

NJ
10
R424
1988C

PUBLIC HEARING

before

ASSEMBLY COUNTY GOVERNMENT AND REGIONAL AUTHORITIES COMMITTEE

Regional authorities, with special attention given to membership qualifications and the issue of appointment or election of members of regional authorities. The compliance of regional authorities with the Open Public Meetings Act and with the Local Public Contracts Law is also examined.

March 28, 1988
Building E
Bergen County Community College
Paramus, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman John E. Rooney, Chairman
Assemblyman Thomas J. Duch

ALSO PRESENT:

Assemblyman William "Pat" Schuber
District 38

Assemblyman Nicholas R. Felice
District 40

Walter R. Kennedy
Office of Legislative Services
Aide, Assembly County Government and
Regional Authorities Committee

* * * * *

Hearing Recorded and Transcribed by
Office of Legislative Services
Public Information Office
Hearing Unit
State House Annex
CN 068
Trenton, New Jersey 08625

New Jersey State Library



ohn E. Rooney

Chairman

JOHN T. HENDRICKSON, JR.

Vice-Chairman

I. EDWARD KLINE

homas J. Duch

eorge Hudak

New Jersey State Legislature

THE ASSEMBLY COUNTY GOVERNMENT AND REGIONAL AUTHORITIES COMMITTEE

STATE HOUSE ANNEX, CN-068

TRENTON, NEW JERSEY 08625

TELEPHONE: (609) 292-1596

NOTICE OF PUBLIC HEARING

Walter R. Kennedy, Aide to the Assembly County
Government and Regional Authorities Committee
(609) 292-1596

The Assembly County Government and Regional Authorities Committee will conduct a public hearing on March 28, 1988 at 7:00 p.m. in "E" building of Bergen County Community College, 400 Paramus Road, Paramus.

The subject of the hearing will be Regional Authorities. Special attention will be given to membership qualifications and the issue of appointment or election of members of Regional Authorities. The compliance of Regional Authorities with the Open Public Meetings Act and with the Local Public Contracts Law will also be examined.

TABLE OF CONTENTS

Page

Barry Skokowski Director Division of Local Government Services New Jersey Department of Community Affairs	6
James J. Rosenberg Director Division of Purchase and Property New Jersey Department of Treasury	15
William D. McDowell County Executive County of Bergen	19
Charlotte Vandervalk Freeholder County of Bergen	45

APPENDIX:

Letter submitted by Jeanne M. Fox Director Division of Water and Sewer New Jersey Board of Public Utilities	1x
--	----

* * * * *

di: 1-9
akv: 10-58

ASSEMBLYMAN JOHN E. ROONEY (Chairman): Okay, I want to welcome you all here tonight. I appreciate your coming out, especially since it's Easter week. We hadn't really looked at the calendar that closely, and I guess I have a nondenominational calendar in my office, and we made the arrangements figuring it was a night when we were off from our legislative duties. But again, I want to welcome you all tonight.

This is the County Government and Regional Authorities Committee of the State Legislature of the Assembly, particularly in the State Legislature. And I have with me tonight some fill-ins for regular members. We have Mayor and Assemblyman Tom Duch from Garfield, who's with us tonight and is a regular member of the Committee. And right next to him is Walter Kennedy, our legislative aide from Trenton. He is part of the nonpartisan staff in Trenton who assists us. And Walter is an attorney and has years of experience in county government, municipal government, regional authorities and many other areas, I'm sure. He's been a very very strong part of our Committee. And I'm happy to welcome the Chairman of the Independent Authorities Committee in the State Assembly, Assemblyman Pat Schuber to my right. And also the Assemblyman from District 40 -- the neighboring district from my district -- Assemblyman Nicholas Felice, also of Bergen County. We have down at the end of the table Roseanne Persichelli, who is our partisan Committee aide, from the Republican Majority staff. And we're all here tonight to look at various issues of county government and regional authorities.

I have an opening statement that I'd like to read: The entities under consideration at this public hearing are regional authorities in general, and municipal utility authorities in particular. There's no statutory definition of a regional authority. However, the Local Authorities Fiscal Control Law, enacted in 1983, contains a definition of

authority in Section N.J.S.A. 48:5A-3 that we can adopt as our own definition of regional authorities for the purpose of this hearing. The definition is as follows:

"Authority means a body, public incorporate created by one or more municipalities or counties pursuant to any law authorizing that creation, which law provides that the public body so created has at least the following powers:

- 1) To adopt and use a corporate seal;
- 2) To sue and be sued;
- 3) To acquire and hold real or personal property for its purposes; and,
- 4) To provide for and secure the payment with bonds or other obligations, or to provide for the assessment of a tax on real property within its district, or to impose charges for the use of its facilities or any combination thereof."

This definition encompasses most autonomous local authorities, such as sewage, utilities, parking, recreation, county improvement, etc. Clearly excluded are interstate authorities such as NY/NJ Port Authority, and Delaware River Port Authority, and authorities established by State law, such as the HMDC, the Garden State Parkway Authority, the New Jersey Turnpike Authority, and others.

Because they are among the largest and most influential of the regional authorities, this public hearing will focus on municipal utility authorities. The law concerning the formation, membership and powers of the MUAs is found in Chapter 14B, Title 40 of the Revised Statutes. An MUA may be established by a municipality or county, and consists of five to nine members, two alternate members, and the purpose of every municipal authority is set out in N.J.S.A. 40:14B-19, and includes the provision and distribution of adequate water supply in the local units, the relief of water for pollution, the provisions of sewage collection and disposal service, the provisions of solid waste services and facilities, the generation and sale of hydroelectric power at wholesale.

These are all necessary and vital functions, and municipal utility authorities are vested with broad general powers to enable them to accomplish their statutory duties. These powers are set out in N.J.S.A. 40:14B-20, and for the purpose of introductory statements, they are too numerous to list. However, their powers rival the powers of county and municipal governing bodies, and in some instances exceed the authority of local governing bodies, because authorities are not as closely regulated as local governing bodies.

The purpose of this public hearing is to determine how the regional authorities are using their broad powers, the extent of their compliance with the regulatory statutes, such as the Local Public Contracts Law and Open Public Meetings Act, and to investigate the need for legislation to assist authorities in fulfilling their statutory duty to provide public services vital to the health and well-being of the general public.

It's a long introductory statement, but it's very appropriate since we are dealing with a major item of government. There is also -- and I intend to get copies of this for all the members -- a report and recommendation of the State Commission of Investigation on county and local sewage and utility authorities. This report was done, and the study was done in 1978. I only had a chance recently to go through it, and it's amazing how some of the things that I have said in the last few months or even few years, have been also said before many many times and have never been enacted. So, what I intend to do is have this for the public and also for the members of the Committee -- some of you already have it -- on specific items of interest. Additionally, we will be considering a particular bill that the Bergen County Executive who is here tonight -- Bill McDowell -- has requested that we have -- and I guess Pat Schuber is the sponsor of that bill -- that we consider for our hearings and also for our Committee.

That bill is to give the County Executive the ability to veto particular minutes of the local authorities. That would be similar to the Governor's veto over the Port Authority and other authorities. So, that will be one of the items of consideration. We will use that as a basis that we will start from. We will also be taking testimony from various members of the public, and also the State people that are here today.

This is only the beginning of our Committee hearings. It is the first in what we hope will be four meetings. We intended to go to Linden and Union County next, but unfortunately there were some matters of litigation that were coming up that we couldn't go to Linden. So, we're going to postpone that to a later date. We will be going to Trenton and Atlantic County also, and taking additional testimony. I also have been informed that the League of Women Voters has taken authorities, both the State authorities and regional authorities, as their main issue in their program for this year. So we will hope to take testimony from the League; I don't think they'll be with us tonight, though.

So, at this time what I'd like to do is take comments from our people at the podium here, and I'll start to my left with Assemblyman Duch.

ASSEMBLYMAN DUCH: Well, being that this is my first Committee hearing outside of Trenton, I'm not quite familiar with making comments at this time. This is a very important Committee in the State Legislature, and I believe that the actions that we've taken thus far, and the various legislation that we've considered have been well-thought-out, and good reasons have been given for either holding bills or passing bills through onto the whole house. I anxiously await the testimony that we anticipate from various witnesses tonight, and I'm thankful for this opportunity. I think it's a good idea, Mr. Chairman.

ASSEMBLYMAN ROONEY: Thank you, Assemblyman. And I'll get to Assemblyman Schuber next.

ASSEMBLYMAN SCHUBER: Well, John, I think that this is a good idea. It seems so often our hearings are held in Trenton, and you tend to get an insulated view of the subject. This Committee session, which is devoted to local authorities, is dovetailing with a series of hearings that the Independent Authorities Committee is holding around the State with regard to the responsibility and responsiveness of the statewide authorities, in particular the Highway Authority. And we find there that one of the issues at hand is simply the fact of the responsiveness of those authorities to the public, or to those who represent the public, in particular the Governor and the Legislature. Accordingly, that is why I have sponsored the legislation that you have indicated, John, with regard to giving the county executive the veto authority over municipal -- over the county utility authorities. I think the reason being simply that when we changed the form of government in Bergen County, the real meaning of that was to try to centralize all authority to that of the executive. And that can't be the full case until such time as all governmental entities, or quasi-governmental entities are in some way responsive, or there's a mechanism for responsibility to the executive. I think the veto would do that. And that's why we're sponsoring that.

ASSEMBLYMAN ROONEY: Thank you, Pat. Assemblyman Felice?

ASSEMBLYMAN FELICE: I confuse a lot of the people that come up to do the recording, because they see me at so many of these meetings and they don't know if I'm a permanent member or a fill-in, which I am in many cases. But representing leadership, also, it's a pleasure for me because the hearings that we've held around the State for drugs, solid waste management, for ones that we just completed for airport noise abatement -- they have all been very fruitful in getting the proper direction and legislation both on a State and Federal level.

Most important, we in government many times are accused of lack of communications with our municipalities and our counties. And this is one of the finest and I think most direct ways for us to hear what the people that are involved with the counties and the municipalities have to say, and I think this Committee is going to come up with some really fine testimony.

ASSEMBLYMAN ROONEY: Thank you, Assistant Majority Leader. I left that out, sorry.

ASSEMBLYMAN FELICE: That's all right. They included the sandwiches, that's all right.

ASSEMBLYMAN ROONEY: There are some people that traveled all the way up from Trenton, and I promised them I'd try to get them out as early as possible. One of the people that has requested to be up here first is Barry Skokowski from Local Government Services. He and Mike Castiello are up here. And basically when I was looking through the SCI report and looking through some of the other previous information there was a lot of testimony by a much younger fellow at the time with a fewer gray hairs, I'm sure, I noticed here in 1978 Barry Skokowski, Local Government Services. And Barry, basically what I'd like to focus on is what you testified on in 1978 -- and privately we spoke, and you said that basically only one of the recommendations that you made at that time had been carried out. So there as a starting point, I think, that we can look at: Is the legislation that was left on the table and undone, something that we should actually hear from you to see if you still recommend it or if there are any other changes and possibly hear what we can do from this point on? Barry Skokowski, I welcome you to the table.

B A R R Y S K O K O W S K I: Thank you Mr. Chairman. It's a pleasure to be here, and I commend your Committee for holding these hearings on this very important topic. Local public authorities, especially MUAs, are spending mega-dollars in New

Jersey, and because we don't have the property tax to support them, sometimes we don't talk enough about them. I think we should. I think they should be very public entities and watched carefully.

Going back to '78 with the SCI, there had been a series of indictments alleging corruption in certain MUAs because some of the financings were cash transactions and some of the purchases allegedly were made, but goods were never delivered. Accordingly, there were people paying for stuff that was bogus. The SCI attempted to address that particular situation by suggesting that for example in the case of chemicals, they should have some kind of oversight. That really, as far as I know, has not gone anywhere. I know people are here from Purchase and Property to testify about that. In terms of compliance with the Local Public Contracts Law, that law was enacted in 1971, and that says any board, commission, agency or authority. So they are covered by the Local Public Contracts Law, okay? At least they're supposed to be covered by the Local Public Contracts Law.

The other thing that there was a lot of discussion before the SCI on was the quality of people; the members appointed to the boards, and the number and types of people employed by the boards. I note that since 1974, the Legislature has made an appropriation annually to train municipal finance officers for \$75,000. You do the same thing with municipal clerks since about 1982, and you've been doing it for assessors for even longer than I am around. We don't do that for local public authorities. It's a specialized type of accounting. It's not the same as municipal finance. There are different principles of running an enterprise versus, say, a municipal or county government.

And that, perhaps, is something that we could do. I have, over the years, met with Dr. Reock of Rutgers who runs their program for us in the finance areas and tax collectors.

And they were amenable, if they could get funding, to assembling that type of program. And I think that would be very very helpful. Additionally, all those programs are open to any member of the public, and-- Like in the area of finance, I know some accounting people and mayors who have taken these courses to try to learn them. Okay? Well, maybe if a more educated electorate knew more about local public authorities it would be much more visible. And I certainly would endorse that.

What we have done since 1983, though, is that we have put together an audit guide and a budget form for authorities. Now, unlike municipal and county governments, a budget calendar is not identical for everybody. That's because the bond covenants when these authorities were created, started say September 1 or October 1 or what have you, and therefore they run for a 12-month period. That's good and bad. It's bad when you can't compare apples and oranges as to how much has been spent in a particular year. You have to agree on what the year is. But it's also good in terms of workload for us, because of the staggered delivery of budgets to be reviewed rather than all at the same time, when it would be too much work for us. Okay.

We do think there are some changes in the law that we'd like to get back to your Committee on. One of the things is the Attorney General's office has defined authorities to include local fire districts. Fire districts have their own budget calendar predating the Local Public Authorities Law. And there are date problems associated with the two pieces of legislation. And we would like to see that changed to make it more uniform for everybody else. Of course, in a fire election, the voters vote, which is not the way it is in any other authority. Okay?

I guess getting back to the thrust, though, of the SCI report, it's very very important -- like it is in the freeholder level or the county executive, or the mayoral level

or the council level -- to have good, qualified people. And, I think that there's got to be an effort made-- SCI has the feeling that every authority should have as a commissioner a businessman or an engineer. I don't know that I personally go along with that, but certainly to have somebody who knows how to run a bigger enterprise, yes, I support that. I don't want to pick a particular science, if you will.

I also think that the people who are employed should have certain qualifications in terms of doing their job. They have to have some experience where that's appropriate. And I do think there should be a conflict of interest regulation very similar to what we State employees have to fill out -- okay? -- that's on public record and can be reviewed by anybody who cares to see it. I say the State's the model, because really it's the only one I really know and use. I'm sure there's better ones and worse ones -- okay? -- but I don't think it should be mandatory, and I think that there should be, as I do with the municipal and county levels-- If you're in the business of running a business, you shouldn't be selling to your authority or to your government. And I think that needs to be cleared up.

Additionally, the authority law gives them a lot of responsibility to do various projects; not just water and sewer. However, in the new law that came into vogue in 1983, the local finance board at the State level has to approve the project prior to its undertaking. There has to be testimony that the work needs to be done, by licensed professionals. Frankly, as a chairman of a local finance board and sitting there, every major project that we see is mandated by, guess whom? Okay? I mean, I thought for years that we were the bad division for local officials. Now we know who it is. I mean, the DEP is saying, "You've got to do it. You've got to do it now. There's going to be fine of \$25,000 a day," etc., etc. Okay? And we add testimony: Is that the most cost-effective way to do it? And the answer is -- by the engineers and the

DEP folks, and the solid waste management folks, what have you-- They all affirm the project act is good, but then we have to see if the people can afford it.

Now we have had hookup fees for sewer systems in this part of the State for over a thousand dollars. In South Jersey, we had a fight just the other day because they don't want to pay \$220. It's a tough thing. We have to make sure that when we approve these projects the taxpayers can afford it. At the same time, we have to work with the authority in meeting the mandates of the environment.

Those are some of the questions I'd like to talk to you about in further detail and in following hearings.

I also think we should discuss -- as you did ask me to discuss -- the advantages of having authority members appointed or elected. I want to address that real quickly.

Again, I think if you have people who are hardworking, you can say you'd do them a favor if you didn't make them go out and campaign. In other words, they could just be doing a hard job, because that takes a little bit of time. I don't know the answer clearly, but there is not as much oversight over an authority member. After they are appointed they are there for their term. Now, they are staggered terms, normally, which is good because not every group comes in at one time to take over. But I think we should keep in mind the fact that there is no oversight, no reporting back to the taxpayers.

I think also by appointing them we don't know what kind of experience is being used to judge their capabilities. Now, most of the ones that I know are excellent, but I'm sure there are some who don't have the same credentials as others.

Of course, if you had the election you'd have another cost. You'd have the cost of the election. You'd have the public opinion on rates. And you could say, "Well, what's wrong with that? We want to keep the rates down." We don't want to keep them down though unnecessarily, so that we have a

crisis five years from now and the rates have to quadruple, which sometimes occurs.

----- So there's a lot to think about on that particular issue, but it's--- It might even be prudent to have a mixed bag, and have one or two elected to have the citizens' representatives, and the other three appointed -- or four or five or whatever number. I'm just throwing that out. I really haven't formulated any suggestions on that particular area.

As to concern with the Open Public Meetings Act, the SCI was concerned about it, and yes, we get calls every now and again -- not a lot -- but that some taxpayer, some voter, is saying there is not enough business being done in the public setting with local authorities. I have not been able, in my 20 years of State service, to be able to find any State agency that gives direction on the Open Public Meetings Act in any great detail to local officials. The Attorney General's office, who we used in the beginning when the law was passed, more and more is saying, "Let the local solicitor decide the issue. It's not a State issue." So I think that's something that also we could look at.

ASSEMBLYMAN SCHUBER: I think the problem with that, Barry -- if I may, since this is very similar to something we saw on the Parkway -- is that relying on the local solicitor got the Parkway in trouble.

ASSEMBLYMAN ROONEY: Right.

MR. SKOKOWSKI: I brought it out. I think too that it's very important that we get something out to the public. As you know, every municipal and county budget, and every school budget, is published in great detail in the newspaper. And sometimes they're so complicated and hard to read that it's a problem. But for those taxpayers who want to read it and know about it, they can. Okay? I think we've got to do a little bit more in terms of notification of authority budgets and what transactions they are undertaking.

I also think we have to work within the community of local governments -- by that I mean the county, the school, the municipality, and the authority -- to look at something that is the one thing that I really worry about, and that is overlapping debt. Within, for example, Bergen County, you have a couple of local authorities, you have a major countywide authority, you have the county government, and you've got quite a few municipalities out there with debt. Well somebody's got to look at that whole load there, and that whole burden on taxpayers. And it is something looked at by the people on Wall Street. When they're rating our bonds they look at overlapping debt, and they'll call us up and say, "What about this, that, and the other thing?" It's something that, hopefully, is of value to you to consider.

ASSEMBLYMAN SCHUBER: Do you consider the definition of overlapping debt to be accumulated debt of the local municipalities, any regional authorities -- like regional and municipal -- original sewage authority, and the county sewage authority?

MR. SKOKOWSKI: Yeah. For example, if I was looking at a project in a borough, and wondered if they could afford it -- okay? -- I would say, "Wait a minute. They've got a local authority. How much are they paying in schools?" And then see if they can do it. Because that is really what the taxpayer has got to foot the bill for.

ASSEMBLYMAN ROONEY: Just as you were mentioning on the budgets and the publication of budgets-- Do you currently require that the budget be published for all authorities? I've got a specific situation where we had a budget in a local paper that didn't have a circulation in that town. It probably had a circulation of 10%, if that much. How does that affect--

MR. SKOKOWSKI: Yeah, they get published, but you're right about the circulation, because there is a specific statute for municipal and county governments where the

population has got to be, and the paper has got to service, "X" percent of the community. I don't think that's in there for authorities.

ASSEMBLYMAN ROONEY: I don't think some of the towns are doing it either. I think they are using papers that are cheap, and that don't have a circulation in those communities.

MR. SKOKOWSKI: Yes, that's true, and I also know some municipalities who use a paper in a different county because the readership is greater in that other paper.

ASSEMBLYMAN ROONEY: Yeah.

MR. SKOKOWSKI: It's coincidental, of course.

ASSEMBLYMAN ROONEY: Are the newspapers required to give their circulation to some agency to verify whether they qualify under that statute?

MR. SKOKOWSKI: Not to my knowledge.

ASSEMBLYMAN ROONEY: That's probably a good area for some potential legislation--

MR. SKOKOWSKI: Yeah, right.

ASSEMBLYMAN ROONEY: --to make sure that these newspapers are getting the circulation at the source.

MR. SKOKOWSKI: Right.

ASSEMBLYMAN FELICE: Barry, you brought up a point that was very valid about the ability of elected and appointed officials to really get some training, even if it's people that might have been in office for while they're appointed. Fortunately, I felt very strongly about that, having served on planning boards and councils and mayors. So many people who are dedicated and qualified, yet really do not know what their job consists of. They have to learn it through a period of time, which is wasteful for the boards and also for the community. Finally, after five years, a bill was signed into law which allows the county colleges to have those courses for elected and appointed officials -- and exactly the people you're talking about -- held in county colleges, which make it

very easy for those to go to a local county college rather than go to Rutgers, which does have those programs. So that bill was signed into law last year.

MR. SKOKOWSKI: Yes, and that bill is in our budget, so we're doing it. We're administering it.

ASSEMBLYMAN FELICE: Good, because that was my bill and Senator Cardinale's. It took five years. It's a valid point. And so many people would really like to serve and know what they're doing a lot earlier in their terms -- appointed and elected officials -- and it's a valid point. I like your idea about a combination businessman and engineer, because this way I can apply for the job when I-- (laughter)

ASSEMBLYMAN ROONEY: On two fronts, right? At least two.

ASSEMBLYMAN FELICE: Yeah, two.

ASSEMBLYMAN ROONEY: Just as a matter of record, we do have a letter statement from the SCI, and you've covered a couple of the points. I'll read it into the record as soon as you're finished.

You are finished with your testimony, and then I just want to take questions from any of the Committee members. Any additional questions? (no response) We really appreciate your coming here tonight, Barry. And we will be looking forward to seeing you at future ones. We'll try to get into some more depth on these particular issues. If you have some typical legislation that you'd like to reintroduce from this old report, I'd like very much to work with you, and the Committee members will all join on as sponsors.

MR. SKOKOWSKI: Very good. Thank you.

ASSEMBLYMAN ROONEY: Thank you for coming. Anyone else from your department that wishes to testify?

MR. SKOKOWSKI: No.

ASSEMBLYMAN ROONEY: Okay. At this time we have one other gentleman from the State, coming up from Trenton I believe. That's James Rosenberg from the Division of Purchase and Property, State Treasury. He's going to discuss the use or disuse of the State purchasing plan.

J A M E S J. R O S E N B E R G: Thank you, Chairman. Good evening. My name is James Rosenberg. I am the Director of Purchase and Property, Department of Treasury, State of New Jersey. Specifically tonight I would like to deal with the one area that I am familiar with, and that's the utilization of the State purchasing plan, better known as Cooperative Purchasing.

Within the State, the Division of Purchase and Property is responsible for letting all contract awards. All State agencies and departments must utilize these contracts when they are available. In an average year we award approximately 3600 term contracts covering a multitude of goods and services. Under the Cooperative Purchasing Plan -- it is why I am here tonight -- it is statutorily designed to extend the benefits of the State's bulk buying to subpolitical bodies. We extend the contracts for the use of the local governments under statute N.J.S.A. 52:25-16.1. It allows local county governments, boards of education, municipal and regional utility authorities, to participate in this cooperative purchasing program.

Currently, we have an active participating membership in this cooperative purchasing program of 663 agencies. Of the membership, approximately 10% are utilities and authorities. However, even though it shows 663 participating members, this only means that that number purchases the copies of the contracts from us. We charge a fee of \$150 per year to belong to the Cooperative Purchasing. However, you do not have to pay the \$150 in order to buy from our contracts. It just means that we mail you copies automatically as they are let. This is a hardship in many of the small municipalities. It's a

hardship for small authorities that do not have the \$150. In actuality it costs the State \$240 per subscriber. So the more subscribers we have-- The deficit goes at \$90 per agency.

ASSEMBLYMAN SCHUBER: For \$150, a town would then-- During the course of a year's period, you would send them automatically copies of contracts that you bid and already have let out. Is that correct?

MR. ROSENBERG: Yes. Exactly.

ASSEMBLYMAN SCHUBER: All through the year for them?

MR. ROSENBERG: All through the year. And as I said, it costs \$240 to actually pay for the postage and the paper and the handling of these contracts. We had been looking several times for different types of funding, but as yet we have not been successful.

What actually goes on is that people get them and share them with sister agencies, or one municipality buys it and shares it. When I worked for the County in Morris for several years, I would make many many copies and pass them out to people. And it was actually good for the State because it relieved them of sending out the copies.

We get an average of 10 phone calls per year from each local government agency -- I don't have them broken down as being authorities or county governments or municipal governments -- but the average is that each one calls us approximately 10 times per year for additional information.

It's interesting to note that in our last survey, which was a little over a year ago, all those agencies that responded stated that they did 82% of their purchases from our contracts. That was a lot higher than I anticipated, but yet we were pleased. It shows that we are doing a service to these subpolitical bodies.

Some of the reasons that these agencies stated that they do not utilize our contracts:

- Their volume of purchase was too small,
- Local prices are more advantageous,
- No centralized purchasing capability in their agency,
- The unavailability of contract information on a timely basis,

- And difficulty in use of using the system.

I'm not too sure -- that was not that specific, but the State does not get between the local political body and the vendor. Once the contract is let, the agency deals direct with the vendor and is responsible to the vendor for payment. So I really don't understand why some people felt there was a difficulty, yet they did.

Also in the survey, of all the people that returned their responses, they said that their savings resulting from the use of the State contracts were between \$200, and \$100,000 per agency. So this takes in a large gamut of going from small municipalities to county governments. The most important and highly used contracts that we let were vehicles -- trucks, passenger cars, and vans -- stationery and office supplies, auto parts and repairs, computers and software, police vehicles and equipment, gasoline, school supplies, furniture, fuel oil, electrical supplies, audiovisual equipment.

I myself, coming from a county government, try as hard as possible to open the lines of communication between the State Purchasing and the local governments. We have recently formed a liaison committee and we meet quarterly with municipal and county governments, and on that committee is school boards. But I have to say that there is no one from the municipal utilities authorities, or any other authorities. That might have been one that we did miss. We did go to county, municipal, and school boards, and we did not go any further.

We meet on a quarterly basis to discuss any problems that they may have, and anything that we can do in order to make the program more beneficial.

Mr. Chairman, I don't have anything else. If anyone has any questions I certainly would entertain them.

ASSEMBLYMAN ROONEY: Jim, one question on the vehicles. If for example you've gone out and gotten a contract from Ford on a particular model -- maybe it's the Crown Victoria; you have a basic model -- are additional options available off that State contract?

MR. ROSENBERG: Yes. Almost all options that are made are covered in the contract.

ASSEMBLYMAN ROONEY: All options. But they are covered as a computer printout item as an extra, just saying that--

MR. ROSENBERG: Yes, as a separate price.

ASSEMBLYMAN ROONEY: So the argument that I've heard that, "They don't have the options that we want," is not valid. Is that what you're saying?

MR. ROSENBERG: Not valid. Every single option that is on the car is available. What we've done, and naturally on the police packages there are certain standard options that are always in a police car, which is air conditioning, power brakes, power steering, tinted glass, in some cases power door locks and tilt steering wheel for the different size of police officers.

ASSEMBLYMAN ROONEY: Right. Suspension systems also.

MR. ROSENBERG: Because of this problem that you mentioned, there is what they call an ACE Catalog -- A-C-E. That contains every option made by the manufacturer. What we do is ask for a discount from list on everything that is in that ACE Catalog. And everything that the dealer makes is in that catalog. So in essence a person can get any option that they want under the contract, not buying outside the contract.

ASSEMBLYMAN ROONEY: What about heavy machinery? Do they have things like bulldozers and tractors and things like that?

MR. ROSENBERG: No. We do not go to the heavy equipment because it's so specialized. But we do have the smaller backhoes and small highway and garden type equipment for golf courses and parks and that type of equipment. We have a long list.

ASSEMBLYMAN ROONEY: I understand now you're actually going out on fire engines too, I've heard.

MR. ROSENBERG: Yes.

ASSEMBLYMAN ROONEY: That's interesting.

MR. ROSENBERG: That's a very good bill that just-- Well, it passed a while ago, and I believe it becomes effective June 1; June 1 or July 1. Independent fire companies, rescue squads, and first aid squads will be able to buy from the State contracts. We have already developed specifications and went out to bid for the individual new fire fighters equipment. There's a whole new set of OSHA standards for fire fighting equipment. Next we're going to the heavy rescue trucks, fire trucks, and that type of thing, which I anticipate will save a lot of money for people not having to bid that one time.

ASSEMBLYMAN ROONEY: My own community is looking for a rescue truck right now, and I'm sitting next to the borough attorney of that community, so-- I think the County Executive had a question?

W I L L I A M D. M c D O W E L L: (from audience) There's a question that I've been hearing from a couple of towns. Apparently there's been something that was just put in recently that communities, counties, whatever, buying gas and fuel oil, are going to have to pay whatever the tax is -- nine or nine and a half percent -- and then apply for a refund. Is there any possibility of getting a waiver?

ASSEMBLYMAN ROONEY: We're going to have a problem for the-- Are you picking him up? (negative response from hearing reporter) You're not picking him up. Bill, perhaps you can sit up here and repeat the question?

MR. McDOWELL: (inaudible response from audience)

MR. ROSENBERG: I will restate the question from the County Executive.

ASSEMBLYMAN ROONEY: From the County Executive of Bergen County, Mr. Bill McDowell.

MR. ROSENBERG: The question was the new IRS ruling 9.5 cents per gallon excise tax on diesel fuel and gasoline. It's stated that State, county, and local governments will have to pay this in the bill, and then every quarter -- semiannually or annually -- ask for the rebate back from the IRS. We have taken a different stand on the matter, and we have advised all our contractors that we will not in fact pay the excise tax, that they must pay it and recoup it from IRS. We have not had any problems to this date. I can send you a copy of my certification and my stand on it.

MR. McDOWELL: Please.

MR. ROSENBERG: One vendor said he didn't want to do it, but gladly he did it. There was confusion that we were not going to pay the bill at all, but that was not the case. We just would not pay the excise tax. The diesel fuel ruling just came out a few days ago, and that is stronger on behalf of the municipalities in that it says the manufacturer needs to do it between them and the supplier, not between the supplier and the end user. So that one is a little-- But I would certainly give you copies of that and take care of it.

ASSEMBLYMAN ROONEY: Okay. Any other questions?

ASSEMBLYMAN SCHUBER: Yeah, just on the issue of that fire truck. Have you gone out for a bid on fire equipment?

MR. ROSENBERG: Not on the trucks yet.

ASSEMBLYMAN SCHUBER: Have you developed specifications?

MR. ROSENBERG: We are in the process right now.

ASSEMBLYMAN SCHUBER: Oh, you're in the process of doing that? Do you know when that will be ready by?

MR. ROSENBERG: No, I do not. In fact, we have a priority package in the budget for, I believe it's two people and a clerk to actually do all of the specifications and handle all of the fire companies, rescue squads, and first aid squads. But even if we don't get it, it will just be a slower process.

ASSEMBLYMAN SCHUBER: Do you have a ball park idea?

MR. ROSENBERG: If you have some specific needs, I would like to get together. There's a Chief Dries that was the Fire Chief in Morris Township for many years -- he's retired now -- but he's on some committee and he spearheaded the personal equipment for fire fighters, and we did that for him. It was a group type thing under the Department of Community Affairs. But I would certainly start it rolling if you want it. I just would not like to bid for one. That would only be good for one. I would rather get a consensus and put it out once or twice a year.

ASSEMBLYMAN SCHUBER: If we had a municipality that had a question we could direct them to you?

MR. ROSENBERG: Do it. Please do it. Anytime.

ASSEMBLYMAN FELICE: You were speaking that basically at the end, the municipality would deal directly with the vendor.

MR. ROSENBERG: Yes.

ASSEMBLYMAN FELICE: But you also are indicating that a lot of the formatting and the specifications and some of the demands are set by a standard that you are doing first, even if it's the gas tax. You are doing some of the initial groundwork so that the communities are not left alone on any particular idea with the vendor that's part of the program.

MR. ROSENBERG: That is true.

ASSEMBLYMAN FELICE: So that you really are not leaving them-- And I think some of the towns and some of the people actually felt that once you made the marriage you're on

your own. And that's not really completely true, because you are sort of in oversight to make sure those vendors--

MR. ROSENBERG: We always are.

ASSEMBLYMAN FELICE: Just exactly that, that I think some of them that once you made a deal, "You're on your own. We don't want any part of it." But that's not true, and you've corrected that.

MR. ROSENBERG: It's not true.

ASSEMBLYMAN FELICE: That's important because a lot of towns felt once they were into it they had no other support, but you just proved the particular point right here with the tax.

MR. ROSENBERG: We have a complaint unit that follows up on any complaint. We penalize dealers. If they get three complaints we do not let them bid. And we do take local government complaints into account just as we do State agencies.

ASSEMBLYMAN FELICE: And of course the vendors are particularly bonded in their check match to make sure that they can perform?

MR. ROSENBERG: Yes, they are.

ASSEMBLYMAN FELICE: Okay.

ASSEMBLYMAN ROONEY: The function of checking public purchase contracts, that's the Division of Local Government Services, isn't it? Let's say for example when the fire departments were out and they were buying 100 feet of hose today, and they were buying 100 feet of hose a few weeks later, and they were buying two hats and five hats, and when you looked at the total that they were buying from one vendor it exceeded the Public Bidding Law, and they were skirting that Public Bidding Law by basically doing this and spreading out the purchase. That comes under Local Government Services too, and I should have asked Barry the question while he was here. We'll catch him at the next--

MR. ROSENBERG: That is a major problem, however, auditors should pick that up. If they're good, they should pick that up.

ASSEMBLYMAN ROONEY: Because I think this is one of the problems with the utilities authorities. They are doing things like that.

MR. ROSENBERG: Dividing purchases?

ASSEMBLYMAN ROONEY: They're dividing purchases, maybe not doing it knowingly, but they're not looking at overall total purchases for the year.

MR. ROSENBERG: Cumulative total for the year.

ASSEMBLYMAN ROONEY: So that's another area that we can look into and have them look into. Anyone else with any questions? (no response) Jim, we appreciate your coming up. It's a long haul.

MR. ROSENBERG: Thank you.

ASSEMBLYMAN ROONEY: Anyone else here from Trenton that came up to testify? I've got written testimony. What I'll do is hold that until the end, or until we get into it a little bit deeper. At this point in time what I'd like to do is have County Executive Bill McDowell come up and testify.

MR. McDOWELL: Thank you very much, Mr. Chairman, and members of the Committee. Trying to get up here from North Arlington I really should be probably appearing before the Transportation Committee. I had trouble on Route 17, but you didn't start on time so it worked out okay.

ASSEMBLYMAN ROONEY: We waited for you.

MR. McDOWELL: I'm sure, or probably tell me Duch couldn't get here either, but whatever.

I came to talk about a couple of things. First, my major subject is to talk about Assemblyman Schuber's bill concerning having the power at least to veto minutes. But I was sitting here and I made some notes about some things I've heard as I sat here.

I've been in government a long time. In fact, I served on an autonomous body called the Hackensack Meadowlands Development Commission, both as a Commissioner and an Executive Director, over the course of ten years. What I really believe is that autonomous agencies believe they have free money. They basically answer to no one. And when you begin to look at them, you find the salary scales are higher, the benefit program is better. And, Pat, you're finding that in a couple of other authorities that you're looking at.

We have talked very recently, as a matter of fact, to the newly appointed Executive Director of the BCUA and are trying to work out some similar programs, if you would, to what the county government pays -- as an example -- for retirement, and what it allows for sick time, and try to standardize those benefits. It's come to my attention that the former Executive Director of the BCUA at least, probably received a lot of money as a result of his retirement concerning health benefits that had allegedly accrued over the years. So I think it needs some standardization, because I don't think that governments of the county and municipality should be competing, if you would.

We recently lost an employee from the county system, who was an electrician, I believe he was within the traffic light system. He went and did a similar thing with the BCUA and he got a \$4000 increment. There's something lacking with that system. Either we're paying too little, or they're paying too much. I suspect that authorities in general take the attitude that they have free money to spend, and they answer really to no one.

We have three authorities in Bergen County, the BCUA, the Housing Authority, and the Northwest Bergen County Sewer Authority. We attempted in the implementation of the new administrative code to give that power, if you would -- if it be called power -- but certainly the right to veto the minutes of those authorities. Surprisingly, it wasn't challenged by

the authorities. It was challenged by one of the labor unions of the BCUA.

Judge Ciolino correctly, I believe, found that since the law was silent on the matter, if in fact when the Legislature established the county charter law, wanted that in they should have it in. Consequently, I asked Pat Schuber last fall, I guess it was, to consider legislation on that subject. He introduced it. It was late in the session. And he's back in now with A-2655 -- I believe it's called -- which would give county executives in this form of government the opportunity to review the minutes -- which we have now of course but without portfolio if you would -- and in this case to veto those minutes if in fact there were things that the authority were doing which, in the county executive's opinion, perhaps were against public opinion or whatever. And the county executive must stand for election.

I don't happen to believe that housing authorities and sewer authorities and whatever, should be elected offices. I think we have enough people running for office at the moment, and we may just confuse the public a bit. I think people who are elected, as I am, to make those appointments have to stand on those appointments when their time comes to run for election.

You may consider as a possibility that appointments to authorities might have to be no more than a certain majority of numbers in any political party. That's a radical statement perhaps, but we've done that in Bergen County on our ethics board as an example, where there can be no more than a majority of one in an ethics board; which is not an autonomous agency as you're looking at them. We hope to bring our autonomous agencies under our ethics board, I might add, so that they would have to live by the same standards that other appointments and other people that work in government should have to live by.

So basically that's what I'm here for. Maybe not at your level, but certainly at the level of the Committee that Pat Schuber serves on, maybe there's a time when certain autonomous agencies that get appointed to do a job, should at least be reviewed under some sunset idea.

I mentioned that I was a member of the first Meadowlands Commission. I served as Executive Director for seven years, so ten years of my life I spent there with a certain purpose in mind in that authority. And perhaps that particular authority has reached that with a master plan that is pretty much in fact in place. They have been relieved, apparently, of the garbage problem by some other legislation. It would seem to me that that is the type of thing that should be looked at. That's not the purpose of this hearing, obviously, but the ones that we have at least direct control over at the moment -- not control over it all, but appointing authority, if you would, to members -- the three I mentioned earlier, I would hope that we would have some authority over them in the sense of vetoing their minutes.

That was really my main purpose for coming here, but I just heard a couple of other comments made by previous speakers, and if we can get into them and insisting that they join the State purchasing plan as an example, insisting that they adopt the county's rather liberal retirement benefits -- which are the same as the State's I might add -- and not have the systems where a board of commissioners can come up with almost anything for anybody.

So that was my purpose of coming, really to basically support that particular bill that would allow the veto of minutes. I don't see that being abused. I don't see it being exercised very often, but I think it would keep the members of an authority on their toes, and not try to pass something that may not be in the best interest of the people. That's where I'm coming from.

ASSEMBLYMAN ROONEY: Thank you.

MR. McDOWELL: No questions, right? (laughter)

ASSEMBLYMAN ROONEY: You're not getting away that easily. Just to let you know that on the SCI report that I have-- I'll just read this one, "The Membership Composition: The Commission recommends that any authority's membership be required to include an accredited engineer and at least one other member who is a lawyer--" This one I disagree with. (laughter)

ASSEMBLYMAN SCHUBER: It's a good idea actually. (laughter)

ASSEMBLYMAN ROONEY: (continuing) "--with an acknowledged professional background in governmental, corporate or bond law, or 2) a full qualified representative of the financial community, or 3) an individual with proven academic credentials and experience in business administration. Most important, no local or county governing body should appoint its own members to an authority, and no political party should have a majority of more than one vote on such agencies." This is the SCI coming in. I'll read the entire report later. It's dated March 28.

MR. McDOWELL: Thank you, Mr. Chairman. I never heard that report before, but recently I was--

ASSEMBLYMAN ROONEY: This is brand new. This is March 28, of this year, today.

MR. McDOWELL: Maybe they took my appointments to the BCUA. I appointed a former judge, an engineer, and a banker, to the most recent appointments to that authority. That's not too far off, I guess. But more importantly, I think if-- I made a vow that we would try to keep that board bipartisan, and I intend to try to keep that as my appointments come up. It would help someone like me if that was law, if you would, because I get beat up by my own party for doing what I've got to do. I think that's-- You know, authorities should not be

the burying grounds for retired donkeys and elephants, I suppose. How's that? (laughter)

ASSEMBLYMAN ROONEY: I tend to agree.

MR. McDOWELL: Without knowing any of the above, of course, myself.

ASSEMBLYMAN ROONEY: Of course. Some of the things they're reporting on now go back to 1978. And one of the significant things that they're saying is that there should be qualifications to any of the people that are appointed. There was a lot of testimony at that time as to whether there should be an all appointed board, whether it should be elected and appointed officials, or it should have something similar to a planning board where you have class one, two, three, four, members. The class one member was the mayor, two is the borough officials, three is the council member, and four from the general public. So these are some of the things they'd gone over in 1978, in which I was amazed to see that they thought so well, back then in 1978.

MR. McDOWELL: We don't live in the past, but we benefit from the past, Mr. Chairman.

ASSEMBLYMAN ROONEY: Right. Unfortunately, none of these things were ever done. The other thing that I am looking at is the budget and the disclosure in the budget, which is important, I think -- and this was what Barry was saying. There are some things that you brought up that I'd like to put in. Perhaps when we do some legislation on this, that when we require in the budgets that are published by these authorities, we should probably have things like sick time, retirement time, vacation pay, all done and up-to-date, and say this is what their obligation is up to that point, what they have on the books, what's owed out; rather than have a situation like you referred to. And I know, I was there. The gentleman walked away with a quarter of a million dollars I believe it was, as far as his total package in benefits.

MR. McDOWELL: Free money.

ASSEMBLYMAN ROONEY: Absolutely. I saw the editorial in The Record. It was very interesting where Mr. Sullivan, who's the Turnpike Authority Executive Director, has two sets of policies, one for his own company and one for the Turnpike Authority. His company says that they should take their vacation every year. You take it or you lose it. The same thing with me. Either I take my vacation or I lose it.

MR. McDOWELL: I just lost two weeks, Mr. Chairman. I can see some reward for people who maybe don't take vacation time over 25 years, and the county and the State are the same. I believe it's \$15,000 or whatever. There is a number after 25 years that you can collect. But I find it difficult to find anybody all of a sudden-- I know some healthy people that spent 25 years in some job in government that never were sick a day. Super.

ASSEMBLYMAN ROONEY: That's right.

MR. McDOWELL: That's great. But to pay out the kind of numbers we're talking about is kind of, to me, unconscionable. I think that the BCUA, and the Northwest Sewer Authority, and the Housing Authority, will adopt in the not too distant future, programs that are more similar to the County of Bergen. However, at least in the case of the BCUA, they have also a separate union. I'm not sure what's been negotiated there. That's the excuse that authorities use for management, that they've negotiated contracts away. I must tell you that the union concern when they opposed the veto power of the county executive was that he should not be able to veto a union contract that they negotiated with those commissioners, whoever they may be. I'm not sure that would be corrected by this legislation, but at least it's a leg up in allowing us to get into the minutes of those meetings. I think it's important. I really do.

ASSEMBLYMAN ROONEY: We had hoped to have testimony from the union, particularly the one that fought you on that in court. Unfortunately, I understand Pete DeCarlo is recuperating from viral pneumonia, so he wasn't able to be here. Also Elaine Berg is recuperating from a heart valve transplant.

MR. McDOWELL: Does that tell you something about when people oppose me?

ASSEMBLYMAN ROONEY: See that? (laughter) I won't say anything to that. I'll just leave that one as is.

MR. McDOWELL: I really wasn't thinking of that.

ASSEMBLYMAN ROONEY: I won't say a word.

MR. McDOWELL: I wish I were that sharp to think of that.

ASSEMBLYMAN ROONEY: I'd better get my physical very quickly here. (laughter) Anyone else have any questions from the Committee?

ASSEMBLYMAN DUCH: Mr. Chairman, I have a question. Mr. Executive, my question is this. As I said at the outset, I'm a new member of this Committee. You're asking for the power to veto the minutes. Okay? You get the minutes -- a hypothetical-- You get the minutes and you feel that perhaps the board's spending policies have gone overboard, that they're putting too many political type people on. You have the power to veto the minutes. You veto the minutes. What happens?

MR. McDOWELL: Well, no different then what happens with the Governor when he vetoed the minutes of the New Jersey Highway Authority. They went back and came up with a better solution. I think I know what you're driving at. You're suggesting that maybe we would use this as an overwhelming weapon, if you would.

ASSEMBLYMAN DUCH: No, not as a weapon. I'm looking at it maybe as a way to control. I'm concerned--

MR. McDOWELL: My answer is the same. I don't see this as any different than the Governor's right, within the law, to veto the minutes of the Port Authority, the various highway authorities -- the Turnpike and the Atlantic City Expressway, whatever all of those are. And if you look back in history you will not see that many governors, or very often at least, vetoed the minutes. And when something hot came up that was brought to their attention, they did so. I remember some years ago with the Port Authority there was some scheme to build-- I think the Port Authority was going to build a hotel, as I recall, as part of their thing in downtown New York. The Governor at that time vetoed those minutes, and they backed off. So, I think there's an opportunity here because the person vetoing has to stand for election, or stand by his position and make whatever that position is, known. If it's a harassment kind of thing, I don't think that would stand up to public scrutiny.

ASSEMBLYMAN DUCH: No.

MR. McDOWELL: So, I'm not at all afraid of it. I think it's a good idea.

ASSEMBLYMAN DUCH: All right. Mr. Chairman, a follow-up question to that. I see that you had your hand up, too.

ASSEMBLYMAN ROONEY: Go ahead.

ASSEMBLYMAN DUCH: All right. I'm sorry. A follow-up question to that is: You indicated with some pride the recent appointments that you made to the authority. If the appointments are good quality people, and you spend time with them, and you make those appointments, why would it be necessary then to have veto power over the minutes? Is that like an additional hammer?

MR. McDOWELL: Well you know, what you think someone to be and how they perform are two different things. I think if you appoint qualified people-- I'm not so sure you can

limit qualifications for appointment to the titles I heard earlier. The down side of what you're asking me is that because we appoint Mr. or Mrs. "X" to a position, we should be able to talk to them. I don't think so. I mean, I think that once appointed that they have to do their thing as an appointed commissioner, and if they don't do it correctly in the appointing person's opinion, then that person should have a right to veto their minutes. I don't really see what-- I guess what I'm trying to say is there's no guarantee because of who you appoint, that they're always going to do everything that someone thinks is right.

ASSEMBLYMAN DUCH: Sure, but you also would have the power to not put them on again.

MR. McDOWELL: Well unfortunately, in the terms of appointments of these authorities that we're talking about -- I think all of them are five-year appointments -- they outlive you, if you would. Then you live or die--

ASSEMBLYMAN DUCH: That's possible. You're right.

MR. McDOWELL: Oh, yeah. Absolutely correct. I mean, you've got to run for reelection, but I don't know whether that's really an important thing. I think that sometimes authorities I suspect, having, as I mentioned earlier, served on one, are sometimes guided by the information they receive from staff. Sometimes it could be misguided, as an example. And they vote whatever they think. I think another whack at that staff opinion, if you would, since it's suggesting to the commissioners or the authority members that they ought to do something-- And if someone says, "Maybe you shouldn't do that," then it becomes a bit of a debate, and what that leads to is some kind of a compromise.

A veto of the minutes doesn't kill the project. But number one, it puts it before public scrutiny, and authorities as such -- until recently at least -- in the State of New Jersey they were totally anonymous. Never mind autonomous,

they were anonymous, and no one really knew what went on. I think if on occasion a dispute arises, that's certainly going to come out in public. And whether the issue be, whatever it may be, it could lead to some compromise of that issue or a backing off by that authority, probably based on the opinions they were receiving from staff people.

So it doesn't necessarily have to do with the person you appoint, who may be guided by some opinion they're receiving from a staff engineer as an example, or a staff accountant, or whatever, but I think it gives another shot for the public at least to take a look at it.

ASSEMBLYMAN DUCH: One more question, and this is a little bit out of the Committee's domain, but-- The BCUA particularly, I want to address that-- One of the communities in my district -- and naturally I'm still the Mayor of it, at least for a little bit longer -- is the City of Garfield, and we do have in our community a transfer station. And we were looking to participate as a host community in trash removal. Now somehow, I don't know if it's my administrative people or the administrative people at the BCUA, but we don't seem to be able to communicate. The city is being deprived of the opportunity to be a host community, and it's being done by the BCUA, and with no voice or opportunity for input.

MR. McDOWELL: Let me just say something about that, because I'm not sure that's totally true, Mayor. The State of New Jersey passed a law, the Solid Waste Management Act as I recall, and supported by some other activities of the Public Utilities Commission, that said that garbage in a region -- in this case Bergen County -- must go-- And by the way, it goes through the BCUA, not the county government in this case.

ASSEMBLYMAN DUCH: I understand that.

MR. McDOWELL: But the State -- and that's being challenged-- Maybe we shouldn't even be talking about it. There's a challenge. I don't know where that stands in court.

There's a challenge by certain garbage folk -- or transfer station people, whatever -- challenging the right of the State in this case to dictate that all garbage must go through somebody. That didn't say that they couldn't stop at the transfer station in Garfield or Hillsdale or whatever, but what it did say was the BCUA has been designated, in Bergen County at least, as the single entity to control the flow of garbage. You may disagree with that. The reason for that, you cannot get into the real world of the ultimate end of garbage -- which hopefully is going to be resource recovery -- and an authority cannot commit to build a \$300 million or a \$400 million facility unless it knows it's going to get "X" number of tons through the door. That's the background of that.

So the fight you're talking about is being taken on by lawyers. The case was supposed to come up last week and I have heard no more about it, but I suspect it will be there pretty soon. I can't really comment any more than that. All I really know is that to build a facility for the permanent solution, I know it cannot be done unless there is guaranteed flow of garbage that goes through that facility. And that's the beginnings of what we're into now. That was established by the Solid Waste Management Act that dictated -- how many years ago? I don't remember -- some years ago when counties were designated, each county, 21 different counties, to handle that problem. In Bergen County, in 1981 or '82 it was delegated to the BCUA.

So I don't know. Maybe you're not fighting the real enemy. The BCUA is doing what the law dictated them to do, I think. That will be determined in the courts. But I suspect that if you're not happy with that, that putting on your other hat, and as an Assemblyman you better look at what the DEP delegated by law to the counties, and what the BPU did.

ASSEMBLYMAN DUCH: I understand that they delegated, but I think there's a conflict in the law between the Host Management Act and the Solid Waste Management Act.

MR. McDOWELL: All of those were adopted in Trenton.

ASSEMBLYMAN DUCH: I think that's part of the problem. I really do. I think there's nobody who really understands that. I think that's what it's coming down to.

MR. McDOWELL: And I probably plead guilty. Me either.

ASSEMBLYMAN FELICE: Mr. Chairman, not to beat a dead horse, but we had five hearings, the new Assembly Committee which is Solid Waste Management -- which I'm privileged to be on. We met with the haulers. We met with the DEP and the DOT. The Executive, Mr. Chairman, is absolutely right, in that in order for resource recovery to work, especially with the mandatory recycling, we must have a constant flow from different areas to feed those areas. And this thing has been back and forth for a few years. But I think with the four or five hearings we had in this State-- I know the haulers would like to do their thing. We have found that sometimes they're not doing the right thing, since we found that some of them are hauling their garbage on flatbeds to Alabama, out-of-state, which is also illegal. So I think that this is all coming to a purpose and a head. I have to agree. As such, your situation is a situation that the State has mandated, and the State is going to control.

MR. McDOWELL: But I take very strong exception to Commissioner Dewling's remarks last week before the Assembly Committee on the Budget -- whatever it may be -- and others that do nothing for the counties, do nothing for the towns, because they knew this was coming, and consequently let them pay the freight because it's too bad.

Let me tell you something guys, and it's not part of this hearing I suppose, Bergen County -- I can't speak for any other county of the 21, but Bergen County -- when I was Freeholder Director in 1970 bought 170 or 180 acres in Lyndhurst to solve our problem for a long time, half of which we couldn't dump on now because it's wetlands, and we still own

it. We own a piece of wetlands property of 80 or 90 acres -- 80 or 90 acres, 110 acres, whatever it is -- in Lyndhurst. We can't dump there. It's now considered wetlands under DEP, under the Army Corps of Engineers. The BCUA attempted, has been attempting, to build a resource recovery plant in Ridgefield, not that they want to go to Ridgefield. Lyndhurst had a public referendum and said, "Bring it here." Had they done that, or had the HMDC -- another authority, which I used to be a member of-- Another authority says, "You can't go there." Upland piece of property-- "No," Army Corps of Engineers. Two-and-a-half years I believe it is now--

ASSEMBLYMAN ROONEY: Three.

MR. McDOWELL: --three years, the BCUA has been unable to get a permit from the Corps of Engineers. So you want to talk about authorities and people getting in the way of each other, and then having Commissioner Dewling -- a personal friend of mine -- go before a budget committee and say give no relief to the counties or the town because they didn't do anything to help themselves, that's not true in Bergen County. It is untrue, and something should be done about it. Whether it comes out of that surplus, or tax "crazy" -- whatever that's all about -- is unimportant to me, but it is the towns of this county, everyone of them, is looking at a six-point tax rise on garbage alone. This is the wrong place for this, but as long I'm here, I've got to espouse it.

ASSEMBLYMAN ROONEY: No, it's the right place, because BCUA comes under this particular--

MR. McDOWELL: But they have done everything, at least to the best of my knowledge, and they were put in the game late too; at some point in 1978 or '79 when the DEP decided by a stroke of the pen -- when Jerry English was the Commissioner -- that the BCUA and not the HMDC was in charge of garbage. It allowed the HMDC, who was mandated from the beginning to come up with the solutions for garbage, to wash their hands. They

became an environmental agency, and forgot to worry about garbage.

ASSEMBLYMAN ROONEY: Well, just to punctuate what you've said, I was Commissioner when we sited Lyndhurst. We knew that that was the best site for it. No questions. There was no problems. It was probably 20% of the cost of the Turnpike access at that time to go to Lyndhurst rather than go to Ridgefield, and here we had one State agency telling a county agency, "You can't go there." They put us in Ridgefield. They put us in litigation. They put us in wetlands, and they also put in a situation where we had Turnpike access problems. They put us two years behind. If we were in Lyndhurst, we'd have been in the ground. We would have had part of a plant built by today. And here you had one State agency say, "You can't do it guys," and they put us in all of this problem, this mess.

MR. McDOWELL: Maybe we need an Assembly committee to look at Assembly committees. I mean, look at various and sundry departments of the State government who get in each other's way.

ASSEMBLYMAN ROONEY: Well this is Pat's bailiwick when looking into the HMDC. I'd like to put that on record as to what actually happened. And not only that, when we were sited by the HMDC in Ridgefield, we were promised by the then and now Executive Director, "Don't worry. If you go along with the siting of this in Ridgefield, we guarantee that you won't have any problems. You'll stay in the district as long as you need, for any delays caused by this site." That was told to the Chairman then. It was told to me a year-and-a-half ago when I was co-sponsor with Harry McEnroe on the bill to keep all four counties in the Meadowlands. I was told by Mr. Scardino at that time, "Don't do that. You're hurting Bergen County. Get off the bill." And I did, because I was promised again, "We will take care of Bergen County's garbage problem if you have a

problem due to our siting." All of those promises were, not even forgotten, but then we wind up with the problem of the residual not being allowed in the District. That was as recent as last December. There's a lot of problems that we have with State agencies controlling our destiny, and putting us in problems of putting together a good effective plan, and interfering.

ASSEMBLYMAN FELICE: That's changing, John. Unfortunately what you're saying is absolutely true. Through the Committee and through the Assembly last week we passed legislation that said the DEP must, within a 10-month period come up with a permit. They had a six- and eight-month, and then it was two- or three- or six-years before you got it, and by that time it was obsolete. So hopefully that will be telling the agency that they must set a time limit.

ASSEMBLYMAN ROONEY: But Nick the real problem--

MR. McDOWELL: You know what really galls me though? And I was there then, and I know what I'm about to say. This garbage crisis was predictable. We predicted it, if you would. We went out and spoke to 122 communities, whatever our responsibility was with the HMDC, and went to Trenton, and went to the DEP, and suggested to them that the time was running short. In those days, believe it or not, garbage was being dumped for \$2.50 a ton, and we talked about resource recovery in a place in Kearny called Copper's Site at \$18 a ton, and we were laughed out of the place. Nobody would put up a dime, and the HMDC had no money to do it. We had authority by the enabling legislation, or a mandate if you would. Everybody said, "Get lost. Go do your thing but leave us alone."

Now the time has come to pass, and I do not accept the present DEP saying that the counties and the towns, or whoever, was responsible. First of all, anybody that's elected now wasn't there then. There are only a few of us that old that remember those days, and I'm one of them. I think it's wrong.

But again, this is not the purpose of your particular hearing here tonight.

ASSEMBLYMAN ROONEY: Well, it is part of the purpose. The other thing I was going to say is that the 10-month may be realistic today, but the 10-month as far as the Bergen County permits-- What happened was, as a result of the siting we wound up with conflicting authorities. We had the FAA telling us that we could not put a smoke stack up where we were going to put a smoke stack, and we had Air Quality at the DEP saying, "You've got to go up that high because if you don't go up that high you're going to have emissions problems." So we had a Federal agency telling a State agency, "You couldn't do it." Why? Because we were in Ridgefield. Not because of anything else but being in Ridgefield. Lyndhurst? No problems, smooth permits. This was the real problem that we had.

MR. McDOWELL: We have a bigger problem today. Let me tell you what I read in the paper, and that's all I know about this.

ASSEMBLYMAN ROONEY: I've checked. It's not true, Bill. Don't put that on the record.

MR. McDOWELL: What, the Corps of Engineers?

ASSEMBLYMAN ROONEY: It's not true.

MR. McDOWELL: Well, okay. It should be said. They haven't issued the permit.

ASSEMBLYMAN ROONEY: We will have a permit within the next four months. We've got EPA's-- Well, I shouldn't get into that. That shouldn't be on the record.

MR. McDOWELL: Okay, however--

ASSEMBLYMAN ROONEY: The other thing -- before you go -- that is of concern is when we look at the county executive having that much power to veto the minutes, again, if we're in a situation of a benevolent dictator such as yourself that's one thing, (laughter) but suppose we get the despot or the person that's in there-- I'll give you a good example. In

your own situation where, let's say the BCUA had to site in North Arlington with the residual landfill, your own hometown. You and the Mayor of that town, your aide, are both in a very very precarious position. It puts you into a situation where if you had veto power at that time over the minutes of that authority, you would have been in a position -- and I think publicly I remember at that particular meeting when we did the siting, Lenny Kaiser got up and said he was absolutely opposed to that site -- you would have been in a position that put you against your own community.

MR. McDOWELL: I probably would have moved to Wyckoff. (laughter)

ASSEMBLYMAN ROONEY: That's one consideration. The reason we--

MR. McDOWELL: All of those things, John, are possible. You know, you can come up with a lot of reasons why someone is going to do something stupid.

ASSEMBLYMAN ROONEY: I have to be the devil's advocate, because these are things that were said while I was a member of that body.

MR. McDOWELL: I can't answer for what someone else might do. It wouldn't bother my conscience to do what I thought was right to do. But there's no guarantee of any of us that someone is going to be so magnanimous when they get elected to overlook their whatevers. But then you throw the rascal out, I guess, or whatever you have to do.

ASSEMBLYMAN ROONEY: What it comes down to is that we're almost back in a situation where if you give that veto power to the county executive and he has that authority, why do you really need the board? It could be then pulled in as another agency of State government. You're taking their autonomous nature away from them. I'm being the devil's advocate here, because these are things that I've heard while I was a member of the Authority. Maybe we're wrong in making

them autonomous at all? Maybe they should be a part of the county government?

What we tried to do, if we go back to the original concept of autonomous authorities, it was to take the political pressure away from these particular things, the NIMBY situation -- not in my back yard -- put it to an autonomous board who had the authority, where they weren't going to get the political influence. The other thing is, if you have five, seven, or nine members on an authority, one person is not going to influence it that drastically. So these are the reasons for it. We have to listen to pros and cons, both sides of the coin.

MR. McDOWELL: I'm not suggesting that autonomous authorities should be done away with at all, but I don't see any, any, checks and balances on them under the present setup. That's my concern. Whether I'm there or I'm not there is really unimportant, but I think for the future of things there should be a check and balance, and we really don't have that.

ASSEMBLYMAN ROONEY: I agree.

MR. McDOWELL: Now to put everything under anybody, you know then you could say, "Well then let's do away with everything. Let's do away with the Turnpike." Most of these things are set up under the right intentions, and most of them -- all of them, if you would -- have proven to be good things as a result of some of the things that you just said they operate outside of. My concern, having been in one -- a State one, however -- is maybe you get beyond the original intentions. I mentioned a few things. They sometimes have outlandish benefit programs, or they have outlandish giveaways--

ASSEMBLYMAN ROONEY: Right. I agree with that.

MR. McDOWELL: --convention programs, or whatever they may be, and that bothers me. I don't know how else to get at it? If you've got a better way to get at it, I have no problem with that.

ASSEMBLYMAN ROONEY: I think some of it comes under the Sunshine Law. Like, one of the things I found at the BCUA that was just a horrendous situation is that all of their junkets -- and let's call it what it is -- all of their junkets are done under an education budget. And a number is put in there, but it's really not put down as convention, not put down as any other expense but education. Then what happens is that during the year people are asked, "Do you want to go to this? Do you want to go to that?" They put their name in. And normally, giving BCUA as an example, I was told when we went that we would go to two conventions per year. One was the Water Pollution Control Federation, and the other one was the AMSA -- Association of Metro Sewerage Agencies. Those two wherever they were, we were allowed to go to. Then anything in State was also allowed, and your expenses would be paid. I've seen situations where people went to five, six, seven different conventions, and never once was this done on public record, never once was permission granted at a public meeting. It was something that was passed around. "Here's an application to fill out." You put it into the Executive Director.

MR. McDOWELL: Confession is great for the soul, I guess.

ASSEMBLYMAN ROONEY: I've never violated that particular--

MR. McDOWELL: I'm only kidding, but that's a good example. I don't know what the examples may be.

ASSEMBLYMAN ROONEY: That's an excellent example, but you would never have seen it. I'm saying that we have a Sunshine problem here. I have legislation that's proposed to change that, that will require at the beginning of the year you publish that this is your budget and what it's for. And then at a public meeting you put down who of the members are going to this, and it be voted on at a public meeting. Then, when they come back with their vouchers, etc., everything be put

together; and this is a total expense, not taking a separate travel expense, and a separate hotel expense, and a separate per diem expense. These are some of the ways we've gotten around it.

MR. McDOWELL: They should probably be done at every monthly meeting.

ASSEMBLYMAN ROONEY: Absolutely.

MR. McDOWELL: No question about it. The county would have to do that.

ASSEMBLYMAN ROONEY: These are things that we want to do to eliminate some of the abuses of the system. The other thing is, I've looked at other legislation to take things like the benefit program -- with the sick days, with vacation times -- and at the beginning of the year you have to show a debt statement saying what your accumulated debt was in regard to what you owed, and had to include that in your budget also.

MR. McDOWELL: Well, I just think the authorities in the counties certainly should have no more liberal program than the county has. In our case, I think I just lost, I forget, two weeks, twelve days, whatever it was, of vacation time which I didn't take. I think you're allowed to carry over two. But whatever our program is, they should have no different. We can carry sick time, and I don't think that's a bad idea in case somebody gets a serious illness, but there should be some limit on what someone can collect at the end. That's done in Bergen County, that's done in State, obviously not done -- from what I'm reading in the paper -- in other State authorities.

ASSEMBLYMAN SCHUBER: Not in the Turnpike.

ASSEMBLYMAN ROONEY: One of the other areas that I have a real problem with is that the BCUA -- and I can only go by examples of what I've seen personally -- one of the abuses that I've seen, or potential abuses, is they publish a salary range list, and a salary range list on a particular job might be from \$40,000 to \$60,000. That's not a range. That's a wish list.

MR. McDOWELL: It's a spread.

ASSEMBLYMAN ROONEY: That's one heck of a spread, but a 50% spread is ridiculous. But then the next thing--

MR. McDOWELL: Let me ask you, how would you correct that under today's rules? You can't.

ASSEMBLYMAN ROONEY: Yes, you can. We have some legislation that is pending on--

MR. McDOWELL: Well, but it's pending. I'm saying, I would like to look at those kinds of things. And if that happened to me--

ASSEMBLYMAN ROONEY: Let me go one step further--

MR. McDOWELL: --I would suggest that-- Without looking at things-- But if someone sent me that kind of a salary thing, I would reject that. And what would that lead to, as Tom asked me before? It would lead to a compromise. Maybe it's between 40 and 48, or whatever the numbers are.

ASSEMBLYMAN ROONEY: But Bill, I had no problem going along with that, provided that the range adjustments be made at public meetings. The next thing they turned around and did was put a resolution through that the executive director, or acting executive director, and then with a compromise, with the approval of the three members of the personnel committee -- three guys in the back room -- could make any adjustments within the range without ever coming to the public body. That is a total abuse of the system. It was done at the BCUA. It was done in January of this year. I voted no. One of nine. But these are the things that we're trying to prevent, and these are the things we're trying to do to change and give the public a better impression of these authorities.

MR. McDOWELL: One of the places I suggest you do that is by giving an elected person -- whoever the county executive may be now or in the future -- the right to veto such an action. That certainly would have been one. We just had something that somebody was trying to push on the freeholders a

week or so ago. Oh I know it was, insurance settlements. There's a number now that the insurance committee can settle, I guess with my concurrence, up to \$7500 or something like that.

C H A R L O T T E V A N D E R V A L K: Twenty five thousand.

MR. McDOWELL: Twenty five thousand.

ASSEMBLYMAN ROONEY: Twenty five thousand?

MR. McDOWELL: Well that's all right. In liability that's fine. They want to go to 100. I don't want that authority. I don't want that power. I just don't want it. I think the elected body that sits, in our case, as a legislative group, should certainly review things over 25,000. That came out of some recommendation that was made, not by me, and I would oppose that. I don't want that kind of-- That could lead to too many abuses potentially.

ASSEMBLYMAN SCHUBER: That's I think what we're looking at I think, Bill, simply the fact that all public authorities are now under scrutiny, a la the Parkway, and I think that we're looking at it from the point of view of a gamut of options: One, do we leave them the way they are? Do we disband them? Do we do something in between? I think if I were to--

MR. McDOWELL: Well, you can't disband them.

ASSEMBLYMAN SCHUBER: No, I appreciate that.

MR. McDOWELL: With the bond covenants they have, we couldn't afford it.

ASSEMBLYMAN SCHUBER: That's the major impediment.

ASSEMBLYMAN ROONEY: We can't afford it.

ASSEMBLYMAN SCHUBER: We've been taking the testimony that economically it's not something the State can afford to do, but that doesn't mean we can leave them the way are. We shouldn't, and we can't, and we're looking for methods of reforming them under the guise of making them more responsive to those who are elected. In particular that's why I find the gubernatorial veto as an extremely important power to the

Governor. It certainly has put some crimp into the Parkway's plans here. And I think that you should have the same authority with regard to the BCUA for the same reason. You are the central authority and the elected authority, and all that goes on there, regardless of the appointments, may not necessarily be in the public interest.

We're looking at a whole gamut of things that we would like to see done with authorities, including their own public appropriations process where they have to come before a public body and go over their budgets once a year, regardless of how they do it within their own entity. And the conflicts of interest laws I think should apply to them. I strongly concur with you; their benefits package should be no different than is provided for any other employee of that particular jurisdiction. We're heartily revolted by the Turnpike's benefit package to its outgoing Executive Director, which we hope to put a crimp in before the end of the week.

So I concur with you, Bill. I think if the Governor didn't have a veto over these authority minutes we would be making that recommendation right now.

ASSEMBLYMAN ROONEY: Part of the solution may also be the terms. The terms, as you said, they outlast you. Perhaps going back to the three-year, because it was only expanded to five years I guess-- When was it? About 10 years ago?

ASSEMBLYMAN SCHUBER: Ten years ago.

ASSEMBLYMAN ROONEY: And maybe it should be a three-year term. Have these people come up more often, so they are more responsive and not as anonymous as they are at the current time.

ASSEMBLYMAN FELICE: You have a question there too, because if you have good people, and you've gotten people to dedicate themselves to be a part of something, it's not that easy all the time to find the qualified people you want.

MR. McDOWELL: So you reappoint them. There is nothing that says they can't be reappointed.

ASSEMBLYMAN ROONEY: But that's another way to have your veto power in another way if the person is not performing.

MR. McDOWELL: The appointment power is one thing, but the veto power is a now thing. I mean, when I say "now" it's on an issue that comes up right now. An appointment is maybe a year from now, or two years from now, or three years from now, or five, whatever it is it's not important to me. But the potential veto power -- and if you look at how many times the Governor has exercised veto power, I suspect--

ASSEMBLYMAN SCHUBER: It's not been often.

MR. McDOWELL: I do receive minutes now, by the way, from both of the sewer authorities in Bergen County, with a note saying, "This is for your information. It has nothing to do with you. Goodbye, and thank you very much," which means nothing. We can comment. Sure, we can make noise about something that's in those minutes, but that's a lot different than having-- I think it would bring a certain caution to the authorities, and I suspect that authority members or commissioners -- whatever they be called -- are somewhat guided by what the staff recommends. And sometimes, particularly that used to be true at the HMDC--

ASSEMBLYMAN SCHUBER: We found that to be the case. I think, Bill, there's two reasons: One, I think it's the authority that you should have as a county executive, I don't think there's any question in my mind; but it also fulfills another purpose which is drawing public attention to the issue, which is important also, because so often what happens in the authorities is very rarely covered very well. Their operations many times belie public participation, quite frankly. I think the veto, used properly, can do that, and I think that John's bills that he has put in in this area go to the same issue that he's done, which would be good companion pieces to some of these bills. I think they really go to the same issue of bringing public attention on certain areas that when the press

does light on them, become major cause celebre, and everybody wonders how they got along this way for so long doing that.

ASSEMBLYMAN ROONEY: Any other questions? (no response) Thank you, Mr. County Executive.

MR. McDOWELL: I am excused?

ASSEMBLYMAN ROONEY: Yes.

MR. McDOWELL: Thank you very much.

ASSEMBLYMAN ROONEY: You're welcome.

We also have Freeholder Charlotte Vanderwalk with us tonight. She has a statement that she'd like to make. Charlotte, how are you? This is my Freeholder by the way, from District 39.

MS. VANDERWALK: Good evening. I have a short prepared statement and then I would like to say some other things as well. I have copies but I guess you won't need it.

Something is wrong with the system. Something is wrong with the system when the BCUA is the official agent of county government, and yet the freeholders don't appoint the BCUA Commissioners. We merely have the right to approve or reject an appointment offered by the county executive. Something is wrong with the system when the freeholders approve a plan, which is not followed by the utility, and there's no way to settle the matter in a timely manner. Something is wrong with the system when the public foots the bill, and yet has no way to control the spending. The BCUA makes an impact on municipal budgets that is probably greater than any other item outside of education, and yet no one -- neither the taxpayers nor the elected officials -- can exercise any controls. The real problem is clearly lack of control.

As long as we're talking about placing controls on public agencies, I want to emphasize very firmly that the control must not be given to an agency that is even further removed from recognizing the direct wishes of the public. We need a mechanism that will respond to the local community and will do so quickly.

One such mechanism is veto power for the county executive. It is absolutely essential. The need is immediate, and I hope you can convey that message to your counterparts in Trenton.

You know, there's been a lot said tonight in the way of referring to the public's right to know -- the Sunshine Act, a disclosure -- and that's wonderful. I don't have any problem with that. It should be so. But the problem is, what happens when the people finally know what the problem is? There is nothing they can do about it. There is absolutely nothing the public can do about-- Now, I'm focusing on the BCUA. That's only because my experience is with the BCUA. But there's absolutely nothing that the public can do or any elected official can do. There is no mechanism in place for anybody to do anything.

For instance, there was something mentioned, again, combined with the executive's ability to veto. If for some reason we the freeholders were to hold a public hearing on the budget, again to shed light on a situation, it would be a very simple thing that the freeholders could do. But again there's no real substance that would come out of it because there's no action they could take. But the combination of a public hearing focusing on the document, on the plan -- because really the budget is a plan, it's not only a mechanism to expend money, but it's a plan of action -- and by focusing public attention on that through a public hearing, combined with a county executive's veto power, that's like a one/two punch.

The public frustration is such-- You had that with the New Jersey Highway Authority. The public became aware over and over again. Every day there was something else that came to light. The public was very frustrated and became very agitated because there was nothing they could do. But there was one thing that somebody could do, and that was the Governor, because he had veto power. And he did make something

happen. With the BCUA there is nothing anyone can do. There is nobody that has any type of checks and balance on that.

There is another utility authority in Bergen County, the Northwest Bergen County Utility Authority. They have representation from just about every town that they service. I believe it's about eight or nine towns that they service. And it just so happens that they do have a commissioner from just about every town. That's not by statute or any other requirement. It just fortunately has worked out that way, and it has worked out that way very well, I believe, in my estimation. But with the BCUA they are servicing at least 69 towns. There's 70 towns in the county. There's no way, obviously, that you could have a board comprised of 70 members, at least I don't think you could and I'm not suggesting that. But somehow if you could bring the local elected officials or the county officials working closer with the BCUA, somehow, if you could develop some mechanism, I think that the public will benefit.

You know, you have-- Again the local towns have to raise their taxes to cover the BCUA bill, and it's a very substantial portion of their budget, and it certainly will be from now on. Yet, there is nothing they can do to control that. Now you say, -- or we say, everyone says -- "Well, they're autonomous." Yet, you have schools, in the example of Bergen County you have the Bergen Community that we're in tonight, you have the special services school district, and the vocational school. You have three separate school districts that are autonomous under the law, but have to go to the freeholders to get their -- well, I don't want to say to get their budget approved. That might be technically incorrect, but it's pretty close to that because what we have to do is come to an agreement on the amount to be raised by taxes. So that happens for certain autonomous agencies, the schools, and yet it does not happen for the utilities.

And somehow, gentlemen, I hope there's some mechanism that you can devise to make a change there. Either they come to the county and their bill has to pass through the county, or they have to deal with the local municipalities. Quite possibly, it might be a good idea to have -- again, I don't know how you could have a group of 70 representatives, one from each time, but possibly you could do something on maybe more of a regionalized basis, or to have an open invitation and obviously some towns will not be as active as others. But there has to be some way where you can have a local response, part of a checks and balance.

ASSEMBLYMAN SCHUBER: Charlotte, I would concur with your statement. I think two things. One, again I would reiterate what I said before with County Executive McDowell, and we certainly support his sponsoring of the legislation of the county executive's veto.

But the other thing that you touched upon, which I think is so apt, which is something we're developing for the statewide authority, is the public hearing process for the local jurisdiction to handle the authority's budget, which you've asked for here. I think it's a good recommendation. As you said, you may not have the authority to do anything as a result of it but you have the opportunity to put it under the public microscope -- or telescope, or whatever you want to do -- and hold a hearing on that.

But I'm going to carry that a little bit further, because I think I touched upon something I think County Executive McDowell is looking for also, and I think you're entitled also to, and that is to develop your own fiscal experts on your own staffs with regard to these types of matters. We find on the State level that we don't have as many as we should have to look at authorities. We have one in the Governor's unit right now. The Governor has his own Independent Authorities Unit. He's only got one fiscal expert in there. There's no way you can overlook those things.

MS. VANDERVALK: Just to give you an example--

ASSEMBLYMAN ROONEY: Let me interrupt for one second.

MS. VANDERVALK: Yeah.

ASSEMBLYMAN ROONEY: I was smiling here because the BCUA is required to have their budget published and heard. I don't know if you know when they heard it, but it was Christmas week this year. So that gives you a good idea of how they conduct their business. It was Christmas week and I think there was a total of maybe three people in the audience. So these are the loopholes in the law that we have to plug. We have to prevent that type of situation. They're required right now-- Barry Skokowski confirmed that they're required to publish their budget. They have to submit it to all communities. BCUA has The Communicator. It does a good job. It publishes their budget. There are many hidden items in the budget that I'm trying to open up. That will be the point of my legislation.

The other thing is to make sure the hearings are on dates when the public can attend, and also the municipalities. I'm going to miss Lou Goetting from Bergenfield very much, because he did come to all the meetings. He was very astute, had gone over the budget. Unfortunately now he's down in, I believe it's Middlesex County, down in East Brunswick or South Brunswick.

You're absolutely correct. We agree with you on that. We've got to change it.

MS. VANDERVALK: We had invited the BCUA on a specific matter, but we had invited them to the freeholders' meeting recently, and part of the discussion focused on some documents that they submitted to us that day that were budget items. It was actually a "projected statement of operations," technically is what they called the document. And I did not have an opportunity that day to ask the questions that I wanted to ask -- because of circumstances I don't want to get into right now

-- but two days later I sent them a letter itemizing seven points, questions having to do with their operating statement, which in effect is a budget document. I asked if I could have the answers to that by our next freeholder meeting. It is now about ten days since I had the letter hand delivered to them. I have not received a response. Personally, I find that not in proper form. There's not a thing I can do about it; neither can I do substantively. If they give me the answers there's nothing I can do if I don't like the answers. So it's very important to have information, but it's even more important to do something with that information once you receive it.

I do like your idea of a three-year instead of a five-year term, because I think that is just more practical for a lot of reasons.

ASSEMBLYMAN ROONEY: It would cut down on the membership, where then you'd have more people appointed each year. If it's a three term, with nine members it would be three each year instead of two-two-two-two-and one.

MR. McDOWELL: (from audience) You can get people madder sooner. (laughter)

ASSEMBLYMAN ROONEY: Absolutely quicker.

MS. VANDERVALK: That concludes what I have. I don't know if there's any more questions.

ASSEMBLYMAN ROONEY: Thank you very much. Any questions for the Freeholder?

ASSEMBLYMAN SCHUBER: No. Thank you.

ASSEMBLYMAN ROONEY: Thank you very much, Charlotte.

MS. VANDERVALK: Thank you very much.

ASSEMBLYMAN ROONEY: Anyone else in the audience wishing to testify at this time? (no response) Any further testimony, because we have two letters that I do want to read into the record, one is from the BPU. This is from Jeanne Fox, Director of the Division of Water and Sewer.

"I have received your request for testimony concerning regional utilities, municipal, and county utilities authorities. As I discussed with you on the phone today, I will discuss the issues raised in your letter with the three commissioners. I'm certain a representative of the Board will be able to appear before the Committee to testify at one of your later hearings." They go into what their function is, and they will be here at another time.

The one from the State Committee (sic) on Investigation is an important one because it deals with some of the issues that we've touched on today. Since the SCI was the basis of this, I'd like this read, and I think we can get copies for anyone-- Okay?

"The SCI conducted an investigation of such authorities which concluded with a public hearing in July of 1982, and a subsequent report, with recommendations to the Governor and the Legislature. At that time several bills were pending in the Legislature to empower the State to control project financing by authorities and to monitor their internal financing conduct. Due in part to the Commission's recommendations for enactment of this critically important reform legislation, the proposal became law within a year. However, the Commission proposed other reforms which were overlooked but which warrant enactment.

"The notice of this hearing indicated that much concern still exists about the qualifications and conduct of authority members. The Commission's recommendations in 1982 included a number that targeted the political bias, cronyism and deplorable lack of technical knowledge among authority members regarding the complex financial and operational problems of their facilities. In order to assure that basic decisions of these authorities were founded on both integrity and expertise, the Commission urged then -- and reiterates here -- several proposals that should be implemented. These include:

"A code of ethics: A model code of ethics should be compiled by the State Division of Local Government Services to which all authority members and officers must subscribe under oath, with provisions for hearings of alleged violations and penalties for noncompliance, including fine, suspensions, and dismissals.

"Technical and Professional Training: Provision should be made by the Division for technical assistance and training of appropriate authority members and administrative and operational staff executives in connection with new statutory requirements for uniform accounting and financial reporting, as well as with related existing laws such as the Local Public Contracts Act.

"Membership Composition: The Commission recommends that any authority's membership be required--" and this I read before "--to include an accredited engineer and at least one other member who is: 1) a lawyer with an acknowledged professional background in governmental, corporate or bond law, or 2) a fully qualified representative of the financial community, or 3) an individual with proven academic credentials and experience in business administration. Most important, no local or county governing body should appoint its own members to an authority and no political party should have a majority of more than one vote on such agencies."

I'd like to point out at this point in time, and refer to a situation that has come up in Passaic County. The Passaic County Board of Freeholders has just recently started a new Passaic County Utility Authority. They appointed members of the Board of Freeholders to this particular job, and as a matter of fact, they took two of these members and appointed them to full-time jobs. The SCI is saying that this is absolutely wrong. It is a conflict of interest, and it should not happen. So, these are some things we'll be investigating at a future meeting. We will ask to have testimony on that particular issue regarding this particular conflict.

"Financial Disclosure: The Commission recommends that all authority members submit personal financial disclosures designed to prevent conflicts of interest at a time and in a form prescribed by the Division and be subject to mandatory fines of a substantial nature against both the affected member and the authority itself for noncompliance.

"Mandate Employment Qualifications: Minimal but nonetheless exacting qualifications should be mandated by the Division for appointment of executive directors or others with similar with similar responsibilities for overall administrative supervision of an authority plant. A college education, with an emphasis on business administration or engineering should be necessary, as well as a specified amount of previous working experience in sewerage and/or utility operations. A proven career background with a facility should be acceptable as an alternative to the requirement for a specialized educational background.

"Prequalify Chemical Vendors:" And these get into the purchasing of equipment.

"Almost six years ago, the Commission made the following critique of the lack of qualifications for membership and the low standards of conduct that prevailed for most county and local utility authorities:

"The Commission was appalled by public hearing testimony that demonstrated the inferior quality of appointments by certain local or county governmental entities to these authorities these entities created. The hearings demonstrated that an appointive process based too often on political connections rather than on merit generated sorely inadequate upper level policy guidance, ineffective managerial controls, and blind reliance on often incompetent staff. The testimony also confirmed that the absence of any requirement for public accountability shielded misconduct that some authority members participated in at worst, or closed their eyes to at best.

"While there has been some improvement since then, the Commission believes that its critique remains applicable to many authorities. Indeed, the agenda suggested by your Committee's hearing notice supports our concern. The Commission therefore hopes that this hearing will generate renewed efforts to further protect the public from misconduct by authorities by enacting more rigid requirements than presently exist for the open, honest, and professionally intelligent operation of such entities."

So I believe we're on the right track when we started this hearing tonight. I hope we're going to continue it with the next three hearings that we have throughout the State. At this time I will ask for comments from anyone on the Board. Anything else?

ASSEMBLYMAN SCHUBER: No, Just that I think it was a very worthwhile meeting and an enlightening meeting. John, you are to be congratulated for the topic and bringing it out.

ASSEMBLYMAN ROONEY: Thank you.

ASSEMBLYMAN SCHUBER: I think a number of good suggestions were made tonight, I think which could form a very good local utilities authority reform act. I think the future hearings will probably bare that also.

ASSEMBLYMAN ROONEY: I want to also thank the members of the Committee, and also the fill-in members of the Committee, and especially you, Pat, because we have common areas here with the independent authorities and with the regional authorities. Some of the solutions that we find are going to be in your Committee, and visa versa.

ASSEMBLYMAN SCHUBER: Right.

ASSEMBLYMAN ROONEY: I'd like to possibly sit in on some of your Committee meetings in the future, and we could work together to change some of the things that we find.

Also I want to thank the Bergen Community College for having us here and allowing us to use their facilities during Easter week when the college is closed. I want to thank the people from the State coming down for taking the testimony. Anyone else? And the people from Cablevision for recording us here tonight.

ASSEMBLYMAN FELICE: John, one thing. It saves me from having half a meeting, because we discussed a lot of solid waste management. So, it saved me another meeting. It was worthwhile.

ASSEMBLYMAN ROONEY: With that, we'll close. Thank you very much.

(HEARING CONCLUDED)

APPENDIX



STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES
TWO GATEWAY CENTER
NEWARK, N.J. 07102

March 25, 1988

Walter R. Kennedy, Aide
Assembly County Government
& Regional Authorities Committee
Office of Legislative Services
State House Annex
CN068
Trenton, N.J. 08625

Dear Mr. Kennedy:

I have received your request for testimony concerning Regional Utilities, Municipal and County Utilities Authority. As I discussed with you on the telephone today, I will discuss the issues raised in your letter with the three Commissioners. I am certain that a representative of the Board will be able to appear before the committee to testify at one of your later hearings.

The Board of Public Utilities does not regulate Municipal or County Utility Authorities pursuant to State law. However, the major impact that we have concerning these entities is when they increase their rates for service to public utilities which the Board regulates. Frequently these increases, especially by County Sewerage Authorities, have a significant impact on the private sewer utilities in this State. Authority increases are normally instituted with insufficient advance notice so that the affected utilities may recruit these legitimate expenses through a Board approved rate increase. This often results in a utility being unable to recover these expenses through rates in a timely fashion.

Walter R. Kennedy, Aide


-2-

March 25, 1988

Please feel free to contact me at (201) 648-2264 should you desire any additional information on this particular subject or on any other which may be relevant to the Board.

Again, thank you for your invitation.

Very truly yours,


Jeanne M. Fox, Director
Division of Water and Sewer

JMF:eg

2X

