c. 322 (C. 40:46-2.1)
Laws of 1960, c. 81 (C. 40:46-6.23 to C. 40:46-6.25 both inclusive)
Laws of 1964, c. 2 (C. 40:46-16.1 to C. 40:46-16.5 both inclusive)
Laws of 1965, c. 243 (C. 40:46-6.22a)
Laws of 1968, c. 35 (C. 40:46-6.2a, C. 40:46-6.2b)
Laws of 1968, c. 205 (C. 40:46-6.2c)
Laws of 1968, c. 239 (C. 40:46-32.1)
Laws of 1968, c. 367 (C. 40:46-2.2 to C. 40:46-2.4 both inclusive)

Schedule of Amendment of Laws of 1968, c. 367

Section 1 amended by P. L. 1970, c. 146

Laws of 1969, c. 241 (C. 40:41-50 to C. 40:41-53 both inclusive)
Laws of 1969, c. 287 (C. 40:46-32.2)

SECTION 2**Effective Date.**

This act shall take effect July 1, 1971.

Approved June 9, 1971.

<i>Source Sections</i>	<i>Revised Sections</i>
R. S. 27:14-24 . . . As am. L. 1948, c. 111	40A:9-44
R. S. 40:11-1 . . . As am. L. 1953, c. 37, s. 7 . . .	{ 40A:9-1 40A:9-2
C. 40:11-1.1 L. 1962, c. 173, s. 1 . . .	40A:9-4
C. 40:11-1.2 L. 1962, c. 173, s. 2 . . .	40A:9-4
C. 40:11-1.3 L. 1962, c. 173, s. 3 . . .	40A:9-4
C. 40:11-1.4 L. 1962, c. 173, s. 4 . . .	40A:9-4
R. S. 40:11-2 . . . As am. L. 1953, c. 37, s. 8 . . .	Not Enacted
R. S. 40:11-3	{ Repealed L. 1953, c. 37, s. 9
R. S. 40:11-4 . . . As am. L. 1938, c. 336; L. 1951, c. 62, s. 1 . . .	{ 40A:9-3
R. S. 40:11-5	40A:9-5
R. S. 40:11-6	Not Enacted
R. S. 40:11-7	40A:9-6
R. S. 40:11-8	40A:9-7
R. S. 40:11-14	40A:9-8
R. S. 40:11-15 . . . As am. L. 1947, c. 231, s. 1; . . . L. 1954, c. 129	{ { Repealed L. 1960, c. 180, s. 3
C. 40:11-15.1 L. 1960, c. 180, s. 1; . . . As am. L. 1964, c. 259, s. 1; . . . L. 1967, c. 204, s. 1 . . .	{ 40A:9-13
R. S. 40:11-16 . . . As am. L. 1949, c. 166, s. 1; . . . L. 1954, c. 165, s. 1 . . .	{ { Repealed L. 1960, c. 180, s. 3
C. 40:11-16.1 L. 1960, c. 180, s. 2; . . . As am. L. 1964, c. 259, s. 2; . . . L. 1967, c. 204, s. 2 . . .	{ 40A:9-14
C. 40:11-16.1a L. 1967, c. 204, s. 3 . . .	40A:9-14
C. 40:11-16.2 L. 1964, c. 259, s. 3 . . .	40A:9-15
C. 40:11-16.3 L. 1964, c. 259, s. 4 . . .	40A:9-16

<i>Source Sections</i>	<i>Revised Sections</i>
R. S. 40:11-17 ... As am. L. 1947, c. 363, s. 1; ... L. 1948, c. 45, s. 1 ...	40A:9-19
C. 40:11-17.1 ... L. 1940, c. 181; ... As am. L. 1947, c. 363, s. 2; ... L. 1948, c. 45, s. 2 ...	40A:9-20
C. 40:11-17.2 ... L. 1952, c. 1, s. 1 ...	Expired
C. 40:11-17.3 ... L. 1952, c. 1, s. 2; ... As am. L. 1953, c. 371 ...	Expired
C. 40:11-17.4 ... L. 1952, c. 1, s. 3; ... As am. L. 1952, c. 359; ... L. 1953, c. 440; ... L. 1954, c. 9 ...	Expired
C. 40:11-17.5 ... L. 1954, c. 10 ...	40A:9-21
C. 40:11-26 ... L. 1966, c. 310 ...	40A:9-17
C. 40:11-27 ... L. 1968, c. 91, s. 1 ...	40A:9-18
C. 40:11-28 ... L. 1968, c. 91, s. 2 ...	40A:9-18
R. S. 40:21-1 ...	40A:9-23
R. S. 40:21-2 ...	Not Enacted
R. S. 40:21-3 ...	40A:9-9
R. S. 40:21-4 ...	40A:9-25
R. S. 40:21-5 ...	40A:9-11
R. S. 40:21-6 ...	Not Enacted
R. S. 40:21-7 ... As am. L. 1953, c. 37, s. 27 ...	Not Enacted
C. 40:21-7.1 ... L. 1956, c. 198 ...	Repealed L. 1960, c. 169, s. 2
R. S. 40:21-8 ...	Repealed L. 1960, c. 169, s. 2
R. S. 40:21-9 ... As am. L. 1952, c. 51 ...	Repealed L. 1960, c. 169, s. 2
R. S. 40:21-10 ...	Repealed L. 1960, c. 169, s. 2
R. S. 40:21-11 ...	Repealed L. 1960, c. 169, s. 2
R. S. 40:21-12 ... As am. L. 1953, c. 37, s. 28 ...	Repealed L. 1960, c. 169, s. 2

<i>Source Sections</i>	<i>Revised Sections</i>
R. S. 40:21-13	40A :9-10
R. S. 40:21-14	{ Repealed L. 1960, c. 169, s. 2
C. 40:21-14.1 L. 1957, c. 24	{ Repealed L. 1960, c. 169, s. 2
R. S. 40:21-15	40A :9-10.1
R. S. 40:21-16	Not Enacted
R. S. 40:21-17	Not Enacted
C. 40:21-17.1 L. 1953, c. 37, s. 38 ...	40A :9-24
R. S. 40:21-18	40A :9-26
R. S. 40:21-18.1	40A :9-26
C. 40:21-18.2 L. 1967, c. 220, s. 1	40A :9-42
C. 40:21-18.3 L. 1967, c. 220, s. 2	40A :9-42
R. S. 40:21-19 ... As am. L. 1967, c. 103, s. 1	40A :9-27
C. 40:21-19.1 L. 1967, c. 103, s. 2	40A :9-28
R. S. 40:21-20	40A :9-29
C. 40:21-20.1 L. 1944, c. 125, s. 1	Not Enacted
C. 40:21-20.2 L. 1944, c. 125, s. 2	Not Enacted
C. 40:21-20.3 L. 1944, c. 125, s. 3	Not Enacted
R. S. 40:21-21	40A :9-30
C. 40:21-21.1 L. 1948, c. 400	Not Enacted
R. S. 40:21-22	40A :9-31
R. S. 40:21-23	{ Not Enacted Superseded by L. 1967, c. 234
C. 40:21-23.1 L. 1948, c. 78, s. 2	{ Not Enacted Superseded by L. 1967, c. 234
R. S. 40:21-24 ... As am. L. 1948, c. 78, s. 1; } L. 1953, c. 37, s. 29 }	{ Not Enacted Superseded by L. 1967, c. 234
C. 40:21-24.1 L. 1960, c. 19	{ Not Enacted Superseded by L. 1967, c. 234

<i>Source Sections</i>	<i>Revised Sections</i>
R. S. 40:21-25 . . . As am. L. 1953, c. 37, s. 30 . . .	{ Not Enacted Superseded by L. 1967, c. 234
R. S. 40:21-26	40A:9-58
C. 40:21-26.1 } thru C. 40:21-26.5 }	{ Repealed L. 1947, c. 403, s. 6
C. 40:21-26.6 L. 1947, c. 403, s. 1 . . .	{ Not Enacted Superseded by L. 1967, c. 234
C. 40:21-26.7 L. 1947, c. 403, s. 2; } As am. L. 1951, c. 309 }	{ Not Enacted Superseded by L. 1967, c. 234
C. 40:21-26.8 L. 1947, c. 403, s. 3 . . .	{ Not Enacted Superseded by L. 1967, c. 234
C. 40:21-26.9 L. 1947, c. 403, s. 4 . . .	{ Not Enacted Superseded by L. 1967, c. 234
C. 40:21-26.10 L. 1947, c. 403, s. 5 . . .	{ Not Enacted Superseded by L. 1967, c. 234
C. 40:21-26.11 L. 1947, c. 403, s. 6 . . .	Not Enacted
R. S. 40:21-27	40A:9-48
R. S. 40:21-28 . . . As am. L. 1953, c. 37, s. 31 . . .	{ Not Enacted Superseded by L. 1967, c. 234
R. S. 40:21-29	{ Not Enacted Superseded by L. 1967, c. 234

<i>Source Sections</i>	<i>Revised Sections</i>
R. S. 40:21-30	{ Not Enacted Superseded by L. 1967, c. 234
C. 40:21-30.1 L. 1944, c. 182, s. 1	{ Not Enacted Superseded by L. 1967, c. 234
C. 40:21-30.2 L. 1944, c. 182, s. 2	{ Not Enacted Superseded by L. 1967, c. 234
C. 40:21-30.3 L. 1944, c. 182, s. 3	40A:9-47
C. 40:21-30.4 L. 1944, c. 182, s. 4	40A:9-47
C. 40:21-30.5 L. 1944, c. 182, s. 5	40A:9-47
C. 40:21-30.6 L. 1944, c. 182, s. 6	{ Not Enacted Superseded by L. 1967, c. 234
C. 40:21-30.7 L. 1944, c. 182, s. 7	{ Not Enacted Superseded by L. 1967, c. 234
C. 40:21-30.8 L. 1944, c. 182, s. 8	{ Not Enacted Superseded by L. 1967, c. 234
C. 40:21-30.9 L. 1944, c. 182, s. 9	{ Not Enacted Superseded by L. 1967, c. 234
C. 40:21-30.10 L. 1944, c. 182, s. 10 ...	{ Not Enacted Superseded by L. 1967, c. 234
C. 40:21-30.11 L. 1944, c. 182, s. 11 ... As am. L. 1953, c. 37, s. 32 ...	40A:9-50
C. 40:21-30.12 L. 1944, c. 182, s. 12 ...	40A:9-49
C. 40:21-30.13 L. 1944, c. 182, s. 13 ..	40A:9-58

*Source
Sections**Revised
Sections*

C. 40:21-30.14	L. 1944, c. 182, s. 14 . . .	{ Not Enacted Superseded by L. 1967, c. 234
C. 40:21-30.15	L. 1944, c. 182, s. 15 . . .	{ Not Enacted Superseded by L. 1967, c. 234
C. 40:21-30.16	L. 1944, c. 182, s. 16 . . .	{ Not Enacted Superseded by L. 1967, c. 234
C. 40:21-30.17	L. 1944, c. 182, s. 17 . . .	} 40A:9-51
	As am. L. 1965, c. 11, s. 1 . . .	
C. 40:21-30.18	L. 1944, c. 182, s. 18 . . .	40A:9-52
C. 40:21-30.19	L. 1944, c. 182, s. 19 . . .	40A:9-55
R. S. 40:21-31		Not Enacted
R. S. 40:21-32 . . .	As am. L. 1953, c. 37, s. 33 . . .	Not Enacted
R. S. 40:21-33 . . .	As am. L. 1953, c. 37, s. 34 . . .	Not Enacted
R. S. 40:21-34		40A:9-53
R. S. 40:21-35		40A:9-54
R. S. 40:21-36		40A:9-54
R. S. 40:21-37		40A:9-55
R. S. 40:21-38		40A:9-52
R. S. 40:21-39		{ 40A:9-52 40A:9-55
R. S. 40:21-40		40A:9-52
R. S. 40:21-41		40A:9-57
R. S. 40:21-42		{ Not Enacted Transferred to Crimes Act
R. S. 40:21-43		40A:9-32
R. S. 40:21-44		40A:9-32
R. S. 40:21-45		Not Enacted
R. S. 40:21-46		Not Enacted
R. S. 40:21-47		Not Enacted
C. 40:21-47.1	L. 1939, c. 224	40A:9-34
C. 40:21-47.2	L. 1966, c. 169	40A:9-35
R. S. 40:21-48 . . .	As am. L. 1961, c. 64, s. 1 . . .	40A:9-36

<i>Source Sections</i>	<i>Revised Sections</i>
R. S. 40:21-49	40A:9-37
R. S. 40:21-50	40A:9-38
R. S. 40:21-51	40A:9-39
R. S. 40:21-52 ... As am. L. 1953, c. 37, s. 35 ...	40A:9-39
R. S. 40:21-53	{ Repealed L. 1953, c. 37, s. 36
R. S. 40:21-54	
R. S. 40:21-55	Not Enacted
R. S. 40:21-56	40A:9-40
R. S. 40:21-57 ... As am. L. 1944, c. 61	40A:9-40
R. S. 40:21-58	40A:9-41
R. S. 40:21-59	Not Enacted
R. S. 40:21-60 ... As am. L. 1938, c. 268	40A:9-43
R. S. 40:21-61 ... As am. L. 1942, c. 51, s. 1	{ Not Enacted Superseded by L. 1967, c. 234
R. S. 40:21-62	
R. S. 40:21-63 ... As am. L. 1942, c. 51, s. 2	{ Not Enacted Superseded by L. 1967, c. 234
R. S. 40:21-64	
R. S. 40:21-65	40A:9-47
R. S. 40:21-66	{ Not Enacted Superseded by L. 1967, c. 234
R. S. 40:21-67	
R. S. 40:21-68	40A:9-58
R. S. 40:21-69	{ Not Enacted Superseded by L. 1967, c. 234
R. S. 40:21-69	

*Source
Sections**Revised
Sections*

R. S. 40:21-70	.....	{ Not Enacted Superseded by L. 1967, c. 234
R. S. 40:21-71	... As am. L. 1953, c. 37, s. 37 ...	40A:9-50
R. S. 40:21-72	.....	40A:9-49
R. S. 40:21-73	... As am. L. 1942, c. 80	40A:9-58
R. S. 40:21-74	.....	{ Not Enacted Superseded by L. 1967, c. 234
R. S. 40:21-75	.....	{ Not Enacted Superseded by L. 1967, c. 234
R. S. 40:21-76	.....	{ Not Enacted Superseded by L. 1967, c. 234
R. S. 40:21-77	... As am. L. 1942, c. 51, s. 3	40A:9-51
R. S. 40:21-78	.....	40A:9-52
R. S. 40:21-79	.....	40A:9-55
C. 40:21-80	 L. 1938, c. 54	{ Not Enacted Reallocated to C. 30:8-13.1
	As am. L. 1940, c. 134	
	L. 1947, c. 212	
R. S. 40:38-1	 As am. L. 1943, c. 21;	{ 40A:9-63 40A:9-64
	L. 1953, c. 37, s. 98 }	
R. S. 40:38-2	 As am. L. 1953, c. 37, s. 99 ...	40A:9-65
R. S. 40:38-3	.....	40A:9-66
R. S. 40:38-4	 As am. L. 1953, c. 37, s. 100 ..	40A:9-67
R. S. 40:38-5	 As am. L. 1944, c. 68;	{ Repealed L. 1959, c. 96, s. 4
	L. 1947, c. 198	
R. S. 40:38-6	.....	{ Repealed L. 1959, c. 96, s. 4
C. 40:38-6.1	 L. 1945, c. 62	{ Repealed L. 1959, c. 96, s. 4

<i>Source Sections</i>	<i>Revised Sections</i>
C. 40:38-6.2 L. 1946, c. 197; As am. L. 1953, c. 61	{ Repealed L. 1959, c. 96, s. 4
C. 40:38-6.3 L. 1948, c. 303	{ Repealed L. 1959, c. 96, s. 4
C. 40:38-6.4 L. 1951, c. 244, s. 1	{ Repealed L. 1959, c. 96, s. 4
C. 40:38-6.5 L. 1951, c. 242	{ Repealed L. 1959, c. 96, s. 4
C. 40:38-6.6 L. 1952, c. 88, s. 1	{ Repealed L. 1959, c. 96, s. 4
C. 40:38-6.7 L. 1952, c. 88, s. 2	{ Repealed L. 1959, c. 96, s. 4
C. 40:38-6.8 L. 1952, c. 98, s. 1	{ Repealed L. 1959, c. 96, s. 4
C. 40:38-6.9 L. 1952, c. 98, s. 2	{ Repealed L. 1959, c. 96, s. 4
C. 40:38-6.10 L. 1953, c. 179	{ Repealed L. 1959, c. 96, s. 4
C. 40:38-6.11 L. 1954, c. 202	{ Repealed L. 1959, c. 96, s. 4
C. 40:38-6.12 L. 1954, c. 256, s. 1	{ Repealed L. 1959, c. 96, s. 4
C. 40:38-6.13 L. 1955, c. 247, s. 1	{ Repealed L. 1959, c. 96, s. 4
C. 40:38-6.14 L. 1959, c. 96, s. 1; . As am. L. 1961, c. 15, s. 1; . L. 1967, c. 266, s. 1; . 1970, c. 144	{ 40A:9-76 40A:9-92 40A:9-104
C. 40:38-6.15 L. 1959, c. 96, s. 2	{ 40A:9-76 40A:9-92 40A:9-104

<i>Source Sections</i>	<i>Revised Sections</i>
C. 40:38-6.16 L. 1959, c. 96, s. 3	{ 40A:9-76 40A:9-92 40A:9-104
C. 40:38-6.17 L. 1959, c. 96, s. 4	40A:9-78
R. S. 40:38-7 As am. L. 1953, c. 37, s. 101	40A:9-68
R. S. 40:38-8 As am. L. 1953, c. 37, s. 102	40A:9-68
C. 40:38-8.1 L. 1948, c. 208;	{ 40A:9-70 40A:9-88
As am. L. 1951, c. 122	
R. S. 40:38-9	40A:9-69
R. S. 40:38-10 As am. L. 1953, c. 37, s. 103	40A:9-71
R. S. 40:38-11 As am. L. 1953, c. 37, s. 104	40A:9-71
R. S. 40:38-12	40A:9-73
R. S. 40:38-13	{ Not Enacted Superseded by L. 1960, c. 169
R. S. 40:38-14	{ Not Enacted Superseded by L. 1960, c. 169
R. S. 40:38-15	{ Not Enacted Superseded by L. 1960, c. 169
R. S. 40:38-16 As am. L. 1953, c. 37, s. 105	Not Enacted
R. S. 40:38-17 As am. L. 1953, c. 37, s. 106	Not Enacted
R. S. 40:38-18	{ Repealed L. 1953, c. 37, s. 107
R. S. 40:38-19	Not Enacted
R. S. 40:38-20	Not Enacted
R. S. 40:38-21	Not Enacted
R. S. 40:38-22	{ Repealed L. 1953, c. 37, s. 108
R. S. 40:38-23 As am. L. 1953, c. 37, s. 109	40A:9-72
R. S. 40:38-24 As am. L. 1953, c. 37, s. 110	40A:9-72
R. S. 40:38-25 As am. L. 1953, c. 37, s. 111	40A:9-74
C. 40:38-25.1 L. 1939, c. 223	40A:9-79

<i>Source Sections</i>	<i>Revised Sections</i>
C. 40:38-25.2 L. 1952, c. 96, s. 1	40A:9-75
C. 40:38-25.3 L. 1952, c. 96, s. 2	40A:9-75
C. 40:38-25.4 L. 1952, c. 96, s. 3	40A:9-75
C. 40:38-25.5 L. 1952, c. 96, s. 4	40A:9-75
R. S. 40:38-26	40A:9-74
R. S. 40:38-27 . . . As am. L. 1953, c. 37, s. 112 . .	40A:9-74
R. S. 40:38-28 . . . As am. L. 1948, c. 278	{ 40A:9-74 40A:9-77
C. 40:38-28.1 L. 1969, c. 260	40A:9-77.1
C. 40:38-29 L. 1944, c. 252, s. 1	Not Enacted
C. 40:38-30 L. 1944, c. 252, s. 2	Not Enacted
C. 40:38-31 L. 1944, c. 252, s. 3	Not Enacted
C. 40:38-32 L. 1948, c. 314, s. 1; As am. L. 1951, c. 256; L. 1952, c. 178	{ Not Enacted
C. 40:38-33 L. 1948, c. 314, s. 2	Not Enacted
C. 40:38-34 L. 1948, c. 314, s. 3	Not Enacted
R. S. 40:39-1	40A:9-80
R. S. 40:39-2 . . . As am. L. 1943, c. 92	40A:9-81
R. S. 40:39-3	40A:9-81
R. S. 40:39-4	40A:9-81
R. S. 40:39-5	40A:9-81
R. S. 40:39-6	40A:9-81
R. S. 40:39-7	40A:9-81
R. S. 40:39-8 . . . As am. L. 1953, c. 37, s. 113 . .	40A:9-82
R. S. 40:39-9	40A:9-83
R. S. 40:39-10 . . . As am. L. 1953, c. 37, s. 114 . .	{ 40A:9-84 40A:9-85 40A:9-86 40A:9-87
R. S. 40:39-11	{ Repealed L. 1959, c. 96, s. 4
C. 40:39-11.1 L. 1955, c. 247, s. 4	{ Repealed L. 1959, c. 96, s. 4
R. S. 40:39-12	{ Repealed L. 1959, c. 96, s. 4

<i>Source Sections</i>	<i>Revised Sections</i>
C. 40:39-12.1 L. 1952, c. 87, s. 1	{ Repealed L. 1959, c. 96, s. 4
C. 40:39-12.2 L. 1952, c. 87, s. 2	
R. S. 40:39-13	{ Repealed L. 1959, c. 96, s. 4
R. S. 40:39-14 As am. L. 1953, c. 37, s. 115	
R. S. 40:39-15 As am. L. 1953, c. 37, s. 116	{ 40A:9-88 40A:9-89 40A:9-90
R. S. 40:39-16 As am. L. 1953, c. 37, s. 117	
R. S. 40:39-17	{ 40A:9-87 40A:9-90
R. S. 40:39-18 As am. L. 1953, c. 37, s. 118	
R. S. 40:39-19	{ 40A:9-91 40A:9-91
R. S. 40:39-20	
R. S. 40:39-21 As am. L. 1948, c. 277	{ Not Enacted Superseded by L. 1960, c. 169
C. 40:39-22 L. 1970, c. 336	
R. S. 40:40-22	{ 40A:9-91 40A:9-93
R. S. 40:40-23	
R. S. 40:40-24	{ 40A:9-77 40A:9-93
R. S. 40:40-25	
R. S. 40:40-26	{ Not Enacted
R. S. 40:40-27	
R. S. 40:40-28	{ 40A:9-59 40A:9-60
R. S. 40:41-1	
R. S. 40:41-2 As am. L. 1943, c. 22, s. 1;	{ Not Enacted 40A:9-61 40A:9-61 40A:9-62 40A:9-62 40A:9-64
R. S. 40:41-3 As am. L. 1943, c. 22, s. 2;	
R. S. 40:41-3 As am. L. 1943, c. 22, s. 2;	{ 40A:9-95 40A:9-95
R. S. 40:41-3 As am. L. 1943, c. 22, s. 2;	
C. 40:41-3.1 L. 1940, c. 87, s. 1	{ 40A:9-95
C. 40:41-3.2 L. 1940, c. 87, s. 2	
C. 40:41-3.3 L. 1940, c. 87, s. 3	{ Not Enacted
C. 40:41-3.4 L. 1940, c. 87, s. 4	
R. S. 40:41-4 As am. L. 1953, c. 37, s. 137	{ Not Enacted
R. S. 40:41-5 As am. L. 1953, c. 37, s. 138	
R. S. 40:41-6 As am. L. 1944, c. 69;	{ 40A:9-96 40A:9-97
R. S. 40:41-6 As am. L. 1944, c. 69;	
R. S. 40:41-6 As am. L. 1947, c. 197	{ Repealed L. 1959, c. 96, s. 4
R. S. 40:41-6 As am. L. 1947, c. 197	

<i>Source Sections</i>	<i>Revised Sections</i>
R. S. 40:41-7	{ Repealed L. 1959, c. 96, s. 4
C. 40:41-7.1 L. 1945, c. 63	{ Repealed L. 1959, c. 96, s. 4
C. 40:41-7.2 L. 1948, c. 302 As am. L. 1948, c. 399	{ Repealed L. 1959, c. 96, s. 4
C. 40:41-7.3 L. 1951, c. 244, s. 3	{ Repealed L. 1959, c. 96, s. 4
C. 40:41-7.4 L. 1951, c. 240	{ Repealed L. 1959, c. 96, s. 4
C. 40:41-7.5 L. 1952, c. 85	{ Repealed L. 1959, c. 96, s. 4
C. 40:41-7.6 L. 1952, c. 85	{ Repealed L. 1959, c. 96, s. 4
C. 40:41-7.7 L. 1952, c. 99	{ Repealed L. 1959, c. 96, s. 4
C. 40:41-7.8 L. 1952, c. 99	{ Repealed L. 1959, c. 96, s. 4
C. 40:41-7.9 L. 1953, c. 180	{ Repealed L. 1959, c. 96, s. 4
C. 40:41-7.10 L. 1954, c. 201	{ Repealed L. 1959, c. 96, s. 4
C. 40:41-7.11 L. 1954, c. 256, s. 3	{ Repealed L. 1959, c. 96, s. 4
C. 40:41-7.12 L. 1955, c. 247, s. 3	{ Repealed L. 1959, c. 96, s. 4
R. S. 40:41-8	40A :9-105
R. S. 40:41-9	40A :9-98
R. S. 40:41-10	40A :9-99

<i>Source Sections</i>		<i>Revised Sections</i>
C. 40:41-33.4	L. 1943, c. 191, s. 4	40A:9-118
C. 40:41-33.5	L. 1943, c. 191, s. 5; ... As am. L. 1947, c. 256, s. 3; ... L. 1950, c. 277, s. 4; ... L. 1953, c. 341, s. 4; ... L. 1957, c. 155	40A:9-118
C. 40:41-33.6	L. 1943, c. 191, s. 6; ... As am. L. 1947, c. 256, s. 4; ... L. 1953, c. 341, s. 5	40A:9-118
C. 40:41-33.7	L. 1943, c. 191, s. 7	40A:9-118
C. 40:41-33.8	L. 1943, c. 191, s. 8	40A:9-119
C. 40:41-33.9	L. 1943, c. 191, s. 9; ... As am. L. 1947, c. 256, s. 5	Not Enacted
C. 40:41-33.10	L. 1943, c. 191, s. 10; ... As am. L. 1947, c. 256, s. 6	Not Enacted
C. 40:41-33.11	L. 1943, c. 191, s. 11	Not Enacted
C. 40:41-33.12	L. 1943, c. 191, s. 12	Not Enacted
C. 40:41-33.13	L. 1943, c. 191, s. 13	Not Enacted
C. 40:41-33.14	L. 1943, c. 191, s. 14	Not Enacted
C. 40:41-33.15	L. 1943, c. 191, s. 15	Not Enacted
C. 40:41-33.16	L. 1947, c. 256, s. 7	Not Enacted
C. 40:41-33.17	L. 1947, c. 256, s. 8	Not Enacted
C. 40:41-33.18	L. 1947, c. 256, s. 9	Not Enacted
C. 40:41-33.19	L. 1947, c. 256, s. 10	Not Enacted
C. 40:41-33.20	L. 1949, c. 35, s. 1	40A:9-118
C. 40:41-33.21	L. 1949, c. 35, s. 2	Not Enacted
C. 40:41-33.22	L. 1949, c. 35, s. 3	Not Enacted
R. S. 40:41-34		40A:9-120
R. S. 40:41-35	As am. L. 1943, c. 68; ... L. 1949, c. 76; ... L. 1967, c. 300	40A:9-120
R. S. 40:41-36		40A:9-121
R. S. 40:41-37		40A:9-122
R. S. 40:41-38		40A:9-123
R. S. 40:41-39		40A:9-124
R. S. 40:41-40		40A:9-125
R. S. 40:41-41		40A:9-126
R. S. 40:41-42	As am. L. 1953, c. 37, s. 145	40A:9-126
R. S. 40:41-43	As am. L. 1953, c. 37, s. 146	40A:9-126
R. S. 40:41-44	As am. L. 1953, c. 37, s. 147	40A:9-126

<i>Source Sections</i>	<i>Revised Sections</i>
R. S. 40:41-45	{ Repealed L. 1953, c. 37, s. 148
R. S. 40:41-46 ... As am. L. 1953, c. 37, s. 149 ..	40A:9-127
R. S. 40:41-47	{ Repealed L. 1953, c. 37, s. 150
R. S. 40:41-48	40A:9-127
R. S. 40:41-49	40A:9-127
C. 40:41-50 L. 1969, c. 241, s. 1	40A:9-126.1
C. 40:41-51 L. 1969, c. 241, s. 2	40A:9-126.1
C. 40:41-52 L. 1969, c. 241, s. 3	40A:9-126.1
C. 40:41-53 L. 1969, c. 241, s. 4	40A:9-126.1
R. S. 40:46-1	40A:9-129
R. S. 40:46-2	{ Repealed L. 1960, c. 169, s. 2
C. 40:46-2.1 L. 1953, c. 322	40A:9-135
C. 40:46-2.2 L. 1968, c. 367, s. 1; ... L. 1970, c. 146	{ 40A:9-136
C. 40:46-2.3 L. 1968, c. 367, s. 2	40A:9-137
C. 40:46-2.4 L. 1968, c. 367, s. 3	40A:9-138
R. S. 40:46-3	Not Enacted
R. S. 40:46-4	40A:9-139
R. S. 40:46-5 ... As am. L. 1938, c. 149; L. 1948, c. 46; L. 1955, c. 131; L. 1967, c. 236, s. 1	{ 40A:9-155
R. S. 40:46-6 ... As am. L. 1953, c. 37, s. 164 ..	40A:9-156
R. S. 40:46-6.1 .. As am. L. 1945, c. 138	{ 40A:9-141 40A:9-142
C. 40:46-6.2 L. 1938, c. 386, s. 1	40A:9-148
C. 40:46-6.2a L. 1968, c. 35, s. 1	40A:9-148
C. 40:46-6.2b L. 1968, c. 35, s. 2	40A:9-148
C. 40:46-6.2c L. 1968, c. 205	40A:9-147
C. 40:46-6.3 L. 1968, c. 386, s. 2	40A:9-148
C. 40:46-6.13 L. 1947, c. 192	Not Enacted
C. 40:46-6.13a L. 1966, c. 211	40A:9-150
C. 40:46-6.14 L. 1947, c. 350, s. 1; . } As am. L. 1951, c. 173	{ 40A:9-144 40A:9-144.1
C. 40:46-6.15 L. 1947, c. 350, s. 2	40A:9-144
C. 40:46-6.16 L. 1947, c. 350, s. 3	40A:9-144

<i>Source Sections</i>	<i>Revised Sections</i>
C. 40:46-6.17 L. 1947, c. 350, s. 4; ... As am. L. 1953, c. 37, s. 165 ... }	40A:9-144
C. 40:46-6.18 L. 1947, c. 350, s. 5 ...	40A:9-144
C. 40:46-6.19 L. 1947, c. 350, s. 6 ...	40A:9-144
C. 40:46-6.20 L. 1947, c. 350, s. 7 ...	40A:9-144
C. 40:46-6.21 L. 1947, c. 350, s. 8 ...	40A:9-144
C. 40:46-6.22 L. 1947, c. 350, s. 9 ...	40A:9-144
C. 40:46-6.22a L. 1965, c. 243 ...	40A:9-145
C. 40:46-6.23 L. 1960, c. 81, s. 1 ...	40A:9-140
C. 40:46-6.24 L. 1960, c. 81, s. 2 ...	40A:9-140
C. 40:46-6.25 L. 1960, c. 81, s. 3 ...	40A:9-140
R. S. 40:46-7	40A:9-134
R. S. 40:46-8	40A:9-161
R. S. 40:46-9	40A:9-154
R. S. 40:46-10	40A:9-163
R. S. 40:46-11	40A:9-159
R. S. 40:46-12	Not Enacted
R. S. 40:46-13	{ 40A:9-9 40A:9-157
R. S. 40:46-14 ... As am. L. 1949, c. 62; ... L. 1970, c. 240 ... }	{ 40A:9-1 40A:9-11
C. 40:46-14.1 L. 1970, c. 303 ...	40A:9-11.1
R. S. 40:46-15	40A:9-12
R. S. 40:46-16	40A:9-149
C. 40:46-16.1 L. 1964, c. 2, s. 1 ...	40A:9-162
C. 40:46-16.2 L. 1964, c. 2, s. 2 ...	40A:9-162
C. 40:46-16.3 L. 1964, c. 2, s. 3 ...	40A:9-162
C. 40:46-16.4 L. 1964, c. 2, s. 4 ...	40A:9-162
C. 40:46-16.5 L. 1964, c. 2, s. 5 ...	40A:9-162
R. S. 40:46-17	Not Enacted
R. S. 40:46-18	Not Enacted
R. S. 40:46-19	{ Repealed L. 1960, c. 169, s. 2
R. S. 40:46-20 ... As am. L. 1940, c. 257, s. 14; ... L. 1952, c. 52 ... }	{ Repealed L. 1960, c. 169, s. 2
R. S. 40:46-21	{ Repealed L. 1960, c. 169, s. 2
R. S. 40:46-22 ... As am. L. 1953, c. 37, s. 166 ... }	{ Repealed L. 1960, c. 169, s. 2

<i>Source Sections</i>		<i>Revised Sections</i>
R. S. 40:46-23	As am. L. 1947, c. 166, s. 1; ... L. 1948, c. 282, s. 1; ... L. 1958, c. 145, s. 1; ... L. 1962, c. 144, s. 1; ... L. 1965, c. 227	40A:9-165
R. S. 40:46-24		Blank
R. S. 40:46-25		Not Enacted
R. S. 40:46-26	As am. L. 1942, c. 53, s. 1; ... L. 1944, c. 99, s. 1; ... L. 1947, c. 33; ... L. 1947, c. 166, s. 2; ... L. 1948, c. 282, s. 2; ... L. 1949, c. 271; ... L. 1952, c. 281; ... L. 1955, c. 175; ... L. 1962, c. 144, s. 2	40A:9-165
C. 40:46-26.1	L. 1962, c. 144, s. 3	40A:9-166
R. S. 40:46-27	As am. L. 1941, c. 144; ... L. 1954, c. 271; ... L. 1955, c. 186; ... L. 1958, c. 145, s. 2	40A:9-167
C. 40:46-27.1	L. 1951, c. 339; ... As am. L. 1962, c. 151; ... L. 1967, c. 299, s. 1	40A:9-165
R. S. 40:46-28		40A:9-168
C. 40:46-28.1	L. 1945, c. 277	Repealed L. 1958, c. 145, s. 3
C. 40:46-28.2	L. 1951, c. 327	Repealed L. 1958, c. 145, s. 3
C. 40:46-28.3	L. 1951, c. 327	Repealed L. 1958, c. 145, s. 3
R. S. 40:46-29		Not Enacted
R. S. 40:46-30		40A:9-10.1
R. S. 40:46-31		Repealed L. 1960, c. 169, s. 2
R. S. 40:46-32		40A:9-158
C. 40:46-32.1	L. 1968, c. 239	40A:9-160
C. 40:46-32.2	L. 1969, c. 287	40A:9-160.1

<i>Source Sections</i>	<i>Revised Sections</i>
R. S. 40:46-33	40A:9-171
R. S. 40:46-34	As am. L. 1948, c. 163;
	L. 1948, c. 395
C. 40:46-34.1	L. 1939, c. 286
R. S. 40:46-35	Not Enacted
R. S. 40:46-36	Not Enacted
C. 40:46-37	L. 1941, c. 133, s. 1
C. 40:46-38	L. 1941, c. 133, s. 2
R. S. 40:72-20	40A:9-164
R. S. 40:73-7	40A:9-133
C. 40:83-6	L. 1943, c. 190, s. 1
C. 40:83-7	L. 1943, c. 190, s. 2
C. 40:83-8	L. 1947, c. 362, s. 1
C. 40:83-9	L. 1947, c. 362, s. 2
R. S. 40:87-61	40A:9-174
R. S. 40:145-13	As am. L. 1969, c. 186
C. 40:145-14.1	L. 1947, c. 331, s. 1
C. 40:145-14.2	L. 1947, c. 331, s. 2
C. 40:145-14.3	L. 1947, c. 331, s. 3
C. 40:145-14.4	L. 1947, c. 331, s. 4
C. 40:145-14.5	L. 1952, c. 325, s. 1
C. 40:145-14.6	L. 1952, c. 325, s. 2
R. S. 40:145-19	40A:9-146
R. S. 40:145-20	Not Enacted
R. S. 40:145-21	40A:9-146
R. S. 40:145-22	40A:9-146
C. 40:145-33	L. 1970, c. 281
R. S. 40:171-19	As am. L. 1970, c. 99, s. 3
R. S. 40:171-20	40A:9-131
R. S. 40:171-21	40A:9-132
R. S. 40:171-22	40A:9-132
R. S. 40:171-23	40A:9-132
R. S. 40:171-24	40A:9-132
C. 40:171-24.1	L. 1944, c. 90
R. S. 40:171-48	40A:9-139
R. S. 40:171-49	40A:9-140
R. S. 40:171-93	40A:9-141
R. S. 40:171-94	40A:9-143
R. S. 40:171-96	40A:9-143
R. S. 40:171-97	40A:9-143
C. 52:17B-83	L. 1967, c. 234, s. 6
C. 52:17B-78 et seq.	L. 1967, c. 234

CHAPTER 201

AN ACT to provide for the approval of the municipal governing body prior to the expenditure of moneys for library expansion and amending R. S. 40:54-25.

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

1. R. S. 40:54-25 is amended to read as follows:

Lands and buildings; purchase and alteration; financing; title.

40:54-25. When, in the judgment of the board of trustees of the free public library in any municipality that shall establish a library under the provisions of this article or has heretofore established a free public library pursuant to law, it is advisable to purchase lands or erect buildings thereon, or both, or to enlarge or alter any building already erected thereon, for the purpose of a free public library, the board may certify to the board or body having charge of the finances of such municipality the amount of money, in addition to such moneys as it may have on hand applicable to such purposes, necessary for the purpose of making such purchase of land, the erection of buildings or other improvements thereof, and shall also certify therewith the total amount of moneys and funds available for the purchase of lands or erection of buildings, and an estimated account of the amount necessary for the maintenance of the library for the balance of the then current year.

Thereupon the board, or body having charge of the finances of the municipality may by resolution, at its discretion and with the approval of the mayor or other chief executive officer of the municipality, authorize and empower the board of trustees of the free public library to expend such sums of money, in addition to the moneys belonging to it and not needed for the expenses of maintenance for the remainder of the then fiscal year, as to such common council, or such other body or board, may seem proper for such purposes, not to exceed, however, the amount certified by the board of trustees of the free public library.

Upon the passage of such resolution the board of trustees of the free public library shall be empowered and authorized, with the consent of the mayor or other chief executive officer of such municipality, to purchase real estate, and to erect buildings and make

improvements thereon, and to expend moneys therefor to the amount of such appropriation and surplus, but no lands shall be purchased for the purpose of erecting thereon a free public library building except with the concurrence of such common council, or such other body or board, expressed by resolution of such common council, or such other body or board with the approval of the mayor or other chief executive officer of the municipality. Any veto exercised by the mayor or other chief executive officer may be overridden by a $\frac{2}{3}$ majority vote of the governing body of the municipality.

The title of any real estate so purchased shall be taken in the name of the municipality. The use and control of such real estate shall be in the board of trustees of the free public library so long as it shall be used for free public library purposes.

2. This act shall take effect immediately.

Approved June 9, 1971.

CHAPTER 202

AN ACT concerning boroughs and repealing R. S. 40:87-60.

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

Repealed.

1. R. S. 40:87-60 is repealed.
2. This act shall take effect July 1, 1971.

Approved June 9, 1971.

CHAPTER 203

AN ACT to validate certain elections of municipal tax assessors.

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

Validating act.

1. Any election heretofore held in any municipality for the election of a tax assessor for a term commencing as of July 1, 1971, is

hereby ratified, validated and confirmed notwithstanding that the person so elected was not the holder of a valid tax assessor certificate at the time of the election as required under section 6 of P. L. 1967, c. 44 (C. 54:1-35.30); provided that prior to the effective date of this act the person so elected has filed with the municipal clerk proof that he has successfully qualified by examination for, and is the holder of, a valid tax assessor certificate; and provided further, that no other candidate for the office of tax assessor in the municipality was a holder of a valid tax assessor certificate at the time of the election.

2. This act shall take effect immediately.

Approved June 9, 1971.

CHAPTER 204

AN ACT concerning the Legislature in relation to the compensation of members elected to fill vacancies in the membership thereof in certain cases.

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

C. 52:10A-2 Compensation of members of Senate or General Assembly elected to fill certain vacancies.

1. Any person elected at the general election in any year to fill a vacancy in the membership of the Senate or General Assembly occurring for any cause other than expiration of term, shall, upon qualifying into office, receive for the remainder of the legislative year that proportion of the annual compensation payable to members of the Legislature as the number of days remaining in the legislative year following his qualification bears to the total number of days in the legislative year.

2. This act shall take effect immediately.

Approved June 9, 1971.

CHAPTER 205

AN ACT providing for the regulation of mass gatherings, and providing for the establishment in the State Department of Health of a Mass Gathering Review Board.

WHEREAS, Municipalities in the State of New Jersey have been and will be requested to permit the mass gathering of substantial numbers of persons for the purposes of mass musical or public entertainment of various designations such as "pop festival," or "rock festival" or "rock music festival"; and

WHEREAS, The experience of the State of New Jersey has clearly demonstrated the need for uniform, adequate and constitutionally permissible Statewide standards regulating the promotion and conduct of such mass gatherings; and

WHEREAS, The State of New Jersey recognizes the need to assure the health, safety and welfare of the citizens of New Jersey as well as of the participants in such mass gatherings; and

WHEREAS, The State of New Jersey must require particular compliance with the drug laws of this State; and

WHEREAS, The State of New Jersey wishes to guarantee the financial and moral integrity of the promoters of mass gatherings; and

WHEREAS, The State of New Jersey recognizes that many geographical areas and physical facilities in New Jersey cannot reasonably accommodate the congregation of substantial numbers of persons for significant periods of time; now, therefore,

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

C. 5:11-1 Declaration of policy.

1. It shall be the policy of the State of New Jersey to permit, so long as consistent with the provisions of this act and the regulations issued hereunder, the mass gathering of persons for the purposes of mass musical or public entertainment.

C. 5:11-2 Permit required for mass gathering.

2. No person, group of persons, partnership, association or corporation, governmental unit or agency of State or local government, or any combination thereof shall conduct or promote, by advertising or otherwise, a mass gathering for the purposes of

musical entertainment of various designations such as "pop festival," or "rock festival" or "rock music festival" which may reasonably be anticipated to attract 3,000 or more people and which without discontinuing or disbanding continues or is planned to continue for in excess of 18 hours until a permit for such gathering has been obtained from the Mass Gathering Review Board pursuant to the provisions of this act and the regulations issued hereunder. This act shall not apply to mass gatherings continuing or planned to continue in excess of 18 hours when hotel or motel accommodations have been arranged for the participants.

C. 5:11-3 Mass Gathering Review Board; membership, appointment, powers and duties.

3. There is hereby created in the Department of Health a Mass Gathering Review Board for the purpose of providing the necessary uniformity and expertise required to properly review permits for mass gatherings. The board members shall be the Commissioner of the Department of Health or his designee, chairman, the Attorney General of the State of New Jersey, the Commissioner of the Department of Environmental Protection, the Chancellor of Higher Education, and the chief executive officer of the New Jersey State League of Municipalities, of the New Jersey Conference of Mayors, and of the New Jersey State Association of Chosen Freeholders, or their respective designees. In addition the board's membership shall include two student representatives who shall be appointed by and serve at the pleasure of the Governor. This board is authorized to establish rules and regulations concerning the conduct of mass gatherings and it is specifically empowered to review all mass gathering permits and to issue such permits only when it is satisfied that such gatherings shall not be inconsistent with the health, safety, and welfare of the participants and the citizens in surrounding communities. All decisions of the board must have the assent of a majority of its members.

C. 5:11-4 Licensing of ticket printers.

4. The board is also authorized to issue licenses to ticket printers for the purpose of this act and to assure a designated maximum number of patrons as well as a method of guaranteed reimbursement to ticket purchasers in the event of cancellation of a mass gathering. The board is authorized to prescribe rules and regulations governing the issuance of such licenses and to prescribe the form in which such tickets must be made. An applicant receiving a permit under this act may use only tickets obtained from a printer licensed by the board.

C. 5:11-5 Application for permit; filing, fee; action by municipal governing body.

5. All applications for a permit under this act shall be made at least 15 days before the first day of advertising, and at least 30 days before the first day of the mass gathering. Applications shall be submitted to officials designated by the board for the express purpose of receipt and transmittal of applications to the board. All applications shall be in such form as shall be prescribed by the board and shall be accompanied by a filing fee, not to exceed \$1,000.00, to be applied by the board toward its expenses in investigating the application. The amount of such filing fee shall be determined pursuant to a fee schedule adopted by the board and specifically related to the nature and extent of the investigation required by the size and duration of the proposed gathering. Fifteen days prior to submitting the completed application to the board the applicant shall submit a copy of the application to the appropriate municipal governing body in which the mass gathering is intended to be held. The governing body shall then have 15 days to prepare a statement of recommendation or to prepare a detailed summary of objections to the proposed application.

C. 5:11-6 Contents of permit application.

6. In addition to any other information the board may reasonably require from an applicant, the following information shall be contained in a permit application:

a. The applicant's full name, residence, telephone number and post office address, and whether such applicant is an individual, partnership, firm, corporation, or a governmental unit or agency thereof. If a partnership, the names and addresses of the partners shall be included. If a corporation, the names and addresses of the officers of the corporation shall be included. With the exception of a governmental unit or agency of State or local government, all applicants shall submit a financial statement with their application.

b. A diagrammatic sketch plan of the proposed site of the mass gathering showing the locations and dimensions of the proposed service roads, potable water facilities, sanitary facilities, sewage disposal facilities, medical service facilities, distribution of security personnel, and provisions for food storage, as well as camping facilities and projected plans for enclosure, if necessary, of the proposed site.

c. A statement of the purposes of the gathering and a program of events scheduled.

d. A statement from the municipal governing body in which the gathering is intended to be held. If said governing body opposes the granting of such permit, then a detailed summary of its objections must accompany the application.

e. A statement granting the permission of the owner of the property on which the gathering is to take place. If the premises are not owned by the applicant, then the names and address of the lessor or licensor and a copy of the lease or license shall be attached.

f. A statement of the number of persons expected to attend such event and the duration of such attendance.

g. The specific details, including certified copies of contracts entered into, of provisions relating to:

- (1) Food and drink,
- (2) Sanitary facilities,
- (3) Transportation and parking facilities,
- (4) Security and protection of surrounding areas, including specific reference to the number of guards or special police assisting in the control of traffic and supervision of those attending,
- (5) On site medical facilities and hospital care,
- (6) Janitorial services and post gathering trash removal.

h. A certified copy of the bond or verified evidence of other suitable financial arrangements, as hereinafter required, must be attached to the application.

i. A statement containing the names of licensed ticket printers to be used and the plans for assuring the return of moneys upon the termination or cancellation of the event as well as the means of notifying potential and existing ticket holders of such cancellation.

j. Examples of proposed advertising of the event, if any.

C. 5:11-7 Review of applications.

7. In reviewing applications submitted pursuant to this act and in determining whether a permit should be issued, the board shall consider all items reasonably necessary to provide it with assurances that the mass gathering shall not be inconsistent with the health, safety and welfare of the participants and the citizens in surrounding communities. In order to assure that constitutional rights are not violated and in order to properly define the standard of review to be applied by the board, the board shall primarily consider the following items:

- a. Compliance with applicable law;
- b. Whether the mass gathering is to be conducted or promoted for profit;

- c. Adequate and satisfactory water supply and sewage facilities;
- d. Adequate toilet, lavatory and drainage facilities;
- e. Adequate refuse, storage and disposal facilities;
- f. Adequate medical facilities and personnel, both on site and off site facilities;
- g. Adequate provisions for the ingress and egress of vehicular and pedestrian traffic as well as the provision of parking facilities where necessary;
- h. Provision of wholesome food and sanitary food services;
- i. Provision of adequate fire and police protection as well as security surrounding the area;
- j. Such other matters as the board may from time to time designate by rule or regulation.

C. 5:11-8 Authority to require plans, specifications and reports.

8. In exercising its responsibilities under this act the board may require such additional plans, specifications and reports as it shall deem necessary for a thorough and proper review of the application and may request and shall receive from all public officers, departments and agencies of this State such cooperation and assistance as may be necessary and proper to effectively and efficiently perform its duties under the provisions of this act.

C. 5:11-9 Issuance of permit.

9. The board shall, after reviewing the application for a permit and after investigating the proposed plans for such mass gathering, and after considering the facts and circumstances relating to the particular premises to be used, and after giving due consideration to the recommendation of the municipal governing body, issue a permit pursuant to this act if it concludes that the holding of such mass gathering shall not be inconsistent with the public health, safety and welfare of the participants and the citizens in surrounding communities.

C. 5:11-10 Imposition of reasonable terms and conditions.

10. In granting such a permit the board is specifically empowered to impose such reasonable terms and conditions upon the applicant as it deems necessary and proper to insure compliance with the provisions of the application and to insure that the public health, safety and welfare of the participants and the citizens in the surrounding communities will not be impaired. Such conditions may include, but need not be limited to:

- a. A maximum limit of time during which the mass gathering may be held without discontinuing or disbanding;

b. Requiring installation of such facilities and the providing of such services at the expense of the applicant as may be necessary;

c. Requiring, where advertising is used, appropriate notations relating to the enforcement of the drug laws of the State of New Jersey, geographical designation of parking facilities to be utilized and the ticket agencies or persons from whom money may be returned in the event of cancellation of the mass gathering.

In addition, the board shall require that all applicants provide a performance bond or other suitable financial security reasonably related in amount to the nature and extent of the undertaking involved and particularly related to: (1) insuring reimbursement to ticket purchasers in the event of termination or cancellation of the mass gathering or of the failure of the applicant to conduct the mass gathering as proposed and advertised; and (2) insuring the clean-up and restoration of the area at which such event takes place within 48 hours after the close of the event.

C. 5:11-11 Authority to inspect site and revoke permit.

11. Designated representatives of the board shall be permitted to inspect at any time the site of the mass gathering for the purpose of investigating an application and for the purpose of insuring compliance with the provisions of this act and the regulations issued hereunder. The board is authorized to revoke any permit for cause and specifically for the failure to comply with conditions imposed pursuant to this act.

C. 5:11-12 Intention of act.

12. This act is intended to provide the exclusive means of applying for and receiving permission to conduct a mass gathering as defined in section 2 of this act.

C. 5:11-13 Penalty.

13. Anyone who would otherwise be required to apply as indicated by section 2 of this act who fails to secure a permit, as required by the provisions of this act, or who continues to hold a mass gathering after the revocation or expiration of said permit, or who willfully fails to comply with the requirements of the board and provisions of the permit application, shall be a disorderly person. Each and every day that such violation occurs or continues to exist shall be considered a separate and specific violation.

C. 5:11-14 Injunctive relief.

14. Upon a violation of any of the provisions of this act, the board, the Attorney General, or the municipality in which such gathering is to be held, may institute a civil action in a court of

competent jurisdiction in the name of the board, the Attorney General or the municipality for injunctive relief to restrain the violation and for such other further relief as the court shall deem proper. In such an action the court may proceed in a summary manner if necessary. Neither the institution of the action, nor any of the proceedings therein, shall relieve any party to such proceedings from the penalty prescribed for a violation of this act.

15. The declaration of any portion of this law, by a court of competent jurisdiction, to be invalid shall not invalidate the entire law but only that part thereof so declared to be invalid, and the remainder of the law shall remain in full force and effect.

16. This act shall take effect immediately.

Approved June 9, 1971.

CHAPTER 206

AN ACT to amend "An act concerning the retirement and death of certain judicial officers and payments to be made as a result thereof," approved September 13, 1948 (P. L. 1948, c. 391).

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

1. Section 5 of P. L. 1948, c. 391 (C. 43:6-6.8) is amended to read as follows:

C. 43:6-6.8 Pension for certain widows.

5. Whenever any person holding the office of Chancellor, Chief Justice of the old Supreme Court, associate justice of the old supreme court, judge of the circuit court, Vice-Chancellor, Chief Justice of the new Supreme Court, associate justice of the new supreme court, or judge of the superior court shall die while in office or shall die after retirement on a pension payable under the provisions of this act and, in either case, shall leave a widow surviving him to whom he was married at least 4 years before the date of his death and to whom he continued to be married until the date of his death, an annual pension shall be paid thereafter to such surviving widow, so long as she lives and remains unmarried, in an amount equal to $\frac{1}{4}$ of the annual salary received by her deceased husband at the time of his death or retirement, as the case may be.

2. This act shall take effect immediately.

Approved June 9, 1971.

CHAPTER 207

AN ACT concerning county mosquito extermination commissions,
and amending R. S. 26:9-14.

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

1. R. S. 26:9-14 is amended to read as follows:

Composition of commission.

26:9-14. Each county mosquito extermination commission shall be composed of six members in addition to the Director of the State Experiment Station and the Commissioner of Health, who shall be ex-officio members and who shall cooperate with them for the effective carrying out of their plans and work. At least three of the appointive members shall be persons who are or have been members or employees of boards of health, and one appointive member shall be a member of the board of chosen freeholders of the county.

2. This act shall take effect immediately.

Approved June 9, 1971.

CHAPTER 208

AN ACT to amend "An act temporarily suspending the statutory maximum rate of interest limitations applicable to borrowings by counties, municipalities, school and other districts, State agencies and other public authorities and agencies," approved July 3, 1969 (P. L. 1969, c. 137), as said title was amended by P. L. 1970, c. 49.

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

1. Section 1 of P. L. 1969, c. 137 (C. 31:1-7) is amended to read as follows:

**C. 31:1-7 Interest rate limitations applicable to counties, municipalities, etc.;
suspension.**

1. Notwithstanding the provisions of any other law, statute or regulation applicable to or constituting any limitation on the maximum rate of interest per annum payable on bonds, notes or other

obligations, or as to annual interest cost to maturity of money borrowed or received upon issuance of bonds, notes or other obligations, every county, municipality, school district, body corporate and politic, district or public authority, agency, commission or other public institution heretofore or hereafter created by the State, any county, or municipality or by one or more counties or municipalities, is hereby authorized and empowered for the period from the effective date of this act through June 30, 1972 to contract to pay interest on or an interest cost per annum for money borrowed and evidenced by bonds, notes or other obligations issued during said period without limit as to the rate of interest per annum payable thereon or as to the annual interest cost to maturity of the money borrowed.

2. This act shall take effect immediately.

Approved June 9, 1971.

CHAPTER 209

AN ACT to establish in the State of New Jersey a program of assistance to be known as "Assistance to the Families of the Working Poor," supplementing Title 44 of the New Jersey Statutes, and amending the "New Jersey Medical Assistance and Health Services Act," approved January 15, 1969, (P. L. 1968, c. 413).

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

C. 44:13-1 Legislature's findings.

1. The Legislature hereby finds and declares that it is in the public interest for the State to provide financial assistance to New Jersey families with children in which both parents are present in the home and who otherwise meet the eligibility criteria set forth in this act by virtue of inadequate income for the support of the family. The Legislature further finds that such families are a unique class, distinguishable in their composition and needs from other categories of persons benefited by other programs of assistance established by law. The Legislature further finds that such families should be entitled to receive the benefits available under the "New Jersey Medical Assistance and Health Service Act," (P. L. 1968, c. 413).

C. 44:13-2 Enactment and administration of assistance program.

2. There is hereby enacted by the State of New Jersey a program of assistance to be known as "Assistance to the Families of the Working Poor" which shall benefit all of the citizens of New Jersey meeting the eligibility provisions more particularly set forth in section 3 of this act. This program shall be administered by all of the county welfare boards of this State under the direction of the Commissioner of Institutions and Agencies as provided in this Title.

C. 44:13-3 Definitions.

3. As used in this act and for the purposes of determining eligibility to receive financial assistance under this act, the following words shall have the following meanings:

a. "Assistance to the Families of the Working Poor" means the financial assistance and other services to be extended under this act to those families residing in New Jersey which consist of a household composed of two adults of the opposite sex ceremonially married to each other who have at least one minor child under the age of 18 residing with them, who shall be either the natural child of both, the natural child of one and adopted by the other, or a child adopted by both, and have (i) no income or insufficient income and (ii) no other resources or insufficient other resources, where such absence or insufficiency of income or resources is not the result of a voluntary cessation of employment within 90 days prior to the date of application, or the result of a voluntary assignment or transfer of property within one year prior to the time of application for the purpose of qualifying for public assistance;

b. "Adjusted gross income" means the total of monthly unearned income and monthly earned income of all employed individuals in the family, except for those individuals whose income is required to be disregarded under the provisions of this subsection, less the first \$60.00 earned by each person whose income is included in adjusted gross income. In computing the income of a family as defined in this act there shall be disregarded the earned income of any minor child under 16, and the income of a minor child under 18 if he or she is attending on a full time basis an accredited educational institution;

c. "Insufficient income" means that the adjusted gross income of the family is less than 66 $\frac{2}{3}$ % of the standard applicable to the size of the applicant family established by the Division of Public Welfare for the program of aid to dependent children authorized under P. L. 1959, c. 86 (C. 44:10-1 et seq.);

d. "Other resources" means all property and assets, as otherwise defined by the Division of Public Welfare for the program of aid to dependent children authorized under P. L. 1959, c. 86 (C. 44:10-1 et seq.), legally or beneficially owned by a member or members of the families which are or can be readily made available for the use of the family;

e. "Insufficient other resources" means that other resources are insufficient as determined by standards set forth by the Director of the Division of Public Welfare pursuant to P. L. 1959, c. 86 (C. 44:10-1 et seq.); and

f. "Commissioner" shall mean the Commissioner of Institutions and Agencies.

C. 44:13-4 Application for assistance; limitations.

4. a. A family wishing to make application for assistance under the provisions of this act shall do so by securing from the county welfare board offices an application, the form of which shall be prescribed by the Division of Public Welfare. Said application shall be completed and signed by both parents, except that if a parent is unavailable to sign the application for reasons beyond the family's control one signature will suffice. In that event the non-signatory parent shall be required to annex his signature as promptly as he is available for such purpose. Said application shall state that the amounts of assistance received by the applicants, if they are eligible, shall constitute a debt to the State of New Jersey as required by the provisions of this act.

b. No family or member thereof for whom financial assistance is being paid under the provisions of this act shall receive, during the same period, any other financial assistance from the State or any political subdivision thereof with respect to any maintenance requirements or other items for which allowance is made in the assistance grant paid pursuant to this act.

c. No family shall be entitled to receive financial assistance under this act if the father refuses, without good cause, to accept employment, better employment or training for employment or better employment.

C. 44:13-5 Rules and regulations; Federal financial participation.

5. Under general policies established by the State Board of Control consistent with the provisions of this act, the commissioner is authorized, directed and empowered to issue, or to cause to be issued by the appropriate departmental officers or agencies, in accordance with the "Administrative Procedure Act," (P. L. 1968, c. 410), all necessary rules and regulations and administrative

orders, and to do or cause to be done all other acts and things necessary to implement the provisions of this act. He shall endeavor to obtain the maximum possible Federal financial participation with respect to all or any portion of the program established by this act, insofar as it is feasible to do so consistently with the provisions of this act.

C. 44:13-6 Commissioner's duties.

6. The commissioner is directed to do the following:

a. Require that the program of assistance provided by this act shall be uniformly administered throughout all the counties of this State;

b. Require that all families wishing to make application for assistance under this program shall have the opportunity to do so, in the manner described in this act and that assistance shall be furnished with reasonable promptness to eligible families;

c. Require that safeguards be provided restricting the use or disclosure of information concerning applicants and recipients of aid under the provisions of this act;

d. Arrange for appropriate services and cooperation with other agencies so that maximum opportunities for employment or improved employment and training for employment will be available to recipients of assistance under this program;

e. Prescribe the conditions under which financial assistance will be denied to any family in which the father refuses, without good cause, to accept employment, better employment, or training for employment or better employment;

f. Provide a procedure whereby an applicant for or a recipient of assistance under the provisions of this act shall have an opportunity to appeal an action or decision of a county welfare board to the Division of Public Welfare of the Department of Institutions and Agencies. Such appeal shall be taken within 90 days from the date of the action or decision of the county welfare board upon which the applicant or recipient bases his appeal.

C. 44:13-7 Right to appeal.

7. An applicant or recipient shall be entitled to appeal any determination of a county welfare board to the Division of Public Welfare under the following circumstances:

a. When an application for assistance is denied;

b. When an application for assistance is not acted upon by the county welfare board receiving such application within 30 days of receipt;

- c. When a grant of assistance is terminated;
- d. When a dispute between a recipient of assistance and a county welfare board as to the correctness of the amount of assistance granted has been resolved by the county welfare board against the recipient.

The decision of the Division of Public Welfare shall be final and binding upon the parties.

C. 44:13-8 Amount of assistance.

8. The amount of assistance to be granted to an eligible family for any month shall be computed in the following manner:

a. From an amount equal to $66\frac{2}{3}\%$ of the applicable standard otherwise established by the Division of Public Welfare for the programs authorized under P. L. 1959, c. 86 (C. 44:10-1 et seq.), deduct the following:

- (1) the monthly unearned income of the family; and
- (2) the monthly earned income of the employed parents and of employed children not excluded by the provisions of section 3.b. of this act, less (i) the first \$60.00 earned by each such employed person and (ii) $\frac{1}{3}$ of the remainder after deducting said \$60.00 for each such employed person.

b. The sum resulting from the computation described above shall be the amount of assistance to the family, provided that the amount of assistance shall be limited by those ceilings established by the Division of Public Welfare for the programs of assistance authorized under P. L. 1959, c. 86 (C. 44:10-1 et seq.).

C. 44:13-9 Assistance constituted debt to State.

9. Any assistance received by a recipient shall constitute a debt owed to the State of New Jersey, which debt shall be recoverable by the State of New Jersey or its agents. If the State of New Jersey or its agents fails to move to recover the debt within 6 years of the last payment of assistance to the recipient, the former recipient's obligation thereunder shall be deemed unenforceable.

C. 44:13-10 Fraud; penalty; exceptions.

10. In any instance in which a county welfare board has reasonable cause to believe that a fraud has been perpetrated by an applicant for or recipient of assistance under this act, it shall refer the matter to the county prosecutor's office for appropriate action. Any applicant or recipient convicted of fraudulently attempting to obtain or obtaining assistance under this act may, in the discretion of the county welfare board, be barred from receiving public assistance under any program of public assistance authorized by the statutes of this State, except that

a. The period of ineligibility may not extend beyond the term of the sentence or period of probation, whichever is the case, imposed by the courts, and

b. If the conviction is appealed, those amounts of assistance, if any, which would have been received by the recipient but for his conviction, shall be held in trust by the county welfare board for the recipient, to be given to him or her by the county welfare board if the conviction is reversed and the reviewing court so orders.

C. 44:13-11 State's payments to county welfare boards.

11. The State shall pay to each county welfare board the full amount of any funds received by the State from the Federal Government as reimbursement for expenditures made by such county welfare boards for assistance rendered to those recipients benefited by the program established by this act who are covered by the provisions of Title IV of the "Federal Social Security Act," plus an additional amount equal to 75% of the balance of the county welfare board's expenditures under this act after deducting the amount of such Federal participation.

The State shall also pay to each county welfare board the full amount of any funds which may be received by the State from the Federal Government as Federal participation with respect to the administrative costs of providing assistance to those recipients benefited by the program established pursuant to this act whose circumstances are such that they are encompassed within the coverage extended by the provisions of Title IV of the "Federal Social Security Act."

C. 44:13-12 Determination of county's share of costs.

12. Ascertainment and appropriation of each county's share of costs shall be determined in the manner prescribed in R. S. 44:7-24.

13. Section 3 of c. 413 of the laws of 1968 (C. 30:4D-3) is amended to read as follows:

C. 30:4D-3 Definitions.

3. Definitions. As used in this act, and unless the context otherwise requires:

a. "Applicant" means any person who has applied for medical assistance under this act.

b. "Commissioner" means the Commissioner of the Department of Institutions and Agencies.

c. "Department" means the Department of Institutions and Agencies, which is herein designated as the single State agency to administer the provisions of this act.

d. "Medical assistance" means payments on behalf of recipients to providers for medical care and services.

e. "Provider" means any person, public or private institution, agency or business concern lawfully providing medical care, services, goods and supplies authorized under this act, holding, where applicable, a current valid license to provide such services or to dispense such goods or supplies.

f. "Qualified applicant" means a person who is a resident of this State and is determined to need medical care and services as provided under this act, and who:

(1) Is a recipient of old age assistance, assistance for the permanently and totally disabled, assistance for the blind or assistance for dependent children; or

(2) Would be eligible to receive public assistance under the State categorical assistance programs except for failure to meet an eligibility condition or requirement imposed under such State program which is prohibited under Title XIX of the Federal Social Security Act such as a durational residence requirement, relative responsibility, consent to imposition of a lien; or

(3) Is a child between 18 and 21 years of age who would be eligible for assistance for dependent children living in the family group except for lack of school attendance or pursuit of formalized vocational or technical training; or

(4) Is a spouse of a recipient of old age assistance, assistance for the permanently and totally disabled, or assistance for the blind who is living with such recipient and whose needs are taken into account in determining the amount of cash payment made to the recipient; or

(5) Is a child in foster placement under supervision of the Bureau of Children's Services whose maintenance is being paid in whole or in part from public funds;

(6) Meets the standard of need applicable to his circumstances under a categorical assistance program or the program of Assistance to Families of the Working Poor but is not receiving such assistance and applies for medical assistance only;

(7) Is a recipient of assistance under the Assistance to the Families of the Working Poor Act.

g. "Recipient" means any person who is determined to be eligible to receive medical assistance under this act.

h. "Resident" means a person living, other than temporarily, within the State. Temporary absences from the State shall not cause a person to lose his status of a resident of this State.

i. "State Medicaid Commission" means the Governor, the Commissioner of Institutions and Agencies, the President of the Senate and the Speaker of the General Assembly, hereby constituted a commission to approve and direct the means and method for the payment of claims pursuant to this act.

14. If any section or sections of this act or any provision thereof shall be declared to be unconstitutional, invalid or inoperative in whole or in part, such section or provision shall, to the extent that it is not unconstitutional, invalid or inoperative be enforced and effectuated and no such determination shall be deemed to invalidate or make ineffectual the remaining provisions of the sections of this act.

C. 44:13-13 Short title.

15. This act shall be known and may be cited as the "Assistance to the Families of the Working Poor Act."

16. This act shall take effect on the first day of the month following its enactment but the commissioner and the Director of Public Welfare and all county welfare boards are authorized to take such preliminary action as may be necessary in anticipation of the effective date of this act.

Approved June 9, 1971.

CHAPTER 210

AN ACT to amend "An act concerning assistance for dependent children, supplementing Title 44 of the Revised Statutes and repealing certain statutes relating thereto," approved June 11, 1959 (P. L. 1959, c. 86).

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

1. Section 1 of P. L. 1959, c. 86 (C. 44:10-1) is amended to read as follows:

C. 44:10-1 Definitions.

1. As used in this act and for the purpose of the determination of eligibility to receive financial assistance under the provisions of this act, the following words shall have the following meaning, unless the context indicates another meaning:

(a) "Assistance for dependent children" means the assistance and other services to be extended under this act to or for needy dependent children and the parents and relatives with whom they are living for the following purposes:

(1) To provide for the care of needy dependent children in their own homes or in the homes of relatives, under standards and conditions compatible with decency and health.

(2) To help maintain and strengthen family life, and

(3) To help such parents or relatives to attain the maximum self-support and personal independence consistent with the maintenance of continuing parental care and protection.

(b) "Bureau of Assistance" means the Bureau of Assistance of the Department of Institutions and Agencies.

(c) "Dependent child" means a child under the age of 18, or under the age of 21 and a student regularly attending school, college or university, or regularly attending a course of vocational or technical training designed to fit him for gainful employment, who

(1) Has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and

(2) Is living in New Jersey with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew or niece, in a place of residence maintained by one or more of such relatives as his or their home, and

(3) Is found, after due investigation and determination, according to standards and procedures established pursuant to this act, to be in need of financial assistance.

(d) "Parent or relative with whom a dependent child is living" means a person

(1) Who is related to the dependent child, in the manner prescribed in subsection (c) (2) of this section, and

(2) with whom the dependent child is living in a place of residence maintained by one or more of such relatives as his or their own home, and

(3) Who is found, after due investigation and determination, according to standards and procedures established pursuant to this act, to be in need of financial assistance.

2. This act shall take effect on the last day of the month in which it is enacted.

Approved June 9, 1971.

CHAPTER 211

AN ACT concerning the organization and reorganization of the State Government, creating an Office of Fiscal Affairs in the Legislative Branch, prescribing the powers, duties and functions thereof, transferring the office of the Legislative Budget and Finance Director, and assigning the office of the State Auditor to the Office of Fiscal Affairs, amending P. L. 1954, c. 267, s. 2 and 9, R. S. 52:24-3 and R. S. 52:24-4, and making an appropriation.

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

C. 52:11-43 Declaration of policy.

1. It is the purpose and policy of the Legislature in enacting this act:

a. To insure concurrent post-auditing of all transactions and accounts kept by or for all departments, offices and agencies of the State Government as required by the Constitution and laws of this State;

b. To provide the Legislature with expenditure information and performance analysis of programs and transactions;

c. To conduct investigations and perform management analysis on all transactions of all departments, offices and agencies of the State Government in order to improve the efficiency, productivity and performance of the State Government and to disclose and prevent all malfeasance, and inefficiency in all departments of the State Government;

d. To provide full disclosure of the results of financial operations, adequate financial information needed in the management of State operations and effective control over income, expenditures, funds, property and other assets;

e. To determine whether the financial transactions have been consummated in accordance with laws, regulations or other legal requirements, and adequate internal financial control over operations is exercised;

f. To centralize the operations in the foregoing areas within a single agency in the Legislative Branch of the State Government;

g. To perform such other duties as shall be required by law or directed by the Legislature.

C. 52:11-44 Office of Fiscal Affairs; establishment and administration.

2. There is hereby established in the Legislative Branch of the State Government an Office of Fiscal Affairs which shall be administered by an executive director under the control, supervision and direction of the Law Revision and Legislative Services Commission.

C. 52:11-45 Executive director; appointment, salary, qualifications.

3. The executive director who shall be an officer of the Legislature, shall be appointed by the Law Revision and Legislative Services Commission. He shall receive an annual salary, to be fixed by the Law Revision and Legislative Services Commission within the limits of available appropriations, which salary shall not be reduced during the term for which he is appointed. Appointment of the executive director shall be made without reference to party affiliation and solely on the ground of fitness to perform the duties of the office.

C. 52:11-46 Executive director; term, removal, retirement.

4. Except as hereinafter provided in this section, the executive director shall hold office for a term of 5 years and until the appointment and qualification of his successor. The executive director may be removed at any time by concurrent resolution adopted by a majority of all the members of the Senate and General Assembly, after notice and a hearing, when, in the judgment of the Legislature, the executive director has become permanently incapacitated or has been inefficient, or guilty of neglect of duty or of malfeasance in office, or of any crime or conduct involving moral turpitude, and for no other cause and in no other manner except by impeachment. Any executive director removed in the manner provided in this section, shall be ineligible for reappointment to that office. When an executive director attains the age of 70 years he shall be retired from his office.

C. 52:11-47 Executive director's powers and duties.

5. The executive director of the Office of Fiscal Affairs shall:

a. Keep and maintain such books and accounts and other accounting records as may be necessary to enable him to accomplish the purposes of the office as in this act provided.

b. Organize the office with such divisions, bureaus, and other organizational units as he shall determine to be appropriate.

c. Subject to the approval of the Law Revision and Legislative Services Commission he may appoint, employ, and within the limits of funds appropriated therefor, fix the compensation of such as-

sistants and employees other than the State Auditor, as the commission shall determine to be required to perform the duties and functions of the office.

d. Subject to the approval of the Law Revision and Legislative Services Commission, and within the limits of funds appropriated therefor, contract for the performance of professional and technical services in connection with any audit or examination he is required or directed to make.

e. Ascertain compliance with legislative intent by the conduct of performance audits and efficiency studies, review of the fiscal implications upon the state of Federal legislation, policies and programs and examine and audit the application of funds appropriated from the proceeds of State bond issues.

f. Report at least annually to the Legislature on the operations of the Office of Fiscal Affairs.

In the exercise of any of his powers the executive director may by subpoena compel the attendance of witnesses and the production of books, papers and records.

C. 52:11-48 Selection of assistants and employees; status of transferred employees.

6. Assistants and employees shall be chosen solely on the grounds of fitness to perform their duties and their employment and civil service status shall be governed by subsection d. of R. S. 11:4-4 except that (a) any person holding office, position or employment in any department, board, commission or agency of the State Government, which is in the classified service, who shall be transferred or appointed to any office, position or employment in the Office of Fiscal Affairs shall hold the office, position or employment to which he is so appointed with the same civil service rights, privileges and protections as he had and enjoyed in office, position or employment prior to his transfer or appointment to office, position or employment in the Office of Fiscal Affairs, notwithstanding that the office, position or employment to which he is so appointed shall itself be in the unclassified service of the civil service and (b) employees performing stenographic or clerical duties may be appointed from the classified service of the civil service of the State in any case in which in the judgment of the executive director more competent persons can be so employed and when so appointed such employees shall have civil service status as members of the classified service of the civil service, but no law or rule regulating assignment to duties, hours of work or payment for overtime shall

be binding upon the Office of Fiscal Affairs as to persons employed by it whether or not they are employed from the classified service of the civil service.

C. 52:11-49 Transfer of office of Legislative Budget and Finance Director.

7. The office of the Legislative Budget and Finance Director together with all his functions, powers and duties is transferred to and constituted within the Office of Fiscal Affairs. The person in office as Legislative Budget and Finance Director on the effective date of this act shall continue in office for the balance of the term for which he was appointed.

C. 52:11-50 Assignment of office of State Auditor.

8. The office of the State Auditor, as created by the Constitution, is assigned to the Office of Fiscal Affairs. The State Auditor shall continue to be appointed, hold office and perform his constitutional duties as heretofore. Additional duties required of the State Auditor pursuant to this act shall be performed under the direction and supervision of the executive director of the Office of Fiscal Affairs.

C. 52:11-51 Transfer of certain employees; rights of tenure, pension or retirement.

9. All persons holding office, position or employment in the offices of the State Auditor and of the Legislative Budget and Finance Director, the functions, powers and duties of which are by this act assigned or transferred to the Office of Fiscal Affairs are hereby transferred to the Office of Fiscal Affairs and shall be subject to assignment to duty as determined by the executive director. Nothing in this act shall deprive any person of any rights of tenure or of any right of protection provided him by Title 11 of the Revised Statutes, Civil Service, or under any pension law or retirement system.

C. 52:11-52 Transfer of funds, books, records and equipment.

10. Unexpended balances of appropriations, including funds appropriated for the fiscal year commencing July 1, 1971, and all files, books, papers, records, equipment and property of officers and offices, the functions, powers and duties of which are by this act transferred or assigned to the Office of Fiscal Affairs are transferred to said office.

11. P. L. 1954, c. 267, s. 2 (C. 52:11-33) is amended to read as follows:

C. 52:11-33 Duties of director.**2. It shall be the duty of the director to**

(a) Collect and assemble factual information relating to the fiscal affairs of the State for the use of the Joint Appropriations Committee of the Legislature in formulating its annual proposals as to the amounts to be appropriated for the support of the State Government and for other purposes; examine all requests for appropriations made by the divisions and other subdivisions of the principal departments in the Executive Branch of the State Government, to the heads of such department and by the department heads, to the Director of the Division of Budget and Accounting and attend such hearings, held thereon, as it may be necessary for him to attend to obtain complete information as to the subject matter thereof,

(b) Examine other requests for appropriations and receive and investigate the truth, fairness and correctness of all claims against the State for payment of which appropriations are to be requested,

(c) Report to the Legislature through the Joint Appropriations Committee, or in such other manner as shall be directed by the Legislature, upon the foregoing and as to any other matters which may be of assistance to said committee or the Legislature in forming an independent judgment in the determination of any fiscal matters before it and attend upon the Joint Appropriations Committee during its sittings and hearings and perform such services for it as it shall direct,

(d) Perform such other duties and collect such other factual information as the Legislature or the executive director of the Office of Fiscal Affairs may require to be performed and collected in order that the Legislature and its committees may be furnished with full particulars and information in connection with proposals for the appropriation of State moneys and the incurring of indebtedness by the State and the fiscal affairs of the State in general.

12. P. L. 1954, c. 267, s. 9 (C. 52:11-40) is amended to read as follows:

C. 52:11-40 Supervision and control of director.

9. The Legislative Budget and Finance Director shall, except when in attendance upon the sittings and hearings of the Joint Appropriations Committee, be under the general supervision and control of the executive director of the Office of Fiscal Affairs.

13. R. S. 52:24-3 is amended to read as follows:

Assistants and clerical help.

52:24-3. The State Auditor subject to the approval of the executive director of the Office of Fiscal Affairs, shall appoint such necessary assistants and clerical help as shall be required to administer the constitutional and statutory duties of his office.

14. R. S. 52:24-4 is amended to read as follows:

Auditing accounts and reports of "accounting agencies"; assistance.

52:24-4. It shall be the duty of the State Auditor to conduct post-audits of all transactions and accounts kept by or for all departments, offices and agencies of the State Government, to report to the Legislature or to any committee thereof and to the Governor, and to the executive director of the Office of Fiscal Affairs, as provided by this chapter and as shall be required by law, and to perform such other similar or related duties as shall, from time to time, be required of him by law.

The State Auditor shall personally or by any of his duly authorized assistants, or by contract with independent public accountant firms, examine and post-audit all the accounts, reports and statements and make independent verifications of all assets, liabilities, revenues and expenditures of the State, its departments, institutions, boards, commissions, officers, and any and all other State agencies, now in existence or hereafter created, hereinafter in this article called "accounting agencies." The officers and employees of each accounting agency shall assist the State Auditor, when and as required by him, for the purpose of carrying out the provisions of this article.

15. All acts and parts of acts inconsistent with this act are superseded.

C. 52:11-53 Short title.

16. This act shall be known and may be cited as the "Office of Fiscal Affairs Act."

17. There is hereby appropriated to the Office of Fiscal Affairs for the fiscal year commencing June 30, 1971 the sum of \$250,000.00.

18. This act shall take effect July 1, 1971 but appointment of the executive director of the Office of Fiscal Affairs may be made in advance of said date.

Approved June 14, 1971.

CHAPTER 212

AN ACT concerning actions for divorce and nullity of marriage, alimony, maintenance and custody of children, and amending N. J. S. 2A :34-1 through 2A :34-3, 2A :34-7 and 2A :34-8, 2A :34-20 and 2A :34-23 and repealing N. J. S. 2A :34-4, 2A :34-5, 2A :34-9, 2A :34-10 and 2A :34-22.

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

1. N. J. S. 2A :34-1 is amended to read as follows:

Causes for judgments of nullity.

2A :34-1. Judgments of nullity of marriage may be rendered in all cases, when:

a. Either of the parties has another wife or husband living at the time of a second or other marriage;

b. The parties are within the degrees prohibited by law. If any such marriage shall not have been annulled during the lifetime of the parties the validity thereof shall not be inquired into after the death of either party.

c. The parties, or either of them, were at the time of marriage physically and incurably impotent, provided the party making the application shall have been ignorant of such impotency or incapability at the time of the marriage, and has not subsequently ratified the marriage.

d. The parties, or either of them, lacked capacity to marry due to want of understanding because of mental condition, or the influence of intoxicants, drugs, or similar agents; or where there was a lack of mutual assent to the marital relationship; duress; or fraud as to the essentials of marriage; and has not subsequently ratified the marriage.

e. The demand for such a judgment is by the wife or husband who was under the age of 18 years at the time of the marriage, unless such marriage be confirmed by her or him after arriving at such age.

f. Allowable under the general equity jurisdiction of the Superior Court.

2. N. J. S. 2A:34-2 is amended to read as follows:

Causes for divorce from bond of matrimony.

2A:34-2. Divorce from the bond of matrimony may be adjudged for the following causes heretofore or hereafter arising:

- a. Adultery;
- b. Willful and continued desertion for the term of 12 or more months, which may be established by satisfactory proof that the parties have ceased to cohabit as man and wife;
- c. Extreme cruelty, which is defined as including any physical or mental cruelty which endangers the safety or health of the plaintiff or makes it improper or unreasonable to expect the plaintiff to continue to cohabit with the defendant; provided that no complaint for divorce shall be filed until after 3 months from the date of the last act of cruelty complained of in the complaint, but this provision shall not be held to apply to any counterclaim;
- d. Separation, provided that the husband and wife have lived separate and apart in different habitations for a period of at least 18 or more consecutive months, provided further that after the 18-month period there shall be a presumption that there is no reasonable prospect of reconciliation;
- e. Voluntarily induced addiction or habituation to any narcotic drug as defined in the New Jersey Controlled Dangerous Substances Act, P. L. 1970, c. 226 or habitual drunkenness for a period of 12 or more consecutive months subsequent to marriage and next preceding the filing of the complaint;
- f. Institutionalization for mental illness for a period of 24 or more consecutive months subsequent to marriage and next preceding the filing of the complaint;
- g. Imprisonment of the defendant for 18 or more consecutive months after marriage, provided that where the action is not commenced until after the defendant's release, the parties have not resumed cohabitation following such imprisonment;
- h. Deviant sexual conduct voluntarily performed by the defendant without the consent of the plaintiff.

3. N. J. S. 2A:34-3 is amended to read as follows:

Causes for divorce from bed and board.

2A:34-3. Divorce from bed and board may be adjudged for the same causes as divorce from the bonds of matrimony whenever both parties petition or join in requesting such relief and they or either of them present sufficient proof of such cause or causes to warrant the entry of a judgment of divorce from the bonds of matrimony,

provided further that in the case of a reconciliation thereafter the parties may apply for a revocation or suspension of the judgment, and provided further that the granting of a bed and board divorce shall in no way prejudice either party from thereafter applying to the court for a conversion of said divorce to a divorce from the bonds of matrimony, which application shall be granted as a matter of right.

4. N. J. S. 2A:34-7 is amended to read as follows:

Certain defenses abolished.

2A:34-7. Recrimination, condonation and the clean hands doctrine are hereby abolished as defenses to divorce from the bonds of matrimony or from bed and board, and if both parties make out grounds for divorce, a decree may be granted to each; provided that nothing herein shall preclude or abrogate the responsibility of a party for the penalty provided by law for perjury or the subornation of perjury.

5. N. J. S. 2A:34-8 is amended to read as follows:

Jurisdiction stated.

2A:34-8. The Superior Court shall have jurisdiction of all causes of divorce, bed and board divorce, or nullity when either party is a bona fide resident of this State. The Superior Court shall have jurisdiction of an action for alimony and maintenance when the defendant is subject to the personal jurisdiction of the court, is a resident of this State, or has tangible or intangible real or personal property within the jurisdiction of the court. The Superior Court may afford incidental relief as in other cases of an equitable nature and by rule of court may determine the venue of matrimonial actions.

6. N. J. S. 2A:34-10 is amended to read as follows:

Jurisdiction in actions for divorce; service of process; residence requirements.

2A:34-10. Jurisdiction in actions for divorce, either absolute or from bed and board, may be acquired when process is served upon the defendant as prescribed by the rules of the Supreme Court, and

1. When, at the time the cause of action arose, either party was a bona fide resident of this State, and has continued so to be down to the time of the commencement of the action; except that no action for absolute divorce shall be commenced for any cause other than adultery, unless one of the parties has been for the 1 year

next preceding the commencement of the action a bona fide resident of this State; or

2. When, since the cause of action arose, either party has become, and for at least 1 year next preceding the commencement of the action has continued to be, a bona fide resident of this State.

7. N. J. S. 2A :34-20 is amended to read as follows:

Effect of judgment.

2A :34-20. A child heretofore or hereafter born of parents who prior or subsequent to the birth of such child have entered into a civil or religious marriage, or shall have consummated a common-law marriage where such marriage is recognized as valid, in the manner authorized by the law of the place where such marriage takes place, is the legitimate child of both natural parents notwithstanding that such marriage is void or voidable or has been or shall hereafter be annulled or judicially declared void.

Nothing in this amendatory act shall be deemed to affect the construction of any will or instrument heretofore executed or any property right or interest or right of action vested or accrued or to limit the operation of any judicial determination containing an express provision or provisions with respect to the legitimacy, maintenance or custody of any child, or to affect any adoption proceeding heretofore commenced, or limit the effect of any judgment or order entered in such adoption proceedings.

8. N. J. S. 2A :34-23 is amended to read as follows:

Alimony; maintenance; custody and maintenance of children; security; failure to obey order; sequestration; receiver; modification of orders.

2A :34-23. Pending any matrimonial action brought in this State or elsewhere, or after judgment of divorce or maintenance, whether obtained in this State or elsewhere, the court may make such order as to the alimony or maintenance of the parties, and also as to the care, custody, education and maintenance of the children, or any of them, as the circumstances of the parties and the nature of the case shall render fit, reasonable and just, and require reasonable security for the due observance of such orders. Upon neglect or refusal to give such reasonable security, as shall be required, or upon default in complying with any such order, the court may award and issue process for the immediate sequestration of the personal estate, and the rents and profits of the real estate of the party so charged, and appoint a receiver thereof, and cause such personal estate and the rents and profits of such real estate, or so much thereof as shall be necessary, to be applied toward such

alimony and maintenance as to the said court shall from time to time seem reasonable and just; or the performance of the said orders may be enforced by other ways according to the practice of the court. Orders so made may be revised and altered by the court from time to time as circumstances may require.

In all actions brought for divorce, divorce from bed and board, or nullity the court may award alimony to either party, and in so doing shall consider the actual need and ability to pay of the parties and the duration of the marriage. In all actions for divorce other than those where judgment is granted solely on the ground of separation the court may consider also the proofs made in establishing such ground in determining an amount of alimony or maintenance that is fit, reasonable and just. In all actions for divorce or divorce from bed and board where judgment is granted on the ground of institutionalization for mental illness the court may consider the possible burden upon the taxpayers of the State as well as the ability of the plaintiff to pay in determining an amount of maintenance to be awarded.

In all actions where a judgment of divorce or divorce from bed and board is entered the court may make such award or awards to the parties, in addition to alimony and maintenance, to effectuate an equitable distribution of the property, both real and personal, which was legally and beneficially acquired by them or either of them during the marriage.

Repealer.

9. The following sections are repealed: N. J. S. 2A:34-4, 2A:34-5, and 2A:34-22.

10. This act shall take effect 90 days after enactment.

Approved June 14, 1971.

CHAPTER 213

AN ACT to amend the short title of the "Public Employees' Retirement-Social Security Integration Act," approved June 28, 1954 (P. L. 1954, c. 84), so that the same shall read the "Public Employees' Retirement System Act," and revising said act and certain acts supplemental thereto.

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

1. Section 6 of P. L. 1954, c. 84 (C. 43:15A-6) is amended to read as follows:

C. 43:15A-6 Definitions.

6. As used in this act:

a. "Accumulated deductions" means the sum of all the amounts, deducted from the compensation of a member or contributed by him or on his behalf, standing to the credit of his individual account in the annuity savings fund.

b. "Annuity" means payments for life derived from the accumulated deductions of a member as provided in this act.

c. "Annuity reserve" means the present value of all payments to be made on account of any annuity or benefit in lieu of an annuity, granted under the provisions of this act, computed on the basis of such mortality tables recommended by the actuary as the board of trustees adopts, with regular interest.

d. "Beneficiary" means any person receiving a retirement allowance or other benefit as provided in this act.

e. "Child" means a deceased member's unmarried child either (1) under the age of 18 or (2) of any age who, at the time of the member's death, is disabled because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and his impairment has lasted or can be expected to last for a continuous period of not less than 12 months, as affirmed by the medical board.

f. "Parent" shall mean the parent of a member who was receiving at least $\frac{1}{2}$ of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

g. "Widower" means the man to whom a member was married at least 5 years before the date of her death and to whom she continued to be married until the date of her death and who was receiving at least $\frac{1}{2}$ of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widower will be considered terminated by marriage of the widower subsequent to the death of the member. In the event of the payment of an accidental death benefit, the 5-year qualification shall be waived.

New Jersey State Library

h. "Final compensation" means the average annual compensation for which contributions are made for the 3 years of creditable service in New Jersey immediately preceding his retirement or death, or it shall mean the average annual compensation for New Jersey service for which contributions are made during any 3 fiscal years of his or her membership providing the largest possible benefit to the member or his beneficiary.

i. "Fiscal year" means any year commencing with July 1 and ending with June 30 next following.

j. "Medical board" shall mean the board of physicians provided for in section 17 (C. 43:15A-17).

k. "Pension" means payments for life derived from appropriations made by the employer as provided in this act.

l. "Pension reserve" means the present value of all payments to be made on account of any pension or benefit in lieu of a pension granted under the provisions of this act, computed on the basis of such mortality tables recommended by the actuary as the board of trustees adopts, with regular interest.

m. "Public Employees' Retirement System of New Jersey," hereinafter referred to as the "retirement system," is the corporate name of the arrangement for the payment of retirement allowances and other benefits under the provisions of this act including the several funds placed under said system. By that name all of its business shall be transacted, its funds invested, warrants for money drawn, and payments made and all of its cash and securities and other property held.

n. "Regular interest" shall mean interest as determined annually by the State Treasurer after consultation with the Directors of the Divisions of Investment and Pensions and the actuary of the system. It shall bear a reasonable relationship to the percentage rate of earnings on investments but shall not exceed 105% of such percentage rate.

o. "Retirement allowance" means the pension plus the annuity.

p. "Veteran" means any honorably discharged officer, soldier, sailor, airman, marine or nurse who served in any Army, Air Force or Navy of the Allies of the United States in World War I, between July 14, 1914, and November 11, 1918, or who served in any Army, Air Force or Navy of the Allies of the United States in World War II, between September 1, 1939, and September 2, 1945, and who was inducted into such service through voluntary enlistment, and was a citizen of the United States at the time of such

enlistment, and who did not, during or by reason of such service, renounce or lose his United States citizenship, and any officer, soldier, sailor, marine, airman, nurse or army field clerk, who has served in the active military or naval service of the United States and has or shall be discharged or released therefrom under conditions other than dishonorable, in any of the following wars, uprisings, insurrections, expeditions, or emergencies, and who has presented to the retirement system evidence of such record of service in form and content satisfactory to said retirement system:

(1) The Indian wars and uprisings during any of the periods recognized by the War Department of the United States as periods of active hostility;

(2) The Spanish-American War between April 20, 1898, and April 11, 1899;

(3) The Philippine insurrections and expeditions during the periods recognized by the War Department of the United States as of active hostility from February 4, 1899, to the end of 1913;

(4) The Peking relief expedition between June 20, 1900, and May 27, 1902;

(5) The army of Cuban occupation between July 18, 1898, and May 20, 1902;

(6) The army of Cuban pacification between October 6, 1906, and April 1, 1909;

(7) The Mexican punitive expedition between March 14, 1916, and February 7, 1917;

(8) The Mexican border patrol, having actually participated in engagements against Mexicans between April 12, 1911, and June 16, 1919;

(9) World War I, between April 6, 1917, and November 11, 1918;

(10) World War II, between September 16, 1940, and September 2, 1945, who shall have served at least 90 days in such active service, exclusive of any period he was assigned (1) for a course of education or training under the Army specialized training program or the Navy college training program which course was a continuation of his civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies any part of which 90 days was served between said dates; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not he has completed the 90-day service as herein provided.

(11) Korean conflict after June 23, 1950, and prior to July 27, 1953, who shall have served at least 90 days in such active service, exclusive of any period he was assigned (1) for a course of education or training under the Army specialized training program or the Navy college training program which course was a continuation of his civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not he has completed the 90-day service as herein provided; and provided further, that any member classed as a veteran pursuant to this subparagraph prior to August 1, 1966, shall continue to be classed as a veteran whether or not he completed the 90-day service between said dates as herein provided.

(12) Viet Nam conflict after December 31, 1960, and prior to the date of termination as proclaimed by the Governor, who shall have served at least 90 days in such active service on overseas duty, exclusive of any period he was assigned (1) for a course of education or training under the Army specialized training program or the Navy college training program which course was a continuation of his civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; and exclusive of any service performed pursuant to the provisions of section 511(d) of Title 10, United States Code, pursuant to an enlistment in the Army National Guard or as a reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not he has completed the 90 days service as herein provided.

q. "Widow" means the woman to whom a member was married at least 5 years before the date of his death and to whom he continued to be married until the date of his death and who was receiving at least $\frac{1}{2}$ of her support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widow will be considered terminated by the marriage of the widow subsequent to the member's death. In the event of the payment of an accidental death benefit, the 5-year qualification shall be waived.

r. "Compensation" means the base or contractual salary, for services as an employee, which is in accordance with established salary policies of the member's employer for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary or extracurricular duties beyond the regular work day or the regular work year. In cases where salary includes maintenance, the retirement system shall fix the value of that part of the salary not paid in money which shall be considered under this act.

2. Section 10 of P. L. 1954, c. 84 (C. 43:15A-10) is amended to read as follows:

C. 43:15A-10 Eligible employees inducted into military or naval service before applying for enrollment.

10. Any employee, eligible for membership, who had entered or shall hereafter enter into the active air, military or naval service of the United States before making application for enrollment in the retirement system shall be accepted as a member upon his filing application, provided such application is made within 3 months after entry into such active air, military or naval service, and his regular salary deduction as provided by section 25 (C. 43:15A-25) shall be paid to the retirement system by the employer as provided by chapter 252 of the laws of 1942, as amended by chapter 326 of the laws of 1942 (C. 38:23-5, 38:23-6).

3. Section 11 of P. L. 1954, c. 84 (C. 43:15A-11) is amended to read as follows:

C. 43:15A-11 Contributions covering temporary service.

11. Any person employed temporarily by an employer and whose temporary employment resulted, without interruption, in permanent employment shall be permitted to make contributions covering such service on the basis of rates as provided by section 25 (C. 43:15A-25) and receive the same credit as if he had been a member during such service. The member must agree to make such contributions within 1 year after the effective date of this act or during his first year of membership in the retirement system.

4. Section 14 of P. L. 1954, c. 84 (C. 43:15A-14) is amended to read as follows:

C. 43:15A-14 Transfer of membership from TP&AF to PERS.

14. A person who has been or is a member of the Teachers' Pension and Annuity Fund and who has taken or shall take office,

position or employment in any position covered by the Public Employees' Retirement System and is a member of said system shall be entitled, upon application, to service credited in such fund in the Public Employees' Retirement System upon transfer of his contributions from the Teachers' Pension and Annuity Fund to the retirement system. If he has withdrawn his contributions from the Teachers' Pension and Annuity Fund, he may purchase credit for all of his service in the aforesaid fund by paying into the annuity savings fund the amount required by applying the factor, supplied by the actuary, as being applicable to his age at the time of the purchase, to his salary at that time. The terms of the purchase and the credit granted shall be identical to those stipulated for the purchase of previous membership service by members of the system as provided by section 8 (C. 43:15A-8).

5. Section 15 of P. L. 1954, c. 84 (C. 43:15A-15) is amended to read as follows:

C. 43:15A-15 Information required from department heads.

15. The head of a department or branch of the State service not included in a department employing a member shall submit to the retirement system a statement showing the name, title, compensation, duties, date of birth and length of service of the member and any other information the system requires.

6. Section 17 of P. L. 1954, c. 84 (C. 43:15A-17) is amended to read as follows:

C. 43:15A-17 Board of trustees.

17. Subject to the provisions of chapter 70 of the laws of 1955, the general responsibility for the proper operation of the Public Employees' Retirement System shall be vested in the board of trustees. Subject to the limitations of the law, the board shall annually establish rules and regulations for the administration and transaction of its business and for the control of the funds created by this subtitle. Such rules and regulations shall be consistent with those adopted by the other pension funds within the Division of Pensions in order to permit the most economical and uniform administration of all such retirement systems.

The membership of the board shall consist of the following:

a. Two trustees appointed by the Governor, who shall serve at the pleasure of the Governor and until their successors are appointed, who shall be private citizens of the State of New Jersey and who

are neither an officer thereof nor active or retired members of the system.

b. The State Treasurer or the Deputy State Treasurer, when designated for that purpose by the State Treasurer.

c. Three trustees elected for a term of 3 years from among and by the active members of the retirement system or by the delegates elected for this purpose by the membership, one of whom shall be elected each year for a term commencing on April 1, following such election in such manner as the board of trustees may prescribe.

d. One trustee not an active or retired member nor an officer of the State, elected by the other trustees, other than the State Treasurer, for a term of 3 years.

A vacancy occurring in the board of trustees shall be filled by the appointment or election of a successor in the same manner as his predecessor.

Each member of the board shall, upon appointment or election, take an oath of office that, so far as it devolves upon him, he will diligently and honestly administer the board's affairs, and that he will not knowingly violate or willfully permit to be violated any provision of law applicable to this act. The oath shall be subscribed to by the member making it, certified by the officer before whom it is taken and filed immediately in the office of the Secretary of State.

Each trustee shall be entitled to one vote in the board and a majority of all the votes of the entire board shall be necessary for a decision by the board of trustees at a meeting of the board. The board shall keep a record of all its proceedings, which shall be open to public inspection.

The members of the board shall serve without compensation but shall be reimbursed for any necessary expenditures. No employee shall suffer loss of salary or wages through the serving on the board.

The terms of office of the members of the board of trustees on the effective date of this amendatory and supplementary act shall continue for the periods for which they were appointed or elected.

The State Treasurer shall designate a medical board after consultation with the director of the Division of Pensions, subject to veto by the board of trustees for valid reason. It shall be composed of three physicians who are not eligible to participate in the retirement system. The medical board shall pass upon all medical examinations required under the provisions of this act, shall investigate all essential statements and certificates by or on behalf of a member

in connection with an application for disability retirement, and shall report in writing to the retirement system its conclusions and recommendations upon all matters referred to it.

7. Section 19 of P. L. 1954, c. 84 (C. 43:15A-19) is amended to read as follows:

C. 43:15A-19 Actuarial information and investigation; rates of deduction and contribution.

19. The actuary shall recommend, and the Division of Pensions shall keep in convenient form, such data as shall be necessary for actuarial valuation of the various funds created by this act. Once in every 5-year period, the actuary shall make an actuarial investigation into the mortality, service, and compensation or salary experience of the members and beneficiaries as defined in this chapter and shall make a valuation of the assets and liabilities of the various funds created by this act. Upon the basis of such investigation and valuation, with the advice of the actuary, the board shall:

a. Adopt for the retirement system such mortality, service and other tables as shall be deemed necessary;

b. Certify the rates of deduction from compensation computed to be necessary to pay the annuities authorized under the provisions of this act; and,

c. Certify the rates of contribution, expressed as a proportion of the compensation of members which shall be made by the State and other employers to the contingent reserve fund.

8. Section 21 of P. L. 1954, c. 84 (C. 43:15A-21) is amended to read as follows:

C. 43:15A-21 Annual report.

21. The retirement system shall publish annually a report showing a valuation of the assets and liabilities of the funds created by this act, certifying as to the accumulated cash and securities of the funds and stating other facts pertaining to the system. The board shall submit the report to the Governor and furnish a copy to every employer for use of the members and the public.

9. Section 24 of P. L. 1954, c. 84 (C. 43:15A-24) is amended to read as follows:

C. 43:15A-24 Contingent reserve fund.

24. The contingent reserve fund shall be the fund in which shall be credited contributions made by the State and other employers.

a. Upon the basis of such tables recommended by the actuary as the board adopts, and regular interest, the actuary shall compute annually the amount of contribution, expressed as a proportion of the compensation paid to all members, which, if paid monthly during the entire prospective service of the members, will be sufficient to provide for the pension reserves required at the time of discontinuance of active service, to cover all pensions to which they may be entitled or which are payable on their account and to provide for the amount of the death and accidental disability benefits payable on their account, and which amount is not covered by other contributions, to be made as provided in this section and the funds in hand available for such benefits. This shall be known as the "normal contribution."

b. Upon the basis of such tables recommended by the actuary as the board adopts, and regular interest, the actuary shall compute the amount of the unfunded liability as of June 30, 1971 which has accrued on the basis of service rendered prior to July 1, 1971 by all members, including the amount of the liability accrued by reason of allowance to be granted on account of services rendered by State employee veteran members as provided in section 60 of this act prior to the establishment of the retirement system, which has not already been covered by State contributions to the former "State Employees' Retirement System," and including the accrued liabilities established by section 12 of chapter 67 of the laws of 1966 (C. 43:15A-37.1). Using the total amount of this unfunded accrued liability, he shall compute the amount of the flat annual payment, which, if paid in each succeeding fiscal year commencing with July 1, 1972, for a period of 40 years, will provide for this liability. The annual payment so computed and certified shall remain fixed except that such liability shall be valued annually and any additional liability which has accrued by reason of allowances to be granted on account of services rendered by State employee veteran members as provided in section 60 shall be added to the amount previously certified so that the entire liability shall be paid within the 40-year period commencing July 1, 1972. This shall be known as the "accrued liability contribution."

c. The retirement system shall certify annually the aggregate amount payable to the contingent reserve fund in the ensuing year, which amount shall be equal to the sum of the amounts described in this section. The State shall pay into the contingent reserve fund during the ensuing year the amount so determined. The death benefits, payable as a result of contribution by the State under

the provisions of this chapter upon the death of an active or retired member shall be paid from the contingent reserve fund.

d. The disbursements for benefits not covered by reserves in the system on account of veterans shall be met by direct contributions of the State and other employers.

10. Section 25 of P. L. 1954, c. 84 (C. 43:15A-25) is amended to read as follows:

C. 43:15A-25 Annuity savings fund.

25. The annuity savings fund shall be the fund in which shall be credited accumulated deductions and contributions by members or on their behalf to provide for their allowances. A single account shall be established in this fund for each person who is or shall become a member and all contributions deducted from each such member's compensation shall be credited to his account regardless of the number of positions a member might hold or the number of employers as he might have.

Upon the basis of such tables recommended by the actuary as the board adopts, and regular interest, the actuary of the board shall determine for each member the proportion of compensation, exclusive of the rate for any additional death benefit provided under section 57 of this act which, when deducted from each payment of his prospective earnable compensation prior to service retirement and accumulated at regular interest until he retires, shall be computed to be sufficient to provide, at that time, an annuity equal to $\frac{1}{2}$ of the retirement allowance then allowable for service as a member.

Any member who was contributing to the former "State Employees' Retirement System" shall continue to pay the proportion of compensation applicable to the age at enrollment, which proportion shall not be increased during the continuation of membership other than as provided in section 58, and shall make any special payments either as lump sums or as installment payments required as a result of election by the member to obtain additional service credit. Members enrolling on and after January 2, 1955 shall contribute at the proportions applicable to group two members of the former "State Employees' Retirement System" as of June 30, 1949, except that the board of trustees may from time to time adopt for employees becoming members thereafter, new proportions of compensation to be determined as provided in the preceding paragraph. No member shall be required during the continuation of his membership to increase the proportion of compensation certified

at the time of becoming a member as payable by him other than as provided in section 58.

The retirement system shall certify to each State department or subdivision thereof, and to each branch of the State service not included in a State department, and to every other employer, the proportion of each member's compensation to be deducted and to facilitate the making of deductions the retirement system may modify the deduction required by a member by such an amount as shall not exceed $\frac{1}{10}$ of 1% of the compensation upon the basis of which the deduction is to be made.

If payment in full, representing the monthly or biweekly transmittal and report of salary deductions, is not made within 15 days of the due date established by the retirement system, interest at the rate of 6% per annum shall commence to run against the total transmittal of salary deductions for the period on the first day after such fifteenth day.

Every employee to whom this act applies shall be deemed to consent and agree to any deduction from his compensation required by this act and to all other provisions of this act. Notwithstanding any other law, rule or regulation affecting the salary, pay, compensation, other perquisites, or tenure of a person to whom this act applies, or shall apply, and notwithstanding that the minimum salary, pay, or compensation or other perquisites provided by law for him shall be reduced thereby, payment, less such deductions, shall be a full and complete discharge and acquittance of all claims and demands for service rendered by him during the period covered by such payment.

11. Section 27 of P. L. 1954, c. 84 (C. 43:15A-27) is amended to read as follows:

C. 43:15A-27 Retirement reserve fund.

27. The retirement reserve fund shall be the fund from which all retirement allowances shall be paid. Upon the retirement of a member his accumulated deductions together with regular interest shall be transferred to the retirement reserve fund from the annuity savings fund. The reserve needed to produce the balance of the retirement allowance shall be transferred from the contingent reserve fund. If the retirement allowance of a member who has been retired is subsequently canceled, the appropriate reserve shall be transferred to the annuity savings fund and the contingent reserve fund.

Any surplus or deficit developing in the retirement reserve fund shall be adjusted from time to time by transfer to or from the contingent reserve fund by appropriate action of the retirement system upon the advice of the actuary.

12. Section 30 of P. L. 1954, c. 84 (C. 43:15A-30) is amended to read as follows:

C. 43:15A-30 Certification of deductions.

30. In accordance with the rate of contribution and the extra salary deductions certified by the retirement system, each department and each branch of State service not within a department shall certify to the State Treasurer the contribution and extra deductions to be made for the retirement system. The State Treasurer shall pay each of the amounts so deducted to the retirement system, and he shall transfer to the retirement system monthly or at such interval as the system designates a detailed statement of all amounts so paid. The retirement system shall cause each of the amounts so deducted to be credited to the individual account of the member from whose compensation the deduction was made.

13. Section 31 of P. L. 1954, c. 84 (C. 43:15A-31) is amended to read as follows:

C. 43:15A-31 Records kept by State departments.

31. Each State department and branch of the State service not included in a department shall keep such records and, from time to time, furnish such information as the retirement system may require.

14. Section 34 of P. L. 1954, c. 84 (C. 43:15A-34) is amended to read as follows:

C. 43:15A-34 Loans.

34. Any member who has at least 3 years of service to his credit for which he has contributed as a member may borrow from the retirement system, an amount equal to not more than 50% of the amount of his accumulated deductions, but not less than \$50.00; provided, that the amount so borrowed, together with interest thereon, can be repaid by additional deductions from compensation, not in excess of 25% of the member's compensation, made at the same time compensation is paid to the member, but not after the attainment of age 60. The amount so borrowed, together with interest at the rate of 4% per annum on any unpaid balance thereof, shall be repaid to the retirement system in equal installments by deduction from the compensation of the member at the time the

compensation is paid or in such lump sum amount to repay the balance of the loan but such installments shall be at least equal to the member's rate of contribution to the retirement system and at least sufficient to repay the amount borrowed with interest thereon by the time the member attains age 60. Not more than two loans may be granted to any member in any calendar year. Notwithstanding any other law affecting the salary or compensation of any person or persons to whom this act applies or shall apply, the additional deductions required to repay the loan shall be made. Any unpaid balance of a loan at the time any benefit may become payable, shall be deducted from the benefit otherwise payable.

Loans shall be made to a member from his accumulated deduction. The interest earned on such loans shall be treated in the same manner as interest earned from investments of the retirement system.

15. Section 37 of P. L. 1954, c. 84 (C. 43:15A-37) is amended to read as follows:

C. 43:15A-37 Obligations of State; basis of State's appropriation.

37. Regular interest charges payable, the creation and maintenance of reserves in the contingent reserve fund, the maintenance of retirement reserves as provided for in this act and the payment of all retirement allowances and other benefits granted by the board of trustees under the provisions of this act, except the amounts payable by other employers, are hereby made obligations of the State. All income, interest and dividends derived from deposits and investments authorized by this act shall be used for the payment of these obligations of the State and other employers.

Upon the basis of each actuarial determination and appraisal provided for in this act, the board of trustees shall submit to the Governor in each year an itemized statement of the amounts necessary to be appropriated by the State to provide for payment in full during the ensuing fiscal year of the obligations of the State accruing during that year. The Legislature shall make an appropriation sufficient to provide for such obligations of the State. The amounts so appropriated shall be paid into the contingent reserve fund.

16. Section 39 of P. L. 1954, c. 84 (C. 43:15A-39) is amended to read as follows:

C. 43:15A-39 Service creditable toward allowances; rules and regulations; preserving annuity credit for period of leave of absence.

39. In computing for retirement purposes the total service as a member about to be retired, the retirement system shall credit him

with the time of all service rendered by him since he last became a member, and in addition with all the service to which he is entitled and with no other service. Except as otherwise provided in this act, such service credit shall be final and conclusive for retirement purposes unless the member shall discontinue his service for more than 2 consecutive years.

For the purpose of computing service for retirement purposes, the board shall fix and determine by appropriate rules and regulations how much service in any year shall equal a year of service and a part of a year of service. Not more than 1 year shall be credited for all service in a calendar year. In computing service, time during which a member was absent on an official leave without pay shall be credited, if such absence was for a period of (1) less than 3 months or (2) up to a maximum of 2 years if the leave was due to the member's personal illness or maternity and the period of leave is allowed for retirement purposes within 1 year following his return to service after the termination of such leave, or (3) the period of leave was specifically allowed for retirement purposes by the provisions of any law of this State. The method of computation, the terms of the purchase and credit granted shall be identical to those stipulated for the purchase of previous membership service by members of the system as provided by section 8 (C. 43:15A-8). In computing the service or in computing final compensation no time during which a member was in employment, office, or position, for which the annual salary or remuneration was fixed at less than \$500.00 shall be credited, except that in the case of a veteran member credit shall be given for service rendered prior to January 2, 1955, in an employment, office or position if the annual salary or remuneration therefor was fixed at not less than \$300.00 and such service consisted of the performance of the full duties of such employment, office or position.

17. Section 41 of P. L. 1954, c. 84 (C. 43:15A-41) is amended to read as follows:

C. 43:15A-41 Withdrawal early retirement; death benefit.

41. a. A member who withdraws from service or ceases to be an employee for any cause other than death or retirement shall, upon the filing of an application therefor, receive all of his accumulated deductions standing to the credit of his individual account in the annuity savings fund, plus regular interest, less any outstanding loan, except that for any period after June 30, 1944, the interest payable shall be such proportion of the interest determined at the regular rate of 2% per annum bears to the regular rate of interest,

and except that no interest shall be payable in the case of a member who has less than 3 years of membership credit for which he has made contributions. He shall cease to be a member 2 years from the date he discontinued service as an eligible employee, or, if prior thereto, upon payment to him of his accumulated deductions. If any such person or member shall die before withdrawing or before endorsing the check constituting the return of his accumulated deductions, such deductions shall be paid to the member's beneficiary. No member shall be entitled to withdraw the amounts contributed by his employer covering his military leave unless he shall have returned to the payroll and contributed to the retirement system for a period of 90 days.

b. Should a member resign after having established 25 years of creditable service before reaching age 60, he may elect "early retirement," provided, that such election is communicated by such member to the retirement system by filing a written application, duly attested, stating at what time subsequent to the execution and filing thereof he desires to be retired. He shall receive, in lieu of the payment provided in subsection a. of this section, an annuity which is the actuarial equivalent of his accumulated deductions together with regular interest, and a pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of $1/70$ of his final compensation for each year of service credited as Class A service and $1/60$ of his final compensation for each year of service credited as Class B service, calculated in accordance with section 48 (C. 43:15A-48) of this act, reduced by $1/4$ of 1% for each month that the member lacks of being age 60; provided, however, that upon the receipt of proper proofs of the death of such a member there shall be paid to his beneficiary an amount equal to $3/16$ of the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service.

The board of trustees shall retire him at the time specified or at such other time within 1 month after the date so specified as the board finds advisable.

c. Upon the receipt of proper proofs of the death of a member in service on account of which no accidental death benefit is payable under section 49 there shall be paid to such member's beneficiary:

(1) The member's accumulated deductions at the time of death together with regular interest; and

(2) An amount equal to $1\frac{1}{2}$ times the compensation upon which contributions by the member to the annuity savings fund were based

in the last year of creditable service; provided, however, that if such death shall occur after the member shall have attained age 70, the amount payable shall equal 3/16 of such compensation instead of 1½ times such compensation.

18. Section 44 of P. L. 1954, c. 84 (C. 43:15A-44) is amended to read as follows:

C. 43:15A-44 Annual examination of disability beneficiary; alteration of pension; refusal to be examined; restoration to service.

44. a. Once each year the retirement system may, and upon his application shall, require any disability beneficiary who is under the age of 60 years to undergo medical examination by a physician or physicians designated by the system for a period of 5 years following his retirement in order to determine whether or not the disability which existed at the time he was retired has vanished or has materially diminished. If the disability beneficiary is engaged in an occupation, then the amount of his pension shall be reduced to an amount which, when added to the amount then earned by him, shall not exceed the amount of the salary now attributable to his former position. If his earnings have changed since the date of his last adjustment, then the amount of his pension may be further altered; but the new pension shall not exceed the amount of pension originally granted.

If a disability beneficiary, while under age of 60 years, refuses to submit to at least one medical examination in any year by a physician or physicians designated by the system, his pension shall be discontinued until withdrawal of his refusal. If the report of the medical board shall show that such beneficiary is able to perform either his former duty or other comparable duty which his former employer is willing to assign to him, the beneficiary shall report for duty; such a beneficiary shall not suffer any loss of benefits while he awaits his restoration to active service. If the beneficiary fails to return to duty within 10 days after being ordered so to do, or within such further time as may be allowed by the board of trustees for valid reason, as the case may be, the pension shall be discontinued during such default.

If a disability beneficiary becomes employed again in a position which makes him eligible to be a member of the retirement system, his retirement allowance and the right to any death benefit as a result of his former membership, shall be canceled until he again retires.

Such person shall be reenrolled in the retirement system and shall contribute thereto at a rate based on his age at the time of his prior

enrollment. Such persons shall be treated as an active member for determining disability or death benefits while in service and no benefits pursuant to an optional selection with respect to his former membership shall be paid if his death shall occur during the period of such reenrollment.

Upon subsequent retirement of such member, he shall receive a retirement allowance based on all his service as a member computed in accordance with applicable provisions of this act, but the total retirement allowance upon subsequent retirement shall not be a greater proportion of his final compensation than the proportion to which he would have been entitled had he remained in service during the period of his prior retirement. Any death benefit to which such member shall be eligible shall be based on his latest retirement.

19. Section 45 of P. L. 1954, c. 84 (C. 43:15A-45) is amended to read as follows:

C. 43:15A-45 Allowance on ordinary disability retirement.

45. A member upon retirement for ordinary disability shall receive a retirement allowance, which shall consist of:

a. An annuity which shall be the actuarial equivalent of his accumulated deductions together with regular interest and

b. A pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of $1\frac{1}{2}\%$ of final compensation multiplied by his number of years of creditable service; provided further, that in no event shall the allowance be less than 40% of final compensation, except that in no case shall the rate of allowance exceed $\frac{9}{10}$ of the rate of the regular service retirement allowance which the member would have received had he remained in service from the date of retirement to age 60.

c. Upon the receipt of proper proofs of the death of a member who has retired on an ordinary disability retirement allowance, there shall be paid to such member's beneficiary, an amount equal to $1\frac{1}{2}$ times the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service; provided, however, that if such death shall occur after the member shall have attained age 60, the amount payable shall equal $\frac{3}{16}$ of such compensation.

20. Section 46 of P. L. 1954, c. 84 (C. 43:15A-46) is amended to read as follows:

C. 43:15A-46 Allowance on accidental disability retirement.

46. A member under 65 years of age upon retirement for accidental disability shall receive a retirement allowance which shall consist of:

a. An annuity which shall be the actuarial equivalent of his accumulated deductions together with regular interest; and

b. A pension, in the amount which, when added to the member's annuity, will provide a total retirement allowance of $\frac{2}{3}$ of his actual annual compensation for which contributions were being made at the time of the occurrence of the accident.

c. Upon receipt of proper proofs of the death of a member who has retired on an accidental disability retirement allowance, there shall be paid to such member's beneficiary, an amount equal to $1\frac{1}{2}$ times the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service; provided, however, that if such death shall occur after the member shall have attained age 60, the amount payable shall equal $\frac{3}{16}$ of such compensation.

21. Section 47 of P. L. 1954, c. 84 (C. 43:15A-47) is amended to read as follows:

C. 43:15A-47 Retirement for age.

47. a. A member who has attained 60 years of age may retire on a service retirement allowance by filing with the retirement system a written application, duly attested, stating at which time subsequent to the execution and filing thereof he desires to be retired. The board of trustees shall retire him at the time specified or at such other time within 1 month after the date so specified as the board finds advisable.

b. Any member in service who attains 70 years of age shall be retired by the board of trustees on a service retirement allowance forthwith on the first day of the next calendar month, or at such time within 1 month thereafter as it finds advisable, except that an employee attaining 70 years of age may be continued in service on an annual basis upon written notice to the retirement system by the head of the State department or employer where the employee is employed.

22. Section 48 of P. L. 1954, c. 84 (C. 43:15A-48) is amended to read as follows:

C. 43:15A-48 Allowance on service retirement.

48. A member, upon retirement for service, shall receive a retirement allowance consisting of:

a. An annuity which shall be the actuarial equivalent of his accumulated deductions together with regular interest; and

b. A pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of $\frac{1}{70}$ of his final compensation for each year of service credited as Class A service and $\frac{1}{60}$ of his final compensation for each year of service credited as Class B service.

c. Upon the receipt of proper proofs of the death of a member who has retired on a service retirement allowance, there shall be paid to the member's beneficiary, an amount equal to $\frac{3}{16}$ of the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service.

23. Section 49 of P. L. 1954, c. 84 (C. 43:15A-49) is amended to read as follows:

C. 43:15A-49 Accidental death benefit.

49. a. Upon the death of a member in active service as a result of an accident met in the actual performance of duty at some definite time and place and not as the result of his willful negligence, an accidental death benefit shall be payable, if a report of the accident is filed in the office of the retirement system within 60 days next following the accident, but the board of trustees may waive such time limit, for a reasonable period, if in the judgment of the board the circumstances warrant such action.

No such application shall be valid or acted upon unless it is filed in the office of the retirement system within 5 years of the date of such death.

b. Upon the receipt of proper proofs of the death of a member on account of which an accidental death benefit is payable, there shall be paid to his widow or widower a pension of 50% of the compensation, upon which contributions by the member to the annuity savings fund were based in the last year of creditable service, for the use of herself or himself and the children of the deceased member, to continue during her or his widowhood; if there is no surviving widow or widower or in case the widow or widower dies or remarries, 20% of such compensation will be payable to one surviving child, 35% of such compensation to two surviving children in equal shares and if there be three or more children, 50% of such compensation will be payable to such children in equal shares. If there is no surviving widow, widower or child, 25% of the compensation upon which contributions by the member to the

annuity savings fund were based in the last year of creditable service, will be payable to one surviving parent or 40% of such compensation will be payable to two surviving parents in equal shares. In the event of accidental death occurring in the first year of creditable service, the benefits, payable pursuant to this subsection, shall be computed at the annual rate of compensation.

c. If there is no surviving widow, widower, child or parent, there shall be paid to any other beneficiary of the deceased member his accumulated deductions at the time of death.

d. In no case shall the death benefit provided in subsection b. be less than that provided under subsection c.

e. In addition to the foregoing benefits payable under subsection b. or c., there shall also be paid in one sum to such member's beneficiary an amount equal to $1\frac{1}{2}$ times the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service; provided, however, that if such death shall occur after the member shall have attained age 70, the amount payable shall equal $\frac{3}{16}$ of such compensation instead of $1\frac{1}{2}$ times such compensation.

24. Section 52 of P. L. 1954, c. 84 (C. 43:15A-52) is amended to read as follows:

C. 43:15A-52 Examination of funds; report.

52. The various funds created by this act shall be subject to examination by the Department of Insurance. The Commissioner of Insurance shall have the power, whenever he deems the same expedient, to make or cause to be made an examination of all the assets and liabilities, method of conducting business and all other affairs of the retirement system and shall make such examination at least once every 3 years.

For the purposes of such examination all securities, books, papers or other documents in the possession of the retirement system shall be made available on demand for inspection. The report on such examination shall be filed in the Department of Insurance and a copy thereof shall be transmitted to the board of trustees and the actuary of the system and to the Division of Pensions. Neither the commissioner nor any appointee thereof shall be liable for any statement included therein.

25. Section 54 of P. L. 1954, c. 84 (C. 43:15A-54) is amended to read as follows:

C. 43:15A-54 Correction of errors; prior service credit.

54. If any change or error in records results in an employee or beneficiary receiving from the retirement system more or less than he would have been entitled to receive had the records been correct, then on discovery of the error, the retirement system shall correct it and, so far as practicable, adjust the payments in such a manner that the actuarial equivalent of the benefit to which he was correctly entitled shall be paid.

The application of any member for prior service credit shall be approved if the employer stipulates, in writing, to the retirement system that the information necessary for the award of such credit was not presented to the employee and agrees to make the necessary additional contribution to the contingent reserve fund.

26. Section 56 of P. L. 1954, c. 84 (C. 43:15A-56) is amended to read as follows:

C. 43:15A-56 Eligibility for certain retirement benefits.

56. No public employee veteran eligible for membership in the Public Employees' Retirement System shall be eligible for, or receive, retirement benefits under R. S. 43:4-1, 43:4-2 and 43:4-3.

27. Section 60 of P. L. 1954, c. 84 (C. 43:15A-60) is amended to read as follows:

C. 43:15A-60 Contributions and credits of veteran members.

60. a. Each public employee veteran member shall have returned to him his accumulated deductions as of January 2, 1955. All service rendered in office, position, or employment of this State or of a county, municipality, school district, board of education, or other public employer, or service rendered for the State University of New Jersey, an instrumentality of this State, after April 16, 1945, and the New Jersey State Agricultural Experiment Station established by an act approved March 10, 1880 (P. L. 1880, c. 106 and continued pursuant to chapter 16 of Title 4 of the Revised Statutes), an instrumentality of this State, excluding service rendered as county extension service farm and home demonstration agents, by such veteran member previous to January 2, 1955, for which evidence satisfactory to the retirement system is presented, shall be credited to him as a "Class B" member and the obligation of the employer on account of such credit shall be known as the accrued liability on behalf of such veteran member; provided, however, that no credit shall be allowed for such service rendered prior to January 2, 1955 unless the member purchases credit for all eligible service rendered on or after such date.

b. The accrued liability on behalf of State employee veteran members including veteran members employed by the State University of New Jersey or by the New Jersey Agricultural Experiment Station shall be paid by the State as provided in section 24. The accrued liability on behalf of other public employee veteran members shall be paid by their employers, as of January 2, 1955, or the date of the next annual valuation of the retirement system following his enrollment, whichever is later, in the same manner as provided in the case of State employee veteran members in section 24. The retirement system shall certify to the chief fiscal officer of the employer the accrued liability contribution payable by such employer on behalf of veteran members.

c. Each public employee veteran member shall make contributions to the retirement system at the rates of contribution applicable to Class B members of group two of the former "State Employees' Retirement System" as of June 30, 1949, as provided in section 25. Each public employee veteran member shall pay the proportion of compensation applicable to his age at the commencement of employment, position or office with the State, any county, municipality or school district, board of education, or other public employer except that where such service has not been continuous, the public employee veteran member shall pay the proportion of compensation applicable to the age resulting from the subtraction of his years of service from his age as of January 2, 1955. No public employee veteran member shall be required during the continuation of his membership to increase the proportion of compensation certified at the time of becoming a member as payable by him, except as provided in section 58 (C. 43:15A-58).

d. In the event that a public employee veteran who prior to January 2, 1955 rendered service in office, position or employment of this State, including such service rendered for any instrumentality enumerated in paragraph a. of this section, or of a county, municipality, or school district, board of education, or other public employer, but who is not in such office, position or employment on January 2, 1955, shall later become a member of the retirement system, such public employee veteran member shall receive prior service credit for service rendered prior to January 2, 1955, for which evidence satisfactory to the retirement system is presented, and shall pay the proportion of compensation, applicable to the age resulting from the subtraction of his years of such prior service from his age on the date of his becoming a member of the retirement system as provided in section 25 (C. 43:15A-25). The

employer of such public employee veteran on the date of his becoming a member shall pay the accrued liability on behalf of such prior service, and such liability shall be paid in such a manner that the total obligation will be met within the period of time fixed for the liquidation of such accrued liability of the employer.

28. Section 61 of P. L. 1954, c. 84 (C. 43:15A-61) is amended to read as follows:

C. 43:15A-61 Special retirement privileges of veteran members.

61. a. Any public employee veteran member in office, position or employment of this State or of a county, municipality, public agency, school district or board of education on January 2, 1955, who remains in continuous service thereafter and who has or shall have attained the age of 60 years and who has or shall have been for 20 years in office, position or employment of this State or of a county, municipality, public agency, school district or board of education, shall have the privilege of retiring for service and of receiving, instead of the retirement allowance provided under section 48 of this act, a retirement allowance of $\frac{1}{2}$ of the compensation received during the last year of employment upon which contributions to the annuity savings fund or contingent reserve fund are made.

b. Any public employee veteran becoming a member after January 2, 1955 who shall be in office, position or employment of this State or of a county, municipality, public agency, school district or board of education and who shall have attained 62 years of age and who has 20 years of aggregate service credit in such office, position or employment, shall have the privilege of retiring for service and receiving, instead of the retirement allowance provided under section 48 of this act, a retirement allowance of $\frac{1}{2}$ of the compensation received during the last year of employment upon which contributions to the annuity savings fund or contingent reserve fund are made. The provisions of this subsection shall also apply to any veteran who was a member on January 2, 1955, but whose service was not continuous thereafter.

c. Any public employee veteran member who has been for 20 years in the aggregate in office, position or employment of this State or of a county, municipality, public agency, school district or board of education as of January 2, 1955 shall have the privilege of retiring for ordinary disability and of receiving, instead of the retirement allowance provided under section 45 of this act, a retirement allowance of $\frac{1}{2}$ of the compensation received during the

last year of employment upon which contributions to the annuity savings fund or contingent reserve fund are made. Such retirement shall be subject to the provisions governing ordinary disability retirement in sections 42 and 44 of this act.

d. The death benefit provided in section 48 shall apply in the case of any member retiring under the provisions of subsections a. and b. of this section. The death benefit provided in section 45 shall apply in the case of any member retiring under the provisions of subsection c. of this section.

29. Section 64 of P. L. 1954, c. 84 (C. 43:15A-64) is amended to read as follows:

C. 43:15A-64 Effect of lack of Social Security coverage.

64. Any other provision of this act notwithstanding (a) any member of the retirement system who is not covered under the old-age and survivors' insurance provisions of Title II of the Federal Social Security Act as a public employee shall not be eligible for the death benefit provisions of sections 38, 41, 45 c, 46 c, 48 c, 49 e and 57 except for the payment of accumulated deductions together with regular interest; (b) no beneficiary of a pensioner who enrolled as a member on or after July 1, 1971 and who retired for any reason other than disability shall be entitled to receive benefits pursuant to the noncontributory death benefit coverages provided by this chapter if the pensioner had less than 10 years of service credit for retirement purposes at the time of retirement.

30. Section 65 of P. L. 1954, c. 84 (C. 43:15A-65) is amended to read as follows:

C. 43:15A-65 Participation in retirement system by all employees of public agencies; contributions.

65. (a) All employees of any public agency or organization of this State, which employs persons engaged in service to the public, shall be eligible to participate in the Public Employees' Retirement System provided, the employer consents thereto by resolution and files a certified copy of such resolution with the board of trustees of the Public Employees' Retirement System and the board of trustees approves thereof by resolution. Such organization shall be referred to in this act as the employer. If the participation of such employees is so approved then the employer shall contribute to the contingent reserve fund on account of its members at the same rate per centum as would be paid by employers other than the State.

(b) Notwithstanding the provisions of paragraph (a) of this section, every person becoming an employee of a public agency or organization of this State, which employs persons engaged in service to the public, after June 30, 1966, who is not eligible to become a member of any other retirement system, shall be required to participate in the Public Employees' Retirement System. Notwithstanding the provisions of paragraph (a) of this section, membership in the Public Employees' Retirement System shall be optional with any person in the employ of any such public agency or organization on June 30, 1966, provided such person is not required to be a member pursuant to another provision of this act, and provided further, that such person is not eligible to be a member of any other retirement system. The provisions of this subsection shall not apply to any person whose position is temporary or seasonal, nor to any person in office, position or employment for which the annual salary or remuneration is fixed at less than \$500.00, nor to any person whose position is not covered by the old-age and survivors' insurance provisions of the Federal Social Security Act. The public agency or organization employing any such person who becomes a member of the retirement system pursuant to this paragraph shall contribute to the contingent reserve fund on account of such employees at the same rate per centum as would be paid by employers other than the State.

31. Section 68 of P. L. 1954, c. 84 (C. 43:15A-68) is amended to read as follows:

C. 43:15A-68 Information certified to chief fiscal officer; payment of charge and contributions.

68. The Public Employees' Retirement System shall certify to the chief fiscal officer of the employer the rates of contributions payable by members. The system shall further certify the contributions, including the accrued liability contribution similar to the State accrued liability contribution, payable by the employer to the contingent reserve fund on behalf of these members, and a pro rata share of the cost of the administration of the retirement system, based upon the payroll of the members who are employees of the employer. The initial actuarial expense incident to the determination of the accrued liability contribution payable by the employer, shall be paid by the employer. The amount certified by the system as payable by such employer to the contingent reserve fund shall be included in the next budget subsequent to the certification by the system. The treasurer or corresponding officer shall pay on July 1 in each year to the State Treasurer the

amount of the employer's charges so certified. If payment of the full amount of such obligation is not made within 30 days after July 1, interest at the rate of 6% per annum shall commence to run against the unpaid balance thereof on the first day after such thirtieth day. The treasurer or corresponding officer shall also pay to the State Treasurer the amount of the deductions from the compensation of the members who are employees of the employer. The State Treasurer shall credit these amounts to the appropriate fund or account.

32. Section 72 of P. L. 1954, c. 84 (C. 43:15A-72) is amended to read as follows:

C. 43:15A-72 Deductions for health insurance or State Health Benefits Program.

72. If possible, whenever any beneficiary of the Public Employees' Retirement System of New Jersey shall, in writing, request the Division of Pensions to make deductions from his retirement allowance or pension for the payment of premiums for the pensioners' group health insurance plan or the State Health Benefits Program, the division may make such deductions and transmit the sum so deducted to the companies carrying the policies. Any such written authorization may be withdrawn by any beneficiary upon filing notice of such withdrawal with the division.

33. Section 73 of P. L. 1954, c. 84 (C. 43:15A-73) is amended to read as follows:

C. 43:15A-73 Employees of certain authorities and commissions; State University; Compensation Rating and Inspection Bureau.

73. a. The Public Employees' Retirement System is hereby authorized and directed to enroll eligible employees of the New Jersey Turnpike Authority, the New Jersey Highway Authority, Palisades Interstate Park Commission, Interstate Sanitation Commission, the Delaware River Basin Commission and the Delaware River Joint Toll Bridge Commission.

In the case of the Delaware River Joint Toll Bridge Commission, the eligible employees shall be only those who are employed on the free bridges across the Delaware river, under the control of said commission.

The said employees shall be subject to the same membership, contribution and benefit provisions of the retirement system as State employees.

b. The State University of New Jersey, as an instrumentality of the State, shall, for all purposes of this act, be deemed an employer and its eligible employees, both veterans and nonveterans,

shall be subject to the same membership, contribution and benefit provisions of the retirement system and to the provisions of chapter 3 of Title 43 of the Revised Statutes as are applicable to State employees and for all purposes of this act employment by the State University of New Jersey after April 16, 1945, and for the purposes of chapter 3 of Title 43 of the Revised Statutes any new employment after January 1, 1955, shall be deemed to be and shall be construed as service to and employment by the State of New Jersey.

c. The Compensation Rating and Inspection Bureau, created and established pursuant to the provisions of R. S. 34:15-89, shall, for all purposes of this act, be deemed an employer and its eligible employees, both veterans and nonveterans, shall be subject to the same membership, contribution and benefit provisions of the retirement system and to the provisions of chapter 3 of Title 43 of the Revised Statutes as both are applicable to State employees.

The retirement system shall certify to the Commissioner of Insurance and the Commissioner of Insurance shall direct the Compensation Rating and Inspection Bureau to provide the necessary payments to the retirement system in accordance with procedures established by the retirement system. Such payments shall include (1) the contributions and charges, similar to those paid by other public agency employers, to be paid by the Compensation Rating and Inspection Bureau to the retirement system on behalf of its employee members, and (2) the contributions to be paid by the Compensation Rating and Inspection Bureau to provide the past service credits up to June 30, 1965 for these members, both veterans and nonveterans, who enroll before July 1, 1966.

34. Section 81 of P. L. 1954, c. 84 (C. 43:15A-81) is amended to read as follows:

C. 43:15A-81 Rates of contributions; budget requirements; payments to State Treasurer.

81. The Public Employees' Retirement System shall certify to each employer the rates of contributions payable by members who are county, municipal or school district employees. The system shall further certify the contributions, including the accrued liability contribution similar to the State accrued liability contribution, payable by the county, municipality or school district to the contingent reserve fund on behalf of these members, and a pro rata share of the cost of the administration of the retirement system, based upon the payroll of the members who are employees of the county, municipality or school district. The initial actuarial

expense incident to the determination of the accrued liability contribution, payable by the county, municipality or school district, shall be paid by the county, municipality or school district. The amount certified by the system as payable by the county, municipality or school district to the contingent reserve fund shall be included in the next budget subsequent to the certification by the system and levied and collected as any other taxes are levied and collected. The treasurer or corresponding officer of any county, municipality or school district shall pay on or before July 1 in each year to the State Treasurer the amount of the county, municipal or school district charges so certified. If payment of the full amount of such obligation is not made within 30 days after July 1, interest at the rate of 6% per annum shall commence to run against the unpaid balance thereof on the first day after such thirtieth day. The treasurer or corresponding officer shall also pay to the State Treasurer the amount of deductions from the compensation of the members who are employees of the county, municipality or school district. The State Treasurer shall credit these amounts to the appropriate fund or account.

35. Section 84 of P. L. 1954, c. 84 (C. 43:15A-84) is amended to read as follows:

C. 43:15A-84 Short title.

84. This act shall be known and may be cited as the "Public Employees' Retirement System Act."

36. Section 1 of P. L. 1955, c. 214 (C. 43:15A-88) is amended to read as follows:

C. 43:15A-88 Authorization to purchase group life insurance.

1. The State Treasurer is hereby authorized and permitted to purchase from one or more life insurance companies, as determined by him, a policy or policies of group life insurance to provide for the benefits specified in sections 38, 41, 45, 46, 48 and 49 of chapter 84 of the laws of 1954. The Board of Trustees of the Public Employees' Retirement System is hereby authorized and permitted to purchase from one or more life insurance companies, as determined by it, a policy or policies of group life insurance to provide for the benefits specified in section 57 of chapter 84 of the laws of 1954. Such group life insurance coverage may be provided under one or more policies issued to the State Treasurer specifically for this purpose, or in the discretion of the State Treasurer, under one or more policies issued to the State Treasurer

which provide group life insurance coverage for members of one or more other retirement systems of the State of New Jersey. Whenever such policy or policies of group insurance shall be in effect, the benefits payable thereunder shall be in lieu of the above mentioned death benefits provided by said sections.

37. Section 7 of P. L. 1955, c. 214 (C. 43:15A-94) is amended to read as follows:

C. 43:15A-94 Payment of benefits; payees.

7. Benefits under such group policy or policies shall be paid by the company to such person, if living, as the member shall have nominated by written designation duly executed and filed with the insurance company through the policyholder, otherwise to the executors or administrators of the member's estate. A member may file with the insurance company through the policyholder and alter from time to time during his lifetime, as desired, a duly attested written nomination of his payee for the death benefit.

38. Section 8 of P. L. 1955, c. 214 (C. 43:15A-95) is amended to read as follows:

C. 43:15A-95 Lump sum or installment payments.

8. Any such group policy or policies shall provide that payment of any death benefits which are payable by the insurance company may be made in one sum directly to the beneficiary as hereinafter provided, in equal installments over a period of years or as a life annuity or in such other manner as may be made available by the insurance company. A member may make such arrangements for settlement, and may alter from time to time during his lifetime any arrangement previously made, by making written request to the insurance company through the policyholder. Upon the death of a member, a beneficiary to whom a benefit is payable in one sum by the insurance company may likewise arrange for a settlement as described above. If a member's or beneficiary's request for settlement of any death benefit in equal installments over a period of years or as a life annuity pursuant to the foregoing is approved by the policyholder, the amount of such installments or such life annuity, as the case may be, shall be determined on the basis of such applicable mortality tables as shall have been adopted by the retirement system and are in effect at the member's death. Any arrangement for payment under the group policy to a beneficiary shall be in lieu of that provided by sections 38, 41, 45, 46, 48, 49 and 57 of chapter 84 of the laws of 1954.

39. Section 1 of P. L. 1955, c. 257 (C. 43:15A-97) is amended to read as follows:

C. 43:15A-97 "Law enforcement officer" defined.

1. "Law enforcement officer" shall mean any permanent and full-time employee of the State of New Jersey holding one of the following titles: motor vehicles officer, motor vehicles sergeant, motor vehicles lieutenant, motor vehicles captain, assistant chief, bureau of enforcement, and chief, bureau of enforcement in the Division of Motor Vehicles, and inspector, investigator, and administrative inspector in the Division of Alcoholic Beverage Control, conservation officer, assistant district conservation officer and district conservation officer in the Division of Fish and Game, and assistant chief marine police and senior marine patrolman in the Division of Resource Development, and inspector, officer, senior inspector, and principal inspector in the Division of Shell Fisheries, any permanent and full-time active county detective, lieutenant of county detectives, captain of county detectives, chief of county detectives, and county investigator in the office of the county prosecutors, and any patrolman or other police officer of the Board of Commissioners of the Palisades Interstate Park appointed pursuant to section 32:14-21 of the Revised Statutes.

If the Prison Officers Pension Fund is terminated as provided in section 10 hereof, "law enforcement officer" shall also mean any permanent and full-time active employee of the State of New Jersey holding the title of correction officer, correction sergeant, correction lieutenant, correction captain or deputy keeper in the Division of Correction and Parole, or any member of the Prison Officers' Pension Fund on the date of such termination.

40. Section 4 of P. L. 1955, c. 257 (C. 43:15A-100) is amended to read as follows:

C. 43:15A-100 Allowance on service retirement.

4. Upon service retirement as a law enforcement officer a member shall receive a service retirement allowance consisting of:

a. An annuity which shall be the actuarial equivalent of his accumulated deductions together with regular interest and

b. A pension in the amount which, when added to the member's annuity, will provide a total retirement allowance equal to 2% of his final compensation multiplied by his number of years of service credit as a law enforcement officer for which he has made contributions up to 25, plus $1\frac{2}{3}\%$ of his final compensation multi-

plied by his number of years of service credit other than service as a law enforcement officer, for which he has made contributions, plus 1% of his final compensation multiplied by his number of years of service credit as a law enforcement officer for which he has made contributions over 25 or for which he has made no contributions to the retirement system for the period while he was a law enforcement officer or, in the case of a veteran, while he was in office, position or employment of this State, or of any county, municipality, public agency or school district; provided, however, that in the case of any member electing to receive benefits under section 38(b) of chapter 84 of the laws of 1954, such benefits shall be payable at age 60.

The death benefit provided in section 48 (c) of chapter 84 of the laws of 1954 shall apply in the case of any member retiring under the provisions of this section.

41. Section 1 of P. L. 1955, c. 261 (C. 43:15A-108) is amended to read as follows:

C. 43:15A-108 Active membership while disabled or on official leave of absence; optional death benefit.

1. a. For the purpose of sections 41 (c), 49 (e) and section 57 of chapter 84 of the public laws of 1954, a member of the Public Employees' Retirement System shall be deemed to be an active member (1) while he is disabled due to sickness or injury arising out of or in the course of his employment as a member to whom this chapter applies, is not engaged in any gainful occupation, and is receiving or entitled to receive periodic benefits (including any commutation of, or substitute for, such benefits) for loss of time on account of such disability under or by reason of workmen's compensation law, occupational disease law or similar legislation and has not retired or terminated his membership; or (2) for a period of no more than 2 years while on official leave of absence without pay if satisfactory evidence is presented to the retirement system that such leave of absence without pay is due to the member's personal illness other than an illness to which (1) above applies.

b. For the purposes of sections 41 (c), 49 (e) and section 57 of chapter 84 of the public laws of 1954, a member of the Public Employees' Retirement System shall be deemed to be an active member for a period of not more than 1 year in the event of an official leave (1) due to the member's maternity or (2) to fulfill a residency requirement for an advanced degree, or (3) as a full

time student at an institution of higher education and for a period of no more than 93 days while on official leave of absence without pay when such leave of absence is due to any reason other than illness.

c. In order for a member of the Public Employees' Retirement System to be covered hereunder for the optional death benefits provided by section 57 of chapter 84 of the public laws of 1954, he shall continue to make contributions for same during the period such member is on official leave of absence without pay, except that when such official leave of absence without pay is due to illness, no contribution shall be required of the member during the period he is deemed to be an active member while on such leave of absence.

If a member dies within 30 days after the date of retirement or the date of board approval, whichever is later, a death benefit shall be payable only if he is deemed to be an active member in accordance with this section; provided, however, a member applying for disability benefits shall be deemed an active member if he was covered by the death benefit provisions of the act at the termination of employment, filed the application for disability retirement with the retirement system within 30 days following such termination of employment and dies within 30 days after the date of retirement or the date of board approval, whichever is later.

42. Section 2 of P. L. 1963, c. 19 (C. 43:15A-73.1) is amended to read as follows:

C. 43:15A-73.1 Purchase of credit for prior employment in other States.

2. A member may file a detailed statement of public employment in other States, rendered by him prior to becoming a member, for which he desires credit and on account of which he desires to contribute, and of such other facts as the retirement system may require. He may be permitted to purchase credit for the service evidenced therein up to the nearest number of years and months, but not exceeding 10 years. No application shall be accepted for the purchase of credit for such service, however, if, at the time of application, the member has a vested right to retirement benefits in another retirement system based in whole or in part upon that service.

The member may purchase credit for such service by paying into the annuity savings fund the amount required by applying the factor, supplied by the actuary, as being applicable to his age at the time of the purchase to his salary at that time. Such purchase may

be made in regular installments equal to at least $\frac{1}{2}$ of the full normal contribution to the retirement system, over a maximum period of 10 years.

Any member electing to contribute toward such service, who retires prior to completing payments as agreed with the retirement system for the purchase of such service will receive pro rata credit for service purchased prior to the date of retirement, but if he so elects at the time of retirement, he may make such additional lump sum payment at that time as will be necessary to provide full credit.

43. Section 28 of P. L. 1954, c. 84 (C. 43:15A-28) is amended to read as follows:

C. 43:15A-28 Special reserve fund.

28. The special reserve fund shall be the fund to which any earnings in excess of the amounts annually allowed under the provisions of section 33 of this act shall be transferred. No additional amounts shall be credited to the special reserve fund at any time when the total accumulations in such fund shall equal 1% of the book value of the investments of the retirement system. In this event, any such excess shall be credited to the contingent reserve fund. All losses from the sale of securities shall be charged against the special reserve fund. The special reserve fund shall be considered for valuation purposes by the actuary as an asset of the retirement system.

44. Section 25 of P. L. 1966, c. 217 (C. 43:15A-57.1) is amended to read as follows:

C. 43:15A-57.1 Designation of beneficiary; form; filing; failure to designate; payment.

25. The designation of beneficiary by a member or retirant shall be made in writing on a form satisfactory to the retirement system, and filed with the retirement system. The member or retirant may, from time to time and without the consent of his death benefit designee, change the beneficiary by filing written notice of the change with the system on a form satisfactory to it. The new nomination will be effective on the date the notice, in proper form, is received by the system, and any prior nomination shall thereupon become void.

If more than one beneficiary is nominated and in such nomination the member or retirant has failed to specify their respective interests, the beneficiaries shall share equally. If any beneficiary

predeceases the member or retirant, the interest of such beneficiary shall terminate and shall be shared equally by such of the beneficiaries as survive the member or retirant, unless the member or retirant has made written request to the contrary in his beneficiary nomination.

Any amounts due for which there is no beneficiary at the death of a member, retirant or beneficiary shall be payable to the estate of such member, retirant or beneficiary.

Except with regard to the payment of the member's accumulated deductions with regular interest and the payment, upon the death of (1) a retirant after attaining the age of 60 or receiving an allowance pursuant to section 41 (b) of chapter 84 of the laws of 1954, or (2) a member after attaining the age of 70 years, of the death benefits provided in sections 38, 41, 45, 46, 48, 49 (e) and 57 of chapter 84 of the laws of 1954, a member may elect, by making written request to the retirement system, that the whole or any part of his death benefits be made payable to his beneficiary either as a life annuity or in equal installments over a period of years specified in such election, and may alter such election from time to time during his lifetime by again making such written request. In the event of a change of beneficiary, any previous arrangement by the member or retirant under this paragraph shall be void. The election set forth in this paragraph shall not apply or be available when the beneficiary is an estate, or a corporation, partnership, association, institution, trustee, or any fiduciary.

If, at the member's or retirant's death, an amount of death benefit would be payable to the beneficiary in a single sum, any election with regard to such amount which was available to the member or retirant immediately prior to his death in accordance with the provisions of the immediately preceding paragraph shall then be available to such beneficiary for the benefit of such beneficiary.

45. Section 27 of P. L. 1966, c. 217 (C. 43:15A-57.2) is amended to read as follows:

C. 43:15A-57.2 Reenrollment of former member employed after receiving retirement allowance.

27. If a former member of the State Employees' Retirement System or the retirement system, who has been granted a retirement allowance for any cause other than disability, becomes employed again in a position which makes him eligible to be a member of the retirement system, his retirement allowance and the right

to any death benefit as a result of his former membership, shall be canceled until he again retires.

Such person shall be reenrolled in the retirement system and shall contribute thereto at a rate based on his age at the time of reenrollment. Such person shall be treated as an active member for determining disability or death benefits while in service and no benefits pursuant to an optional selection with respect to his former membership shall be paid if his death shall occur during the period of such reenrollment.

Upon subsequent retirement of such member, his former retirement allowance shall be reinstated together with any optional selection, based on his former membership. In addition, he shall receive an additional retirement allowance based on his subsequent service as a member computed in accordance with applicable provisions of chapter 84 of the laws of 1954; provided, however, that his total retirement allowance upon such subsequent retirement shall not be a greater proportion of his final compensation than the proportion to which he would have been entitled had he remained in service during the period of his prior retirement. Any death benefit to which such member shall be eligible shall be based on his latest retirement, but shall not be less than the death benefit that was applicable to his former retirement.

46. Section 28 of P. L. 1966, c. 217 (C. 43:15A-25.1) is amended to read as follows:

C. 43:15A-25.1 Effect of receiving periodic workmen's compensation benefits.

28. a. If any member of the retirement system receives periodic benefits payable under the Workmen's Compensation Law during the course of his active service, in lieu of his normal compensation, his regular salary deductions shall be paid to the retirement system by his employer. Such payments shall be computed, in accordance with section 25 of chapter 84 of the laws of 1954, at the rate of contribution of the base salary subject to the retirement system, just prior to the receipt of the workmen's compensation benefits. The moneys paid by the employer shall be credited to the member's account in the annuity savings fund and shall be treated as employee contributions for all purposes. The employer will terminate the payment of these moneys when the periodic benefits payable under the Workmen's Compensation Law are terminated or when the member retires.

The member for whom the employer is making such payments, will be considered as if he were in the active service and shall be

permitted to continue to make contributions to purchase the additional death benefit coverage provided by section 57 of chapter 84 of the laws of 1954.

b. An application for retirement benefits may be approved by the board of trustees while the member, applying for such benefits, is in receipt of periodic benefits under the Workmen's Compensation Law. In this event the actuarial equivalent of such periodic benefits remaining to be paid shall be computed and will serve to reduce the pension portion of the retirement allowance payable to the retirant, subject to the provisions of section 64 of chapter 84 of the laws of 1954.

C. 43:15A-41.1 Evidence of insurability for death benefits coverage.

47. a. Any person entitled to become a member of the Public Employees' Retirement System shall not be allowed any of the death benefits established by sections 38, 41, 45, 46, 48 and 49 e, of chapter 84 of the laws of 1954, and by this act, if on the date he files an application for membership he is 60 or more years of age or if he makes application for membership beyond the year after he first became eligible for membership, regardless of age, unless the member furnishes satisfactory evidence of insurability and on the effective date of his membership is actively at work and performing all his regular duties at his customary place of employment.

The effective date of coverage for such death benefits shall be the first day of the month which immediately follows the date when such evidence is determined to be satisfactory.

b. Such evidence of insurability will not be required of any person becoming a member of the Public Employees' Retirement System upon transfer from another State administered retirement system, if such system provided death benefits of a similar nature and the transferring member was covered by such benefits at the time of transfer. If such transferring member was not covered by such benefits at the time of the transfer, he may be allowed the death benefits of the Public Employees' Retirement System subject to the provisions of subsection a. of this section; provided, however, that any such member must furnish satisfactory evidence of insurability under the provisions of subsection a. of this section if he had been unable or failed to give such evidence as a member of the system from which he transferred.

c. Any person who must furnish satisfactory evidence of insurability under the provisions of this section and who ceases to be

a member of the retirement system without such evidence having been given, shall continue to be subject to the same requirement if he subsequently becomes a member.

C. 43:15A-7.1 Purchase of membership credit for period of compulsory coverage.

48. a. In the case of any person who was required to become a member of the retirement system as a condition of employment, and whose application for enrollment in the retirement system or whose application for transfer from one employer to another within the system was filed beyond the effective date for his compulsory enrollment in the system or his transfer within the system, such person shall be required to purchase membership credit for his compulsory coverage by paying into the annuity savings fund the amount required by applying, in accordance with section 25 of chapter 84 of the laws of 1954, his rate of contribution on his current base salary subject to the retirement system for each year of previous service during which he was required to have been a member.

b. If more than 1 year has elapsed from the time that contributions would have been required from such person, $\frac{1}{2}$ of the employee's cost, established by the computation provided by subsection a. of this section, will be required of his employer and shall be included in the next budget subsequent to the certification of this special liability by the retirement system. The amount certified by the system shall be payable by the employer to the contingent reserve fund and shall be due and owing to the system even if the employee is no longer in the employ of the employer by the date such moneys are to be paid to the system.

c. The employee's obligation may be satisfied by regular installments, equal to at least $\frac{1}{2}$ the normal contribution to the retirement system, over a maximum period of 10 years but not more than 2 years in the case of any employee who has attained or will attain age 60 within the 2-year period.

d. In the case of any person coming under the provisions of this section, full pension credit for the period of employment for which arrears are being paid by the employee shall be given upon the payment of at least $\frac{1}{2}$ of the total employee's arrearage obligation and the completion of 1 year of membership and the making of such arrears payments, except that in the case of retirement pursuant to sections 38, 41 (b), 48 and 61 of chapter 84 of the laws of 1954, the total membership credit for such service shall be in direct proportion as the amount paid bears to the total amount of the arrearage obligation of the employee.

C. 43:15A-68.1 Payment of employer's accrued liability contribution.

49. The accrued liability contribution of any public employer adopting the retirement system after July 1, 1971 for the purpose of providing prior service credit for the service rendered prior to July 1, 1966, shall be payable by the employer to the contingent reserve fund over a period of not less than 25 years following the initial valuation of such liability by the actuary of the retirement system.

C. 43:15A-134 Appointment of retirement system member to Judiciary; options.

50. a. As stipulated in subsections b., c. and d. of this section, eligibility of a member of the Judiciary for the retirement benefits of the retirement system shall not be terminated on account of his being appointed to the Supreme, Superior or County Courts of New Jersey until such judge shall become eligible for the benefits of the pension plan established for such members of the Judiciary, but in no event shall any judge, his dependent or his beneficiary be eligible to receive both the benefits of the retirement system established by chapter 84 of the laws of 1954 and those provided by the pension plan established for such members of the Judiciary.

b. Any such judge, shall, upon his request, receive a refund of his accumulated deductions as of the date of his appointment to the Supreme, Superior or County Courts. Such refund of contributions shall serve as a waiver of all benefits payable to the judge, his dependent or his beneficiary by the retirement system.

c. If any such judge shall be eligible for retirement benefits as of the date of his appointment to the Supreme, Superior or County Courts, he may elect to receive the annuity portion of his retirement allowance while serving as such judge, provided, however, that if any such judge shall subsequently elect to receive the benefits of the pension plan established for members of the Supreme, Superior or County Courts, all rights to retirement and death benefits of the retirement system shall thereby be waived, except as hereinafter provided by subsection d. of this section.

d. If any such judge elects to receive the benefits of the pension plan established for members of the Supreme, Superior or County Courts after having received retirement benefits from the retirement system, such judge shall be entitled to receive the value of his accumulated deductions reduced by the total amount of the benefits received from the system.

If any such judge dies in service after his appointment to the Supreme, Superior or County Courts and after having received

retirement benefits from the retirement system, his beneficiary may elect to receive the survivor benefits available upon the death of such retired member or the death benefits provided by the pension plan established for members of the Supreme, Superior or County Courts. In the event of the election of the latter, such election shall constitute a waiver of all rights to survivor benefits payable by the Public Employees' Retirement System and his beneficiary shall be entitled to receive the value of the judge's accumulated deductions reduced by the amount of the benefits received by the judge from the system.

Repealer.

51. P. L. 1954, c. 84 s. 40 (C. 43:15A-40) and P. L. 1968, c. 146 (C. 43:15A-9.1) are hereby repealed.

52. This act shall take effect immediately.

Approved June 17, 1971.

CHAPTER 214

AN ACT to validate certain proceedings of school districts for the issuance of bonds and other obligations issued or to be issued pursuant to such proceedings.

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

Validating act.

1. All proceedings heretofore had or taken by any school district or at any school district election for the authorization or issuance of bonds of the school district, and any bonds or other obligations of the school district issued or to be issued in pursuance of a proposal adopted by the legal voters at such election, are hereby ratified, validated and confirmed, notwithstanding that the published notice of such election did not correctly recite the amounts of the expenditure or the bonds authorized by such proposal in accordance with section 18A:14-19 of the New Jersey Statutes, provided however that the notice of such election posted in accordance with said section and the ballot used at such election did correctly recite such amounts; and provided further that no action, suit or other proceeding of any nature to contest the validity

of such proceedings has heretofore been instituted prior to the date on which this act takes effect and within the time fixed therefor by or pursuant to law or rule of court, or when such time has not heretofore expired, is instituted within 30 days after the effective date of this act.

2. This act shall take effect immediately.

Approved June 17, 1971.

CHAPTER 215

AN ACT concerning the registration of certain motor vehicles, and repealing R. S. 39:3-22.

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

Repealer.

1. R. S. 39:3-22 is repealed.

2. This act shall take effect immediately.

Approved June 17, 1971.

CHAPTER 216

AN ACT to amend "An act establishing and concerning a Department of Transportation as a principal department in the Executive Branch of the State Government, establishing therein a Commuter Operating Agency, providing an appropriation therefor, repealing chapter 88 of the laws of 1964, and supplementing Title 27 of the Revised Statutes," approved December 12, 1966 (P. L. 1966, c. 301), and making an appropriation.

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

1. Section 19 of P. L. 1966, c. 301 (C. 27:1A-19) is amended to read as follows:

C. 27:1A-19 Contracts with motor bus carriers to operate passenger service; payment; leasing of buses or property to carriers.

19. The agency may enter into contracts with any motor bus carrier to operate passenger service which the agency shall determine (a) to be necessary to provide or encourage adequate commuter or intercity bus service and (b) would not otherwise be provided or made available without State assistance. Payment by the agency for such passenger service shall be based on the actual cost of such service to the motor bus carrier plus a 6% return on investment.

The agency may also enter into contracts with any motor bus carrier pursuant to which the agency may acquire, purchase or rehabilitate motor buses for lease to such carrier to be operated in specified passenger service and pursuant to which the agency may acquire, purchase or rehabilitate any other real or personal property for lease to such carrier to be utilized in specified passenger service. For the purposes of this section, the term motor bus carrier shall include any individual, co-partnership, association, corporation, joint stock company, receiver, or trustee which controls any motor bus carrier.

2. Section 24 of P. L. 1966, c. 301 (C. 27:1A-24) is amended to read as follows:

C. 27:1A-24 Continuation of service and fares; petition for changes; notice; hearing.

24. Every carrier entering into a contract shall be obligated to continue during the term of the contract all existing passenger service and fares applicable thereto, determined by the agency to be essential, except that the contract shall afford the carrier the right to petition the agency or the agency to move on its own motion for changes in passenger service and applicable fares during the term of the contract. If such a petition includes an application to decrease the number of trains or buses, a substantial change in schedules or an increase in fares, the agency, prior to making any determination with respect thereto, shall hold a public hearing on notice. In acting on any such petition the agency shall give due consideration to the following factors:

(a) The availability of alternative means of public transportation.

(b) The potential cost of continuing the service sought to be curtailed or discontinued.

(c) The cost to the state of providing alternative transportation facilities either by common carriers or highway improvement.

(d) The resulting effect on state and local population trends, economic values and tax revenues.

The authority hereby given the agency with respect to the discontinuance, curtailment, abandonment or change in fares or service shall be exercised during the contract period without regard or reference to the jurisdiction vested in the Board of Public Utility Commissioners by sections 48:2-21, 48:2-24 and 48:4-3 of the Revised Statutes. At the conclusion of the contract period the Board of Public Utility Commissioners shall resume such jurisdiction but no carrier shall be required to restore any service discontinued or fare changed unless the Board of Public Utility Commissioners shall determine, after notice and hearing, that the service or fare is required by public convenience and necessity.

Notwithstanding any other provisions of this act, all vehicles used by any motor bus carrier pursuant to contracts authorized by this section shall be subject to the jurisdiction of the Board of Public Utility Commissioners with respect to insurance, maintenance, specifications and safety to the same extent such jurisdiction is conferred upon the board by Title 48, Public Utilities, as amended and supplemented.

3. There is hereby appropriated the sum of \$2,500,000.00 for the purposes of section 19 of chapter 301 of the laws of 1966 (C. 27:1A-19) as amended.

4. This act shall take effect immediately.

Approved June 17, 1971.

CHAPTER 217

AN ACT to revise and correct certain statutes.

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

1. Section 1 of P. L. 1962, c. 152 (C. 33:1-12.31) is amended to read as follows:

C. 33:1-12.31 Acquisition of beneficial interest in more than two retail licenses prohibited.

1. On and after the effective date of this act no person, as the same is defined in R. S. 33:1-1, shall, except as hereinafter pro-

vided, acquire a beneficial interest in more than a total of two alcoholic beverage retail licenses, but nothing herein shall require any such person who has, on August 3, 1962, such an interest in more than two such licenses to surrender, dispose of, or release his interest in any such license or licenses.

2. Section 3 of P. L. 1952, c. 173 (C. 39:6-25) is amended to read as follows:

C. 39:6-25 Security to satisfy judgment; suspension of license; when not applicable; requirements as to insurance company or surety company.

3. (a) If 20 days after the receipt of a report of a motor vehicle accident within this State which has resulted in bodily injury or death, or damage to the property of any one person in excess of \$200.00, the director does not have on file evidence satisfactory to him that the person who would otherwise be required to file security under subsection (b) of this section has been released from liability, or has been finally adjudicated not to be liable, or has executed a duly acknowledged written agreement providing for the payment of an agreed amount in installment with respect to all claims for injuries or damages resulting from the accident, the director shall determine the amount of security which shall be sufficient in his judgment to satisfy any judgment or judgments for damages resulting from such accident as may be recovered against each operator or owner.

(b) The director shall, within 90 days after the receipt of such report of a motor vehicle accident, suspend the license of each operator and all registrations of each owner of a motor vehicle in any manner involved in such accident, and if such operator is a nonresident the privilege of operating a motor vehicle within this State, and if such owner is a nonresident the privilege of the use within this State of any motor vehicle owned by him, unless such operator or owner or both shall deposit security in the sum so determined by the director; provided, notice of such suspension shall be sent by the director to such operator and owner not less than 10 days prior to the effective date of such suspension and shall state the amount required as security. Where erroneous information is given the director with respect to the matters set forth in subdivisions 1, 2 or 3 of subsection (c) of this section, he shall take appropriate action as hereinbefore provided, within 90 days after receipt by him of correct information with respect to said matters.

(c) This section shall not apply under the conditions stated in section 4 of this act nor:

(1) to such operator or owner, if such owner had in effect, at the time of such accident, an automobile liability policy with respect to the motor vehicle involved in such accident;

(2) to such operator, if not the owner of such motor vehicle, if there was in effect at the time of such accident an automobile liability policy or bond with respect to his operation of motor vehicles not owned by him;

(3) to such operator or owner if the liability of such operator or owner for damages resulting from such accident is, in the judgment of the director, covered by any other form of liability insurance policy or bond; nor

(4) to any person qualifying as a self-insurer under section 30 of this act, or to any person operating a motor vehicle for such self-insurer.

No such policy or bond shall be effective under this section unless issued by an insurance company or surety company authorized to do business in this State, except that if such motor vehicle was not registered in this State, or was a motor vehicle which was registered elsewhere than in this State at the effective date of the policy or bond, or the most recent renewal thereof, such policy or bond shall not be effective under this section unless the insurance company or surety company if not authorized to do business in this State shall execute a power of attorney authorizing the director to accept service on its behalf of notice or process in any action upon such policy or bond arising out of such accident; provided, however, every such policy or bond is subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than \$10,000.00 because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, to a limit of not less than \$20,000.00 because of bodily injury to or death of two or more persons in any one accident, and, if the accident has resulted in injury to or destruction of property, to a limit of not less than \$5,000.00 because of injury to or destruction of property of others in any one accident.

3. R. S. 19:37-2 is amended to read as follows:

Question placed on ballot by county clerk.

19:37-2. If a copy of the ordinance or resolution certified by the clerk or secretary of the governing body of any such municipality or county is delivered to the county clerk not less than 60

days before any such general election, he shall cause it to be printed on each sample ballot and official ballot to be printed for or used in such municipality or county, as the case may be, at the next ensuing general election.

4. Section 10 of P. L. 1968, c. 410 (C. 52:14B-10) is amended to read as follows:

C. 52:14B-10 Evidence; judicial notice; recommended report and decision; final decision; effective date.

10. In contested cases:

(a) The parties shall not be bound by rules of evidence whether statutory, common law, or adopted by the Rules of Court. All relevant evidence is admissible, except as otherwise provided herein. The presiding officer may in his discretion exclude any evidence if he finds that its probative value is substantially outweighed by the risk that its admission will either (i) necessitate undue consumption of time or (ii) create substantial danger of undue prejudice or confusion. The presiding officer shall give effect to the rules of privilege recognized by law. Every party shall have the right to present his case or defense by oral and documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

(b) Notice may be taken of judicially noticeable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

(c) When a person not empowered to render an administrative adjudication is designated by the head of the agency as the presiding officer, his recommended report and decision containing recommended findings of fact and conclusions of law shall be filed with the agency and delivered or mailed to the parties of record; and an opportunity shall be afforded each party of record to file exceptions, objections and replies thereto, and to present argument to the head of the agency or a majority thereof, either orally or in writing, as the agency may order. The head of the agency shall adopt, reject or modify the recommended report and decision. The

recommended report and decision shall be a part of the record in the case.

(d) A final decision or order adverse to a party in a contested case shall be in writing or stated in the record. A final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If, in accordance with agency rules, a party submitted proposed findings of fact, the decision shall include a ruling upon each proposed finding. Parties shall be notified either personally or by mail of any decision or order. Upon request a copy of the decision or order shall be delivered or mailed forthwith by registered or certified mail to each party and to his attorney of record.

(e) Except where otherwise provided by law, the administrative adjudication of the agency shall be effective on the date of delivery or on the date of mailing, of the final decision to the parties of record, whichever shall occur first, or shall be effective on any date after the date of delivery or mailing, as the agency may provide by general rule or by order in the case. The date of delivery or mailing shall be stamped on the face of the decision.

5. The title of P. L. 1968, c. 323 is amended to read as follows:

Title amended.

AN ACT to amend the "Unsatisfied Claim and Judgment Fund Law," approved May 10, 1952 (P. L. 1952 c. 174), and amending sections 39:3-37 and 39:3-40, and supplementing Title 39, of the Revised Statutes.

6. R. S. 41:1-1 is amended to read as follows:

Oath of allegiance; form.

41:1-1. Every person who is or shall be required by law to give assurance of fidelity and attachment to the Government of this State shall take the following oath of allegiance:

"I,, do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of New Jersey, and that I will bear true faith and allegiance to the same and to the Governments established in the United States and in this State, under the authority of the people. So help me God."

7. R. S. 41:1-3 is amended to read as follows:

Oath of allegiance and oath of office; persons required to take; form.

41:1-3. Every person who shall be elected or appointed to any public office in this State or in any county, municipality or special district other than a municipality therein, or in any department, board, commission, agency or instrumentality of any thereof, and is required to take and subscribe on oath of office shall, before he enters upon the execution of his said office take and subscribe the oath of allegiance set forth in R. S. 41:1-1 and, in addition, (a) any specially prescribed official oath, or (b) if no test is specially prescribed for such oath of office, the following official oath of office:

“I, do solemnly swear (or affirm) that I will faithfully, impartially and justly perform all the duties of the office of according to the best of my ability.

So help me God.”

8. Section 1 of P. L. 1948, c. 335 (C. 41:2A-1) is amended to read as follows:

C. 41:2A-1 Oath of allegiance and oath of office.

1. The Chief Justice and each Associate Justice of the new Supreme Court and each judge of the superior court and of the county courts, before entering upon the duties of his office, shall take and subscribe the oath of allegiance prescribed by R. S. 41:1-1, and the oath of office required to be taken by judicial officers.

9. Section 8 of P. L. 1944, c. 255 (C. 43:16A-8) is amended to read as follows:

C. 43:16A-8 Medical examination; report of medical board; restoration to active service.

8. (1) Upon the receipt by the retirement system of a written application for a disability retirement allowance, the system shall refer the application to the medical board, which shall designate a physician or physicians to examine the applicant and the report of the medical board shall be considered by the board of trustees in acting upon such application.

(2) Any beneficiary under the age of 55 years who has been retired on a disability retirement allowance under this act, on his request shall, or upon the request of the retirement system may, be given a medical examination and he shall submit to any examination by a physician or physicians designated by the medical board

once a year for at least a period of 5 years following his retirement in order to determine whether or not the disability which existed at the time he was retired has vanished or has materially diminished. If the report of the medical board shall show that such beneficiary is able to perform either his former duty or any other available duty in the department which his employer is willing to assign to him, the beneficiary shall report for duty; such a beneficiary shall not suffer any loss of benefits while he awaits his restoration to active service. If the beneficiary fails to submit to any such medical examination or fails to return to duty within 10 days after being ordered so to do, or within such further time as may be allowed by the board of trustees for valid reason, as the case may be, the pension shall be discontinued during such default.

(3) (Deleted by amendment.)

(4) If a disability beneficiary is restored to active service, his retirement allowance and the right to any death benefit as a result of his former membership, shall be canceled until he again retires.

Such person shall be reenrolled in the retirement system and shall contribute thereto at a rate based on his age at the time of prior enrollment. Such person shall be treated as an active member for determining disability or death benefits while in service.

Upon subsequent retirement of such member, he shall receive a retirement allowance based on all his service as a member computed in accordance with applicable provisions of this act, but the total retirement allowance upon subsequent retirement shall not be a greater proportion of his average final compensation than the proportion to which he would have been entitled had he remained in service during the period of his prior retirement. Any death benefit to which such member shall be eligible shall be based on his latest retirement.

10. The title of P. L. 1971, c. 212 is amended to read as follows:

Title amended.

AN ACT concerning actions for divorce and nullity of marriage, alimony, maintenance and custody of children, and amending N. J. S. 2A:34-1 through 2A:34-3, 2A:34-7 and 2A:34-8, 2A:34-10, 2A:34-20 and 2A:34-23 and repealing N. J. S. 2A:34-4, 2A:34-5 and 2A:34-22.

11. N. J. S. 2A:34-2 is amended to read as follows:

Causes for divorce from bond of matrimony.

2A:34-2. Divorce from the bond of matrimony may be adjudged for the following causes heretofore or hereafter arising:

- a. Adultery;
- b. Willful and continued desertion for the term of 12 or more months, which may be established by satisfactory proof that the parties have ceased to cohabit as man and wife;
- c. Extreme cruelty, which is defined as including any physical or mental cruelty which endangers the safety or health of the plaintiff or makes it improper or unreasonable to expect the plaintiff to continue to cohabit with the defendant; provided that no complaint for divorce shall be filed until after 3 months from the date of the last act of cruelty complained of in the complaint, but this provision shall not be held to apply to any counterclaim;
- d. Separation, provided that the husband and wife have lived separate and apart in different habitations for a period of at least 18 or more consecutive months and there is no reasonable prospect of reconciliation; provided, further that after the 18-month period there shall be a presumption that there is no reasonable prospect of reconciliation;
- e. Voluntarily induced addiction or habituation to any narcotic drug as defined in the New Jersey Controlled Dangerous Substances Act, P. L. 1970, c. 226 or habitual drunkenness for a period of 12 or more consecutive months subsequent to marriage and next preceding the filing of the complaint;
- f. Institutionalization for mental illness for a period of 24 or more consecutive months subsequent to marriage and next preceding the filing of the complaint;
- g. Imprisonment of the defendant for 18 or more consecutive months after marriage, provided that where the action is not commenced until after the defendant's release, the parties have not resumed cohabitation following such imprisonment;
- h. Deviant sexual conduct voluntarily performed by the defendant without the consent of the plaintiff.

12. Sections 1 through 9 shall take effect immediately; sections 10 and 11 shall take effect September 13, 1971.

Approved June 17, 1971.

CHAPTER 218

AN ACT authorizing the granting of tenure in position or employment to certain corrections officers in jails or penitentiaries of counties of the first class having a population of less than 700,000.

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

C. 30:8-13.5 Counties of first class under 700,000; corrections officers in county jails or penitentiaries; tenure; removal.

1. The board of chosen freeholders of any county of the first class having a population of less than 700,000 may, by resolution, grant tenure of position or employment to any corrections officer in the county jail or penitentiary who on the effective date of this act has so served for 9 or more consecutive years. Upon the adoption of such a resolution the corrections officer shall continue to hold his position or employment during good behavior and efficiency and shall not be removed therefrom except for good cause and then only in accordance with the provisions of Title 11 of the Revised Statutes.

2. This act shall take effect immediately.

Approved June 17, 1971.

CHAPTER 219

AN ACT to increase the penalties for unauthorized structures within the natural and ordinary high-water mark of any stream, and amending R. S. 58:1-26.

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

1. R. S. 58:1-26 is amended to read as follows:

Construction and maintenance of structures within streams regulated; penalties.

58:1-26. No structure within the natural and ordinary high-water mark of any stream shall be made by any public authority or private person or corporation without notice to the commission, and

in no case without complying with such conditions as the commission may prescribe for preserving the channel and providing for the flow of water therein to safeguard the public against danger from the waters impounded or affected by such structure, and this prohibition shall apply to any renewal of existing structures. No such approval by the commission shall impair or affect any property rights, otherwise existing, which might be invaded by the construction or maintenance of any such structure.

The commission may, whenever in its judgment public safety so requires, and after a hearing either on its own motion or upon complaint, make and serve an order directing any person, corporation, officer or board constructing, maintaining or using any such structure in any of the waters of this State to remove or repair it within such reasonable time and in such manner as shall be specified in the order, and every such person, corporation, officer or board shall obey, observe and comply with the order and with the conditions prescribed by the commission for preserving the channels of streams and for safeguarding the public against danger from waters impounded by structures hereinbefore referred to.

Every person, corporation, officer or board failing, omitting or neglecting so to do, or who constructs or reconstructs any such structure in any of the waters aforesaid without submitting to the commission plans therefor and obtaining its approval thereof, or who fails to remove, construct or reconstruct the same in accordance with the plans so approved shall forfeit to this State not less than \$250.00 nor more than \$1,000.00 for each and every offense. Every violation of any such order, direction or requirement shall be a separate and distinct offense, and, in case of a continuing violation, every day's continuance thereof shall be and be deemed to be a separate and distinct offense. If such a continuing violation shall have continued for more than 7 consecutive days, an additional penalty not exceeding \$1,000.00 per day may be imposed for the eighth and each succeeding day; and if it shall have continued for more than 14 consecutive days, a further additional penalty not exceeding \$1,000.00 per day may be imposed for the fifteenth and each succeeding day.

2. This act shall take effect immediately.

Approved June 17, 1971.

CHAPTER 220

AN ACT to authorize the borough of New Shrewsbury in the county of Monmouth to make permanent the appointment of William Brown to the police department of the borough of New Shrewsbury.

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

Private act.

1. Pursuant to the provisions of chapter 199 of the laws of 1948, under which a petition for a special law has been filed with the Legislature, the borough of New Shrewsbury in the county of Monmouth is authorized to make permanent the appointment of William Brown to the police department of New Shrewsbury notwithstanding his age is greater than the maximum age limit for appointment thereto set forth in R. S. 40:47-4.

2. The board of trustees of the Police and Firemen's Retirement System of New Jersey shall accept as a member of the retirement system any policeman, otherwise eligible for membership, appointed pursuant to this act provided there is paid into the retirement system, in such manner as the board shall prescribe, the contribution deemed due and payable from the date of original appointment.

3. This act shall take effect upon due adoption of an ordinance of the borough of New Shrewsbury for the purpose of adopting same.

Approved June 17, 1971.

CHAPTER 221

AN ACT concerning municipalities, temporarily forbidding the award of any franchise or privilege by a municipality to any person for the purpose of operating or maintaining a community antenna television system, and supplementing Title 40 of the Revised Statutes.

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

C. 40:48-5.5 Definition.

1. As used in this act, "community antenna television system" means any wire or cable facility which is operated to perform the service of receiving and amplifying the signals broadcast by one or more television stations and redistributing such signals to members of the public who subscribe to such service, or distributing through its facilities any television signals whether broadcast or not.

C. 40:48-5.6 Declaration of policy.

2. The Legislature finds, determines and declares:

a. The present profitability and the large though undefined potentialities of community antenna television have attracted a number of firms and combinations of capital into that industry.

b. In the absence of comprehensive State or Federal regulation, there has been intense competition for franchises from municipal governments to operate community antenna television systems in the several communities of this State, and substantial numbers of such franchises have been granted.

c. The intense competition for franchises has led to allegations of speculation in such franchises to the detriment of the public welfare, and to accusations of municipal corruption, some of which are at present under investigation by appropriate authorities.

d. The need for appropriate regulation to secure and foster the orderly development of the community antenna television industry is generally conceded, but the exact form which such regulation should take, the degree of regulation necessary and desirable, and the level or levels of government which should undertake the regulatory function are matters of doubt and dispute among various segments of well informed opinion.

e. The exceeding complexity of the legal, social, technological and scientific issues, questions and implications involved require that the Legislature not act hastily in resolving the many doubtful points in this matter or in adopting any system of regulation, but should proceed with thorough information, expert advice and mature deliberation.

f. Unless there is an immediate and temporary cessation of the present impetuous pace of development of the community antenna television industry in this State, the necessary deliberations of the Legislature will be forestalled and set at naught by the rapid march of practical events, and the State will be entangled with an unregulated growth before an adequate system of regulation can be devised.

g. The Legislature has determined that the public interest requires that there be a temporary cessation, compelled by law, in the award of any further franchises or privileges by municipalities for the purpose of permitting the establishment or operation of further community antenna television systems in this State, until such time as an adequate regulatory system can be devised and established.

C. 40:48-5.7 Grant of franchise prohibited; limitation.

3. Notwithstanding any other provisions of law, for a period of 1 year from the effective date of this act no municipality may give, grant or award to any person, upon any terms or conditions whatever, any franchise or privilege for the use of any street, alley or public place for the purpose of constructing, erecting, operating or maintaining any wires, poles, cables, conduits, conductors, fixtures or other facilities for the purpose of operating or maintaining a community antenna television system.

C. 40:48-5.8 Franchises previously granted not affected.

4. The provisions of this act shall not affect the continuation or renewal of franchises or authorizations previously granted to persons by any municipality.

5. This act shall take effect immediately.

Approved June 17, 1971.

CHAPTER 222

AN ACT for the imposition of a tax for a limited period for transportation purposes, measured by certain income and gains derived by residents of this State from sources within another state with respect to which there is a severe transportation problem interstate and by residents of such other state from sources within this State; limiting the application of revenues derived hereunder to objects for which compensation may reasonably be exacted, providing for suspension of such tax and for certain refunds in case of any application of such revenues to other purposes, providing for the administration of the provisions of this act, and supplementing Title 54 of the Revised Statutes.

WHEREAS, Metropolitan areas in the United States, and particularly in this State and the states bordering it, have grown and become

established without regard to the boundary lines of separate states; and

WHEREAS, Such growth and establishment have brought about the creation of actual regions within which patterns of activity have developed which have given rise to and increased the degree of the practice of maintaining a place of residence in one state and a place of employment in another, also without regard to the boundary lines of separate states; and

WHEREAS, These conditions have given rise to extremely complex problems, culminating in a severe transportation crisis, particularly in the providing of necessary and appropriate facilities and services for the transportation of persons living within one state and employed within another; and

WHEREAS, Extensive studies conducted over many years have demonstrated that efforts of great magnitude are required to meet the need for appropriate facilities and services for transportation within metropolitan regions, and that such efforts will require substantial funds for their financing; and

WHEREAS, Due to the existence of great rivers at the state boundaries, which are obstacles to the movement of land vehicles, the cost of the interstate portions of transportation facilities and services for any kind of land vehicle is massively greater than the cost of connecting or feeder facilities within the boundaries of a single state; and

WHEREAS, One or another of these facts, as well as other relevant facts touching upon the transportation problem have been the subject of formal and informal findings or other recognition by legislative and other public bodies at the Federal and State level; and

WHEREAS, The nature and intensity of the problem requires that some reasonable, practicable and acceptable method for raising the funds requisite to the achievement of projects and programs to solve the same,

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

C. 54:8A-58 Short title.

1. Short Title. This act shall be known and referred to by its short title, the "Transportation Benefits Tax Act."

C. 54:8A-59 Imposition of tax; levy; collection; payment.

2. Imposition of tax; levy; collection; payment. A temporary tax is hereby imposed, and shall be levied, collected and paid annually, at the rate specified in this act,

(a) upon every resident of this State, who is not a resident of another critical area state under and pursuant to its laws, upon and with respect to the entire taxable income as defined in this act and subject to taxation under this act, for the taxable year, derived from sources within a critical area state other than New Jersey; and

(b) upon and with respect to the entire taxable income as defined in this act and subject to taxation under this act, for the taxable year, derived from sources within this State by natural persons who are not residents of this State and who are residents of another critical area state under and pursuant to the law of such state.

C. 54:8A-60 Rate of tax.

3. Rate of tax. The tax imposed by this act shall be levied and imposed annually upon each taxpayer at the rate of $3\frac{1}{2}\%$ upon his entire taxable income.

C. 54:8A-61 Definitions.

4. (a) Definitions. "Critical area state" means this State and such other state bordering thereon within which there exists part of an area, another part of which is in this State, and within which area there is, as of January 1 of any year, a severe transportation problem in respect to the transportation of persons and property interstate.

(b) The Legislature finds and declares that a severe transportation problem exists in connection with transportation interstate between this State and another state bordering thereon due to the number of daily commuters between said states as to create a severe peak-load demand requiring facilities and services, by any means or mode of transportation far in excess of those needed for normal travel outside of usual commuter hours, caused by the carrying on of activities in one of the states by persons residing in another, from which activities such persons derive income or gain from sources within the state other than that in which they reside.

The Legislature finds and declares that whenever the total number of annual crossings by persons residing in one of such states who are employed, or carry on a trade, business, occupation or profession in the other state plus the number of annual crossings

by persons residing in the other state who are employed, or carry on a trade, business, occupation or profession in the first state exceeds 100,000,000 but is less than 300,000,000, that fact reasonably demonstrates that a severe transportation problem exists. If the number of annual crossings as set forth in this section is found to exist by the Commissioner of Transportation in accordance with subsection (c) hereof, the provisions of this act shall take effect and the provisions of the Emergency Transportation Tax Act, N. J. S. A. 54:8A-1 et seq. shall not be applicable to persons subject to tax under this act.

(c) Within 40 days after the taking effect of this act, and within 40 days after the first day of each year hereafter so long as this act shall remain in effect, the State Transportation Commissioner shall certify to the State Treasurer his findings with respect to the existence of the conditions herein set forth and the identity of any states which he determines to come within the definition in this section. Upon receipt of such certification, the State Treasurer shall cause public notice thereof to be given, by publication in such newspaper or newspapers, and in such form, as he shall find will fairly apprise all persons subject to taxation under this act, of the making of said certification and of the significance thereof to such persons. Any certification so made shall be effective for the entire calendar year as of the first day of which it ascertains the facts.

C. 54:8A-62 "Derived from sources within" defined.

5. "Derived from sources within" defined. "Derived from sources within" one state or another, as applied to entire gross income, means such income and gain from all property owned and from salaries, wages, or compensation for personal services of whatever kind and in whatever form paid, and from all business, trade, profession or occupation carried on, in the particular state. No person who is not a dealer holding property primarily for sale to customers in the ordinary course of his trade or business, shall be deemed to carry on a business, trade, profession or occupation in a state solely by reason of the purchase and sale of property for his own account.

C. 54:8A-63 "Source state" defined.

6. "Source state" defined. "Source state" means, in the case of residents of this State, a critical area state other than the State of New Jersey; and in the case of nonresidents of this State who are residents of another critical area state, the term means the State of New Jersey.

C. 54:8A-64 Resident individual.

7. Resident individual. "Resident individual" means an individual who is domiciled in this State unless he maintains no permanent place of abode in this State and does maintain a permanent place of abode elsewhere and spends in the aggregate not more than 30 days of the taxable year in this State; or who is not domiciled in the State but maintains a permanent place of abode in this State and spends in the aggregate more than 183 days of the taxable year in this State.

C. 54:8A-65 Nonresident individual.

8. Nonresident individual. "Nonresident individual" means any individual who is not a resident of this State.

C. 54:8A-66 "Taxpayer" defined.

9. "Taxpayer" defined. "Taxpayer" means any person subject to a tax imposed by this act, or whose income is in whole or in part subject to a tax imposed by this act, and does not include corporations.

C. 54:8A-67 "Dependent" defined.

10. "Dependent" defined. "Dependent" means any individual related to taxpayer, over half of whose support (exclusive of any amount received by a child or stepchild as a scholarship for study at an educational institution) for the eligibility year was received from the taxpayer, in fact or constructively. No person may be claimed as a dependent by any taxpayer if such person has filed a joint return with his or her spouse.

C. 54:8A-68 "Related to taxpayer" defined.

11. "Related to taxpayer" defined. "Related to taxpayer" means related by blood, to the extent of any lineal descendant or ancestor of taxpayer, other children or grandchildren of a parent of taxpayer, children of a grandparent of taxpayer, and grandchildren of a grandparent of taxpayer who are receiving institutional care for physical or mental disability and who had been members of taxpayer's household prior to institutionalization; or related by marriage, to the extent of a stepchild, stepparent, stepbrother or stepsister of taxpayer, the parents, brother or sister of the spouse of the taxpayer, or the spouse of a child of taxpayer; or related by household, to the extent of a person having taxpayer's home as his principal place of abode and being a member of taxpayer's household for the taxable year. Brothers and sisters of the half blood shall be regarded as though of the whole blood.

C. 54:8A-69 "Eligibility year" defined.

12. "Eligibility year" defined. "Eligibility year" means the calendar year in which the taxable year of the taxpayer begins.

C. 54:8A-70 "Taxable year"; "annual accounting period" and "calendar year" defined.

13. "Taxable year"; "annual accounting period" and "calendar year" defined. (a) The term "taxable year" means

(1) the taxpayer's annual accounting period, if it is a calendar year or a fiscal year;

(2) the calendar year,

(A) if the taxpayer keeps no books, or

(B) the taxpayer does not have an annual accounting period; or

(C) the taxpayer has an annual accounting period but such period does not qualify as a fiscal year; or

(3) the period for which the return is made, if the return is made for a period of less than 12 months.

(b) The term "annual accounting period" means the annual period on the basis of which the taxpayer regularly computes his income in keeping his books.

(c) The term "calendar year" means a period of 12 months ending on December 31.

(d) The term "fiscal year" means a period of 12 months ending on the last day of any month other than December.

C. 54:8A-71 "Partnership" defined.

14. "Partnership" defined. "Partnership" includes all forms of unincorporated organization other than an estate or trust or a corporation through or by means of which any business, financial operation or venture is carried on or liquidated.

C. 54:8A-72 "Gross income" defined.

15. "Gross income" defined. The term "gross income" means the total of a taxpayer's gains, losses, profits and income derived from sources within his source state. Gross income shall be computed in accordance with the provisions of section 19 or section 22 of this act. In computing gross income, the items of gain, loss, profit or income set forth in section 20 of this act shall not be included except to the extent provided therein.

For the purpose of applying the deductions permitted in sections 23 and 24 of this act, gross income computed in accordance with the provisions of section 19 of this act shall be reduced by the amount of the deduction allowed in section 21 (a) of this act.

C. 54:8A-73 "Taxable income" defined.

16. "Taxable income" defined. The term "taxable income" means the gross income of a taxpayer less the deductions and exemptions allowed by this act.

C. 54:8A-74 Division and director defined.

17. Division and director defined. As used in this act "division" means the Division of Taxation in the Department of the Treasury and "director" means the Director of said Division of Taxation.

C. 54:8A-75 Allocated gross income defined.

18. Allocated gross income defined. "Allocated gross income" means that portion of a taxpayer's gross income derived from sources within his source state.

C. 54:8A-76 Computing gross income.

19. (a) Computing gross income. Except as otherwise provided in this act or by regulations pursuant to this act, a taxpayer shall compute his gross income by totaling his gains, losses, profits and income derived from salaries, wages or compensation for personal services, of whatever kind and in whatever form paid, or from professions, vocations, trades, businesses, commerce, or sales, or dealings in property of whatever nature, growing out of the ownership or use of or interest in such property; also from interest, rent, royalties, dividends, securities, or the transaction of any business carried on for gain or profits and income derived from any source whatever within the source state, including prizes and awards (other than those primarily in recognition of some achievement in the arts, sciences or public interest without active entry by the recipient and without requirement that he render substantial future services as a condition), or gains or profits or income derived through estates or trusts by the beneficiaries thereof, whether as distributed or distributive shares. In any case, the term "gross income" shall include capital gains or capital losses only to the extent provided in this act.

(b) In addition, gross income will include the following items of tax preference income derived by the taxpayer from sources within his source state: (1) Excess investment interest; (2) Accelerated depreciation on real property; (3) Accelerated depreciation on personal property subject to a net lease; (4) Amortization of certified pollution control facilities; (5) Amortization of railroad rolling stock; (6) Stock options; (7) Reserves for losses on

bad debts of financial institutions; (8) Depletion; and (9) Capital gains.

(c) The Director, Division of Taxation, is empowered to issue rules and regulations governing the determination of items entering into the computations of gross income pursuant to this section.

C. 54:8A-77 Inclusions in and exclusions from income.

20. Inclusions in and exclusions from income. (a) Income from intangible personal property, including annuities, dividends, interest, and gains from the disposition of intangible personal property, shall constitute income derived from sources within the taxpayer's source state only to the extent that such income is from property employed in a business, trade, profession, or occupation carried on in his source state.

(b) Compensation paid by the United States for service in the Armed Forces of the United States, performed by an individual during an induction period, shall not constitute income derived from sources within his source state.

(c) There shall be excluded from gross income all amounts received:

- (1) as a pension or retirement allowance,
- (2) under a life insurance contract payable by reason of death,
- (3) under a workmen's compensation act for personal injuries or sickness,
- (4) through accident and health insurance for personal injuries or sickness except to the extent that such amounts are paid by or are attributable to contributions by the employer,
- (5) by gift, bequest, devise or inheritance,
- (6) which constitute wages or payments in lieu of wages for a period during which the employee is absent from work on account of personal injuries or sickness, but this subsection shall not apply to the extent that such amounts exceed a weekly rate of \$100.00. This shall not apply to amounts attributable to the first 30 calendar days in such period, if such amounts are at a rate which exceeds 75% of the regular weekly rate of wages of the employee. If amounts attributable to the first 30 calendar days in such period are at a rate which does not exceed 75% of the regular weekly rate of wages of the employee, the first part of this subsection shall not apply to the extent that such amounts exceed a weekly rate of \$75.00, and shall not apply to amounts attributable to the first 7 calendar days in such period unless the employee is hospitalized on account of personal injuries or sickness for at least 1 day during such period.

(7) prizes received pursuant to the provisions of the State Lottery Law, P. L. 1970, c. 13 shall be exempt from the tax imposed by this act.

(d) In the case of a taxpayer who computes his gross income in accordance with the provisions of section 22, income and other amounts excluded from gross income under the provisions of this section shall be excluded only to the extent that such income and amounts would otherwise be included in Federal adjusted gross income.

C. 54:8A-78 Computing taxable income.

21. Computing taxable income. (a) In the computation of taxable income, the taxpayer may deduct from gross income the ordinary and necessary expenditures directly connected with or pertaining to the taxpayer's trade or business; the ordinary and necessary nonbusiness or nontrade expenditures paid or incurred for the production or collection of income which, if and when realized, will be required to be included in income for the purpose of taxation under this act, or for the management, conservation or maintenance of property held for the production of such income but such deductions from gross income are allowable only if, and to the extent that, they are connected with income arising from sources within taxpayer's source state and taxable under this act.

(b) The taxpayer may also deduct from his gross income, in lieu of his standard deduction:

(1) Deductions for charitable contributions as defined in section 24 (b) (4) but limited to his source State or to any political subdivision thereof, or to any corporation, trust, community chest, fund, foundation or other entity organized or operated under the laws of his source state;

(2) Deductions for alimony or separate maintenance payments includible in the gross income of a recipient subject to tax under this act;

(3) Deductions for losses of real or tangible personal property having an actual situs in his source state, arising from fire, storm, shipwreck or other casualty, or from theft, shall be allowed only to the extent that the amount of loss to an individual arising from each casualty, or from each theft, exceeds \$100.00. For purposes of the \$100.00 limitation, a husband and wife making a joint return for the taxable year in which the loss is allowed as a deduction shall be treated as one individual.

(4) Deductions, with respect to real or tangible personal property having an actual situs in his source State, for losses (other

than capital losses) incurred in any transaction entered into for profit but not connected with the taxpayer's trade or business; and

(5) Deductions determined under regulations of the Division of Taxation to be connected with his gross income.

C. 54:8A-79 Alternative computing of gross income.

22. Alternative computing of gross income. (a) The Legislature hereby finds and determines that to permit taxpayers under this act to compute their gross income for tax purposes from the Federal adjusted gross income figure used in their tax returns to the Federal Government will reduce the cost and simplify the administration of this act, and will simplify the preparation of State income tax returns by taxpayers. The Legislature further finds and determines that such method of computing gross income will not materially reduce and may increase the amount of revenue derived with respect to this act; and, therefore, directs that each taxpayer be permitted, as an alternative to the method prescribed by section 19 of this act, to compute his gross income as provided in subsection (b) of this section.

(b) A taxpayer computing his gross income under the provisions of this subsection shall:

(1) determine the net amount of income, gain, loss and deduction entering into his Federal adjusted gross income for the taxable year which is derived from sources within his source state, including:

(A) his distributive share of partnership income, gain, loss and deduction derived from sources within his source state, and

(B) his share of estate and trust income, gain, loss and deduction derived from sources within his source state.

(2) add to such amount the following types of income and gain derived from the sources of income and gain listed below:

(A) interest income from the obligations of any state or political subdivision thereof except where, by the laws of such state, its own taxpayers are exempted from taxation with respect to such interest income, subject to the provisions of section 20;

(B) the sum of the following tax preference items as defined in section 57 of the Internal Revenue Code, as amended.

(I) excess investment interest; (II) accelerated depreciation on real property; (III) accelerated depreciation on personal property subject to a net lease; (IV) amortization of certified pollution control facilities; (V) amortization of railroad rol-

ling stock; (VI) stock options; (VII) reserves for losses on bad debts of financial institutions; (VIII) depletion; and (IX) capital gains which is required to be returned to and ascertained by the Federal Government pursuant to said code.

(3) subtract from such net amount interest income from obligations of the United States and its possessions to the extent that such interest is includible in gross income for Federal income tax purposes;

(c) A taxpayer who computes his gross income in accordance with the provisions of this section shall not be entitled to the deductions set forth by section 21 (a) but, in lieu of the standard deduction, shall be permitted the deductions in sections 21 (b) and 24 of this act.

(d) The amount of the gross income of a taxpayer computed in accordance with the provisions of this section shall be conclusively presumed by the Division of Taxation to be the same as such taxpayer's gross income would have been if computed in accordance with the provisions of section 19 except that if the amount of a taxpayer's Federal adjusted gross income or Federal items of tax preference is changed or corrected by the taxpayer or the United States Internal Revenue Service or other competent authority, or as the result of a renegotiation of a contract or subcontract with the United States, the taxpayer shall report such change or correction in Federal taxable income or Federal items of tax preference within 90 days after the final determination of such change, correction, or renegotiation, or as otherwise required by regulation, and shall concede the accuracy of such determination or state wherein it is erroneous. Any taxpayer filing an amended Federal income tax return shall also file within 90 days thereafter an amended return under this act, and shall give such information as the Division of Taxation may require. There may be provided by regulation such exceptions to the requirements of this section as may be necessary to carry out the purposes of this section.

C. 54:8A-80 Standard deduction.

23. Standard deduction. Any taxpayer may elect to deduct 13% of his gross income, or \$1500.00, whichever is less, in lieu of all deductions otherwise permitted under this act; for taxable years beginning in 1972, the standard deduction shall be 14% or \$2,000.00, whichever is less; and for taxable years beginning in 1973 and thereafter the standard deduction shall be 15% or \$2,000.00, whichever is less. The deduction provided for by this section shall become known as the "standard deduction."

A husband and wife shall not be entitled to a standard deduction in an amount greater than one computed on their aggregate gross income, whether they file separate or joint returns. If they file separate returns, neither may elect the standard deduction unless the other also so elects. If both so elect, either may take such deduction, or they may divide it; except that for taxable years beginning in 1972 the standard deduction shall be 14% or \$2,000.00, whichever is less; and for taxable years beginning in 1973 and thereafter the standard deduction shall be 15% or \$2,000.00, whichever is less.

Such election may be changed for a taxable year after the filing of the return, subject to regulations issued under this act. If a taxpayer wishing to make such change has a spouse who filed a separate return, the change shall not be allowed unless (1) such spouse also makes a change consistent with the change desired by the taxpayer and (2) both consent in writing to the assessment of any additional tax resulting from such change without regard to time limits otherwise preventing such assessment.

C. 54:8A-81 Other deductions authorized.

24. Other deductions authorized. (a) In addition to the deductions authorized in section 21 (b), any taxpayer shall be allowed the deductions itemized in this section to the same extent that such deductions are allowed to New Jersey residents who are subject to the income tax laws of a critical area state other than New Jersey. To the extent that any deduction itemized in this section has been taken by a taxpayer to compute his Federal adjusted gross income, such deductions shall not be allowed to a taxpayer computing his gross income in accordance with the provisions of section 22 of this act.

(b) Subject to the limitations expressed in subsection (a) hereof and any other limitations set forth in this act, the following deductions shall be allowed:

(1) Deduction of interest paid or accrued within the taxable year on indebtedness.

(2) Deduction of taxes paid or accrued within the taxable year except—

(A) Federal import duties, excise and stamp taxes,

(B) estate, inheritance, legacy, succession and gift taxes,

(C) taxes assessed against local benefits of a kind tending to increase the value of the property assessed, and

(D) license fees payable for operation or ownership of motor vehicles; State and local license fees; taxes on cigarettes, other tobacco products and alcoholic beverages.

(3) Deduction of losses sustained during the taxable year, not compensated by insurance or otherwise, except—

(A) losses, not incurred in a trade or business or in any transaction entered into for profit, shall be allowed only if they arise from fire, storm, shipwreck or other casualty or from theft, and only to the extent that the amount of loss to an individual arising from each casualty, or from each theft, exceeds \$100.00;

(B) losses from gambling activities shall be allowed only to the extent of the gains from such activities;

(4) Deduction of any charitable contribution payment of which is made within the taxable year to the extent that the aggregate of such contributions does not exceed 20% of the taxpayer's gross income.

In addition, there shall be allowed a deduction of any charitable contribution not in excess of 30% of the taxpayer's gross income which is made by the taxpayer within the taxable year to a religious organization, an educational organization which normally maintains a regular faculty and has a regularly enrolled body of students in attendance, an organization, the principal purposes or functions of which are the providing of medical or hospital care or medical education or medical or agricultural research, a governmental unit or an organization referred to in subparagraph (B) below which normally receives a substantial part of its support from a governmental unit described in subparagraph (A) below or from direct or indirect contributions from the general public.

In the case of an individual, if the amount of charitable contributions described above, payment of which is made within a taxable year exceeds 50% of the taxpayer's adjusted gross income for such year (computed without regard to any net operating loss carryback to such year), such excess shall be treated as a charitable contribution paid in each of the 5 succeeding taxable years in order of time.

For the purposes of this section, the term "charitable contribution" means a contribution or gift to or for the use of

(A) A State, territory, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.

(B) A corporation, trust or community chest, fund or foundation—

(i) created or organized in the United States or in any possession thereof, or under the law of the United States, any state or territory, the District of Columbia, or any possession of the United States;

(ii) organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes or for the prevention of cruelty to children or animals;

(iii) no part of the net earning of which inures to the benefit of any private shareholder or individual; and

(iv) no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation.

(C) A post or organization of war veterans, or an auxiliary unit or society of, or trust or foundation for, any such post or organization—

(i) organized in the United States or any of its possessions, and

(ii) no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(D) A domestic fraternal society, order, or association, operating under the lodge system, but only if such contribution or gift is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals.

(E) A cemetery company owned and operated exclusively for the benefit of its members or any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, if such company or corporation is not operated for profit and no part of the net earnings of such company or corporation inures to the benefit of any private shareholder or individual.

(5) (A) There shall be allowed as a deduction the following amounts, not compensated for by insurance or otherwise—

(i) the amount by which the amount of the expenses paid during the taxable year (reduced by any amount deductible under paragraph (ii) for medical care of the taxpayer, his spouse, and dependents exceeds 3% of the adjusted gross income, and

(ii) an amount (not in excess of \$150.00) equal to one-half of the expenses paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents.

(B) Limitation with respect to medicine and drugs. Amounts paid during the taxable year for medicine and drugs which (but for this subsection) would be taken into account in computing the deduction under subparagraph (5) (A) shall be taken into account only to the extent that the aggregate of such amounts exceeds 1% of the adjusted gross income.

(C) Special rule for decedents.

(i) Treatment of expenses paid after death. For purposes of subparagraph (5)(A), expenses for the medical care of the taxpayer which are paid out of his estate during the 1 year period beginning with the day after the date of his death shall be treated as paid by the taxpayer at the time incurred.

(6) (A) Dependents. There shall be allowed as a deduction expenses paid during the taxable year by a taxpayer who is a woman or widower, or is a husband whose wife is incapacitated or is institutionalized, for the care of one or more dependents, but only if such care is for the purpose of enabling the taxpayer to be gainfully employed.

(B) Limitations.

(i) Dollar limit.

(AA) Except as provided in subparagraph (BB), the deduction under subparagraph (6)(A) shall not exceed \$600.00 for any taxable year.

(BB) The \$600.00 limit of subparagraph (AA) shall be increased (to an amount not above \$900.00) by the amount of expenses incurred by the taxpayer for any period during which the taxpayer had two or more dependents.

(ii) Working wives and husbands with incapacitated wives. In the case of a woman who is married and in the case of a husband whose wife is incapacitated, the deduction under subparagraph (6)(A)—

(AA) shall not be allowed unless the taxpayer and his spouse file a joint return for the taxable year, and

(BB) shall be reduced by the amount (if any) by which the adjusted gross income of the taxpayer and his spouse exceeds \$6,000.00.

This paragraph shall not apply, in the case of a woman who is married, to expenses incurred while her husband is incapable of

self-support because mentally or physically defective, or, in the case of a husband whose wife is incapacitated, to expenses incurred while his wife is institutionalized if such institutionalization is for a period of at least 90 consecutive days (whether or not within 1 taxable year) or a shorter period if terminated by her death.

(iii) Certain payments not taken into account. Subparagraph (6) (A) shall not apply to any amount paid to an individual with respect to whom the taxpayer is allowed for his taxable year a deduction under section 25 (relating to deductions for personal exemptions).

(C) Special rule where wife is incapacitated or institutionalized. In the case of a husband whose wife is incapacitated or is institutionalized, the deduction under Subparagraph (6)(A) shall be allowed only for expenses incurred while the wife was incapacitated or institutionalized (as the case may be) for a period of at least 90 consecutive days (whether or not within 1 taxable year) or a shorter period if terminated by her death.

(7) Deduction for amounts paid by a husband to his wife for alimony, support or separate maintenance pursuant to a court decree or for support or maintenance pursuant to a written separation agreement.

(8) (A) There shall be allowed as a deduction moving expenses paid or incurred during the taxable year in connection with the commencement of work by the taxpayer as an employee or as a self-employed individual at a new principal place of work.

(B) Conditions for allowance. No deduction shall be allowed under this section unless—

(i) the taxpayer's new principal place of work—

(AA) is at least 50 miles farther from his former residence than was his former principal place of work, or

(BB) if he had no former principal place of work, is at least 50 miles from his former residence, and

(ii) either—

(AA) during the 12-month period immediately following his arrival in the general location of his new principal place of work, the taxpayer is a full-time employee, in such general location, during at least 39 weeks, or

(BB) during the 24-month period immediately following his arrival in the general location of his new principal place of work, the taxpayer is a full-time employee or performs services as a self-employed individual on a full-time basis, in such general location, during at least 78 weeks, of which not less

than 39 weeks are during the 12-month period referred to in subparagraph (AA).

For purposes of paragraph (i), the distance between two points shall be the shortest of the more commonly traveled routes between such two points.

(C) Rules for self-employed individuals.

(i) Definition. For purposes of this section, the term "self-employed individual" means an individual who performs personal services—

(AA) as the owner of the entire interest in an unincorporated trade or business, or

(BB) as a partner in a partnership carrying on a trade or business.

(D) No deduction shall be allowed under this section for any item to the extent that the taxpayer received reimbursement or other expense allowance for such item which is not included in his gross income.

(E) Regulations. The Director, Division of Taxation or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(9) In addition to any deductions taken under section 21 (a) of this act or in the computation of Federal adjusted gross income in the case of a taxpayer who has computed his gross income in accordance with the provisions of section 22 of this act, there shall be allowed a deduction for all the ordinary and necessary expenses paid or incurred by a taxpayer, including traveling expenses while away from home, as an employer or an employee during the taxable year in carrying on or working at any trade or business.

(c) Any taxpayer who elects to take the itemized deductions allowed in this section shall be permitted to take the full amount of the deduction permitted in section 21(b) and in this section and the full amount of his exemptions under section 25, except that if (a) his Federal adjusted gross income derived from sources within his source State as modified by Section 22(b) (2) and (3) is exceeded by (b) his entire Federal adjusted gross income as modified by section 22(b) (2) and (3) by more than \$100, his itemized deductions allowed in section 21(b) and this section and exemptions under section 25, shall be limited by the percentage which (a) is of (b). The manner for determining a taxpayer's entire gross income shall be provided by regulation. Such regulations may authorize the use of Federal adjusted gross income for this purpose.

C. 54:8A-82 Exemptions.

25. Exemptions. In arriving at taxable income each taxpayer is allowed the following exemptions:

For each taxpayer, \$650.00; for the taxpayer's spouse, if taxpayer does not file a joint return and if such spouse has no gross income for the eligibility year and is not a dependent of another taxpayer, an additional \$650.00; for each taxpayer who is at least 65 years of age or over at the close of his taxable year, an additional \$650.00; and for taxpayer's spouse under the same conditions and if the initial \$650.00 exemption is allowable, an additional \$650.00; for each taxpayer who is blind at the close of his taxable year, an additional \$650.00, and for the taxpayer's spouse under the same conditions and if the initial \$650.00 exemption is allowable, an additional \$650.00. Blindness shall be deemed to exist when central visual acuity in the better eye does not exceed 20/200 with correcting lenses, or when the widest diameter of the visual field subtends an angle of not more than 20 degrees;

For each dependent whose gross income for the eligibility year is less than \$650.00 or who is taxpayer's child or stepchild and has not attained age 19 at the close of the eligibility year or is a student: \$650.00.

For taxable years beginning after December 31, 1971 and before January 1, 1973, such exemptions shall be \$700.00.

For taxable years beginning on and after January 1, 1973, such exemptions shall be \$750.00.

C. 54:8A-83 Claiming dependent; procedure.

26. Claiming dependent; procedure. An individual receiving over half of his support for the eligibility year from persons who would be entitled to claim him as a dependent except that no one of them contributed over half of such support, may be claimed as a dependent by any one of such persons who contributed over 10% of such support, provided that all other such persons execute written declaration, to be filed with the return of the person making the claim, not to claim the same dependent for the eligibility year of each of them.

C. 54:8A-84 Apportionment and allocation.

27. Apportionment and allocation. If a business, trade, profession, or occupation is carried on partly within and partly without this State, the items of income and deduction derived from or connected with sources within this State shall be determined by apportionment and allocation under regulations to be prescribed by the director.

C. 54:8A-85 Capital asset defined.

28. Capital asset defined. For purposes of this act, the term "capital asset" means property held by the taxpayer (whether or not connected with his trade or business), but does not include—

(1) stock in trade of the taxpayer or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year, or property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business;

(2) property, used in his trade or business, of a character which is subject to the allowance for depreciation, or real property used in his trade or business;

(3) a copyright, a literary, musical, or artistic composition, a letter or memorandum, or similar property, held by—

(A) a taxpayer whose personal efforts created such property,

(B) in the case of a letter, memorandum, or similar property, a taxpayer for whom such property was prepared or produced, or

(C) a taxpayer in whose hands the basis of such property is determined, for purposes of determining gain from a sale or exchange, in whole or part by reference to the basis of such property in the hands of a taxpayer described in subparagraph (A) or (B);

(4) accounts or notes receivable acquired in the ordinary course of trade or business for services rendered or from the sale of property described in paragraph (1); or

(5) an obligation of the United States or any of its possessions, or of a state or territory, or any political subdivision thereof, or of the District of Columbia, issued on or after March 1, 1941, on a discount basis and payable without interest at a fixed maturity date not exceeding 1 year from the date of issue.

C. 54:8A-86 Other terms relating to capital gains and losses.

29. Other terms relating to capital gains and losses. (a) (1) Short-term capital gain. The term "short-term capital gain" means gain from the sale or exchange of a capital asset held for not more than 6 months, if and to the extent such gain is taken into account in computing gross income.

(2) Short-term capital loss. The term "short-term capital loss" means loss from the sale or exchange of a capital asset held for not more than 6 months, if and to the extent that such loss is taken into account in computing taxable income.

(3) Long-term capital gain. The term “long-term capital gain” means gain from the sale or exchange of a capital asset held for more than 6 months, if and to the extent such gain is taken into account in computing gross income.

(4) Long-term capital loss. The term “long-term capital loss” means loss from the sale or exchange of a capital asset held for more than 6 months, if and to the extent that such loss is taken into account in computing taxable income.

(5) Net short-term capital gain. The term “net short-term capital gain” means the excess of short-term capital gains for the taxable year over the short-term capital losses for such year.

(6) Net short-term capital loss. The term “net short-term capital loss” means the excess of short-term capital losses for the taxable year over the short-term capital gains for such year.

(7) Net long-term capital gain. The term “net long-term capital gain” means the excess of long capital gains for the taxable year over the long-term capital losses for such year.

(8) Net long-term capital loss. The term “net long-term capital loss” means the excess of long-term capital losses for the taxable year over the long-term capital gains for such year.

(9) Net capital gain. The term “net capital gain” means the excess of the gains from sales or exchanges of capital assets over the losses from such sales or exchanges.

(10) Net capital loss. The term “net capital loss” means the excess of the losses from sales or exchanges of capital assets over the sum allowed under section 31.

(b) The capital gain or loss of a taxpayer shall be computed by totaling the gains from sales or other dispositions during the taxable year of capital assets having an actual situs within the source state and subtracting therefrom the losses from sales or other dispositions of capital assets having an actual situs in the source state.

C. 54:8A-87 Deduction for capital gains.

30. Deduction for capital gains. If for any taxable year the net long-term capital gain from sources within the source state exceeds the net short-term capital loss from sources within the source state, 50% of the amount of such excess shall be a deduction from gross income.

C. 54:8A-88 Limitation on capital losses.

31. Limitation on capital losses. (a) In general. In the case of a taxpayer other than a corporation, losses from sales or exchanges of capital assets shall be allowed only to the extent of the gains from

such sales or exchanges, plus (if such losses exceed such gains) whichever of the following is smallest:

- (1) the taxable income for the taxable year,
- (2) \$1,000.00, or
- (3) the sum of—
 - (i) the excess of the net short-term capital loss over the net long-term capital gain, and
 - (ii) one-half of the excess of the net long-term capital loss over the net short-term capital gain.

(b) Married individuals. In the case of a husband or wife who files a separate return, the amount specified in paragraph (a)(2) shall be \$500.00 in lieu of \$1,000.00.

(c) Computation of taxable income. For purposes of paragraph (a), taxable income shall be computed without regard to gains or losses from sales or exchanges of capital assets and without regard to the deductions provided in section 25 (relating to personal exemptions) or any deduction in lieu thereof.

C. 54:8A-89 Capital loss carrybacks and carryovers.

32. Capital loss carrybacks and carryovers. (a) In general—If a taxpayer has a net capital loss for any taxable year—

(1) The excess of the net short-term capital loss over the net long-term capital gain for such year shall be a short-term capital loss in the succeeding taxable year, and

(2) the excess of the net long-term capital loss over the net short-term capital gain for such year shall be a long-term capital loss in the succeeding taxable year.

(b) Special rules.

(1) For purposes of determining the excess referred to in paragraph (a)(1), an amount equal to the amount allowed for the taxable year under section 31 (a)(1), (2) or (3) shall be treated as a short-term capital gain in such year.

(2) For purposes of determining the excess referred to in paragraph (a)(2), an amount equal to the sum of—

(i) the amount allowed for the taxable year under section 31 (a)(1), (2) or (3), and

(ii) the excess of the amount described in clause (i) over the net short-term capital loss (determined without regard to this subsection) for such year, shall be treated as a short-term capital gain in such year.

C. 54:8A-90 Unallowed deductions.

33. Unallowed deductions. In computing taxable income no deduction shall in any case be allowed in respect of:

- a. Personal, living, or family expenses.
- b. Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate.
- c. Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made.
- d. Any amount otherwise allowable as a deduction which is allocable to income not required to be included in gross income for the purposes of this act, unless allowed by regulation, which shall also provide for the apportionment or allocation of such deductions as between income which would be required to be included in gross income under this act and income which would not be required to be so included.

C. 54:8A-91 Procedure when inventories necessary to compute tax.

34. Procedure when inventories necessary to compute tax. Whenever the use of inventories is necessary in order clearly to determine the income of any taxpayer, inventories shall be taken by such taxpayer upon such basis as the regulations hereunder may prescribe, conforming as nearly as may be to the best accounting practice in the trade or business and most clearly reflecting the income.

C. 54:8A-92 Basis of property.

35. Basis of property. (a) The basis of property, except as otherwise provided in this act, shall be the cost of such property.

(1) If the property should have been included in the last inventory, the basis shall be the last inventory value thereof.

(2) The basis of property in the hands of a person acquiring the property from a decedent other than by purchase or to whom the property passed from decedent shall, if not sold, exchanged, or otherwise disposed of before the decedent's death by such person, be the fair market value of the property at the date of the decedent's death.

(3) If the property was acquired by gift the basis shall be the same as it would be in the hands of the donor or the last preceding owner by whom it was not acquired by gift, except that if such basis is greater than the fair market value of the property at the time of the gift, then for the purpose of determining loss the basis shall be such fair market value.

(4) If the basis of property cannot otherwise be established, the basis of such property shall be the fair market value at the time of acquisition.

(b) The gain from the sale or other disposition of property shall be the excess of the amount realized over the basis of such property and the loss shall be the excess of the basis of such property over the amount realized.

C. 54:8A-93 Individuals of partnership liable for tax; computing; liquidation payments.

36. Individuals of partnership liable for tax; computing; liquidation payments. (a) Individuals carrying on business in partnerships shall be liable for tax under this act only in their individual capacity. Each partner shall include in his gross income his distributive share, whether distributed or not, of the partnership's net income and net loss for the taxable year, or, where his taxable year is different, then for the taxable year of the partner in which ends the taxable year of the partnership.

(b) If a partner shall compute his gross income in accordance with section 19 of this act, he shall be entitled to take the deductions set forth in section 21 (a) of the act. If such a partner's entire interest is sold, exchanged or liquidated, his distributive share of such income, gain or loss shall be included in his taxable year in which ends the partnership period ending with such transaction. Under this subsection, a partner's death does not constitute such liquidation.

Payments made in liquidation of the interest of a partner who retires or dies shall be taxed as a sale or exchange of such partner's interest in partnership assets, to the extent that they represent such interest, and the balance shall be taxed as the partner's distributive share of partnership income. Under this subsection, amounts paid for unrealized receivables or good will of the partnership shall not be included in payments representing a partner's interest in partnership assets except to the extent that the partnership agreement provides for payment with respect to good will.

(c) If a partner shall compute his gross income in accordance with the provisions of section 22 of this act, he shall not be entitled to take the deductions set forth in section 21 (a) of this act.

(d) In determining the extent to which a partner's distributive share is derived from sources within his source state, no effect shall be given to a provision in the partnership agreement which

(1) characterizes payments to the partner as being for services or for the use of capital, or

(2) allocates to the partner, as income or gain derived from sources outside his source state, a greater proportion of his distributive share of partnership income or gain than the ratio of partnership income or gain derived from sources outside his source state to partnership income or gain from all sources, except as authorized in subsection (e), or

(3) allocates to the partner a greater proportion of a partnership item of loss or deduction derived from sources within his source state than his proportionate share of partnership loss or deduction from all sources, except as authorized in subsection (e).

(e) The Division of Taxation may adopt regulations to authorize the use of such other methods of determining a partner's portion of partnership items derived from sources within his source state, and the modifications related thereto, as may be appropriate and equitable to insure that only that portion of a partner's distributive share derived from sources within his source state shall be included within such share.

C. 54:8A-94 Income taxes imposed by other states.

37. Income taxes imposed by other states. (a) A resident taxpayer shall be allowed a credit against the tax otherwise due under this act for the amount of any income tax, wage tax or tax on or measured by gross or net earned or unearned income imposed on him by another state with respect to income which is also subject to tax under this act.

(b) The credit provided under this section shall not exceed the proportion of the tax otherwise due under this act that the amount of the taxpayer's taxable income subject to tax by the other jurisdiction bears to his entire taxable income.

C. 54:8A-95 Taxes imposed by political subdivisions.

38. Taxes imposed by political subdivisions. (a) Every resident or nonresident individual, subject to tax under this act shall be allowed a credit against the tax otherwise due under this act equal to 30% of the amount of any local taxes imposed on and paid by such individual, to any political subdivision of a critical area state as defined by this act during the calendar year 1971, except that such credit shall not apply to local taxes imposed on real estate, realty transfers or amusements.

(b) For local taxes described in subsection (a) imposed and paid in the taxable years beginning after December 31, 1971, the amount of credit base provided in this section shall not exceed 30% of the total amount of the local taxes which were imposed

upon and paid by such individual, during the calendar year 1971, except that in the case where no such local taxes were imposed upon and paid by such individual, during the calendar year 1971, then the percentage rate shall be applied to the total amount of such local taxes which were imposed upon and paid by such individual, during the calendar year in which such taxes were first imposed and paid and the amount so determined shall each year thereafter constitute the base on which the tax credit rate shall be applied.

C. 54:8A-96 Tax credit for taxpayer class.

39. Tax credit for taxpayer class. (a) There is hereby legislatively determined and established in the schedule provided in subsection (b) of this section, a class of taxpayers who by reason of poverty, age, disability or infirmity are in need of special tax relief and the members of such class, on and after the effective date of this act, shall be entitled to claim a credit against the amount of tax which would otherwise be due under this act. The class of taxpayers and the members thereof who qualify for such tax credit and the amount thereof shall be determined solely by reference to the taxable income and exemption schedule set forth in subsection (b) of this section.

(b) Tax credit schedule for taxpayer class.

Taxable Income	Tax at 3.5%	Number of Exemptions					
		1	2	3	4	5	6
\$100	\$3.50	\$3.50	\$3.50	\$3.50	\$3.50	\$3.50	\$3.50
200	7.00	7.00	7.00	7.00	7.00	7.00	7.00
300	10.50	10.50	10.50	10.50	10.50	10.50	10.50
400	14.00	14.00	14.00	14.00	14.00	14.00	14.00
500	17.50	17.50	17.50	17.50	17.50	17.50	17.50
600	21.00	21.00	21.00	21.00	21.00	21.00	21.00
700	24.50	21.88	24.50	24.50	24.50	24.50	24.50
800	28.00	21.00	28.00	28.00	28.00	28.00	28.00
900	31.50	20.13	31.50	31.50	31.50	31.50	31.50
1,000	35.00	19.25	35.00	35.00	35.00	35.00	35.00
1,100	38.50	18.38	38.50	38.50	38.50	38.50	38.50
1,200	42.00	17.50	42.00	42.00	42.00	42.00	42.00
1,300	45.50	16.63	43.75	45.50	45.50	45.50	45.50
1,400	49.00	15.75	42.00	49.00	49.00	49.00	49.00
1,500	52.50	14.88	40.25	52.50	52.50	52.50	52.50
1,600	56.00	14.00	38.50	56.00	56.00	56.00	56.00
1,700	59.50	13.13	36.75	59.50	59.50	59.50	59.50
1,800	63.00	12.25	35.00	63.00	63.00	63.00	63.00
1,900	66.50	11.38	33.25	65.63	66.50	66.50	66.50
2,000	70.00	10.50	31.50	63.00	70.00	70.00	70.00
2,100	73.50	9.63	29.75	60.38	73.50	73.50	73.50

Taxable Income	Tax at 3.5%	Number of Exemptions					
		1	2	3	4	5	6
\$2,200	\$77.00	\$8.75	\$28.00	\$57.75	\$77.00	\$77.00	\$77.00
2,300	80.50	7.88	26.25	55.13	80.50	80.50	80.50
2,400	84.00	7.00	24.50	52.50	84.00	84.00	84.00
2,500	87.50	6.13	22.75	49.88	87.50	87.50	87.50
2,600	91.00	5.25	21.00	47.25	84.00	91.00	91.00
2,700	94.50	4.38	19.25	44.63	80.50	94.50	94.50
2,800	98.00	3.50	17.50	42.00	77.00	98.00	98.00
2,900	101.50	2.63	15.75	39.38	73.50	101.50	101.50
3,000	105.00	1.75	14.00	36.75	70.00	105.00	105.00
3,100	108.50	.88	12.25	34.13	66.50	108.50	108.50
3,200	112.00	.00	10.50	31.50	63.00	109.38	112.00
3,300	115.50	.00	8.75	28.88	59.50	105.00	115.50
3,400	119.00	.00	7.00	26.25	56.00	100.63	119.00
3,500	122.50	.00	5.25	23.63	52.50	96.25	122.50
3,600	126.00	.00	3.50	21.00	49.00	91.88	126.00
3,700	129.50	.00	1.75	18.38	45.50	87.50	129.50
3,800	133.00	.00	.00	15.75	42.00	83.13	131.25
3,900	136.50	.00	.00	13.13	38.50	78.75	126.00
4,000	140.00	.00	.00	10.50	35.00	74.38	120.75
4,100	143.50	.00	.00	7.88	31.50	70.00	115.50
4,200	147.00	.00	.00	5.25	28.00	65.63	110.25
4,300	150.50	.00	.00	2.63	24.50	61.25	105.00
4,400	154.00	.00	.00	.00	21.00	56.88	99.75
4,500	157.50	.00	.00	.00	17.50	52.50	94.50
4,600	161.00	.00	.00	.00	14.00	48.13	89.25
4,700	164.50	.00	.00	.00	10.50	43.75	84.00
4,800	168.00	.00	.00	.00	7.00	39.38	78.75
4,900	171.50	.00	.00	.00	3.50	35.00	73.50
5,000	175.00	.00	.00	.00	.00	30.63	68.25
5,100	178.50	.00	.00	.00	.00	26.25	63.00
5,200	182.00	.00	.00	.00	.00	21.88	57.75
5,300	185.50	.00	.00	.00	.00	17.50	52.50
5,400	189.00	.00	.00	.00	.00	13.13	47.25
5,500	192.50	.00	.00	.00	.00	8.75	42.00
5,600	196.00	.00	.00	.00	.00	4.38	36.75
5,700	199.50	.00	.00	.00	.00	.00	31.50
5,800	203.00	.00	.00	.00	.00	.00	26.25
5,900	206.50	.00	.00	.00	.00	.00	21.00
6,000	210.00	.00	.00	.00	.00	.00	15.75
6,100	213.50	.00	.00	.00	.00	.00	10.50
6,200	217.00	.00	.00	.00	.00	.00	5.25
6,300	220.50	.00	.00	.00	.00	.00	.00
6,400	224.00	.00	.00	.00	.00	.00	.00
6,500	227.50	.00	.00	.00	.00	.00	.00
6,600	231.00	.00	.00	.00	.00	.00	.00
6,700	234.50	.00	.00	.00	.00	.00	.00
6,800	238.00	.00	.00	.00	.00	.00	.00
6,900	241.50	.00	.00	.00	.00	.00	.00

Net Taxable Income	Tax at 3.5%	Number of Exemptions					
		7	8	9	10	11	12
\$1,800	\$63.00	\$63.00	\$63.00	\$63.00	\$63.00	\$63.00	\$63.00
1,900	66.50	66.50	66.50	66.50	66.50	66.50	66.50
2,000	70.00	70.00	70.00	70.00	70.00	70.00	70.00
2,100	73.50	73.50	73.50	73.50	73.50	73.50	73.50
2,200	77.00	77.00	77.00	77.00	77.00	77.00	77.00
2,300	80.50	80.50	80.50	80.50	80.50	80.50	80.50
2,400	84.00	84.00	84.00	84.00	84.00	84.00	84.00
2,500	87.50	87.50	87.50	87.50	87.50	87.50	87.50
2,600	91.00	91.00	91.00	91.00	91.00	91.00	91.00
2,700	94.50	94.50	94.50	94.50	94.50	94.50	94.50
2,800	98.00	98.00	98.00	98.00	98.00	98.00	98.00
2,900	101.50	101.50	101.50	101.50	101.50	101.50	101.50
3,000	105.00	105.00	105.00	105.00	105.00	105.00	105.00
3,100	108.50	108.50	108.50	108.50	108.50	108.50	108.50
3,200	112.00	112.00	112.00	112.00	112.00	112.00	112.00
3,300	115.50	115.50	115.50	115.50	115.50	115.50	115.50
3,400	119.00	119.00	119.00	119.00	119.00	119.00	119.00
3,500	122.50	122.50	122.50	122.50	122.50	122.50	122.50
3,600	126.00	126.00	126.00	126.00	126.00	126.00	126.00
3,700	129.50	129.50	129.50	129.50	129.50	129.50	129.50
3,800	133.00	133.00	133.00	133.00	133.00	133.00	133.00
3,900	136.50	136.50	136.50	136.50	136.50	136.50	136.50
4,000	140.00	140.00	140.00	140.00	140.00	140.00	140.00
4,100	143.50	143.50	143.50	143.50	143.50	143.50	143.50
4,200	147.00	147.00	147.00	147.00	147.00	147.00	147.00
4,300	150.50	150.50	150.50	150.50	150.50	150.50	150.50
4,400	154.00	153.13	154.00	154.00	154.00	154.00	154.00
4,500	157.50	147.00	157.50	157.50	157.50	157.50	157.50
4,600	161.00	140.88	161.00	161.00	161.00	161.00	161.00
4,700	164.50	134.75	164.50	164.50	164.50	164.50	164.50
4,800	168.00	128.63	168.00	168.00	168.00	168.00	168.00
4,900	171.50	122.50	171.50	171.50	171.50	171.50	171.50
5,000	175.00	116.38	175.00	175.00	175.00	175.00	175.00
5,100	178.50	110.25	168.00	178.50	178.50	178.50	178.50
5,200	182.00	104.13	161.00	182.00	182.00	182.00	182.00
5,300	185.50	98.00	154.00	185.50	185.50	185.50	185.50
5,400	189.00	91.88	147.00	189.00	189.00	189.00	189.00
5,500	192.50	85.75	140.00	192.50	192.50	192.50	192.50
5,600	196.00	79.63	133.00	196.00	196.00	196.00	196.00
5,700	199.50	73.50	126.00	196.88	199.50	199.50	199.50
5,800	203.00	67.38	119.00	189.00	203.00	203.00	203.00
5,900	206.50	61.25	112.00	181.13	206.50	206.50	206.50
6,000	210.00	55.13	105.00	173.25	210.00	210.00	210.00
6,100	213.50	49.00	98.00	165.38	213.50	213.50	213.50
6,200	217.00	42.88	91.00	157.50	217.00	217.00	217.00
6,300	220.50	36.75	84.00	149.63	218.75	220.50	220.50
6,400	224.00	30.63	77.00	141.75	210.00	224.00	224.00

Net Taxable Income	Tax at 3.5%	Number of Exemptions					
		7	8	9	10	11	12
\$6,500	\$227.50	\$24.50	\$70.00	\$133.88	\$201.25	\$227.50	\$227.50
6,600	231.00	18.38	63.00	126.00	192.50	231.00	231.00
6,700	234.50	12.25	56.00	118.13	183.75	234.50	234.50
6,800	238.00	6.13	49.00	110.25	175.00	238.00	238.00
6,900	241.50	.00	42.00	102.38	166.25	240.63	241.50
7,000	245.00	.00	35.00	94.50	157.50	231.00	245.00
7,100	248.50	.00	28.00	86.63	148.75	221.38	248.50
7,200	252.00	.00	21.00	78.75	140.00	211.75	252.00
7,300	255.50	.00	14.00	70.88	131.25	202.13	255.50
7,400	259.00	.00	7.00	63.00	122.50	192.50	259.00
7,500	262.50	.00	.00	55.13	113.75	182.88	262.50
7,600	266.00	.00	.00	47.25	105.00	173.25	252.00
7,700	269.50	.00	.00	39.38	96.25	163.63	241.50
7,800	273.00	.00	.00	31.50	87.50	154.00	231.00
7,900	276.50	.00	.00	23.63	78.75	144.38	220.50
8,000	280.00	.00	.00	15.75	70.00	134.75	210.00
8,100	283.50	.00	.00	7.88	61.25	125.13	199.50
8,200	287.00	.00	.00	.00	52.50	115.50	189.00
8,300	290.50	.00	.00	.00	43.75	105.88	178.50
8,400	294.00	.00	.00	.00	35.00	96.25	168.00
8,500	297.50	.00	.00	.00	26.25	86.63	157.50
8,600	301.00	.00	.00	.00	17.50	77.00	147.00
8,700	304.50	.00	.00	.00	8.75	67.38	136.50
8,800	308.00	.00	.00	.00	.00	57.75	126.00
8,900	311.50	.00	.00	.00	.00	48.13	115.50
9,000	315.00	.00	.00	.00	.00	38.50	105.00
9,100	318.50	.00	.00	.00	.00	28.88	94.50
9,200	322.00	.00	.00	.00	.00	19.25	84.00
9,300	325.50	.00	.00	.00	.00	9.63	73.50
9,400	329.00	.00	.00	.00	.00	.00	63.00
9,500	332.50	.00	.00	.00	.00	.00	52.50
9,600	336.00	.00	.00	.00	.00	.00	42.00
9,700	339.50	.00	.00	.00	.00	.00	31.50
9,800	343.00	.00	.00	.00	.00	.00	21.00
9,900	346.50	.00	.00	.00	.00	.00	10.50
10,000	350.00	.00	.00	.00	.00	.00	.00

C. 54:8A-97 Returns: of whom required: personal liability: report of changes.

40. Returns; of whom required; personal liability; report of changes. (a) On or before the filing date prescribed in section 41 of this act, an income tax return shall be made and filed by or for every individual having a gross income derived from sources within his source state in excess of the sum of his personal exemptions allowed in section 25 of this act, or having any items of tax preference derived from or connected with New Jersey sources.

(b) (1) If the Federal income tax liability of husband or wife is determined on a separate Federal return, their New Jersey income tax liabilities and returns shall be separate.

(2) If the Federal income tax liabilities of husband and wife (other than a husband and wife described in paragraph (3)) are determined on a joint Federal return, or if neither files a Federal return:

(A) They shall file a joint New Jersey income tax return, and their tax liabilities shall be joint and several, or

(B) They may elect to file separate New Jersey income tax returns on a single form if they comply with the requirements of the Division of Taxation in setting forth information, and in such event their tax liabilities shall be separate.

(3) If either husband or wife is a resident and the other is a non-resident, they shall file separate New Jersey income tax returns on such single or separate forms as may be required by the Division of Taxation, and in such event their tax liabilities shall be separate.

(c) The return for any deceased individual shall be made and filed by his fiduciary or other person charged with his property.

(d) The return for an individual who is unable to make a return by reason of minority or other disability shall be made and filed by his fiduciary or other person charged with the care of his person or property (other than a receiver in possession of only a part of his property), or by his duly authorized agent.

(e) Any tax under this act, and any increase, interest or penalty thereon, shall, from the time it is due and payable, be a personal debt of the person liable to pay the same, to the State of New Jersey.

(f) If the amount of taxable income or Federal items of tax preference for any year of any taxpayer as returned to the United States Treasury Department or to an appropriate State officer is changed or corrected by the taxpayer or the Commissioner of Internal Revenue or other officer of the United States or other competent authority, or where a renegotiation of a contract or sub-contract with the United States results in a change in taxable income, or Federal, items of tax preference such taxpayer shall report such change or corrected taxable income, or Federal items of tax preference or the results of such renegotiation, within 90 days after the final determination of such change or correction renegotiation, or as required by regulation, and shall concede the accuracy of such determination or state wherein it is erroneous. Any taxpayer filing an amended return with such department or officer

shall also file within 90 days thereafter an amended return in this State which shall contain such information as the regulations shall require.

C. 54:8A-98 Time of filing return; extensions.

41. Time of filing return; extensions. With respect to each taxpayer, the tax imposed by this act shall be due and payable annually hereafter, in the manner provided in this section:

(a) Every taxpayer shall annually pay the tax imposed by this act with respect to all or any part of each of his fiscal or calendar accounting years beginning after January 1, 1971 to be computed as in this act provided, for such fiscal or calendar accounting year or part thereof, on a return which shall be filed, in the case of a taxpayer reporting on a calendar year basis, on or before April 15 following the close of such calendar year, or, in the case of a taxpayer reporting on a fiscal year basis, on or before the fifteenth day of the fourth month following the close of such fiscal year, and the full amount of the tax shall be due and payable on or before the date prescribed herein for the filing of the return.

(b) Every taxpayer shall pay a like tax with respect to all or any part of the period beginning January 1, 1971 and extending through any subsequent part of his first fiscal or calendar accounting year ending after said date, to be computed as in this act provided, for such period, on a return which shall be filed on or before April 15, 1972, and the full amount of the tax shall be due and payable on or before the date prescribed herein for the filing of the return.

(c) Each return shall carry a certificate signed by the taxpayer to the effect that all statements contained therein are true, under the same penalties as for perjury committed. Blank forms of return shall be furnished on application, but failure to secure the form shall not relieve any taxpayer of the obligation of making any return herein required. Subject to regulations under this act and in such form as may be indicated thereby, taxpayers whose taxable income taxable under this act is or may be subject to tax under a similar law of another jurisdiction may be permitted to file a simple, short form return attached to a copy of his return as filed or about to be filed by him in such other jurisdiction.

Subject to regulations under this act, reasonable extensions of time for good cause shown, may be granted for not more than 6 months unless exceptional circumstances justify a longer period, within which returns may be filed.

In addition, persons in active service with the Armed Forces of the United States, who may be prevented by distance or injury or hospitalization arising out of such service, may be allowed such extension of time for the filing of returns, without interest or penalty, as may be fixed by regulations under this act.

C. 54:8A-99 Tax due upon date fixed for filing return; effect of making or filing return.

42. Tax due upon date fixed for filing return; effect of making or filing return. (a) A person required to make and file a return under this act shall, without assessment, notice or demand, pay any tax due thereon to the Division of Taxation on or before the date fixed for filing such return (determined without regard to any extension of time for filing the return). The Division of Taxation shall prescribe by regulation the place for filing any return, declaration, statement, or other document required pursuant to this act and for payment of any tax.

(b) Any return, declaration, statement or other document required to be made pursuant to this act shall be signed in accordance with regulations or instructions prescribed by the Division of Taxation. The fact that an individual's name is signed to a return, declaration, statement, or other document, shall be prima facie evidence for all purposes that the return, declaration, statement or other document was actually signed by him.

(c) The making or filing of any return, declaration, statement or other document or copy thereof required to be made or filed pursuant to this act, including a copy of a Federal return, shall constitute a certification by the person making or filing such return, declaration, statement or other document or copy thereof that the statements contained therein are true and that any copy filed is a true copy.

C. 54:8A-100 Taxable year; accounting method.

43. Taxable year; accounting method. (a) A taxpayer's taxable year under this act shall be the same as his taxable year for Federal income tax purposes.

(b) If a taxpayer's taxable year is changed for Federal income tax purposes, his taxable year for purposes of this act shall be similarly changed. If a taxable year of less than 12 months results from a change of taxable year, the standard deduction, the exemptions and the class credit (allowable under section 39) shall be prorated under regulations of the Division of Taxation.

(c) A taxpayer's method of accounting under this act shall be the same as his method of accounting for Federal income tax pur-

poses. Taxable income shall be computed under such method as shall be prescribed by the Division of Taxation.

(d) (1) If a taxpayer's method of accounting is changed for Federal income tax purposes, his method of accounting for purposes of this act shall be similarly changed.

(2) If a taxpayer's method of accounting is changed, other than from an accrual to an installment method, any additional tax which results from adjustments determined to be necessary solely by reason of the change shall not be greater than if such adjustments were ratably allocated and included for the taxable year of the change and the preceding taxable years, not in excess of 2, during which the taxpayer used the method of accounting from which the change is made.

(3) If a taxpayer's method of accounting is changed from an accrual to an installment method, any additional tax for the year of such change of method and for any subsequent year which is attributable to the receipt of installment payments properly accrued in a prior year, shall be reduced by the portion of tax for any prior taxable year attributable to the accrual of such installment payments, in accordance with regulations of the Division of Taxation.

C. 54:8A-101 Employer to withhold tax.

44. Employer to withhold tax. (a) General. From and after the first day of the first month following at least a full calendar month after the enactment of this act, every employer in this State of a taxpayer subject to tax in respect of wages, salaries or commissions derived from sources within this State shall deduct and withhold upon the same for each payroll period an amount computed in such manner as to result, as far as practicable, with due regard to the personal exemptions and standard deduction allowable under this act, in withholding during each calendar year a sum substantially equivalent to the amount of tax reasonably estimated to be due under this act. Methods for determining the amount to be withheld shall be prescribed by regulation, as shall procedures and requirements for the furnishing of written exemption certificates to the employer, the amending or substitution of the same, the furnishing by the employer of written statements showing the total compensation, the amount withheld and other specified information.

(b) Withholding agreements. The director may enter into agreements with the tax departments of other states (which re-

quire income tax to be withheld from the payment of wages and salaries) so as to govern the amounts to be withheld from the wages and salaries of residents of such states under provisions of this act. Such agreements may provide for recognition of anticipated tax credits in determining the amounts to be withheld and, under regulations prescribed by the director, may relieve employers in this State from withholding income tax on wages and salaries paid to nonresident employees. The agreements authorized by this subsection are subject to the condition that the tax department of such other states grant similar treatment to residents of this State.

C. 54:8A-102 Withholding returns; notice to employer.

45. Withholding returns; notice to employer. (a) Every employer required to deduct and withhold tax under this act shall, for each calendar quarter, on or before the last day of the month following the close of such calendar quarter, file a withholding return as prescribed by the Division of Taxation and pay over to the Division of Taxation the taxes so required to be deducted and withheld; but the Division of Taxation may, by regulation, provide that every such employer shall on or before the fifteenth day of each month pay over to the Division of Taxation, or a depository designated by the Division of Taxation, the taxes so required to be deducted and withheld if such taxes aggregate \$100.00 or more for the preceding calendar month. Where the aggregate amount so deducted and withheld by any employer is less than \$25.00 in a calendar quarter and the aggregate for the calendar year can reasonably be expected to be less than \$100.00, the Division of Taxation may by regulation permit an employer to file an annual return. The Division of Taxation may, if it believes such action necessary for the protection of the revenues, require any employer to make such return and pay to it the tax deducted and withheld at any time, or from time to time.

(b) Whenever any employer fails to collect, truthfully account for, pay over the tax, or make returns of the tax as required in this section, the Division of Taxation may serve a notice requiring such employer to collect the taxes which become collectible after service of such notice, to deposit such taxes in a bank approved by the Division of Taxation in a separate account, in trust for and payable to the Division of Taxation and to keep the amount of such tax in such account until payment over to the Division of Taxation. Such notice shall remain in effect until a notice of cancellation is served by the Division of Taxation.

C. 54:8A-103 Employer's liability.

46. Employer's liability. Every employer required to deduct and withhold tax under this act is hereby made liable for such tax. For such purposes any amount required to be withheld and paid over to the Division of Taxation shall be considered the tax of the employer. Any amount of tax actually deducted and withheld under this act shall be held to be a special fund in trust for the Division of Taxation. No employee shall have any right of action against his employer in respect to any moneys deducted and withheld from his wages and paid over to the Division of Taxation in compliance or in intended compliance with this act.

C. 54:8A-104 Tax not to be collected from employer on payment; liability for penalties; interest; failure to pay tax withheld.

47. Tax not to be collected from employer on payment; liability for penalties; interest; failure to pay tax withheld. (a) If an employer fails to deduct and withhold tax as required, and thereafter the tax against which such tax may be credited is paid, the tax so required to be deducted and withheld shall not be collected from the employer, but the employer shall not be relieved from liability for any penalties, interest, or additions to the tax otherwise applicable in respect of such failure to deduct and withhold.

(b) If any employer shall fail to make a return and pay a tax withheld by him at the time required by or under the provisions of this act, such employer shall be liable for such tax and shall pay the same together with all penalties and interest charges thereon as provided in the case of any taxpayer under section 48 of this act, and such additional amount of penalties and interest shall in no case be charged to or collected from the taxpayer by said employer. The Division of Taxation shall have the same rights and powers for the collection of such tax, penalties and interest against such employer as are now prescribed by this act for the collection of a tax against a taxpayer.

C. 54:8A-105 Penalties; interest; abatement or remission.

48. Penalties; interest; abatement or remission. Any taxpayer who shall fail to file his return when due shall be liable to a penalty of \$2.00 for each day of delinquency, which penalty shall be payable to, and recoverable by, the Division of Taxation as a part of the tax herein imposed. If any tax be not paid when the same becomes due, as herein provided, there shall be added to the amount of the tax a sum equivalent to 5% thereof, as a penalty, and, in addition thereto, interest at the rate of 1% per month or fraction thereof from the date the tax became due until the same be paid. If the Division of

Taxation determines that the failure to comply with any provision of this act was excusable under the circumstances, it may abate or remit such part or all of the penalty as shall be appropriate under such circumstances.

C. 54:8A-106 Transportation benefit fund; use of fund.

49. Transportation benefit fund; use of fund. (a) All moneys which shall be received by way of tax or by way of moneys deducted and withheld under this act, shall be kept in a special fund, to be known as the Transportation Benefit Fund, separate and apart from all other funds, and the moneys in such fund at any time shall be used only for one or more of the following purposes, within the limits of available appropriations made by law from time to time:

(1) to meet the expenses of administering the provisions of this act and of the regulations made hereunder and the expenses of any proceedings or actions involving the same;

(2) to defray the cost of, or to provide financing by way of advances, loans or otherwise for, projects and programs to meet transportation problems, whether such transportation be by motor vehicle, by rail or rapid transit, or by any other mode or vehicle of transportation whatever, when such project or program includes the transportation of persons or property interstate, between the State of New Jersey and the source state, from which states taxpayers derive income or gain subject to tax under this act, and for the furnishing of such other facilities, services or other benefits for which the class of taxpayers covered by this act will be the major eligible recipient and for which the tax imposed by this act may reasonably be exacted, as may be authorized by law from time to time;

(3) to make payment of refunds to taxpayers entitled to receive the same.

(b) Funds in the Transportation Benefit Fund may not be used for any purpose except upon:

(1) presentation to the Attorney General of an itemization of the purposes for which funds are proposed to be used, stating the amount of each such proposed expenditure, which presentation shall be made by:

(A) The Director of the Division of Taxation, in the case of any purpose other than those described in subsection (a)(2) hereof, or

(B) The State Transportation Commissioner in the case of any purpose described in said subsection (a)(2), and upon

(2) transmittal of such itemization by the Attorney General to the State Treasurer, with a certification by the Attorney General endorsed thereon that the purposes for which funds are therein proposed to be used are within the terms and intent of the act and are otherwise in compliance with law.

C. 54:8A-107 Balances accumulated as an endowment fund; use.

50. Balances accumulated as an endowment fund; use. So much of the moneys as may be in the Transportation Benefit Fund at any time and as may be in excess of the amounts needed to meet anticipated uses thereof pursuant to this act during any fiscal year, shall be held and accumulated as an endowment fund, and may be invested and reinvested from time to time, in the same manner as any State funds may be invested, and the income thereof, as well as so much of the principal as may be necessary from time to time, shall be applied to the purposes authorized for the said Transportation Benefit Fund, within the limits of available appropriations.

C. 54:8A-108 Refund to taxpayer upon unauthorized use of fund; formula for computing amount.

51. Refund to taxpayer upon unauthorized use of fund; formula for computing amount. In the event that any part of the moneys in the Transportation Benefit Fund shall, at any time, be applied to a purpose or purposes other than one set forth in this act, every taxpayer who shall have been subject to the tax imposed by this act and who shall have paid the same, shall thereupon be entitled to a refund, or to a credit against taxes subsequently accruing, equal to his pro rata share of the amount so applied, disregarding any amounts less than \$1.00. Upon application made within 1 year after it shall be determined that any such moneys have been so applied, in such form and by such procedure as may be provided by regulation, the division shall determine the pro rata share of each taxpayer according to the following formula: (a) multiply the total amount of taxes paid by the taxpayer for all taxable years from the enactment hereof to July 1 of the year in which the right to refund arises under this section, by the dollar amount of the moneys determined to have been applied to a purpose other than one set forth in this act; then (b) divide the product by the total amount paid by all taxpayers during the same period; then (c) from the quotient strike off any amount less than \$1.00 to obtain the sum to be refunded or credited. If the amount so applied to another purpose shall have been determined by a court of competent jurisdiction, the amount so determined shall be used in the computation, otherwise, the division shall make determination of the amount.

C. 54:8A-109 General requirements concerning returns, notices, records, and statements.

52. General requirements concerning returns, notices, records, and statements. The director may prescribe regulations as to the keeping of records, the content and form of returns and statements and the filing of copies of Federal income returns and determinations. The director may require any person, by regulation or notice served on such person, to make such returns, render such statements, or keep such records, as the director may deem sufficient to show whether or not such person is liable under this act for tax or for the collection of tax.

C. 54:8A-110 Information returns.

53. Information returns. The director may prescribe regulations and instructions requiring returns of information to be made and filed on or before February 28 of each year by any person making payment or crediting in any calendar year the amounts of \$600.00 or more to any person who may be subject to the tax imposed under this act. Such returns may be required of any person, including lessees or mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of this State, or of any municipal corporation or political subdivision of this State, having the control, receipt, custody, disposal or payment of dividends, interest, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments or other fixed or determinable gains, profits, or income, except interest coupons payable to bearer. A duplicate of the statement as to tax withheld on wages, required to be furnished by an employer to an employee, shall constitute the return of information required to be made under this section with respect to such wages.

C. 54:8A-111 Review of director's decision.

54. Review of director's decision. (a) Appeal to Division of Tax Appeals. Any aggrieved taxpayer may, within 4 months after any decision, order, finding, assessment or action of the Director of Taxation made pursuant to the provisions of this act, appeal therefrom to the Division of Tax Appeals, by filing a petition of appeal with said Division of Tax Appeals in the manner and form prescribed by the said Division of Tax Appeals and on giving security, approved by the Director of Taxation, conditioned to pay the tax heretofore levied, if the same remains unpaid, with interest and costs.

(b) Appeal exclusive remedy of taxpayer. The appeal provided by this section shall be the exclusive remedy available to any tax-

payer for review of a decision of the director in respect of the determination of the liability of the taxpayer for the taxes imposed by this act.

C. 54:8A-112 General powers of the director.

55. General powers of the director. (a) General. The director shall administer and enforce the tax imposed by this act and is authorized to make such rules and regulations, and to require such facts and information to be reported as he may deem necessary to enforce the provisions of this act.

(b) Delegation of powers. The director may delegate to any officer or employee of his division such of his powers as he may deem necessary to carry out efficiently the provisions of this act, and the person or persons to whom such power has been delegated shall possess and may exercise all of the power and perform all of the duties herein conferred and imposed upon the director.

(c) Examination of books and witnesses. The director for the purpose of ascertaining the correctness of any return, or for the purpose of making an estimate of taxable income of any person, shall have power to examine or to cause to have examined, by any agent or representative designated by him for that purpose, any books, papers, records or memoranda bearing upon the matters required to be included in the return, and may require the attendance of the person rendering the return or any officer or employee of such person, or the attendance of any other person having knowledge in the premises, and may take testimony and require proof material for his information, with power to administer oaths to such person or persons.

C. 54:8A-113 Order to compel compliance.

56. Order to compel compliance. (a) Failure to file tax return. If any person willfully refuses to file a tax return required by this act, the director may apply to a judge of the superior court for an order directing such person to file the required return. If a person fails or refuses to obey such order, he shall be guilty of contempt of court.

(b) Failure to furnish records or testimony. If any person willfully refuses to make available any books, papers, records or memoranda for examination by the director or his representative or willfully refuses to attend and testify, pursuant to the powers conferred on the director under this act, the director may apply to a judge in the superior court in the county where such person resides, for an order directing that person to comply with the di-

rector's request for books, papers, records or memoranda or for his attendance and testimony. If the books, papers, records or memoranda required by the director are in the custody of a corporation, the order of the court may be directed to any principal officer of such corporation. If a person fails or refuses to obey such order, he shall be guilty of contempt of court.

C. 54:8A-114 Controlling statute; exception.

57. Controlling statute; exception. The taxes imposed by this act shall be governed in all respects by the provisions of the State tax uniform procedure law (subtitle 9 of Title 54 of the Revised Statutes) except only to the extent that a specific provision of this act may be in conflict therewith.

C. 54:8A-115 Relief requirements on residents.

58. Relief requirements on residents. If it shall appear to the satisfaction of the division, based upon an opinion of the Attorney General of this State, that any residents of this State, or class of residents of this State, who are subject to the tax imposed by this act, are liable for tax upon the same income under the law imposed for the taxable year by another critical area State and are thereby entitled to the credit allowed by section 37 of this act against the tax otherwise due under this act and that said credit is substantially sufficient to offset the taxes imposed hereunder, the division may by regulation relieve such residents or class of residents from being required to make any return under this act.

C. 54:8A-116 Administration of act.

59. Administration of act. (a) The Division of Taxation in the Department of the Treasury shall administer the provisions of this act, adopt regulations necessary or desirable to effectuate its purposes or to make explicit the treatment of various items, authorize appropriate systems of accounting and computation, provide for the allocation of income, itemized deductions, gains and losses in cases where the source or connection thereof may be partly within and partly without the source state of the taxpayer, and prepare instructions for the guidance and information of taxpayers. Wherever possible, consistent with reasonable application of the provisions of this act, the division shall so prepare its regulations, forms, instructions and other acts to reduce the burden of making computations and returns under this act differently from similar computations and returns required of the same taxpayer with respect to the same income and gain to some other jurisdiction. The division shall also make procedural regulations for its review and

correction of returns of taxpayers, the making of refunds or additional assessments of tax on such review or correction, and the assessment of the tax where no return is filed, as well as the method and time of giving due notice thereof and providing suitable methods for appropriate protest or hearing.

In addition to objects mentioned elsewhere in this act, such regulations may describe the treatment to be accorded to items of exchange of property and the recognition or nonrecognition thereof, the deferment of gains from the sale of a personal residence, war losses, employee stock options, inclusions, exclusions and exemptions from gross income, pensions, common trust funds, and may provide for the determination and assessment of interest or penalties, extensions of time for performing any act or making any payment, suspension of penalty or interest or both for limited periods, waiver or reduction of additional taxes, gathering of information and filing of reports for information, and all other matters reasonably required for the fair, impartial and practical administration of this act.

(b) Except as otherwise provided, the amount of tax due on any return shall be determined by the division within 3½ years after the return was made. When the return omits an amount greater than 25% of the gross income or capital gain reported, and which should have been included, such determination shall be made within 6½ years after the return was made. When no return is made, or when a return is made willfully false or fraudulent with intent to evade the tax, or if taxpayer fails to report a change or correction made by another taxing jurisdiction or fails to file an amended return when required to by this act, the amount of the tax may be determined at any time. Where, for 1 taxable year, a deduction disallowed appears to have been allowable in some other taxable year not more than 5 years prior thereto, the return for such earlier year may be revised and the tax for said year resettled, and if the same shall result in a lower tax for said earlier year, the overpayment may be allowed as a credit against, but not in excess of, any assessment resulting from the disallowance for the later year.

C. 54:8A-117 Severability clause.

60. Severability clause. If any provision of this act, or any application of any provision, is held invalid, the invalidity shall not affect other applications of the provision, or other provisions of the act, which reasonably can be given effect despite the invalidity.

61. Appropriation. There is hereby appropriated to the Division of Taxation in the Department of the Treasury the sum of

\$500,000.00 or so much thereof as may be required to carry out the provisions of this act from the operative date hereof through June 30, 1972.

C. 54:8A-118 Act operative.

62. Act operative. This act shall take effect immediately, but the tax imposed hereby, and the obligation to pay the same as well as the obligation to deduct and withhold shall be suspended and inoperative in the event that any of the moneys in the Transportation Benefit Fund shall be applied to a purpose or purposes other than one set forth in this act, from the date when such application is made until the amounts to be refunded to taxpayers as a result thereof have been allowed and paid; and the tax hereby imposed shall cease to be imposed, assessed and collected after the assessment thereof for any taxable year ending December 31, 1980, and for any part of a taxable year beginning during the year 1980 and ending December 31, 1980.

Approved June 17, 1971.

CHAPTER 223

AN ACT concerning security deposits and to amend and supplement

“An act concerning leasehold estates in relation to deposits to secure performance of leases, and supplementing chapter 8 of Title 46 of the Revised Statutes,” approved January 8, 1968 (P. L. 1967, c. 265).

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

1. Section 1 of P. L. 1967, c. 265 (C. 46:8-19) is amended to read as follows:

C. 46:8-19 Deposits to secure performance of leases.

1. Whenever money or other form of security shall be deposited or advanced on a contract, lease or license agreement for the use or rental of real property as security for performance of the contract, lease or agreement or to be applied to payments upon such contract, lease or agreement when due, such money or other form of security, until repaid or so applied including the tenant's portion of the interest earned thereon as hereinafter provided, shall continue to be the property of the person making such deposit or ad-

vance and shall be held in trust by the person with whom such deposit or advance shall be made for the use in accordance with the terms of the contract, lease or agreement and shall not be mingled with the personal property or become an asset of the person receiving the same. The person receiving money so deposited or advanced shall deposit such money in a banking institution or savings and loan association in this State insured by an agency of the Federal Government in an account bearing interest at the rate currently paid by such institutions and associations on time or savings deposits and shall thereupon notify in writing each of the persons making such security deposit or advance, giving the name and address of the banking institution in which the deposit of security money is made, and the amount of such deposit.

All of the money so deposited or advanced may be deposited by the person receiving the same in one interest-bearing account as long as he complies with all the other requirements of this act.

The person receiving money so deposited or so advanced shall be entitled to receive as administration expenses, a sum equivalent to 1% per annum thereon which shall be in lieu of all other administrative and custodial expenses. The balance of the interest paid thereon by such banking institution or savings and loan association, hereinafter referred to as tenant's portion, shall belong to the person making the deposit or advance and shall be credited toward the payment of rent due on the renewal or anniversary of said tenant's lease.

2. Section 2 of P. L. 1967, c. 265 (C. 46:8-20) is amended to read as follows:

C. 46:8-20 Conveyance; assignment or foreclosure; disposition of security deposit.

2. Any person, whether the owner or lessee of the property leased, who or which has or hereafter shall have received from a tenant or licensee a sum of money as a deposit or advance of rental as security for the full performance by such tenant or licensee of the terms of his contract, lease or license agreement, or who or which has or shall have received the same from a former owner or lessee, shall, upon conveying such property or assigning his or its lease to another, or upon the conveyance of such property to another person by a court in an action to foreclose a mortgage thereon, at the time of the delivery of the deed or instrument or assignment, or within 5 days thereafter, or in the event of the insolvency or bankruptcy of the person receiving said deposit, within 5 days after the making and entry of an order of the court discharging

the receiver or trustee, deal with the security deposit in one of the three following ways:

(a) Turn over to his or its grantee or assignee, or to the purchaser at the foreclosure sale the sum so deposited, plus the tenant's portion of the interest earned thereon, and notify the tenant or licensee by registered or certified mail of such turning over and the name and address of such grantee, assignee or purchaser.

(b) Return the sum so deposited, plus the tenant's portion of the interest earned thereon, to such tenant or licensee, less any charges expended in accordance with the terms of a contract, lease, or agreement or to his appointee or designee duly authorized in writing by such tenant to receive the same.

(c) Retain the sum so deposited, plus the tenant's portion of the interest earned thereon, and notify the tenant or licensee by registered or certified mail of such conveyance or assignment and the name and address of the grantee, assignee, or purchaser at the foreclosure sale, as the case may be, and of the fact that he or it, as such former landlord, has retained the sum so deposited, plus the tenant's portion of the interest earned thereon.

C. 46:8-21.1 Return of deposit to tenant.

3. Within 30 days after the expiration of the term of the tenant's lease or licensee's agreement, the owner or lessee shall return by personal delivery, registered or certified mail the sum so deposited plus the tenant's portion of the interest earned thereon, less any charges expended in accordance with the terms of a contract, lease, or agreement. Any such deductions shall be itemized and the tenant or licensee notified thereof by registered or certified mail. In any action by a tenant or licensee for the return of moneys due under this section, the court upon finding for the tenant or licensee shall award recovery of double the amount of said moneys, together with full costs of any action.

C. 46:8-21.2 Amount of security.

4. An owner or lessee may not require more than a sum equal to $1\frac{1}{2}$ times 1 month's rental according to the terms of contract, lease, or agreement as a security for the use or rental of real property used for dwelling purposes.

5. Section 3 of P. L. 1967, c. 265 (C. 46:8-21) is amended to read as follows:

C. 46:8-21 Release of former owner or lessee from liability.

3. Any owner or lessee turning over to his or its grantee, assignee, or to a purchaser of the leased premises at a foreclosure

sale the amount of such security deposit, plus the tenant's portion of the interest earned thereon, is hereby relieved of and from liability to the tenant or licensee for the repayment thereof; and the transferee of such security deposit, plus the tenant's portion of the interest earned thereon, is hereby made responsible for the return thereof to the tenant or licensee, in accordance with the terms of the contract, lease, or agreement unless he or it shall thereafter and before the expiration of the term of the tenant's lease or licensee's agreement, transfer such security deposit to another, pursuant to section 2 hereof and give the requisite notice in connection therewith as provided thereby.

C. 46:8-21.3 Time limit for compliance with provisions of act.

6. Security deposits made prior to the effective date of this act shall comply with the provisions of this act within 90 days of the effective date thereof.

7. Section 8 of P. L. 1967, c. 265 (C. 46:8-26) is amended to read as follows:

C. 46:8-26 Application of act.

8. The provisions of this act shall apply to all rental premises or units used for dwelling purposes except owner-occupied premises with not more than two rental units.

8. This act shall take effect immediately.

Approved June 21, 1971.

CHAPTER 224

AN ACT promoting safe and sanitary housing for tenants of substandard dwellings and supplementing chapter 42 of Title 2A of the New Jersey Statutes.

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

C. 2A:42-85 Legislature's findings.

1. The Legislature finds:

a. Many citizens of the State of New Jersey are required to reside in dwelling units which fail to meet minimum standards of safety and sanitation;

b. It is essential to the health, safety and general welfare of the people of the State that owners of substandard dwelling units be encouraged to provide safe and sanitary housing accommodations for the public to whom such accommodations are offered;

c. It is necessary, in order to insure the improvement of substandard dwelling units, to authorize the tenants dwelling therein to deposit their rents with a court appointed administrator until such dwelling units satisfy minimum standards of safety and sanitation.

C. 2A:42-86 Definitions.

2. The following terms whenever used or referred to in this act shall have the following respective meanings, unless a different meaning clearly appears from the context.

a. "Public officer" shall mean the officer, officers, board or body who is or are authorized by the governing body of a municipality to supervise the physical condition of dwellings within such municipality pursuant to this act.

b. "Owner" shall mean the holder or holders of the title in fee simple.

c. "Parties in interest" shall mean all individuals, associations and corporations who have interests of record in a dwelling, and who are in actual possession thereof and any person authorized to receive rents payable for housing space in a dwelling.

d. "Dwelling" means and includes all rental premises or units used for dwelling purposes except owner-occupied premises with not more than two rental units.

e. "Housing space" means that portion of a dwelling rented or offered for rent for living or dwelling purposes in which cooking equipment is supplied, and includes all privileges, services, furnishings, furniture, equipment, facilities, and improvements connected with the use or occupancy of such portion of the property. The term shall not mean or include public housing or dwelling space in any hotel, motel or established guest house, commonly regarded as a hotel, motel or established guest house, as the case may be, in the community in which it is located.

f. "Bureau of Housing Inspection" means the Bureau of Housing Inspection in the Division of Housing and Urban Renewal in the Department of Community Affairs.

g. "Division of Local Finance" means the Division of Local Finance in the Department of Community Affairs.

h. "Substandard dwelling" means any dwelling determined to be substandard by the public officer.

i. "State Housing Code" means the code adopted by the Bureau of Housing Inspection pursuant to P. L. 1966, c. 168 (C. 2A:42-74 et seq.).

C. 2A:42-87 Proceeding for judgment directing deposit of rents into court.

3. A proceeding by a public officer, tenant, or tenants of a dwelling for a judgment directing the deposit of rents into court and their use for the purpose of remedying conditions in substantial violation of the standards of fitness for human habitation established under the State or local housing codes or regulations may be maintained in a court of competent jurisdiction. The place of trial of the proceeding shall be within the county in which the real property or a portion thereof from which the rents issue is situated.

C. 2A:42-88 Grounds for proceeding.

4. The public officer or any tenant occupying a dwelling may maintain a proceeding as provided in this act, upon the ground that there exists in such dwellings or in housing space thereof a lack of heat or of running water or of light or of electricity or of adequate sewage disposal facilities, or any other condition or conditions in substantial violation of the standards of fitness for human habitation established under the State or local housing or health codes or regulations or any other condition dangerous to life, health or safety.

C. 2A:42-89 Commencement and notice of proceeding.

5. a. A proceeding prescribed by this act shall be commenced by the service of a petition and notice of a petition. A notice of petition may be issued only by a judge or a clerk of the court.

b. Notice of the proceeding shall be given to the nonpetitioning tenant occupying the dwelling by affixing a copy of the petition upon a conspicuous part of the subject dwelling.

C. 2A:42-90 Contents of petition.

6. The petition shall:

a. Set forth material facts showing that there exists in such dwelling or any housing space thereof one or more of the following: a lack of heat or of running water or of light or electricity or of adequate sewage disposal facilities, or any other condition or conditions in substantial violation of the standards of fitness for human habitation established under the State or local housing or health codes or regulations or any other condition dangerous to life, health or safety.

b. Set forth that the facts shown in subsection a. of this section have been brought to the attention of the owner or any individual designated by him as the manager of said dwelling and that he has failed to take any action thereon within a reasonable period.

c. Set forth that the petitioner is a tenant of the subject dwelling or is the public officer of the municipality in which the subject dwelling is located.

d. Set forth a brief description of the nature of the work required to remove or remedy the condition and an estimate as to the cost thereof.

e. Set forth the amount of rent due from each petitioning tenant, if any, monthly.

f. State the relief sought.

C. 2A:42-91 Defense to the proceeding.

7. It shall be a sufficient defense to the proceeding, if the owner or any mortgagee or lienor of record establishes that:

a. The condition or conditions alleged in the petition did not in fact exist or that such condition or conditions have been removed or remedied; or

b. Such condition or conditions have been caused maliciously or by abnormal or unusual use by a petitioning tenant or tenants or members of the family or families of such petitioner or petitioners.

c. Any tenant or resident of the dwelling has refused entry to the owner or his agent to a portion of the premises for the purpose of correcting such condition or conditions.

C. 2A:42-92 Action by court.

8. The court shall proceed in a summary manner and shall render a judgment either:

a. Dismissing the petition for failure to affirmatively establish the allegations thereof or because of the affirmative establishment by the owner or a mortgagee or lienor of record of a defense or defenses specified in this act; or

b. Directing that (1) the rents due on the date of the entry of such judgment from the petitioning tenant, if any, and the rents due on the dates of service of the judgment on all other tenants occupying such dwelling, from such other tenants, shall be deposited with the clerk of the court; (2) any rents to become due in the future from such petitioner and from all other tenants occupying such dwelling shall be deposited with such clerk as they fall due; (3) such deposited rents shall be used, subject to the court's direction, to the extent necessary to remedy the

condition or conditions alleged in the petition and (4) upon the completion of such work in accordance with such judgment, any remaining surplus shall be turned over to the owner, together with a complete accounting of the rents deposited and the costs incurred; and granting such other and further relief as to the court may seem just and proper. A certified copy of such judgment shall be served personally upon each nonpetitioning tenant occupying such dwelling. If personal service on any such nonpetitioning tenant cannot be made with due diligence, service on such tenant shall be made by affixing a certified copy of such judgment on the entrance door of such tenant's apartment and, in addition, within 1 day after such affixing, by sending a certified copy thereof by registered mail, return receipt requested, to such tenant. Any right of the owner or parties in interest of such dwelling to collect such rent moneys from any petitioning tenant of such dwelling on or after the date of entry of such judgment, and from any nonpetitioning tenant of such dwelling on or after the date of service of such judgment on such nonpetitioning tenant as herein provided, shall be void and unenforceable to the extent that such petitioning or nonpetitioning tenant, as the case may be, has deposited such moneys with the clerk of the court in accordance with the terms of such judgment, regardless of whether such right of the owner arises from a lease, contract, agreement or understanding heretofore or hereafter made or entered into or arises as a matter of law from the relationship of the parties or otherwise. Any such rent moneys received by the owner or parties in interest shall be deposited immediately with the clerk of the court by such owner or parties in interest. It shall be a valid defense in any action or proceeding against any such tenant to recover possession of real property for the nonpayment of rent or for use or occupation to prove that the rent alleged to be unpaid was deposited with the clerk of the court in accordance with the terms of a judgment entered under this section.

C. 2A:42-93 Issuance of court order in lieu of judgment; hearing; appointment of administrator.

9. a. If, after a trial, the court shall determine that the facts alleged in the petition have been affirmatively established by the petitioner, that no defense thereto specified in this act has been affirmatively established by the owner or a mortgagee or lienor of record, and that the facts alleged in the petition warrant the granting of the relief sought, and if the owner or any mortgagee or lienor of record or parties in interest in the property,

shall apply to the court to be permitted to remove or remedy the conditions specified in such petition and shall (1) demonstrate the ability promptly to undertake the work required; and (2) post security for the performance thereof within the time, and in the amount and manner deemed necessary by the court, then the court, in lieu of rendering judgment as provided in this act, may issue an order permitting such person to perform the work within a time fixed by the court.

b. If, after the issuance of an order pursuant to subdivision a. of this section, but before the time fixed in such order for the completion of the work prescribed therein, it shall appear to the petitioner that the person permitted to do the same is not proceeding with due diligence, the petitioners may apply to the court on notice to those persons who have appeared in the proceeding for a hearing to determine whether judgment should be rendered immediately as provided in subdivision c. of this section.

c. If, upon a hearing authorized in subdivision b. hereof, the court shall determine that such owner, mortgagee, lienor or parties in interest is not proceeding with due diligence, or upon the failure of such owner, mortgagee, lienor or parties in interest to complete the work in accordance with the provisions of said order, the court shall render a final judgment appointing an administrator as authorized in this act. Such judgment shall direct the administrator to apply the security posted by such person to the removing or remedying of the condition or conditions specified in the petition. In the event that the amount of such security should be insufficient for such purpose, such judgment shall direct the deposit of rents with the clerk, as authorized by this act, to the extent of such deficiency. In the event that such security should exceed the amount required to remove or remedy such condition or conditions, such judgment shall direct the administrator to file with the court, upon completion of the work prescribed therein, a full accounting of the amount of such security and the expenditures made pursuant to such judgment, and to turn over such surplus to the person who posted such security, together with a copy of such accounting.

d. The court is authorized and empowered, in implementing a judgment rendered pursuant to this act, to appoint an administrator who may be a public officer of the municipality wherein the subject dwelling is situated, an incorporated or unincorporated association, or other responsible person or persons, except that no owner, mortgagee or lienor of the subject dwelling shall be appointed an administrator of said dwelling.

The administrator is authorized and empowered, subject to the court's direction, to receive from the clerk such amounts of rent moneys or security deposited with said clerk as may be necessary to remove or remedy the condition or conditions specified in the judgment.

C. 2A:42-94 Maintenance of written accounts.

10. The court shall require the keeping of written accounts itemizing the receipts and expenditures under an order issued pursuant to this act, which shall be open to inspection by the owner, any mortgagee or lienor or parties in interest in such receipts or expenditures. Upon motion of the court or the administrator or of the owner, any mortgagee or lienor of record or of parties in interest, the court may require a presentation or settlement of the accounts with respect thereto. Notice of a motion for presentation or settlement of such accounts shall be served on the owner, any mortgagee or other lienor of record who appeared in the proceeding and any parties in interest in such receipts or expenditures.

C. 2A:42-95 Allowance for services of administrator; bond.

11. The court may allow from the rent moneys or security on deposit a reasonable amount for the services of an administrator appointed under the provisions of this act. The administrator so appointed shall furnish a bond, the amount and form of which shall be approved by the court. The cost of such bond shall be paid from the moneys so deposited.

C. 2A:42-96 Waiver of provisions of act prohibited.

12. Any provision of a lease or other agreement whereby any provision of this act for the benefit of a tenant, resident or occupant of a dwelling is waived, shall be deemed against public policy and shall be void.

C. 2A:42-97 Form for registration of owners.

13. Owners of dwelling units subject to the provisions of this act shall register with the clerk of the municipality upon forms prescribed by and furnished by the Director, Division of Local Finance. Every registration form shall include the name and address of the owner and the name and address of an agent in charge of the premises residing in the municipality in which said premises are located. Said form shall be distributed by the Director, Division of Local Finance, within 60 days after the effective date of this act.

14. This act shall take effect immediately.

Approved June 21, 1971.

CHAPTER 225

AN ACT to amend "An act concerning banking and banking institutions (Revision of 1948)," approved April 29, 1948 (P. L. 1948, c. 67).

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

1. Section 65 of P. L. 1948, chapter 67 (C. 17:9A-65) is amended to read as follows:

C. 17:9A-65 Real property mortgages.

65. Real property mortgages.

A. No bank shall make a mortgage loan secured by a mortgage upon real property unless:

(1) the mortgaged property is located within this State, or, if outside this State, the mortgaged property is located within 50 miles of the border of this State; or if the mortgaged property is located outside this State and is more than 50 miles from the border of this State, the payment of the mortgage loan is insured or guaranteed, or is the subject of an unconditional commitment for such insurance or guarantee, to the extent provided for in subsection A of section 68, by the Federal Housing Commissioner or by the United States, or by this State;

(2) the mortgaged property shall consist of improved real property, including farm lands, or unimproved real property if the proceeds of such loan shall be used for the purpose of erecting improvements thereon;

(3) the mortgage securing such loan shall constitute a first lien on a fee; a mortgage shall be deemed a first lien notwithstanding the existence of a prior mortgage or mortgages held by the bank, or liens of taxes which are not delinquent, building restrictions or other restrictive covenants or conditions, leases or tenancies whereby rents or profits are reserved to the owner, joint driveways, sewer rights, rights in walls, rights-of-way or other easements, or encroachments, which the persons signing the certificate provided for in section 67 report in their opinion do not materially affect the security for the mortgage loan. Every mortgage shall be certified to be such a first lien by an attorney-at-law of the State in which the real property is located, or certified or guaranteed to be such a first

lien by a corporation authorized to guarantee titles to land in such State;

(4) no such loan shall be made for a period longer than 40 years from its date, and no such loan shall exceed 80% of the appraised value of the mortgaged property; provided, that there shall be included in the appraised value of the mortgaged property, for the purpose of this paragraph (4), the value of the improvements to be erected upon the mortgaged property wholly or partly with the proceeds of such loan; and

(5) the instrument evidencing the loan shall require payment to be made during each year on account of the principal amount of the loan at a rate not less than 1% per annum of the original amount of the loan, if the original amount of the loan does not exceed 50% of the appraised value of the mortgaged property; or 2% per annum of the original amount of the loan, if the loan exceeds 50% but does not exceed $66\frac{2}{3}\%$ of such appraised value; or 4% per annum of the original amount of the loan, if the loan exceeds $66\frac{2}{3}\%$ of such appraised value; provided, that, in lieu of such principal payments, the instrument evidencing any mortgage loan may require equal monthly payments, each applicable to principal and interest, in an amount sufficient to pay current interest and to repay the amount of the loan in not more than 40 years from its date; and provided further, that when the proceeds of any such loan are to be used to pay, in whole or in part, the cost of constructing a building or buildings on the mortgaged property, and such proceeds are paid by the bank from time to time, final payment being made at or after completion, the instrument evidencing such loan need not require that any payment be made on account of the principal amount of the loan during the period from the date of such loan to a date not more than 18 months from the date of such loan; and such date marking the end of the period during which no payments are required to be made on account of the principal amount of the loan, shall be deemed to be the date of such loan for the purpose of reckoning the 40 year period limited for the payment of such loan by this paragraph (5), and by paragraph (4) of this section.

B. The commissioner may, from time to time, with the concurrence of the banking advisory board, make, alter and rescind regulations:

(1) authorizing banks to make mortgage loans, or specified types or classes of mortgage loans, (a) which exceed 80% of the appraised value of the mortgaged property; (b) which mature in more than 25 years from their date; (c) which require smaller

annual payments on account of the principal amounts thereof than those specified in paragraph (5) of subsection A of this section; and (d) which provide for equal monthly payments, each applicable to principal and interest, in amounts sufficient to pay current interest on and to repay the amount of the loan in such number of years, more than 40 but not more than 45, as the regulation may specify;

(2) defining "improved real property" for the purposes of paragraph (2) of subsection A of this section;

(3) increasing the percentage of the time deposits or the aggregate of the unimpaired capital stock and surplus of banks which banks may invest in mortgage loans beyond the limitation expressed in subsection A of section 69;

(4) increasing the percentage of the principal balances owing on mortgage loans of the kind referred to in section 68 which shall not be included in the total of all principal balances owing on mortgage loans for the purposes of subsection A of section 69, or eliminating entirely the principal balances owing on such mortgage loans from such total of all principal balances.

C. In making, altering and rescinding regulations pursuant to subsection B of this section, the commissioner and the banking advisory board shall consider the statutes and regulations applicable to national banks in the making or acquiring of loans secured by interest in real property and the practices followed by national banks in the making or acquiring of such loans. The regulations so made shall, so far as the commissioner and the banking advisory board deem to be warranted by the state of the economy and to be consistent with sound banking practices, be directed toward the creation and maintenance of a substantial parity between banks and national banks in all matters relating to the making and acquiring of loans secured by interests in real property. The power to regulate as provided in subsection B of this section may be exercised by the commissioner and the banking advisory board within the standards established by this subsection, notwithstanding that the subject of such regulation is not expressly set forth in subsection B of this section.

2. Section 181 of P. L. 1948, chapter 67 (C. 17:9A-181) is amended to read as follows:

C. 17:9A-181 Mortgage loans.

181. Mortgage loans.

A-1. A savings bank may make or invest in mortgage loans in the manner and subject to the limitations prescribed by this section. For the purposes of this section, "mortgage loan" shall include

every indebtedness secured by mortgage on real property, or on a lease of the fee of real property (in any case in which such lease is lawful security for such mortgage loan), except as otherwise provided by subsection Q of this section, and a savings bank shall be deemed to have made a mortgage loan when

(a) it lends or participates in lending money to a borrower upon the security of real property; or

(b) it acquires, by purchase or otherwise, a mortgage loan or any share or part of or interest in a mortgage loan which is not subordinate to any share or part thereof or interest therein held by any other person.

A savings bank may sell, assign or otherwise dispose of a share or part of or interest in a mortgage loan held by it to any other person.

A-2. For all purposes of compliance with the applicable provisions and restrictions of subsections D, E, F and G of this section as to the percentage of the mortgage loan to the appraised value of the mortgaged property, and the term of and rate of amortization of such loan, the date of the acquisition by a savings bank of a mortgage loan or a share or part thereof or interest therein shall, as respects such savings bank, be deemed to be the date as of which the mortgage loan was made and the unpaid amount of the principal then due shall be deemed to be the amount of such mortgage loan.

B. No savings bank shall make a mortgage loan at any time when the total cost of acquisition by the savings bank of all real property owned by it, other than real property held for the purposes specified in subparagraph (a) of paragraph (5) of section 24, and the total of all principal balances owing to the savings bank on mortgage loans, less all write-offs and reserves with respect to such real property and mortgage loans, together exceeds, or by the making of such loan will exceed, 80% of its deposits. For the purposes of this subsection, principal balances owing on mortgage loans made pursuant to subsection Q(1) of this section shall, only to the extent of the unguaranteed portion of such balances, and loans made pursuant to subsection Q(2) of this section shall, only to the extent of 50% of such balances, be included in the total of all principal balances owing to the savings bank on mortgage loans.

C. Every mortgage loan shall be evidenced by a note or bond, and shall be secured by a mortgage on the fee of real property

located within this State, or, if outside this State, upon the fee of real property located within 50 miles of the border of this State. Every mortgage shall be certified to be a first lien by an attorney-at-law of the State in which the real property is located, or certified or guaranteed to be a first lien by a corporation authorized to guarantee titles to land in such State. For the purposes of this section, a mortgage shall be deemed to be a first lien, notwithstanding the existence of a prior mortgage or mortgages held by the savings bank, or a lien for current taxes or assessments not due or payable at the time the loan is made, and notwithstanding the existence of leases, building restrictions, easements, encroachments, or covenants which, in the opinion of an officer of the savings bank designated for that purpose by the board of managers, do not materially lessen the value of the real property to be mortgaged.

D. When the real property offered as security for a mortgage loan consists of a lot of land upon which there is one or more one-family dwellings including appropriate garages or other outbuildings, if any, or upon which such dwelling or dwellings, garages or outbuildings are in the course of construction or are to be constructed, the amount of the mortgage loan shall not exceed (a) 75% of the appraised value of the real property, or 2% of the deposits of the savings bank, whichever is lesser; or (b) 80% of the appraised value of the real property, or \$35,000.00, whichever is lesser; or (c) 90% of the appraised value of the real property, or \$25,000.00 whichever is lesser, provided that the dwelling or dwellings are not more than 10 years old.

E. When the real property offered as security for a mortgage loan consists of a lot of land upon which there is one or more 2-, 3-, 4-family dwellings including appropriate garages or other outbuildings, if any, or upon which such a dwelling or dwellings and appropriate garages or other outbuildings are in the course of construction or are to be constructed, the amount of the mortgage loan shall not exceed 80% of the first \$30,000.00 of the appraised value of the real property, plus 50% of the excess, if any, of such appraised value over \$30,000.00.

F. The instrument evidencing a mortgage loan made pursuant to either subsection D or subsection E of this section shall require that

(1) interest shall be paid on such loan monthly, and that equal monthly payments be made in reduction of such loan of an annual rate equal to at least $3\frac{1}{3}\%$ of the original amount of such loan; or

New Jersey State Library

(2) that a constant sum be paid monthly in an amount sufficient for current interest and for the payment of the loan in full in not more than 40 years and 1 month from the making of such loan.

G. When the real property offered as security for a mortgage loan consists of a lot of land upon which there is a building or buildings other than dwellings of the nature described in subsections D and E of this section, or upon which such other buildings are in the course of construction or are to be constructed, or when such land is paved for parking lot purposes, the amount of the mortgage loan shall not exceed 75% of appraised value of such real property. The instrument evidencing a mortgage loan made pursuant to this subsection shall require that the loan be repaid in full in not more than 10 years and 1 month from the date it is made, except that in the case of dwellings consisting of 5 or more dwelling units, the instrument shall require that the loan be repaid in full in not more than 25 years and 1 month from the date it is made; and (a) if the amount of such loan, when made, exceeds 50% of the appraised value of the real property, that payments shall be made in reduction thereof at least semiannually, at an annual rate equal to at least 1% of the original amount of such loan; or (b) if the amount of such loan, when made, does not exceed 50% of the appraised value of the real property, that payments shall be made in reduction thereof at least semiannually, at an annual rate equal to at least $\frac{1}{2}\%$ of the original amount of such loan. When, however, the amount of such loan does not, when made, exceed 50% of the appraised value of such real property, and the instrument evidencing such loan requires that it be paid in full in not more than 5 years and 1 month from the date it is made, the instrument need not require that any payment be made in reduction of such loan prior to its maturity date. Notwithstanding the limitations prescribed by subsections D and E and hereinabove in this section, a savings bank may make a mortgage loan secured by a lot of land or 2 or more lots of land, contiguous or not, upon each of which there is a building or buildings, or upon each of which a building or buildings are in the course of construction or are to be constructed. The limitations of this section governing the term of the loan, rate of amortization, and the percentage of the mortgage loan to the appraised value of each type of building, including land, shall apply. No loans shall be made under subsections D, E, F or G hereof to any one person or on any one property if the loan shall exceed 15% of the surplus and reserves of the savings bank, or \$50,000.00, whichever is greater.

H. When the real property offered as security for a mortgage loan is of the nature described in subsection D or E of this section, and the amount of the loan does not exceed $66\frac{2}{3}\%$ of the appraised value of such real property, the instrument evidencing such loan shall be sufficient if it conforms to the requirements of either subsection F or subsection G of this section.

I. A mortgage loan may be made for the purpose of enabling a borrower to construct a building or buildings upon real property owned by him, and, in such a case, the appraised value of the real property shall include the value of the building or buildings to be constructed, but at no time shall a greater sum be advanced on account of such loan than, in the opinion of (1) the appraisers hereinafter provided for, or (2) one of such appraisers and an officer of the savings bank designated for that purpose by the board of managers, is warranted by the state of completion of the buildings in process of construction. For the purposes of compliance with the applicable requirements of subsection F or G of this section as to the term of and the rate of amortization of a loan made pursuant to this section, such loan shall be deemed to have been made when the final advance shall be made to the borrower on such loan, or 18 months from the date of the mortgage securing such loan, whichever is earlier.

J. When the real property offered as security for a mortgage loan consists of unimproved land, and the proceeds of such loan are not to be used to construct a building on such land, the amount of such loan shall not exceed 40% of the appraised value of such real property. The instrument evidencing a loan made pursuant to this subsection shall require that such loan be paid in full in not more than 10 years and 1 month from the date it is made. No loan made pursuant to this subsection shall exceed \$10,000.00, or $\frac{1}{10}$ of 1% of the deposits of the savings bank, whichever is greater; nor shall any loan be made at any time when the total of all such loans exceeds, or if the making of such loan would cause such total to exceed 1% of the deposits of the savings bank.

K. No mortgage loan shall be made except upon a written certification signed by at least 2 persons, each of whom shall be either a manager of the bank or an appraiser appointed by its board of managers. In the case of a mortgage loan secured by a mortgage upon real property, such certification shall state the opinion of such persons as to the value of the land and the improvements thereon or to be erected thereon and the character of such improvements. In the case of a mortgage loan secured by a mortgage

upon a lease of the fee of real property, such certification shall state the opinion of such person as to the value of the leasehold interest to be subject to the mortgage, including the leasehold interest in the improvements erected or to be erected upon the leased property and the character of such improvements. Such certification shall be filed with the records of the bank, and shall be preserved until the savings bank has no interest, as mortgagee or otherwise, in the real property.

L. Purchase money mortgage loans made by a savings bank on the sale of real property owned by it shall not be subject to the preceding subsections or to subsection P of this section, except that such loans shall be included in determining whether the total amount of mortgage loans held by a savings bank exceeds 80% of its deposits.

M. No savings bank shall make a mortgage loan secured by a mortgage upon a lease of the fee of real property unless

(1) the leased property is located within this State or, if outside this State, the leased property is located within 50 miles of the border of this State;

(2) the leased property shall consist of improved real property, including farm lands, or unimproved real property if the proceeds of such loan shall be used for the purpose of erecting improvements thereon;

(3) the mortgage securing such loan shall constitute a first lien on a lease of the fee of real property, which fee is not subject to any prior lien; the fee shall be deemed not subject to any prior lien notwithstanding the existence of liens of taxes which are not delinquent, building restrictions or other restrictive covenants or conditions, joint driveways, sewer rights, rights in walls, rights-of-way or other easements, or encroachments, which the persons signing the certificate provided for in subsection K of this section report in their opinion do not materially affect the security for the mortgage loan. Every mortgage shall be certified to be such a first lien by an attorney-at-law of the State in which the real property is located, or certified or guaranteed to be such a first lien by a corporation authorized to guarantee titles to land in such State;

(4) such loan shall not exceed $66\frac{2}{3}\%$ of the appraised value of the leasehold interest subject to the mortgage, including the leasehold interest in the improvements erected upon the mortgaged property, or to be erected thereon wholly or partly with the proceeds of the mortgage loan; and

(5) the instrument evidencing the loan shall require that payment be made on account of the principal amount of such loan at an annual rate sufficient to repay such loan not later than 1 year prior to the expiration of the lease.

N. The instrument evidencing a mortgage loan may be in such form, and may contain such provisions, not inconsistent with law, as the savings bank may choose to insert for the protection of its lien and the preservation of its interest in the real property mortgaged to it.

O. Notwithstanding the limitations prescribed by the preceding subsections or by subsection P of this section, a savings bank may

(1) for the purposes of preventing or mitigating loss, or of preserving the lien of its mortgage, or of conserving the value of the real property affected by its mortgage, (a) extend the time for the payment of principal or interest, (b) modify or waive any of the terms or conditions of the instrument evidencing a mortgage loan, (c) settle or compromise all or part of the amount due or to grow due on a mortgage loan, (d) sell or assign the mortgage loan, or a share or part thereof or interest therein, for such consideration as it shall deem proper, and (e) advance funds for the payment of any tax, lien, charge or claim whatsoever; and

(2) make a loan in addition to an existing mortgage loan or loans held by it, upon the security of the same real property and secured by the existing mortgage or mortgages, in an amount not to exceed the difference between the balance due on the existing mortgage or mortgages and the original amount thereof, or the sum of \$10,000.00, whichever is less; provided, however, that no such additional loan shall be made which shall increase the total amount due upon such mortgages over the amount which could be loaned upon the security of such real property. Such additional loan shall be repaid in equal monthly installments, beginning within 1 year from the date of such loan, with the payments adjusted so that the additional loan shall be repaid in full either before or at the maturity of the existing mortgage. If the unexpired term of such mortgage or mortgages shall have been reduced to 10 years or less, such term may be extended for an additional period of not more than 10 years. Adjustment of payments and extension of mortgage terms pursuant to this section shall comply with the provisions of subsection F, G or H of this section. If so provided in the original mortgage or a supplement or amendment thereto, persons who acquire any rights in or liens upon the mortgaged real property subsequent to the recording of the original mortgage

or such supplement or amendment, as the case may be, shall hold such rights and liens subject to the prior lien of the original mortgage and such supplement or amendment, if any, as security for such additional loan; and in such case, no title certificate or insurance under subsection C of this section shall be required with respect to such additional loan.

P. Except as otherwise provided by this section, no savings bank shall make a mortgage loan if the making of such loan would cause the total of all unpaid balances of such loans held by the savings bank upon the security of the same real property or leasehold, to exceed the limitations imposed by this section upon the amount of a mortgage loan which may be made upon the security of such real property or such leasehold.

Q. A savings bank may invest in

(1) (a) veterans' loans, wherever located, made pursuant to Title III of the Act of Congress of June 22, 1944, known as the "Servicemen's Readjustment Act of 1944," as amended, supplemented, revised, or recodified from time to time, which the Administrator of Veterans' Affairs or other officer or agency which succeeds to his powers and functions under said act has insured or guaranteed or has made a commitment to insure or guarantee, to the extent and in the manner provided in said act or the regulations made thereunder; and

(b) veterans' loans, wherever located, made and insured or guaranteed in part as provided in paragraph (1) (a) of this subsection of this section, and, as to the balance thereof, insured or guaranteed by an insurer or guarantor named or described in paragraph (2) of this subsection of this section.

(c) the provisions and restrictions contained in this section, except those relating to the percentage of the mortgage loan to the appraised value of the real property, the location of the real property, the term of the loan and the rate of amortization, shall apply to investments made pursuant to paragraph (1) of this subsection of this section, provided however that said loans and investments shall not be subject to the provisions of any law of this State prescribing or limiting the interest which may be taken upon such loans or investments.

(2) (a) mortgages or deeds of trust or other securities of the character of mortgages which are first liens on the fee of real property or a lease of the fee of real property, wherever located,

which (i) the United States, or (ii) the Federal Housing Commissioner under the Act of Congress of June 27, 1934, known as the "National Housing Act," as amended, supplemented, revised or recodified from time to time, or other officer or agency which succeeds to his powers and functions, or (iii) the State of New Jersey or an officer or agency thereof, or (iv) any other officer or agency of the United States or of this State which the commissioner shall have approved for the purposes of this section as an insurer or guarantor, has fully insured or guaranteed or made a commitment to fully insure or guarantee.

(b) mortgages or deeds of trust or other securities made pursuant to paragraph 2(a) of this subsection of this section shall not be subject to the provisions and restrictions of this section, except that they shall be included in determining whether total mortgage investments are within the limitation prescribed by subsection B of this section, provided however that said mortgages or deeds of trust or other securities shall not be subject to the provisions of any law of this State prescribing or limiting the interest which may be taken upon such loans or investments.

R. The commissioner may, from time to time, with the concurrence of the banking advisory board, make, alter and rescind regulations:

(1) authorizing savings banks to make mortgage loans or specified types or classes of mortgage loans (a) which exceed the specified percentages of the appraised value of the mortgaged property; (b) which mature later than the specified periods from their date; (c) which require smaller annual payments on account of the principal amounts thereof than those specified in this section; and (d) which provide for equal monthly payments each applicable to principal and interest in amounts sufficient to pay current interest on and to repay the amount of the loan in such number of years more than 40, but not more than 45, as the regulation may specify;

(2) increasing the percentage of deposits of savings banks which savings banks may invest in mortgage loans;

(3) increasing the percentage of principal balances owing on mortgage loans referred to in subsection Q, which shall not be included in the total of all principal balances owing on mortgage loans for the purpose of subsection B, or eliminating entirely the principal balances owing on such mortgage loans from such total of all principal balances.

3. This act shall take effect immediately.

Approved June 21, 1971.

CHAPTER 226

AN ACT to amend the "Savings and Loan Act (1963)," approved August 30, 1963 (P. L. 1963, c. 144).

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

1. Section 147 of P. L. 1963, chapter 144 (C. 17:12B-147) is amended to read as follows:

C. 17:12B-147 Direct reduction loans.

147. Each direct reduction loan, as defined in section 5 of this act, made in accordance with the provisions of this section, shall require periodical payments sufficient to pay the principal and interest of the loan in full in a period of 40 years or less. Any association may by agreement with the borrowing member reduce the amount of periodical payments, provided that the amount of the periodical payments thereafter required shall be sufficient to pay the balance of the loan and interest thereon within a period of 40 years or less from the time of making such agreement. The amount of such direct reduction loan, less the withdrawal value of any account which may be pledged as collateral security therefor, shall not exceed 80% of the value of such real estate as found by appraisal at the time such loan is granted.

2. Section 148 of P. L. 1963, chapter 144 (C. 17:12B-148) is amended to read as follows:

C. 17:12B-148 Sinking fund loans.

148. Each sinking fund loan, as defined in section 5 of this act, shall require periodical payments, at least monthly, on an account pledged as collateral security for such loan which shall be sufficient to pay such loan in a period of 35 years or less. Any association may by agreement with the borrowing member provide for the application of such account to the principal of the loan and for a reduction in the periodical payments required on an account thereafter; provided, however, that such periodical payments thereafter required shall be sufficient to retire the loan within a period of 35 years or less, from the time of the making of such agreement. The amount of any sinking fund loan, less the withdrawal value of any account which may be pledged as collateral security therefor, shall not exceed 80% of the value of such real estate as found by appraisal at the time when the loan is granted.

3. This act shall take effect immediately.

Approved June 21, 1971.

CHAPTER 227

AN ACT concerning unlawful entry and detainer of real estate, amending N. J. S. 2A:39-1, 2A:39-2, 2A:39-6, and 2A:39-8.

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

1. N. J. S. 2A:39-1 is amended to read as follows:

Unlawful entry prohibited.

2A:39-1. No person shall enter upon or into any real property or estate therein and detain and hold the same, except where entry is given by law, and then only in a peaceable manner. With regard to any real property occupied solely as a residence by the party in possession, such entry shall not be made in any manner without the consent of the party in possession unless the entry and detention is made pursuant to legal process as set out in N. J. S. 2A:18-53 et seq. or 2A:35-1 et seq.

2. N. J. S. 2A:39-2 is amended to read as follows:

Forceful entry and detainer defined.

2A:39-2. If any person shall enter upon or into any real property and detain or hold the same with force, whether or not any person be in it, by any kind of violence whatsoever, or by threatening to kill, maim or beat the party in possession, or by such words, circumstances or action as have a natural tendency to excite fear or apprehension of danger, or by putting out of doors, or carrying away the goods of the party in possession, or by entering peaceably and then, by force or frightening by threats, or by other circumstances of terror, turning the party out of possession, such person shall be guilty of a forcible entry and detainer within the meaning of this chapter. With regard to any real property occupied solely as a residence by the party in possession, if any person shall enter upon or into said property and detain or hold same in any manner without the consent of the party in possession unless the entry is made pursuant to legal process as set out in N. J. S. 2A:18-53 et seq. or 2A:35-1 et seq., such person shall be guilty of an unlawful entry and detainer within the meaning of this chapter.

3. N. J. S. 2A:39-6 is amended to read as follows:

Actions cognizable before District or Superior Court.

2A:39-6. Any forcible unlawful entry and detainer, forcible detainer and unlawful detainer as defined in this chapter shall be

cognizable before the district court or the Superior Court, Chancery Division of the county in which it is committed, and the court may hear and determine an action therefor in a summary manner.

4. N. J. S. 2A:39-8 is amended to read as follows:

Entitlement of plaintiff recovering judgment; enforcement.

2A:39-8. In any action under this chapter, a plaintiff recovering judgment shall be entitled to possession of the real property and shall recover all damages proximately caused by the unlawful entry and detainer including court costs and reasonable attorney's fees. When a return to possession would be an inappropriate remedy, treble damages shall be awarded in lieu thereof. The judgment may be enforced against either party in a summary manner by any process necessary to secure complete compliance therewith, including the payment of the costs.

5. This act shall take effect immediately.

Approved June 21, 1971.

CHAPTER 228

AN ACT abolishing distraint for rent of premises under certain circumstances and amending N. J. S. 2A:33-1.

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

1. N. J. S. 2A:33-1 is amended to read as follows:

Distraints; unreasonable, excessive or wrongful distraints.

2A:33-1. Distraints may be taken when authorized by law; but no unreasonable, excessive or wrongful distraint shall be taken, and for any such taking, the distraining party shall be liable in damages to the party aggrieved.

No distraint shall be permitted for money owed on a lease or other agreement for the occupation of any real property used solely as a residence of the tenant.

2. This act shall take effect immediately and shall apply to all leases or agreements entered into after the effective date of this act.

Approved June 21, 1971.

CHAPTER 229

AN ACT to amend "An act providing for the regulation of the construction and maintenance of hotels and multiple dwellings by the Commissioner of Community Affairs, creating within the Department of Community Affairs an advisory board to be known as the Hotel and Multiple Dwelling Health and Safety Board, prescribing penalties for certain violations, and repealing certain sections of the statutory law," approved May 31, 1967 (P. L. 1967, c. 76).

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

1. Section 13 of P. L. 1967, c. 76 (C. 55:13A-13) is amended to read as follows:

C. 55:13A-13 Inspection; application for certificate; fee.

13. (a) The commissioner shall inspect each multiple dwelling at least once in every 5 years, and each hotel at least once in every 3 years, for the purpose of determining the extent to which each hotel or multiple dwelling complies with the provisions of this act and regulations promulgated hereunder.

(b) On or before January 1, 1968, and within 90 days of the most recent inspection thereafter, the owner of each hotel shall file with the commissioner, upon forms provided by the commissioner, an application for a certificate of inspection. Said application shall include such information as the commissioner shall prescribe to enforce the provisions of this law. Said application shall be accompanied by a fee as follows: a basic fee of \$50.00 for the inspection of the common areas and \$10.00 per unit of dwelling space except in the case of hotels open and operating less than 6 months in each year, \$5.00 per unit of dwelling space, provided that the maximum total fee is limited to \$350.00 for each building. In the event there are more than three buildings within a project, the fees for inspection of those buildings in excess of three shall be as follows: the fee for the fourth building shall not exceed $\frac{1}{2}$ of the fee which could be charged for such inspection; the fee for the fifth building shall not exceed $\frac{1}{4}$ of the fee which could be charged for such inspection; the fee for the sixth and all remaining buildings shall not exceed \$50.00 for each such

building, provided that in no event shall the total of such fees for all buildings within a project exceed \$750.00. A certificate of inspection and the fees therefor shall not be required more often than once every 3 years.

Within 90 days of the most recent inspection by the commissioner of any multiple dwelling occupied or intended to be occupied by three or more persons living independently of each other, the owner of each such multiple dwelling shall file with the commissioner, upon forms provided by the commissioner, an application for a certificate of inspection. Said application shall include such information as the commissioner shall prescribe to enforce the provisions of this law. Said application shall be accompanied by a fee as follows: a basic fee of \$20.00 for the inspection of the common areas and \$15.00 per unit of dwelling space, provided that the maximum total fee is limited to \$350.00 for each building. In the event there are more than three buildings within a project, the fees for inspection of those buildings in excess of three shall be as follows: the fee for the fourth building shall not exceed $\frac{1}{2}$ of the fee which could be charged for such inspection; the fee for the fifth building shall not exceed $\frac{1}{4}$ of the fee which could be charged for such inspection; the fee for the sixth and all remaining buildings shall not exceed \$50.00 for each such building, provided that in no event shall the total of such fees for all buildings within a project exceed \$1,250.00. A certificate of inspection and the fees therefor shall not be required more often than once every 5 years.

(c) If the commissioner determines, as a result of the most recent inspection of any hotel or multiple dwelling as required by subsection (a) of this section, that any hotel or multiple dwelling complies with the provisions of this act and regulations promulgated hereunder, then the commissioner shall issue to the owner thereof, upon receipt of the application and fee as required by subsection (b) of this section, a certificate of inspection. Any owner to whom a certificate of inspection is issued shall keep said certificate posted in a conspicuous location in the hotel or multiple dwelling to which the certificate applies. The certificate of inspection shall be in such form as may be prescribed by the commissioner.

(d) If the commissioner determines, as a result of the most recent inspection of any hotel or multiple dwelling as required by subsection (a) of this section, that any hotel or multiple dwelling does not comply with the provisions of this act and regulations promulgated thereunder, then the commissioner shall issue to the

owner thereof, a written notice stating the manner in which any such motel or multiple dwelling does not comply with this act or regulations promulgated thereunder. Said notice shall fix such date, not less than 60 days nor more than 180 days, on or before which any such hotel or multiple dwelling must comply with the provisions of this act and regulations promulgated thereunder. If any such hotel or multiple dwelling is made to comply with the provisions of this act and regulations promulgated thereunder on or before the date fixed in said notice, then the commissioner shall issue to the owner thereof a certificate of inspection as described in subsection (c) of this section. If any such hotel or multiple dwelling is not made to comply with the provisions of this act and regulations promulgated thereunder on or before the date fixed in said notice, then the commissioner shall not issue to the owner thereof a certificate of inspection as described in subsection (c) of this section, and shall enforce the provisions of this act against the owner thereof.

2. This act shall take effect July 1, 1971.

Approved June 23, 1971.

CHAPTER 230

AN ACT relating to the appointment and use of sign language interpreters in judicial proceedings and supplementing article 5 of chapter 11 of Title 2A of the New Jersey Statutes.

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

C. 2A:11-28.1 Appointment of Interpreters for the Deaf.

1. Whenever upon application by a witness or upon his own motion the judge of any court determines that a witness is deaf or his hearing is so seriously impaired as to prevent his understanding of proceedings pending before the court, the judge shall appoint a qualified interpreter fluent in the use of sign language to assist the witness. The interpreter shall be a person listed in the Registry of Interpreters for the Deaf and shall serve at the expense of a party, the parties or at public expense as the judge shall order.

2. This act shall take effect immediately.

Approved June 23, 1971.

CHAPTER 231

AN ACT to repeal “An act requiring the registration of certain residents and nonresidents, convicted in the Federal or State courts of any crimes or offenses relating to the use, possession, sale, transportation or other dealing in or with any narcotic drug, with the chief of police of certain municipalities or with the State Police; and the reporting by any such person to such chief of police or State Police under certain circumstances and providing for the punishment of persons neglecting or refusing to comply with said act, approved May 17, 1952” (P. L. 1952, c. 230).

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

C. 2A:169A-1 to C. 2A:169A-10 Repealed.

1. P. L. 1952, c. 230 is hereby repealed.
2. This act shall take effect immediately.

Approved June 23, 1971.

CHAPTER 232

AN ACT to amend “An act concerning elections, and supplementing ‘An act creating an Election Law Revision Commission, prescribing its powers and duties, repealing chapter 81 of the laws of 1961 and making an appropriation therefor,’ approved May 4, 1964 (P. L. 1964, c. 29) and repealing R. S. 19:39-1 and 19:39-2,” approved November 25, 1969 (P. L. 1969, c. 192).

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

1. Section 1 of P. L. 1969, c. 192 (C. 1:17-16.1) is amended to read as follows:

C. 1:17-16.1 Final report by January 1, 1972.

1. The commission shall submit its final report, including a revision of Title 19 of the Revised Statutes, no later than January 1, 1972.

2. This act shall take effect immediately.

Approved June 23, 1971.

CHAPTER 233

AN ACT to amend the "New Jersey Meat and Poultry Inspection Act," approved June 24, 1968 (P. L. 1968, c. 105).

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

1. Section 15 of P. L. 1968, c. 105 (C. 24:16B-15) is amended to read as follows:

C. 24:16B-15 License fees.

15. License fees. Every person or establishment required by this act to be licensed shall pay nonrefundable annual license fee as follows:

Primary licensees—A person who owns, operates or conducts an establishment engaged in the slaughtering, processing, preparing or packaging of animals, the carcasses or parts thereof, meat or meat food products intended for use as human food; for each establishment or place of business	\$50 00
---	---------

Secondary licensees—A person who owns, operates, or conducts an establishment engaged in the slaughtering or rendering of animals, carcasses, or parts thereof for purposes other than for use as human food, or an animal food manufacturing or disposal plant; for each establishment or place of business	\$25 00
--	---------

Handler-distributor—A person who engages in the business (other than for direct sale to the consumer) of buying, selling, distributing, storing or transporting any animal carcass, or part thereof, or meat or meat food product	\$25 00
---	---------

2. This act shall take effect immediately.

Approved June 23, 1971.

CHAPTER 234

AN ACT to amend "An act concerning the control of contagious and infectious swine diseases, providing for the licensing and regulating of garbage-feeding hog farms, and fixing the penalties for the violations of the provisions hereof," approved July 12, 1957 (P. L. 1957, c. 140).

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

1. Section 7 of P. L. 1957, c. 140 (C. 4:5-106.7) is amended to read as follows:

C. 4:5-106.7 Application for license; fee; expiration date.

7. Every applicant for a license to operate a garbage-feeding hog farm shall file his application with the department upon forms provided by the department which shall contain such information as the department shall require. Each application shall be accompanied by a fee of \$25.00 if the applicant has less than 100 head of swine and \$50.00 if the applicant has 100 or more head of swine which shall be retained by the department whether or not the license is issued. Every license so issued shall expire on December 31 next succeeding the date of its issuance and may be renewed upon filing such application accompanied by the required fee on or before December 1 in each year. All fees received pursuant to this act shall be paid into the State Treasury.

2. This act shall take effect immediately.

Approved June 23, 1971.

CHAPTER 235

AN ACT relating to certain fees imposed and collected by the Department of Agriculture and amending the "Controlled Atmosphere Storage Act," approved June 1, 1962 (P. L. 1962, c. 62), and R. S. 4:11-4 and R. S. 4:11-19.

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

1. Section 3 of P. L. 1962, c. 62 (C. 4:10-28) is amended to read as follows:

C. 4:10-28 Operator's license; fee; inspection of facilities; compliance with act.

3. Any person desiring to operate a controlled atmosphere storage facility for the storage of agricultural commodities may apply to the Secretary of Agriculture for a license. A nonreturnable fee of \$10.00 per room shall accompany the application. Prior to the issuance of the license, the secretary or his authorized agent shall inspect the storage facilities to determine whether they comply with the applicable rules. A license shall expire 1 year after the issuance thereof and may be renewed annually upon payment of a fee of \$10.00 per room unless suspended or revoked for violation of this statute or regulations issued pursuant thereto. When agricultural commodities are not represented as having been exposed to controlled atmosphere storage, it shall not be necessary to comply with the requirements of this act.

2. R. S. 4:11-4 is amended to read as follows:

Application for license; fee.

4:11-4. A person before engaging in the business referred to in section 4:11-3 of this Title shall, annually on or before June 1, file an application for a license with the secretary on a form prescribed by him and pay an application fee of \$30.00 which shall not be returned if the license is not granted.

The application shall state the nature of the business, the breed or breeds of cattle, sheep or swine which the applicant proposes to handle, the name of the person applying for the license, and, if the applicant be a firm, association, partnership or corporation, the full name of each member of such firm, association, partnership or the names of the officers of the corporation, and the name of the agent or agents of the applicant, the municipality and the post-office address at which the business is to be conducted, and such other facts as the secretary shall prescribe.

The applicant shall further satisfy the secretary of his or its character, financial responsibility and good faith in seeking to engage in the business.

3. R. S. 4:11-19 is amended to read as follows:

Application for license; fee.

4:11-19. A person before engaging in such business shall on or before April 1 of each year, file an application for a license with the secretary, on a form prescribed by him, and pay an application

fee of \$30.00 which shall not be returned if the license is not granted, for a license to transact such business.

The application shall state the nature of the business, the kinds of agricultural commodities which the applicant proposes to handle and if they be perishable agricultural commodities then the kinds of perishable agricultural commodities which the applicant proposes to handle, the full name of the person applying for the license, and if the applicant be a firm, association, partnership, or corporation, the full name of each member of the firm, partnership or association, or officers of the corporation, and the name of the local agent of the person, firm, association, partnership or corporation, the municipality and street address, if any, of post-office address, where the business is to be conducted, and such other facts as the secretary shall prescribe.

The applicant shall satisfy the secretary of his character, financial responsibility and good faith in seeking to engage in the business.

4. This act shall take effect immediately.

Approved June 23, 1971.

CHAPTER 236

AN ACT concerning license fees for members of various professions regulated by the State Board of Medical Examiners, supplementing chapter 9 of Title 45 of the Revised Statutes, and amending R. S. 45:5-9, P. L. 1953, c. 233, and P. L. 1953, c. 420.

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

C. 45:9-6.1 Annual registration; fee.

1. All persons who are licensed to practice medicine and surgery shall be required on or before September 1, 1971, and on or before July 1 annually thereafter, to register on the form prescribed by the board and furnished by the secretary of said board, and to pay an annual registration fee of \$15.00.

The license of any licensee who fails to procure any annual certificate of registration, shall be automatically suspended on September 1 of the year 1971 and July 1 of each year thereafter. It shall be the duty of the secretary of the board on or before August

1 of the year 1971 and on June 1 of each year thereafter to send a written notice to each of such licensees, whether a resident or not, at his last address on file with the board, that his annual registration fee is due on or before July 1 and that his license to practice in this State will be suspended if he does not procure said certificate by July 1 of the said year.

Any such licensee whose license has been suspended under this section may be reinstated by the payment of all past due annual registration fees and in addition thereto \$25.00 to cover cost of reinstatement.

Any person who desires to retire from the practice of medicine and surgery, and during retirement to refrain from practicing under the terms of his license, upon application to the secretary of the board, may be registered annually, without the payment of any registration fee, as a retired physician. The certificate of registration which shall be issued to a retired physician shall state, among other things, that the holder has been licensed to practice in New Jersey, but that during his retirement he shall not so practice. The holder of a certificate of registration as a retired licensee shall be entitled to resume practice at any time; provided, he first shall have obtained from the secretary an annual certificate of registration as hereinbefore provided.

The license to practice medicine and surgery of any person who fails to procure any annual certificate of registration, or in lieu thereof an annual certificate of registration as a retired licensee, at the time and in the manner required by this act shall be automatically suspended. Any person whose license shall have been automatically suspended shall, during the period of such suspension, be regarded as an unlicensed person and, in case he shall continue or engage in practice under the terms of his license during such period, shall be liable to the penalties prescribed by R. S. 45:9-22. Any person to whom a certificate of registration as a retired licensee shall have been issued who shall continue or engage in practice under the terms of his license without first having obtained a certificate of registration authorizing him to resume such practice, shall be liable to the penalties prescribed by R. S. 45:9-22 for practicing without a license.

It shall be the duty of each such licensee holding a certificate to practice medicine and surgery in this State, whether a resident or not, to notify the secretary of the board in writing of any change in his office address or his employment within 10 days after such change shall have taken place.

This section shall not be construed so as to render inoperative the provisions of R. S. 45:9-17.

2. R. S. 45:5-9 is amended to read as follows:

Annual certificate of registration; fee; lists of licensees; notice; automatic suspension.

45:5-9. Every licensed podiatrist shall procure each year from the secretary of the board, on or before November 1, an annual certificate of registration, which shall be issued by said secretary upon payment of a fee of \$15.00. The secretary shall mail to each licensed podiatrist on or before October 1 each year a printed blank form to be properly filled in and returned to said secretary by such licensed person on or before the succeeding November 1, together with such fee. Upon the receipt of said form properly filled in, and such fee, the annual certificate of registration shall be issued and transmitted. Said secretary shall annually, on or before January 1, mail to each licensed podiatrist who has registered for the preceding year a list containing the names and post-office addresses of all licensed podiatrists who have registered under this section for said year. Every licensed podiatrist who continues the practice of podiatry after having failed to secure an annual certificate of registration at the time and in the manner required by this section shall be subject to a penalty of \$25.00 for each failure. Immediately after November 1, the secretary shall send by registered mail to every podiatrist who has failed to obtain an annual registration certificate for the ensuing year a notice that their license will be automatically suspended within 30 days unless the penalty and annual registration fee is paid immediately. Upon failure to register after such notice, the license of such person shall be automatically suspended and shall not be reinstated except upon full payment of penalty and annual registration fee. However, such suspension shall not apply to anyone who has ceased to practice in this State. Any person whose license shall have been automatically suspended under this section shall during such period of suspension be regarded as an unlicensed person, and if he continue to engage in the practice of podiatry during such period, he shall be liable to the penalties prescribed by sections 45:5-11 and 45:5-12 of this chapter.

3. Section 14 of P. L. 1953, c. 233 (C. 45:9-41.11) is amended to read as follows:

C. 45:9-41.11 Annual registration; reinstatement after suspension; retirement from practice; automatic suspension.

14. All persons who are licensed to practice chiropractic shall be required on or before September 1, 1953, and on or before Sep-

tember 1 annually thereafter, to register on the form prescribed by the board and furnished by the secretary of said board, and to pay an annual registration fee of \$10.00.

The license of any licensee, who fails to procure any annual certificate of registration, shall be automatically suspended on September 1 of that year. It shall be the duty of the secretary of the board on or before August 1 of each year to send a written notice to each of such licensees, whether a resident or not, at his last address on file with the board, that his annual registration fee is due on or before September 1 and that his license to practice in this State will be suspended if he does not procure said certificate by September 1 of the said year.

Any such licensee whose license has been suspended under this section may be reinstated by the payment of all past due annual registration fees and in addition thereto \$25.00 to cover cost of reinstatement.

Any person who desires to retire from the practice of chiropractic, and during retirement to refrain from practicing under the terms of his license, upon application to the secretary of the board, may be registered annually, without the payment of any registration fee, as a retired practitioner. The certificate of registration which shall be issued to a retired chiropractor shall state, among other things, that the holder has been licensed to practice in New Jersey, but that during his retirement he shall not so practice. The holder of a certificate of registration as a retired licensee shall be entitled to resume practice at any time; provided, he first shall have obtained from the secretary an annual certificate of registration as hereinbefore provided.

The license to practice chiropractic of any person who fails to procure any annual certificate of registration, or in lieu thereof an annual certificate of registration as a retired licensee, at the time and in the manner required by this act shall be automatically suspended. Any person whose license shall have been automatically suspended shall, during the period of such suspension, be regarded as an unlicensed person and, in case he shall continue or engage in practice under the terms of his license during such period, shall be liable to the penalties prescribed by R. S. 45:9-22. Any person to whom a certificate of registration as a retired licensee shall have been issued who shall continue or engage in practice under the terms of his license without first having obtained a certificate of registration authorizing him to resume such practice, shall be liable

to the penalties prescribed by R. S. 45:9-22 for practicing without a license.

It shall be the duty of each such licensee holding a certificate to practice chiropractic in this State, whether a resident or not, to notify the secretary of the board in writing of any change in his office address or his employment within 10 days after such change shall have taken place.

The provisions of R. S. 45:9-17 shall be applicable, in like manner, to persons receiving a license to practice chiropractic.

4. Section 15 of P. L. 1953, c. 420 (C. 45:9-42.15) is amended to read as follows:

C. 45:9-42.15 Annual certificate of registration.

15. Every licensed bio-analytical laboratory director shall procure each year from the secretary of the board, on or before January 1, an annual certificate of registration which shall be issued by said secretary upon the payment of a fee, in an amount to be fixed by the board, not to exceed \$15.00. The secretary shall mail to each licensed bio-analytical laboratory director, on or before October 1 of each year, a printed blank form to be properly filled in and returned to said secretary by such licensee on or before the succeeding November 1, together with such fee. Upon the receipt of said form, properly filled in, and such fee, the annual certificate of registration shall be issued and transmitted. Said secretary shall annually, on or before March 1, mail to each licensed bio-analytical laboratory director, and to each physician, or member of other profession licensed by the board, a list of the names and addresses of all bio-analytical laboratories and licensed bio-analytical laboratory directors registered under this act for said year. Every bio-analytical laboratory director, who continues to operate or direct a laboratory after having failed to obtain an annual certificate of registration at the time and in the manner required by this act, shall be subject to a penalty of \$25.00 for each such failure.

5. Section 17 of P. L. 1953, c. 420 (C. 45:9-42.17) is amended to read as follows:

C. 45:9-42.17 Annual registration fee; display of certificate.

17. The annual registration shall be accompanied by a fee of \$25.00, and the board shall issue a certificate of annual registration which shall be conspicuously displayed in the laboratory and shall be exhibited whenever required to any authorized representative of the board.

6. This act shall take effect immediately.

Approved June 23, 1971.

CHAPTER 237

A SPECIAL ACT relating to the government and administration of the township of Middletown in the county of Monmouth.

WHEREAS, The township committee of the township of Middletown in the county of Monmouth has petitioned the Legislature for the passage of a special law to provide a new charter for the township, pursuant to Article IV, Section VII, paragraph 10 of the Constitution of 1947, in accordance with the procedure prescribed by the laws of 1948, c. 199 (C. 1:6-10 et seq.); and

WHEREAS, Notice of intention to apply for the passage of such special law has been duly published, and the original of the petition, together with a duly certified copy of the ordinance authorizing the filing of the same, have been duly presented and filed; now, therefore,

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

Private act.

ARTICLE I

GENERAL PROVISIONS AND POWERS

Section 1.1. Short title. This act shall be known as the "Middletown Charter, 1971."

1.2. Effect of adoption. Upon the adoption of this charter by the voters as hereinafter provided, the inhabitants of the township of Middletown in the county of Monmouth, within the territorial limits of the township as heretofore prescribed by law, and any amendments thereof, shall constitute a body politic and corporate with perpetual succession under the name of Middletown township. The corporation shall then be governed by the provisions of this charter, as defined by section 1.3.

1.3. Definitions. For the purposes of this act, and for the interpretation of any law, ordinance or resolution applicable to the township, unless the context otherwise requires:

(a) "Administrative code" shall mean an ordinance providing, subject to the charter, for the organization or administration of the township government, for the exercise or discharge of its functions, powers and duties, or for the management or control of its property, affairs or government.

(b) "Charter" shall mean this act and all statutory provisions of the State of New Jersey which are now or may hereafter be applicable specifically to the township of Middletown or to all municipalities alike, and which are not inconsistent with this act.

(c) "Committee" shall mean the governing body of the township, constituted and elected pursuant to the charter.

(d) "Administrator" shall mean the township administrator duly appointed pursuant to the charter.

(e) "Department" shall mean an administrative organization unit of the township government established or designated by or pursuant to the charter as a department.

(f) "Month" shall mean a calendar month unless otherwise specifically provided.

(g) "Person" shall mean any corporation, firm, partnership, association, organization or other entity, as well as an individual.

(h) "Township" shall mean the township of Middletown within the boundaries now existing or which may be hereafter established pursuant to law.

1.4. Construction. For the purposes of the charter, other laws, administrative codes and any ordinances heretofore or hereafter adopted, except as the context may otherwise require:

(a) The present tense includes the past and future tenses and the future, the present.

(b) The masculine gender includes the feminine and neuter.

(c) The singular number includes the plural and the plural, the singular.

(d) The time within which an act is to be done shall be computed by excluding the first and including the last day, and if the last day be a Sunday or a legal holiday, that day shall be excluded.

(e) "Writing" and "written" shall include printing, type-writing and any other mode of communication using paper or similar material which is in general use, as well as legible hand-writing.

1.5. Powers. In addition to such powers as may otherwise be conferred by the charter, the township may:

(a) Organize and regulate its internal affairs, and establish, alter and abolish offices, positions and employments and define the functions, powers and duties thereof and fix their term, tenure and compensation;

(b) Adopt and enforce ordinances and impose penalties for violation thereof, by fine or imprisonment or both as such sanctions are authorized by general law;

(c) Construct, acquire, operate or maintain any and all public improvements, projects or enterprises for any public purpose, subject to referendum requirements otherwise imposed by law;

(d) Sue and be sued, have a corporate seal, contract and be contracted with, buy, sell, lease, hold and dispose of real and personal property, appropriate and expend moneys and adopt, amend and repeal such ordinances and resolutions as may be required for the management of the township and the good government thereof;

(e) Exercise powers of condemnation, borrowing and taxation in the manner provided by general law;

(f) Exercise all powers of local government in such manner as its governing body may determine.

1.6. Self-government generally. The general grants of municipal power contained in this article are intended to confer the greatest powers of local self-government consistent with the Constitution of this State. Any specific enumeration of municipal powers contained in the charter shall not be construed in any way to limit the general description of power contained in this article, and any such specifically enumerated municipal powers shall be construed as in addition and supplementary to the powers conferred in general terms by this article. All grants of power to the township, whether in the form of specific enumeration or general terms, shall be liberally construed, as required by the Constitution of this State, in favor of the township.

ARTICLE II

GOVERNING BODY

Section 2.1. Township committee; mayor. The township shall be governed by a township committee consisting of five committeemen. The committee shall designate one of its members as mayor, to serve for a term of 1 year and until the election and qualification of his successor.

2.2. Election; term. Each committeeman shall be elected at a general election, to serve for a term of 3 years, beginning on January 1 next following his election, except as otherwise provided by the transitional article of this act. Vacancies occurring other than by expiration of term shall be filled by the remaining members of the committee, by appointment of a registered voter of the same political party as the former incumbent, to serve until the next general election occurring not less than 90 days following the vacancy.

2.3. Compensation. The committee may provide by ordinance for an annual salary of committeemen, provided that no ordinance increasing or decreasing such salary shall take effect prior to the next budget year following a general election at which committeemen are elected which occurs not less than 60 days nor more than 120 days after its adoption. In addition to such salary, committeemen may be paid their actual and necessary expenses incurred in the performance of the duties of their office.

2.4. Powers of committee.

(a) The legislative power of the township shall be exercised by the committee.

(b) The committee shall appoint and may remove the municipal clerk, all citizen members of the planning board, the board of adjustment, the judge of the municipal court, municipal attorney, municipal engineer and such other officers as are required by the charter to be appointed by the governing body. The municipal clerk shall serve at the pleasure of the committee.

(c) Subject to the requirements of the charter, the committee shall continue or create, and may alter or abolish, and determine and define the powers and duties of, executive and administrative departments, boards and offices, as it may deem necessary for the proper and efficient conduct of the affairs of the township.

2.5. Investigations; removals.

(a) The committee may make investigations into the affairs of the township and the conduct of any township department, office, commission or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. In addition to any other remedy, any person who willfully fails or refuses to obey a lawful order issued in the exercise of these powers by the committee shall be adjudged a disorderly person, punishable by a fine of not more than \$200.00, or by imprisonment for not more than 30 days or both.

(b) The committee may remove any officer or employee other than the mayor or a committeeman, for cause, upon notice and an opportunity to be heard.

2.6. Procedure.

(a) The committee shall by ordinance determine its own rules of procedure, not inconsistent with the charter, fix a regular meeting time, provide for special meetings, and its standing order of business.

(b) Voting; quorum. A majority of the whole number of members of the committee shall constitute a quorum. The vote upon

every motion, resolution or ordinance shall be taken by roll call and the yeas and nays shall be entered in the minutes. The minutes of each meeting shall be signed by the officer presiding at such meeting and by the township clerk.

2.7. The mayor. The committee shall elect a mayor from among its members, to serve for a term of 1 year and until the election and qualification of his successor. The mayor shall:

(a) Deliver to the committee an annual message on the condition and needs of the township;

(b) Preside at all meetings of the committee when he is in attendance, and appoint committees of the committee;

(c) Sign bonds, contracts, deeds and other legal documents, on behalf of the township and pursuant to law;

(d) Have such other powers and duties, as may be provided by or pursuant to the charter.

2.8. Elective township offices. The members of the committee shall be the only elective township offices. They shall be nominated and elected as required by the charter at a general election, or if there is no general election in a year when an election is required to fill a vacancy, at an election to be held on the first Tuesday after the first Monday in November of such year, in accordance with the provisions of Title 19 of the Revised Statutes.

ARTICLE III

ADMINISTRATION

Section 3.1. Generally. There shall be a township administrator who shall be appointed by the committee to serve at the pleasure of the committee. Prior to his appointment he shall be qualified by training and experience for the duties of his office. He shall be chosen solely on the basis of his experience and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office as hereinafter set forth. At the time of his appointment, he need not be a resident of the township or State, but during his tenure of office he may reside outside the township only with the approval of the committee.

3.2. Administrator; powers and duties. The township administrator, subject to the supervision of the committee, shall:

(a) Be the chief administrative officer of the township;

(b) Appoint and remove all department heads, the assessor, tax collector, and all other officers and employees for whose appoint-

ment or removal no other provision is made by law, subject to approval of the committee;

(c) Direct and supervise the department heads in their administration of the departments of the township government;

(d) Allocate and assign work and personnel among the departments, subject to the requirements of an administrative code or other ordinance adopted by the committee;

(e) Review the administration and operation of each of the departments and recommend to the committee from time to time such measures as may appear necessary or desirable for the purpose of improving the efficiency and the economy of the township government;

(f) Review, analyze and forecast trends of municipal services and finance and the activities and programs of all boards, commissioners and other municipal bodies, and report and recommend thereon to the committee;

(g) Develop, install and maintain practices and procedures for effective management and control of the departments;

(h) Prepare an annual current expense budget and an annual capital budget for consideration by the committee;

(i) Perform such other functions and duties as may be prescribed by charter or ordinance.

3.3. Budget. The township administrator shall annually prepare and submit to the committee his recommended: (1) current expense budget and (2) capital budget. Both documents shall be in such form as shall be required by law or ordinance and shall include appropriate provisions to carry out committee policies and directives. The administrator shall transmit the budget to the committee, together with his recommendations, within the time limited by law for the introduction of municipal budgets.

3.4. Budget operation. (a) The adopted budget shall be administered in accordance with the requirements of general law.

(b) The committee shall provide in an administrative code or other ordinance appropriate provision for the maintenance of a system of work programs and periodic allotments for the operation of the current operating budget. The township administrator, so far as feasible, shall install and maintain procedures to develop and report appropriate unit cost of budget expenditures.

(c) The committee shall also provide in an administrative code or other ordinance for the exercise of a control function in the management of the municipal finances. The control functions shall include provision for an incumbrance system of budget operations,

for expenditures only upon written requisition, and for the pre-audit of all claims and demands against the township prior to payment without action by the committee, and for such other safeguards of the public treasury as may be required by general law or as the committee may deem appropriate.

3.5. Personnel and purchasing. The committee shall provide by ordinance for the organization and administration of central personnel and central purchasing functions for all township departments.

ARTICLE IV

DEPARTMENTAL ORGANIZATION

Section 4.1. Departments generally. The committee shall provide by ordinance for the organization of all of the administrative functions, powers and duties of the township among and within departments. Such ordinance, or amendments thereof, may allocate, assign and transfer functions, powers and duties of officers and employees among and within departments.

4.2. Department heads. Each department shall be headed by a single executive who shall be appointed and may be removed by the township administrator, subject to the approval of the committee. Each department head shall serve for such term as may be provided by or pursuant to the charter. Subject to the direction and supervision of the township administrator, each department head shall:

- (a) Organize, direct and supervise the work of his department;
- (b) Appoint subordinate officers and employees within his department, and remove any such officers and employees, subject to the provisions of the Revised Statutes, Title 11, Civil Service;
- (c) Prepare and submit to the committee such annual and other reports as may be authorized or required by the township administrator;
- (d) Review and approve bills and claims against the township for things or services delivered to his department;
- (e) Administer his department in accordance with such standards and procedures, and account therefor, as may be approved or required by the township administrator.

ARTICLE V

INITIATIVE AND REFERENDUM

Section 5.1. Initiative power. The voters of the township may propose any ordinance and may adopt or reject the same at the polls, such power being known as the initiative. Any initiated ordinance may be submitted to the committee by a petition signed by 25% of the registered voters of the township.

5.2. Referendum power. The voters shall also have the power of referendum which is the power to approve or reject at the polls any ordinance passed by the committee, against which a referendum petition has been filed as herein provided. No ordinance passed by the committee, except when otherwise required by general law, shall take effect before 15 days from the date of its final passage. If within 15 days after such final passage a petition protesting against the passage of such ordinance shall be filed with the township clerk and if the petition shall be signed by 25% of the registered voters, the ordinance shall be suspended from taking effect until proceedings are had as herein provided.

5.3. Form and content of petition. All petition papers circulated for the purposes of an initiative or referendum shall be uniform in size and style. Initiative petition papers shall contain the full text of the proposed ordinance. The signatures to initiative or referendum petitions need not all be appended to one paper, but to each separate petition there shall be attached a statement of the circulator thereof as provided by this section. Each signer of any such petition paper shall sign his name in ink or indelible pencil and shall indicate after his name his place of residence by street and number, or other description sufficient to identify the place. There shall appear on each petition paper the names and addresses of five voters, designated as the committee of the petitioners, who shall be regarded as responsible for the circulation and filing of the petition and for its possible withdrawal as hereinafter provided. Attached to each separate petition paper there shall be an affidavit of the circulator thereof that he, and he only, personally circulated the foregoing paper, that all the signatures appended thereto were made in his presence, and that he believes them to be the genuine signatures of the persons whose names they purport to be.

5.4. Certification. All petition papers comprising an initiative or referendum petition shall be assembled and filed with the township clerk as one instrument. Within 20 days after a petition is

filed, the clerk shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition is signed by a sufficient number of registered voters. After completing his examination of the petition, the clerk shall certify the result thereof to the committee at its next regular meeting. If he shall certify that the petition is insufficient he shall set forth in his certificate the particulars in which it is defective and shall at once notify at least two members of the committee of the petitioners of his findings.

5.5. Amendments. An initiative or referendum petition may be amended at any time within 10 days after the notification of insufficiency has been served by the township clerk by filing a supplementary petition upon additional papers signed and filed as provided in case of an original petition. The clerk shall, within 5 days after such an amendment is filed, examine the amended petition and, if the petition be still insufficient, he shall file his certificate to that effect in his office and notify the committee of petitioners of his findings and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

5.6. Ordinance suspended. Upon the filing of a referendum petition with the township clerk the ordinance shall be suspended until 10 days following a finding by the clerk that the petition is insufficient or, if amended petition be filed, until 5 days thereafter; or, if the petition or amended petition be found to be sufficient, until it be withdrawn by the committee of the petitioners or until repeal of the ordinance by vote of the committee or approval or disapproval of the ordinance by the voters.

5.7. Submission to committee. Upon a finding by the township that any petition or amended petition filed with him in accordance with this article is sufficient, the clerk shall submit the same to the committee without delay. An initiative ordinance so submitted shall be deemed to have had first reading and provision shall be made for a public hearing for further consideration pursuant to law.

5.8. Submission to voters. If within 60 days of the submission of a certified petition by the township clerk the committee shall fail to pass an ordinance requested by an initiative petition in substantially the form requested or to repeal an ordinance as requested by a referendum petition, the clerk shall submit the ordinance to the voters unless, within 10 days after final adverse action by the committee or after the expiration of the time allowed for such action, as the case may be, a paper signed by at least four of the five

members of the committee of the petitioners shall be filed with the township clerk requesting that the petition be withdrawn. Upon the filing of such a request, the original petition shall cease to have any force or effect.

5.9. General or special elections. Any ordinance to be voted on by the voters in accordance with section 5.8. of this article shall be submitted at the next general election occurring not less than 60 days after the date of final action by committee or the expiration of the time allowed for action by committee in section 5.8. of this article, as the case may be, provided that if no election is to be held within 90 days, the committee may in its discretion provide for a special election.

5.10. Elections generally. Any number of proposed ordinances may be voted upon at the same election in accordance with the provisions of this article, but there shall not be more than one special election in any period of 6 months for such purpose.

5.11. Publication. Whenever an ordinance is to be submitted to the voters of the township at any election in accordance with this article, the clerk shall cause the ordinance to be published in at least one of the newspapers published or circulated in the township. The publication shall be not more than 20 nor less than 10 days before the submission of the ordinance or proposition to be voted on.

5.12. Ballots. The ballots to be used at such election shall be in substantially the following form:

“To vote upon the public question printed below, if in favor thereof mark a cross (×) or plus (+) or check (√) in the square at the left of the word ‘Yes,’ and if opposed thereto mark a cross (×) or plus (+) or check (√) in the square to the left of the word ‘No.’”

	Yes.	“Shall the ordinance (indicate whether submitted by committee or initiative or referendum petition) providing for (here state nature of proposed ordinance or proposition) be adopted?”
	No.	

5.13. Election results. If a majority of the qualified electorate voting on the proposed ordinance shall vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the township and be published as in the case of other ordinances. If the provisions of two or more measures approved or adopted at

the same election conflict, then the measure receiving the greatest affirmative vote shall control.

ARTICLE VI

TRANSITIONAL PROVISIONS

Section 6.1. Committee. The township committeemen in office upon the effective date of the charter shall continue, each for the remainder of his unexpired term, and shall constitute the committee under this charter for all purposes.

6.2. Ordinances and resolutions. All ordinances and resolutions of the township adopted prior to the effective date of the charter shall remain in full force and effect, except to the extent that they are inconsistent with the provisions of the charter, until altered, amended or repealed pursuant to law.

6.3. Officers and employees. The adoption of the charter shall not affect the term, tenure, pension rights or civil service rights or compensation of any person in office or employment upon the effective date of the charter.

6.4. Volunteer fire companies. The adoption of the charter shall not in any way adversely affect the status, rights, privileges or immunities of the volunteer fire companies or their individual members.

6.5. Administrative code. Within 20 days after the effective date of the charter, the committee shall provide by ordinance for the organization and administration of the township government in accordance with the requirements of the charter. Pending enactment of such an ordinance or ordinances, the township government may be organized and administered as heretofore.

6.6. Pending actions and proceedings. No action or proceeding, civil or criminal, pending at the time when this charter shall take effect, brought by or against the township or any agency or officer, shall be affected or abated by the adoption of the charter or administrative code. All such actions or proceedings may be continued notwithstanding that functions, powers and duties of any agency or officer, party thereto, may be assigned or transferred to another agency or officer, and in that event the action or proceeding may be prosecuted or defended by the head of the agency to which such functions, powers and duties are assigned or transferred.

ARTICLE VII

REFERENDUM PROVISIONS

Section 7.1. Submission. The question of adoption of this act shall be submitted to the legal voters of the township of Middletown at the next general election, or at a special charter election to be called by the township committee, by resolution, to be held not less than 40 days following the effective date of this act.

7.2. Ballots. The referendum shall be conducted at such polling places as may be designated by the committee by resolution. The committee may provide for the use of either voting machines or paper ballots at such polling places. The public question to be submitted to the voters shall be in the following form:

	Yes.	Shall "An act relating to the government and administration of the township of Middletown in the county of Monmouth," known and designated as the "Middletown Charter, 1971," be adopted?
	No.	

7.3. Effective vote. If a majority of all the valid votes cast for and against the adoption of this act at such election shall be cast in favor of the adoption thereof, this act shall take effect and become operative in accordance with its terms.

7.4. Validation. All proceedings of the township committee of the township of Middletown, county of Monmouth, including the elections and qualifications of its members, and all actions of the said township committee, relating to this act and to the petition of the Legislature for the passage of a special act, and the time and manner of publication of notice of intention to apply therefor, are hereby ratified, confirmed and validated.

7.5. Effective date. This act shall take effect immediately, subject to the results of the referendum herein provided. Following such referendum the township clerk shall forthwith file his certificate of the results of the referendum on the public question with the Secretary of State, and the charter shall become operative on the first day of the year 1972 next following a favorable vote determined pursuant to section 7.3.

Approved June 23, 1971.