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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.

May 3, 1988
First Floor Auditorium
Atlantic County Administration Building
Atlantic City, New Jersey

MEMBERS OF COMMITTEE PRESENT:

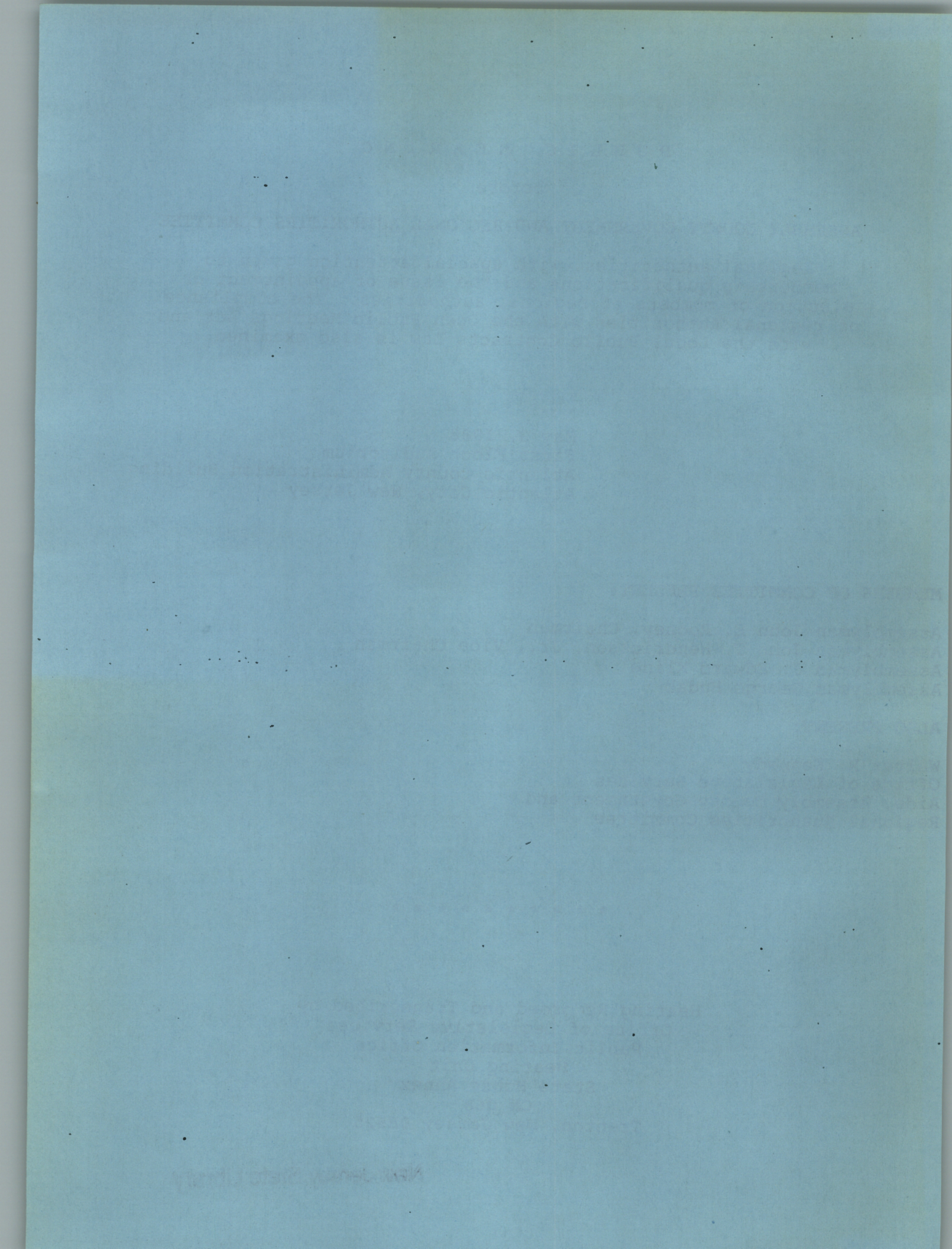
- Assemblyman John E. Rooney, Chairman
- Assemblyman John T. Hendrickson, Jr., Vice Chairman
- Assemblyman J. Edward Kline
- Assemblyman George Hudak

ALSO PRESENT:

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

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Hearing Recorded and Transcribed by
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Trenton, New Jersey 08625





John E. Rooney
Chairman
John T. Hendrickson, Jr.
Vice Chairman
Edward Kline
Thomas J. Duch
George Hudak

New Jersey State Legislature
ASSEMBLY COUNTY GOVERNMENT
AND
REGIONAL AUTHORITIES COMMITTEE

STATE HOUSE ANNEX, CN-068
TRENTON, NEW JERSEY 08626
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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 May 3, 1988 at 10:00 a.m. in Atlantic City, in the first floor auditorium of the Atlantic County Administration Building, 1333 Atlantic Avenue at Tennessee Avenue.

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.

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ASSEMBLYMAN JOHN E. ROONEY (Chairman): This is the Assembly County Government and Regional Authorities Committee. My name is John Rooney. I am the Chairman. The Vice Chairman is Jack Hendrickson. Edward Kline is also the Chairman of the Municipal Government Committee, and serves on this Committee, as I do on the Municipal Government Committee. So it makes it very good for us to share ideas, and also some of the legislation. We are expecting Assemblyman George Hudak. He is coming down from Linden. I may have passed him on the highway, as one of the State troopers told me I was going a little bit too fast. I was a little bit late myself. Assemblyman Duch will not be able to make this particular hearing today.

We have had one hearing before this Committee already at Bergen County Community College in Bergen County, and will probably have at least one more, probably in Trenton. We were hoping to hold one in Union County, but we ran into some problems there.

The main purpose of this hearing is to look at regional authorities to see where there may be some problems, and to maybe find some solutions to these problems to get fuller accountability. I think we have all looked at the independent authorities recently in the headlines of our newspapers. I think if we went a little below the surface, we probably could see a lot more headlines on regional authorities. We want to prevent that. We want to make sure that these authorities are accountable and responsible to the public and to the municipalities, counties, and the State government which they serve.

So, that is the purpose of these hearings, and with that I am going to turn the hearing over to my Vice Chairman, Jack Hendrickson, for any comments.

ASSEMBLYMAN HENDRICKSON: Well, John, I think you have said it all. It is not only the headlines, but over the years there seems to have been a lot of problems with the

authorities. I agree with the Chairman that it is time we have some input legislatively to the authorities. Whom better could we possibly have than the authorities themselves and the concerned people -- the nuts and bolts, if you will, of the authorities here in the State of New Jersey.

ASSEMBLYMAN ROONEY: Thank you, Jack. Assemblyman Kline?

ASSEMBLYMAN KLINE: I would just like to say good morning to everyone. It is a pleasure to be here. I would like to welcome the entire Committee to Atlantic County. I think every area in the State of New Jersey needs to address and -- I don't want to say "take a look at," but modernize the authorities. I think, as you said, as the newspapers have stated recently on independent authorities, we need a second look more to modernizing, updating, bringing them into the new times, with a better quality of operations. I think today will be something good for regional authorities, and I am looking forward to the testimony.

ASSEMBLYMAN ROONEY: Thank you, Assemblyman. One of the things I would like to do first is read into the record the ending of our last Committee hearing. We read this into the record at that time, and we would like to start off this hearing with it. It is the State of New Jersey Commission of Investigation's letter. This is their statement for the Assembly County Government and Regional Authorities Committee on the purpose that we stated earlier:

"The State Commission of Investigation 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 point of bringing this in at this time is the fact that this has been since 1982 -- the enactment -- and did not occur to these other pieces of legislation that were proposed. That is the purpose of this Committee, to take another look at that situation and develop legislation. I will go on with the letter:

"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 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 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.

"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."

Just for the press, we will get some copies made up for you.

"Mandate Employment Qualifications: Minimal, but nonetheless exacting qualifications should be mandated by the Division for appointment of executive directors or others 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: The Division should establish a list of prequalified vendors of chemicals deemed essential for the adequate operation of treatment and purification facilities. The Division should establish training seminars for authority purchasing agents, to assist them in determining the actual effectiveness of chemicals currently being marketed for wastewater treatment.

"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 open, honest, and professionally intelligent operation of such entities."

That is the SCI letter that was sent to the Committee last time. Mr. Morley -- James Morley, Executive Director of the SCI -- apologized that he hasn't been able to make these hearings. We will have our final hearing in Trenton, and we will be following up on this.

My background, also as a former authority member, confirms many of the things that have been said here. I have seen this. I tried to change it from the inside at the Bergen County Utilities Authority, and was unable to do it, in most

cases. Some things I did get through; others, I couldn't. What we intend to do is change some of those things now, and establish those standards.

We also have some notes from the League of Women Voters. I hope they will be here today sometime. This is their project for this year. They are looking at independent and regional authorities. One of the things they provided was that, in December, 1985, there were 218 locally created authorities with a capital debt of \$4,116,922,000, reflecting outstanding bonds, notes, loans, and mortgages. That is a lot of money -- four billion dollars.

There are some additional questions we will bring up. I hope the League will come. If they don't, I have the questions here. I am going to be involved in some panels they are running up in the northeastern section where I reign from.

Does anyone else have any comments at this time?

ASSEMBLYMAN HENDRICKSON: No.

ASSEMBLYMAN KLINE: I don't.

ASSEMBLYMAN ROONEY: Assemblyman Hudak has arrived. You obviously had a little trouble getting down here this morning, Assemblyman. It's a long drive.

ASSEMBLYMAN HUDAK: Well, time-wise--

ASSEMBLYMAN ROONEY: Time-wise, it's very long. Is there any comment from Assemblyman Hudak?

ASSEMBLYMAN HUDAK: No, not at this time.

ASSEMBLYMAN ROONEY: Okay, thank you. I believe DCA is here to testify. Would you like to come up to the microphone at this time and give your testimony? Basically, the SCI letter does bring in DCA. There are a lot of things they are asking DCA to do to provide us with sample legislation -- model legislation -- that we are looking for. So, we would like to have you cooperate with the Committee and develop that legislation.

I probably should have mentioned earlier, Walter Kennedy is our legislative aide from OLS. Walter has had much experience in county government and municipal government. Walter has been working with us developing a lot of this legislation. I would also like to introduce Rosanne Persichilli from the Republican Majority Staff, and my aide is Suzi Chichester, from my legislative office staff. Does anyone else have any introductions they want to make?

ASSEMBLYMAN HENDRICKSON: I have my unpaid aide, my wife, out there. (laughter) She is volunteering.

ASSEMBLYMAN ROONEY: I'm glad to see you again back in the swing of things, now that you are almost recuperated from your recent surgery. We missed you down at the sessions in Trenton.

MRS. HENDRICKSON: I missed all of you, too.

ASSEMBLYMAN HENDRICKSON: That's nice of you. Thank you.

ASSEMBLYMAN ROONEY: So, at this time, DCA, would you like to come forward and introduce yourself? Up at the microphone, please. We won't be able to hear you from there.

J O S E P H A. V A L E N T I: Thank you, Mr. Chairman. My name is Joseph Valenti. I am Chief of the Bureau of Local Management Services, which is within the Division of Local Government Services. As Chief of the Bureau of Local Management Services, one of our responsibilities -- of the Bureau itself -- is to assist the local contracting units in New Jersey, not in compliance with the Local Public Contracts Law, but in the administration of the law. With me today is Mr. Donald Hubschman, who is Chief of the Bureau of Authority Regulation. So, it is sort of a dual role here, with Donald and his staff being responsible for the financing end of the authorities. The creation of the SCI report created the establishment of the Bureau of Authority Regulation.

I would just like to make some brief comments as far as the overall application of the Local Public Contracts Law is concerned, any questions you may have concerning purchasing specifically, the application perhaps to authorities, and your comments concerning the purchase of the chemicals.

Evidently, the SCI report, from what I remember when it was first published, indicated some confusion on the part of local authorities, their "purchasing officials," and the purchase of such chemicals. Any questions concerning budgets, bonding capacities, and things like that, I think Donald would perhaps be better able to field.

As far as the Local Public Contracts Law is concerned, the modern version as we know it has been around since about 1971. Prior to that time, we actually had two separate laws. We had one for counties and one for municipalities. In 1971, we had a major revision to the two separate laws. They were really consolidated. In 1972, there was a court case concerning a MUA in Middlesex County and a contractor. To make a long story short, it came down to the fact that the MUA took the position that it did not have to comply with the Local Public Contracts Law because it was not a contracting unit as defined by the law at that time. The court decision was reported -- it is a reported case -- and at that time the court decided that they, indeed, were subject to the application of the Local Public Contracts Law.

In 1976, pursuant to a law which was signed by the Governor at that time -- a 1975 law -- the authorities were added to the list of, at that time, definable contracting units. There is a laundry list of local entities that are governed by the Local Public Contracts Law. It's municipalities, counties, and the word "authorities" was added to the definition. So, from 1976, the Local Public Contracts Law does include the term "authorities" in the contracts law.

The overall application of the law: Basically, it is a law that perhaps was passed for 2% of the population, but nevertheless it is a law that applies to the local purchasing activities of those definable units other than State agencies. Today, we have-- Starting in 1979, we had the School Contracts Law passed for public schools. County colleges have their own contracts law. State agencies are naturally governed by Chapter 52. We have State colleges now with their own contracts law. So it basically comes down to authorities, municipalities, counties, and those local agencies that are definable in the law as a contracting agent.

The law itself has-- Well, since 1971 the law has increased in exceptions two formal bidding practices, but major amendments to the law in 1971, and again in 1976, indicated that even though certain services and material were exempt from public bidding, it still required the solicitation of informal quotes. It is a law that requires-- Up until recently, it said that anything over \$7500, unless it was specifically exempt from public bidding, had to go out for public bidding. Today -- in the last two years -- we are now on what they call the "CPI" -- the Consumer Price Index, and every odd numbered year in July the Governor, through the cooperation of the State Treasurer, will set the dollar amount at which formal public bidding will take place. It could go down, but it will never go down below \$7500, and naturally it can go up.

The State of New Jersey is required to notify local contracting units of the change as to what that dollar amount would be. It has been set twice, and it has gone up in increments of about \$300 each time that it has been set. July, 1989, will be the next time it will be up for debate as to the dollar amount of the purchasing limit.

As I said, it is a law that basically started off with the premise that most things have to be bid. There is an exemption section in the Local Public Contracts Law that

stipulates about 22 items that are exempt from formal bidding. However, there is another provision in the law that specifically indicates that, while you may not have to solicit formal bids, that every effort should be made to get informal quotations.

Now, what does that mean? As far as informal quotations, it means more than one. It seems to be an unofficial rule here in New Jersey if you talk to some of the purchasing agents, and it is a good practice to at least try to get three -- a tie breaker; in a sense, a rubber match. Do they have to get three? No. Do they have to get more than one? No. If they only get one and they are satisfied with that quote, fine. If they make an attempt and they get no quotes, then it is up to them to try to get a vendor as best they can.

What does this mean basically on informal quotes, or even on a formal bid? What we recommend to most contracting units is that they are a bidder unto themselves. If they are searching the markets and doing their own homework, they should come up with their own estimates as to what a particular job or material will cost them. So that way if they get in only one bid, they can make a value determination as to whether that bid is too high or too low.

As far as authorities-- I would say that up until the SCI report and my employment with the State and with the Division-- I would say in the mid-'70s, we received very few phone calls from authorities. After the report, we made every effort whenever we sent out anything-- Now that they were considered a contracting unit, whenever we sent anything out to the municipalities or counties, executive directors were receiving the same mail. When amendments to the law were made, we were sending copies of the amendments to the law. We tried, as much as possible, to keep the local contracting units up to date with page amendments to the law, so that they have as much current information as possible.

Training: I can only give you the background. I don't know exactly what training courses are available to the authorities. However, I do know that in guest lecturing for Rutgers University, they have a Continuing Education Division that has courses for tax collectors, for finance officers, for purchasing agents, and for municipal clerks. In the area of purchasing, when I have guest lectured, you will have attending those sessions perhaps someone from the authority, someone from the staff of the financial section of the authority, or what have you. To the best of my knowledge, there is no specific training course only for authorities, whether that be regional or independent authorities -- meaning independent on the local level -- although they are available to them. The Purchasing Association, which I am more familiar with, definitely has membership from authorities. They do attend the two seminars a year. You will have representation from authorities. However, I don't think you have the representation that you have with counties and municipalities in attendance. If you have maybe 30 people who represent authorities at these various conferences, that may be 20 too many, but they are not there in the same numbers as their counterparts are for the counties and municipalities.

The law is basically a law of one-year contracts. Again, there is a specific provision in the law that talks about multi-year contracts. There is a concern that unless there is a specific exemption that says it is a two-year contract, it's a three-year contract, it's a five-year contract, the law specifically states that all contracts are for one year duration.

You have some concern for the chemicals -- the fact of getting more than a one-year contract for chemicals. The only concern the Division has on any request to have more multi-year contracts, is the concern that it can create favoritism and a monopolistic relationship. I don't think it has come to my

attention that there is a difficult situation in going for more than a one-year contract -- that a one-year contract presents any problem for chemical purchases. The question here as far as not knowing what you are purchasing, as far as whether it be chemicals or pencils is, there needs to be an administrative person who is watching exactly what is needed, when it is needed, is it being purchased, is it the quality that was speced out, and so forth.

I know on the local government level -- municipalities -- sometimes it comes to our attention that if someone is not really accepting delivery of goods, or a service, or can attest to the fact that a service has been performed, a bill can be submitted to a governing body and paid, without the checks and balances being in place. It has occurred. You say, "Well, how can it occur?" You just assume that if a bill is presented by a vendor, the vendor has performed, but there is a need for checks and balances. Local contracting units, the ones that have the checks and balances in place, make sure that the person who is processing the purchase order is different than the person who is receiving notification of the performance of service, or the actual receipt of the goods.

Cooperative purchasing: This is an area that has expanded. It is both on a State level and also on the local level. In 1980, a law was enacted that allowed for local units of government to join together for ordinances and resolutions for the benefit of having their own mini -- on a local level -- cooperative purchasing. Since 1981, the Division of Local Government Services must register these various programs. We have approximately, in the process, 24 lead agencies throughout the State of New Jersey. Some are counties, and they do the purchasing for the entities within a county. Not all of them are local units of government. Some of them are fire districts; some of them are county colleges. In Burlington County, they have a Bridge Commission. I think those 24 to 26

cooperative purchasing units represent about 500 different units of local government. Some are regional MUAs -- or rather sewerage authorities. Municipal utilities authorities do belong to this. It is a way of: 1) Cutting down on expenses; 2) buying in bulk so that it cuts down on the cost; and 3) usually your lead agencies are those which have more experienced purchasing staff, so that a less fortunate entity has the benefit of an experienced person doing the purchasing.

As far as chemicals, I was unable to check on whether some of the authorities that belong to some of these cooperative purchasing programs were requesting the lead agency for the purchases of chemicals. I know the State of New Jersey, through the Division of Purchase and Property, has a cooperative purchasing program which allows local contracting units to purchase off of their State contracts. I think Mr. Kennedy can attest to the fact that over the last several years that has expanded from just counties and municipalities to fire districts, nonprofit associations, and what have you. So, there is a broader range of entities that can take advantage of State contracts.

The State -- the Division of Purchase and Property -- also has specification writers who spec out for the State its needs. In doing so, they also make available to local units of government those specifications for when they go out to bid. It is not a mandatory program. All local units do not have to participate. Many of them do call to find out if they can beat the price locally. If it would save them money administratively, they will go ahead and use a State contract. I have personally seen, as I said, the State contracts expanded. The State sometimes will even go out and bid something on behalf of enough local units if there is a request. Even if the State of New Jersey doesn't need it for its own agencies, they will do it on behalf of the local units, if enough of them request such services.

ASSEMBLYMAN ROONEY: On the cooperative purchasing, this is something that I have always looked at. When I was a Commissioner at Bergen County, I recommended it many times. It seemed there was an absolute aversion to it there, I don't know why. Is there anything we can do to audit -- through DCA -- the purchases that exceed \$7500, to find out if these authorities are going out and buying items at higher than the cooperative purchasing agreement, to somehow bring them into mandatory purchasing?

MR. VALENTI: I don't know if anything can be done through DCA or any State agency. Out of the 24 to 26, I would say that in the beginning many local units perhaps were reluctant to use-- Let's say the County of Burlington was the lead agency. They still might decide that they could beat the price on their own bid or an informal quote. I don't know if we really want to take that flexibility away, as far as paying higher prices. Sometimes a State contract will definitely be lower in price, but if it is a service contract, and depending upon where the vendor is located, sometimes when you are an authority and you have maybe a particular type of machinery or service contracts that are needed, it's the old adage, "You pay a little less, but you don't get the service." So, in weighing any kind of price criteria, there are other things that go into the award to the lowest responsible bidder.

Cooperative purchasing can be viewed and probably utilized perhaps a little bit better if it is kept "small," in the sense that -- from a geographical point of view. As far as the initiative of saying, "How do we value the bid versus our own bid?" bidding is kind of funny. You get a price one day, and you have so many days in which to award a contract. If you haven't done your own homework and you have this contract that is a cooperative purchasing agreement, do you go with it? Do you have the time to really do your own evaluation? If it is still a bid situation, and it is so many days before you have

to bid again, you could lose the advantage of the cooperative contract, plus you have now lost the advantage of having to go out under your own bid. It takes time. I mean, the law specifically requires so many days in which you have to advertise. You can't receive bids before that time. This is where I think any contracting unit, whether it be an authority or a specific local unit of government-- You should not just wait on the bids coming in. You should be doing your own homework. Someone should be doing your own homework, whether it be an engineer, whether it be the purchasing agent, the finance person in charge, whomever, to try to get your own sense of what it is, as far as a price on the project, or the service, or the material.

ASSEMBLYMAN ROONEY: I was concerned with something tangible, not service contracts. I know service contracts. An automobile that may run anywhere between \$10,000 and \$15,000, especially if you even add up the options-- I have seen that the BCUA purchased one that was much higher than the one on the State purchasing contract. They claim they wanted local service. You can get local warranty service from anyone. Anything additional, you can go to a local service station and pay for it.

MR. VALENTI: The way the State contract works on cooperative purchasing-- It is like a camera-ready copy. What you see is what you get. Neither the vendor nor the local unit of government can in any way alter that contract. It happens from time to time. The State of New Jersey -- the Division of Purchase and Property -- is one of the contractees to the contract. If there is a change to the contract, it must come about between the two parties involved, which are the vendor and the State. In many cases, a vendor will figure, "Well, I am closer to this town." So what I will do is say, "Don't worry about the price that is on the State contract. I'll charge you differently." That creates all kinds of problems

for the State, because they would like to have the advantage of the lower price as well. You also have situations where you may get a vendor who tries to product substitute. Usually the way the cooperative purchasing works for the State, and our own advice to local units of government, is to make sure that they can use the State contract as they see it -- the terms and conditions. Some of these terms also involve payment and how the payment can be made. The State is run a little bit differently as far as their ability to pay a bill versus local units of government, and that can be a conflict as well. So not always will you find a State contract that, while it may be best suited for the municipality or county or authority as far as the item is concerned, it is just that the terms and conditions of some of the State contracts are incongruent with State law. One particular area is the multi-year provision. Many State contracts can go five or seven years out. For local units of government that is the exception rather than the rule, to have that long of a multi-year venture.

ASSEMBLYMAN ROONEY: Another item I remember as a local official was when we got into fire apparatus equipment, where the fire company would schedule out the delivery of certain items, but never exceeded the \$4500, or \$2500, or whatever it was. At the end of the year you totaled it up, and it was well in excess of that. And I believe some of the authorities are doing it. In chemicals, they might order a month's supply, a two-month supply, but overall they could have done it on an annual basis and put it out to public bid. Are there any provisions DCA is looking at?

MR. VALENTI: Yes. Thank you for reminding me. That was one of the pillars in the contracts law. The law is based on aggregation. Without aggregation, everything would be done on a piecemeal basis. Naturally, if it was over \$8400, which the bid limit is now, you would say, "Well, I have to go out to

bid," but if it is the kind of thing where you are ordering \$3000 now, \$2000 next month, and \$4000 the month after, it is like the three little pigs. You know, no one sees anything. They say, "Well, I didn't exceed the bid limit," and the next guy says, "Well, I didn't exceed the bid limit." But, if there is someone centrally watching all these individual purchases, if there is an aggregation, well, yes, there is a violation of the law. But, taking that aside, there is also the inconvenience of three different departments now filling out purchase orders for like items. That's number one. That is probably a waste of their time. Number two, there is also the concern that small purchases will cost you more. For small deliveries and for small purchases, you are going to pay a good price. There is also concern for storage, where it is delivered, who is using it, how it is controlled.

So our recommendation is that in addition to the law that says that in the aggregation you should be looking at a total year's worth of purchases-- It doesn't say a calendar year; it says a fiscal year. But for local municipalities here in New Jersey-- I think, Donald, the authorities are on a different cycle, correct? (inaudible response from Mr. Hubschman) They are on a different cycle, so now we have a different cycle for the authority. But basically, the term "aggregation" would apply. When you are looking down the road for a whole year, you should be thinking of this in the aggregation, not what you are ordering on a monthly basis, or on a quarterly basis, but what the overall price is. Hopefully, you are going to get the benefit of doubt when you do order on bulk purchasing, number one. Number two, you will be getting a clean sweep of just having perhaps one purchase order. Even if you don't accept delivery, even if it is a piecemeal delivery, at least you ordered it at one time, and then you accept delivery as just.

Perhaps most important, it gives a sense of control over what the purchases have been. Now, you can't do this on a year-to-year basis. You have to have historical records. Someone has to go back in time -- at least three years is what we recommend -- and take a look at, "What have we ordered in the past? Is there a new project coming on-line? Are we expanding our water system?" or whatever it may be. There has to be game planning here, because purchasing cannot look into a crystal ball. Okay? There have to be people in-house who can see what's coming.

As far as certain chemicals. "What did we order last year? What did we order the year before?" At a minimum, based on historical records, see what is needed for the coming year, and then put it into your "game plan," as far as the purchasing is concerned. But that is an important ingredient in the law, one where people say, "Well, we never know what we are going to need." Yes, it is difficult, there is no doubt about it. I would say the first year of any new project, whether it be for chemicals or for a new piece of equipment -- you know, if it is on a regular basis -- you are probably using a little guesstimation in that sense. But if it is going to be ongoing after that time, then these records should be maintained. Purchase orders should be reviewed. They should be kept anyway. They are important public documents anyhow. And then someone, when it comes close to preparing the budget again, should take a look at this, talk to the various department heads, and say, "Well, here is what we did last year. Do you think the same, less, or what have you. We have a new project coming on-line. Are we going to need more of this particular chemical?"

ASSEMBLYMAN ROONEY: Anyone else?

ASSEMBLYMAN HENDRICKSON: Yes. Just to back up a little bit, if I understood you correctly, you were talking about municipalities and authorities, on some contracts vendors

being paid. As a mayor, we always had a certification to the council member who was in charge of that department, that he had received the quality of the product and/or that the labor had been received -- value received. Is that not by law?

MR. VALENTI: No. There is a certification-- Most towns, by practice or tradition, have on the, I guess you would say the receiving copy--

ASSEMBLYMAN HENDRICKSON: The voucher.

MR. VALENTI: The voucher, okay -- the voucher and the receiving copy. A voucher will come back, and hopefully the claimant, the vendor, will sign saying -- attesting that he has provided the service performed, or what have you. Then, in some forms of government, there may be a council person in charge of that department who will sign off. We suggest very strongly that a person who has actually observed the performance, or the receipt of the material -- either one, whether it be a supervisor or an actual department head -- actually sign off that they have seen this occur, or have had the performance viewed. Then that goes to the finance department. If you are a municipality, it goes to a clerk who puts the bill on the agenda, and the bill is paid. Sometimes that is not the case. Sometimes we have people removed from the actual performance signing off, and they assume it has been done. They are far and in-between, but what I am saying is, without the proper checks and balances in place, bills can get paid without those--

ASSEMBLYMAN HENDRICKSON: It sounds like it's loose, for public money.

MR. VALENTI: I would say that as far as the certification of funds-- See, this is the other part. As a mayor, you would be very concerned with this. Your finance officer has to certify to the governing body in general that the funds are available. I don't think that is as much of a problem as to ensure that the services are being performed.

ASSEMBLYMAN HENDRICKSON: I agree.

MR. VALENTI: Then you have it both ways. You have the money, making sure that the actual funds are available for payment, and also to make sure that the services have been performed.

ASSEMBLYMAN HENDRICKSON: Is it flagrant enough to recommend a legislative remedy?

MR. VALENTI: The Division of Local--

ASSEMBLYMAN HENDRICKSON: If anything comes out of what we are doing here.

MR. VALENTI: Right. The Division of Local Government Services, through a regulation -- a directive -- requires all municipalities to have a purchase order encumbrance system.

ASSEMBLYMAN HENDRICKSON: A purchase order voucher system for just purchases, yes.

MR. VALENTI: A purchase order-- Well, it's a voucher.

ASSEMBLYMAN HENDRICKSON: Oh, yeah.

MR. VALENTI: We have actually put out examples. Of course, towns do differently. Some towns have nine copies; other towns have three copies.

ASSEMBLYMAN HENDRICKSON: Depending on the size, yeah, I understand.

MR. VALENTI: So, we don't get involved in the local prerogative. What we do recommend is-- On our form we recommend that on the sign-off copy it attests to someone actually receiving that. Most towns that I know of-- I cannot attest for authorities, but I know that most towns that I deal with -- the purchasing agents I know -- in some way have adopted -- if they had not been doing it already -- this kind of a situation.

ASSEMBLYMAN HENDRICKSON: If I may? Most of our 567 municipalities are small municipalities.

MR. VALENTI: Yes, they are.

ASSEMBLYMAN HENDRICKSON: We are a small municipality governed State. Many of them do not have purchasing agents.

MR. VALENTI: --No. Well--

ASSEMBLYMAN HENDRICKSON: It goes through a township committee form of government.

MR. VALENTI: Right, but usually what we have -- and you have various combinations-- You may have-- I know of a personnel officer/purchasing agent. Most purchasing in the smaller towns is done through your various department heads, who collectively will then filter up the information to the finance officer. Most towns have what they call a finance officer, or a treasurer, or a comptroller, so at least if it is done on a separate basis, department by department, then it is being filtered up.

But what I am saying is, and naturally there are always the exceptions, but when something like this does happen, you find that maybe the checks and balances were not there on the lower level. As I said, we have recommended -- not recommended, but through an accounting directive-- There were three. One specifically dealt with an encumbering operation, which said that you had to have a minimum purchasing system that ensured that all funds were being encumbered, certified by the finance officer, and that there was an attestation to the fact that the services were rendered.

I think that without even saying that is a requirement, if you have an encumbrance operation, in order to pay the bill you have to certify that the job was performed. You can lead a horse to water, but making it drink is something else. It depends on how-- As you said as a mayor yourself, you have smaller towns, larger towns; you have sophisticated systems; you have smaller systems. It is whatever on the local level. Notwithstanding the fact that you have laws, but the situation and procedures that are, are to protect you in order to make a payment, so that when it gets to the governing body,

you can feel free that you are paying a bill for which services have been rendered.

ASSEMBLYMAN HENDRICKSON: Thank you.

ASSEMBLYMAN ROONEY: The encumbrance system applies to the regional authorities also, or it doesn't?

D O N A L D F. H U B S C H M A N (speaking from audience): No. In city and county (indiscernible) there is a recommended encumbrance.

ASSEMBLYMAN ROONEY: We want legislation to mandate that.

We are not going to be able to pick you up on the recording, so why don't you come up?

MR. KENNEDY (Committee Aide): For the purpose of our transcript, we can't pick you up.

ASSEMBLYMAN ROONEY: Yeah. Please identify yourself for the hearing reporter.

ASSEMBLYMAN HENDRICKSON: Do you have any written testimony you are going to give us today?

ASSEMBLYMAN ROONEY: They gave us some last time -- at the last hearing -- so we do have something on the record.

ASSEMBLYMAN HENDRICKSON: Oh, okay. All right, we'll have something, okay. It's very interesting. You're very knowledgeable.

ASSEMBLYMAN ROONEY: Identify yourself, please.

MR. HUBSCHMAN: My name is Donald Hubschman. I am the Acting Bureau Chief for the Bureau of Authority Regulation. I have been in that position for the past seven months. I have been with the Division for 11 years. Prior to that -- just by way of background -- I served basically for the Director or the Local Finance Board, as a representative whenever the State took over a municipality, beginning with the City of Camden back in 1981, Weehawken, North Bergen, North Haledon. So, I don't have a very long tenure with the authorities, but I can see certain basic differences here.

Relative to this particular part, I would like to comment that there is a difference, and I think there ought to be a difference between an authority and a municipality. There exist today authorities which embrace fire districts, and should embrace really all special districts that have the ability to tax. There is a big difference between that ability to tax and the user charges. If we accept that the American Institute of Certified Public Accountants has been the financial experts, what they have promulgated and put forth is sort of serving to the entire nation, rather than to one particular state or any one locality. I think it is a good reference point.

They define in there an appropriation as being the authority to spend. When you have the ability to tax, when you are dealing with a municipality, a county, a district, that is exactly what that appropriation represents, and no one can spend more than that because of the public moneys that are involved. It is a good law; it is a good ruling.

When you get into authorities, and having worked with the municipalities, or at the municipal level, where they have difficulties in varying municipalities, it is a restriction that is difficult to work with, but it is necessary. With the authorities, I think you would be imposing on them, if you put the same kind of restriction, something that would make them less than flexible. You may want to consider that there has to be this distinction. You want more flexibility with any authority, I believe, than what you want-- Not less accountability, but more flexibility to make decisions, because frequently and historically, the evolvment near the budget process that exists for government is there to protect the taxpayer, even though it makes it a little bit more difficult to operate.

Relative to the appropriation point, I just want to say that there is a fine distinction. It is not presently in

the law or in the regs. We treat an authority the same way, in that they have to submit a budget. We go through all the motions, and we add a clause at the end of it -- this is in the existing regulations, or in the existing law -- that says you can overexpend. That is something in there that needs to be addressed.

ASSEMBLYMAN ROONEY: Would you like to see that corrected?

MR. HUBSCHMAN: Certainly. I think when the Director first assigned me to this, one of the-- We have a very small authorized staff in the Bureau -- eight people. We have been working with four

ASSEMBLYMAN HENDRICKSON: In DCA?

MR. HUBSCHMAN: In the Bureau of Authority Regulation.

ASSEMBLYMAN HENDRICKSON: But you are under DCA?

MR. HUBSCHMAN: Within DCA. So we have been working with half a staff in there to start off with.

ASSEMBLYMAN HENDRICKSON: May I just break in for a minute, Mr. Chairman, through you?

ASSEMBLYMAN ROONEY: Yes.

ASSEMBLYMAN HENDRICKSON: How many authorities are you regulating -- 218?

MR. HUBSCHMAN: The number-- Somebody said 218. I would say that that number sounds correct. I compiled a listing when I first joined the Bureau, and classified them as to utility authorities, sewerage authorities, parking authorities, etc., down the list. The number 218 sounds correct.

In addition to that, we have 180 fire districts, so there is a total of approximately 400. We are currently looking into trying to identify whether there are other special taxing districts out there that also come underneath (sic) the law.

ASSEMBLYMAN ROONEY: And your staff again is?

MR. HUBSCHMAN: There are four of us.

ASSEMBLYMAN ROONEY: The encumbrance system, though-- You're not recommending that the regional authorities be embraced--

MR. HUBSCHMAN: I would not do that for an authority, number one, because the encumbrance system assumes, or presumes that you are using municipal or government accounting. And you go a step further, in that you actually record your budget. A private corporation-- An authority is generally, from an accounting point of view, trying to be competitive, to bring in the lowest price -- the best service, the lowest price, etc. -- and technically ought to be generating, in my view, a profit for the future. If you restrict them in the same way that you would restrict a municipality or a fire district or a county, by saying, "You have to have an encumbrance system," which seems to me to have gone to the extreme for the reasons I said earlier, that the ability to tax and the raising of that public money is sort of unique, and that requires certain safeguards-- If they were to follow an encumbrance system, that says, "When you place a purchase order, you are going to record, in essence, your liability" -- not really a liability, but the contingent liability -- and you do that when you execute the purchase order.

Now, if you gentlemen have been in private industry, you know you don't do this in private industry. You wait until title passes -- when the goods or services have been rendered. So you have added another segment to the record keeping system, and one that is cumbersome. Well, it can be addressed; it can be handled. But I don't know that it is one that you want to impose upon authorities, unless some benefit were going to be derived from it. I don't know what that benefit would be today.

ASSEMBLYMAN ROONEY: I tend to disagree, because I have seen what happens at authorities, having lived with it for five years. The encumbrance system, I think, would straighten a lot of problems out, because I found at the particular one I

served on, the purchases were made from all over the place. They were made from the engineering department. They were made from the spec department. They were made, a lot of times, from everywhere -- but the purchasing department. The encumbrance system means that you have to go and get a purchase order before you can physically place an order. There are a lot of safeguards in that itself. I think that saves a lot of money by the fact that if you have to go to the purchasing department to get a purchase order, you eliminate a lot of the things that happen, such as the engineer being wined and dined by a particular vendor, and then giving that particular vendor the order without any benefit of public bid, or even a quote, if it is under \$7500.

MR. HUBSCHMAN: With all due respect, why couldn't it be addressed by simply -- within the local unit, within the authority -- saying, "We have a purchasing agent who is responsible, and he is the only individual authorized. We will not recognize any of the commitments placed by anyone other than the purchasing agent. Therefore, you better come through the purchasing agent." I think what we do is--

ASSEMBLYMAN ROONEY: I think if you listened to what we were saying in the SCI report, you have people at the top who don't know what they are doing, who are unqualified. You have people who are brought in as purchasing agents who are even unqualified. The engineer, in a lot of cases, figures, "I am not going to rely on those -- expletive deleted -- I will do my own purchasing, do my own thing." Probably, in a practical sense, maybe that is why the plants run, because they don't go through that. But I think we have to start cleaning up some of the loose ends here. There is a lot of accounting that is not being done.

MR. HUBSCHMAN: I think you hit the nail on the head earlier. When you started off, you used the word "accountability." That is what's missing. That's missing

whether it be on the municipal level, or whether it be on the authority level ~~---~~ accountability and what that brings with it -- rather than simply regulation. We can go out and prescribe all the regulations, and if the Legislature is willing, it can pass all the laws, but who is going to call the people into account? When you say "accountability," what is the penalty for not complying? I know I went to the City of Camden, and I think this was a crime-- In 1981, it was on the brink of bankruptcy; 24 hours away from going into default on its bond payment. Who was ever penalized for that? No one.

When I went to the City of Weehawken, which went down the tubes -- and they have a little city -- for something like \$4 million, nobody ever suffered. I went up to North Bergen. Who was penalized for that? No one. When people do not comply with the laws -- and we have many laws on the books -- what is their penalty? It comes back to nothing.

I think the key, rather than saying, "You must do regulating," is accountability. That is more the key. Hauling them in for an accounting and perhaps having fixed in the Legislature, or by the Legislature, a penalty that automatically applies. Nobody has to make the determination, because nobody wants to be the bad guy. That is the way it seems to me. I think if it read, "If you don't do this, you will get a \$100 a day fine," or \$1000, or whatever it might be in a given circumstance-- I think if there were a penalty that was set like that, then they might pay more attention. Then I think at the same time-- Someone mentioned the smaller communities. You have to bear that in mind. You have small authorities. You have fire districts, where they raise \$36,000 a year, really conscientious people, but they don't know the first thing about budgeting or accounting, and they don't even know about the election laws.

ASSEMBLYMAN ROONEY: Or bidding laws.

MR. HUBSCHMAN: Or the bidding laws, yes, sir. It is a big educational program.

ASSEMBLYMAN ROONEY: Having gone through that in my two terms as mayor, I had to completely educate the new fire officers every time they had their elections, as to what the bidding law, the budget law, etc. required us to do.

What about asset inventory. Are they required to do asset inventory the same as our municipalities?

MR. HUBSCHMAN: Well, fundamentally, no, not the same, more along the conventional lines deemed for private industry. They have their property plant and equipment account, and they have to maintain those accounts. They don't have separate funds. Essentially, when you get into government accounting -- when I say that, again I am talking about the municipalities -- you have various funds which are separate accounting entities, just as if you were running a distinct company unto itself. So, you have your general operating fund, which really takes care of your current revenues, and what is going to be your current expenditures, or your appropriations. That is almost by itself. Then you come over and you have your capital fund. Any proceeds in there from the bond issues, for whatever the assets are you are going to purchase, are contained within that fund. Of course, they eventually are liquidated. Then you go over and you say-- Separate and distinct, not technically, you find you have your fixed asset group of accounts, which keeps track in there of the fixed assets and ought to maintain a record of depreciation so that you know what the book value and the remaining useful life of any of the assets are going to be.

Authorities do not operate that way. Authorities operate much the way a private corporation does. If they purchase a building, it goes on the books and it is depreciated. They are required to depreciate their assets.

ASSEMBLYMAN ROONEY: One other item. I believe you are the bonding expert, is that true?

MR. HUBSCHMAN: No, not really.

ASSEMBLYMAN ROONEY: No, okay. On bonding specifically--- I don't think it would take a bonding expert, but there is something in the SCI report that indicates they recommended there be a prequalified list of bonding companies. I kind of read into it that there would be a bidding procedure, that we get some actual bidding for bonding. "The Commission recommends that local authorities be required to adhere to competitive public bid procedures laid down by the local bond law, except that the State Local Government Services Division may, at its discretion, permit an authority to negotiate the sale of bonds." So, we're saying they really should bid the bonding. I know we were paying atrocious rates -- 1-1/2%, 1-3/4% -- on major, major bond issues. Had we gone out for public bid, those rates would have come down. In our case, we were talking several millions of dollars that would have been saved by the authority.

MR. HUBSCHMAN: That's relative to coming out with a bond issue in there, and saying, "We are putting it up for public bid." The ability, however, under a given set of circumstances, to negotiate, I think, is a feature you would probably want to retain, because there are circumstances whereby, number one, you could do better on a negotiation basis, and may even do better relative to regular purchasing. The matter came up before. I know from firsthand experience working in the municipalities, that going to public bidding does not assure the taxpayer of the lowest price. Many, many times I know we could have bought items cheaper than what the proposals were that were submitted by various vendors. A lot of times you find this out after the fact. A contract is already in existence. So public bidding in and of itself isn't necessarily an answer to a good safeguard, unless used with reason, with a certain amount of rationale and flexibility -- and we said, "Who are we going to put that flexibility in -- who are we going to trust it to?" But that, in and of itself,

doesn't necessarily say you are going to get the best price. The same thing as with the bond situation.

I have been involved in some of the bond sales in Camden, North Bergen, etc. We review all the project finances coming before the Local Finance Board currently.

ASSEMBLYMAN ROONEY: Including regional authorities?

MR. HUBSCHMAN: Including the authorities.

ASSEMBLYMAN ROONEY: It just strikes me that when there is one bonding company selected, the percentage is extremely high on who keeps the book and all the other nonsense that goes with it.

MR. HUBSCHMAN: You sometimes have to wonder about the so-called discount markdown or the underwriter's discount -- how does that fluctuate so much? -- particularly when you look at a large issue. One of the authorities came out with something like \$600 million a couple of months ago for an authorized issue. They have the same straight rate. Nobody stepped in and said, "Well, I'll give you a break on your discount."

ASSEMBLYMAN ROONEY: I would just like to break away for one minute. I have just been reminded, and I know that Dick Squires is the Atlantic County Executive, and I would like to introduce him. I also want to thank him for being our host today, and for giving us these wonderful facilities.

R I C H A R D E. S Q U I R E S (speaking from audience): Well, let me just say that we are quite proud of this county office building and this room. We invite you any time you have any need for a hearing to come back. We hope the accommodations are comfortable, and also that you have a successful hearing. I have been here for the last 15 or 20 minutes, and I could certainly hear that you are getting a lot of good input.

ASSEMBLYMAN ROONEY: We would appreciate any additional input that a County Executive could give. One of

the issues we are looking at is the membership of various authorities. As County Executive, you have the power to appoint people. There were questions by the SCF as to the qualifications of those people. I understand from Assemblyman Kline that you have very qualified people on your boards. That may not be true all over the State. If you have any input you can give us regarding the membership of these boards, or their activities-- My own county executive in Bergen County wants to have veto power over the minutes of the regional authorities he has. I don't know if that is to your liking or not.

MR. SQUIRES: Well, we had veto power until--

ASSEMBLYMAN ROONEY: Could you come up and speak at the microphone, because we are being recorded?

MR. SQUIRES: I just happened to stop in.

ASSEMBLYMAN ROONEY: Actually, we're glad you did, because we want to get some input from the executives.

MR. SQUIRES: I am Dick Squires, Atlantic County Executive, 1333 Atlantic Avenue, Atlantic City. As far as veto power is concerned, until about six months ago we did have veto power over the minutes of the Utilities Authority, as well as the Improvement Authority. There was a court case lost by, I believe, Bergen County, and it has affected all the county authorities since that date, except in Atlantic County we still have veto power over the Atlantic County Transportation Authority. That case was never appealed to a higher court, and the determination at that point by Bergen County -- I believe it was Bergen -- was not to pursue it. However, we did have a lot more control over the bonding mechanisms, as well as those actions of the authority, and we certainly did, in many cases, come close to vetoing certain items in the minutes. It is not necessarily a day-to-day threat, but it is a tool you do have for those purposes of things that get running out of hand.

We are very happy -- at least I feel happy -- with the selection of people I have been putting on the authorities,

especially by attrition, in many cases by removing those who seemed to have lost their agendas and really came out as being less of the overall picture. They seemed to come out with just one view; they didn't seem to take the full view. I think it is very important to get people from all walks of life, from both political parties. I think, if anything, the regulations are pretty well set.

One particular authority that was fashioned in recent years with its membership was the Atlantic County Transportation Authority, when it was created in 1981. It dictates the number of people from one political party. It dictates how many and how often, and also gives annual membership to a county representative on the Transportation Authority. There is something to be said about that.

I do know the authorities have had a lot of their own ways over the years. Maybe in the times when there were issues that they didn't have to address for a period of time, but could study, they certainly had plenty of time to do it. But the studying time and the actual breaking of ground and implementation are almost imminent in a lot of cases, and I think there has to be some tightening of those regulations.

ASSEMBLYMAN ROONEY: One question on the terms of office: Do you feel the five-year term is right? We have looked at possibly three-year terms, and even the memberships of the boards. Right now, the law actually allows you to go to nine, with two alternates. Bergen has eliminated the alternates.

MR. SQUIRES: I think the authorities should all have the same terms. They do not have them at the present time. The Utilities Authority, I believe, is five; the Transportation Authority is more apt to be three. In other authorities, it is three or four. I think they should all be combined into one particular term.

I also think there is another thing to be said, and I was just talking about it earlier today. Whenever you have a chairman, and that is a situation we run into, you can have a very successful chairman of any board or any committee or any authority. I am referring to those people who are selected normally by their peers to be the chairman. There should be rules and regulations on rotation. The rotation should take place in part of the legislation, either two or three years, subject to the entire body voting to waive it.

We have personalities that seem to erupt when they are asked to move on by their own colleagues. For example, this Committee here-- This is an example of a group that could be working for the same purposes day in and day out, but over a period of two or three years, you kind of feel as though, "If I am going to sit here, why don't we rotate the membership." What occurs is, when someone says to the chairman, "Well, we are going to rotate it," they all take it as a negative, like they have done something wrong, or you have decided to take them on. I see so much of this being a personality problem, that it really affects the operations of the authorities, as well as any other board. I would like to see the chairman addressed, and then if the body wants to vote as a body not to change the reelection of that chairman -- by that I mean waive the right not to have an automatic rotation -- that is something else. But we find that to be one of the biggest stumbling blocks.

Now, to go back to the act of legislation, they spell out that the appointee is the appointed chairman, and that is something to consider also, sort of like the legislative process. Basically that was, shall we say, off the cuff, but it was something I just thought about in recent hours.

ASSEMBLYMAN ROONEY: That's great. We will absolutely take that into consideration. I was part of the Bergen County Utility Authority when it happened. That was a new form of

government in Bergen County that had taken effect in April. What happened was, the Authority was being told by the new charter that this was written in, that the county executive had veto power. It was a turf battle, plain and simple. But, it should be noted that the Bergen County Utility Authority was not party-- They did not bring the suit. The labor unions at the Authority brought the suit against the county executive. That is where the suit actually came from. I believe that at one point we were just kind of sitting there waiting for the decision. BCUA did not vote to go against the county executive's power to veto the minutes.

MR. SQUIRES: See, there are only five counties that have the charter form and county executive in the State of New Jersey, so every time there is an issue, there is concern amongst those five counties as to what happens, or what will be the procedures from that day on. It's really something that should be addressed, so it is not handled by individual counties fighting it out in a courtroom at the expense of the taxpayers. It would be better if it were regulated.

ASSEMBLYMAN ROONEY: I tend to agree with you. I think they do need accountability. I believe in the shorter term also, because after five years--

MR. SQUIRES: I think you ought to standardize it, because I think a lot of people-- The attendance, also, should be in there. There should be some attendance action. For example, 12 meetings a year might be the standard amount of meetings, and if you have members missing four or more, they should automatically have to face up to some kind of a reprimand, or else replacement. Okay?

ASSEMBLYMAN ROONEY: Thank you very much.

MR. SQUIRES: Thank you.

ASSEMBLYMAN ROONEY: Again, we appreciate your hospitality.

Gentlemen, we're sorry we interrupted your testimony, but I know the County Executive did have another appointment, so--- I also want to acknowledge that the Association of Counties is represented today. We have Dan Douglass with us. He is monitoring the hearing, and we hope to ask him if he has any testimony later on in the hearing. Dan, thank you for coming.

Gentlemen, please continue.

MR. HUBSCHMAN: I am trying to pick up the trend.

ASSEMBLYMAN ROONEY: Yeah, it's--

MR. HUBSCHMAN: When you spoke about the encumbrance system before-- We talked about--

ASSEMBLYMAN ROONEY: We were talking about asset inventory encumbrance, yeah.

MR. HUBSCHMAN: We ought to recognize the differences between the governmental accounting and the accounting for the authorities. There is a significant difference. That is really the point that I have been trying to get across. I think that with the authorities, what you had said about accountability, that is the key to all government. It can be exercised without the stringent controls that are almost natural, that have been derived for our governmental type units. You don't have to put the emphasis on the budget, but you would have to place the emphasis upon the actual results. They ought to have to submit a budget that says, "This is the plan," but that budget should not be as binding as what it is for governmental units. They ought to be held more accountable for the actual results, because of the fact that we have deemphasized the budget.

ASSEMBLYMAN ROONEY: Jack, do you wish to ask a question?

ASSEMBLYMAN HENDRICKSON: You said that the budget should not be as binding?

MR. HUBSCHMAN: Yes, sir.

ASSEMBLYMAN HENDRICKSON: May I ask why?

MR. HUBSCHMAN: Because when we do that, it really restricts the daily operations. If these were competitive companies, it would be-- Or, if governmental units were in a competitive world, it would be impossible for them to function. It is very time-consuming. It is a very laborious procedure, but it is necessary to protect the public interest.

I think you can derive the same benefit by accountability with authorities, but accountability after the fact, not saying they don't have a budget. They should have to submit a plan. I would even suggest recommendations to that plan, an extension from what we presently have today. The present budget requirements are an accounting for operating revenues. That is supported by a capital budget. I would say that if they had to submit a budget, or a plan -- a financial plan -- based upon the actual operations -- because there is a difference between an operating statement and the budget that they prepare today-- The State is concerned. I think the reason we have the existing budget-- I think it would be fair to project and tell you that someone looked at this, and said, "Look, we don't want to get into a situation back in the '30s -- the Depression." We want to say, or make sure that we have a sufficient amount of cash for them to address all their needs, even though the needs might not be an element of the operation statement.

Essentially, it is a good procedure that is in effect, if it were appreciated. I think that is really-- A key is the education of the people out there, why it is the way it is.

ASSEMBLYMAN ROONEY: Do you have any veto power over their budget? Is it just submitted for--

MR. HUBSCHMAN: Well, we have very-- The law sets very limited powers. They have to submit the budget for approval 60 days prior, in the case of an authority, to the end

of their fiscal year. The Division then has 45 days in which to review and certify the budget. As long as the revenues are reasonable, then they are acceptable. With the appropriations, the law specifies that the Director cannot substitute his judgment of what the appropriations are to be, the real key being that it has to at least be in balance -- the proposed appropriations or expenditures -- and they have to at least equal revenues. It has to be a balanced budget.

So, you really don't have a tremendous amount of power to exercise. I don't think that someone sitting in Trenton can turn around and second guess what the revenues ought to be.

ASSEMBLYMAN ROONEY: We're just going over what the SCI recommended. They are basically saying that you should have the same power over authorities as you do over municipalities.

MR. HUBSCHMAN: We do have, essentially. When you get into the municipalities-- I mentioned something earlier. When we are addressing the authorities, there is also a clause that immediately starts off on page 1, and says, "There are no penalties for overexpending or expending the amount of the appropriation." So that sort of says, "Well, what do we have the budget for?" Then you have to come back and say, "Why do you have an appropriation? What does an appropriation represent?"

I'm saying that in that sense, I don't think you want an appropriation to be binding, the way you do with a local unit.

ASSEMBLYMAN ROONEY: Let me give you a good example to bring it to the fore. Right now, the Bergen County Utilities Authority is going out-of-state on their garbage. They have contracts with certain people for out-of-state dumping, wherever it may be. They are now collecting \$98 a ton, and they are spending \$105 a ton on garbage to go out-of-state. The estimate is that by the end of the year, they will be \$3

million in the red. You know, you couldn't do that as a municipality. You would have to amend your budget. You would have to do all of these things, and you would have to appropriate. That, to me, is a situation that is a very bad example of accountability. It is probably one of the worst examples. They will have a \$2 million or \$3 million deficit because of this, and they don't even tell us what they are going to do.

MR. HUBSCHMAN: Well, if we had qualified people, as we were talking about, on the board of the Authority, presumably they would require financial statements being submitted to them each month, certainly on a quarterly basis. When I look at something like the Bergen County Utilities Authority, you would want it at least every month -- a complete set of financial statements, I would imagine.

When someone has delivered that information to you, that they are going to incur this loss, you immediately begin laying the plans as to how you are going to address that -- which may be a change in rate -- and immediately start addressing whatever the procedure is that you have to follow to effect that change in rate, so that you do not work yourself into a deficit position. That is as effective as saying, "Let's change the budget," which is what happens now under a governmental type situation. We will pass an emergency appropriation, and we will defer that charge until next year and raise it by taxes.

ASSEMBLYMAN ROONEY: But, through you. We need the permission through you.

MR. HUBSCHMAN: They do when it exceeds 3-1/2%, but if it is within that 3-1/2% they do not have to have the approval.

ASSEMBLYMAN ROONEY: Well, that's true. But, the smaller the budget-- That 3-1/2% doesn't-- Depending on the size of the municipality, that 3-1/2% doesn't represent -- like a garbage truck. Do you know what I'm saying?

MR. HUBSCHMAN: That's true. What would someone in the Division say? "Well, here is a situation. We are faced with it, and now we have to approve it." The taxpayer is still going to bear the load.

ASSEMBLYMAN ROONEY: I am not a fan of authorities. I speak personally, not as a member of the Committee. I think they should have a tighter budget. I think if they are going to prepare a fiscal statement, they should have enough of a track record to put together a budget that is reasonable for the oncoming year. I don't think that is too much to expect. And then, the emergencies and/or contingencies that in normal, daily life come out, if they represent a percentage of the total bottom line of the authority, they should have to go through you. They should not be able to go out and have an indebtedness of -- an astronomical indebtedness to the size of the authority on their own. I don't think that I--

MR. HUBSCHMAN: What I would anticipate as being much more effective, from the Division's point of view--

ASSEMBLYMAN ROONEY: Well, that's what I'm--

MR. HUBSCHMAN: --would be, not a budget, but the calling into account. We may want to come out with some interim financial statements, as well as the audit report. We may want to put more emphasis upon the audit report, the timeliness of the report, what it means, and how important it is, and then sit back and analyze the situation, and say, "Wait a minute, fellows, you have a problem," if they do have a problem. "We are going to call you in, sit down, and we want to find out what your plans are to address that problem."

Now, if we had that type of staffing and that type of capability, then I don't see what the significance of the budget is. I think the main thing, coming back, is the accountability. People have to be held accountable. If I am not accountable to the Director, after how I perform, who knows where we may be? Every individual is held accountable in one respect or another.

ASSEMBLYMAN ROONEY: Devil's advocate, and that's all. I'm not sure that I would like to see the bureaucracy the bottom-line financial adviser. I take it that is really what you would be. When you went over that financial document, you would be becoming a financial adviser, more or less, to that authority, and perhaps not have that hands-on that we discussed before. Because of the 218, I think it would be very, very difficult, if not impossible, to put yourself in that chair, rather than have a financial document prepared by them, and then reviewed by you. I am not sure which of those would be better.

MR. HUBSCHMAN: I don't disagree with you for one second on that. That is not what we are seeking. I know the way I addressed it, it may have come across that way. I am thinking more as we discussed it. What happens within a corporation? You have your chief executive and the officers who run it, and you have your board of directors. Having spent 20 years in private industry, you are accountable to the board of directors every month. I think that if the commissioners of the authorities were set up in that position and knew what they were looking for-- If you had what I believe was mentioned earlier in the way of qualified personnel, who could bring some expertise into the authority, and could sit back and actually manage the authority the way those commissioners should be behaving, like the board of directors, you would have the accountability there. Then, if it slips through them and gets down to Trenton and a pattern is discerned, Trenton then may want to say, "Hey, wait a minute."

ASSEMBLYMAN ROONEY: That's fine, yeah. That sounds reasonable.

You brought up penalties. What would be recommended?

MR. HUBSCHMAN: I don't have any specific recommendations.

MR. KENNEDY: I understand that the DCA regulations carry a penalty if they are not observed-- a statutory penalty. There is a general statutory section saying that if the regulations of the Department of Community Affairs are not observed, a certain penalty will attach.

MR. HUBSCHMAN: In 52, if I may, Mr. Kennedy--

MR. KENNEDY: Title 52--

MR. HUBSCHMAN: Okay, 52:27-bb, and I think it goes back to section 53 and 54. This addresses that there is a \$1000 fine and possibly one year in jail. I think, in essence, what it says is, for failure to follow the directive of the Director, in the one section, and then what has been proscribed by the Local Finance Board, in the other section. I have had discussions since joining the Bureau with the Deputy Attorney General, and mentioned that while that is a law, that is not something that can be initiated or called upon by the Division. My understanding from the DAG was that the county prosecutor has to initiate this action.

MR. KENNEDY: So, this bears no-- This has no effect on your regulation of authorities?

MR. HUBSCHMAN: From a practical point of view, it is of little consequence.

MR. KENNEDY: Would you rather see penalty provisions put into the law directly?

MR. HUBSCHMAN: I would hate to make that decision. I would like to respond, though, on the basis that it is not something to be dealt with lightly. However, if you are going to have accountability, and if someone does not perform, and in some instances almost refuses to perform, then what happens? All too frequently, I think what does occur, if it hasn't been legislated that it is an automatic penalty, is that people are reluctant to impose the penalty.

MR. KENNEDY: Have you ever sent a budget back to an authority for corrections?

MR. HUBSCHMAN: Oh, yes. I would guess out of-- We went through a budget season of processing close to 400 budgets between November, December, and January. I would guess that of that portion that was represented by fire districts, one-third to one-half was conditionally qualified. I would guess a lesser percentage with the authorities, maybe 25%, were conditionally qualified, and probably a couple of dozen budgets submitted were refused. I think we have a large educational program on our hands.

ASSEMBLYMAN HENDRICKSON: Mr. Chairman?

ASSEMBLYMAN ROONEY: Yes?

ASSEMBLYMAN HENDRICKSON: Is there any way we could have a recommendation from you on the mechanics of setting up such an educational program? Would it be through DCA? Who would we get as the professionals, should we be able to start that type of a program?

MR. HUBSCHMAN: That is quite a coincidence -- the answer. Bearing in mind that I have been with the Bureau for seven months, one of the first things I suggested was -- had time permitted, and as soon as time permits -- to review the regulations and the procedures currently in effect. This is a time-consuming type of thing. I think it best belongs with the Division, because they are working with it and they know the problems we have now experienced. We have seen firsthand what the problems are. I have probably been in 40 of the largest municipalities in this State. I have been deeply involved with a half a dozen of them. I know, also, that the municipalities have a tendency to look to Trenton-- It is sort of almost a "They are the enemy" type of thing.

ASSEMBLYMAN HENDRICKSON: Only the larger ones.

MR. HUBSCHMAN: I don't think we want to come across that. That is a hard thing to--

ASSEMBLYMAN HENDRICKSON: The small guys don't want no part of Trenton?

MR. HUBSCHMAN: I see the same thing with the authorities. I think we want to get across to them, "Look, we are not here trying to beat you over the head. We are here to help." Sometimes that is very difficult, and I think they have to be shown. That has not always been their experience.

ASSEMBLYMAN HENDRICKSON: Excuse me, I am going to be a little facetious. Ever since we lost the Herrick funds -- 90% -- and I know you wouldn't be familiar with that -- to build roads, we get a 50/50 match, and a 75/25 match. We can't even afford it, so we stay away from it. I'm talking about the smaller municipalities.

MR. HUBSCHMAN: Yeah.

ASSEMBLYMAN ROONEY: Is there anything else? (no response) There is just one thing I would like to leave you with: The SCI did request that the Department -- the Division, rather -- work on a code of ethics for us, if that is within your purview, or we can have the Committee Aide draw that, if you would like, with some of your input.

MR. VALENTI: I think our Director would probably want to comment on that.

MR. HUBSCHMAN: The Director would probably want to make that decision.

ASSEMBLYMAN ROONEY: Okay.

MR. VALENTI: On the training -- not a step backwards, but-- We have done a lot-- Actually, we are not trainers. We have guest lectured; we have prepared material. But we have dealt a lot through Rutgers University.

ASSEMBLYMAN ROONEY: Yeah, I was going to say that. I wouldn't expect you people to do that.

MR. VALENTI: They do all the assigning. They use a county building like this, and things like that.

ASSEMBLYMAN ROONEY: No, Rutgers has done very well on the zoning and planning courses they have run.

MR. VALENTI: And, through them, there are three certification programs, two on-line already. The municipal clerks have to be certified now for reappointment. The tax collectors have had that requirement, and the finance officers' bill is pending. So, slowly these various functional areas have come on board through Rutgers, with a State-certified exam.

ASSEMBLYMAN HENDRICKSON: Financial officers also, no?

MR. VALENTI: It's pending.

MR. HUBSCHMAN: Certified municipal financial officers.

MR. VALENTI: Right.

MR. HUBSCHMAN: That was another point of discussion with the Director, as to the possibility of incorporating certain courses that specifically address authorities.

ASSEMBLYMAN ROONEY: All right. Any comments you might have on membership composition, terms of members, or anything like that would be appreciated. Financial disclosure I think that we, as legislators, have to submit, and you also.

MR. VALENTI: We, as employees have to submit.

ASSEMBLYMAN ROONEY: I think it should filter down to the local boards.

Let's see-- We want to really get into some of the recommendations you may make in legislation to tighten up the budget and bidding law, and extend it where it is not extended to these authorities, to make sure they are complying.

The other thing is, the SCI recommended that the bonding be looked into, and something be drafted to give us control over that. I, myself, know that the numbers that come down on, just the part of it that pertains to the bonding attorney-- There are so many FAs and so many of these and those. If you had some bid procedure that you could follow. I saw one bonding attorney get a \$175,000 fee for doing nothing -- absolutely nothing. I use that "nothing" liberally. Maybe he wrote two or three letters, and that was it. To me, it is just a terrible waste of taxpayers' and ratepayers' money.

MR. VALENTI: Mr. Chairman, just on that point, whenever there is a question about bidding -- formal bidding -- my thought has always been, "When in doubt, bid it out." But one thing with formal competitive bidding, you have to be careful in some areas and also take a step back. When you are dealing with professional services, and this is not really a professional service-- I mean, if you have an attorney doing this, then they can hire them under the Professional Service clause, which is a total exemption. But on certain things, the law says "lowest responsible price."

Now, everybody remembers the lowest part, because that is kind of easy. The hardest part is the responsible part. You don't want to get yourself caught up in a competitive bid situation for such services, where you are taking the low price, and you end up paying more in the end because the service is not responsible. So, competitive bidding only works if you have the right people in place. Maybe what we are talking about here-- I think the law does state, for bond proceedings, something about bids. They talk about the word "bids" in there, and right away people think of competitive bids. You might be talking about something here that is along the competitive negotiations or competitive theme, that is aboveboard open. There is a process of inviting in proposals, but that there be a process for evaluating those proposals, where you take into consideration price and other factors.

ASSEMBLYMAN ROONEY: I think DCA could easily help on that by prequalifying. If you prequalify a bonding company, for example, and are able to certify them, say, "You can negotiate with these people," at least they would be on your list and they are qualified to do it, and you've gotten it, almost like putting out your computer run of all of the components you are bidding anyway. I think if you did that, or something to that effect, and said, "Okay, we can work with these 10 companies--" There are certain companies that can't

handle a \$500 million bond issue, or a \$600 million bond issue, but there are probably five or six that can. If we opened it to those five or six, rather than dealing with one preferred person, you know, then we are going to get better pricing. "When in doubt, bid it out." I agree. There is nothing that could be better said. But, when you are talking 1-1/2% and 1-3/4% for the bonding company on \$600 million, that could come down, probably, to 3/4% or 1/2%. There is a lot of money being made unjustly, just because someone is preferred, rather than having it bid. That is the hairy area. That is the area -- the gray area -- where the professional services kind of, you know, overlap. I still think we can bid it and do much, much better.

MR. HUBSCHMAN: Then, after the issue has been out for three, four, or five years, somebody says, "Well, let's refinance it."

ASSEMBLYMAN ROONEY: Absolutely. We did three of those in the last three years. I guess one of the various parties needed the money, or whatever -- their contributions. But, unfortunately, that does happen. Fortunately, they did get a better rate and could justify it with the interest rate having gone down. There is a lot of money out there, and we have to have more accountability and responsibility. We are going to pretty much end your testimony on the same thing that we started it with.

If there is any help you can give us to show us where we can tighten up the loopholes-- We have found many, many loopholes since we have been looking at the issue. If there is anything you can do, please work with Walter or myself or any members of the Committee.

MR. HUBSCHMAN: May I ask, what is your time frame?

ASSEMBLYMAN ROONEY: We are hoping to have one more hearing in Trenton prior to the summer break, and then probably over the summer start looking at the legislation and putting it in.

MR. HUBSCHMAN: So there might be a few months to formulate something like this?

ASSEMBLYMAN ROONEY: Yeah. We would love to have it in before the summer break, but I don't think that is going to be possible. I think we are going to have some timing problems with the next hearing.

ASSEMBLYMAN HENDRICKSON: May I?

ASSEMBLYMAN ROONEY: Yes, please.

ASSEMBLYMAN HENDRICKSON: We have had an unconscionable amount of legislation that has to correct all types of bonding, either through advertising or some foolish mistake along through the process on the accountability side. That professional who put that together-- I think it was the attorneys -- the attorneys setting the procedure for the advertising. It just seems that through the legislative process -- and I have only been there six years; I am serving my fourth term now, and I have had to put in three myself -- okay? -- for school bond issues and others-- The accountability to that attorney-- I think if we would take a few more minutes to proofread it and then let it go, it would save us all an awful lot of money. It seems the money is made so easily. That accountability, and how we can possibly-- I am trying to wrestle with it. If there is any advice at all that you could give us, I think it would help, and would save the taxpayers a tremendous amount of money.

We just let some out, one of these committees, on it the other--

ASSEMBLYMAN ROONEY: Yeah.

MR. HUBSCHMAN: We'll bear that in mind, sir.

ASSEMBLYMAN ROONEY: Thank you.

MR. HUBSCHMAN: Thank you.

ASSEMBLYMAN HENDRICKSON: Thanks. Very good.

ASSEMBLYMAN ROONEY: Any other questions? (no response) Barry Skokowski has always been very helpful, and

his office has always been very professional. We appreciate your input.

Again, is there anyone else at this time? Dan, would you like to say a few words from the Association of Counties' perspective? Inspector Dan Douglass.

DANIEL DOUGLASS: Thank you, Mr. Chairman. I am Dan Douglass, from the New Jersey Association of Counties. I am their Legislative Representative.

Since you have started these hearings, we have been discussing amongst ourselves, the authorities. If any particular legislation comes out of these hearings, we will certainly view it and probably take a position on it.

But, the general theme thus far has been that the authorities should generally be left to the discretion of the counties. The membership of the authorities should be the prerogative of the governing bodies; that ultimately the authorities are responsible to the elected officials which established them, and thus the elected officials are responsible to the voters. So there is a check and balance along those lines.

The other theme, of course, was that the State should probably leave the counties to do what they do best. We should be able to direct our resources to those items which we perform well, and not be concerned as much with court costs or maintenance of patients, and things like that -- the half a billion dollars worth of State mandates that are forced upon the counties. We would rather be able to direct our resources to sewerage authorities or other items of local infrastructure needs, than be forced to pay for something we have no control over.

So, there is a reluctance amongst the counties to give up control of something they know something about and generally perform well. Where authorities are not performing well, we feel the elective process is the appropriate check and balance

on the counties. If freeholders establish an authority which is running out of control, then the freeholders should, perhaps, be removed from office, or be subject to the voters' opinion.

That is generally what has come out of our discussions. As I said, any specific proposals, we will give full consideration, and perhaps give you an opportunity to present your proposals to our Legislative Committee and to our Board of Directors, to let them hear firsthand what your proposals might be.

ASSEMBLYMAN ROONEY: Dan, as the County Executive said earlier, and the county executive in my county said -- Bergen County -- all too often, with a five-year term, these people outlast the appointing authorities. They will span over the county executive four-year term or the freeholder three-year term. That is the thing, you can't replace those individuals on that board. What they are looking for-- They also can't take the responsibility for previous boards, so the tone I am hearing from the appointing authorities is, perhaps there should be a shorter term, standardized with all authorities, make it a three-year term.

Also, there should be qualifications. If we lay down qualifications for having this office, and say it must be a business person with a business degree, or an attorney, or a member of the financial community-- If you lay these down, then there is no problem with the appointing authority saying, "Well, we have to do this. We can't just pick Joe's cousin, or so and so's brother." Once we lay it down, I think we will have answered a problem they have.

The other thing is, the Executive also said no more than two years consecutive without it, you know, being approved by the authority -- for a chairman. These are some of the things that he is concerned about. He can't replace a chairman. He brought these things up. So, there are some

differences with what you're saying. I think there is a concern with the membership; a concern for accountability. It's not there. I sat on one of those authorities, and there was absolutely no accountability. You were going to be around for five years, and the county executive is going to be gone in four; the freeholders are gone in three.

MR. DOUGLASS: I think there is, amongst the counties, some agreement, perhaps, for shorter terms; that it does increase the accountability of the governing body if they can replace them within their term. There perhaps should be some overlap to avoid completely partisan replacing of members, but in general shorter terms might be something that we would be agreeable to.

ASSEMBLYMAN ROONEY: Don't get us wrong. We have no intention of ever taking the appointed power away from the counties. That is not the intent of this board. What we are trying to do is to have them strengthen their position in appointing the proper people, and having them for terms that are reasonable, rather than for five years. I think if you go back to the last legislation that created nine-member utility authorities with two alternate members, it was done purely -- purely -- for political purposes. One party was leaving power in that particular major authority, and another party was coming in. They wanted to expand the membership of the party leaving power, and put the alternates on also to have their people in control. It was purely political. We have to understand why that was done. I know because it happened to my county.

MR. DOUGLASS: But nothing at all prevents a governing body from appointing qualified people. It doesn't necessarily have to be in law that it should be an engineer or someone with an accounting background.

ASSEMBLYMAN ROONEY: Well the suggestion is that at least one-- You should have financial, legal, and probably management out of maybe seven members or nine members. You should have someone who has some qualifications and experience. That is all they are looking for.

What we would like to do is have you work with us, to give us input into the membership question, the bidding question. You people are under a different law, obviously, in the counties, than the authorities are. I would think the counties would want to get the authorities under the same bidding and budget requirements. We have heard that they are not part of that system.

MR. DOUGLASS: What we are doing as part of our ongoing internal discussions -- and you might note that the Senate County and Municipal Government Committee is starting to hold hearings on a related subject, in terms of bidding for various levels of government-- We are going to be contacting the county purchasing officers to see what recommendations they might have. They would have more of an expertise than perhaps the freeholders or the county executives, in terms of dealing with it on a day-to-day basis.

So, we are opening the door both ways to be willing to help you and to see if we can get input from our local county officials.

ASSEMBLYMAN ROONEY: That's great. Part of our discussion is the purchasing and the bidding. Another thing we are interested in is the Sunshine Law. One of the big things that came out in the Independent Authorities was violation of the Sunshine Law. I know from my experience, many times I had to remind the body that I sat on that we were in total violation of the Sunshine Law. To strengthen that, we should be making them more aware of it.

So, anything we can do to work together-- I don't want to put legislation out that the Association is going to

oppose. I think we should be working together on something that you will support, where you will go out and say, "This is good legislation. It's good government."

MR. DOUGLASS: We will be happy to work with you. Thank you for asking us here today.

ASSEMBLYMAN ROONEY: Thank you. We will see you in Trenton, hopefully.

MR. DOUGLASS: Certainly.

ASSEMBLYMAN HENDRICKSON: Just one quick thing. You might send some recommendations down on the Sunshine Law, what your feeling is on that, and how that could be made a respectable law that would really help, rather than be-- In my opinion, it is way overrated. I am not sure it is doing the job it is supposed to do.

ASSEMBLYMAN ROONEY: I was hoping the League of Women Voters would be here to give us their statement. Let me just read it; it says: "Local Financing Authorities: In addition to interstate and statewide authorities, there are over 200 local authorities. Their purposes include: sewerage, utilities, parking, housing, and incineration. Since January 1, 1984, local financing authorities have been subject to regulation by DCA. This legislation which provides the regulation strengthens the existing system of State oversight of local financial operations and debt, by providing for State supervision of independent local authorities and special tax districts, financial operations and debt.

"Financial control responsibilities over local authorities and special districts are assigned to the Local Finance Board and the Director. The Local Finance Board exercises approval power over the creation of new authorities and special districts, as well as approval power over the dissolution of such authorities and districts.

"The Local Finance Board also reviews, conducts public hearings, and issues findings and recommendations on any

proposed project financing of an authority or a district, and on any financing agreement between the local government and the authority or special district. The Local Finance Board prescribes minimum audit requirements to be followed by authorities and special districts in the conduct of their annual audits. The Director reviews and approves annual budgets of authorities and special districts."

I probably should have read that before DCA came on, because that is a total description of what they are doing.

"Legislation applies to all autonomous public bodies created by counties and municipalities which are empowered to issue bonds, impose facility or service charges, or levy taxes on a district. This encumbers most autonomous local authorities -- sewerage, water, parking, etc. -- and special tax districts -- fire, etc. Authorities which are subject to differing State or Federal restrictions are exempt to the extent of the difference.

"As of December 31, 1985, there were 218 locally created authorities with a capital debt of \$4,116,922,000, reflecting outstanding bonds and also mortgages."

The questions that the League will be asking in their hearings around the State -- and some of you legislators should note these and get answers to them-- I will give you the questions. It is always better when you have the questions in advance.

ASSEMBLYMAN HENDRICKSON: Yeah, could we have those? Thanks, John. Very good. A good Chairman; a good Chairman.

ASSEMBLYMAN ROONEY: "Do you have any concerns about the current state of authorities and commissions?" I think we all have.

"Do you think that most authorities serve the same purpose for which they were created? Explain.

"In what type of case is the authority structure preferred to direct governmental control?"

"What government requirements exist now to regulate authorities? Using agreement of the local government and

"Would greater government regulation of authorities inhibit their ability to act efficiently?"

"What oversight does government now have over authorities? How is oversight working?"

"Can and does the Governor's office monitor authorities efficiently -- and the comptroller?"

"What disclosure requirements are there for authorities?"

"Is there enough oversight of finances, management practices, personnel policies, staff, and appointed directors?"

"Is there enough accountability built into the system?"

"Are authorities being used to circumvent the voters on bond issues? Keep taxes down."

"Is the overall size of an authority debt a problem? Please explain."

"Do you think that some authorities are impeded by their restrictive covenants? Do the covenants impede public or State policy? Explain."

"What other questions should the League of Women Voters be asking in the course of our investigation of authorities?"

We will bring this upstairs and get copies for the Committee. Perhaps the League will come to our hearing in Trenton and pose the questions themselves. We should have some answers.

If there is no one else who would like to testify at this time--

ASSEMBLYMAN HENDRICKSON: I move we adjourn.

ASSEMBLYMAN ROONEY: Is the motion seconded?

ASSEMBLYMAN HUDAK: Yeah. Can we get a copy of that other statement?

ASSEMBLYMAN ROONEY: Yes. What I am going to do is--
When we adjourn, Assemblyman Kline has invited us to his
legislative office upstairs--

ASSEMBLYMAN KLINE: On the third floor.

ASSEMBLYMAN ROONEY: --on the third floor for
sandwiches. So, we will go up and make copies up there.

ASSEMBLYMAN HENDRICKSON: That's some hospitality.
You can't beat that southern hospitality.

ASSEMBLYMAN ROONEY: South Jersey. I want to thank
everyone for coming today. We had hoped that there would be
some more, but perhaps at the next hearing in Trenton we will
get some additional information. As I said, it is an ongoing
study. Right now, we have some pretty good input as to what
the problems are, and we will be looking to correct those very
shortly.

Thank you very much.

(HEARING CONCLUDED)



APPENDIX





State of New Jersey

COMMISSION OF INVESTIGATION

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March 28, 1988

COUNSEL
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Ileana Saros

Statement For the Assembly County Government and Regional Authorities Committee on County and Municipal Utility Authorities Public Hearing at Bergen County Community College

The State Commission of Investigation conducted an investigation of such authorities which concluded with a public hearing in July, 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 them -- and reiterates here -- several proposals that should be implemented. These include:

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 fines, 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 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.

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 non-compliance.

Mandate Employment Qualifications

Minimal but nonetheless exacting qualifications should be mandated by the Division for appointment of executive directors or others 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

The Division should establish a list of pre-qualified vendors of chemicals deemed essential for the adequate operation of treatment and purification facilities. The Division should establish training seminars for authority purchasing agents to assist them in determining the actual effectiveness of chemicals currently being marketed for waste water treatment.

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 the 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.



