

P U B L I C H E A R I N G
before

SENATE COMMITTEE ON ENERGY, AGRICULTURE AND ENVIRONMENT

on

Senate Bills No. 3084, 3085, 3086 and 3087

(Water and Waste Management Package)

Held:
November 25, 1975
Assembly Chamber
State House
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator Joseph L. McGahn, Chairman
Senator Bernard J. Dwyer, Vice Chairman

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SENATE, No. 3084

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 27, 1975

By Senators McGAHN, DWYER and MUSTO

Referred to Committee on Energy, Agriculture and Environment

AN ACT providing for the creation and the establishment of the powers of county utilities authorities as public bodies corporate and politic, authorizing the acquisition, construction, financing and operation of water systems, sewerage systems, surface water systems and solid waste systems by such authorities, providing for the issuance of bonds and other obligations therefor, and for service charges and other means to meet the expense thereof, supplementing Title 40 of the Revised Statutes, amending P. L. 1960, c. 183, and repealing parts of the statutory law.

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

1 1. This act shall be known and may be cited as the "County
2 Utilities Authorities Act."

1 2. It is hereby declared to be in the public interest and to be the
2 policy of the State to create a regional mechanism in each county
3 of the State for the management, preservation and enhancement
4 of our water resources and for the disposal and recycling of waste.

5 It is further the policy of the State to restore and maintain the
6 chemical, physical, and biological integrity of the State's water by
7 maintaining regional sewerage systems to reduce and ultimately
8 eliminate the discharge of pollutants therein, to manage the surface
9 waters of the State to provide adequate drainage, stream flow
10 and flood protection, to provide for the disposal and recycling of
11 solid waste in an environmentally sound manner, and to develop an
12 adequate supply of potable water for the public and private uses
13 of counties and municipalities and their inhabitants. It is the
14 purpose and object of this act to further and implement such
15 policy by

16 a. Authorizing counties, by means and through the agency of a
17 county utilities authority, to acquire, construct, maintain, operate

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

18 or improve works for the accumulation, supply or distribution of
19 water, works for the collection, treatment, purification or disposal
20 of sewerage or other wastes, works for the collection, diversion,
21 impoundment, storage, transportation, treatment and disposal of
22 surface water, and works for the collection, treatment, recycling
23 and disposal of solid waste;

24 b. Authorizing the county utilities authority to operate and main-
25 tain any sewerage system, water system, surface water system or
26 solid waste system which is owned by a municipality or person,
27 pursuant to a contract with said person or municipality or pursuant
28 to any other procedure authorized by law;

29 c. Authorizing service charges to municipalities served by the
30 county utilities authority and to occupants or owners of property
31 for direct or indirect connection with and the use, products or
32 services of such works, and providing for the establishment, collec-
33 tion and enforcement of such charges;

34 d. Creating as bodies corporate and politic county utilities
35 authorities to have full responsibility and powers with respect to
36 such works and the establishment, collection, enforcement, use and
37 disposition of all such service charges;

38 e. Providing for the financing of such works, for the issuance of
39 bonds therefor, and for the payment and security of such bonds;
40 and

41 f. In general, granting to county utilities authorities discretion-
42 ary powers to provide for utility services designed to provide or
43 distribute such a supply of water, to relieve pollution of such
44 waters in or bordering the State, to reduce flooding and to dispose
45 of or recycle solid waste at the expense of the users of such services
46 or of counties or municipalities or other persons contracting for
47 or with respect to such services.

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

3 a. "Municipality" means any city of any class, any borough,
4 village, town, township, or any other municipality other than a
5 county or a school district, any agency thereof or any two or more
6 thereof acting jointly or any joint meeting or other agency of any
7 two or more thereof;

8 b. "County" means any county of any class;

9 c. "Governing body" means, in the case of a county, the board of
10 chosen freeholders, and, in the case of a municipality, the commis-
11 sion, council, committee, board or body, by whatever name it may
12 be known, having charge of the finances of the municipality;

12a d. "Person" means any person, association, corporation, nation,
13 State or any agency or subdivision thereof, other than a county or
14 municipality of the State;

15 e. "Authority" means a county utilities authority created and
16 organized pursuant to this act;

17 f. "District" means the area within the territorial boundaries
18 of the county, or the area within the boundaries of a district estab-
19 lished pursuant to subsection b. of section 4 of this act;

20 g. "Water system" means the plants, structures and other real
21 and personal property acquired, constructed or operated or to be
22 acquired, constructed or operated by an authority for the purposes
23 of the authority, including reservoirs, basins, dams, canals, aque-
24 ducts, standpipes, conduits, pipelines, mains, pumping stations,
25 water distribution systems, compensating reservoirs, waterworks
26 or sources of water supply, wells, purification or filtration plants
27 or other plants and works, connections, rights of flowage or diver-
28 sion, and other plants, structures, boats, conveyances, and other
29 real and personal property, and rights therein, and appurtenances
30 necessary or useful and convenient for the accumulation, supply
31 or distribution of water;

32 h. "Sewerage system" means the plants, structures and other
33 real and personal property acquired, constructed or operated or
34 to be acquired, constructed or operated by an authority for the
35 purposes of the authority, including sewers, conduits, pipelines,
36 mains, pumping and ventilating stations, sewage treatment or dis-
37 posal systems, plants and works, connections, outfalls, compensat-
38 ing reservoirs, and other plants, structures, boats, conveyances,
39 and other real and personal property, and rights therein, and
40 appurtenances necessary or useful and convenient for the collec-
41 tion, treatment, purification or disposal in a sanitary manner of
42 any sewage, liquid or solid wastes, night soil or industrial wastes;

43 i. "Surface water system" means the dams, drainageways,
44 structures and other real and personal property acquired, con-
45 structed or operated or to be acquired, constructed or operated
46 by an authority for the purposes of the authority, including storage
47 reservoirs, dikes, diversions, dams, spillways, levees, revetments,
48 drains, ditches, or channel improvements such as widening, deepen-
49 ing, straightening, clearing, sloping, building, filling in, and other
50 plants, structures, boats, conveyances and other real and personal
51 property, and rights therein, and appurtenances necessary or
52 useful and convenient for the control of flooding, the drainage of
53 swamp land, the preservation of stream flow, and the management
54 of surface water;

55 j. "Solid waste system" means the facilities, structures, and
56 other real and personal property acquired, constructed or operated
57 or to be acquired, constructed or operated by an authority for the
58 purposes of the authority including incinerators, sanitary land-
59 fills, recycling facilities, transfer stations or any other facilities or
60 property for the collection, treatment, recycling and disposal of
61 solid waste and all other personal rights therein and appurtenances
62 necessary or useful and convenient for the collection, treatment or
63 disposal in a sanitary manner of solid waste;

64 k. "Utility system" means a water system, a sewerage system,
65 a surface water system, a solid waste system or any combination
66 of said systems, acquired, constructed or operated or to be acquired,
67 constructed or operated by an authority.

68 l. "Cost" means, in addition to the usual connotations thereof,
69 the cost of acquisition or construction of all or any part of a
70 utility system and of all or any property, rights, easements, privi-
71 leges, agreements and franchises deemed by the authority to be
72 necessary or useful and convenient therefor or in connection there-
73 with, including interest or discount on bonds, cost of issuance of
74 bonds, engineering and inspection costs and legal expenses, cost of
75 financial, professional and other estimates and advice, organization,
76 administrative, operating and other expenses of the authority,
77 prior to and during such acquisition or construction, and all such
78 other expenses as may be necessary or incident to the financing,
79 acquisition, construction and completion of said utility system or
80 part thereof and the placing of the same in operation, and also
81 such provision or reserves for working capital, operating, main-
82 tenance or replacement expenses or for payment or security of
83 principal of or interest on bonds during or after such acquisition
84 or construction as the authority may determine, and also reim-
85 bursements to the authority or any county, municipality or other
86 person of any moneys theretofore expended for the purposes of
87 the authority or to any county or municipality of any moneys
88 theretofore expended for or in connection with water supply,
89 sewerage treatment, surface water control or solid waste
90 management;

91 m. "Real property" means lands both within or without the
92 State, and improvements thereof or thereon, or any rights or
93 interests therein;

94 n. "Construct" and "construction" connote and include acts of
95 construction, reconstruction, replacement, extension, improvement
96 and betterment of a utility system;

97 o. "Industrial wastes" means liquid or solid waste resulting
 98 from any processes of industry, manufacture, trade or business or
 99 from the development of any natural resource;

100 p. "Sewerage" means the water-carried wastes created in and
 101 carried, or to be carried, away from residences, hotels, apartments,
 102 schools, hospitals, industrial establishments, or any other public
 103 or private building, together with such infiltration runoff, surface
 104 or ground water and industrial wastes as may be present;

105 q. "Pollution" means the condition of water resulting from the
 106 introduction therein of substances of a kind and in quantities
 107 rendering it detrimental or immediately or potentially dangerous
 108 to the public health, or unfit for public or commercial use;

109 r. "Bonds" means bonds or other obligations issued pursuant
 110 to this act;

111 s. "Services charges" means and includes water service charges,
 112 sewer service charges, surface water service charges, solid waste
 113 service charges, or any combination of the above as said terms are
 114 defined in sections 20, 21, 22 or 23 of this act;

115 t. "Compensating reservoir" means the structures, facilities
 116 and appurtenances for the impounding, transportation and release
 117 of water for the replenishment in periods of drought or at other
 118 necessary times of all or a part of waters in or bordering the State
 119 diverted into a utility system operated by an authority;

120 u. "Sewerage authority" means a public body created pursuant
 121 to the "sewerage authorities law" (P. L. 1946, c. 138, C. 40:14A-1
 122 et seq.) or the acts amendatory thereof or supplemental thereto;

123 v. "Regional sewerage authority" means a public body created
 124 by two or more municipalities pursuant to the "sewerage authori-
 125 ties law" (P. L. 1946, c. 138, C. 40:14A-1 et seq.) or the acts
 126 amendatory thereof and supplemental thereto;

127 w. "Sewer authority" means a sanitary sewer district authority
 128 created pursuant to P. L. 1946, c. 123 (C. 40:36A-1 et seq.) or the
 129 acts amendatory thereof or supplemental thereto.

130 x. "Municipal authority" means a public body created pursuant
 131 to the "municipal utilities authorities law" (P. L. 1957, c. 183,
 132 C. 40:14B-1 et seq.) or the acts amendatory thereof or supple-
 133 mental thereto;

134 y. "Surface water" means the water in or on man made or
 135 natural surfaces during normal dry weather or after a period of
 136 precipitation;

137 z. "Solid waste" means garbage, refuse and other discarded
 138 materials resulting from industrial, commercial and agricultural

139 operations, and from domestic and community activities and shall
140 include all other waste materials including liquids disposed of
141 incident thereto.

1 4. Every county shall establish, except as otherwise provided in
2 this act, a public body corporate and politic under the name and
3 style of "the county utilities authority" with
4 the name of said county inserted. Each such county utilities
5 authority shall be an agency and instrumentality of said county
6 and shall have jurisdiction over the entire area of the county with
7 such exceptions as are provided in this act.

8 a. In any county which has created a sewerage authority or a
9 municipal authority, that authority shall continue in existence as
10 a county utilities authority with the powers and duties provided
11 herein and with all its existing assets, liabilities, and contractual
12 obligations and responsibilities. The members of the sewerage
13 authority or the municipal authority shall complete their term of
14 office as members of the respective county utilities authority.

15 b. In any county which has created a single sewer authority that
16 authority shall continue in existence as a county utilities authority.
17 In any county which has created more than one sewer authority,
18 the several authorities shall be merged into a single county utilities
19 authority. Each county utilities authority so created shall have
20 all the powers and duties provided herein and shall be responsible
21 for all its predecessors' assets, liabilities and contractual obliga-
22 tions and responsibilities. The members of the one or more than
23 one sewer authorities shall complete their term of office as mem-
24 bers of the successor county utilities authority. If more than one
25 sewer authority existed in any county and more than one of said
26 authorities has contractual obligations or responsibilities to bond-
27 holders, then the county utilities authority for that county shall
28 be composed of a separate district sewerage system for the area
29 of each such predecessor county sewer authority. Each such
30 system shall be designed, financed, constructed, acquired and
31 operated independently of any other such system, provided that
32 the county utilities authority may make joint use of facilities or
33 personnel and allocate the proportionate cost thereof to each
34 system on such terms as it may determine.

35 c. In Somerset county, the Somerset-Raritan Valley Sewerage
36 Authority shall continue in existence as a county utilities au-
37 thority with the powers and duties provided herein and with all
38 its existing assets, liabilities and contractual obligations and re-
39 sponsibilities. The members of the Somerset-Raritan Valley

40 Sewerage Authority shall complete their term of office as members
41 of the Somerset County Utilities Authority.

42 d. In any county establishing a county utilities authority as
43 required by this act, the governing body thereof shall, by resolu-
44 tion, appoint five persons as members of the authority for terms
45 of 5 years, except that the members first appointed shall be desig-
46 nated to serve for terms respectively expiring on the first days of
47 the first, second, third, fourth and fifth February next ensuing
48 after their appointments.

49 e. In the event of a vacancy in the membership of any county
50 utilities authority occurring other than by expiration of term the
51 vacancy shall be filled for the unexpired term only. No vacancy
52 shall be deemed to exist, however, so long as there is at least one
53 member from the county serving a term designated to expire
54 on the first day of the first, second, third, fourth and fifth Febru-
55 ary next ensuing.

56 f. Whenever the county utilities authority shall certify to the
57 county governing body that it has entered into a contract pur-
58 suant to this act with one or more municipalities situate within
59 any other county, one additional member of the county utilities
60 authority for each such other county shall be appointed by resolu-
61 tion of the governing body of such other county to serve for a
62 term of 5 years commencing as of February 1 of the year of his
63 appointment. If after such appointment of an additional member
64 for any such other county the authority shall certify to the govern-
65 ing body of such other county that it is no longer a party to a
66 contract entered into pursuant to this act with any municipality
67 situate within such other county, the term of office of such addi-
68 tional member shall thereupon cease and expire and no additional
69 member for such other county shall thereafter be appointed.

70 g. By joint agreement any county utilities authority or, prior
71 to the appointment of the members of that county utilities au-
72 thority, any county governing body and a regional sewerage
73 authority, may provide for the merger of the regional sewerage
74 authority into the county utilities authority. The members of any
75 such regional sewerage authority shall complete their term of
76 office as members of the county utilities authority. All assets,
77 liabilities and contractual obligations and responsibilities of the
78 regional sewerage authority shall be assets, liabilities and con-
79 tractual obligations and responsibilities of the county utilities
80 authority; provided, however, that the regional sewerage authority
81 shall first, by agreement with a municipality, transfer any of its

82 assets, liabilities or contractual obligations or responsibilities for
83 local collection facilities within any municipality to that munici-
84 pality.

85 h. Any county which has created or may create a county im-
86 provement authority pursuant to P. L. 1960, c. 183 (C. 40:37A-44
87 et seq.) may, by resolution of the county governing body appoint
88 the persons serving as members of the county improvement au-
89 thority as the members of the county utilities authority.

1 5. a. No county governing body shall create or join in the
2 creation of a sewerage authority or a municipal authority.

3 b. No municipal governing body, unless it first receives the
4 written consent of the county utilities authority, shall create a,
5 join in the creation of a, or join an existing: a. sewerage authority;
6 b. municipal authority, c. incinerator authority (authorized pur-
7 suant to P. L. 1948, c. 348 (C. 40:66A-1 to 30); or, d. solid waste
8 management authority authorized pursuant to P. L. 1968, c. 249
9 (C. 40:66A-32 to 63).

1 6. A copy of each resolution appointing any member of an
2 authority adopted pursuant to this act, duly certified by the appro-
3 priate officer of the county, shall be filed in the office of the Secre-
4 tary of State. A copy of such certified resolution, duly certified
5 by or on behalf of the Secretary of State, shall be admissible in
6 evidence in any suit, action or proceeding and, except in a suit,
7 action or proceeding directly questioning such appointment, shall
8 be conclusive evidence of the due and proper appointment of the
9 member or members named therein.

1 7. The governing body of any county may, by resolution duly
2 adopted dissolve the authority created by this act; provided,
3 however that upon such dissolution the governing body shall accept
4 all the assets, liabilities and contractual obligations and respon-
5 sibilities of the authority and all its powers and duties as assets,
6 liabilities, contractual obligations and responsibilities, powers and
7 duties of the county. A copy of each resolution for the dissolution
8 of an authority adopted pursuant to this section, duly certified by
9 the appropriate officer of the county shall be filed in the office of
10 the Secretary of State. A copy of such certified resolution, duly
11 certified by or on behalf of the Secretary of State, shall be ad-
12 missible in evidence in any suit, action or proceeding and shall be
13 conclusive evidence of the dissolution of such an authority.

1 8. a. If the governing body of any municipality has joined in
2 the creation or shall join in the creation of a regional sewerage
3 authority, the area within the territorial limits of such munici-

4 pality shall not be part of the territory of the county utilities
5 authority for the provision of sewerage services.

6 b. The area being served by the Passaic Valley Sewerage Com-
7 mission and the Joint Meeting of Essex and Union counties shall
8 not be part of the territory of the county utilities authority of the
9 concerned counties for the provision of sewerage services.

1 9. The powers of an authority shall be vested in the members
2 thereof in office from time to time. A majority of the entire autho-
3 rized membership of the authority shall constitute a quorum at
4 any meeting thereof. Action may be taken and motions and reso-
5 lutions adopted by the authority at any meeting of the members
6 thereof by vote of a majority of the members present, unless in
7 any case the bylaws of the authority shall require a larger number.

1 10. No member, officer or employee of an authority shall have
2 or acquire any interest, direct or indirect, in the utility system or
3 in any property included or planned to be included in the utility
4 system or in any contract or proposed contract for materials or
5 services to be furnished to or used by the authority, but neither
6 the holding of any office or employment in the government of any
7 county or municipality or under any law of the State nor the owning
8 of any property within the State shall be deemed a disqualification
9 for membership in or employment by an authority, and members
10 of the county governing body may be appointed and may serve as
11 members of an authority.

1 11. Each member of an authority shall hold office for the term
2 for which he was appointed and until his successor has been
3 appointed and has qualified. A member of an authority may be
4 removed only by the governing body by which he was appointed
5 and only for inefficiency or neglect of duty or misconduct in office
6 and after he shall have been given a copy of the charges against
7 him and, not sooner than 10 days thereafter, had opportunity in
8 person or by counsel to be heard thereon by such governing body.

1 12. An authority may reimburse its members for necessary
2 expenses incurred in the discharge of their duties. The county
3 governing body may, by resolution, provide that the members of
4 the authority may receive compensation for their services within
5 such annual and other limitations as may be stated in such resolu-
6 tion and in that event, each member shall receive from the authority
7 such compensation for his services as the authority may determine
8 within the limitations stated in such resolution. The said provi-
9 sions or limitations stated in any such resolution may be amended
10 or supplemented by subsequent resolution, but no reduction of any

11 such compensation shall be effective as to any member of the
12 authority then in office except upon the written consent of such
13 member. No member of any authority shall receive any compensa-
14 tion for his services except as provided in this section.

1 13. Every authority, upon the first appointment of its members
2 and thereafter on or after February 1 in each year, shall elect
3 from among its members a chairman and a vice chairman who
4 shall hold office until February 1 next ensuing and until their
5 respective successors have been appointed and have qualified.
6 Every authority may also appoint and employ, without regard to
7 the provisions of Title 11 of the Revised Statutes, a secretary, an
8 executive director, a chief engineer and such other agents and
9 employees as it may require, and it shall determine their qualifica-
10 tions, terms of office, duties and compensation.

1 14. Every authority shall conduct all its activities in a manner
2 consistent with and designed to promote all applicable State and
3 Federal laws, rules, regulations and policies.

1 15. a. The purposes of every authority shall be (1) the provi-
2 sion and distribution of an adequate supply of water for the public
3 and private uses of the county and its inhabitants, (2) the relief
4 of waters in or bordering the State from pollution arising from
5 causes within the county; and the relief of waters in, bordering or
6 entering the county from pollution or threatened pollution and
7 the consequent improvement of conditions affecting the public
8 health, (3) the provision of sewage collection and disposal service
9 within or without the county (4) the provision of water supply and
10 distribution service in such areas without the county as are per-
11 mitted by the provisions of this act, (5) the provision of solid waste
12 services within the county, (6) the provision of surface water
13 management services within the county, and (7) the operation and
14 maintenance of utility systems owned by municipal or regional
15 governments located within or predominantly within the county
16 through contracts with said governments.

17 b. Every authority is hereby authorized, subject to the limita-
18 tions of this act, to acquire, in its own name but for the county
19 by purchase, gift, condemnation or otherwise, to lease as lessee,
20 and, notwithstanding the provisions of any charter, ordinance or
21 resolution of the county to the contrary, to construct, maintain,
22 operate and use, such utility systems as in the judgment of the
23 authority will provide an effective and satisfactory method for
24 promoting the purposes of the authority.

25 c. Every authority is hereby authorized and directed, when in
26 its judgment its sewerage system or any part thereof will permit,
27 to collect all sewage from any and all public systems, within the
28 county other than regional sewerage authorities, and to treat and
29 dispose of the same in such manner as to promote the purposes of
30 the authority;

1 16. Every authority shall be a public body politic and corporate
2 constituting a political subdivision of the State established as an
3 instrumentality exercising public and essential governmental
4 functions to provide for the public health and welfare and shall
5 have perpetual succession and have the following powers:

6 a. To adopt and have a common seal and to alter the same at
7 pleasure;

8 b. To sue and be sued;

9 c. In the name of the authority and on its behalf, to acquire,
10 hold, use and dispose of its service charges and other revenues
10a and moneys;

11 d. In the name of the authority but for the county to acquire,
12 rent, hold, use and dispose of other personal property for the pur-
13 poses of the authority;

14 e. In the name of the authority but for the county and subject
15 to the limitations of this act, to acquire by purchase, gift, condem-
16 nation or otherwise, or lease as lessee, real property and easements
17 therein, necessary or useful and convenient for the purposes of the
18 authority, and subject to mortgages, deeds of trusts or other liens,
19 or otherwise, and to hold and to use the same, and to dispose of
20 property so acquired no longer necessary for the purposes of the
21 authority;

22 f. To produce, develop, purchase, accumulate, distribute and sell
23 water and water services, facilities and products within or without
24 the county; provided, however, that no water shall be sold at retail
25 in any municipality without the county unless the governing body
26 of such municipality shall have adopted a resolution requesting
27 the authority to sell water at retail in such municipality, and the
28 State Board of Public Utility Commissioners shall have approved
29 such resolution as necessary and proper for the public convenience;

30 g. To provide for and secure the payment of any bonds and
31 the rights of the holders thereof, and to purchase, hold and dispose
32 of any bonds;

33 h. To accept gifts or grants of real or personal property, money,
34 material, labor or supplies for the purposes of the municipal

35 authority, and to make and perform such agreements and contracts
36 as may be necessary or convenient in connection with the procuring,
37 acceptance or disposition of such gifts or grants;

38 i. To enter on any lands, waters or premises for the purpose of
39 making surveys, borings, soundings and examinations for the
40 purposes of the authority;

41 j. To make and enforce bylaws or rules and regulations for the
42 management and regulation of its business and affairs and for the
43 use, maintenance and operation of the utility system and any other
44 of its properties, and to amend the same;

45 k. To do and perform any acts and things authorized by this
46 act under, through or by means of its own officers, agents and
47 employees, or by contracts with any person; and

48 l. To enter into any and all contracts, execute any and all
49 instruments, and do and perform any and all acts or things neces-
50 sary, convenient or desirable for the purposes of the authority or
51 to carry out any power expressly given in this act.

1 17. Every authority is authorized and directed to prepare an
2 annual budget and to submit it to the county governing body for
3 approval and to the State Departments of Environmental Protec-
4 tion, Public Utilities and Community Affairs for review and com-
5 ment. The annual budget shall itemize the anticipated income from
6 rents, rates, fees, charges, and all other anticipated revenues from
7 municipal governments, the State Government, Federal Govern-
8 ment, county governing body and all other sources. The annual
9 budget shall itemize the anticipated expenditures for each utility
10 system which it operates.

1 18. Every authority is hereby authorized to charge and collect
2 rents, rates, fees or other charges (in this act sometimes referred to
3 as "water service charges") for direct or indirect connection with,
4 or the use, products or services of, the water system, or for sale
5 of water or water services, facilities or products. Such water ser-
6 vice charges may be charged to and collected from any municipality
7 or any person contracting for such connection or use, products or
8 services or for such sale or from the owner or occupant, or both of
9 them, of any real property which directly or indirectly is or has
10 been connected with the water system or to which directly or
11 indirectly has been supplied or furnished such use, products or
12 services of the water system or water or water services, facilities
13 or products, and the owner of any such real property shall be liable
14 for and shall pay such water service charges to the authority at
15 the time when and place where such water service charges are due

16 and payable. Such rents, rates, fees and charges shall as nearly as
17 the authority shall deem practicable and equitable be uniform
18 throughout the county for the same type, class and amount of use,
19 products or service of the water system, and may be based or com-
20 puted either on the consumption of water on or in connection with
21 the real property, or on the number and kind of water outlets
22 on or in connection with the real property, or on the number and
23 kind of plumbing fixtures or facilities on or in connection with the
24 real property, or on the number of persons residing or working on
25 or otherwise connected or identified with the real property, or on
26 the capacity of the improvements on or connected with the real
27 property, or on any other factors determining the type, class and
28 amount of use, products or services of the water system supplied
29 or furnished, or on any combination of such factors, and may give
30 weight to the characteristics of the water or water services, facili-
31 ties or products and, as to service outside the district, any other
32 matter affecting the cost of supplying or furnishng the same
33 including the cost of installation of necessary physical properties.

1 19. Every authority is hereby authorized to charge and collect
2 rents, rates, fees or other charges (in this act sometimes referred
3 to as "sewer service charges") for direct or indirect connection
4 with, or the use or services of, the sewerage system. Such
5 sewer service charges may be charged to and collected from any
6 municipality and any person contracting for such connection or use
7 or services or from the owner or occupant, or both of them, of any
8 real property which directly or indirectly is or has been connected
9 with the sewerage system or from or on which originates or has
10 originated sewage or other wastes which directly or indirectly have
11 entered or may enter the sewerage system, and the owner of any
12 such real property shall be liable for and shall pay such sewerage
13 service charges to the authority at the time when and place
14 where such sewerage service charges are due and payable. Such
15 rents, rates, fees and charges, being in the nature of use or service
16 charges, shall as nearly as the authority shall deem practicable
17 and equitable be uniform throughout the district for the same
18 type, class and amount of use or service of the sewerage system,
19 and may be based or computed either on the consumption of water
20 on or in connection with the real property, making due allowance
21 for commercial use of water, or on the number and kind of water
22 outlets on or in connection with the real property, or on the
23 number and kind of plumbing or sewerage fixtures or facilities on
24 or in connection with the real property, or on the number of persons

25 residing or working on or otherwise connected or identified with
26 the real property, or on the capacity of the improvements on or
27 connected with the real property, or on any other factors de-
28 termining the type, class and amount of use or service of the
29 sewerage system, or on any combination of any such factors, and
30 may give weight to the characteristics of the sewage and other
31 wastes and any other special matter affecting the cost of treatment
32 and disposal of the same, including chlorine demand, biochemical
33 oxygen demand, concentration of solids and chemical composition,
34 and, as to service outside the county, the cost of installation of
35 necessary physical properties.

36 In addition to any such sewer service charges, a separate charge
37 in the nature of a connection fee or tapping fee, in respect of each
38 connection of any property with the sewerage system may be im-
39 posed upon the person making such connection or upon the owner
40 or occupant of the property so connected. Such connection charges
41 shall be uniform within each class of users but the amount thereof
42 shall otherwise be entirely within the discretion of the authority in
43 order that the combination of such connection fee or tapping fee
44 and the aforesaid sewer service charges shall meet the require-
45 ments of section 24.

1 20. Every authority is hereby authorized to charge and collect
2 rents, rates, fees or other charges (in this act sometimes referred
3 to as "solid waste service charges") for the use or services
4 of the solid waste system. Such solid waste service charges may
5 be charged to and collected from any municipality or any person
6 contracting for such use or services or from the owner or occupant,
7 or both of them, of any real property from or on which originates
8 or has originated any solid waste to be treated by the solid waste
9 system of the authority, and the owner of any such real property
10 shall be liable for and shall pay such solid waste service charges
11 to the authority at the time when and place where such solid
12 waste service charges are due and payable. Such rents, rates,
13 fees and charges, being in the nature of use or service charges,
14 shall as nearly as the authority shall deem practicable and equitable
15 be uniform throughout the county for the same type, class and
16 amount of use or service of the solid waste system, and may be
17 based or computed on any factors determining the type, class and
18 amount of use or service of the solid waste system, and may
19 give weight to the characteristics of the solid waste and any other
20 special matter affecting the cost of treatment and disposal of the
21 same.

1 21. Every authority is hereby authorized to charge and collect
2 rents, rates, fees or other charges (in this act sometimes referred
3 to as "surface water service charges") for the use or services
4 of the surface water management system. Such surface water
5 service charges may be charged to and collected from any munici-
6 pality or any person contracting for such use or services or from
7 the owner of any real property and the owner of any such real
8 property shall be liable for and shall pay such surface water ser-
9 vice charges to the authority at the time when and place where
10 such surface water service charges are due and payable. Such
11 rents, rates, fees and charges shall as nearly as the authority
12 shall deem practicable and equitable be uniform throughout the
13 county for the same type, class and amount of use or service of the
14 surface water system, and may be based or computed on any factors
15 determining the type, class and amount of use, benefits or services
16 of the surface water system supplied or furnished and any other
17 matter affecting the cost of supplying or furnishing the same
18 including the cost of installation of necessary physical properties.

1 22. Every authority shall prescribe and from time to time when
2 necessary revise a schedule of all its service charges, which may
3 provide a single rent, rate, fee or charge for any of its utility
4 services and which shall comply with the terms of any contract
5 of the authority and may be such that the revenues of the authority
6 will at all times be adequate to pay the expenses of operation and
7 maintenance of the utility system, including reserves, insurance,
8 extensions, and replacements, and to pay the principal of and
9 interest on any bonds and to maintain such reserves or sinking
10 funds therefor as may be required by the terms of any contract
11 of the authority or as may be deemed necessary or desirable by the
12 authority. Said schedule shall be prescribed and from time to
13 time revised by the authority after public hearing thereon which
14 shall be held by the authority at such time but not less than 7 days
15 after published notice thereof as the authority may determine
16 to be reasonable. The authority shall likewise fix and determine
17 the time or times when and the place or places where such service
18 charges shall be due and payable and may require that such
19 service charges shall be paid in advance for periods of not more
20 than 1 year. A copy of such schedule of service charges in effect
21 shall at all times be kept on file at the principal office of the au-
22 thority and shall at all reasonable times be open to public in-
23 spection.

1 23. Any municipality or county shall have power, in the discre-
2 tion of its governing body, to appropriate moneys for the purposes
3 of the authority, and to loan or donate such moneys to the authority
4 in such installments and upon such terms as may be agreed upon
5 between such municipality or county and the authority.

1 24. For the purpose of raising funds to pay the cost of any part
2 of its utility system or for the purpose of funding or refunding
3 any bonds, every authority shall have the power to authorize or
4 provide for the issuance of bonds pursuant to this act, subject to
5 the approval of the county governing body and to notification of the
6 State Department of Environmental Protection, Public Utilities
7 and Community Affairs by delivery of a copy of the bond resolu-
8 tion thereof. Any authority proposing to authorize or provide
9 further issuance of bonds shall adopt a resolution (in this act
10 sometimes referred to as "bond resolution") which shall:

11 a. Describe in brief and general terms sufficient for reasonable
12 identification the utility system or part thereof (in this act some-
13 times called "project") to be constructed or acquired, or describe
14 the bonds which are to be funded or refunded, if any;

15 b. State the cost or estimated cost of the project, if any; and

16 c. Provide for the issuance of the bonds in accordance with
17 section 27 of this act.

1 25. Upon adoption of a bond resolution, an authority shall have
2 power to incur indebtedness, borrow money and issue its bonds
3 for the purpose of financing the project or of funding or refunding
4 the bonds described therein. Such bonds shall be authorized by the
5-6 bond resolution and may be issued in one or more series and shall
7 bear such date or dates, mature at such time or times not exceeding
8 40 years from the date thereof, bear interest at a rate or rates
9 within such maximum rate (not exceeding the maximum lawful
10 rate), denomination or denominations, be in such form, either cou-
11 pon or registered, carry such conversion or registration privileges,
12 have such rank or priority, be executed in such manner, be payable
13 from such sources in such medium of payment at such place or
14 places within or without the State, and be subject to such terms of
15 redemption (with or without premium) as the bond resolution may
16 provide.

1 26. Bonds of an authority may be sold by the authority at public
2 or private sale at such price or prices as the authority shall deter-
3 mine; provided, however, that the interest cost to maturity of the
4 money received for any issue of bonds (computed according to

5 standard tables of bond values) shall not exceed the maximum
6 lawful rate.

1 27. Any authority shall cause a copy of any bond resolution
2 adopted by it to be filed for public inspection in its office and in the
3 office of the clerk of the governing body of the county or counties
4 and may thereupon cause to be published in a newspaper published
5 or circulating in the district a notice stating the fact and date of
6 such adoption and the places where such bond resolution has been
7 so filed for public inspection and also the date of the first publica-
8 tion of such notice and also that any action or proceeding of any
9 kind or nature in any court questioning the validity or proper
10 authorization of bonds provided for by the bond resolution, or the
11 validity of any covenants, agreements or contract provided for by
12 the bond resolution shall be commenced within 20 days after the
13 first publication of such notice. If any such notice shall at any
14 time be published and if no action or proceeding questioning the
15 validity of the creation and establishment of the authority, or
16 the validity or proper authorization of bonds provided for by
17 the bond resolution referred to in said notice, or the validity of
18 any covenants, agreements or contract provided for by said bond
19 resolution shall be commenced or instituted within 20 days after
20 the first publication of said notice, then all residents and taxpayers
21 and owners of property in the district and users of the utility
22 system and all other persons whatsoever shall be forever barred
23 and foreclosed from instituting or commencing any action or pro-
24 ceeding in any court, or from pleading any defense to any action
25 or proceedings, questioning the validity of the creation and estab-
26 lishment of the authority, or the validity or proper authorization
27 of such bonds, or the validity of any such covenants, agreements or
28 contracts, and said authority shall be conclusively deemed to have
29 been validly created and established and to be authorized to
30 transact business and exercise powers as an authority under this
31 act, and said bonds, covenants, agreements and contracts shall be
32 conclusively deemed to be valid and binding obligations in accord-
33 ance with their terms and tenor.

1 28. Any provision of any law to the contrary notwithstanding,
2 any bond or other obligation issued pursuant to this act shall be
3 fully negotiable within the meaning and for all purposes of the
4 negotiable instruments law of the State, and each holder or owner
5 of such a bond or other obligation, or of any coupon appurtenant
6 thereto, by accepting such bond or coupon shall be conclusively
7 deemed to have agreed that such bond, obligation or coupon is and

8 shall be fully negotiable within the meaning and for all purposes
9 of said negotiable instruments law.

1 29. Any bond resolution of an authority providing for or autho-
2 rizing the issuance of any bonds may contain provisions, and such
3 authority, in order to secure the payment of such bonds and in
4 addition to its other powers, shall have power by provision in such
5 bond resolution, to covenant and agree with the several holders of
6 such bonds, as to:

7 a. The custody, security, use, expenditure or application of the
8 proceeds of the bonds;

9 b. The construction and completion, or replacement, of all or
10 any part of the utility system;

11 c. The use, regulation, operation, maintenance, insurance or dis-
12 position of all or any part of the utility system, or restrictions on
13 the exercise of the powers of the authority to dispose, or to limit
14 or regulate the use, of all or any part of the utility system;

15 d. Payment of the principal of or interest on the bonds, or any
16 other obligations, and the sources and methods thereof, the rank or
17 priority of any such bonds or obligations as to any lien or security,
18 or the acceleration of the maturity of any such bonds or obligations;

19 e. The use and disposition of any moneys of the authority,
20 including revenues (in this act sometimes called "system reve-
21 nues") derived or to be derived from the operation of all or any
22 part of the utility system, including any parts thereof theretofore-
23 constructed or acquired and any parts, extensions, replacements or
24 improvements thereof thereafter constructed or acquired;

25 f. Pledging, setting aside, depositing or trusteeing all or any
26 part of the system revenues or other moneys of the authority to
27 secure the payment of the principal of or interest on the bonds or
28 any other obligations or the payment of expenses of operation or
29 maintenance of the utility system, and the powers and duties of
30 any trustee with regard thereto;

31 g. The setting aside out of the system revenues or other moneys
32 of the authority of reserves and sinking funds, and the source,
33 custody, security, regulation, application and disposition thereof;

34 h. Determination or definition of the system revenues or of the
35 expenses of operation and maintenance of the utility system;

36 i. The rents, rates, fees, or other charges for connection with or
37 the use, products or services of the utility system, including any
38 parts thereof theretofore constructed or acquired and any parts,
39 extensions, replacements or improvements thereof thereafter con-
40 structed or acquired, and the fixing, establishment, collection and

41 enforcement of the same, the amount or amounts of system reve-
 42 nues to be produced thereby, and the disposition and application
 43 of the amounts charged or collected;

44 j. The assumption or payment or discharge of any indebtedness,
 45 liens or other claims relating to any part of the utility system or
 46 any obligations having or which may have a lien on any part of the
 47 system revenues;

48 k. Limitations on the issuance of additional bonds or any other
 49 obligations or on the incurrence of indebtedness of the authority;

50 l. Limitations on the powers of the authority to construct,
 51 acquire or operate, or permit the construction, acquisition or opera-
 52 tion of, any plants, structures, facilities or properties which may
 53 compete or tend to compete with the utility system;

54 m. Vesting in a trustee or trustees within or without the State
 55 such property, rights, powers and duties in trust as the authority
 56 may determine which may include any or all of the rights, powers
 57 and duties of the trustee appointed by the holders of bonds pur-
 58 suant to section 30 of this act, and limiting or abrogating the
 59 right of such holders to appoint a trustee pursuant to section 30
 60 of this act or limiting the rights, duties and powers of such trustee;

61 n. Payment of costs or expenses incident to the enforcement of
 62 the bonds or of the provisions of the bond resolution or of any
 63 covenant or contract with the holders of the bonds;

64 o. The procedure, if any, by which the terms of any covenant or
 65 contract with, or duty to, the holders of bonds may be amended or
 66 abrogated, the amount of bonds the holders of which must consent
 67 thereto, and the manner in which such consent may be given or
 68 evidenced; or

69 p. Any other matter or course of conduct which, by recital in the
 70 bond resolution, is declared to further secure the payment of the
 71 principal of or interest on the bonds.

72 All such provisions of the bond resolution and all such covenants
 73 and agreements shall constitute valid and legally binding contracts
 74 between the authority and the several holders of the bonds, regard-
 75 less of the time of issuance of such bonds, and shall be enforceable
 76 by any such holder or holders by appropriate action, suit or pro-
 77 ceeding in lieu of prerogative writ.

1 30. a. If the bond resolution of an authority authorizing or pro-
 2 viding for the issuance of a series of its bonds shall provide in
 3 substance that the holders of the bonds of such series shall be
 4 entitled to the benefits of this section, then in the event that there
 5 shall be a default in the payment of principal of or interest on any

6 bonds of such series after the same shall become due, whether at
7 maturity or upon call for redemption, and such default shall con-
8 tinue for a period of 30 days, or in the event that the authority
9 shall fail or refuse to comply with the provisions of this act or shall
10 fail or refuse to carry out and perform the terms of any contract
11 with the holders of any such bonds, and such failure or refusal
12 shall continue for a period of 30 days after written notice to the
13 authority of its existence and nature, the holders of 25% in
14 aggregate principal amount of the bond of such series then out-
15 standing by instrument or instruments filed in the office of the
16 Secretary of State and proved or acknowledged in the same manner
17 as a deed to be recorded, may appoint a trustee to represent the
18 holders of the bonds of such series for the purposes provided in
19 this section.

20 b. Such trustee may and upon written request of the holders of
21 25% in aggregate principal amount of the bonds of such series
22 then outstanding shall, in his or its own name:

23 (1) By any action, writ, proceeding in lieu of prerogative writ,
24 or other proceeding, enforce all rights of the holders of such bonds,
25 including the right to require the authority to charge and collect
26 service charges adequate to carry out any contract as to, or pledge
27 of, system revenues, and to require the authority to carry out and
28 perform the terms of any contract with the holders of such bonds
29 or its duties under this act;

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

32 (3) By action, require the authority to account as if it were the
33 trustee of an express trust for the holders of such bonds;

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

36 (5) Declare all such bonds due and payable, whether or not in
37 advance of maturity, upon 30 days' prior notice in writing to the
38 authority and, if all defaults shall be made good, then with the
39 consent of the holders of 25% of the principal amount of such
40 bonds then outstanding, annul such declaration and its conse-
41 quences.

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

47 d. In any action or proceeding by such trustee, the fees, counsel
48 fees and expenses of the trustee and of the receiver, if any,
49 appointed pursuant to this act, shall constitute taxable costs and
50 disbursements, and all costs and disbursements, allowed by the
51 court, shall be a first charge upon any service charges and system
52 revenues of the authority pledged for the payment or security of
53 bonds of such series.

1 31. If the bond resolution of an authority authorizing or provid-
2 ing for the issuance of a series of its bonds shall provide in sub-
3 stance that the holders of the bonds of such series shall be entitled
4 to the benefits of section 32 of this act and shall further provide
5 in substance that any trustee appointed pursuant to said section
6 or having the powers of such a trustee shall have the powers pro-
7 vided by this section, then such trustee, whether or not all of the
8 bonds of such series shall have been declared due and payable,
9 shall be entitled as of right to the appointment of a receiver of
10 the utility system, and such receiver may enter upon and take
11 possession of the utility system and, subject to any pledge or con-
12 tract with the holders of such bonds, shall take possession of all
13 moneys and other property derived from or applicable to the
14 acquisition, construction, operation, maintenance or reconstruction
15 of the utility system and proceed with such acquisition, construc-
16 tion, operation, maintenance or reconstruction which the authority
17 is under any obligation to do, and operate, maintain and reconstruct
18 the utility system and fix, charge, collect, enforce and receive the
19 service charges and all system revenues thereafter arising subject
20 to any pledge thereof or contract with the holders of such bonds.
21 relating thereto and perform the public duties and carry out the
22 contracts and obligations of the authority in the same manner as
23 the authority itself might do and under the direction of the court.

1 32. Neither the members of the authority nor any person exe-
2 cuting bonds issued pursuant to this act shall be liable personally
3 on the bonds by reason of the issuance thereof. Bonds or other
4 obligations issued pursuant to this act shall not be in any way a
5 debt or liability of the State, and bonds or other obligations issued
6 by an authority pursuant to this act shall not be in any way a debt
7 or liability of the State or of any county or municipality and shall
8 not create or constitute any indebtedness, liability or obligation of
9 the State or of any such county or municipality, either legal, moral
10 or otherwise, and nothing in this act contained shall be construed
11 to authorize any authority to incur any indebtedness on behalf of
12 or in anyway to obligate the State or any county or municipality.

1 33. Every authority is hereby empowered, in its own name but
 2 for the county to acquire by purchase, gift, grant or devise and
 3 to take for public use real property, within or without the county,
 4 which may be deemed by the authority necessary for its purposes,
 5 including public lands, waters, parks, roads, playgrounds, reserva-
 6 tions and public or private rights in waters within or without the
 7 county, and any property within or without the county owned by or
 8 in which any county, municipality or political subdivision of the
 9 State, or public body or agency of such political subdivision, has
 10 any right, title or interest. Such authority is hereby empowered
 11 to acquire and take such real property, including any such public
 12 property or such public interests therein, by condemnation, in the
 13 manner provided in P. L. 1971, c. 361 (C. 20:3-1 et seq.) and, to that
 14 end, may invoke and exercise in the manner or mode of procedure
 15 prescribed in said law, either in its own name or in the name of
 16 the county, all of the powers of such county to acquire or take
 17 property for public use; provided, however, that, notwithstanding
 18 the foregoing or any other provision of this act, no authority shall
 19 acquire or take, by condemnation, any real property owned by the
 20 State or in which the State has any right, title or interest or
 21 real property in use as part of any system of water supply or dis-
 22 tribution actually serving 50 or more parcels of real property; and
 23 provided, further, that, notwithstanding the foregoing or any other
 24 provision of this act, no authority shall acquire or take, by con-
 25 demnation, any real property situate without the county owned or
 26 occupied by any county, municipality or other political subdivision
 27 of the State, except rights-of-way or easements for the location,
 28 construction, maintenance, renewal, relocation and removal of
 29 collecting, distribution and transmission pipes, mains, conduits,
 30 manholes, gatehouses, appurtenances and other like facilities, and
 31 for access thereto.

1 34. In addition to other powers conferred by this act or by any
 2 other law, and not in limitation thereof, every authority, in connec-
 3 tion with construction or operation of any part of a utility system,
 4 shall have power to make reasonable regulations for the installa-
 5 tion, construction, maintenance, repair, renewal, relocation and
 6 removal of tracks, pipes, mains, conduits, cables, wires, towers,
 7 poles or any other equipment and appliances (herein called "facili-
 8 ties") of any public utility, as defined in R. S. 48:2-13, in, on,
 9 along, over or under any real property, including public lands,
 10 waters, parks, roads, streets, highways, playgrounds and reserva-
 11 tions. Whenever in connection with construction or operation of

12 any part of a utility system, any authority shall determine that
 13 it is necessary that any such facilities, which now are, or here-
 14 after may be, located in, on, along, over or under any such real
 15 property, including public lands, waters, parks, roads, streets, high-
 16 ways, playgrounds and reservations, should be relocated in such
 17 real property, including public lands, waters, parks, roads, streets,
 18 highways, playgrounds and reservations, or should be removed
 19 therefrom, the public utility owning or operating such facilities
 20 shall relocate or remove the same in accordance with the order
 21 of the authority, provided, however, that the cost and expenses
 22 of such relocation or removal, including the cost of installing such
 23 facilities in a new location, or new locations, and the cost of any
 24 lands or any rights or interest in lands, or any other rights acquired
 25 to accomplish such relocation or removal, less the cost of any
 26 lands or any rights or interests in lands or any other rights of
 27 the public utility paid to the public utility in connection with the
 28 relocation or removal of such property, shall be paid by the
 29 authority and may be included in the cost of such utility system.
 30 In case of any such relocation or removal of facilities, as aforesaid,
 31 the public utility owning or operating the same, its successors or
 32 assigns, may maintain and operate such facilities, with the neces-
 33 sary appurtenances, in the new location or new locations for as
 34 long a period, and upon the same terms and conditions, as it had
 35 the right to maintain and operate such facilities in their former
 36 location.

1 35. In the event that a service charge of any authority with
 2 regard to any parcel of real property or to any municipality shall
 3 not be paid as and when due, interest shall accrue and be due to
 4 the authority on the unpaid balance at the rate of 1% per month
 5 until such service charge, and the interest thereon, shall be fully
 6 paid to the authority.

1 36. In the event that a service charge of any authority with
 2 regard to any parcel of real property owned by any person other
 3 than the State or an agency or subdivision thereof shall not be
 4 paid as and when due, the unpaid balance thereof and all interest
 5 accruing thereon shall be a lien on such parcel. Such lien shall
 6 be superior and paramount to the interest in such parcel of any
 7 owner, lessee, tenant, mortgagee or other person except the lien
 8 of municipal taxes and shall be on a parity with and deemed equal
 9 to the lien on such parcel of the municipality where such parcel
 10 is situate for taxes thereon due in the same year and not paid when
 11 due. Such lien shall not bind or affect a subsequent bona fide pur-

12 chaser of such parcel for a valuable consideration without actual
13 notice of such lien, unless the authority shall have filed in the
14 office of the collector or other officer of said municipality charged
15 with the duty of enforcing municipal liens on real property a state-
16 ment showing the amount and due date of such unpaid balance
17 and identifying such parcel, which identification may be sufficiently
18 made by reference to the assessment map of said municipality.
19 The information shown in such statement shall be included in any
20 certificate with respect to said parcel thereafter made by the official
21 of said municipality vested with the power to make official certifi-
22 cates of searches for municipal liens. Whenever such service charge
23 and any subsequent service charge with regard to such parcel and
24 all interest accrued thereon shall have been fully paid to the
25 authority, such statement shall be promptly withdrawn or canceled
26 by the authority.

1 37. In the event that any service charge of any authority with
2 regard to any parcel of real property shall not be paid as and
3 when due, the authority, may, in its discretion, enter upon such
4 parcel and cause any connection or connections thereof leading
5 directly or indirectly to or from the utility system to be cut and
6 shut off until such service charge and any subsequent service charge
7 with regard to such parcel and all interest accrued thereon shall
8 be fully paid to the authority.

1 38. In the event that a sewer service charge of any authority
2 with regard to any parcel of real property shall not be paid as
3 and when due, the authority may, in accordance with section 51 of
4 this act, cause the supply of water to such parcel by any county,
5 municipality or other person to be stopped or restricted until such
6 sewer service charge and any subsequent sewer service charge
7 with regard to such parcel and all interest accrued thereon shall
8 be fully paid to the authority. If for any reason such supply of
9 water shall not be promptly stopped or restricted as required by
10 section 51 of this act, the authority may itself shut off or restrict
11 such supply and, for that purpose, may enter on any lands, waters
12 or premises of any county, municipality or other person. Such
13 supply of water to such parcel shall, notwithstanding the provi-
14 sions of this section, be restored or increased if the State Depart-
15 ment of Health, upon application of the local board of health or
16 health officer of the municipality where such parcel is situate, shall
17 after public hearing find and shall certify to the authority that
18 the continuance of such stopping or restriction of such supply of
19 water endangers the health of the public in such municipality.

1 39. The collector or other officer of every municipality charged by
2 law with the duty of enforcing municipal liens on real property
3 shall enforce, with and as any other municipal lien on real property
4 in such municipality, all service charges and the lien thereof shown
5 in any statement filed with him by any authority pursuant to section
6 36 of this act, and shall pay over to the authority the sums or a
7 pro rata share of the sums realized upon such enforcement or
8 upon liquidation of any property acquired by the municipality
9 by virtue of such enforcement.

1 40. In the event that any service charge of an authority shall
2 not be paid as and when due, the unpaid balance thereof and all
3 interest accrued thereon, together with attorneys' fees and costs,
4 may be recovered by the authority in a civil action, and any lien
5 on real property for such service charge and interest accrued
6 thereon may be foreclosed or otherwise enforced by the authority
7 by action or suit in equity as for the foreclosure of a mortgage
8 on such real property.

1 41. All rights and remedies granted by this act for the collec-
2 tion and enforcement of service charges shall be cumulative and
3 concurrent.

1 42. Any county, by resolution of its governing body, or any
2 municipality, by ordinance of its governing body, or any other
3 person is hereby empowered, without any referendum, to sell,
4 lease, lend, grant or convey to any authority, or to permit any
5 authority to use, maintain or operate as part of the utility system,
6 any real or personal property owned by it, including all or any
7 part of any water supply, water distribution or sewerage facilities,
8 which may be necessary or useful and convenient for the purposes
9 of the authority and accepted by the authority. Any such sale,
10 lease, loan, grant, conveyance or permit may be made with or
11 without consideration and for a specified or an unlimited period
12 of time and under any agreement and on any terms and conditions
13 which may be approved by such county, municipality or other
14 person and which may be agreed to by the authority in conformity
15 with its contracts with the holders of any bonds. Subject to any
16 such contracts with holders of bonds, the authority may enter
17 into and perform any and all agreements with respect to property
18 so accepted by it, including agreements for the assumption of
19 principal or interest or both of indebtedness of such county,
20 municipality or other person or of any mortgage or lien existing
21 with respect to such property or for the operation and mainte-
22 nance of such property as part of the utility system.

1 43. Any authority for the carrying out and effectuation of
2 its purposes, and any municipality, whether within or without
3 the district, any municipal authority, any sewerage authority or
4 any other public body of the State empowered to operate utility
5 systems (all such municipalities, municipal authorities, sewerage
6 authorities and other bodies being hereinafter referred to in-
7 dividually as a "governmental unit") may enter into a contract
8 or contracts providing for or relating to any of the corporate
9 purposes of the authority. Any such contract may provide for
10 the payment to the authority by the governmental unit annually
11 or otherwise of such sum or sums of money, computed at fixed
12 amounts or by a formula based on any factors or other matters
13 described in sections 18, 19, 20 and 21 of this act or in any other
14 manner, as said contract or contracts may provide, and may
15 provide that the sum or sums so payable to the authority shall
16 be in lieu of all or any part of the service charges which would
17 otherwise be charged and collected by the authority with regard
18 to persons or real property within the territorial area of the
19 governmental unit. Such contract or contracts may also contain
20 provisions as to the financing and payment of expenses to be
21 incurred by the authority and determined by it to be necessary
22 for its purposes prior to the placing in operation of a utility
23 system and may provide for the payment by the governmental
24 unit to the authority for application to such expenses or indebted-
25 ness therefor such sum or sums of money, computed as said
26 contract or contracts may provide and as the governing body
27 (hereinafter described) of the governmental unit shall, by virtue
28 of its authorization of and entry into said contract or contracts,
29 determine to be necessary for the purposes of the authority.
30 Every such contract shall be authorized and entered into under
31 and pursuant to a resolution adopted by the authority in the case
32 of any authority, an ordinance of the governing body in the case
33 of a municipality, a resolution of the governing body in the case
34 of a county, and, in the case of any other public body, a resolution
35 of the commission, council, board or body by whatever name it
36 may be known having charge of the finances of such public body,
37 but the terms or text of said contract need not be set forth in
38 full or stated in any such resolution or ordinance if the form
39 of said contract is on file in the office of the clerk or other record-
40 ing officer of the governmental unit and the place and fact of such
41 filing is described in the resolution or ordinance. Any such con-
42 tract may be made with or without consideration and for a

43 specified or an unlimited time and on any terms and conditions
44 which may be approved by or on behalf of the governmental unit
45 and which may be agreed to by the authority in conformity
46 with its contracts with the holders of any bonds, and shall be valid
47 whether or not an appropriation with respect thereto is made by
48 the governmental unit prior to authorization or execution thereof.
49 Every such governmental unit is hereby authorized and directed
50 to do and perform any and all acts or things necessary, convenient
51 or desirable to carry out and perform every such contract and, in
52 accordance with any such contract, to waive, modify, suspend or
53 reduce the service charges which would otherwise be charged and
54 collected by the authority with regard to persons or real property
55 within the territorial area of the governmental unit, but nothing
56 in this section or any such contract shall prevent the authority
57 from charging and collecting, as if such contract had not been
58 made, service charges with regard to such persons and real prop-
59 erty sufficient to meet any default or deficiency in any payments
60 agreed in such contract to be made by such governmental unit.

1 44. In order to carry out and effectuate its purposes, any
2 authority, subject to its contracts with the holders of any bonds,
3 is hereby empowered to provide, construct, maintain and operate
4 facilities for the treatment and disposal of industrial wastes
5 originating within or without the district and to enter into a con-
6 tract or contracts with any person on such terms and conditions
7 as such contract or contracts may contain, providing for or relating
8 to the treatment and disposal of any such industrial wastes. The
9 authority and such person are hereby authorized and directed
10 to do and perform any and all acts or things necessary, convenient
11 or desirable to carry out and perform every such contract and to
12 provide for the payment or discharge of any obligation there-
13 under in the same manner as other obligations of such authority
14 or person.

1 45. In order to carry out and effectuate its purposes, every
2 authority is hereby authorized to enter upon and connect with any
3 existing public drains, sewers, conduits, pipelines, pumping and
4 ventilating stations and sewage treatment plants or works or any
5 other public property of a similar nature within the county, other
6 than any portion of the sewerage system of a regional sewerage
7 authority and, if deemed necessary by the authority, close off and
8 seal outlets and outfalls therefrom. No authority shall, however,
9 take permanent possession or make permanent use of any such
10 sewage treatment plant or works unless it acquires the same.

1 46. In order to carry out and effectuate its purposes, every
2 authority is hereby authorized to construct, maintain and operate
3 its utility system along, over, under and in any streets, alleys,
4 highways and other public places within or without the county,
5 doing no unnecessary injury thereto and making no unnecessary
6 interruption in or interference with the public use of such places
7 and restoring the same to their former usefulness and condition
8 within a reasonable time.

1 47. Each county and each municipality within the county and
2 every person owning or operating any utility system serving three
3 or more parcels of real property in the district, shall at the request
4 and expense of the authority make available to the authority any
5 and all of its maps, plans, specifications, records, books, accounts
6 or other data or things deemed necessary by the authority for
7 its purposes.

1 48. Each county, municipality and other public body shall
2 promptly pay to any authority all service charges which the
3 authority may charge to it, for services rendered in accordance
4 with sections 18, 19, 20 and 21 of this act, and shall provide for
5 the payment thereof in the same manner as other obligations of
6 such county, municipality or public body.

1 49. Each county, municipality and other person owning or
2 operating any sewer or drain which serves three or more parcels
3 of real property in the county and which discharges or is designed
4 to discharge sewage into waters in or bordering the State shall,
5 subject to an agreement with any such municipality, upon notice
6 from the authority of its availability and a proposed point of
7 connection with the sewerage system, cause such sewer or drain
8 to be connected with the sewerage system at such point and in
9 such manner as the authority may specify and shall thereafter
10 cause said sewer or drain to discharge into the sewerage system.

1 50. Each county, municipality and other person owning or
2 operating any system of water distribution serving three or more
3 parcels of real property in the county shall, from time to time
4 after request therefor by the authority, deliver to the authority
5 copies of the records made by it in the regular course of business
6 of the amount of water supplied by it to every such parcel of real
7 property in the county. Such copies shall be delivered to the
8 authority within 60 days after the making of such records, and
9 the authority shall pay the reasonable cost of preparation and
10 delivery of such copies.

1 51. Each county and municipality owning or operating any sys-
2 tem of water distribution serving three or more parcels of real
3 property in the county shall, and every other person owning or
4 operating any such system may and is hereby authorized to enter
5 into and perform a contract with the authority that it will, upon
6 request by the authority specifying a parcel of real property in the
7 district with regard to which a service charge under section 19 of
8 this act is unpaid, cause the supply of water from its system to such
9 parcel of real property to be stopped or restricted, as the authority
10 may request, until such service charge and any subsequent service
11 charge with regard to such parcel and the interest accrued thereon
12 shall be fully paid or until the authority directs otherwise. No such
13 county, municipality or other person shall be liable for any loss,
14 damage or other claim based on or arising out of the stopping or
15 restricting of such supply, and the authority shall pay the reason-
16 able cost of so stopping or restricting such supply and of restoring
17 the same and may agree to indemnify such county, municipality or
18 other person from all loss or damage by reason of such stopping
19 or restriction, including loss of profits.

1 52. Neither the authority nor the county shall have power to
2 mortgage, pledge, encumber or otherwise dispose of any part of
3 the utility system, except that the authority may dispose of such
4 part or parts thereof as may be no longer necessary for the pur-
5 poses of the authority. The provisions of this section shall be
6 deemed to constitute a part of the contract with the holder of any
7 bonds.

1 53. All property of an authority shall be exempt from levy and
2 sale by virtue of an execution and no execution or other judicial
3 process shall issue against the same nor shall any judgment against
4 an authority be a charge or lien upon its property; provided, that
5 nothing herein contained shall apply to or limit the rights of the
6 holder of any bonds to pursue any remedy for the enforcement of
7 any pledge or lien given by an authority on its system revenues or
8 other moneys.

1 54. a. No county, municipality or person shall discharge or
2 suffer to be discharged directly or indirectly into any waters in or
3 bordering a county any sewage which may or will cause or con-
4 tribute to the pollution of such waters; provided, that this prohibi-
5 tion shall be applicable only to such part or parts of such waters
6 as are in an area of the county bounded and described in a notice,
7 inserted at least once in a newspaper published or circulating in the
8 county to the effect that the authority has provided facilities rea-

9 sonably sufficient in its opinion for the treatment and disposal of
10 sewage which by discharge into such waters might cause or con-
11 tribute to pollution of such waters, and that pollution of such
12 waters is forbidden by law. Such a notice shall constitute prima
13 facie evidence of the existence of facilities sufficient for the treat-
14 ment and disposal of all such sewage.

15 b. No county, municipality or person shall discharge or suffer
16 to be discharged directly or indirectly into the sewerage system of
17 any authority any matter or thing which is or may be injurious
18 or deleterious to such sewerage system or to its efficient operation
19 or which is not susceptible to treatment.

20 c. No county, municipality or person shall discharge or suffer to
21 be discharged directly or indirectly into the water system of any
22 authority or on any lands or into any waters tributary to such
23 water system any matter or thing which is or may be injurious or
24 deleterious to such water system or to its efficient operation or
25 may or will cause or contribute to a danger to the health of the
26 public in the county.

27 d. No county, municipality or person shall dispose or suffer to
28 be disposed directly or indirectly into the solid waste system of
29 any authority any matter or thing which is or may be injurious or
30 deleterious to such solid waste system or to its efficient operation.

31 e. No county, municipality or person shall discharge or suffer
32 to be discharged directly or indirectly into the surface water control
33 system of any authority any matter or thing which is or may be
34 injurious or deleterious to such surface water system or to its
35 efficient operation.

36 f. Any county, municipality or person may be restrained,
37 enjoined or otherwise prevented from violating or continuing the
38 violation of any provision of this section in a proceeding in lieu
39 of prerogative writ, or other appropriate proceeding, or in an
40 action for injunctive or other relief instituted by an authority or
41 by a county prosecutor.

42 g. No violation of any provision of this section shall be deemed
43 to have occurred by reason of the discharge of sewerage from any
44 boat or vessel while afloat or on a marine railway in drydock.

1 55. No sewerage system within a county other than the sewerage
2 system of a regional sewerage authority shall be constructed unless
3 the authority shall give its consent thereto and approve the plans
4 and specifications therefor. No water system, solid waste system or
5 surface water system within a county shall be constructed unless
6 the authority shall give its consent thereto and approve the plans

7 and specifications therefor. Each authority is hereby empowered
8 to give any such consent and approval, subject, however, to the
9 terms and provisions of any agreement with the holders of bonds.

1 56. Notwithstanding any restriction contained in any other law,
2 the State and all public officers, municipalities, counties, political
3 subdivisions and public bodies, and agencies thereof, all banks,
4 bankers, trust companies, savings banks and institutions, building
5 and loan associations, investment companies, and other persons
6 carrying on a banking business, all insurance companies, insurance
7 associations, and other persons carrying on an insurance business
8 and all executors, administrators, guardians, trustees and other
9 fiduciaries, may legally invest any sinking funds, moneys or other
10 funds belonging to them or within their control in any bonds, of
11 an authority and such bonds shall be authorized security for any
12 and all public deposits.

1 57. Every utility system and all other property of an authority
2 are hereby declared to be public property of a political subdivision
3 of the State and devoted to an essential public and governmental
4 function and purpose and, other than lands subject to assessment
5 and taxation pursuant to R. S. 54:4-3.3, shall be exempt from all
6 taxes and special assessments of the State or any subdivision
7 thereof. All bonds are hereby declared to be issued by a political
8 subdivision of this State and for an essential public and govern-
9 mental purpose and to be a public instrumentality and such
10 bonds, and the interest thereon and the income therefrom, and all
11 service charges, funds, revenues and other moneys pledged or
12 available to pay or secure the payment of such bonds, or interest
13 thereon, shall at all times be exempt from taxation except for
14 transfer, inheritance and estate taxes and taxes on transfers by
15 or in contemplation of death.

1 58. The State of New Jersey does hereby pledge to and covenant
2 and agree with the holders of any bonds issued pursuant to a
3 bond resolution of an authority that the State will not limit or
4 alter the rights hereby vested in the authority to acquire, construct,
5 maintain, reconstruct and operate its utility system, and to fix,
6 establish, charge and collect its service charges and to fulfill the
7 terms of any agreement made with the holders of such bonds or
8 other obligations, and will not in any way impair the rights or
9 remedies of such holders, and will not modify in any way the
10 exemptions from taxation provided for in this act, until the bonds,
11 together with interest thereon, with interest on any unpaid install-
12 ments of interest, and all costs and expenses in connection with

13 any action or proceeding by or on behalf of such holders, are fully
14 met and discharged.

1 59. All banks, bankers, trust companies, savings banks, invest-
2 ment companies and other persons carrying on a banking business
3 are hereby authorized to give to any authority a good and sufficient
4 undertaking with such sureties as shall be approved by the author-
5 ity to the effect that such bank or banking institution as herein-
6 before described shall faithfully keep and pay over to the order of
7 or upon the warrant of the authority or its authorized agent all such
8 funds as may be deposited with it by the authority and agreed
9 interest thereon, at such times or upon such demands as may be
10 agreed with the authority or in lieu of such sureties, deposit with
11 the authority or its authorized agent or any trustee therefor or for
12 the holders of any bonds, as collateral, such securities as the au-
13 thority may approve. The deposits of the authority may be
14 evidenced by a depository collateral agreement in such form and
15 upon such terms and conditions as may be agreed upon by the
16 authority and such bank or banking institution.

1 60. Each authority shall cause an annual audit of its accounts to
2 be made, and for this purpose it shall employ a registered municipal
3 accountant of New Jersey or a certified public accountant of New
4 Jersey. The audit shall be completed and filed with the authority
5 within 4 months after the close of the fiscal year of the authority
6 and a certified duplicate copy thereof shall be filed with the Director
7 of the Division of Local Government Services in the Department of
8 Community Affairs and with the board of freeholders within 5 days
9 after the original report is filed with the authority.

1 61. Each authority shall file a copy of each bond resolution
2 adopted by it with the Director of the Division of Local Government
3 Services in the Department of Community Affairs, together with a
4 summary of the dates, amounts, maturities and interest rates of all
5 bonds issued pursuant thereto.

1 62. This act shall be construed liberally to effectuate the legisla-
2 tive intent and as complete and independent authority for the per-
3 formance of each and every act and thing herein authorized, and an
4 authority shall not be subject to, the provisions of chapter 50 of
5 Title 40 of the Revised Statutes, or be subject to regulation as to its
6 service charges by any officer, board, agency, commission or other
7 office of the State; provided, however, that nothing contained in this
8 act shall in any way affect or limit the jurisdiction, powers or rights
9 of the State Department of Health, Department of Environmental
10 Protection, Interstate Sanitation Commission, Interstate Commis-
11 sion on the Delaware River Basin, North Jersey District Water

12 Supply Commission, Passaic Valley Sewerage Commissioners, the
 13 Joint Meeting serving Essex and Union counties or the Passaic
 14 Valley Water Commission, or impair the obligations assumed by
 15 any municipality in any contract made prior to the creation of the
 16 county utilities authority with any sewerage authority or any
 17 municipal authority or with one or more other municipalities or
 18 with the Passaic Valley Sewerage Commissioners, the Joint Meet-
 19 ing serving Essex and Union counties or with the North Jersey
 20 District Water Supply Commission.

1 63. If any section, subsection, clause or provision of this act
 2 shall be adjudged unconstitutional or to be ineffective in whole or
 3 in part, to the extent that it is not adjudged unconstitutional or is
 4 not ineffective it shall be valid and effective and no other section,
 5 subsection, clause or provision of this act shall on account thereof
 6 be deemed invalid or ineffective, and the inapplicability or in-
 7 validity of any section, subsection, clause or provision of this act in
 8 any one or more instances or under any one or more circumstances
 9 shall not be taken to affect or prejudice in any way its applicability
 10 or validity in any other instance or under any other circumstance.

1 64. Section 2 of P. L. 1960, c. 183 (C. 40:37A-45) is amended to
 2 read as follows:

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

5 (a) "Authority" shall mean a public body created pursuant to
 6 this act;

7 (b) "Bond resolution" shall have the meaning ascribed thereto
 8 in section 16 of this act;

9 (c) "Bonds" shall mean bonds, notes or other obligations is-
 10 sued pursuant to this act;

11 (d) "Construct" and "construction" shall connote and include
 12 acts of clearance, demolition, construction, development or re-
 13 development, reconstruction, replacement, extension, improvement
 14 and betterment;

15 (e) "Cost" shall mean, in addition to the usual connotations
 16 thereof, the cost of planning, acquisition or construction of all or
 17 any part of any public facility or facilities of an authority and of
 18 all or any property, rights, easements, privileges, agreements and
 19 franchises deemed by the authority to be necessary or useful and
 20 convenient therefor or in connection therewith, including interest
 21 or discount on bonds, cost of issuance of bonds, architectural,
 22 engineering and inspection costs and legal expenses, cost of
 23 financial, professional and other estimates and advice, organization,

24 administrative, operating and other expenses of the authority prior
25 to and during such acquisition or construction, and all such other
26 expenses as may be necessary or incident to the financing, acquisi-
27 tion, construction and completion of such public facility or facilities
28 or part thereof and the placing of the same fully in operation or the
29 disposition of the same, and also such provision or reserves for
30 working capital, operating, maintenance or replacement expenses
31 or for payment or security of principal of or interest on bonds dur-
32 ing or after such acquisition or construction as the authority may
33 determine, and also reimbursements to the authority or any govern-
34 mental unit or person of any moneys theretofore expended for the
35 purposes of the authority;

36 (f) The term "county" shall mean any county of any class of
37 the State, and the term "the county" shall mean the county which
38 created an authority pursuant to this act;

39 (g) "Development project" shall mean any lands, structures, or
40 property or facilities acquired or constructed or to be acquired or
41 constructed by an authority for the purposes of the authority
42 described in clause (d) of section 11 of this act;

43 (h) "Facility charges" shall have the meaning ascribed to said
44 term in section 14 of this act;

45 (i) "Facility revenues" shall have the meaning ascribed to said
46 term in section 20(e) of this act;

47 (j) "Governing body" shall mean, in the case of a county, the
48 board of chosen freeholders, and, in the case of a municipality, the
49 commission, council, board or body, by whatever name it may be
50 known, having charge of the finances of the municipality;

51 (k) "Governmental unit" shall mean the United States of Amer-
52 ica or the State or any county or municipality or any subdivision,
53 department, agency, or instrumentality heretofore or hereafter
54 created, designated or established by or for the United States of
55 America or the State or any county or municipality;

56 (l) "Local bond law" shall mean chapter 2 of Title 40A, Mu-
57 nicipalities and Counties, of the New Jersey Statutes (N. J. S.)
58 as amended and supplemented;

59 (m) "Municipality" shall mean any city, borough, village, town,
60 or township of the State but not a county or a school district;

61 (n) "Person" shall mean any person, partnership, association,
62 corporation or entity other than a nation, State, county or muni-
63 cipality or any subdivision, department, agency or instrumentality
64 thereof;

65 (o) "Project" shall have the meaning ascribed to said term in
66 section 16 of this act;

67 (p) "Public facility" shall mean any lands, structures, fran-
68 chises, equipment, or other property or facilities acquired or con-
69 structed or to be acquired or constructed by an authority for its
70 purposes and either (i) operated or to be operated by the author-
71 ity or by any governmental unit or person under a lease or other
72 agreement by or with the authority or (ii) constituting a develop-
73 ment project; *and*

74 (q) "Real property" shall mean lands within or without the
75 State, above or below water, and improvements thereof or thereon,
76 or any riparian or other rights or interests therein[;];

77 (r) "Garbage and solid wastes disposal system" shall mean the
78 plants, structures and other real and personal property acquired,
79 constructed or operated or to be acquired, constructed or operated
80 by a county improvement authority, including incinerators, sanitary
81 landfill facilities or other plants for the treatment and disposal of
82 garbage, solid waste and refuse matter and all other real and per-
83 sonal property and rights therein and appurtenances necessary or
84 useful and convenient for the collection and treatment or disposal in
85 a sanitary manner of garbage, solid waste and refuse matter (but
86 not including sewage); and

87 (s) "Garbage, solid waste or refuse matter" shall mean any
88 refuse matter, trash or garbage from residences, hotels, apartments
89 or any other public or private building but shall not include water-
90 carried wastes or the kinds of wastes usually collected, carried
91 away and disposed of by a sewerage system].

1 65. Section 11 of P. L. 1960, c. 183 (C. 40:37A-54) is amended to
2 read as follows:

3 11. The purposes of every authority shall be (a) provision within
4 the county of public buildings for use by the State, the county, or
5 any municipality in the county, or any two or more or any sub-
6 divisions, departments, agencies or instrumentalities of any of the
7 foregoing, including buildings for use by any municipality bordering
8 on the Atlantic ocean as enlargements or parts of or supplements to
9 any municipal convention hall maintained by it, (b) provision
10 within the county of structures, franchises, equipment and facilities
11 for operation of public transportation or for terminal purposes, in-
12 cluding development and improvement of port terminal structures,
13 facilities and equipment for public use in counties in, along or
14 through which a navigable river flows, (c) provision within the
15 county of structures or other facilities used or operated by the

16 authority or any governmental unit in connection with, or relative
 17 to development and improvement of, aviation for military or
 18 civilian purposes, including research in connection therewith, and
 19 including structures or other facilities for the accommodation of
 20 passengers, (d) acquisition of any real property within the county,
 21 with or without the improvements thereof or thereon or personal
 22 property appurtenant or incidental thereto, from the United States
 23 of America or any department, agency or instrumentality hereto-
 24 fore or hereafter created, designated or established by or for it, and
 25 the clearance, development or redevelopment, improvement, use or
 26 disposition of the acquired lands and premises in accordance with
 27 the provisions and for the purposes stated in this act, including the
 28 construction, reconstruction, demolition, rehabilitation, conversion,
 29 repair or alteration of improvements on or to said lands and
 30 premises, and structures and facilities incidental to the foregoing
 31 as may be necessary, convenient or desirable, [(e) acquisition, con-
 32 struction, maintenance and operation of garbage and solid waste
 33 disposal systems for the purpose of collecting and disposing of
 34 garbage, solid waste or refuse matter,] and [(f)] (e) any combina-
 35 tion or combinations of the foregoing.

1 66. The following sections, acts and parts of acts, together with
 2 all amendments and supplements thereto, are hereby repealed:

- 3 R. S. 13:10-7 (1871, c. 132),
- 4 R. S. 40:30-1 to 40:30-17, both inclusive,
- 5 R. S. 40:57-1 to 40:57-11, both inclusive,
- 6 R. S. 40:154-1 (1909, c. 269),
- 7 R. S. 40:154-2 to 40:154-13, both inclusive,
- 8 R. S. 40:156-1 to 40:156-8, both inclusive,
- 9 R. S. 58:12-7 to 58:12-40, both inclusive,
- 10 R. S. 58:13-1, 58:13-2.
- 11 P. L. 1940, c. 46 (amending and supplementing 1909, c. 269
- 12 saved from repeal by R. S. 54:154-1),
- 13 P. L. 1946, c. 123 (C. 40:36A-1 to 40:36A-63),
- 14 P. L. 1951, c. 336, s. 11 (C. 40:154-1.6),
- 15 P. L. 1953, c. 389 (C. 40:36A-23.1, 40:36A-23.2),
- 16 P. L. 1955, c. 112 (C. 40:154-1.7 to 40:154-1.10),
- 17 P. L. 1959, c. 93 (C. 40:154-1(26) to 40:154-1(28)),
- 18 P. L. 1971, c. 442, s. 2 (C. 40:14B-70),
- 19 P. L. 1973, c. 330, ss. 3-8 (C. 40:37A-100 to 40:37A-105).
- 1 67. This act shall take effect immediately.

SENATE, No. 3085

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 27, 1975

By Assemblymen McGAHN, DWYER and MUISTO

Referred to Committee on Energy, Agriculture and Environment

AN ACT concerning environmental health, establishing county boards of health, providing for their functions, powers, duties and financing, providing responsibilities to the Commissioner of Environmental Protection, establishing a State aid program, supplementing Title 26 of the Revised Statutes and making an appropriation.

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

1 1. This act shall be known and may be cited as the "County
2 Environmental Health Act."

1 2. The Legislature finds that environmental health programs for
2 the control of air pollution, solid waste pollution and water pollu-
3 tion are inherently regional in nature and that the 14 existing
4 county health agencies have experience administering environ-
5 mental health programs on a regional basis and are among the
6 most efficient health units in the State.

7 The Legislature declares that it is the policy of this State to
8 provide for the administration of environmental health services
9 by county departments of health throughout the State in a manner
10 which meets certain overall performance standards to be promul-
11 gated by the Department of Environmental Protection. The
12 environmental health services shall include the monitoring of
13 environmental health standards, the enforcement of certain State
14 statutes concerning water pollution, the administration of a
15 regulatory program for septic tanks, the administration of
16 municipal health functions by contract with a municipality, the
17 operation of a technical resource center and the enactment and en-
18 forcement of environmental health ordinances on a countywide
19 basis to control air pollution, solid waste pollution and water
20 pollution.

1 3. As used in this act unless otherwise specifically indicated:

2 a. "Air pollution" means the presence in the atmosphere of one
3 or more air contaminants of any composition whatsoever, in such
4 quantities and duration as are, or tend to be, injurious to the
5 human health or welfare, animal or plant life, or property, or
6 would unreasonably interfere with the enjoyment of life or prop-
7 erty within any portion of this State;

8 b. "Commissioner" means the Commissioner of Environmental
9 Protection or his designated representative;

10 c. "County board" means a county board of health established
11 pursuant to this act, having all the powers of a county board of
12 health provided pursuant to law;

13 d. "County department" means an agency established by a
14 county board of health for the purpose of providing environmental
15 health programs throughout the county and other local health
16 programs in any municipality which so contracts with the county
17 board;

18 e. "County health agency" means any county agency organized
19 for the purpose of providing health services, administered by a
20 full-time health officer and conducting a public health program
21 pursuant to law;

22 f. "Department" means the Department of Environmental Pro-
23 tection;

24 g. "Environmental health" means those health and environ-
25 mental programs relating to the control of air pollution, solid waste
26 pollution and water pollution;

27 h. "Monitor" means check, test, observe, survey or inspect to
28 determine compliance with environmental health standards;

29 i. "Solid waste pollution" means the presence in or upon the
30 land of solid or liquid waste of any composition whatsoever, in such
31 quantities and duration as are, or tend to be, injurious to the human
32 health or welfare, animal or plant life, or property, or would
33 unreasonably interfere with the enjoyment of life or property
34 within any portion of the State;

35 j. "Water pollution" means the presence in or upon the surface
36 or ground waters of this State of one or more contaminants, in-
37 cluding any form of solid or liquid waste of any composition what-
38 soever, in such quantities and duration as are, or tend to be,
39 injurious to the human health or welfare, animal or plant life, or
40 property, or would unreasonably interfere with the enjoyment of
41 life or property within any portion of the State.

1 4. There shall be a county board of health in every county in the
2 State. The board of chosen freeholders shall be the county board
3 of health until such time as it appoints a county board of health.
4 The board of chosen freeholders may appoint a county board of
5 health of five, seven or nine members. Each member of a county
6 board of health shall be appointed for a term of 3 years; provided,
7 however, that of those first appointed at least two shall have terms
8 of 1 year, at least two shall have terms of 2 years and the remain-
9 ing members shall have terms of 3 years; provided, further, how-
10 ever, that when the board consists of nine members, those first
11 appointments shall be made so that three terms shall expire at the
12 end of the first, the second and the third years. Members shall be
13 selected with due regard to their knowledge and interest in health
14 affairs from municipalities located in different portions of the
15 county. In any county having a board of health and vital statistics,
16 organized pursuant to chapter 11 of Title 26 of the Revised
17 Statutes, that board shall be continued as a county board of health
18 as provided herein.

1 5. The county board shall provide environmental health services,
2 which meet the performance standards authorized herein, through
3 a county department of health managed by a full-time health
4 officer. In any county in which the board of chosen freeholders has
5 established a county health agency, that agency shall be continued
6 as a county health department as provided herein.

1 6. a. The county department shall monitor: a. discharges to
2 ground and surface waters from point and nonpoint sources of
3 pollution; b. discharges to and from public sewerage systems; c.
4 compliance with the "New Jersey Water Quality Improvement Act
5 of 1971" P. L. 1971, c. 173 (C. 58:10.23-1 et seq.) and sections
6 23:5-28, 23:9-36 and 23:9-52 of the Revised Statutes; d. compliance
7 with any permit granted pursuant to the "Federal Water Pollution
8 Control Act Amendments of 1972" (Public Law 92-500); and e.
9 compliance with other environmental health standards of the county
10 and State.

11 b. If the county department discovers a violation of any permit
12 granted pursuant to the Federal Water Pollution Control Act
13 Amendments of 1972 or of a violation of P. L. 1971, c. 173 in any
14 situation not covered by a permit granted pursuant to the Federal
15 act, it shall notify the department of the violation in writing. If the
16 department does not, within 60 days, inform the county department
17 in writing that the department or the United States of America is
18 taking action against the violation, or at any time after the depart-

19 ment notifies the county department that it has no objection to
20 commencement of an action by the county department, the county
21 department may initiate an action in County Court to enjoin the
22 violation and to collect the penalty provided in P. L. 1971, c. 173
23 in the manner provided therein or to compel compliance with the
24 permit.

1 7. a. The county board may formulate, adopt, amend and repeal
2 environmental health ordinances to control air pollution, solid
3 waste pollution and water pollution for the territorial area of
4 the county. Such ordinances may be more stringent, but shall not
5 be less stringent than any State statute, rule or regulation; pro-
6 vided, however, that no such ordinance may prohibit any activity
7 included in a water quality management plan or a solid waste
8 management plan adopted pursuant to law and approved by the
9 commissioner. Said ordinances shall supersede environmental
10 health ordinances adopted by the individual municipalities within
11 the county in the event of any conflict therein.

12 b. Environmental health ordinances shall be enacted by the
13 county board and enforced by the county department in the manner
14 prescribed by R. S. 26:3-64 to 26:3-82 and the acts amendatory
15 thereof and supplementary thereto. The municipal court, county
16 district court and County Court shall have jurisdiction over pro-
17 ceedings to enforce such ordinances. Any municipality may enforce
18 a county environmental health ordinance in municipal court.

1 8. No new septic tank may be installed without a permit from
2 the county department. The county department shall grant a
3 septic tank permit unless: a. The sewerage to be discharged therein
4 can more readily be discharged to an adjacent sewerage collection
5 system; b. the proposed location is identified in a water quality
6 management plan adopted by the county and approved by the
7 commissioner as unsuitable for that purpose; or, c. the county
8 department finds the proposed location unsuitable because of
9 limiting soil, topographical or groundwater conditions. Septic
10 tank permits shall specify standards for the construction and
11 operation of septic tanks.

12 The county board by ordinance may set standards for the
13 operation of new or existing septic tanks and may prescribe
14 penalties for the violation of this section. The county department
15 shall recover said penalties in the manner prescribed by R. S.
16 26:3-70 to 26:3-82 and the acts amendatory thereof and supple-
17 mentary thereto. The municipal court, county district court and
18 County Court shall have jurisdiction over proceedings to recover

19 such penalties. The county department may inspect any septic
20 tank and may order the operator of any substandard septic tank
21 to conform to the standards established herein.

22 The county board of health shall have all the responsibilities
23 of a board of health pursuant to "The Realty Improvement
24 Sewerage and Facilities Act (1954)" (P. L. 1954, c. 199; C. 58:11-23
25 et seq.) as amended and supplemented. Such responsibilities shall
26 be exercised in conjunction with the powers provided to the de-
27 partment pursuant to said P. L. 1954, c. 199. The septic tank
28 permit described herein shall constitute certification of sewerage
29 facilities for the proposed realty improvement pursuant to said
30 P. L. 1954, c. 199.

1 9. In addition to the powers specified in this act, the county
2 board may exercise any of the powers of a local board of health,
3 in any municipality which so contracts with it.

1 10. The county department may operate a technical resource
2 center for environmental health services to provide: a. training
3 programs for public and private persons or groups concerned
4 with environmental health; b. laboratory services for analyzing
5 materials to determine compliance with environmental health
6 standards; c. technical assistance; d. library services; e. data
7 collection and exchange services, concerning the results of all
8 monitoring activities within the county; and, f. any other function
9 or service deemed necessary to effectuate the purposes of this act.
10 The technical resource center may be established at the county
11 college, if any, within the county.

1 11. a. The commissioner shall promulgate, after consultation
2 with the Commissioner of Health, environmental health perform-
3 ance standards for county boards of health pursuant to the "Ad-
4 ministrative Procedures Act" (P. L. 1968, c. 410, C. 52:14B-1
5 et seq.) Such standards shall include provisions for the delivery
6 to the department of periodic reports on the results of the monitor-
7 ing and enforcement activities of the county departments.

8 b. The commissioner is authorized to make grants to the county
9 boards for the provision of environmental health services. The
10 commissioner shall prescribe procedures for applying for the
11 grant and terms and conditions for receiving the grant. The
12 State's contribution shall not exceed 50% of the cost of any under-
13 taking for which a grant is made.

14 c. The commissioner is authorized to provide technical assistance
15 to the county boards, including the preparation and distribution
16 of model ordinances.

1 12. The county health officer shall prepare and submit annually
2 to the board of chosen freeholders, subject to the advice of the
3 county board, in each year, a budget setting forth in detail the
4 amounts of money necessary for the operation of the county de-
5 partment of health, during the ensuing year. The board of chosen
6 freeholders shall include annually in the tax levy the amount of
7 money which it believes will best meet the environmental health
8 needs of the county.

1 13. If any provision of this act or the application thereof to
2 any person or circumstance is held invalid, the remainder of the
3 act and the application of such provision to persons or circum-
4 stances other than those to which it is held invalid, shall not be
5 affected thereby.

1 14. There is hereby appropriated to the Department of Environ-
2 mental Protection the sum of \$200,000.00 for grants to the county
3 boards pursuant to section 11 of this act.

1 15. This act shall take effect immediately.

SENATE, No. 3086

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 27, 1975

By Senators McGAHN, DWYER and MUSTO

Referred to Committee on Energy, Agriculture and Environment

AN ACT concerning the regulation of wastewater dischargers by the Department of Environmental Protection; providing penalties for violations; repealing R. S. 58:12-1 to 58:12-7 and section 2 of P. L. 1970, c. 91; and making an appropriation.

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

1 1. This act shall be known, and may be cited, as the "New Jersey
2 Pollution Discharge Elimination System Act."

1 2. The Legislature finds and declares that the "Federal Water
2 Pollution Control Act Amendments of 1972" (Public Law 92-500)
3 establishes a permit system to regulate the discharge of pollutants
4 into the waters of this nation and provides that permits for this
5 purpose will be issued either by the Federal Government or by
6 states with adequate authorities and programs to implement the
7 regulatory provisions of the Federal act, and that it is in the
8 interest of the people of this State to minimize direct regulation
9 by the Federal Government of wastewater dischargers, by enacting
10 legislation which will continue and extend the powers and responsi-
11 bilities of the Department of Environmental Protection for ad-
12 ministering New Jersey's water pollution control program, so that
13 the State may be enabled to implement the permit program pur-
14 suant to the Federal act.

1 3. As used in this act, the following words shall have the follow-
2 ing meanings:

3 a. "Administrator" means the Administrator of the Federal
4 Environmental Protection Agency or his authorized representa-
5 tive;

6 b. "Commissioner" means the Commissioner of Environmental
7 Protection of the State of New Jersey, or his authorized repre-
8 sentative;

9 c. "Effluent limitation" means any restriction on quantities,
10 quality, rates and concentrations of chemical, physical, biological,
11 and other constituents of effluents which are discharged into the
12 waters of the State;

13 d. "Federal act" means the "Federal Water Pollution Control
14 Act Amendments of 1972" (Public Law 92-500);

15 e. "NPDES" means the national pollution discharge elimina-
16 tion system of the national system for the issuance of permits under
17 the Federal act;

18 f. "Pollutant" means dredged spoil, solid waste, oil, incinerator
19 residue, sewage, garbage, sewage sludge, munitions, chemical
20 wastes, biological materials, radioactive materials, heat wrecked
21 or discarded equipment, rock, sand, sediment, and industrial, mu-
22 nicipal and agricultural waste and any other harmful or deleterious
23 substance;

24 g. "Waters of the State" means the ocean and its estuaries and
25 all springs, streams, lakes, wells, and bodies of surface or ground
26 water, whether natural or artificial and whether permanent or im-
27 permanent, within the boundaries of this State or subject to its
28 jurisdiction.

1 4. Except in conformity with a valid discharge permit that has
2 been issued by the commissioner or by the administrator, as the
3 case may be, it shall be unlawful for any person:

4 a. To discharge any pollutant into the waters of the State or
5 onto land from which it would flow or drain into said waters;

6 b. To construct, install, modify or operate any facility for the
7 collection, transmission, or treatment of pollutants prior to the
8 discharge of such pollutants into the waters of the State.

1 5. The commissioner is hereby authorized to grant, deny, modify,
2 suspend, revoke and reissue discharge permits in accordance with
3 this act and with regulations, adopted therefor by said commis-
4 sioner pursuant to the "Administrative Procedure Act" (P. L.
5 1968, c. 410, C. 52:14B-1 et seq.). The commissioner may reissue,
6 with or without modifications, an NPDES permit duly issued by
7 the Federal Government as the discharge permit required by this
8 act.

1 6. The commissioner may, by regulation, exempt the following
2 categories of discharge, in whole or in part, from the requirement
3 of obtaining a discharge permit under this act; provided, however,
4 that an exemption granted under this section shall not limit the civil
5 or criminal liability of any discharger, nor exempt any discharger
6 from approval or permit requirements under any other provision
6a of law:

- 7 a. Additions of sewage, industrial wastes or other materials into
8 publicly owned sewerage or treatment works;
- 9 b. Discharges of any pollutant from vessels or other liquid dis-
10 charge incidental to the normal operation of a vessel;
- 11 c. Discharges from septic tanks, sanitary landfills and other
12 means of land disposal of wastes;
- 13 d. Discharges of dredged or fill material into the waters of the
14 State;
- 15 e. Discharges from agricultural, silvicultural and aquacultural
16 activities;
- 17 f. Stormwater runoff;
- 18 g. Discharges conforming with a national contingency plan for
19 removal of oil and hazardous substances.
- 1 7. Applications for discharge permits shall be submitted within
2 such times, on such forms, and with such signatures as may be
3 prescribed by the commissioner and shall contain such information
4 as he may require. The commissioner may prescribe application
5 fees, by regulation, which shall be based upon and shall not exceed
6 administrative costs of processing such applications.
- 1 8. The commissioner shall give public notice of every complete
2 application for a discharge permit submitted to him in a manner
3 designed to inform interested and potentially interested persons of
4 the discharge and of his preliminary determination to issue or deny
5 a permit for it. He shall mail such notice to any person or group
6 upon request. The notice shall announce a period of at least 30 days
7 during which time interested persons may request additional facts,
8 submit written views, or request a public hearing on the proposed
9 discharge or determination. All written comments so submitted
10 shall be retained and considered by the commissioner in formulating
11 his final determination with respect to the discharge permit appli-
12 cation. The commissioner may give combined notice of two or more
13 discharge permit applications and preliminary determinations,
14 provided that the requirements of this section are observed for
15 each application.
- 1 9. All discharge permit applications, documented information
2 concerning actual or proposed discharges, comments received from
3 the public, preliminary determinations and issued permits shall be
4 made available to the public for inspection and for duplication. In
5 his discretion, the commissioner may also make available to the
6 public any other records, reports, plans or information pertaining
7 to discharge permit applicants or permittees, but he shall protect
8 from disclosure any information, other than effluent data, upon a

9 showing by any person that such information if made public would
 10 divulge methods or processes entitled to protection as trade secrets
 11 of such person. The commissioner may, by regulation, prescribe
 12 reasonable fees to reimburse the Department of Environmental
 13 Protection for duplicating expenses under this section.

1 10. The commissioner shall hold a public hearing on a discharge
 2 permit application if a significant showing of interest on the part
 3 of the public appears in favor of holding such a hearing or if the
 4 applicant himself requests it. In his discretion, the commissioner
 5 may also hold such a hearing on his own motion or if requested to
 6 do so by any other interested person. Public notice of every public
 7 hearing under this section, including a concise statement of the
 8 issues to be considered therein, shall be given at least 30 days in
 9 advance, and shall be circulated at least as widely as was notice
 10 of the permit application. The commissioner may hold a single
 11 hearing on two or more applications. To the extent feasible, he
 12 shall afford all persons or representatives of all points of view an
 13 opportunity to appear, but may so allocate hearing time as to
 14 exclude repetitious, redundant or irrelevant matter. All testimony
 15 and documentary material submitted at the hearing shall be con-
 16 sidered by the commissioner in formulating his final determination.

1 11. Notice of every proposed suspension, revocation, renewal or
 2 significant modification of a discharge permit, and opportunity for
 3 public hearing thereupon, shall be afforded in the same manner
 4 as with respect to the original permit applications; provided,
 5 however, that notice of any modification of a discharge permit shall
 6 be published in the New Jersey Register.

1 12. Every final determination of the commissioner to grant,
 2 deny, modify, suspend, revoke, renew or fail to renew a discharge
 3 permit shall constitute an administrative adjudication under the
 4 "Administrative Procedure Act" (P. L. 1968, c. 410; C. 52:14B-1
 5 et seq.).

1 13. The commissioner shall not issue a discharge permit for:

2 a. The discharge of any radiological, chemical or biological
 3 warfare agent or high-level radioactive waste into navigable
 4 waters;

5 b. Any discharge which the United States Secretary of the Army,
 6 acting through the Chief of Engineers, finds would substantially
 7 impair anchorage or navigation;

8 c. Any discharge to which the administrator has objected in
 9 writing pursuant to the Federal act;

10 d. Any discharge from a point source which conflicts with an
11 areawide water quality management plan adopted pursuant to
12 State law and approved by the commissioner.

1 14. All discharge permits issued under this act shall be for fixed
2 terms not to exceed 5 years for any proposed or existing discharge.
3 Any permittee who wishes to continue discharging after the ex-
4 piration date of his permit shall file for its reissuance at least 180
5 days prior to that date.

1 15. Every discharge permit issued under this act shall require
2 the permittee:

3 a. To achieve effluent limitations based upon guidelines or
4 standards established under Federal and State law, together with
5 such further discharge restrictions and safeguards against un-
6 authorized discharge as may be necessary to meet water quality
7 standards, areawide water quality management plans adopted
8 pursuant to State law and approved by the commissioner, or other
9 applicable requirements of law;

10 b. Where appropriate, to meet deadlines for compliance with the
11 terms of the permit and interim deadlines for progress or reports
12 of progress towards compliance;

13 c. To insure that all discharges are consistent at all times with
14 the terms and conditions of the permit, and that no pollutant will
15 be discharged more frequently than authorized or at a level in
16 excess of that which is authorized by the permit;

17 d. To submit application for a new permit in the event of any
18 contemplated facility expansion, production increase or process
19 modification that would result in new or increased discharges, or,
20 if these would not violate effluent limitations or other restrictions
21 specified in the permit, to notify the commissioner of such new or
22 increased discharges;

23 e. To install, use and maintain such effluent monitoring equip-
24 ment and methods, to sample effluents in accordance with such
25 methods, to maintain and retain such records of information re-
26 sulting from monitoring activities, and to submit to the commis-
27 sioner such reports of monitoring results as he may require;

28 f. At all times, to maintain in good working order and operate
29 as efficiently as possible any facilities or systems of control in-
30 stalled by the permittee to achieve compliance with the terms and
31 conditions of the permit.

1 16. In addition to the requirements of section 15 of this act,
2 every permit issued for a discharge from publicly owned treatment
3 facilities shall require the permittee:

4 a. To notify the commissioner in advance of the quality and
 5 quantity of all new introductions of pollutants into a facility and
 6 of any substantial change in the pollutants introduced into a facility
 7 by an existing user of the facility, except for such introductions
 8 of nonindustrial pollutants as the commissioner may exempt from
 9 this notification requirement when ample capacity remains in the
 10 facility to accommodate new inflows. Such notifications shall esti-
 11 mate the effects of such changes on the effluents to be discharged
 12 into the facility;

13 b. To establish an effective regulatory program, alone or in
 14 conjunction with the operators of sewerage collection systems, that
 15 will assure compliance and monitor progress toward compliance
 16 by industrial users of the facilities with equitable rate require-
 17 ments as determined pursuant to section 6 of P. L. 1967, c. 109
 18 (C. 26:2E-8) and with pretreatment standards as determined pur-
 19 suant to P. L. 1972, c. 42 (C. 58:11-49 to 58);

20 c. As actual flows to the facility approach design flow or design
 21 loading limits, to submit to the commissioner for his approval a
 22 program which the permittee and the persons responsible for
 23 building and maintaining the contributory collection systems will
 24 pursue in order to prevent overload of the facility as a result of
 25 further economic or demographic growth.

1 17. The operator of any publicly owned collection or treatment
 2 facility is hereby authorized to prescribe terms and conditions,
 3 consistent with applicable State and Federal law, upon which
 4 pollutants may be introduced into such facilities.

1 18. The commissioner, for purposes of inspection, sampling or
 2 duplicating, shall have a right of entry to any premise in which
 3 an effluent source is located or in which monitoring equipment or
 4 records required by a discharge permit are operated or kept. The
 5 same right of entry shall apply to the operator of any public sew-
 6 age system concerning any premise which may introduce pollutants
 7 into such system.

1 19. Any discharge permit may be modified, suspended or re-
 2 voked in whole or in part during its term for cause, including, but
 3 not limited to, the following:

4 a. Violation of any term or condition of the permit;

5 b. Obtaining a permit by misrepresentation or failure to disclose
 6 fully all relevant facts;

7 c. A change in any circumstance that, as a matter of law, re-
 8 quires either a temporary or permanent reduction or elimination
 9 of the permitted discharge.

1 20. a. The commissioner is authorized to assess a civil penalty
2 of not more than \$5,000.00 for each violation and additional pen-
3 alties of not more than \$500.00 for each day during which such
4 violation continues after receipt of a final order of the commis-
5 sioner under this section.

6 b. If the commissioner has reason to believe that a violation has
7 occurred, he may send to the defendant a notice describing the
8 asserted violation, stating the amount of the penalty to be imposed
9 upon finding after hearing that a violation has occurred or upon
10 default, and informing the defendant of his right to request a
11 hearing upon the matters asserted in the notice. The defendant
12 shall have 20 days from the date of receipt of the notice in which
13 to deliver to the commissioner a written request for a hearing. If
14 a hearing is requested, it shall be held in accordance with the
15 provisions of the "Administrative Procedure Act" (P. L. 1968,
16 c. 410; C. 52:14B-1 et seq.).

17 c. Upon a finding after hearing that a violation has occurred,
18 which finding shall be stated in writing together with the reasons
19 therefor based upon the hearing record, the commissioner may
20 issue a final order assessing a civil penalty not greater than the
21 penalty stated in the notice. If such a hearing is not requested or
22 if such a request is later withdrawn, than on the first day after
23 the expiration of the 20-day notice period or after withdrawal of
24 the hearing request, whichever is later, the notice shall become a
25 final order of the commissioner, and the matters asserted or charged
26 in the notice shall be deemed admitted unless modified by a consent
27 order, which shall be a final order.

28 d. Any civil penalty assessed under this section may be com-
29 promised by the commissioner upon the posting of a performance
30 bond by the violator or upon such terms and conditions as the com-
31 missioner may establish by regulation.

32 e. A civil penalty assessed in a final order of the commissioner
33 under this section may be enforced in the same manner as a judg-
34 ment of the superior court. A transcript of such final order may
35 be filed by the commissioner, without payment of any filing costs,
36 in the office of the clerk of the superior court with jurisdiction over
37 the county in which the violator resides, has a place of business, or
38 owns real property. Upon such filing, the clerk shall docket the
39 order in the same manner and with the same effect as a judgment
40 entered in the superior court.

1 21. a. The commissioner is authorized to commence a civil action
2 for appropriate relief from any violation of this act or of a permit

3 issued thereunder. Such relief may include, singly or in combina-
4 tion: (1) a temporary or permanent injunction; (2) assessment of
5 the violator for the costs of any investigation, inspection, or moni-
6 toring survey which led to the establishment of the violation, and
7 for the reasonable costs of preparing and litigating the case under
8 this subsection; (3) assessment of the violator for any cost incurred
9 by the State in removing, correcting, or terminating the adverse
10 effects upon water quality resulting from any unauthorized dis-
11 charge of pollutants for which the action under this subsection
12 may have been brought; (4) assessment against the violator of
13 compensatory damages for any loss or destruction of wildlife, fish
14 or aquatic life, and for any other actual damages caused by an
15 unauthorized discharge of pollutants. The proceeds of all cost or
16 damage assessments under this subsection shall be paid to the
17 State Treasurer, except that compensatory damages may be paid
18 by specific order of the court to any persons who have been directly
19 aggrieved by the unauthorized discharge.

20 b. Any person who violates this act or a condition of a permit
21 issued thereunder shall be subject upon order of a court to a civil
22 penalty not to exceed \$10,000.00 per day of such violation.

23 c. Any person who willfully or negligently violates this act or
24 a condition of a permit issued thereunder shall be punished by a
25 fine of not less than \$2,500.00 nor more than \$25,000.00 per day of
26 violation, or by imprisonment for not more than 1 year, or by both.
27 If the conviction is for a violation committed after a first convic-
28 tion of such person under this subsection, punishment shall be by
29 a fine of not more than \$50,000.00 per day of violation, or by
30 imprisonment for not more than 2 years, or by both.

31 d. Any person who knowingly makes a false statement, repre-
32 sentation or certification in any application, record, report, plan
33 or other document filed or required to be maintained pursuant to
34 this act, or who falsifies, tampers with or knowingly renders in-
35 accurate any monitoring device or method required to be main-
36 tained pursuant to this act, shall upon conviction be punished by
37 a fine of not more than \$10,000.00 or by imprisonment for not more
38 than 6 months, or by both.

1 22. If any provision of this act or the application thereof to any
2 person or circumstance is held invalid, such invalidity shall not
3 affect other provisions or applications which can be given effect
4 without the invalid provisions or applications, and to this end the
5 provisions of this act are declared to be severable.

1 23. R. S. 58:12-1 to 58:12-7, both inclusive, and section 2 of P. L.
2 1970, c. 91 (C. 58:12-4.1) are repealed.

1 24. There is hereby appropriated to the Department of Environ-
2 mental Protection the sum of \$200,000.00 for the administration
3 of this act.

1 25. This act shall take effect on the one hundred eighty-first day
2 after enactment.

SENATE, No. 3087

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 27, 1975

By Senators McGAHN, DWYER and MUSTO

Referred to Committee on Energy, Agriculture and Environment

AN ACT concerning water quality planning by the Department of Environmental Protection, by the 21 counties and by inter-county districts; specifying the functions, powers and duties of the department, counties and districts; establishing a State aid program, and making an appropriation.

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

1 1. This act shall be known, and may be cited, as the "Water
2 Quality Planning Act."

1 2. The Legislature finds that, despite the expenditures of mil-
2 lions of dollars of Federal, State and local funds during the last
3 decade, the waters remain polluted in many areas of New Jersey;
4 that industrial, municipal, and other facilities contribute point
5 sources of pollution; and, that agricultural, developmental and
6 other activities contribute nonpoint sources of pollution. The
7 Legislature further finds that the greatest improvements to water
8 quality have occurred in those areas of the State where county
9 and municipal governments and the State Department of Environ-
10 mental Protection have cooperated in planning for the creation of
11 regional sewerage treatment systems. The Legislature takes note
12 of the passage of the "Federal Water Pollution Control Act
13 Amendments of 1972" (Public Law 92-500) and the requirement
14 for each State to have a continuing planning process pursuant to
15 section 303 thereof and for the designation of areas and organiza-
16 tions to conduct a continuing areawide waste treatment manage-
17 ment planning process pursuant to section 208 thereof.

1 3. The Legislature, therefore, declares that the water quality
2 needs of this State require the Commissioner of Environmental
3 Protection to formulate and adopt, after consultation and holding
4 a public hearing, a State water quality management plan that will

5 establish water quality standards by stream segment, assign dis-
 6 charge load allocations to waste sources, establish a comprehensive
 7 water quality monitoring system, assess the impact of existing
 8 land use regulations on the need for sewerage facilities, tentatively
 9 determine regional wastewater management strategies, and prepare
 10 a regional water quality management plan for northeastern New
 11 Jersey; that every board of chosen freeholders shall formulate
 12 and adopt, after consultation and holding a public hearing, a
 13 county water quality management plan that will select an overall
 14 strategy for point and nonpoint pollutants, determine the number,
 15 type and location of sewerage treatment facilities and their linkage
 16 with collection systems and other sources of sewerage, determine
 17 the future status of all sewerage facilities and the agency to be
 18 responsible for their operation, provide for the planning, construc-
 19 tion and maintenance of municipal collection systems, prescribe
 20 strategies for controlling nonpoint pollution from agricultural
 21 operations, construction sites and litter and for protecting critical
 22 water related lands; that the Commissioner of Environmental Pro-
 23 tection may designate intercounty planning regions and shall
 24 promulgate standards for the evaluation of the county plans,
 25 approve, modify or reject the county plans, resolve any conflict
 26 between plans, refuse to grant any permit or funds to any project
 27 not in conformity with the approved county plan, and grant State-
 28 aid funds for the development of county and intercounty water
 29 quality management plans, all as hereinafter provided.

1 4. For purposes of this act, unless the context clearly requires
 2 a different meaning:

3 a. "Commissioner" means the Commissioner of Environmental
 4 Protection or his designated representative;

5 b. "County plan" means the county water quality management
 6 plan described in section 7 of this act;

7 c. "Municipal authority" means a public body created pursuant
 8 to the "municipal utilities authority law" (P. L. 1957, c. 183;
 9 C. 40:14B-1 et seq.) or the acts amendatory thereof or supplemental
 10 thereto;

11 d. "Sewer authority" means a sanitary sewer district authority
 12 created pursuant to P. L. 1946, c. 123 (C. 40:36A-1 et seq.), or the
 13 acts amendatory thereof or supplemental thereto.

14 e. "Sewerage authority" means a public body created pursuant
 15 to the "sewerage authorities law" (P. L. 1946, c. 138; C. 40:14A-1
 16 et seq.), or the acts amendatory thereof or supplemental thereto;

17 f. "Sewerage system" means the plants, structures and other
18 real and personal property acquired, constructed or operated or to
19 be acquired, constructed or operated by any person for the provi-
20 sion of sewerage services, including sewers, conduits, pipelines,
21 mains, pumping and ventilating stations, sewage treatment or dis-
22 posal systems, plants and works, connections, outfalls, compensat-
23 ing reservoirs, and other plants, structures, boats, conveyances,
24 and other real and personal property, and rights therein, and
25 appurtenances necessary or useful and convenient for the collec-
26 tion, conveyance, treatment, purification or disposal in a sanitary
27 manner of any sewage, liquid or solid wastes, night soil or indus-
28 trial wastes;

1 5. The commissioner shall conduct a continuing planning process
2 and formulate and adopt, as hereinafter provided, a State water
3 quality management plan. The State water quality management
4 plan shall consider the particular circumstances of each river
5 basin and, in a manner consistent with the "Federal Water Pol-
6 lution Control Act Amendments of 1972" (Public Law 92-500),
7 shall:

8 a. Set forth water quality standards applicable to each body of
9 water or segment of water in the basin;

10 b. Identify and assess significant discharges to the basin,
11 together with needed control measures;

12 c. Assess requirements for investment in treatment facilities;

13 d. Rank the basin segments and the discharge sources in order
14 of abatement priority;

15 e. Assess total maximum daily loads and assign discharge load
16 allocations among waste sources on segments where effluent limita-
17 tions will not be sufficient to meet applicable water quality
18 standards;

19 f. Describe effluent limitations and include compliance schedules
20 or target dates of abatement for significant dischargers;

21 g. Identify the location of all monitoring stations and establish
22 a comprehensive program for monitoring instream water quality,
23 total discharge loadings to receiving waters and discharges from
24 individual sources;

25 h. Establish processes to control the disposition of all residual
26 waste from any public, industrial or other water treatment or
27 wastewater treatment processing to the extent that such processing
28 or disposal occurs within the basin and may cause a violation of
29 water quality standards;

30 i. Indicate where intercounty cooperation in wastewater man-
31 agement planning will be required;

32 j. Describe the extent to which land use decisions can be in-
33 fluenced to complement and reinforce the control actions required
34 to meet water quality goals;

35 k. Consider existing land use regulations and assess their impact
36 on the need for sewerage facilities in the basin;

37 l. Propose or tentatively determine a preferred set of strategies,
38 including components of regional waste treatment systems, to be
39 further considered by counties in the course of preparing county
40 water quality management plans on the basis of existing assess-
41 ments of alternative strategies for water quality control in terms
42 of their environmental, social and economic impacts. Any such
43 preferred set of strategies shall also reflect needs for water supply
44 and for other uses of the water resource, existing or planned
45 measures for water resource management, and any applicable
46 State policies respecting water and related land use; and

47 m. Prepare a regional plan for northeastern New Jersey for
48 the area contained in the Passaic and Hackensack river basins
49 and for those areas draining into the Kill Van Kull and the Hud-
50 son river. The regional plan for northeastern New Jersey shall
51 contain those components of the county plan that the commissioner
52 believes are appropriate.

1 6. The commissioner shall consult with other concerned persons
2 and with the appropriate committees of the Legislature and shall
3 hold a public hearing on the proposed State water quality manage-
4 ment plan, prior to its adoption. The plan shall be adopted within
5 2 years of the effective date of this act and, with appropriate
6 modifications, every 2 years thereafter.

1 7. Every board of chosen freeholders shall conduct a continuing
2 planning process and formulate and adopt a county water quality
3 management plan which is consistent with the State water quality
4 management plan and which meets the objectives, criteria and
5 standards promulgated by the commissioner pursuant to section
6 11 of this act. Each county is hereby designated an areawide waste
7 treatment management planning region pursuant to section 208 of
8 the "Federal Water Pollution Control Act Amendments of 1972"
9 (Public Law 92-500). Each county plan shall include the following
10 elements:

11 a. An overall strategy for meeting water quality goals and
12 effluent limitations established by law, through controls on all

13 point sources and, to the extent feasible, on nonpoint sources of
14 discharge in the region. Said strategy shall be cost-effective and
15 designed to maximize public benefits and to minimize economic and
16 environmental costs associated with water quality controls. Said
17 strategy shall include a critical analysis of alternative control
18 strategies for point and nonpoint pollutants, including analysis
19 of (1) a single treatment plan for all the sewerage in a basin or
20 in the county, (2) a system of subregional plants, and (3) the use
21 of septic systems where appropriate;

22 b. An identification of the treatment facilities that will be needed
23 to meet the county's anticipated municipal and industrial waste
24 treatment needs over a 20-year period. Locations, types, capacities
25 and service areas of treatment system components (including
26 treatment plants, interceptors, and major transmission lines) shall
27 be indicated in the plan together with points of linkage between
28 treatment systems, collection systems and significant waste sources.
29 The facilities prescribed in the plan shall be consistent with (1)
30 water quality standards, effluent limitations, project priorities and
31 deadlines, and other requirements of State or Federal law or of
32 the applicable basin plan, and (2) any applicable policies or plans
33 respecting land use or demographic and economic growth adopted
34 pursuant to law. All sites required for new treatment facilities,
35 including sites for land disposal of publicly treated effluents, shall
36 be identified together with programs for acquiring and financing
37 the acquisition of such sites by eminent domain, purchase, gift or
38 other specified means. The plan shall determine construction
39 priorities, schedules and financing arrangements for new com-
40 ponents of wastewater management systems;

41 c. A determination of the future status of all existing collection
42 and treatment facilities in the county, whether they are to be
43 maintained in present use, integrated into other systems, enlarged,
44 repaired or abandoned. The plan may also provide for a shift in
45 responsibility for the operation of a facility or the servicing of a
46 particular area from one sewerage authority or agency to another
47 and for the merger of existing sewerage authorities, municipal
48 authorities, sewer authorities and joint meetings that were created
49 by two or more municipalities or by a county and for the creation
50 of new regional sewerage agencies in order to secure sound and
51 efficient wastewater management;

52 d. Provisions for the planning, construction and maintenance
53 of municipal collection systems which shall:

54 (1) Indicate areas that should be sewered in order to protect the
55 quality of ground or surface waters from failing septic tanks or
56 other sources of unsewered discharge;

57 (2) Prescribe public systems for collecting and treating storm-
58 water runoff in the areas where such controls are necessary to
59 protect water quality;

60 (3) Prescribe the upgrading of inadequate or defective existing
61 sewerage systems, in order to protect the quality of ground or
62 surface water from overflows or to obviate the need for extra
63 treatment capacity to accommodate excessive infiltration or inflow;

64 (4) Prescribe such phased limits on the rate of new sewer exten-
65 sions or connections in particular areas as may be necessary to
66 prevent overflows from collection or treatment facilities to ground
67 or surface waters, and to coordinate sewerage collection system
68 development with the prescribed program for construction of new
69 treatment facilities; and

70 (5) Provide means to assure that any industrial or commercial
71 wastes discharged into any sewerage collection system in such area
72 meet applicable pretreatment requirements;

73 e. Procedures and methods for regulating, to the extent feasible,
74 nonpoint pollution: (1) from pesticides, fertilizers and other
75 agricultural sources; (2) from sites, for the extraction of sand,
76 gravel and other substances; (3) from construction sites; (4) from
77 waste residues deposited on land or underground, including solid
78 waste, septic tank overflow and litter; and (5) from other nonpoint
79 pollutants. The county plan may prescribe land-management
80 practices, such as development or maintenance of stormwater
81 retention areas, vegetative buffer strips along water courses,
82 catchment basins and sediment and oil traps, to be utilized in
83 connection with designated activities or at designated locations
84 for minimizing pollution from runoff. The county plan shall
85 designate critical water-related lands, such as wetlands, floodplains,
86 shorelands, riparian properties, groundwater recharge areas and
87 steep tributary slopes, on which further development or other
88 land-disturbing activities should be regulated, for the protection
89 of groundwater resources and of ground and surface water quality.
90 All facilities, nonpoint pollution control strategies, and land use
91 regulations recommended in the county plan shall be harmonized
92 with any applicable policies or plans respecting land use, develop-
93 ment, or demographic and economic growth, adopted pursuant
94 to law.

1 8. a. Every county plan shall incorporate and build upon plans
2 for particular facilities which have already been approved for or
3 received construction grants by or from the Department of Environ-
4 mental Protection and shall provide major inputs to subsequent
5 facilities plans, and shall take account of other plans and data,
6 prepared by the county or by other agencies of municipal, county
7 or State Government, that may be relevant to the planning of
8 water management and to its role in promoting environmental,
9 social or economic objectives. The county plan may preserve
10 options and alternatives for detailed resolution in the subsequent
11 planning of particular facilities or at another later stage.

12 b. In order to preserve and maintain the State's pledges and
13 covenants with the holders of any bonds issued by any public
14 agency, no county plan shall include provisions for establishing
15 any sewerage system in competition with such sewerage systems
16 operated, or for which bonds have been issued, by any such public
17 agency.

18 c. Every county plan shall include in its entirety, as an integral
19 portion of its plan or as one of the alternatives evaluated in its
20 plan, the plan adopted by an intercounty water quality planning
21 district as provided in section 9.

1 9. a. The commissioner may designate intercounty water quality
2 planning districts when special factors require water quality plan-
3 ning on a basis other than the geographic boundaries of counties.
4 These factors shall include: (1) the configurations of the river
5 basins in New Jersey; (2) present and projected patterns of land
6 use; (3) probable future configurations of facilities that will pro-
7 vide efficient, cost effective, and advanced waste-management
8 treatment; and (4) the presence of regional sewerage agencies of
9 an intercounty nature.

10 b. Each such intercounty water quality planning district shall be
11 composed of one person appointed by the governing body of each
12 county and of each municipality in the district. The members of
13 each such district shall formulate and adopt a plan containing the
14 same elements included in the county plan as described herein.
15 The respective boards of chosen freeholders shall provide staff
16 services to the districts. The commissioner may further provide
17 that a specified portion of any State aid funds for planning made
18 available to the county be utilized to formulate the district plan.

1 10. a. Any board of chosen freeholders may delegate the formu-
2 lation of all or of part of the water quality management plan to

3 the county planning board. To assist the county in formulating its
4 plan, the board of chosen freeholders shall appoint one or more
5 advisory water quality management councils, consisting of selected
6 municipal mayors, county officials and persons familiar with aspects
7 of water quality management. The county plan shall be adopted
8 by the board of chosen freeholders only after consultation with its
9 advisory water quality management council or councils.

10 b. The respective boards of chosen freeholders shall adopt a
11 county water quality management plan as provided herein within
12 2 years of the effective date of this act and every 2 years thereafter
13 and submit said plan to the commissioner. The board of chosen
14 freeholders shall conduct a public hearing on the proposed water
15 quality management plan prior to adoption. During the develop-
16 ment of the water quality management plan, the Department of
17 Environmental Protection and each appropriate interstate, State,
18 county, regional or municipal agency concerned with water quality,
19 water supply, surface water control, land use or other environ-
20 mental programs within that county shall be consulted.

1 11. a. The commissioner shall promulgate objectives, criteria
2 and standards for the evaluation of the county water quality man-
3 agement plans within 180 days of the effective date of this act.

4 b. Upon receipt of a county water quality management plan
5 the commissioner shall determine whether to approve, modify or
6 reject any such county plan based on said objectives, criteria and
7 standards within 90 days of his receipt of the county plan, and shall
8 certify such determination to the concerned board of chosen free-
9 holders. If the commissioner determines to modify or reject any
10 county plan, the certification required of him herein shall be
11 accompanied by a detailed statement indicating the reason for
12 any modification or rejection and outlining the action to be taken
13 thereon.

14 c. The commissioner shall resolve any conflict between the plans
15 of any neighboring counties or between the plans of any county
16 and any district after consultation with the concerned parties.

1 12. The concerned board of chosen freeholders shall have an
2 additional 180 days to adopt a new plan to replace any plan rejected
3 by the commissioner or to adopt any modifications required by the
4 commissioner and to submit the revised water quality management
5 plan to him; provided however, that prior to adopting any new
6 county plan which was prepared to replace a county plan rejected
7 by the commissioner, the board of chosen freeholders shall conduct

8 a public hearing and consult with the advisory water quality man-
9 agement council.

1 13. If a board of chosen freeholders does not adopt and submit
2 to the commissioner a water quality management plan as provided
3 herein, the commissioner shall have the power to formulate and
4 adopt all or part of a water quality management plan for that
5 county.

1 14. The county plan shall have the force and effect of law upon
2 its approval by the commissioner and all projects and activities
3 affecting water quality in that county shall thereafter be developed
4 and conducted consistently with that plan. The commissioner shall
5 not grant any funds for the construction, erection, building, acquisi-
6 tion, alteration, remodeling, improvement or extension of any
7 sewerage system or any permit which might affect water quality,
8 which is not in conformity with an approved county plan as
9 required herein; provided, however, that the commissioner may
10 grant any such funds or any such permit for any facilities which
11 are properly approved, prior to the formulation, adoption and
12 approval of said county plan.

1 15. The commissioner is authorized to make grants to any
2 county, subject to the availability of funds appropriated therefor,
3 for the formulation and development of a county water quality
4 management plan by such county's board of chosen freeholders.
5 The commissioner shall prescribe procedures for applying for the
6 grant and terms and conditions for receiving the grant. The State's
7 contribution toward the financing of the plan shall not exceed 50%
8 of its total cost.

1 16. This act shall be liberally construed. If any one or more
2 sections, clauses, sentences, or parts of this act shall for any
3 reason be questioned in any court, and shall be judged unconstitu-
4 tional or invalid, such judgment shall not affect, impair or invali-
5 date the remaining provisions thereof, but shall be confined in its
6 operation to the specific provisions so held unconstitutional or
7 invalid.

1 17. There is hereby appropriated to the Department of Environ-
2 mental Protection the sum of \$50,000.00 for the administration of
3 this act and \$150,000.00 for grants to counties pursuant to section 15
4 of this act.

1 18. This act shall take effect immediately.

SENATOR JOSEPH L. MC GAHN (Chairman): Good morning, ladies and gentlemen. This is a public hearing on S 3084, S 3085, S 3086 and S 3087.

I am Senator McGahn. Senator Dwyer and Senator Dunn will be joining us sometime during the morning. I had anticipated they would be here at this time. However, in order to accommodate the people that are present, we will start now.

I think you have probably noticed both Senator Dwyer and myself have somewhat of a conflict of interest since we are the prime sponsors of these four bills and are also conducting the public hearing upon them. My opening statement, therefore, will indicate why we feel that these bills had to be introduced and what action possibly should be taken upon them.

In my first two years as a Senator here I was confused and perplexed by the complex network of governmental agencies dealing with environmental problems and with proposals to create new agencies with varied geographic and administrative responsibilities for newly identified problems. I became convinced that something should be done to rationalize this structure. I now understand the issues much better and am more aware of the positive role played by the many concerned agencies. Nevertheless I still believe that an attempt should be made to utilize existing agencies to perform new functions on a basis which encourages maximum interaction between programs at each successive level of government. The bills under consideration today were prepared to initiate a discussion into the proper role for various agencies at the different levels of government. The comments I have received to date from many of you and in particular from the Department of Environmental Protection have convinced me that significant alterations need to be made to these bills. This public hearing will be utilized to obtain your perspectives

and opinions on the package. Those opinions will be utilized in preparing a revised "clean water" package for introduction and movement in the 1976-77 session of the Legislature.

The Water and Waste Management Package (S 3084 through S 3087) authorizes the Department of Environmental Protection to take over the administration of the National Pollution Discharge Elimination System (NPDES) from the federal government. The National Pollution Discharge Elimination System is the national program for the issuance of permits under the Federal Act (Federal Water Pollution Control Act Amendments of 1972). Some 3,000 municipal and industrial wastewater dischargers will be issued a permit (a permit to pollute) and will be subject to its terms through enforcement actions. It further authorizes the Department of Environmental Protection to supervise the operations of the regional environmental agencies created or continued by these bills.

The package authorizes the regionalization of the following environmental programs: 1. The monitoring and enforcement of air, water and solid waste standards; 2. water quality planning for sewerage facilities, clean streams and the control of point and non-point sources of pollution; and 3. the construction and operation of sewerage, solid waste, flood control and water supply facilities; in a manner which promotes the interaction of each such environmental program with each other and with other environmental programs administered at the county level (parks and recreation, land use, planning, mosquito extermination and soil conservation) and with other governmental programs administered at the county level. The package strengthens and enhances the roles of existing agencies which have been actively involved in environmental programs (21 county planning

boards, 14 county health agencies and 15 counties with county sewerage authorities formed pursuant to three different statutes) and creates comparable agencies in the remaining counties, while providing flexibility (through authorized exceptions and through supervisory powers given to the Department of Environmental Protection) for dealing with problems which transcend county boundaries.

The several acts enhance the role of the county or regional governments and the Department of Environmental Protection while continuing the active roles of the municipal governments and the federal government (federal aid and standard setting). Municipal governments retain responsibility for the collection, and where adequate, the disposal of both sewerage and solid waste, the provision of personal health services and, most importantly, the control of land use as basic municipal functions. The several acts reshape and re-allocate existing responsibilities and duties between the Federal, State, county and municipal governments to increase overall effectiveness.

The package does not create new regulatory powers for the public sector. It does not provide increased powers over the decisions of private business. It does not establish new regulatory programs to control private property. The acts do re-allocate existing powers to those agencies which have been and are evolving into the principal providers of environmental facilities and services at the regional level.

S 3084 through S 3087 implement the Federal Water Pollution Control Acts Amendments of 1972, the long standing objectives of the Department of Environmental Protection to regionalize sewerage and other environmental services in the State and the recommendations of the

County and Municipal Government Study Commission (Musto Commission) reports concerning Water Quality Management and Environmental Services.

Many people believe that the river basin concept must be utilized as the central concept for planning and constructing sewerage facilities, because of the elementary fact that water runs downhill. This is, of course, correct and even I, a resident of the relatively flat southern half of the State, know that water runs downhill and that water management planning must recognize the physical realities of the area under consideration. Therefore, this concept has been integrated into the package in a number of places. We have, however, recommended county agencies for areawide planning and for the construction of areawide facilities for administrative and governmental reasons. The remaining areas of the State that are not now regionalized can best be regionalized by allowing the county governments to plan for the construction of multi-plant sewerage systems in a manner which integrates such systems with other environmental programs and other governmental programs that already exist at the county level.

Environmentalists are currently concerned that New Jersey is overbuilding sewerage facilities and that excess capacity to accommodate future growth is being built into many sewerage trunk lines and treatment plants. A secondary impact of excess capacity is the stimulation of residential, industrial and commercial growth. Environmentalist (and often residents) are opposed to such a stimulation of growth in certain areas of the State. Many environmentalists and others are, therefore, opposed to the design with significant excess capacity of a single large treatment plant with large trunk lines to serve the whole area of a county or of a river basin. S 3084 is not based on that design premise or on any other. S 3087 requires

the water quality planning agency to consider the use of 1. septic tanks, where appropriate, 2. of a single plant system and 3. of a multi plant system for treating sewerage within each county and to consider the inter-relation between sewerage facilities and land development.

I am not, however, opposed to the development of new residential, commercial or industrial facilities; I just want that growth to be located in the appropriate place. The Federal government and the State government are currently allocating millions of dollars for the construction of sewerage facilities to eligible agencies. The creation of the County Utilities Authority at this time should promote the expenditure of funds for sewerage construction, the construction of badly needed facilities, the cleansing of our streams and the employment of workers in the construction trades. The completion of regional sewerage facilities should also promote and encourage a positive climate for industrial investment and for investment by the building industry. The lifting of the existing building bans will also improve the outlook for the building industry. The Department of Environmental Protection has estimated that the construction of needed solid waste and recycling facilities may cost \$400,000,000.00. Construction at this scale will also provide a major stimulus to the economy.

Some county and municipal planners have indicated that areawide planning or 208 planning transfers municipal land use powers to the areawide planning unit. This is not true. Areawide planning, pursuant to section 208 of the federal act, requires the formulation of plans to control non-point pollution; it does not provide for the enforcement of the plan by the areawide agency. Effectuation of the

plan will be through the enactment and enforcement of municipal ordinances and State Statutes.

Several concerned persons have indicated that the county utilities authorities do not need the power of eminent domain over municipal treatment plants, especially in light of the facility planning provisions contained in S 3087. Others have indicated that the county health departments do not need the power to enact environmental standards greater than those of the Department of Environmental Protection, if they have the power to monitor and enforce the appropriate State regulations and municipal ordinances. I have been impressed with these arguments and hope that you will comment on these points today.

In conclusion, this legislative package overhauls the statutory base for managing water resources and waste disposal in New Jersey. It provides for the utilization throughout the State of institutions and agencies which have proved themselves competent and effective in the solution of environmental problems. It enhances the statutory responsibilities of the State and county governments for dealing with the regional and statewide aspects of environmental problems, while continuing and preserving many of the existing prerogatives of the municipalities concerning local environmental problems (such as the collection of sewerage and solid waste and land use controls). Furthermore, it accomplishes these environmental objectives in a responsible manner in these times of economic recession.

I would like to welcome at this time Senator Dwyer, who has just joined us.

SENATOR DWYER: Good morning.

SENATOR MC GAHN: Do you have anything to add?

SENATOR DWYER: No.

SENATOR MC GAHN: With that as a preface, I will at this time call upon Mr. Rocco Ricci of the Department of Environmental Protection.

R O C C O D. R I C C I: Mr. Chairman and Senator Dwyer, we welcome the opportunity to present testimony on the four bills which are under discussion today. Commissioner Bardin has asked me to extend his commendation to the members of the Committee and its able staff for the two-year effort which has gone into the development of these rather important pieces of proposed legislation.

The Department is continuing its efforts towards a goal of establishing a more modern water pollution control program for the State. In 1974, the Byrne administration took the first significant step toward the revision of its method of operation. In particular, the Division of Water Resources was restructured to provide for a more effective pollution control scheme which utilized a river-basin concept; that is, by assessing the problems within the basin, determining the alternatives to solve the problems, and then coming up with the necessary programs of implementation.

This reorganization has provided us with an administrative structure which does allow for shifting of technical personnel and other professionals from what we consider to be some outdated and less productive environmental activities to a more modern and more productive efforts, as we attempt to solve the many, many complex water pollution control problems in the State.

One of the most important new programs for which we have been preparing is the National Pollutant Discharge Elimination Program, commonly referred to as NPDES. This is a discharge permit system which is established under the Federal Water Pollution Control Act Amendments of 1972. And, in our judgment, this State should apply for delegation of the NPDES permit program, which, of course, is the subject of S 3086, with a very basic assumption; and, that is, that the State is willing to provide the necessary funds to properly administer the program. Without the necessary funding, and staff competency, the federal government simply will not delegate this very important responsibility to us.

As I said, over the past year, our staff has been actively involved in supporting the federal permit program, which is currently administered by the federal EPA. Our support is in the form of developing draft permits which are eventually issued by the federal government and also in monitoring point discharges from industrial and municipal point sources. This has been part of a very deliberate scheduled program to develop the necessary staff in terms of numbers and quality, and also the competency which will eventually enable us to assume direct responsibility for the NPDES permit activity.

However, in addition to the financial support, as you and the staff have recognized, State legislation is, in fact, required to enable us to assume this responsibility for the NPDES permit program. We have prepared a preliminary staff paper which can serve as a basis for further discussion between our staffs as we work to develop necessary perfecting amendments to S 3086. There are several provisions which are required by the federal statute for the State to take over this important activity.

The direct control of the NPDES permit program by New Jersey will not only modernize and streamline our efforts towards cleaning up the polluted waters of our

State, but it will also enable New Jersey to take control of a key aspect of its own destiny. The future of New Jersey, its economy and industry, can be substantially affected by the manner in which this important permit activity is administered. In my judgment, this is best done by the State government and not the federal government. Assumption of this responsibility will, in fact, enable us to change from a program which is geared towards the approval of pollution control hardware - and, by the way, our consultants get paid a handsome fee and should be able to design the hardware and make it operate effectively - and enforcement after pollution has occurred, to a modern program which emphasizes the setting of standards, monitoring of the point discharges, and effective enforcement action where it is needed.

Now, as part of our reassessment of our needs to develop a more effective pollution abatement program, we have recognized the need to streamline the statutory schemes which we administer. And we favor the delegation to local government of certain activities which are now assigned to the State Department of Environmental Protection.

We support the expansion of county government environmental programs in a manner which is consistent with the complexity of each of the programs involved. The need for Statewide uniformity, the need for concentrated technical expertise for the requirements of federal statute and regulations, and the problems of financing compel us to conclude that program-by-program analysis must precede statutory delegation to county government.

Certain programs cannot be delegated to county government at all. Others can be delegated subject to appropriate control and review by the State DEP.

In general terms, therefore, we support many of the concepts which are contained in S 3085, the "County Environmental Health Act." However, we do believe that certain perfecting amendments are essential to meet the criteria which I have just briefly outlined. We stand ready, as we have in the past, to work with the Committee and its staff on the necessary amendments.

S 3087, the "Water Quality Planning Act," does designate each county as a 208 areawide waste treatment management planning region. It also authorizes the State to conduct the continuing planning process which is required by Section 303(e) of the Federal Pollution Control Act. Now, although the State generally supports the concepts which are outlined in the bill, recent events over the past two years and, in particular, recent events in federal law and changes in regulations which have been developed to implement that statute, have overtaken us. And the Department concludes that this particular bill should be amended to make it compatible with the new federal process. As a matter of fact, several 208 planning areas and agencies have already been designated by the Governor and funded by federal EPA. These designations have, in fact, been on a countywide basis, with one exception, where we have included a small portion of an adjacent county. In addition, the bill should be amended to reflect planning activities which have already begun and should provide flexibility for future designations by the Governor. Furthermore, some of the timing requirements in the bill are inconsistent with the time schedules delineated by recent federal court action as it relates to the need for areawide or 208-type planning to take place throughout each and every portion of every state in the country.

S 3084, the "County Utility Authorities," creates an authority to finance, acquire, construct and operate sewage, surface water, water supply, potable water, and solid waste systems. We heartily support the concept of regional management for waste water and solid waste, and suggest the development of a mechanism by which county government

may consolidate and strengthen the many potable water supply systems in the State. However, in our judgment the county approach to the control of flood waters and the development of adequate water supplies is in many cases not the most effective approach. Flood plain management is to be carried out within the appropriate drainage basin and should not be restricted to county boundaries. Furthermore, large areas of our State are dependent upon areawide development of adequate water supplies, and I am now talking about the development of new supplies and not necessarily the delivery, including, as we perceive it, many, many cases of interbasin transfer of the available water.

In closing, I would like to again acknowledge the work of the Committee and the staff in the development of these bills and the opportunity for the discussion of the many issues. We look forward to continuing our efforts and working with the Committee and its staff to create a modern statutory structure for the State's water pollution control program.

Thank you, Mr. Chairman.

(Written statement submitted by Mr. Ricci can be found beginning on page lx)

SENATOR MC GAHN: Thank you, Mr. Ricci.

Do you have any estimate as to the appropriation that would be necessary in order to carry out the NPDES program? Can you give us an approximate figure?

MR. RICCI: At the present time, we figure there is about a million dollars in our present operating budget for activities that are aligned with the NPDES program; but to get sufficient additional staff and to meet other requirements of the federal statute, we estimate we would need about \$400,000 additionally for F.Y. '77.

SENATOR MC GAHN: During the preparation of these bills, the Committee staff has indicated to us that the Legislature has enacted a series of oftentimes conflicting, inconsistent, overlapping, and sometimes redundant statutes, dating back to the last century, for water quality control. In your opinion, could the State now repeal all these statutes and replace them with a combined NPDES Act and a General Clean Water Act, an act akin to the State's Air Pollution Control Statute?

MR. RICCI: Senator, I think that is very, very important. There are many, many overlapping statutes, many of which are directed specifically to such things as not polluting the "x, y, z" stream and things of that nature. There is definitely a need for repealers and a comprehensive bill, as you suggest.

SENATOR MC GAHN: This may be out of your field of expertise, but do you think that the county environmental health departments should be able to enact ordinances that are more stringent or strict than the State Health statutes?

MR. RICCI: As a personal opinion, Senator, I believe that the requirements of the federal statute which we would have to carry out are about as stringent as you would want to get for water pollution control activities.

SENATOR MC GAHN: In the same vein, do you feel the county health departments, subject to the supervision of DEP, should administer programs to, first of all, control the operation of septic tanks?

MR. RICCI: One of the very important programs in the State is, number one, identifying what portions of the State should be used for designation as septic tank areas, septic tank districts, if you will, because there are areas of the State where septic tanks will be the answer to our waste treatment needs for a long, long time. The trick, of course, is to set up an effective mechanism to identify the criteria to go into the design of these things, oversee the construction, and, equally important, to manage the operation in terms of what you do with the wastes that are generated. We believe this is one of the areas that can most effectively be administered at

the county level, provided the county agency is strong in professional staff, financing and the will to carry out the requirements.

SENATOR MC GAHN: Along that same line, with regard to monitoring and oil spill regulations, what would be your reaction to the county doing this as against the State?

MR. RICCI: Again, under the federal statute, the state agency must have the responsibility for point-source monitoring and enforcement. However, I would suggest that there is a role for a county form of operation to assist the State in doing such things as supplemental monitoring, if you will, overseeing a screening program to identify sources which would demand the attention of the State enforcement program. So I think there is a very definite role in that area. I must stress though that the enforcement program, to be consistent, must reside at the State level.

SENATOR MC GAHN: In keeping with that, of course, there are several other basic programs, which would be simply monitoring stream water quality, ground water resources, controlling open burning, smokestacks, and engaging in pesticide control. Could the county health departments have a role in all of these, of course, under the regulation and supervision of DEP?

MR. RICCI: Yes. As a matter of fact, as part of our planning in trying to establish a statewide water quality monitoring network, the instream monitoring, we have looked to identify existing responsible county agencies to assist us and be a part of the statewide network. These other programs which you have mentioned could similarly be carried out by cooperation of the State and county governments.

SENATOR MC GAHN: This may be premature and may be brought up at budget time, but does DEP have the capability to do the basin planning, the 303 planning for the State, in a timely manner?

MR. RICCI: Does the DEP have the capability?

SENATOR MC GAHN: Yes.

MR. RICCI: Capability, of course, relates to a number of factors, not the least of which is money. The 303(e) planning, in my judgment, should not be carried out by increasing State staff, but rather we should have the money to enter into contracts with consulting engineers.

At the present time, to answer your question directly, Senator, we do not have sufficient fiscal support to complete the basin planning as expeditiously as the federal statute requires. There is another problem which is associated with that; and, that is, that the recent federal court decision which I alluded to earlier mandates that the State must carry out areawide or 208-type planning in those portions of the State which are not designated areas. Again, fiscal support for this activity is of concern to us.

SENATOR MC GAHN: Has DEP decided who should do the areawide planning for the Passaic and Hackensack River basins in northeastern New Jersey?

MR. RICCI: We have not made that decision, but I should point out that there is the Northeast Water Quality Management Study, which is funded partially with a federal grant and the rest with State money. This goes perhaps 80 percent of the way towards the requirements of a 208 plan. Our program is to move forward and complete the tasks that are necessary to make that a 208-type plan. But we have not really approached the question of who should be the designated agency.

SENATOR MC GAHN: Who will finance that plan?

MR. RICCI: Again, this would be one of the deficiencies that I have identified in our own budget.

SENATOR MC GAHN: In relationship to the same question, is there a role for

the county planning boards as a result of that decision in the northeastern section of the State?

MR. RICCI: Yes, certainly there is; and many, many agencies have been involved, as a matter of fact, in the process of developing the Northeast Study, through advisory committees - water, utilities, sewerage authorities - and meetings with local officials and that type of thing.

SENATOR MC GAHN: When Middlesex County was designated as a 208 planning agency, portions of the adjacent counties were also included in that. This was the first time that it went beyond the countywide area. Would you simply give us some idea of why that decision was made to include portions of another county?

MR. RICCI: In the development of a program for the development of 208 plans, we made a basic decision, and that was that any planning which was already underway for waste treatment facilities should not be impeded; corollary to that, of course, is that any sewerage system which is already in operation, regional sewerage system already in operation, should be included in the 208 plan which is under development. In this case, the Middlesex County Sewerage Authority service area went beyond the Middlesex County borders and that was the reason for that.

SENATOR MC GAHN: Would the DEP then support this precedent in other areas of the State?

MR. RICCI: That is why I specifically made mention of the need for flexibility in designation. There is also another need, Senator, that I should mention. The Delaware Valley Regional Planning Commission is an example, which has existing permanent staff. At the request of three counties in South Jersey - Burlington, Gloucester and Camden - and also Mercer County, it is doing the planning of the respective counties, but with the counties playing a major policy role in the development of the 208 study. But they are simply using the regional planning agency as a vehicle for the planning. So we need that flexibility too.

SENATOR MC GAHN: I have no further questions. Thank you very much for your testimony and cooperation.

Is Mr. Sid Willis present?

MR. MATTEK: The Department of Community Affairs will submit written testimony.

SENATOR MC GAHN: Dr. Goldfield, Assistant Commissioner, Department of Health.

M A R T I N G O L D F I E L D: I have been asked by the Health Commissioner to come to this hearing and present some of the comments of the Department with regard to the package of 3084, 3085, 3086 and 3087, and to present the general views of the Department concerning the attempts to answer some of our problems in New Jersey, that these bills represent.

As we see it, Senate Bill 3084 provides for the establishment of county utility authorities with powers over supplies of potable waters, stream pollution, sewage treatment and solid waste disposal. It is an extremely long, complex and detailed bill. A small detail - Section 38 obliges the State Department of Health, upon application of a local board of health, to hold a public hearing regarding the potential health threat of any action of an authority in shutting off services because of non-payment. It appears to us to be an unduly cumbersome process that probably could best be handled by the local Health Officer involved.

Section 62 provides that no provision of the bill shall in any way limit the powers, duties or jurisdiction of the State Department of Health, among others. In the opinion of our Department there is really nothing objectionable in this bill. Its intent, however, is so broad and so far-reaching and the basic decision of

the turning to authorities as the mechanism of providing these regional services so important a decision, that we feel that we should take absolutely no stand on this bill since it exceeds our competence in the area

Senate Bill 3085, on the other hand, provides for setting up a county board of health in each county and for boards of freeholders to be the county boards of health until such boards are set up. In any county having a board of health and vital statistics, pursuant to Chapter 11, Title 26 of the Health Laws, that board shall be continued as a county board of health. Each county board shall provide environmental health services through a county department of health. The county department of health will monitor sewage discharges in compliance with the Federal Water Pollution Control Act Amendments of '72 and with the New Jersey Water Quality Improvement Act of '71. Violations that the county board discovers are reported to DEP and DEP has 60 days to inform the county that it or the U.S. is taking action. Only when DEP reports it has no objection may a county take any action.

The county board of health is given all powers to provide for ordinances with respect to environmental health, including all approvals for septic tank systems. It is also empowered to exercise any of the powers of a local municipal board of health when the municipality contracts with it for such services. The boards also are empowered to operate a technical resource, including environmental health training programs, laboratory services, library services, etc.

Environmental health standards are to be promulgated by the Commissioner of DEP in consultation with the Commissioner of Health, including requirements for reports directly to DEP. The Commissioner of DEP is empowered to make grants up to 50 percent of costs to county boards and the sum of \$200,000 is appropriated.

This bill is an extremely far-reaching attempt to reorganize environmental health services in New Jersey and I think it is a laudable attempt. It certainly recognizes one of the problems we face; and, that is, in making a decision, that there is an optimal level of government for each of the services that we must deliver to the people of New Jersey and that we have as a result ineffective action when there is an attempt to such services at either too large a unit or too small a unit of government.

This bill has important implications regarding the organization and delivery of all health services by the State and local departments of health and provides significantly for the fragmentation of control of county boards of health, including the fragmentation of State health aid, between the Departments of Health and Environmental Protection.

I, personally, have serious reservations regarding the advisability of taking the course that is described in this bill. "Environmental health" can include by definition most non-personal health services presently administered by the Department of Health and, in conjunction with local health agencies. I oppose this bill as it is written because it recognizes the need to provide local health services and environmental health services in one agency. It, however, confuses the issue regarding State direction and control of such programs.

I have suggested for two years, and will re-echo the suggestion, that the Departments of Environmental Protection and Health must enter into an extensive dialogue to frame a mutually agreeable course of implementing the goals of each department. Otherwise, we are in for serious and wasteful duplication and potential conflict. Hence, we laud the intent of the bill. We believe it is seriously flawed and that additional work be done to determine how best to develop the State's interest in directing programs on a local level and in assuring their compliance with minimum standards.

S 3086 is in response, we believe, to the Federal Water Pollution Control Act, Amendments of '72, which is one of those preemptive acts with provisions to turn powers back to the states. In essence, S 3086 appears to grant DEP all of the powers it requires in order to be eligible for such delegation of federal powers and appropriates the sum of \$200,000 for its administration.

The present federal administration is heaping a large number of costly responsibilities on states without generally providing adequate fiscal support for states to carry out these responsibilities. I could tick off at least half a dozen such bills in recent years. Surveillance and control of some 700-odd sewerage treatment plants in New Jersey, as provided in this act, as one small example, will be a costly process requiring much more than the \$200,000 requested for the entire program in this bill.

It is the feeling of many throughout the country that states should not accept these responsibilities without better definition of federal requirements and federal fiscal support. I understand that many states are holding up on bills such as S 3086 until this is accomplished. Nevertheless, the timing and the tactics do not affect our department directly in this regard, and we merely offer these comments as those of opinions of public health workers.

S 3087 provides for the delegation of broad powers to the Commission of DEP regarding the control of water quality management in New Jersey and for county freeholder boards to formulate and adopt comprehensive water management plans for their specific counties. Provision is also made for regional intercounty planning districts. The Commissioner of DEP retains the right to approve, modify or reject, any county plan and the power to formulate a plan when one acceptable to him is not adopted by any freeholder board. The Commissioner of DEP is also authorized to make grants to counties and \$200,000 is appropriated for implementation.

I would like to echo what Mr. Ricci said a moment ago. The Department of Health has grave reservations as to whether or not the planning process can effectively be fragmented along county lines when, for the most part, there are geographic requirements that mandate a regional approach to the problem. Hence, although we heartily support the intent of the bill generally, we feel that it is somewhat flawed and certainly deserves additional input by DEP in satisfying the planning needs the State will have to demonstrate in consonance with federal law.

This is the sum total of the comments that the Department of Health brings here today.

SENATOR MC GAHN: Dr. Goldfield, thank you very much. I think, as I stated in my opening remarks, we do not consider these bills by any means perfect. We have taken the time and the trouble to send copies of the bills out to solicit input. We realize, of course, the validity of many of your remarks concerning these bills, and certainly we do anticipate these bills will be rewritten to conform to some of the objections that people speaking here today will undoubtedly have.

Let me address myself to your last remark concerning counties. I also realize that the county is probably not the ideal unit. However, as a unit of bureaucracy, it is one thing; when considered politically, it is another thing. And a county is a political unit that has an organization already going to accomplish something on a political basis. This is really what we are talking about, the acceptability of this thing in view of the powers that municipalities and counties have and the fear that I feel a number of mayors and a number of councilmen will have that these do tend to infringe upon the tradition of home rule. I thank you very much.

DR. GOLDFIELD: May I comment on that because I think perhaps my statement was misinterpreted?

SENATOR MC GAHN: Certainly.

DR. GOLDFIELD: I and the department strongly feel as you do that there are many functions of government which can best be provided at the county level. To implement potable water standards, for example, in New Jersey, we now face the need to practice surveillance on the water quality of some 5,000 water supplies in New Jersey, which by definition will now be called public water supplies.

I served as a keynote speaker at one international meeting that was organized by EPA regarding this subject, and heartily endorsed this type of a program. Nevertheless, the counties are the optimal level of government to meet the needs of surveillance of so many water supplies. There are many functions where the county is the best level of government to meet these needs. I was only addressing myself to the one, the broad planning needs where there are deficiencies to the county approach.

SENATOR MC GAHN: Thank you very much, Doctor.

Mr. Bill Kenney, Assistant Secretary, Department of Agriculture. (No response.)

Mr. John Reid, New Jersey Builder's Association. (No response.)

Mr. Ted Schwartz, Counsel, Solid Waste Industry Council.

THEODORE SCHWARTZ: Senator, I would like to express the appreciation of the Solid Waste Industry Council for inviting us to share some of our comments and views with you and the Committee relative to the various pieces of legislation that are being considered today. I would also like you to know that some of my remarks are being made as a private citizen and thoroughly confused attorney in the environmental area.

At the outset, you pointed out in essence that the purpose of this package of legislation was to try to streamline existing laws, eliminate overlapping statutes, and hopefully resolve conflicts. In my considered opinion, as far as solid waste matters are concerned, I do not believe that the legislation is accomplishing your desired goal or that of the Committee.

We, as an industry, are very much in favor and have always courted legislation that could correct existing inadequate regulatory systems. For some reason or other, the question of solid waste has come to the forefront in the last couple of years. Unfortunately, it was not in bed with air and water pollution when that became a subject of discussion in the early '60's and through the early '70's. Nobody paid attention to the garbage. All people knew is they had a can outside and they threw it in the can and some guy came along and picked it up and it disappeared. Therefore, it wasn't a subject in one's mind. The average citizen saw the discolored air and the polluted water and because of that a reaction was appropriate. With respect to solid waste, the average citizen never really paid much attention to it or really cared about it. This is evident in the fact that state laws dating back to 1962 when we first had regulations over sanitary landfills were not really addressed to the environmental problems because really nobody knew about them. Nobody knew too much about solid waste disposal. It wasn't until sometime in 1970 when the Legislature enacted two laws known as the Solid Waste Management Act of 1970 and the Solid Waste Utilities Control Act of 1970 that more attention was directed at the solid waste area.

The Musto Commission through the County and Municipal Study Commission conducted a study of solid waste and made various recommendations and findings which in a large part may be meritorious in certain areas, but the factual basis of some of the conclusions remains substantially disputed as far as those persons that have

the knowledge of the facts.

So, with these two new laws, we now have the Department of Environmental Protection actively in the picture, although they had been through the former Department of Health, and we now have the Public Utilities Commission involved in regulating the solid waste industry.

I recall when Senator Waldor conducted hearings in the Senate on alleged economic problems in the solid waste industry relative to municipal collection of solid waste and a few public officials - mayors and local officials - appeared and said, "Gee whiz, we are getting all these high prices for garbage and sometimes we get only one bid and things like that. Something has to be done about it." The response was the Solid Waste Utility Control Act of 1970, creating jurisdiction within the PUC to regulate the economic aspects of the industry. The whole purpose and intent of the Waldor hearings were directed towards municipal problems of solid waste. You may be surprised to hear this, but the Public Utilities Commission and the Solid Waste Utility Control Act that was passed don't address in one respect the subject matter of the Waldor hearings. The Public Utilities Commission does not for one minute regulate municipal collection of solid waste when that collection is done in a bidding manner.

What has happened is that the industry has been regulated on its day-to-day activities in commercial, industrial and residential pickups, which is not the subject matter of a municipal contract. And the Public Utilities Commission with all good intentions - I notice the former President is sitting in the room and, of course, we were very sorry to see him leave because I think he was getting a real good grasp of the industry as a whole - has virtually destroyed the solid waste industry. It is happening; it is very serious. I really don't think people realize it. The seriousness of it is certainly going to be felt by every citizen in the State of New Jersey and by our governmental agencies.

Since 1970, there have been various attempts to introduce solid waste legislation to provide stricter controls over disposal practices. The DEP has been very aggressive in changing its regulations and the industry has supported many of these changes. However, over the last year and a half, a new bill has emerged, Senate Bill 624, with which you are very familiar. It has been the subject matter of God knows how many discussions and memorandums. It has been the most studied bill that I have ever come in contact with to provide, hopefully, a clearer picture of solid waste functions in this State. The bill has been amended many times. I haven't seen the latest amendments, but I am really having a tough time putting it together. I think if that legislation is ever passed, we will be more confused than we are today. But it is a step - it is a step. I think what we need is legislation that addresses itself to the problem as far as solid waste is concerned. The present laws do not; they just create more confusion. A more appropriate approach has to be taken that is more comprehensive and the control point must be established. It can't be in two agencies.

I am not going to go through the constant conflicts that occur between the DEP and the PUC in regulating solid waste. Suffice it to say, it is a mess. I don't think it is the fault of the people that are administering the programs; they are totally understaffed. It is just not an industry that should be regulated as a public utility. The PUC has enough difficulty regulating true utilities and, frankly, I don't know what kind of utility the solid waste industry is. By statute, we are a utility, but we are not accorded the benefits of a utility.

In regard to the legislation that this Committee has before it and you are

sponsoring, I will address my remarks to 3084 and 3085. I have a philosophical difference with the water quality aspects, which I will touch upon very briefly. In 3084, we now have another layer of government established - that is the county - getting into the solid waste picture. I recognize that this bill is sort of a repeat of existing laws with certain changes here and there. I think that the solid waste activities should not be the subject matter of this particular bill, a county utilities authority. I am frightened by the possibilities that could occur as a result of this bill, as I was with S 264. I think it would be very easy for a county utilities authority to totally put out of business the solid waste industry in the State of New Jersey.

There is no question in this bill that a utilities authority can take over not only the disposal, but the collection of solid waste. I gather that from the definitions that have been set forth in the definition sections. I don't think that county utilities authorities should be engaged in the collection of solid waste. I have my doubts about the disposal of solid waste. A recent study concluded by Columbia University at a cost of \$550,000, sponsored by the federal government, demonstrated conclusively that private disposal and private collection are much more economical and efficient than public collection and disposal.

I think that is what we really ought to be concerned about: Are we here creating another layer of government to increase taxes by increasing the cost of solid waste collection and disposal? There are certain areas where counties can fit into the picture, but I don't think solid waste is one of them. Solid waste does not have any geographic boundaries, per se. If you will look at sanitary landfills in the State of New Jersey and where they receive their waste, you will note that they cross county lines and municipal lines consistently. It is not like sewage where you can direct the flow of the effluents or the sewage in the pipes or the water in the pipes. You are dealing with fixed items, things that don't move. In solid waste, things move; everything is on wheels. It changes from day to day, it changes from year to year, depending on who is collecting whose garbage and where it is going.

So I don't think that this bill would be appropriate for solid waste management, due to the flexibility and the lack of fixed activities in solid waste management.

On page 3 of the bill, you have a definition of the word "person." It could be argued that the word "person" would include a solid waste company. However, from a legal point of view, the word "utility" is not included in the word "person," and, as we know, solid waste activities are declared to be a public utility. I don't know whether it is your intention in the definition section to include existing solid waste utilities within the confines of this legislation. If your intention is to include them, then I believe significant legal problems would be created. As public utilities, the solid waste industry is regulated by certain statutes and rules and regulations. I don't think that a county utilities authority could come along and say to an existing landfill operation, "Move over, fellow; we are taking over your business and we are going to pay you for it." I don't know under the Public Utilities Law whether or not that could be legally accomplished.

I also have trouble with the fact that a county utility authority, as set forth in here, does not appear to be subject to the Public Utilities Commission. There is an open-ended provision giving the utilities authority to set rates and charges, without any controls, completely unlike the present solid waste activities. Therefore, counties under this act would have the authority to charge whatever rates they felt were appropriate to pay off the bonds. However, the public does not have an avenue or an agency to complain to with regard to solid waste costs. What makes you think

that a county utilities authority should not be subject to the same rules and regulations as the private sector? I think their costs and revenues have to be reviewed by some other agency, which is not provided for in here.

With regard to page 4, paragraph j - the definition of "solid waste system," as I indicated before, it appears that a county utilities authority can get in the solid waste collection business. I don't know if you really would like to see a utilities authority do that. The power is definitely rather awesome in this area. I think the one thing the bill is missing is that in one respect when you are talking about water and sewage, you are talking about facilities and operations that are basically and inherently run by governmental agencies; whereas, in the solid waste area, the inherent operation is basically private - you are dealing with the private sector. Here this bill is going to push or enable the county utilities authority to get into the private sector. I think a lot of provisions in here on bonding are more appropriately directed at water and sewage problems, not so much solid waste.

I noticed in the bill that if somebody doesn't pay a bill for sewage or for water supply, that you can file a lien on the property. But there is no mention of solid waste. If nobody pays the bill to pick up the garbage, the county utilities authority doesn't get a lien on the property. Garbage disposal costs are going up steadily and there are lots of problems with people not paying bills. Why does the bill dissect in that area the solid waste picture? There seems to be a slight inconsistency there.

On page 6, the county utilities authorities are mandated to be formed. It is not permissive. They are given very broad powers over everything that goes on in the county relative to water or solid waste and sewage. The bill is replete with protections for existing sewerage authorities. In fact, some of them are specifically named. Yet there is no protection for existing solid waste facilities and I think such an approach could be considered discriminatory. After all, the solid waste industry is made up of citizens of our fair State and they are entitled to constitutional protection and safeguards. They have obligations that are on the books for equipment and operations, and they have to be protected as much as an existing sewerage authority, but they are not. They are left out in the cold like some stepchild.

I notice on page 7, on line 78, that you have provided a protection for existing sewerage authorities to protect their assets and liabilities and contractual obligations, but not so for the solid waste industry.

Also on page 8, line 2 of paragraph 8, you provide that the utilities authority cannot get involved in those areas where existing regional authorities are operating, but yet there is no protection for solid waste. Every sewerage authority in the State of New Jersey is protected under this legislation, but not the solid waste industry.

On page 10, paragraph 14, we have the standard powers of a utilities authority that would be created under Title 40, except we now have added solid waste. This authority is now empowered to purchase or to condemn existing facilities for their own purposes. Now, if we look at S 624 in this area where you have asked the county to set up a plan, a solid waste management plan, in that plan the existing facilities and existing operations are taken into consideration, although we felt it could be said a little more strongly; but, suffice it to say, the intent is clear. What do we do with the county solid waste management plan that may be adopted and how does it fit in with the activities of a county utilities authority? Nowhere in the bill is there any coverage or consideration for that type of a problem. In

other words, you develop a county plan and there are, say, five landfills in a county and they say, "We are going to keep all five of them in the plan." That plan is established and approved by the Commissioner of DEP. Then along comes this county utilities authority and it says, "Wait a minute. We are going to change that." We have legal conflicts right there. Who says what? Is the county in charge? Is the DEP in charge? There are so many layers of government now established that it becomes very difficult, if not impossible, to determine in which direction or how to do things in this State. I say that with great sincerity because I can tell you from experience that solid waste programs in this State are going to be set back by all this legislation because of the fact that this State has been declared to be an unstable state as far as solid waste management matters are concerned. The degree of confusion is so strong that reliable and responsible people in the industry - national companies - are very hesitant to get involved in New Jersey because of the poor climate and the lack of stability of the laws and policies in this State relative to solid waste.

If you look through any magazines that are published by the solid waste industry, such as "Waste Age," you will see in other states lots of activities, such as shredding, baling and different methods of collection. Why? Because the laws and policies are much more stable and the business community is willing to make the investments that are necessary. In New Jersey, it is a very difficult thing. You don't know from one day to the next whether or not you are going to be in business.

On page 22 of the bill, we have the condemnation power provision. There is no protection for existing operations. I think it would be a joke to see a county utilities authority trying to condemn a collection company, which is possible under this legislation.

On page 27, paragraph 44, I don't understand this provision. It kind of comes out of the clear blue sky. It relates to the disposal and treatment of industrial wastes. I don't see how a county utilities authority can get involved in the disposal of industrial waste materials and this, by definition, would include liquid waste materials also. I don't see the sense to it. I don't know what public purpose it would really serve for a county authority to get involved in that aspect of the solid waste business. I think what happened here is that in tailoring the legislation to Title 40 - the sewerage authority laws talk about industrial waste as far as treatment in the sewage plant - the person that put this in seems to indicate that this would now apply to industrial waste. It doesn't fit; it doesn't make sense.

On page 30, paragraph 55, we have a sentence on line 4: "No water system, solid waste system or surface water system within a county shall be constructed unless the authority shall give its consent thereto and approve the plans and specifications therefor." Does this Committee realize how many layers of government you have to go through right now to get approval for plans and specifications of a solid waste disposal facility? This becomes a joke. I have been involved in this. You can take the DEP records and see they have spent two years reviewing plans for solid waste facilities. That is probably why we have this alleged crisis because people are not carrying out their responsibilities as fast as they should, and it is due to a lack of manpower. Where do we go first? Do we submit the plans to the DEP for their approval and, if they approve it, submit it back to the county and say, "Will you let us operate this facility?" Or do we go to the county first and say, "Will you act on the plans," and they approve them and DEP gets them and says, "We don't like what the county did. We want something else"? You are just

going to go around in circles. And, as it exists now, we go around in circles.

I can see a county utilizing this power to prevent new private facilities from being constructed in a county. Again, we have a question here of discrimination. Also with regard to solid waste disposal in a county area, we would have a conflict with the decisions of our State Supreme Court. I am not talking about the most recent one; I am talking about ones that are a few years old where the court has said in no uncertain terms that the State has preempted the field of solid waste management. This bill seems to conflict with those decisions and the existing laws that are on the books.

I can see this type of prohibition for water and sewage, but not for solid waste. It just doesn't fit. As I indicated before, you are not dealing with pipes that are fixed in the ground and facilities, like sewage plants or water supply areas.

On page 32, in paragraph 62, there is a provision which I have seen in many laws, which I will just abbreviate a little bit. ". . . an authority shall not be subject to the provisions of chapter 50 of Title 40 of the Revised Statutes, or be subject to regulation as to its service charges by any officer, board, agency, commission" - that eliminates the PUC; they are out of the picture, completely out of the picture in solid waste and anything else - "or other office of the State; provided, however, that nothing contained in this act shall in any way affect or limit the jurisdiction, powers or rights of the State Department of Health, Department of Environmental Protection, . . .," and all the other counties and water commissions. Right there in that part of the bill you are saying that the county utilities authority can't interfere or limit the jurisdiction of the DEP. But yet, in the provision I just mentioned on page 30, paragraph 55, line 4, there is a conflict. The county now gets into the picture and they have to approve the plans and specifications, which is in conflict with the powers and duties of the DEP and I might also add the Public Utilities Commission. I am surprised that they weren't included in this list of public agencies since they are very much involved in solid waste.

That about completes my comments on 3084.

As to 3085, I noticed that the definitions of "air pollution", "water pollution" and now "solid waste pollution" are set forth. I know where the "air pollution" definition came from because I wrote the bill in 1967. The "water pollution" definition and the "solid waste" definition obviously are copied from the "air pollution" definition in Title 26.

Here is where we really have a problem. You have the DEP promulgating rules and regulations for solid waste disposal and they have about 54 pages of regulations. They are pretty comprehensive. I don't agree with them all, but they are there. And, if you operate a sanitary landfill, which by its very definition is merely an engineered method of minimizing environmental effects, there is no way in this world that you can comply with that definition on page 2, paragraph (i), line 29. It can't happen. There is no such animal. That definition is talking about something that doesn't exist.

Even the definition of "water pollution", if you will pardon the expression, I think is ludicrous. Under that definition, the various effluent limitations that have been set forth by the State and the federal government would violate this section; and the same thing applies regarding air pollution as water pollution. So I think these definitions are something that are really inappropriate.

Additionally, giving the county the power to adopt ordinances that may be more stringent, as set forth on page 4, paragraph 7, is also improper.

I think Mr. Ricci referred to that also. How restrictive can you get? Are we playing a game of one-upsmanship? The State has the technical resources to develop standards. They have been developing standards and there should be one set of standards, not standards that vary from county to county, which could be possible.

In the Air Pollution Act - I don't think it is in the Solid Waste Act - any ordinance has to be reviewed by the DEP to make sure it is consistent with their regulations. Yet there is no protection in here for that type of situation. In the environmental field, everybody has to be treated equally and the laws and the regulations and the standards should be the same throughout the State and not differ from county to county. It would be very easy for a county agency to really put the screws to somebody if they wanted to by just adopting stringent, stringent regulations. Then you go to court and you fight it out and waste a lot of time. I think there has to be one set of standards that everybody goes by. With solid waste, of course, the more stringent the standards, the more it is going to cost for disposal. And some county agencies might adopt regulations which are unnecessary from a solid waste management point of view, but they will do it just to harass. Doing that, they will drive the cost up. When the cost goes up, everybody disposing at that site goes to the next site where it may be cheaper.

So I think we have to have some uniformity of standards and I don't believe a county should be authorized to adopt, amend or repeal environmental health ordinances. I believe that the idea of a county agency to eliminate local boards of health is a move in the right direction. I don't want to see anyone lose jobs, but I do believe that there is a duplicity of effort with many local boards of health and I would rather see a very well-trained staff of personnel in a county agency rather than an inadequately-trained staff at a local level.

I think when you get into environmental areas, you are getting into very sophisticated problems and I don't think that a local health officer should have some of these responsibilities because I think it is asking too much of the person and it is too costly to do all this testing at the local level. At the county level, it would be a better approach. I think environmental problems can be better solved if approached on a regional level. But I don't believe they should have the power to adopt rules and regulations. I think they could be a good enforcement tool to supplement the activities of the DEP.

SENATOR MC GAHN: Mr. Schwartz, I don't want to interrupt you. You may be getting paid by the hour. But we have a list of about 35 people that would like to testify. I would like you to summarize your remarks, if you will, at this time.

MR. SCHWARTZ: No problem.

SENATOR MC GAHN: Thank you.

MR. SCHWARTZ: We consider these things very serious and we get very technical in these bills and try to bring our thoughts home.

As far as the other legislation is concerned on water quality, I don't think the industry has too much to say about that. My own personal feeling is that that is the wrong approach. It should be done on a basin approach, not by counties. It is a philosophical difference.

In summation, I would say that the solid waste portions of these bills should be eliminated and that we should direct our efforts towards developing meaningful solid waste legislation by correcting the ills and problems that presently exist. Maybe S 624 is the vehicle. But I think, if we are going to use that bill as the vehicle, it is going to have to address itself to the dual jurisdictional problems which exist.

3084 and 3085 have significant legal ramifications which I think would be disastrous and which would result in wasting a lot of time in the courts and not really accomplishing anything.

I appreciate the opportunity to appear. I am sorry I have been lengthy. You know I have a bad habit of that because you have witnessed it at our other conferences. But when you are into this on a day-to-day basis and see all the problems, you try to bring them before the people that are preparing legislation.

Thank you, and I am sure you don't have any questions.

SENATOR MC GAHN: No, we don't. Thank you. I do have a remark though. Certainly this Committee is very cognizant of S 624 and, as I believe you know, these bills were actually drafted prior to S 624. We realize the ambiguities and the conflicts between the two. Certainly, as far as this Committee is concerned, S 624 will take precedence over what is in these bills as far as solid waste is concerned.

MR. SCHWARTZ: I would like to see S 624 used as a vehicle to correct a lot of the problems. Thank you, Senator.

SENATOR MC GAHN: Thank you very much.

Senator William Ozzard.

W I L L I A M E. O Z Z A R D: Senator, good morning. I will identify myself with the Authority that I represent and the reason I am speaking for it.

On page 6 of Senate Bill 3084, the only authority designated by name is the Somerset-Raritan Valley Sewerage Authority. I am its general counsel and it has asked me to make a brief presentation for the record as to its position, but mainly it wants to leave you with a few more problems and perhaps a few unanswered questions.

The Authority, by the way, has taken no official position in opposition or support of 3084. It merely questions the application of the authority approach to a combination of fields that are not necessarily related. Very briefly, it is this: We feel that the areas of water, surface water, solid waste and sewage are related, but they are not brothers. They are at the best cousins and in one instance, in the surface water situation, a rather distant cousin.

We have to offer you this thought, that in the area of solid waste and the area of sewage, there is not that kind of relationship that they could function well together in a single authority. The suggestion is based upon the knowledge of those of us who are working in the sewage field today and my knowledge in the field of solid waste through Public Utilities. You are dealing in one instance with semi-solids, and liquids and the transportation or disposition thereof are quite different than the solid waste products - the metals, the woods and others that are disposed of in an entirely different manner. I will shortly make a suggestion to you, Senator, and for your Committee on what I think ought to be done on the solid waste disposal end of it. But my Authority and I don't feel that sewage disposal and solid waste disposal are that related that they can function well through a single authority.

By the way, let me relate water. We do believe that water and sewerage systems function well together in a utility concept. They function well in private utilities, in combination, and have for many years; they function well in municipal and county utility systems, complementing one another; and, in the servicing of the developing areas of the State of New Jersey, they come together on a very workable basis. Thus, that sort of dual control we see as functional.

We, however, feel that the surface water system is not related to the functions of the "water and sewer authority" concept or single management.

In October, with others from the Authority, I attended the International Clean

Water Conference in Miami. A solid day of hearings, conferences, and panel discussions was devoted to the growing problem of surface water pollution. Some of the speakers from this nation and from other parts of the world made it very clear that if we think we have a sewage problem in the populated states, we haven't even begun to realize the type of pollution we are dealing with in surface water. The run-offs, the deposits, the accumulations from the farmer's spraying of a fruit tree to the emission and droppings from a motor vehicle going down the highway, the wash-off of the chemical compounds in the new construction of buildings --all of these in combination, they believe - and it is impressive in listening to men who have been as many years as they claim to have been in the field - that this area of pollution is probably a greater area of pollution than we have been dealing with in simple disposal of solid wastes and sewage wastes.

It, therefore, is a problem that is going to be too big for a sewerage authority on a county level to handle. It is a problem that does not lend itself to the charging of fees. Therefore, you have to look in this legislation and ask where and how funding would take place. I know the bill does say that fees may be charged for surface water systems. But every developer today is being asked to put in detention-retention basins. The matter of flow - the moving of soil, the direction of flow - is all part of what is now being conceived of as the control of flooding, but more importantly the control of surface water pollution.

I don't see and we don't see at the sewerage authority level that it is related to the knowledge, the concept and the management of sewerage authorities and combination utilities authorities that handle sewer and water.

I suggest to you, therefore, Senator, that this is a field so vast which will require so much public funding and which itself invades the field of planning that it is going to necessitate separate treatment and not consolidation with either of the others - and I am speaking of solid waste, sewage and water. I also don't think it should be left to the freedom of thought or the authoritative control of the environmentalists. I think it is something beyond that because it enters very dramatically into the field of economics in this State and every other state. I think there has to be a wedding of something more than environmental control on surface water pollution.

Now, we have a suggestion, Senator, at the sewage authority level, in the treatment of 3084 and related legislative activities that you and your Committee want to follow. We think that the matter of disposal of wastes and control of wastes needs a central agency on a local level; I don't mean municipal. I think what 3084 does in concept is not a bad idea; and, that is, to set up an authority - in this case a county, but it can be a regional authority - that will be administrative and help to coordinate the other agencies and governmental units that are involved in the four fields that are highlighted in the legislation.

We think it is important that there be some sort of centralized facility, to wit, an authority, because it is essential, we believe, to get some sort of regional administrative control of these activities. And it is also essential that there be a unit with enough authority in it and well located within the areas of development of this State that will be able to deal with the federal and state governmental departments that have authority and have disposition of many of the matters that really should be settled at the local level, and, more importantly, can cut through the federal and State environmental paper pollution which is delaying so many of the progressive activities in solid waste, in surface water management, and in sewage disposal. We think that this legislation, this bill 3084, awakens a thought in that direction. For this, I

compliment you and the other sponsor on the Committee.

Lastly, on the matter of solid waste, the previous speaker made some statements about PUC and its positions. Fortunately, I no longer have to defend the PUC and its activities; and I only occasionally have to defend its decisions, because I made some of them. What I would tell you is this, however, and this is a personal observation outside of my representation of the Somerset-Raritan Valley Sewerage Authority: The solid waste problem in the State of New Jersey - and it can be fitted into the legislation you are considering - is not going to be satisfactorily solved until the disposal portion of the problem, not the collection but the disposal, is turned over totally throughout the State of New Jersey to authorities who will be able to select sites without too much political interference, who will be able to run the sites and who will no longer have the problems of competition with private industry, private enterprise, because it happens to be, in my belief, one of the areas within which government should have total control, and that is in the final disposal, not only in dump sites but ultimately in the incineration which is already on the plan books, but is still not progressing fast enough.

Senator, that is our position. We like the idea of an agency, but it should be administrative. We think that the separate units could function well through a central administrative agency in the area concept of New Jersey and, through that, I think accomplish much of what I think you are seeking to accomplish.

SENATOR MC GAHN: Thank you very much, Senator. I can certainly assure you that your remarks will be given extreme consideration in the redrafting of the bills.

MR. OZZARD: Thank you, sir.

SENATOR MC GAHN: Mr. Robert Halsey, Monmouth County Planning Board.
(No response.)

Mr. Douglas Powell, Middlesex County Planning Board. (No response.)

Mr. W. P. Anderson, Chairman, State Chamber of Commerce Water Quality Control Committee. (No response.)

John H. Morris.

J O H N H . M O R R I S :

My name is John H. Morris. I am a resident of Three Bridges, N.J., and am employed as a Senior Engineering Associate for Environmental Pollution Control by Merck & Co., Inc. of Rahway, N.J. I represent the Water Quality Control Committee of the New Jersey State Chamber of Commerce and the New Jersey Chemical Industry Council, serving as a member of the former and as Chairman of the Environmental Affairs Committee of the latter organization.

First we would like to comment on bill S-3086 which is known as the "New Jersey Pollution Discharge Elimination System Act". This bill apparently is intended to provide the required legal basis for the New Jersey Department of Environmental Protection (DEP) to take over and administer the National Pollution Discharge Elimination System as provided by the 1972 Amendments to the Federal Water Pollution Control Act.

We understand that a bill, similar to S-3086 in purpose, is in the process of being drafted by the DEP. We believe it would be reasonable, therefore, to await the promulgation of this draft bill and compare it with S-3086 to determine which, or perhaps some combination of the two, better fulfills the legal requirements of the FWPCA Amendments of 1972, and protects the interests of the citizens of New Jersey. We suggest deferring action on S-3086 until such a comparison has been made.

In the meantime, clarification of some aspects of S-3086 would be helpful. We note that section 5 would apparently grant the State the right to modify NPDES permits already issued by the U.S. Environmental Protection Agency (EPA). We question the need for such authority. Further, under section 15a, a similar question can be raised. Is it the intent of S-3086 to have valid NPDES permits affected by subsequent State, county or local water quality standards? If so, some guidelines and regulations would be needed.

In summary, we are in accord with the concept of State operation of the NPDES permit program at the earliest possible date, and urge your efforts in finalizing, perhaps with the DEP, the most effective bill for this purpose.

The other three bills, S-3084, S-3085 and S-3087, to be considered today all seem to have in common the thrust of requiring more active participation in environmental control by county government. We would expect, as a corollary, less participation by municipalities. This seems a logical move toward regionalization of water supply and waste treatment programs.

Our committee supports the regionalization concept as long as planning and management are on a regional basis and there is sufficient flexibility to allow construction and operation of multiple plants, if that is indicated by either economic or operational reasons. Senate bill 3084 seems to be consistent with the needs of the State but we have questions about one aspect.

The bill seems broad enough to permit the acquisition, construction, and operation of wastewater treatment, water supply, and solid waste disposal facilities. The bill is very clear in allowing the regional authorities created by it to absorb existing municipally-owned sewer systems. There is, however, no clear language regarding privately-owned systems. While we are

not certain as to the existence of privately-owned sewer systems, there are several water distribution companies and a substantial number of privately-owned solid waste disposal facilities which would appear to be within the scope of this bill. We would ask what is the intention in respect to these privately-owned facilities.

Senate bill 3085 requires establishment of County Boards of Health in counties which do not now have such agencies, and requires that these boards assume responsibility for monitoring waste water discharges in language which seems to make that activity a principal function. It further provides that county ordinances will supersede municipal ordinances if the two conflict. We believe the intent of this is to establish regional enforcement agencies to operate in parallel with the regional utility authorities authorized under S-3084 and we see nothing wrong with the concept.

As written, however, the bill does not seem to make any distinction between the authorities of State, county or municipal agencies, and without that distinction we are concerned that the net impact of this bill will be to add still another layer of enforcement to an area that is already burdened by multiple agencies. We believe this point should be clarified in the bill if it is to be enacted.

Senate bill 3087 requires water management planning on a county wide basis in Northeast New Jersey. We ask why this would apply only to a portion of the State.

We would also ask what advantage this offers over the river basin planning approach which the DEP has been following. It would appear that using the natural watershed boundaries of river basins would be more logical in establishing planning regions than would the political subdivision boundaries provided by counties. Accordingly, unless planning on a countywide basis is mandated in order to get federal participation under Section 208 of Public Law 92-500, we fail to see the benefits offered by this bill.

In summation, we are generally in accord with the intent of these three bills, S-3084, 5 and 7, which we view as the improvement of New Jersey's environment, but we do have reservations concerning the implementation of specific provisions. Additionally, we would like to point out that these bills, in our opinion, would seem to mandate a substantial additional increase

in administrative costs. Moreover, the environmental expertise which would be required at the county and regional levels just does not exist today, and will continue to be in short supply for the immediate future.

Thank you.

SENATOR MC GAHN: Thank you very much, Mr. Morris. I have no questions.
Mr. Lazlo Szabo. (No response.)
Mr. William Beren.

W I L L I A M B E R E N: Thank you, Mr. Chairman.

My name is William Beren. I am Legislative Agent for the League for Conservation Legislation.

LCL is an environmental lobby and represents over 40 organizations and 400 individuals throughout the State of New Jersey.

It is no exaggeration to claim that the package of bills being considered by the Committee today are a revolution for the State of New Jersey.

As is unfortunately more the rule than the exception in this State, New Jersey has failed to exercise a leadership role in protecting our water resources, and in planning the wise management of this essential commodity. Instead, we have by design entrusted our waterways to a patchwork quilt system of local and regional planning and implementing agencies. There has been no overview of the complex issues involved in watershed management.

The State has paid dearly for its failure to act.

New Jersey's surface waters include some of the most heavily polluted rivers in the country.

Pollution has destroyed the productivity of our oceans and estuaries, with an attendant loss of economic activity.

We have allowed our precious ground water supplies to become contaminated with hazardous and toxic wastes.

An outdated set of pollution control laws have left the State unable to cope with the problem, and have prevented the restoration and rejuvenation of our surface streams and coastal waters.

Numerous reports have documented the effects of poor planning on guaranteeing an adequate supply of fresh water for the future.

The price of pollution is a slow exodus of people away from our existing population centers. Yet our failure to plan on regional levels has foredoomed us to repeat the mistakes of yesterday. The result is everspreading pollution and decay.

A State takeover of the NPDES system provides New Jersey with a golden opportunity, one might say excuse, to revamp the entire water management program. The package of bills before us today will consolidate the State's long range planning efforts. It will streamline the pollution control program, making our enforcement program that much more efficient and, therefore, more effective. And, in doing so, it also provides for a more important expanded role for local governments.

LCL, therefore, fully endorses the goals and objectives of Senate Bills 3085, 3086 and 3087. We applaud the Committee, and in particular Senator McGahn as the chief sponsor, for introducing the legislation. Such an overhaul of our water statutes has long been overdue. However, at this point, we are reserving our support for Senate Bill 3084.

We do have a few comments on specific details of the package.

Basin versus county planning: To be effective, water management planning needs to be done on a watershed basis. This was the conclusion of the Musto Commission, and has been the policy of the State DEP. Existing 208 Water Management Districts are now basis districts: the all-encompassing Northeast New Jersey Water Quality Study, which covers the entire Passaic and Hackensack basis, and the Middlesex County planning district, which encompasses townships outside of the county boundaries. Only if such planning is done on a basin level can we effectively deal with the impacts development in one section of the river will have on another section.

On the other hand, since the county is an existing political unit, the decision to opt for county planning districts is not without foundation. Certainly the need to define new boundaries and establish new political entities along watershed or river basin lines poses a vexing problem.

Nevertheless, LCL's first choice is to establish overall basin planning districts, such as the Northeast Study. It is not enough to permit the Commissioner "to designate intercounty water quality planning districts when special factors require (such) planning on a basis other than the geographic boundaries of counties." Basin planning should be the rule rather than the exception. County and local planning would have a role to play in such planning, but the overriding concern has to be the larger basin picture. There needs to be some mechanism that will coordinate the county efforts in the same basin. There is every reason to assume that total reliance upon counties will create more problems than they solve.

County Utility Authorities: As a citizen group, LCL is wary of creating new, unresponsive bureaucracies, particularly in as sensitive an area as water management. It is therefore essential in our minds that we do not just recreate the independent authority. Built into a county authority should be a wide range of checks and balances to insure that the CUA implements the goals and objectives of the State and regional plans called for in Senate Bill 3087. This might involve reserving some seats on the authority for members of the planning agencies, for example. Also needed are better public controls on the authority so that the people, as well as the professionals, are listened to and not just heard. This would include full disclosure policies. LCL also believes that the CUA as proposed should not be responsible for solid waste facilities, but should be limited to water related projects.

As I stated before, until these questions are resolved, we do not support 3084.

State versus local roles in monitoring: LCL has long supported more local responsibility over enforcement of State pollution control laws. Often the time lag in sending out inspectors from Trenton or DEP regional offices is crucial. To be effective, however, the county enforcement agency developed in S 3085 should be insulated from the local political process, adequately funded and given legal tools with which to do the job. For example, while 3085 directs the county board of health to monitor the NPDES program, 3086 reserves the right of entry into plants to check for compliance with the conditions of the permit to the State. Likewise, the county agency is ideally suited to monitor stream quality; yet 3087 directs the State to "establish a comprehensive program for monitoring instream water quality" without any mention of the county role. Nor does the act specifically require uniform reporting procedures, nor does it define what the Legislature feels a "comprehensive (monitoring) program" should look like. We feel more detail along these lines would be helpful.

As far as the operation and maintenance of treatment plants, the Musto Commission

report Vanishing Options was highly critical of the quality of staff assigned, and in some cases not assigned, to municipal waste water treatment plants. Missing from the entire package of bills is any mention of State standards for the operation and maintenance of treatment plants.

Funding: Definitely, a sore point to bring up - agreed - but nevertheless essential. Simply put, LCL will not support any of these bills unless adequate funding is assured. The Legislature in the past has passed legislation without adequate funding to implement those acts. This practice continues today, and I refer specifically to the Senate's action on S 624, the Comprehensive Solid Waste Management Act, from which the appropriation was removed, yet the act continued to go forward.

Statewide priorities: Nationally, and in New Jersey, the public has become aware of the impacts sewers have on development and land use decisions. This has been documented by the Department of Community Affairs in their study, "Secondary Impact of Regional Sewer Systems." The Legislature also recognized this problem in the fall when the DEP's new priority system was written into the Water Resources Bond Act. This stresses the need to clean up the old pollution first before we begin dealing with areas that do not have a serious water problem. LCL feels quite strongly that 3087 should re-emphasize this policy by directing the State to include the new priorities in their statewide plan.

Then there are a couple of other minor points, I won't take up your time with by repeating them.

SENATOR MC GAHN: Thank you.

I do not see Mr. Richard Sullivan present.

Mr. Lawrence Gerber. (No response.)

Mayor D'Ippolito of Vineland.

D E N N I S G A L L A G H E R: My name is Dennis Gallagher. I am here to represent Mayor D'Ippolito of the City of Vineland, who was unable to make it this morning.

Senator, we thank you for the opportunity to come and talk to you about these bills. They have been of great concern to our city. We have made our views known to other mayors in the State. We have approached them on this bill. We do have correspondence from several mayors. I would like to read those letters into the record, including Mayor D'Ippolito's letter.

This is a letter from Joseph H. D'Ippolito, Mayor of the City of Vineland:

"During recent years, we have experienced a rapid-growing trend, which should cause all of us in responsible positions in government great concern. It seems that each day we are surrendering more and more of those responsibilities that permit us to effectively serve our local community and the citizens that elected us to the best interest of our community.

"I am deeply concerned about the growing trend of county and State infringement on the responsibilities of the local municipality.

"Several months ago, Senator Joseph McGahn, Atlantic County, introduced Senate Bills 3084, 3085, 3086 and 3087. These bills virtually turn the responsibility of our local sewer and water systems, drainage of surface water, and solid waste disposal over to a County Authority. If passed, these bills would place complete control of sewer and water rates with the County Authority. Further, they will dictate the economic and social growth of communities in accordance with the whims of the county since they will have the say as to what areas our municipalities will receive these services in the future. Most importantly, who controls the borrowing power of the County Authority and who controls the rates for these services to the various

municipalities serviced?

"Our cities can borrow based on a ratable formula; our State can issue bonds only by referendum. What controls are placed on the County Authority? Can these few appointed officials borrow millions with no restrictions? Where is the veto power? What can stop them from doubling or tripling our local service rates to fund various projects?

"We do not feel that our citizens wish us to surrender these rights as outlined in Senate Bills 3084 - 3087. If we are to properly plan our city's future growth, then we must have the right to control those vital services that are a key to proper planning. Vineland is the largest city in our State in land area. We cannot permit the unrestricted growth of our community. We must be permitted to maintain maximum control over planned, orderly growth, since the opposite result will be costly to present and future generations.

"If a County Authority is to dictate many of our future services, as outlined in Senate Bill 3084, which will effectively determine the direction of our growth - and we all know that growth follows these services - then does the city control its future? Can a city properly plan to meet its needs under the heavy thumb of county control? Should the city indeed retain the right to plan or does that become the next step in county control?

"As our city spreads to its far-reaching boundaries, costs for all services will increase; police protection, roads, road maintenance, schools, fire protection, street lighting, and on and on. Rapid uncontrolled growth in these areas for amenities other than those outlined in Senate Bill 3084 could effectively bankrupt our cities.

"Gentlemen, I respectfully submit that this bill is counter to the very basic American concept that government serves, not rules, the people. Let us run our cities. Let us plan our future. Let the people at the very basic level of government exercise their constitutional right to function without the interference of 'big brother.' We are intelligent men and we recognize that what is good for our city might not be good for another. We don't want to be carbon copies of X,Y,Z city. We don't want to become the robot, computerized agent of the county, state, or federal government. We want the right to be free to determine the future planning and growth of our city, as it reflects our needs, our individual personality, not the county's.

"Finally, the citizens of Vineland elected me to represent their needs and that included the protection of their rights in all the areas outlined in Senate Bills 3084 through 3087. I would consider it a violation of my oath of office to surrender these rights. I urge you gentlemen to commit these bills to the shredding machines and get on with the serious business of solving some of the real problems of our State, none of which have to do with problems outlined in Senate Bills 3084 through 3087.

"Signed, Joseph H. D'Ippolito, Mayor, City of Vineland." (see page 40x)

SENATOR MC GAHN: Mr. Gallagher, may I, at this particular time, respond to that particular statement that was made by the Mayor.

MR. GALLAGHER: Please don't respond to me; you will have to respond to the Mayor.

SENATOR MC GAHN: I would like to respond for the record, if I may, because this bill is not designed for a takeover of a municipal sewerage treatment plant, water plant, landfill or storm water drainage facility. It does authorize the County Utilities Authority, pursuant to a contract with a municipality, to operate any sewer, water supply, surface water or solid waste system. The municipality may not choose to sign such a contract. And, under those circumstances, there is no takeover. So the

basic premise on which that letter was written is totally incorrect.

MR. GALLAGHER: Will they get funded if they don't sign? That is the question.

SENATOR MC GAHN: Beg your pardon?

MR. GALLAGHER: Will they be funded by a federal agency if they don't sign? I guess that is one of the questions.

I have a letter from the Town of Phillipsburg, New Jersey. This is addressed to Joseph H. D'Ippolito, our Mayor in Vineland.

"At its regular conference meeting held November 17, 1975, the Phillipsburg Town Council discussed your letter of November 13, 1975 regarding Senate Bills 3084, 3085, 3086, and 3087 and concurs with your concern regarding the infringement upon local home rule by such legislation.

"We would appreciate it very much if you would express our opposition to this legislation and to indicate our desire to manage our own destiny.

"We regret that we will be unable to attend the public hearings on the bills, but we are confident that you can represent our interests well.

"Thank you for bringing this matter to our attention and we look forward to hearing from you regarding your success.

Signed, George E. Vincent, Sr., Mayor, Town of Phillipsburg, New Jersey."

I have another letter from the Mayor of East Windsor Township, New Jersey, W. Jay Johnson. This letter is addressed to Joseph D'Ippolito, Mayor, City of Vineland.

"We are in complete agreement with your views regarding Senate Bill 3084. We also are opposed to giving up home rule."

I have a letter from the City of Millville, New Jersey, from Mayor Edward H. Salmon:

"On behalf of the Millville City Commission and over twenty Mayors of South Jersey communities, I wish to voice strong opposition to Senate Bill 3084.

"These bills virtually turn the responsibility of our local sewer and water systems, drainage of surface water and solid waste disposal over to a county authority. If passed, this bill will place complete control of sewer and water rates with the county authority. Further, it will dictate the economic and social growth of our communities in accordance with the whims of the county since they will have the say as to what areas of our municipalities will receive these services in the future; and, most importantly, who controls the borrowing power of the county authority; and who controls the rates for these services to the various municipalities serviced. Our cities can borrow, based on a ratable formula; our state can issue bonds only by referendum. What controls are placed on the county authority? Can these few appointed officials borrow millions with no restrictions? Where is the veto power? What can stop them from doubling, tripling our local service rates to fund various projects?

"Senate Bill 3084 virtually turns the responsibility of our local sewer and water systems over to a county authority. If passed, this bill will place complete control of sewer and water rates with the county authority. Further, it will dictate the economic and social growth of our community in accordance with the whims of the county since they will have the say as to what areas of our cities will receive these services in the future.

"I strongly oppose this Senate Bill 3084 for the following reasons:

"1. This bill, like so many in the past from the state level, is taking away the power of home rule. The power for the elected community leaders to decide the proper and best course of action for their particular city is being diminished more each year.

"2. Although we would lose control of the water and sewer utility, we still would have the responsibility to maintain collecting lines and to collect fees. Thus, we would still have the major headaches and would be answering complaints, but have no power of control or decision ability to make change.

"3. This bill is another example of creating a giant utility which will result in more bureaucracy and higher customer rates.

"For these reasons, I would request this committee to totally reject Senate Bill 3084.

"Respectfully submitted, Edward H. Salmon, Mayor - City of Millville."

I will turn these over to the Committee, Senator.

SENATOR MC GAHN: Thank you very much. We will include them in the record.

Do you have any further remarks?

MR. GALLAGHER: I have some personal opinions, but I won't bore you with them.

SENATOR MC GAHN: Mr. Alfred Porro. (No response).

Board of Freeholders Association. (No response.)

Is Mr. Pike here? (No response.)

SENATOR Mc GAHN: Michael Guarino.

M I C H A E L G U A R I N O: Thank you, Senator. My name is Mike Guarino and I am the County Health Director of Bergen County, New Jersey. I am here to talk on Senate Bill 3085.

In 1970 the County Board of Freeholders and the Public Health Advisory Council made the recommendation that the County Health Department get out of contracts - that is, contracting with local communities, at that time we had 15 - and get involved in county-wide services. They gave us a deadline of two years to phase out of that contractual service and get involved in county-wide services.

So, we did identify those problem areas in Bergen County; those problems that transcended municipal boundary lines. What we did was divide the Health Department into four divisions: Administration, Personal Health, Health Education, and Environmental Health. In the Environmental Health section we have six people - six men. We have one Chief, four sanitarians, and one environmentalist.

I would just like to go over our track record to date. We initiated our program in 1973. In our water quality control program we monitor all the streams and rivers within the county. We do not touch the Hackensack or the Passaic River. We are only interested in the streams within the county.

In 1973 we took 820 samples. We ran 7,504 tests. We have our own water analysis laboratory, which is strictly for our stream pollution problems where we test for bacteria and chemicals. In 1973 we inspected 275 industries, 34 of these industries were polluting our streams up in Bergen County.

In 1974 we took 1,065 samples and we ran 8,856 tests. One hundred and fifty industries were inspected, sixty-two were polluting. So, that means for a period of two years we found 96 violators, or polluters, in Bergen County. Twenty-seven of the violators have corrected the problem, to date.

We have noticed in the southern part of the county we have a heavy concentration of industrial waste and in the northern part of the county we seem to have more septic violators.

We also see tremendous increases in nitrates, or fertilizer pollution, in our streams in the spring and summer months and we are designing a program for the citizens in Bergen County for that - to use less fertilizers.

In 1974 we were the first ones to find a mercury polluter in the Hackensack Meadowlands and brought it to the attention of both the Federal E.P.A. and the State E.P.A. We do have our heavy metals checked at Butler County College in Pennsylvania at no cost to the residents of Bergen County.

In 1971, when we were contracting with local communities, we had five towns that had approximately 4,425 septic systems. We were involved in regulating 2,655 of these septic systems. They were in violation. Over 50% of them were in violation. There is a strong need for a standardized septic tank repair ordinance and I think this is best done on the county level to really have a uniform ordinance.

That was our activity in water quality control. We do not have the legal power to take industries into court, so we do rely on the State. So far, we have not had one court case. We have been able to talk to industry to make the correction.

Our Air Quality Control Program has two inspectors who are qualified to read both black and white smoke violations. We have at least one inspector in the field every day with radio contact to our office. We also have one inspector that is certified to read noise levels.

In 1973, there were 274 industrial and apartment house observations. Sixty-seven violators were found. We also inspected 295 incinerators. In 1974, there

were 43 observations, both apartment house and industrial. Thirty-one violators were cited. One hundred and sixty five incinerators were inspected. In 1975, at the end of October, we had 52 observations, 38 violators and 180 incinerators inspected. That gives us a total of about 125 violators. We cite them as an agent of the State and there is a long procedure before they are finally fined and the corrections are made. If we had that power locally, I think we could expedite this greatly.

We are now implementing a program on carbon monoxide monitoring in the State, working with our Bergen County Lung Association. Again, it is going to be an educational program. Hopefully, it will get people to use their cars more efficiently, and that is by taking someone to and from work or shopping. You know, we are going to have a big problem with our sports complex. We will be seeing tremendous traffic jams within that area.

We do have on-going training intern programs. We do get college students from N.Y.U., from Ramapo College and from Montclair, working in our environmental program and this is why we are able to get a lot done, as far as our water is concerned - discovering our violators.

In the area of solid waste, in 1974 we had a major traffic accident on the Turnpike and part of it was from an inversion and also from a burning of what I call "dumps". It was an old dump that was burning. I was involved in it initially and I tried to get cooperation from the property owners but I had no legal power and I think if maybe we did have some legal power we may have had that fire under control earlier and probably could have saved some lives.

So, the thing that we are looking for is just to make the County Health Department one that has a commitment to the environment, legally, and we heartily endorse 3085. I don't say it doesn't have to be amended here and there but at least we are doing something. There is a need. There is a tremendous problem out in the community and in the county and I don't care what county you live in in this State - I happen to work with the State Department of Health so I am familiar with the State - there is plenty of work. All we need is a little support and backing in the form of legislation and I think we could have a tremendous impact on the quality of the environment and, thus, the life of the residents of this State.

SENATOR MC GAHN: Thank you very much.

Mr. William Wilsey.

W I L L I A M W I L S E Y: Senator Mc Gahn, thank you for this opportunity to speak on Senate Bill 3084. I would have a suggestion for you relative to proceedings of this nature. It would seem democratic to let individuals speak as long as they wish on the bill but, however, I think it is more democratic if we, perhaps, limit the people who evidently like to take quite a bit of time in their presentation.

I'd like to read a resolution first. This is from the City of Sea Isle City, of which I am a Commissioner of the Board. I am also here on behalf of the Board of Freeholders of Cape May County. However, this resolution is from the Board of Commissioners of Sea Isle City.

Resolution No. 450: "Whereas, Senate Bill 3084 provides for the transfer of local responsibility of sewer and water systems, drainage of surface water and solid waste disposal to a county authority, and

"Whereas, on November 25, 1975, there will be a public hearing in the Assembly Chamber, Trenton, on the aforesaid bill.

Now, Therefore, Be It Resolved by the Board of Commissioners of the City of Sea Isle City, New Jersey, that:

"1. The City of Sea Isle City strongly opposes the passage of Senate Bill 3084 because passage of same would take away from the City of Sea Isle City its right to operate its utilities on a financially sound basis which it has done since the utilities were created.

"2. The power of 'Home Rule' would be taken from the municipal level and vested in a county authority without adequate controls. Once again taxation without proper representation would be thrust upon the local taxpayers.

"3. The borrowing powers..." I think this is a very important point. "...of municipalities are subject to laws establishing percentage rates of indebtedness and are subject to and controlled by a State agency when the local debt limit is in excess of the established percentage rate; the bonded debt of the State of New Jersey is subject to referendum; Senate Bill 3084 contains no provision for the control of indebtedness by the county authority, which debt must be met from local service rates collected by local government." I will submit this at the end of my presentation.

Just a few brief comments: In Cape May County we do have an existing C.U.A. - County Utilities Authority - to handle sewerage problems. Many municipalities belong to this C.U.A. However, our concern is - in Sea Isle, and I am sure I am speaking on behalf of many of the municipalities in the County - with the water systems and the solid waste systems. They are run efficiently and economically. They are run within the framework of State rules and regulations.

The concern, basically, is this: What is the ultimate thrust of this bill if passed and enacted? On page 25, Section 42 - and I noticed with interest you did state that municipalities do not have to sign up by contractual agreement with a C.U.A. in regard to any one of its utility systems.

However, we would like, speaking on behalf of the residents and taxpayers of Cape May County, to have absolute assurances from our legislators that they are as interested in protecting home rule of local municipalities as the municipalities are in preserving home rule. I would suggest that a definition of home rule is this: Wherein a municipality has the initiative and know-how to handle their own affairs, do not interfere. Let us work, instead, to the objective of not eroding this initiative but, in fact, let us foster it. If a municipality has its own utility systems and they are in excellent shape, leave well enough alone.

Even though page 25, section 42 evidently states that it is permissible for a town or municipality to join in a contractual agreement with a C.U.A., we in Cape May County would ask for the addition of a section to Senate Bill 3084 wherein it would be clearly spelled out that the D.E.P., or any other State or county agency, could not in any fashion or by any method exert subtle pressure to force a municipality to enter into a contractual agreement with a county utilities authority, wherein the local unit gives up one of its utilities against its wishes.

Now, coming back to page 25 - in summary - section 42 - as I read it it seems to state that we would have an option of whether to sign up with a C.U.A. At the core of this concern about where do we go when this bill is passed, is the fact that we are so fearful because of many past experiences, that once D.E.P., or some other agency, gets hold of this bill they are going to elaborate on it, extend it and, through whatever pressures-- And they do have pressures to force you to join because they withhold your state aid or federal aid if you don't.

With that in mind and in final conclusion, we would ask you, sincerely, and urge you, to include in this bill a section where this type of operation would not be allowed - where we would be faced with subtle pressure to join. Senator, thank you.

SENATOR MC GAHN: Thank you very much, Mr. Wilsey. If you would submit a copy of that to the secretary for the record, we will see that it is included. Thank you very much. (see page 5x)

Mayor Armacost, Mayor of Avalon.

MAYOR ELLSWORTH ARMACOST: Senator, Ladies and Gentlemen: I am Mayor of the Borough of Avalon, which is adjacent to Sea Isle City. I feel that this is a very dangerous bill. You made an explanation a little while ago that said that C.U.A. was not taking over municipalities but I think that this is the beginning. I think it is very detrimental to home rule. I feel that we have good sewerage and water systems. I don't see how these people in C.U.A. would know the difficulties that we have in different municipalities. I feel that we are the ones that can answer to our constituents a whole lot better than the C.U.A. could.

I am going to give you an example of something that happened in the Borough of Avelon. Two years ago, we purchased a sewer plant, complete, from Deptford. We brought it down to Avelon. We were given an ultimatum from a judge to upgrade our sewer plant. We bought this plant. It cost Deptford \$135,000. We bought it for \$50,000. I feel that we are the type in our municipal government that are looking out for the taxpayers. Then, lo and behold, we had several agencies that threw monkey wrenches to the extent that our plant laid in the Borough of Avelon for one solid year, until we went to the judge that gave us the ultimatum to upgrade our sewer plant and he, in turn, through our solicitor, lifted all the restraints that these two agencies had against us to the extent that now we are constructing our sewer plant, which should have been finished last summer in time for the people.

I feel that this gives the C.U.A. entirely too much power. I think you, Senator, realize that there are a lot of agencies that have too much power today. I don't think we would want Uncle Sam to come in and tell us, as a municipality or state, "We are coming in and taking over your water and sewer, whether you like it or don't like it. We will set the rates." I strongly urge that this bill not be enacted. Thank you for the courtesy of hearing me.

SENATOR MC GAHN: Thank you very much, Mayor, for your remarks.

Mr. Halbe.

JOHN A. HALBE: I am John Halbe. I am Chairman of the Water Treatment Public Works Department Committee for Avelon and also the Land and Homeowners Association representative to Cape May M.U.A. I would like to give you my observations on Senate Bill No. 3084 relative to a taxpayers point of view, who will, in the final analysis, foot the bills.

Senate Bill No. 3084 seems to be a far-reaching extension of Chapter 183 of the laws of 1957 of the State of New Jersey, wherein the Freeholders had the Municipal Utilities Authority put in force. The Municipal Utilities Authority for Cape May County has been active for three years and so far there has been no progress relative to regionalized sewage disposal.

Page 2, lines 24 to 33 are a reflection of an agreement that is transmitted by the Cape May County Municipal Utilities Authority to all the boroughs and municipalities in Cape May County. This agreement, as is stated - as you state on page 25, paragraph 42 is alleged to be -- you have the option of signing or not signing. If they do not get 100% cooperation of all the boroughs and municipalities, they do not get their Title II money, thereby the option is relieved - you either sign, go it alone, and if you go it alone it is a tough row to hoe.

So, what we are doing, in essence, is giving the Municipal Utilities Authority added responsibilities and work, creating another agency, putting more people on the payroll to do a job which they are having difficulty doing right now. Our centralized

system for that area is five years away - five years away and closer to ten. And if you take the water and add that to it, you are just creating more people who will be duplicating the effort which has to be done by the Borough of Avelon.

Avelon and the other boroughs per this agreement have to upgrade their sewerage treatment plants at their own expense, maintain them at their own expense, transmit the effluent to the M.U.A. at some central regionalized plant, which will, in turn, treat it and then discharge it to an ocean outfall. All of this is going to reflect back to the taxpayer with added costs and duplication of effort. This is the thought that I would like to leave you with in objecting to the passage of Bill No. 3084.

We already have the Authorities acting on this, working on it, and it would just further confuse the issue. Thank you very much, Senator.

SENATOR MC GAHN: Thank you very much, Mr. Halbe.

Mr. Wood, Mayor of Stone Harbor.

MAYOR JAMES G. WOOD: Senator, my name is James G. Wood, I am the Mayor of a small seashore community on the Atlantic Ocean - Stone Harbor, New Jersey.

We, in Stone Harbor are, at the present time, in the process of considering the joining of the local Cape May County M.U.A. In addition, we operate our own water utility in which we give a very efficient and reasonable cost service to our local residents.

Also, in addition, we maintain our own collection system for solid waste materials. Now, under the circumstances of our operation of competent facilities, such as we operate in Stone Harbor, I would like once more to make sure that the intent of this bill is clear in my mind. Senator, if you wouldn't mind, would you answer once more the question that was put to you previously as to whether this bill would very definitely exempt any community from definitely joining into a county M.U.A. for the operation of these facilities - is that true?

SENATOR MC GAHN: You have the option of entering into a contract or not entering into a contract. The consequences of not entering into a contract, as far as Federal funding or State funding is concerned-- I think, as Mr. Halbe mentioned, that basically part of this bill is a codification of existing laws that are on the book, particularly as far as county sewerage authorities are concerned.

Remember, also, the State Supreme Court has held that solid waste disposal is no longer a local function. So, very frankly, this is, again, not a service that can be performed on a local basis. So, we are now then talking about a water plant.

But, yes, this is entirely up to you. You have the right under this. And if it means we have to spell this out much more clearly when we write the bill, I think you can be reassured of that. But, it is entirely up to you. I recognize and realize the situation as far as Cape May is concerned. It is an extremely difficult thing to write a general law that pertains to 21 counties that is going to be equally equitable to all the counties. You do have the right of self determination.

MAYOR WOOD: Thank you, Senator.

SENATOR MC GAHN: If there is any question we will see that it is clarified.

MAYOR WOOD: I would reiterate the feelings expressed by Bill Wilsey, the Freeholder from Cape May County, in which he suggests that a paragraph or comment be put in the bill spelling this out.

I would just do one further thing and that is read a resolution - or leave the resolution with the clerk - expressing our opposition to 3084, strictly because of the fact that we object to the compulsory joining of an M.U.A. If that is not so, however, this would not hold true. (see page 6x)

SENATOR MC GAHN: Thank you very much, Mayor. I'd like to comment concerning the difficulty in attempting to define home rule. It's like trying to define, on a statutory basis, death. I don't think it can be accomplished, really.

Matthew Kraft.

M A T T H E W K R A F T: My name is Matthew Kraft, 1000 Springfield Avenue, Irvington, New Jersey. I am counsel to the Joint Meeting of Essex and Union Counties. The Joint Meeting is a partnership of 11 municipalities, 7 in Essex County and 4 in Union County. The members are East Orange, Hillside, Irvington, Maplewood, Millburn, Newark, Roselle Park, South Orange, Summit, Union and West Orange. In addition, we service the sewage of the City of Elizabeth where our treatment plant is located. We also service portions of New Providence, Berkeley Heights and Livingston.

Our plant is located upon approximately 37 acres of land near the Arthur Kill and alongside of the Elizabeth River. Our Joint Meeting was originally organized in 1899. It is presently engaged in an expansion program upgrading its treatment of sewage to secondary treatment at a cost which will undoubtedly reach the sum of \$60,000,000. This plant is being funded partly by the EPA and partly by the DEP and is being constructed under their guidance and through their approval of our plans. In addition, we are involved in an Infiltration/Inflow study at a cost which will exceed \$4,000,000 and will eventually result in an Infiltration/Inflow correction at a cost of many additional millions of dollars in all of the municipalities that form our Joint Meeting. All of this work is being done under the watchful eyes of the EPA and the DEP. Both of them look favorably upon our operation as one that meets their concept of regional treatment plants.

We are very proud of the fact that on a number of occasions, the Engineering News, a national publication, has written up our organization as the most economically operated treatment plant in the United States. Our current cost is \$23.934 per million gallons, and our per capita cost based on a population served of 500,000 people is \$1.1485. This means that the total cost of our operation for a family of 5 is \$5.7425 per annum.

With reference to your proposed Bill, S-3084, creating county utilities authorities, I make no comment, because the preparers of this bill no doubt recognized the value and stability of our Joint Meeting, by providing in Section 62 that among other certain large organizations we are exempted from the provisions of the bill. I therefore feel it would be presumptuous on my part to make any comments on the contents thereof.

I further do not comment on proposed Bills, S-3085 and S-3086 as I certainly find portions thereof meritorious.

Referring now to proposed Bill, S-3087, concerning water policy planning, again, I have no specific objection to the general object of the bill. However, I strongly oppose Section 7c. This section, which authorizes a county water quality management plan also authorizes the county plan to wipe out our organization. To be consistent, this series of bills, particularly S-3087, should exempt from its provisions the same organizations it exempts in Bill S-3084. Here we are in operation over 75 years, enjoy the finest reputation in the field, run the most economical operation covering many municipalities in 2 counties, will have invested over \$100,000,000 in our system, and your proposed bill would give the county complete control over us, even to the extent of ordering us to enlarge, repair, or abandon our project, to shift our Joint Meeting from one organization to another and even to merge with others, all without our consent. And this comes at a time when we are investing over \$60,000,000

in improvements under the supervision both of the United States Environmental Protection Agency and the New Jersey Department of Environmental Control.

I urge you with all the earnestness at my command to insert the same exemption clause in S-3087 as you have in S-3084. Thank you very much.

SENATOR MC GAHN: Thank you very much, Mr. Kraft. In relationship to that last statement, another member of our committee, who is not here today, is Mayor/Senator Dunn and I am sure that that would not get past his eagle eye, since he is looking out for Elizabeth.

MR. KRAFT: Thank you, sir.

SENATOR MC GAHN: John Carney.

J O H N C A R N E Y: I am John Carney, I am Director of Public Works for the Town of Moorestown, New Jersey. I am representing Moorestown Township here for the Township Manager. We are only interested in S-3084. I'd like to read a portion of a letter. I heard the comments that you made a few minutes ago - before - about the option to join but this is the way Moorestown feels:

"The Township of Moorestown has successfully operated its water and sewage systems for many years and it is difficult to see where placing these systems under either the direct or indirect control of a County authority will be beneficial to the citizens of Moorestown. Under the present arrangement these systems are operated by the township government with policies set by the elected representatives of the people. Establishment of a County authority, with the capability of controlling or taking these systems away from local control, certainly violates the democratic traditions we generally refer to as 'home rule'.

"The Township believes the present legislation regarding the establishment of County authorities should remain as it is. If, for any reason, it is decided that the legislation should be changed, then we request that municipalities which own and operate their own systems be given the option to declare themselves as outside of the jurisdiction of any County Utilities Authority." I won't read the rest. Thank you very much for the opportunity to be heard.

SENATOR MC GAHN: Thank you very much too, sir.

Mr. Michael Capizola.

M I C H A E L C A P I Z O L A: Senator McGahn, my name is Michael Capizola. I am representing the Landis Sewerage Authority as their general counsel. The Landis Sewerage Authority is located in the City of Vineland in Cumberland County.

I'd like to preface my remarks with a comment. Senator, you have stated on several occasions that Bill 3084 would not allow the takeover of local utilities. I think that if that is so, many people who have spoken here today and myself and people I represent have misread the bill in that fashion. I think that it should be clarified because with such a large number of people misreading it, obviously there is some problem with the language.

I'd also like to comment on the aspect of regionalization. Regionalization of utilities is no panacea. The Landis Sewerage Authority is a part of Cumberland County, which has a county utility authority already and the problems between the county authority, the DEP and the Landis Sewerage Authority have resulted in serious delay in upgrading the Landis Sewerage Authority's plant.

Several years ago the Landis Sewerage Authority was prepared to construct a secondary treatment plant and at that time the Cumberland Sewerage Authority came into existence and now we are some two or three years later, the county sewage authority has spent close to \$1,000,000 in studies and the plans for the plant have not even

begun. So, regionalization, from our viewpoint, just means more delay and more bureaucracy to fight through.

I have presented you with a written statement and I, because of the time limitations, will not read it. I will offer it as part of the record.

I would like to summarize. Our first point is that it is a poor system of classification to unify water, drainage, sewage, and solid waste under a single authority. These different problems are handled best by being considered separately. Certain problems are treated best on a drainage basin approach. Solid waste may have no geographic limitations, or political limitations. It is handled in different ways in different areas.

Another problem that we see is, to try to unify all of the expertise needed in these three or four fields within one authority is going to be damaging from the standpoint of trying to have five people decide on sewage problems which are very technical - solid waste, again, very technical - and it is our feeling that to unify these would really delay and hinder progress in any one of the areas. So, we suggest that these be separated into at least three areas of legislative study and that would be, one, waste water and drainage; the other would be water supply; and the third would be solid waste.

Another consideration that we find lacking in these bills is that setting up by county lines just ignores the realities of the situation. The problems that you may have in the northern areas where you have heavy urban growth are certainly different than we may have in Cumberland County. And the problems that the shore areas have, again, are different. To try to make a conglomeration under an arbitrary county line approach is certainly not going to result in the best solution to the problems.

We also oppose the fact that these bills do subvert municipal control, either directly by taking powers away from your local government or indirectly by enabling a county authority to guide overall policies and control funding that will effectively prevent municipal control of its own problems.

There are other problems that we foresee in concentrating the tremendous economic power in the hands of a small body. Local utilities are generally run on a municipal level, sometimes with several municipalities, and they are subject to much scrutiny and public vision. The local governing bodies keep control over them. The local electorate keeps control. And when you get into the county level, the vast economic power is very likely to lead to corruption. And I think there have been instances of this on the county level already.

You are talking about county utility authorities which control enormous amounts of Federal funding, State funding; they control engineering contracts, legal contracts, construction contracts, and, yet, they, themselves, are subject to very little control, very little scrutiny, because the county government is removed from local view to a great extent. Therefore, we feel that the cost to the public ultimately is going to be much greater by going to this approach.

I would like to make specific reference to section 4 of Senate Bill 3084, in which it is unclear whether the county authority is intended to replace all local authorities and municipal utilities or is merely given some type of concurrent jurisdiction with local authorities and municipalities. Further reference is made to section 5 of the bill, which gives the county authority veto power over the creation of new authorities, or the joining of authorities by municipalities. This effectively prevents local solutions to problems.

I refer also to section 15 of the bill, which spells out very broad purposes and authorizes county authorities to acquire, by various methods, including

condemnation, such utility systems as in the judgment of the authority will provide an effective and satisfactory method for promoting the purposes of the authority. I think this is an example of a power given to the authority - to a county authority - to acquire local municipal systems.

Section 33 of the bill seems to put some limitations on that kind of an acquisition. There again, it is not at all clear on where the lines are being drawn and I would think that this is fruitful ground for a lot of litigation between local governments and county authorities. I think there are going to be power struggles if this bill is passed between the county authority and various local utilities.

We are also concerned about the borrowing powers. This has been mentioned by other witnesses. The borrowing powers are virtually unlimited and we wonder, also, what effect this borrowing would have on the borrowing power of local government.

For these reasons, the Landis Sewerage Authority, as the sewage authority for the city of Vineland, opposes this legislation. We feel that certainly in our area the problems of sewerage are best solved on the local level and there is no need for a county authority and so far in the county of Cumberland it has just lead to delay and increased cost for such utilities. Thank you.

SENATOR MC GAHN: Thank you very much for your remarks. I think that it is well to note that both Cape May and possibly Vineland have unique situations. Vineland is actually, in square mileage, the largest city in the State. It is probably the only city, to the best of my knowledge, that maintains its own municipal generating station. Is that correct?

We are aware of what you are talking about concerning condemnation proceedings and we realize that the language there is inprecise. It could be much more precisely stated. Thank you very much. We appreciate it.

(see page 7x)

Mr. Magazzu. We will then take Mr. Constantino and, after his testimony, we will adjourn for lunch.

J O S E P H M A G A Z Z U: Mr. Chairman, my name is Joseph Magazzu. I am president of City Council. For purposes of saving time I will leave the reporter a somewhat amended statement and I will try to paraphrase.

It appears, Mr. Chairman, that you have the unenviable task of attempting to strike a reasonable balance between home rule and the regionalization concept. Without disputing the probable desirability of the regionalization concept, we do believe that in some areas it has its limitations.

The bills here in question contemplate creation of a county utilities authority - 3084 - and vest county boards of freeholders with the obligation of determining future status of all sewerage facilities and the agency to be responsible for their operation.

The development of the regional concept in many public areas is inevitable and I think we recognize this, and the use of the county level may be reasonable for some but we feel that it is not so in Cumberland County. It is interesting to note, Senator, that there has been a great deal of communion of thought expressed this morning concerning the county lines being used as a criteria for vesting such a utility with the authority in question. County lines were delineated hundreds of years ago without reference to the number of, and location of, natural water basins. There has been a great deal of agreement expressed here this morning concerning the use of natural water basins as your criteria.

The authority to lay water and sewer lines involves a tremendous amount of economic power. Development would follow those lines, hence the desire to develop

in any given direction with money behind it can command an uncommon amount of influence among members of county authorities, not responsive to municipal desires and plans. Indeed, municipal planning boards could close their doors and go home and this is the area that I have a special concern about. In Vineland for the past three years our city planning board has spent thousands of man hours attempting to put together a new zoning ordinance. It might very well be that this might all be for naught with the proposal here in question.

Unbridled development would also play havoc with the capacity of the municipality to keep pace with necessary services, the cost of which would progress in geometric proportions to the traumatic disadvantage of the already overburdened taxpayer. This is to be distinguished from the orderly growth that we would like to see on a common water basin which would service neighboring communities no matter which county they are situated in.

It may be that 3084 and 3087 would serve the purposes of other counties but in Cumberland County there are two major water basins. An authority having jurisdiction over both basins in dealing with construction of sewerage facilities would always have the question of priority - which basin is to be expanded first.

Again, being provincial, in Vineland our own Landis Sewerage Authority has been frustrated for several years in its expansion plans by the existing county sewage authority. Now that the State Department of Environmental Protection, after protracted battle, appears to have given the Landis Sewerage Authority the green light to move ahead and, hopefully, build its own new treatment plant, we believe that 3084 and 3087 would circumvent that D.E.P. approval and, again, vest all authority in the county.

For these reasons, we oppose the passage of these two bills as they exist, however, we will be pleased to watch your review of them with interest. Thank you very much, Senator.

SENATOR MC GAHN: Thank you very much, Mr. Magazzu. (see page 12x)

Mr. Costantino.

C A R L O C O S T A N T I N O: Mr. Chairman - Senator - if I may, the Chairman of the Landis Sewerage Authority was not able to attend this meeting and asked that two letters that I have in my possession be read but, with your permission, I would like to just identify them and admit them in the record. Would that be acceptable, sir?

SENATOR MC GAHN: Yes, fine.

MR. COSTANTINO: One is a letter to Mr. Leon Lowenstern, Chairman of the Landis Sewerage Authority from Alfred Lockwood, Chairman of the Pompton Lakes Borough Municipal Utilities Authority. This letter refers to a second letter to the Honorable James P. Vreeland, Jr., Member of the New Jersey Assembly and this is signed by all the members of the Pompton Lakes Borough Municipal Utilities Authority. There are five signatures.

I'd like to thank you, Senator, for the opportunity to hear me. I know everyone is getting hungry. For the past three years, serving as a Councilman in the City of Vineland, many serious problems in our city have been isolated and programs have been designed to correct them. Additionally, steps have been taken after careful study to prevent poor planning, which, in the past, has created many of our present problems. As the State's largest city in land area, it is vital that we establish positive planned growth procedures and programs and have the authority to control and execute them.

One example has been the formulation of a new master plan and zoning ordinance,

which was three years in the making. This plan hopefully will provide for the orderly and planned growth of our city which encompasses almost seventy square miles.

A second example was the expansion of our sewerage system collection line facilities. Additionally, our city has just opened a new industrial park that has already shown promise of eliminating some of our high unemployment, which is approximately 18% to 22% in our area.

These efforts among others were possible only because we are aware of our city's needs and are close to the problems. We can evaluate, first-hand, the problems and plan the remedies. Obviously, those equipped to handle local problems most effectively and at the lowest cost to the taxpayer, would be local government.

Assistance from State and Federal sources has, on occasion, been helpful. However, the creation and funding of the Cumberland County Sewerage Authority was not. On the contrary, the County Authority, whose spending program is rapidly approaching \$1 million, has been counterproductive by delaying progress of the Landis Sewerage Authority and Vineland Sewerage System by placing obstacle after obstacle in its way. I must strongly suggest that the creation of this or similar political bodies best serves its members and the system while the benefits to the taxpayer have been, and will continue to be, minus zero.

It is my opinion that the creation of further politically appointed bodies, whether they be authorities or commissions, will tend to impede and hamper the operation of local government and remove what little is left of home rule. This cannot be tolerated, if we are to properly serve those citizens that elected us to represent their best interests in our community.

This administration of the City of Vineland and the members of the Landis Sewerage Authority have worked harmoniously in an effort to serve our people. This cooperation will continue and progress will be realized; however, we cannot constantly be impeded by additional bureaucracy.

I respectfully request that these bills not be approved since I have found no evidence whatsoever that they are designed to assist my community or serve the best interests of our people in any way. I thank you again, Senator,

(see page 14x)

SENATOR MC GAHN: Thank you very much, Mr. Costantino. You must realize the difficulty in attempting to draft legislation of a general nature is, you are addressing all of the counties and all of the municipalities in the State and, of necessity, it must be the least common denominator that would apply.

Since I am somewhat familiar with Vineland and since the presentation was given by you gentlemen, I can assure you of one thing: I will make a recommendation to this committee that the Landis Sewerage Authority be placed in the exempt list, along with the Passaic and with the Essex Joint Meeting, as far as that particular situation is concerned.

MR. COSTANTINO: This would be appreciated, sir, because what happens here is, five people who are merely appointed, not by the masses, wield awesome power and they are far removed from the man in the street that we are exposed to daily, and by the hour. They cannot be changed by election. Thank you, sir.

SENATOR MC GAHN: Thank you very much. We stand adjourned until 2:15.

LUNCH BREAK

AFTER LUNCH

SENATOR MC GAHN: Good afternoon, ladies and gentlemen. The afternoon session of the public hearing will commence at this time.

In the chair to testify is Senator Stout.

R I C H A R D S T O U T: Thank you, Senator McGahn. My name is Richard Stout. I am a lawyer in Allenhurst for the firm of Stout, O'Hagan & Dowd and I would like to enter an appearance today on behalf of the Berkeley Township Sewerage Authority in Ocean County, the South Monmouth Regional Sewer Authority in Monmouth County, and the Neptune Township Sewer Authority in Monmouth County.

Senator, I read your statement and listened to the testimony this morning and I am aware of the goals that your committee has in mind in trying to bring some order out of the present pollution situation in New Jersey. I would respectfully request the right to submit a memorandum to your committee on behalf of the three sewer authorities I have mentioned.

SENATOR MC GAHN: Thank you very much, Senator. The record will be kept open. You can submit it today or, if you will, simply mail it into our legislative staff individual, Dave Mattek.

MR. STOUT: All right, fine.

SENATOR MC GAHN: We would appreciate that. Thank you very much.

I have a statement, submitted on behalf of William Kenny, Assistant Secretary of Agriculture, and I will ask it be admitted to the record.

(see page 19x)

At this time, we will hear from Diane Graves.

D I A N E G R A V E S: Thank you for the opportunity to comment on the package of Clean Water bills, S-3084 through S-3087. My name is Diane Graves, and I am Conservation Chairman for the Sierra Club - New Jersey Chapter.

The Clean Water bills serve as a major move toward meeting requirements of the Federal Water Pollution Control Act Amendments of 1972 and toward a much needed comprehensive water quality management program for New Jersey. We commend Senator McGahn, the Committee and the staff for their efforts.

Since the Division of Water Resources has been reorganized, and with the addition of able management personnel, it can now begin to address and solve the State's enormous backlog of water pollution problems. One major concern, however, is the funding and staffing situation. In regard to that, I call your attention to testimony presented to the Clean Water Council in September 1974 by George Friedel, formerly Acting Director of the Division of Water Resources. I've attached a copy for Senator McGahn. Mr. Friedel made it clear that many of the DEP's problems were caused by attitudes, rules and procedures of the State Budget Office and Civil Service. He stated that until these basic matters were changed, "...all else will fail."

We urge this committee and its members to do everything possible to see that the Division of Water Resources's budget and staff is sufficient to perform its many existing jobs as well as to take on appropriate and needed new tasks, such as the NPDES program. Part of your effort should be to see that Mr. Friedel's recommendations are implemented.

One of the most frequent complaints heard from sewer authorities and their consultants is about the changes made in EPA's rules and regulations and procedures since passage of the Federal Water Act. S-3084 through S-3087 have been caught in that evolutionary process, too. The concepts expressed by the bills are valid, but they don't reflect the new moves made by EPA, or, for that matter, the State.

New Jersey has many old laws that need to be either repealed and/or consolidated to help meet New Jersey's need for a comprehensive, up-to-date water quality management plan. S-3086, the NJPDES bill, should be expanded into a comprehensive water quality management law, including repeal and/or consolidation of existing laws.

S-3086 should also include authorization for DEP to set effluent standards and limitations, and should include a thorough discussion of effluent standards and limitations. Section 15 a. says that effluent limitations are to be based on guidelines established by a non-existent State law. Rather than write another law, S-3086 should include effluent standards and limitations, water quality standards, and any guidelines and procedures that are needed.

S-3086 should include a separate provision for thermal discharges, as in Section 316 of PL92-500.

Notices about public hearings should be included in DEP's Weekly Bulletin as well as in the New Jersey Register (Section 11).

S-3086 should include pre-treatment standards rather than refer to another law.

We support S-3086's provision for the same fines as PL92-500.

S-3087, the "Water Quality Planning Act," incorporates needed concepts, but it is not wholly consistent with the recent evolution in 208 planning. It doesn't express the new State policy on sewerage funding priorities. It should be revised to include these matters. It should also include provisions for studying and evaluating the secondary impacts, as expressed in the Department of Community Affairs report, "Secondary Impacts of Regional Sewerage Systems."

208 planning is underway in at least three areas, none on a single county basis. This needs to be taken into account. S-3087 should provide that a 208 planning area may be intercounty as well as subcounty. The Middlesex County Planning Board's 208 area, for instance, takes in "certain contiguous watersheds," Therefore, those adjacent counties may form a 208 area that would be less than countywide.

The Federal Water Act says that "The State shall act as the planning agency for all portions of such State which are not designated" by the Governor. Is S-3087 consistent with Section 208 and 303 in this regard?

S-3085, the "County Environmental Health Act," is a welcome move toward decentralization. The counties ought to play an important role in helping the State implement environmental protection laws. The bill provides for the State to make grants to counties and appropriates \$200 thousand. However, we doubt that the state can continue to provide grants and question how the counties themselves can finance these new responsibilities. Perhaps counties ought to be given power to charge municipalities fees for county services.

Full responsibility for the NJPDES program ought to remain with the State rather than be delegated to the county, as in S-3085. The counties can monitor, but enforcement should remain a State responsibility. The counties should be given the right of entry to any premise, such as in S-3086, Section 18.

Powers given to the counties should be subject to review by the State.

The septic tank provisions in S-3085 should meet at least the minimum standards set by the State. Chapter 199 is presently in the process of being revised, and the revision, when approved, should be taken into account by S-3085.

We have some reservations about S-3084, the "County Utilities Authorities Act." Authorities must not be allowed to become autonomous and unresponsive to the public. This is difficult to prevent, hence we have reservations about such a measure.

Since the State has mapped out a program to develop a State Water Supply Master Plan, the State should not delegate water supply planning to counties at this time.

It would make more sense for flood control planning to be on a watershed basis rather than on a county basis.

S-624, the long awaited solid waste management bill, is wending its way through the legislative process. If S-3084 is to deal with solid waste, it ought not to conflict with the provisions in S-624.

In regard to sewerage, the regionalization process should continue, and 208 planning agencies should be taken into account in S-3085.

Water quality management and planning is vital to New Jersey's economic and environmental health. We believe these proposed legislative measures, when revised, will be a major step forward. We again stress, however, that in order to implement them, the Division of Water Resources must have adequate funds and staff. Thank you.

SENATOR MC GAHN: Thank you, Mrs. Graves.

Tom Pluta, Suburban Essex Anti-Pollution Control Commission.

T O M P L U T A: I will just offer a brief comment, Senator McGahn. In my position as director of the Suburban Air Pollution Commission, which is a regional air pollution control agency in Essex and Union County, serving 14 communities in those counties. We don't deal with the entire county and as such I would certainly think a provision in Senate 3085 should provide some flexibility for existing agencies, which are currently providing this service, as you have done in the exemption of existing sewerage authorities and similar agencies in your other bills.

My other comments will really be on behalf of the New Jersey Health Officers Association and in the spirit of the hearing, in terms of the fact that there will probably be some significant amendments to this legislation, we would just like to offer the following comments.

I don't think there is any disagreement about the basic thrust and my comments are strictly related to 3085 - about the thrust of 3085, to deal with air, water and solid waste on a regional basis. As indicated this morning by both Commissioner Ricci and Commissioner Goldfield from the Health Department, what we really need, and very quickly, is some delineation - a clear delineation - of the functional responsibility for these environmental protection activities. When they were under the Health Department, previously, there was really no problem. We knew where the responsibility lay and it was in the local county health and regional health departments who were enforcing these standards.

With the creation of the Department of Environmental Protection, we now have a problem serving two masters. While DEP sets the standards and the Health Department provides some of the funding under State health aid, we don't really know where to go in terms of clear guidance. So, I would certainly support the recommendation of Commissioners Ricci and Goldfield in clearly defining these responsibilities.

I think a number of speakers have addressed themselves to the issue of adequate funding and I think the health officers would certainly echo that recommendation. In the past, with both Commissioner Bardin and Commissioner Sullivan, his predecessor, we have addressed the issue of the establishment of an aid program comparable to state aid, dealing strictly with environmental protection. While Bill 3085 addresses itself to an appropriation of some \$200 thousand for this purpose, at the 50% funding level, it is hardly an adequate amount to really deal with the situation. In fact, while I have your ear, I would bring it to your attention that the legislature has cut some \$2.3 million from the state health aid program for 1975 and it is those agencies which you address yourself to, in terms of implementing

your projects here, that will probably be most seriously affected. So, whatever you can do to get our \$2.3 million back would certainly be appreciated.

The issue of the organizational aspects of the bill, I think, also deserves some attention and I guess it is just a question of making some specific comments, which we will do in writing, relative to some of the wording. I think once we get a clear definition of the functional responsibilities and who does what to whom, I think we will be in a better position to respond on an organizational basis to implement those - or carry out - activities. I would only request that you look at some existing legislation which gives the local and regional agency the authority to deal with many of these problems, particularly a bill that is in Title 26. But I would also direct your attention to a bill which the Senate and Assembly adopted and is now on the Governor's desk, and that is S-130, a Local Health Services Act, which I think, in some way, really has a relationship to some of these bills because under S-130 minimum standards would include programs for air, water, and solid waste. Local municipalities will be charged with the responsibility of providing services in conformance with those standards laid out in minimum standards. And, there are options, within that legislation, which would allow a local town to elect any of four options, one of which would include participation in the county health department. So, I think it would be in the Committee's best interest to review that legislation as well.

The last comment I will make really deals with the concept of legislating specific standards and functions. I think in most cases legislation should really be guiding in nature and provide adequate statutory authority to implement a program and that the specific adoption of standards is best dealt with on an administrative basis. Recognizing the difficulties in changing legislation on a day-to-day basis with the difficulties in the changes in legislature itself, I think we are best served by insuring that the professional staffs who are thoroughly conversant with the guidelines and the standards and the requirements are best equipped, professionally, to deal with the adoption of those standards. I would, therefore, recommend that we follow the administrative adoption, as we have in air pollution for example, to insure that those standards can be reflective of the current needs of the State.

With that, I will conclude my testimony. We will provide some specific comments on wording in the bill.

SENATOR MC GAHN: Thank you very much, Mr. Pluta. I think your remarks concerning S-130 were pertinent. The Local Health Services Act, was sponsored by Senator Fay and, as you have stated, is awaiting signature on the Governor's desk. The both acts are concerned in different degrees with both environmental and personal health services and we do recognize the fact that once 130 is signed into law, certain technical amendments will be necessary in this bill, S-3085. Thank you.

Mr. William Higgins.

W I L L I A M H I G G I N S: Senator McGahn, my name is William Higgins. I am the President of the New Jersey Water Pollution Control Association and Executive Director of the Ewing-Lawrence Sewerage Authority.

The New Jersey Water Pollution Control Association was founded in 1915 and has been, since its inception, interested and involved in water pollution control efforts. The Association has a membership of approximately 1,000 members, involving many facets of the environmental field, which include waste water treatment plants, superintendents, managers, and operators, consulting engineers, municipal officials and attorneys and many other professionals and interested citizens involved in the New Jersey Environmental field.

My comments today represent various inputs from the Association's legislative

committee members, members of the executive committee, the commissioners of the Ewing-Lawrence Sewerage Authority, as well as the governing body of Lawrence Township.

The bills on which comments will be directed are 3084, 3085, 3086 and 3087 and will be in the order of the numbering system assigned to them and not necessarily related to their importance.

Senate Bill 3084 - the County Utilities Authority. A review of this bill reveals a rather complex document duplicating the duties and functions of existing waste water pollution control authorities and agencies. It is the opinion of this Association that the time has passed for consideration of this type of countywide concept - county utilities authorities. Most likely, this concept would have been most appropriate about 20 or so years ago. It would be most difficult, if not impossible, to incorporate existing authorities and municipal systems into the countywide authority, as proposed. Based on past and present day experiences, there may be insolvable legal entanglements to transfer the financial obligations of existing facilities to the countywide authority. This type authority would take a tremendously large full-time staff to administer all concepts involved in its creation, namely water, sewerage, surface drainage, and solid waste, unless all existing county, regional, and municipal water, sewerage, and solid waste agencies cooperated 100%.

There can be no justification for this authority since a duplication of effort would be more than evident, thereby consuming the financial resources of the people of New Jersey without accomplishing the purpose of its creation.

Municipal systems are referred to but there does not appear to be any reference to investor-owned utilities, other than other persons. Mandatory takeover of existing facilities is inferred. However, page 27, paragraph 42-2 states, "Transfer may be made, subject to consent of holders of bonds." Mention was made regarding rates specified for surface drainage management but there is no indication how this shall be accomplished.

This countywide authority concept requires a county authority to submit budgets to PUC, DEP and Community Affairs for review and comment. It has not been made clear as to what degree of review and approval is required. These bureaus would be added to the present long list that existing agencies must contend with, thereby delaying, even further, the urgently needed pollution control projects. More delays mean that much more time will pass before the many problems regarding our environment can be solved.

Stress is made in this Senate bill for uniform rates within the county. Existing rate structures would have to be revised to one uniform type. These particular provisions would almost be virtually impossible where several existing districts are involved. Some districts' obligations would be set so changes in rate structures may be in violation of their bond indentures.

The NJWPCA alluded to duplication of efforts. The Association would respectfully refer you to: One, Title 40, Municipal and County, Subtitle 1, Chapter 14 a., County and Municipal Sewerage Authorities; two, Title 40, Subtitle I, Chapter 14 b., County and Municipal Water and Sewerage Utilities Authorities; three, Subtitle 2, Part I, Counties Generally, Chapter 23, General Powers, Article 4, Joint County and Municipal Action; four, Chapter 63, Sewer, Drains and Disposal Plants, Article I, By a Single Municipality; five, Article 2, By Two or More Municipal Utilities Jointly.

Another factor in the picture is the possibility of a single State agency. It is proposed that this agency perform the very functions now proposed under Senate

Bill No. 3084, where existing agencies do not function as required under existing laws.

This Association, at the request of N.J.D.E.P. Commissioner, David Bardin, is looking into the very questions of a single State Authority. The Association, through its ad hoc committee, will be reporting to the Commissioner sometime in the near future.

In conclusion, this Association feels it would take years to get this concept of the ground. If passed, all planning agencies of existing authorities, etc. will come to a standstill and effect considerable delay in the overall program to improve the waters of this State. Further, it is felt that existing authorities, agencies, etc., have finally begun to move forward under Public Law 92-500 and have the necessary know-how and expertise to adequately perform the task necessary to the water pollution control program in New Jersey.

The Association feels it is not in the best interest of the public and the water pollution program, at this period in time, to have this bill become law in New Jersey.

Senate Bill 3085 - County Environmental Health Act. The New Jersey Water Pollution Control Association's review of the water pollution control provisions of this bill indicates that this bill will duplicate the duties and functions of the pollution control, monitoring, surveillance, and enforcement section of the Division of Water Resources and N.J.D.E.P.

Paragraph 6 a. and b. and Paragraph 7 a. and b. are the areas of overlapping responsibilities in the opinion of this Association. Under the National Permit Discharge Elimination System, issued by U.S.E.P.A., all waste water treatment agencies and other discharges are directed to perform specific analytical or laboratory analysis of their treated waste discharges and submit same to the Bureau of Monitoring Enforcement, U.S.E.P.A., with a copy of said reports being forwarded to N.J.D.E.P. Annually an on-sight inspection is made by U.S.E.P.A. to determine compliance with the Federal permit.

In addition, N.J.D.E.P. very frequently visits waste water treatment facilities for inspections, sampling the effluent of the discharging agency to be analyzed by the D.E.P. laboratories. D.R.B.C., in a cooperative effort with D.E.P. is also kept abreast of the activities of the Waste Water Treatment Agencies. In addition, the Waste Water Treatment Agencies, monthly, file with N.J.D.E.P. reports which include laboratory analysis of the waste discharges, as well as other pertinent operating data.

Penalties and enforcement action against those violators of the permits issued are already provided for in the U.S.E.P.A., N.J.D.E.P., and D.R.B.C. permits, so issued. In view of this review it is believed that the duplicating of the duties and functions of U.S.E.P.A., N.J.D.E.P., and D.R.B.C. is of no value or aid to improve the water pollution control programs. The cost and the assembly of new enforcement agencies are duplications and, therefore, in N.J.W.P.C.A.'s opinion, not in the best interest of the public. Further, this Association feels that it is in the best interest of the citizens of this State to minimize direct regulations by new agencies whose functions are duplicating and overlapping and, in many cases, could interfere with the existing enforcement agencies now directed by State Statute.

The Association, in conclusion, feels it is not in the best interest of the public and the water pollution control program to have this bill become law in New Jersey. We would further direct your attention to our comments on Senate Bill 3086,

which would more than adequately provide the necessary controls over waste discharges.

Senate Bill 3086 - National Permit Discharge Elimination System. This Association is aware of, and interprets Public Law 92-500 regarding issuance of permits, that at any time N.J.D.E.P. is prepared to assume the role of issuing discharge permits, U.S.E.P.A. will turn over the responsibility to the Department. At the New Jersey Clean Water Council hearings, September 19, 1974, this Association, in its testimony at the hearing, stated the following: It is hoped that N.J.D.E.P. will be able to assume control of its share of N.P.D.E.S. There is no question, as far as this Association is concerned, that N.J.D.E.P. knows New Jersey's pollution problems, is best equipped and qualified to administer the program for New Jersey, and render this most important service to put pollution problems under control.

Further, this Association stated at that hearing: The Association feels that there is need for a comprehensive reexamination of current water pollution control legislation, including sewerage operating agencies in order to bring these matters more in line with modern day waste water management concepts and also that the New Jersey laws be comparable with what is required under Public Law 92-500. The Association understands that some of it is urgent, and in order, for the State to assume the N.P.D.E.S.

The New Jersey Legislative Committee is now reviewing this very subject with N.J.D.E.P. officials, involving the procedures for N.J.D.E.P. assumption of the N.P.D.E.S. responsibilities. At this time, N.J.D.E.P. is making a comprehensive examination of current water pollution control legislation in order that good legislation is enacted to permit N.J.D.E.P. to assume its responsibilities in accordance with Public Law 92-500

This Association is in favor of this Senate Bill 3086, with the understanding that N.J.D.E.P. be consulted for recommendations for improvements and clarifications as to its ability to accomplish that which is required under Public Law 92-500.

Further, this Association feels that the fines referred to in this bill in the magnitude of \$10,000, \$25,000, and \$50,000 per day are confiscatory and could conceivably bankrupt any community. Careful consideration should be given to this matter of fines. Imprisonment provisions should also apply only due to willful violations of the permit provisions.

Finally, it is this Association's opinion that a good N.P.D.E.S. Bill, working with existing agencies further supports and strengthens our position on Senate Bills 3084 and 3085.

Senate Bill 3087 - County and Inter-County Planning Districts. A review of this bill seems to duplicate the efforts now put forth by N.J.D.E.P. and various other regional public agencies now working with sections 201, 208, 209, and 303, of Public Law 92-500. A couple of examples of that planning process under Public Law 92-500 now being conducted by public agencies is a regional plan for Northeast New Jersey and the various regional plans being conducted by the Delaware Valley Regional Planning Commission along the Delaware Basin. There is also in existence a Tri-County Planning Commission representing three counties north of Mercer.

The Delaware Valley Regional Planning Commission is the Delaware Basin area-wide planning agency. This Agency has on its board representatives from Mercer, Burlington, Gloucester and Camden Counties, as well as about five counties along the Delaware River Basin in the State of Pennsylvania. To the best of the Association's knowledge the planning process being referred to in this bill is now being conducted in Mercer, Gloucester, Burlington and Camden Counties. With these projects just

mentioned and several others that are underway, it appears that the planning process, or processes, under Public Law 92-500 are progressing very well and therefore the passage of this bill, 3087, would not, in the opinion of the Association, further the cause of the water pollution control in the planning process since Public Law 92-500 seems to be functioning as Congress intended.

In order to eliminate the duplication of effort, including the cost thereof, the Association therefore feels that this bill should not be made into law by the New Jersey Legislature.

Finally, at the risk of repeating ourselves, the Association feels a good N.P.D.E.S. bill will accomplish that which 3087 is trying to do.

In conclusion, N.J.W.P.C.A. is opposed to Senate Bill 3085, 3085, and 3087 but it will support a good bill similar to that proposed by Senate Bill 3086. Senator McGahn, the New Jersey Water Pollution Control Association, its executive committee and members wish me to thank you for your patience and understanding and further wish to express to you its appreciation for your invitation to comment on these bills.

SENATOR MC GAHN: Thank you very much, Mr. Higgins.

I, myself, feel that the penalties that you mention in 3086 are excessive. However, those penalties are required by the Federal Act.

MR. HIGGINS: Thank you.

SENATOR MC GAHN: Mr. Henry Tustin.

H E N R Y T U S T I N: Thank you, Senator, for the privilege to appear before this committee. I am Henry Tustin, representing the legal committee of the Municipal Utilities Authority Association of Ocean County. Our Association members are all in Ocean County. They are: the Beachwood Sewerage Authority, Beachwood; Berkeley Township Sewerage Authority, Bayville; the Brick Town Sewerage Authority, Brick Town; Dover Sewerage Authority, Toms River; The Jackson Municipal Utilities Authority, Jackson; the Lacey Township Municipal Utilities Authority; the Eagleswood Township Utilities Authority; the Little Egg Harbor Municipal Utilities Authority; The Long Beach Sewerage Authority; the Ocean Township Municipal Utilities Authority; the Ship Bottom Sewerage Authority; the South Toms River Sewerage Authority; the Stafford Municipal Utilities Authority; and the Borough of Tuckerton Municipal Utilities Authority.

Most all of the foregoing Authorities are presently cooperating with the Ocean County Sewerage Authority in abating pollution in the county. They are all familiar with the County Authority operations, such as are outlined in the bills. Our members are generally agreeable that the County Authority has done a very good job. We have high regard for the County Authority, their staff, and their executive directors.

There is no doubt that regional plants in many cases will eliminate - have eliminated - the small, local plants, as 20 or more of us in the Association will be eliminated - if you want to call it that - and three plants will take their place.

Sewerage will not be any problem in Ocean County by 1977 or 1978, where the Federal Government and the State of New Jersey has committed funds to a program of approximately \$350 million. Therefore, the bill that is standing will have no importance to our community, as far as sewerage is concerned.

The present bills, however, are getting into, also, an area of water supply - drainage as well as solid waste management and other items. Senator, the members respectfully feel that the field is too broad for a hasty decision on these bills, such as they are now outlined. For example, we have solid waste or trash and garbage, as well as the sewerage sludge, problems, which are subjects of great importance and very

heavy engineering problems are involved, which would be much too great for a limited authority, such as suggested in these bills.

The water supply in all of the areas covered by our authorities has been, more or less, a local problem and has not needed a county action. To put it brief, Senator, we feel that the concept is very well intended in these bills and the committee is to be highly congratulated on getting as far as they have. However, as some of the testimony has been put here, they are just not practical. We recommend that the legislation sort of should be sent back to the drawing board, so to speak, for revision and re-study and that is, briefly, how our members feel about the subject.

I thank you for the opportunity to present our views.

SENATOR MC GAHN: Thank you very much. I believe you probably did not hear the remarks I made here this morning and that is, this legislation is going back to the drawing board. But, as originally drafted, we had to get input from the various groups throughout the State. There has been nothing hasty about this because every Board of Freeholders, every utility, was notified, bills were sent out long in advance and, very frankly, the public hearing we are holding now-- There will be markups on these bills. Some may be out of committee. Some may not be introduced in the legislature next year. Thank you very much.

MR. TUSTIN: Thank you.

SENATOR MC GAHN: Mr. Richard Rozewski, Passaic River Coalition.

RICHARD ROZEWSKI: My name is Richard Rozewski. I am Director of Environmental Services for the Passaic River Coalition.

The Passaic River Coalition, an urban watershed association, appreciates your invitation to comment on the Clean Water bills. For the past two years we have been privileged to be the recipients of a contract from the U.S. Environmental Protection Agency, relevant to Public Law 92-500. At the present time, the Passaic River Basin as well as the Hackensack, Elizabeth, and Rahway are being studied under theegis of the Northeast Wastewater Management Study, a 303 type project, which is to be submitted in final report in the Spring of 1976.

This region of the State of New Jersey is the most complex and cannot be organized in the same manner as the less developed parts of the State. We have often commented that even this 303-type study is underfunded to deal with the complexities of the watersheds involved.

It is not enough that we are dealing with the most urbanized part of the Nation, but the Passaic River's hydraulic configuration is unique - its geographic delineation acts as a boundary for several counties - and although statements are made that the Passaic River has been overstudied, we have yet to find more than one version of the central theme. Our data bank does not contain full knowledge of those factors necessary to make wise decisions.

Therefore, we feel that to enact legislation overall, or Statewide, is still premature. Recommendations on how to deal with the Northeast will be forthcoming within the next few months, which may require legislation once we have followed through on the complete process as mandated by P.L. 92-500.

The most important factors of Public Law 92-500 are its goals and strategies, which provide for upgrading our waters and includes absolute citizen participation in the implementation of the programs to be undertaken. The four bills under consideration today, although in response to 92-500, lack the citizen input - participatory democracy, from which this legislation stems.

The Passaic River Coalition represents a segment of the public vitally concerned with the poor quality of our riverine system - hence, during the early part of the '70's the call for the designation of the Model River for the Passaic. 80,000 people signed a petition for this goal, and yet our State policies do not identify with goals for higher achievement.

For example, we have classified the Upper Passaic as FW-1, FW-2, and FW-3. Hopefully, we will be upgrading eventually. However, decisions can be made without the goals of 92-500 in mind which could totally disrupt the system. Therefore, in our opinion, the first priority for any package of Clean Water bills is to establish the thrust of the State of New Jersey to aim at achieving the goal of clean water in every decision it makes relative to water and land management. A charge should be presented to the Water Policy and Supply Council which mandates clean water and to have them levy a decision toward the goal of upgrading our waterways - not maintaining the status quo.

Regarding S-3085, we support the concept of establishing County Environmental Health Boards to supplement the data gathering needs of the Department of Environmental Protection. With reference to the data gathering, we recommend, however, that the State establish a uniform code and format to follow, and that these Health Boards not duplicate any data that present facilities perform, but act as coordinators in that regard. For example, we presently have several agencies which monitor water quality, which we are sure would pass this information on to the County Board. But the parameters have to be standardized. Naturally, some entities might want to conduct more studies, but a minimum base should be established.

The State should also develop an evaluation system, so that we have an opportunity to review the accomplishments of these Health Boards, and so that determinations may be made for further support or change in demands or requirements.

Most important, as an amendment to this bill, is the citizen participation. A report of accomplishments, data gathered, and expenditures, and other vital information of interest to the public, should be published and distributed to interested citizens. These Boards might also call upon the public for input in programs which might supplement their work, since often the public schools are anxious to participate in education programs which involve water testing and its results. We should have a program which regularly demonstrates positive results, identifies trouble spots, and aims to solve them, and, overall, takes upon itself the goal to improve the water quality of the State of New Jersey.

S-3086 - We recognize the National Pollution Discharge Elimination System as an inventory of the major polluters of our waterways. The permit system further sets a schedule for improvement, which follows through on the goals set forth in the preamble of this landmark legislation. We fully support this aspect of P.L. 92-500 and are most concerned with number 6 of this bill, which allows the Commissioner to exempt categories of discharge from the permit system and would recommend that much stronger restraints be levied on such a consideration. We question whether it is legal to preempt Federal contingency plans and whether the Commissioner should have such powers without public hearing. We cannot foresee any reason why such a decision should be made without first hearing from the public. Although the public hearing process is noted, it is discretionary, "If a significant showing of interest on the part of the public appears in favor of holding such a hearing." What is a "significant showing"? This needs to be identified. If the Commissioner does not want a public hearing, he can, on a whim, declare that, "There is not a

significant showing." Again, because of the vital interest to the public health, if a citizen is of the opinion that a permit does not demonstrate fully the discharge parameters, he should be heard.

A council could be established to deal with such requests and determinations - as a matter of fact, it would be ideal not to leave the total decision for such hearings to the discretion of the Commissioner.

S-3087 - The establishment of comprehensive water quality monitoring systems, etc., is premature for the Northeast. This is already being done by the Northeast study, in part. However, the scope in this study has been too wide. It has lumped half of the population with their accompanying needs in one evaluation. Interrelationships, however, are not yet identified. The U.S. Environmental Protection Agency is further focusing on watershed determinants, and we would be placing an injustice on the Passaic River again, to lump everything together under one jurisdiction. We recommend that the charge for the Hackensack be broadened into the mandate of the Hackensack Meadowlands Development Commission.

We have been functioning within the geographic delineations of the Passaic River Basin, and cannot support any broad-based planning program throughout the Northeast. Further, we cannot comprehend how the Northeast could be planned county-by-county - it would have to be an intercounty establishment.

We would urge also that growth restraints, and graduated scales of development be part of the concerns for the Northeast. At the present time we have all kinds of water transfers going on, which take water from one portion of the watershed to use in urban regions. At the same time, these water supply areas are also beginning to develop - these diseconomies will, in the not too distant future, place heavy burdens on the Northeast's environment, if they have not already done so. We need legislation which not only permits sewerage, upgrading of treatment plants, but also limits the growth when the natural system can no longer cope with the loads.

The scope of water quality management, in our opinion, is critical to the public welfare, and in this bill too, the public is not involved.

Section 208 demands total citizen participation, and this bill does not include it in its outlines. We would recommend that this bill not be forwarded at this time and that a special study committee be established to coordinate the findings of the Northeast Management Study into a workable program for the river systems evaluated.

This committee does not need to be permanent, nor long term, but should function during 1976 intensively so that we have a realistic program and not just a follow-through in jesture of the 208 planning process. We would be pleased to aid the Legislature in any way we can to set up the structure of this aspect of the Federal Water Pollution Control Act Amendments of 1972.

S-3084 - We cannot support any legislation which sets forth any utilities authority - for any purposes whatsoever. To date, except for the Passaic Valley Sewerage Commissioners, we have had great difficulty in obtaining information - disclosure of budgetary figures, future plans, etc. - from these entities within our Watershed. Frequently, the authority is totally uncooperative. The public has the right to know and participate and until the State amends Title 40 of the Revised Statutes so that all authorities and public commissions must report annually to the public, we do not and cannot support the establishment of any authoritarian form of government for any purposes. Furthermore, the authorities should function

under similar rules as private corporations, and be responsible to their "stockholders" - the taxpaying public.

Checks and balances in government have, since the birth of our nation, served as the strength of our democratic process. This package of water bills does not demonstrate such checks and balances. We offer whatever further assistance to refine them, since clean water - water quality for fishing and swimming - should be the goal established by the State of New Jersey. We support this ethic, and recommend that the committee go back to the drawing boards to establish a workable program for the Northeast, including in its legislation recommendations from the study now in progress. Thank you.

SENATOR MC GAHN: Thank you.

Mr. John Reed,

J O H N R E E D: Senator, I have been listening to the testimony and I don't want to be repetitious so I am not going to read the entire statement.

SENATOR MC GAHN: Thank you.

MR. REED: I would like, if I may, to give you a slight overview of what is, perhaps, some change in our position. In the past, it has been the tendency of our Association to support keeping things at one high level on environmental things in general - to say leave it with the D.E.P. so we have one point of contact.

However, we find, looking at the series of failures on the part of the State, a lot of merit in the thinking of bringing this down to the county level. Number one, over a period of time our industry has suffered from sewer bans - there were at one point - a few months ago - about seventy in existence, covering about 100 communities. Despite the release of very large Federal funds - in the vicinity of \$900 million - only about 15 of those areas get any money and we are still suffering and will continue suffering from the long-term sewer bans. In Morris County, for example, we have one classic one - over 8 years old - the Rockaway Valley Regional. To the best of our information, there is no relief in sight for less than 5 years in the future, which would mean nine towns would be locked out of any growth, or being able to do any planning, for a period of very close to 13 years.

We have to look at this and say there are a lot of ways the centralized work of the D.E.P. has been a failure. Since we deal with land use, we have to also look to the fact that a couple of years ago we had a flood plain law enacted. It requires delineation along the rivers of the land on which you may not build. To date, four-fifths of New Jersey is still in an uncertain, undelineated position.

We look at the failure of the State recently to try and put through some bonds and we have to say that perhaps a new approach is indicated. We have seen the success of counties in pushing bonds through, as against the failure of the State. We also think perhaps this is, as you have heard today, such a massive, comprehensive, overlapping, problem that perhaps decentralization would cut through and produce more immediate results.

In our testimony you will note, of course, we have some reservations concerning any authority. There are things that have bothered us in the past with authorities but they are correctable. We are offering those suggestions in writing. I will mention one of them which should be corrected, perhaps, anyhow - that we suffer from in our industry - and that is what we call "double charging." At the present moment the P.U.C.'s attitude is that "tap-in fees" or "tie-in fees" - by any name - are a matter of negotiation. It is our belief that when a developer lays in sewer lines and writes off the cost on the houses he sells, that he should not

pay a double fee. In other words, if the standard fee is \$900 and he has done, per house, \$500 worth of work towards sewer lines that are going to be used by the authority, credit should be given and not a double charge. This is a thing that should be corrected in authorities anyhow. Hopefully, these hearings will bring out other things that need attention.

Again, on authorities - I think all of us fear, to some degree, total power too far removed from the public. Perhaps in the appointment of the members of the authority they should be subject to more than one review, perhaps not only the Freeholders but perhaps the State too should have a say in the qualifications of those people.

Again, these things seems to be within the scope of your hearing correctable items and, perhaps, the approach here would expedite the clarification and the action so badly needed, concerning these problems, in the State of New Jersey.

I am sure the gist of the testimony I have heard during the course of the day is that these problems do need attention. We have all kinds of on-going studies. I am one of the few people who have attended conferences of the North-east Waste Water Management, and others, under 28 and other programs. Again, I find a rather unusual situation. It is recent. For a couple of years it has been my pattern, where possible, to question how many members of private industry are present at one of these hearings. A typical result is to find myself one, or one of two people, representing private industry, whereas the rest of perhaps 50 people in the room will be represented as paid members of authorities, utilities, or environmental groups. This is not a true cross section of our population. Perhaps by bringing this back to county level, we will get a truer, more accurate reflection of the region than we are getting under the present set-up.

These, to us, look like very badly needed improvements, Senator, and we think that you should proceed with this, with the information you are getting here. Certainly we would offer our services, if we can, to help and see if it can't be worked out because we believe that this new approach of decentralization might be much more responsive, more effective, and give us results so badly needed - and less on-going studies, which we have seen entirely too much of in the past.

Our members, undoubtedly, have some hesitation when we consider another layer of bureaucracy but it doesn't seem that far off. Looking around, in practice today, we see that some of the counties already are authorities, in one form or another.

As far as sewers go, it is not unusual to see a Sussex County Municipal Authority, or what have you. So, we are following a pattern that seems to be developing to throw more power and channel more funds through the county that is developing of its own accord. We don't think this will stop, as an observer.

We also look at one problem that doesn't seem to be going anywhere - that is solid waste. I believe a couple of years ago the D.E.P. was authorized, under law, to take charge of it. We don't see too much result from that. We do see it coming to a critical position and certainly a local municipality does not seem capable of locating the so-called "garbage dump" within its own area; it just doesn't seem to work. Perhaps the county can, and would, act quickly and rapidly on this. It is a problem that isn't going to wait for solution much longer without getting very critical. We already, by the way, have seen at least one town put a ban on new construction because of the difficulty of solid waste removal.

The other aspect we find slightly frightening - but, again, we see no reason why it can't be worked out - is the massive power of land condemnation that would occur under flood plain control. But it is inherent in any flood plain control that there would be some condemnation of land. Again, by decentralizing and bringing in the county position, perhaps it would be more understanding and realistic. Certainly, it would be easier for the people to go to their county seat to argue for their land property value than to go to a remote hearing in Trenton.

So, again, perhaps if we are going to have condemnation, which probably will occur under the flood plain controls, it would be better to have it at the local or county level.

So, we certainly do believe that the committee has done a major bit of study. It seems a progressive movement and in spite of criticisms we and others can find, we think that your work should continue, sir. We wish you luck.

SENATOR MC GAHN: Thank you very much, Mr. Reed. (see page 21x)

Mr. Walter Trommelen.

W A L T E R T R O M M E L E N: My name is Walt Trommelen. I am Public Health Coordinator with the Burlington County Health Department. I have written testimony, copies of which you have just received.

Thank you for the opportunity to give my views on this important piece of legislation. If I understand the intent and purpose of S-3085 correctly, then I am supportive. I am referring to the aspects of the bill where county health departments could be better utilized in providing a planned program of water pollution control throughout New Jersey. We have qualified staff who could assist with monitoring efforts, sampling and providing overall surveillance and enforcement.

However, I cannot support S-3085 in its present form, and I would be remiss if I did not point out some problem areas as follows:

Item 6A - Primary responsibility for the technical control of monitoring and for the granting of permits pursuant to "the Federal Water Protection Control Act Amendments of 1972" are of a highly technical nature and are essentially the responsibility of the State Department of Environmental Protection. I feel that responsibility should remain with the State but there is no reason why the State could not work more closely with county health departments and perhaps some municipal health departments for carrying out some of these activities in cooperation with the State.

Item 11B - I feel that the funding mechanism is inadequate and if the State wants a local "working partnership" with county health departments, they should be prepared to pay for it. I can sympathize with the current fiscal problems at the State level, but a major portion of the costs for carrying out the programs as proposed now to the local government only compounds our fiscal problems locally. Also, why couldn't some of the Federal EPA grants to DEP be further extended in the form of a grant or contract to the county or municipal level? Why can't the state provide at least 50% of the funding as a measure of good faith?

Item 14 - the dollars again - I feel that \$200,000 is an entirely inadequate compensation for carrying out a program of such magnitude on the local level. You should be aware that local health departments have received only a fraction of the State Health Aid they were receiving even as recently as 1971 and to expect us to substantially increase our staffing for Water Control Programs without appreciable funding support would be foolhardy at best. As a matter of fact, unless the Legislature approves a supplemental appropriation, we will receive no State Health Aid at all, for the first six months of 1976. Perhaps the State Department

of Environmental Protection could submit a more realistic estimate of funding required for local health agencies to carry out a portion of their activities throughout the State.

In September of 1974, the State Clean Water Council held a public hearing on how other government agencies and the public could assist DEP in its Water Pollution Control Program. Perhaps a review of the proceedings of that hearing would be beneficial for this committee. If the committee desires, I will submit a copy of a statement presented at that hearing, summarizing how a county health department could work more closely with DEP. I have taken the liberty of attaching copies of that to my statement.

In conclusion, I thank you very much for your time and for this opportunity to meet with you.

SENATOR MC GAHN: Thank you very much, Mr. Trommelen. We appreciate the submission the copy of that report.

I have heard that term "supplemental appropriation" someplace before and I am just trying to realize where I heard it. In all sincerity, we realize the inadequacy of the funding of \$200,000 but, unfortunately, we are trying to get of a bill through, funding it, hopefully, afterwards.

MR. TROMMELEN: Thank you. (see page 29x)

SENATOR MC GAHN: Representatives of the Local Authorities Association of New Jersey. I believe they are Mr. Gerber, Robert Nesoff and Mr. Porro.

ROBERT NESOFF: Senator, my name is Robert Nesoff. I am Executive Director of the Authorities Association of New Jersey. My comments are going to be very, very brief and I will introduce Mr. Lawrence Gerber, President of the Association and Mr. Alfred Porro, our Counsel, who will go into detail.

Basically, I would like to say, that at our annual meeting, held in Atlantic City last week, the package of bills under consideration today, had been brought up on the floor of the General Assembly. And in discussion, representatives of Authorities throughout the State were almost unanimous in their opposition to the bill as it is now composed - and I understand you have been getting quite a bit of that today.

We would like to offer our assistance, as the Authorities Association, speaking for so many of the authorities within the State, to you in any further consideration, or investigation, of the bill. Please feel free to call on us at any point. We can make surveys of our individual members and lend whatever assistance would be required to, perhaps, come out with a bill that would be mutually acceptable to the drafters and to the authorities and the people they serve in the State. That is about it, as far as my comments go. I'd like to turn the floor over to Lawrence Gerber, President of the Authorities Association.

SENATOR MC GAHN: Mr. Nesoff, thank you very much for your kind offer and we will take you up on it.

MR. NESOFF: Thank you.

SENATOR MC GAHN: Mr. Gerber.

L A W R E N C E G E R B E R: Senator McGhan, I am Lawrence Gerber, President of the Authorities Association of New Jersey. I do not intend at this time to take an awful lot of your time or the Committee's today.

We have been here and listened to all the testimony. We would say only that we agree in principle with the majority of the people whom we have heard today speaking in opposition to 3084. In particular, we are concerned with those sections that authorize counties to operate and maintain any system now owned and operated by a municipality and the authorization of service charges to municipalities and to occupants and owners of property by the county authorities. We wonder if this does not, in fact, conflict with the provisions of Public Law 92-500, especially with regard to user service charges. The third thing we are concerned about is that provision that says every county shall create and that the members of existing municipal authorities shall serve out their terms and the county authority shall then be responsible for its predecessor's contractual obligations. We see a great deal of difficulty with bonding resolutions, as we know them, of municipal agencies where in transferring responsibility for the bond obligations consent is required of the bondholders.

It also provides for districts within the county to replace municipal authorities which are to be operated independently. We must say, sir, that we have difficulty in understanding just exactly what this means. If there is going to be a county agency and if rates are to be equal for the type of use within a county, why the districts to replace municipal authorities?

The last thing that I will comment on is that the bill states that no sewer system can be constructed within the county without the permission of the county. Again, if there is to be a county agency that will be responsible for the operation, maintenance and construction of sewer systems, why do we need then the municipalities, themselves, to create systems or to extend systems?

We feel, in general, that the bill needs much more study. As Mr. Nesoff said, we are available to give any help that your Committee feels that we could give to you. Our committees are available and our personnel are available for further study. Thank you very much.

SENATOR MC GAHN: Thank you very much. This Committee also shares some of the concern that you have with regard to some of the language. This, of course, is basically one of the reasons why we are having a public hearing. We realize some of the language is ambiguous and there is confusion. The intent of the Committee may not be articulated as far as the language of the bill is concerned. This is the one thing we are attempting, if we can, to solve today. We are here to get input today. But as I mentioned to Mr. Nesoff and certain other agencies and groups, this legislation is not going to be hastily enacted. It will be well thought out. There will be several markup sessions and we will certainly call upon the expertise of anybody who can supply us with added information - legally, technically or otherwise. Thank you.

MR. GERBER: Thank you very much. We will be proud to cooperate.

SENATOR MC GAHN: Mr. Porro.

A L F R E D A . P O R R O , J R .: I will be very short. I submitted a statement. Rather than go through everything, I picked out certain provisions and most of the statement goes to language and, to some extent, concept. Mr. Gerber has pointed out some of the main areas of our concern. I know that the Committee has done a yeoman's job to get to this point, and you are down to the nuts and bolts

now.

The first thing that we addressed ourselves to was the concept of it perhaps being a false regionalization tool. Needless to say, you have heard enough about water basins and you know as much as we do in that regard. What the answer is, I am not really sure.

The take-over provisions, as we termed them, I understand really weren't intended to be take-over provisions. I am sure that that is a matter of language. As it sits now, when combined with the power of condemnation, etc., there are technical problems there that I am sure can be worked out.

The provision on mandatory establishment of such a county authority - I point out that that could be dangerous too because now every one of the counties is going to be in need of this type of an authority. So I think that you should give some consideration to making the mandatory language there discretionary or mandatory where certain types of conditions exist. Likewise the merging of county authorities where there is more than one, I think, should be either mandatory with certain standards -- and combined with number 5 - and I think this cuts across all of them - is the possible financial disability that you could put existing authorities into. You can take a financially-sound authority, force it to merge with a weaker one, and you are placing a detriment on their outstanding bonded indebtedness. I think those provisions should be looked at closely, particularly in view of the possible argument of an impairment of an existing bond obligation that is outstanding.

There are other provisions that we cover in the statement which I won't waste your time on now. The provisions regarding the dissolution of such authorities, as I point out, could be politically abused without more standards. There is a need for some remedial provisions in the conflict of interest sections. And some of the other items, particularly the technical items on the rate schedule provisions, should encompass some of the more recent cases and standards and I think it would give you much more flexibility. I think the rate schedule provisions are a little too restrictive, particularly when applied on a statewide basis.

In conclusion, as the other members have said, any data that we can supply to the Committee, we would be glad to submit. And congratulations to you for a good job to this point. Thank you. (See page 32x for Mr. Porro's written statement.)

SENATOR MC GAHN: Thank you very much, Mr. Porro. I have been glancing over your statement. Thank you very much for your very cogent and perspective analysis. I think certainly this will be utilized by the Committee in drafting the bill.

Mr. Douglas Powell.

DOUGLAS POWELL: My name is Douglas Powell. I am Director of County Planning for Middlesex County Planning Board.

These bills are set within the emerging philosophy that New Jersey's increasing efforts of controlling pollutions that are generated and spread over broad geographic areas cannot be fully effective if dealt with exclusively at the municipal level, which is too small a geographic area and, at the State level, which is too large a geographic area. These bills thus go a long way toward focussing at the county level, as the appropriate middle level jurisdiction and geographic size, the establishment of areawide governmental authority to supplement, coordinate and regulate activities to improve and control air, water and solid waste conditions.

The bills also appear to be drawn within the emerging approach that the procedures for improving environmental conditions in air, water and solid waste involve three phases: The first covers a study and plan-making phase: (a) to define the nature

and intensity of the problems peculiar to a given county or sub area of the State; (b) to define the objectives of the citizenry plus civic, business, and governmental publics in the county for desired conditions of air, water, solid waste and other environmental qualities; and (c) to define the combination and balance of, on one hand public works and on the other hand regulatory controls on public and private activity that will be required to meet the desired objectives.

The second phase is to provide effective areawide governmental authority to adopt and enforce those regulations identified in the plan as needed to control public and private activity in order to achieve the environmental standards agreed on in the plan.

The third phase is to provide effective areawide governmental authority, organizational structure and financing capabilities to carry out those public works identified by the plan as needed in achieving the environmental objectives agreed on in the plan

It is within the frame of the above understanding of the underlying philosophies and intents of these bills that the following comments are offered.

Senate 3087: the Water Quality Planning Act mandates each county board of freeholders to formulate and adopt for its respective county a water quality management plan and also to conduct a continuing planning process for achieving consistency with a statewide water quality management plan and meeting basic water quality standards set by the Commissioner of the Department of Environmental Protection.

The Middlesex County Board of Freeholders is preparing a water quality management plan for the jurisdiction of Middlesex County plus certain adjoining areas in Somerset and Union Counties which are within the service area of the Middlesex County Sewerage Authority. This intercounty area has been designated for water planning by the Commissioner of the Department of Environmental Protection in accordance with the provisions of federal Public Law 92-500.

With the Middlesex County Planning Board charged to provide the management and technical and professional bases for the plan, representatives of the various publics concerned with water management in the area, will prepare the water quality plan for the intercounty area. This policy committee includes but is not confined to one person appointed by the governing body of each county and of each municipality within the area.

Thus, in almost every detailed respect, Middlesex is now following the procedures for water quality planning which this bill specifies for all counties in the State.

Based upon our experience, we offer the following suggestions for revisions of the proposed bill:

First, there should be a requirement that the county's water quality plan be drawn to be compatible to the maximum feasible extent with the county comprehensive master plan. This provision - which would be similar to the provision now contained in the bill that the county's water quality plan be consistent with the State's water quality plan - would assure that the proper attention be given to interlocking the water quality plan with other county systems plans such as solid waste, open space, water supply and land use.

Secondly, it is recommended that the provisions for the membership both of the advisory water quality management councils and of the intercounty water quality districts be broadened (a) to allow input not only from mayors - and we would suggest changing this to mayor or representative designated jointly by the mayor and governing body - but representatives of civic, labor, business and industry and environmental interests in the county or intercounty area; (b) to accord with

the practices for such now being applied in the county and intercounty water quality studies now going on in the State; that is, in Northeast New Jersey, Middlesex, Ocean, Gloucester, Burlington, Camden and Mercer.

Senate 3085: "The County Environmental Health Act."

This bill gives the county government the authority through a county health board and department to carry out the second phase of achieving on an areawide basis air, water and solid waste quality standards: the ability to regulate private and public activities to assure achievement of desired environmental standards and the duty to monitor the water pollution discharge from public and private activities. The bill also relates this to the water quality and solid waste management plans by requiring that any ordinances adopted to control air, solid wastes or water pollutions may not prohibit activities included in the water quality or solid waste management plans.

Two revisions concerning this bill are proposed:

First, the ordinances to control public and private activities to achieve desired water and solid waste quality standards should be more affirmatively related to the plans adopted for such. Thus the wording in Section 7a might read: "provided, however, that such ordinances shall be consistent with any water quality, solid waste or air quality management plan adopted pursuant to law and approved by the commissioner."

Second, it should be made clear that a board of freeholders is not required to appoint a health board but that the freeholder board may choose to act permanently as the health board. This seems to be implied in the present language but in our reading is only implied. It may be desirable for many counties to keep the legislative authority to enact regulatory ordinances affecting such crucial areas as water quality and solid waste at the freeholder level where the plan-making authorities for these environmental functions are set.

Senate Bill 3086 authorizes the New Jersey Department of Environmental Protection to enforce the National Pollution Discharge Elimination System permit program within the State of New Jersey. This is straight-forward legislation which is required under Federal Law 92-500 giving states responsibility for enforcement of the NPDES system. This bill should be supported.

Senate Bill 3084, the "County Utilities Authorities Act," requires the establishment of a County Utility Authority in each county of the State, incorporating existing separate authorities, that is, sewerage, or other existing authorities, into one single agency. The Passaic Valley Sewerage Commission and the Joint Meeting of Essex and Union Counties are specifically identified as exempt from the requirements of the act; authorities such as the Middlesex County Sewerage Authority apparently would become part of a county utilities authority but would be permitted to serve sewerage needs outside of the county as long as areas in other counties were represented on the authority by a county representative.

The intent of this bill is to create a single agency empowered to implement systems for sewage collection and treatment, solid waste collection and treatment, water supply development and distribution, and surface water control (including flood control) within each county. This bill is very broad enabling maintenance and operation of systems to carry out the above-noted functions. The major shortcomings of the proposed bill are:

(a) No consideration of the potential regional nature of certain systems which may not conform to county boundaries. This is especially true of surface water control in relation to flood control. In many areas, water supply issues also may

not conform to county boundaries.

(b) The lack of consideration of requirements for systems planning in relation to implementation of systems.

The bill as proposed required no coordination with planning functions at the State, regional, county or local level. In order to avoid conflicts between policies and programs of other agencies and in order to establish clear objectives for such an authority, the bill should incorporate the following:

(1) A requirement that the authority submit a five-year capital improvement program annually for review and approval by County Planning Boards, County Boards of Chosen Freeholders, and the NJDEP.

(2) A requirement that projects proposed by the authority be consistent with adopted State, regional and county comprehensive plans for water supply, sewerage, surface and ground water management, solid waste, water quality management (or 208 plans) and land use.

(3) That environmental impact assessments be required for all projects proposed by the authority to consider direct and indirect impacts of proposed projects.

The bill as presently written does not provide sufficient requirements for review of the activities of the authority or direct relationship between the activities of the authority and State, regional or county planning objectives. This is especially crucial in that the utility systems to be provided by such an authority would have direct impact on areawide growth and land use development.

It is recommended that this bill not be approved without substantial revision.

SENATOR MC GAHN: Thank you very much, Mr. Powell. We appreciate your testimony.

Mr. Charles Allen.

CHARLES ALLEN: Senator, my name is Charles Allen, Municipal Attorney for the Township of Ewing. I have no prepared statement to submit at this time. I understood, however, you to say that the hearings would be open and we might submit a resolution from our governing body.

SENATOR MC GAHN: That's correct.

MR. ALLEN: Very briefly, Senator, we have had an opportunity to review the four bills which are presently under consideration. Our township committee of five members has reviewed those bills and directed that I voice their objection to all four bills.

Just by way of background, Ewing Township which adjoins Trenton on the northerly side is well aware of the lack of water this past September and the excess of water this past July, sewage problems and air pollution problems, since we in 1967 built what was called the finest incinerator in the country only to be closed by the Department of Environmental Protection in 1972, I believe, in order to go into an alternative means of solid waste disposal.

We presently also are part of the Ewing-Lawrence Sewerage Authority and we have representation on that body and fund that body. We work very closely with State and federal agencies. For example, we have passed just this year several ordinances strictly regulating commercial pollutants, according to federal standards, into our sewage disposal units.

This is just by way of background to indicate that Ewing Township is aware of the problems of environment. I would say on behalf of the committee that we think these areas are areas of the quality of life second only to police and fire protection. Our great fear as a municipal government and as the Township Committee is in three areas as we see them in these bills.

First of all, we would suggest that they are somewhat premature. As I have indicated, the Township Committee has been directly involved in solid waste disposal. We have developed alternative plans. We have been directly involved in air pollution, water control and flood plain control, because the Army Corps of Engineers has done a study in Ewing Township encompassing surrounding communities. This past year, we have purchased a stream-cleaning machine, at a cost of \$20,000 of taxpayers' money; and we are attempting to implement flood plain control on our own. As I indicated earlier, also we are represented on ELSA. So we do believe that the legislation is somewhat premature, that there are many lessons to be gained from the local level, which possibly, and I suggest to you, are not reflected in the four bills.

Secondly, I would adopt and incorporate in my remarks the remarks of Mr. Higgins, who is the Executive Director of the Ewing-Lawrence Sewerage Authority, who spoke earlier this afternoon. I have heard others also testify regarding duplication, and I would suggest to you and to the Committee that any duplication of services, enforcement or planning, is a direct burden on the taxpayer.

Thirdly, and most importantly at this stage for our committee, is what we see as a departure from strong, local home rule. In the present situation, we have a direct voice on the Ewing-Lawrence Sewerage Authority, which is composed, I believe, of six members, three from Ewing Township, three from Lawrence Township. Our citizens are thereby able to directly approach the Sewerage Authority in terms of its budget, in terms of its operation and in terms of complaints that they may have. We see no such representation in particularly Bill 3084. The voice of the citizen is most ably expressed in his local municipal town hall where he can speak directly to his elected officials. We feel that this prompts the officials to put the pressure on the authorities because we have representation. We don't see that representation in these bills.

We would desire, I think at this point in time, to see a county approval of plans developed from the municipal level. Thank you very much.

SENATOR MC GAHN: Thank you very much, Mr. Allen. I think you can be assured that we are going through a conceptual phase here and there will be no premature delivery of these bills until, very frankly, they are as we think they should be.

MR. ALLEN: Fine. And I would make the same offer I have heard before, that we do have people in Ewing who have been involved in this, Mr. Higgins and certain of our committeemen, and we would make their input available to the committee at the committee's convenience.

SENATOR MC GAHN: Thank you very much for your kind offer.

I have nobody else on the list. Is there anybody present who wishes to testify? I will take the gentleman over there. I am sorry I don't have your name.

ROBERT D. HALSEY: Thank you, Senator. I am here representing the Monmouth County Planning Board today. What I will do is submit the written statement for the record. However, I would like to make just a few points from that statement. I would also like to make a brief statement as President of the New Jersey County Planners' Association for that association. I would like to represent that the Association will offer assistance to your staff in reviewing these bills in more detail as to their impacts on the various counties. You will be or have already received diverse opinions from the counties because of the different situations in all of our counties in New Jersey.

Going back to the Monmouth County Planning Board statement, which was authorized at its meeting yesterday, the basic thrust of the statement is that we support Senate

Bills 3085 and 3086. We feel they are both straight forward and deserving of passage. The board does have problems with Senate Bills 3084 and 3087. We feel that 3084 is too broad and all-encompassing. We can see advantages in having a single over-all planning function at the county level, but do not necessarily see the value of joining this broad array of operational functions into one single authority. We then go on to point out several specific questions we have concerning that bill.

On 3087, the county does have some problems with the over-all thrust of this bill. In Monmouth County, we have a somewhat unique situation in that we already have adopted a master sewerage plan, water plan and a plan which is not adopted, but nonetheless well along on implementation, on solid waste disposal. This leaves under the 3087 planning act, really the non-point sources of pollution. Our main concern here is that we get into an area where there are some very serious technical, financial and legal questions beyond the planning stage when we get into the implementation by whatever agency is called upon to implement this law. The immediate impact that we see is the requirement to expend on the part of Monmouth County taxpayers at least \$1.2 million for aerial topographic maps. We feel in order to carry out any function of planning and engineering related to non-point sources of pollution, we must have an accurate picture of the existing drainage. Monmouth County is fairly flat and it does require aerial detailed topographic maps. This is the real estimate of the cost, not something we have manufactured; in fact, it may be higher. This is not provided for in the federal 208 plan nor would the proposed funding by the State cover this.

Again there are some other points which we raised in our comments concerning the timing allowed under the act to carry out this function. We would also like to point out in this act and others of a similar nature not in this package, there has been a problem of not providing sufficient lead time between the date of adoption of the act and the date upon which the act takes effect. We suggest a six-month lead time in all such types of legislation. Thank you very much.

SENATOR MC GAHN: Thank you very much.

One question I intended to ask Mr. Mattek, and possibly you can answer: The aerial topographic mapping necessary - would perchance the DEP have any of this as a result of their wetland mapping and the mapping that they intend to do from the standpoint of determination of riparian lands? Are you aware of that?

MR. HALSEY: We have copies of the wetlands maps. They do not have the ground control and topographic information. They were flown to identify, through infra-red photography different plant types. Some sewerage authorities have flown either all or a portion of their districts. We would be able to obtain those at a moderate cost of reproduction. But this is a net cost after taking that into account.

(See page 36xfor Mr. Halsey's written statement.)

SENATOR MC GAHN: Thank you very much.

Mr. Laszlo Szabo.

L A S Z L O S Z A B O: Thank you, Senator.

I am Laszlo Szabo, Director of the Middlesex County Health Department and President of the New Jersey Public Health Coordinators Association. I have been asked to present the views of the Association to you regarding the Water and Waste Water Management Bills and, particularly, Senate Bill 3085, known as the County Environmental Health Act. Although I am representing the Association, we do not preclude any members from presenting their own views.

After reviewing the other bills in this environmental package, the Association felt that it should only comment on S 3085. We are endorsing the concept in the

bills, but we are certain that you will receive competent testimony from other agencies and individuals.

The Association heartily endorses the scope and concept of S 3085. In order to strengthen the proposed law, we respectfully offer the following comments:

1. Paragraph 4 is the key to the whole concept of regionalized health services and should be left intact. This section is compatible with provisions of Senate Bill 130, which has already been unanimously approved by the Legislature.

2. Paragraph 5 sets forth the responsibility of the county health departments. The public health coordinators are confident that they can do a good job. Some resources are already available in the existing county health departments and an even closer cooperation with the Department of Environmental Protection would make the task easier.

3. We recommend that Paragraph 6a read: "The county health department in cooperation with the State Department of Environmental Protection shall monitor: . . . " This recommendation is made to avoid duplication of efforts and to ensure uniformity throughout the State.

4. Paragraphs 6b, 7a and 7b provide the necessary tools to avoid lengthy delays in securing compliance with the law.

5. Paragraph 8 should be corrected to individual sewage disposal system (not septic tank).

6. Provisions of Paragraph 10 should be made mandatory not permissive unless other suitable resources are available in the county to comply with the provisions of this section. Permissive legislation in this area may weaken a uniform activity.

7. Paragraph 11b is endorsed by this Association; however, we feel that in order to make the burden of providing this service fair and equitable, the funding should be provided by 50 percent State and 50 percent local funds.

8. In view of our previous recommendation, in Paragraph 14 it would be necessary to reassess the amount of appropriation to the Department of Environmental Protection. It would be more realistic to appropriate approximately \$100,000 per county as the initial contribution from the Department of Environmental Protection. Taking into account the local resources and the requirements of this program, initial "tooling-up" resources are essential.

In conclusion, we would like to convey to this committee the feeling of our Association that this type of legislation is not only essential but overdue if we are to break the circle of fragmentation and develop a partnership to provide a pollution-free environment to our citizens. We would like to express our thanks to you for your leadership and to assure you of our support.

Respectfully submitted, Laszlo Szabo.

SENATOR MC GAHN: Mr. Szabo, thank you very much for your comments and recommendations made here.

Mr. Elwood Jarmer.

E L W O O D R. J A R M E R: Senator, my name is Elwood R. Jarmer and I am the Director of the Cape May County Planning Board. I would like to present the following comments on behalf of the Cape May County Planning Board:

First, as to Senate 3087, the need: A regional approach to water quality and its relationship to land use has long been needed. Water supply, air quality, natural resources, wetlands, prime agricultural lands, etc., must be viewed together, but realistically, as they relate to growth pressures and land use. S 3087 is certainly a step in this direction. I would add parenthetically that Cape May County is one county that has not been designated as a 208 area. We are pursuing this and hope to

succeed one of these day.

Controlling Agency: A recent EPA ruling supports the County Board of Chosen Freeholders as a lead 208 agency; S 3087 should, however, recognize such regional agencies established by appropriate authority (U.S. EPA and N.J. DEP).

Finances: The financing provision for extensive 208 activities is inadequate as proposed in S 3087. A 25 percent local share (75 percent federal) of one county could easily utilize the entire \$150,000. So without significant additional funding, it is doubtful that counties could prepare adequate 208 plans.

Timing: The preparation of a State Water Quality Management Plan in two years with counties preparing plans concurrently, needs amplification. It seems that county plans must meet standards and limitations of the State. Consequently, it may be unrealistic to require completion of county plans when State plans are either inadequate or incomplete.

It is suggested that those portions of the State plan to be relied upon by county plans, be completed before the clock starts running on county plan completion time. Consideration may want to be given to the federal requirements and the 208 deadline of March 1978.

Regarding Senate 3085 - County Boards of Health.

Coordination with adopted Air Quality Maintenance and Water Quality Maintenance Plans (208) adopted pursuant to State and federal law should be made part of the scope of services for County Health Departments.

Funding: The funding requirements may greatly exceed the \$200,000 appropriation.

Relationship to 3084: County MUA's are to have powers for wastewater, solid waste and water supply functions and, consequently, the legislation should require a working and policy relationship (i.e., one MUA member be a member of the County Board of Health and that plans approved by one agency must meet approval of the other).

I would conclude that in Cape May County we feel we are very water sensitive, both water quality and water supply. We are in the process of preparing a new county master plan which does try to quantify water supply to the extent that we can relate it to land use and to growth. And we fully support 3087 as a help in this endeavor. Thank you for the opportunity to appear.

SENATOR MC GAHN: Thank you very much, Mr. Jarmer.

Mr. Peter Larsen.

P E T E R L A R S E N: Thank you, Senator McGahn. My name is Peter Larsen. I am Executive Director of the Upper Raritan Watershed Association, an area of 190 square miles in North Jersey, covering Somerset, Hunterdon and Morris Counties. I also represent, as the President of the Middle Atlantic Council of Watershed Associations, some 45 watersheds in five different states. And in the latter context, I offer the full support of all the watershed associations in the review of this legislation. It obviously needs some specific amendments in order to make a satisfactory package. I believe that the watersheds would offer their support for the concept found in all this legislation, and certainly support the earliest possible implementation of 92-500 under New Jersey statutes and the upgrading of our legislation from the over one hundred years of neglect in statutory form of the problem of water management, watershed management, and pollution control.

I personally have been involved in the environmental quality field for well over 20 years and have been involved in it at all levels, including the federal levels, since the 1965 act was originally passed, and have followed the development of all of this legislation from its initial inception, and feel that by a matter of priorities,

of the four bills that are being considered today, I would certainly rank 3087, the Water Quality Planning Act, at the top of the list of important bills. I do this simply because there is a general need to overhaul our Water Management Law and I believe before we are really ready to implement that new Water Law, we need base-line data; we need information about how to plan. Further, we need the information in order to plan. The Water Quality Planning Act would essentially bring us to conformity with 92-500's planning requirements in those two major sections, the 208 and 303 subsections of 92-500.

There are a number of, shall I say, nit-picking problems which would number several hundred pages of testimony. I have offered my services to the legislative assistants to edit and to improve the presentation of this bill, and I will so volunteer to serve with any committee which is in review of this legislation. I do want to emphasize that I support 3087 in a strongly conceptual manner. There are a few minor problems in terms of its workability. There are technical problems which I can comment on in a committee-type atmosphere, which I think deal with its consistency with other statutes, with its ability to be implemented under New Jersey Law, and the matter of practical application, going from the State to the county to the local level. And dealing with the problems of home rule is one of the more specific problems.

Next I would like to turn my comments to 3086, the "New Jersey Pollution Discharge Elimination System Act." This would be my second priority bill if we have to rank these by priority. I would support the New Jersey NPDES Act and this would basically bring New Jersey into conformity with the federal government's requirements that under 92-500 the states are to take over the pollution permit system at the earliest possible time.

I think the main reason I support this is that it would put New Jersey into a new era of self-respect and would give New Jersey a program upon which it could base a strong planning and enforcement system. Without this kind of credibility, the State is currently floundering in the process of cleaning up pollution after the fact, after it has happened, and this is no longer an acceptable way of doing business, especially since the federal law amended in 1972 made it a matter of public policy to clean up the waterways and to keep them clean.

There are similarly a few nuts and bolts problems with 3086. I have some serious doubts about our ability, however, as a State and would like to emphasize the need for legislative support for adequate budgets and financing for DEP to be able to carry out the permit system, to be able to do the necessary monitoring to gather the base-line data upon which planning must be based, and to staff up the DEP and/or any more local agencies, such as the other bills suggest - county authorities and agencies - to deal with the enforcement. I, therefore, would sort of rank 3086 in a secondary position. I don't know as we are ready to do it the whole way this year or next year unless the Legislature is willing to bite the bullet and provide the necessary funding to make it happen. I would rather see New Jersey not take it over than to take it over and do a bad job of doing the administration aspects of a permit system. Permits can be influenced politically in a weak administrative structure. Enforcement can be weakened administratively such that we will have legalized pollution. I would rather see the checks and balances of the current federal permit system maintained than I would to see New Jersey take over a weakened system. It would be to New Jersey's great advantage to take over the permit system as soon as possible and to do a good job. It would then give us a comprehensive water management program which we are desperately in need of to improve the quality of life in New Jersey.

So I have some mixed emotions about the timing of 3086, not whether it should or should not be adopted. It certainly should be adopted. It is a question of when; and, when the State has the commitment to do the job right, we will support it fully.

I turn my attention to Senate 3085. This is the "County Environmental Health Act." I rank this in third priority. I think the question here of concept is that this is a good bill conceptually. There are some serious questions as to how much and when we should delegate to counties. The question of adequacy of planning, the adequacy of monitoring and enforcement are the specific elements of concern. The planning background of counties has been excellent. The question of monitoring and enforcement has been questionable. Much of the reason for the creation of the Department of Environmental Protection has been in the past history that environmental health and monitoring programs have faltered at lower levels due to a lack of commitment and funding and, therefore, the DEP was created to alleviate some of those kinds of problems. There would have to be some stronger assurances that there would be available local funds before such a program were designated or even delegated to a county instead of the State continuing its support.

One of the most important aspects of 3085 is the recognition that septic tanks are, in fact, a viable method of pollution control, that they may be maintained in perpetuity, and that they in fact should be administered and maintained, and that counties or a more local level than the DEP is an appropriate administrative level to handle that particular very important chore.

There are some other questions as to the air pollution, solid waste pollution problems that are brought up in 3085, which lead to consistency problems with other legislation. I am thinking of 806 which is currently in a near state of adoption as a solid waste bill, and 3082 which has some problems of being consistent with all of these. We, therefore, must look at these bills with a fine-toothed comb and see what some of those problems of consistency are.

I would in general support the concept of counties getting involved in the administration of water pollution control and I have some reservations about the counties' ability to get involve beyond the planning and monitoring situation. The question of enforcement should be sort of reenforced by some suitable backup mechanism for the State and the federal government to come in and monitor as a cross check and to make sure that there is a suitable level of redundancy in the entire enforcement program so that we have no doubt about it, that we are going to clean up our waters and maintain them in a clean situation.

My final comments are on Senate 3084. I will be brief and simply say that I think this entire piece of legislation is a little bit premature. There are problems of compatability at the State, county, and federal levels. There are problems of sufficient redundancy for insurance that the job will be done. And we need to make sure that the job will be done by someone, regardless of the budget or political restraints. I think in that context, the 3084 provisions for the County Utilities Authority Act is just a little bit ahead of its time. Given all the other problems that I have alluded to in the other bills, I would sooner see by a matter of priority we take care of those more important problems first and then in a year or two come back and we will worry about the administration aspects which 3084 attempts to deal with. I think there are problems with the conflict between counties and local home rule. Certainly we have heard enough on that today to seriously question the political viability of 3084. And I suspect that good floor management of 3084 would be to let it just die a quiet death at the end of this session.

I thank you, Senator, for your attention and wish you well in this review. And I offer my services and those of the other watershed associations in the continued review of this legislation, which is desperately needed, particularly 3087 and 3086, the top two priorities. Thank you again.

SENATOR MC GAHN: Thank you very much, Mr. Larsen. Also thanks for your offer of help.

Mr. Walter Zizik. (No response.)

Is there anyone else who wishes to testify? Hearing none, I declare this public hearing closed. The public record will be kept open for a period of two weeks to receive any additional data or statements that may be submitted. Such data or statements may be submitted to Mr. David Mattek, who is Legislative Aide for the Senate Committee on Energy, Agriculture and Environment.

Thank you very much for your time and consideration. I am sorry it was necessary to hold some of you until the tail end, but this is what happens in these situations. Thank you.

(Hearing Concluded)

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TESTIMONY TO THE SENATE COMMITTEE ON
ENERGY, AGRICULTURE AND ENVIRONMENT
BY ROCCO D. RICCI, DEPUTY COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION
NOVEMBER 25, 1975

Mr. Chairman and Members of the Committee, the Department of Environmental Protection is pleased to present testimony on Senate Bills 3084, 3085, 3086 and 3087. Commissioner Bardin has asked me to convey his commendation to the members of the Committee and its able staff for its two year effort in the development of these bills.

The Department of Environmental Protection continues to be involved in major efforts towards the goal of establishing a modern water pollution control program for the State. In late 1974, the Byrne Administration took the first step. The Division of Water Resources was restructured to provide for a more effective pollution control scheme utilizing the basin management concept. This reorganization provides an administrative structure which allows for a shifting of technical personnel from outdated, less productive environmental programs to modern, more productive efforts.

One of the most important new programs for which the Division has been preparing is the National Pollutant Discharge Elimination System Program (NPDES). This is the discharge permit system established under the Federal Water Pollution Act Amendments of 1972. The State should apply for delegation of the NPDES permit program which is the subject of S-3086, assuming the State is willing to provide the necessary funds. Division staff are actively involved in supporting the current federally operated permit system. The support is in the form of development of permits and in compliance monitoring activities. This is part of our scheduled program to develop sufficient staff and staff competency to enable us to assume direct responsibility for the federal program.

State legislation is required to enable us to assume responsibility for the NPDES permit program. We have prepared a staff paper which can serve as a basis for further discussion between our staffs to develop perfecting amendments to S-3086.

Several provisions are required by federal statute for state takeover of the program. The direct control of the NPDES permit program by New Jersey will not only improve our efforts towards cleaning up the polluted waters of New Jersey, but will also enable New Jersey to take control of a key aspect of its own destiny. The future of New Jersey, its economy, industry and transportation networks can be substantially affected by the manner in which the NPDES program is administered. Assumption of this responsibility will enable us to change from a program which is geared towards approval of pollution control hardware and enforcement after the pollution has taken place, to a modern program which emphasizes standards setting, compliance monitoring, and enforcement action where needed.

The Department recognizes the need to streamline the statutory schemes we administer and favors delegation to local government of certain activities which are now assigned to the State agency.

The Department supports expansion of county government environmental programs in a manner which is consistent with the complexity of each program. The need for statewide uniformity, the needs for concentrated technical expertise, the requirements of Federal law and the problems of financing compel us to conclude that program-by-program analysis must precede statutory delegation to county government. Certain programs cannot be delegated to county government at all; others may be delegated, subject to appropriate control and review by the State agency.

In general terms, therefore, the Department supports many of the concepts contained in S-3085 "County Environmental Health Act." However, perfecting amendments are essential. We stand ready to assist the Committee to that end.

S-3087, the "Water Quality Planning Act", designates each county as a 208 waste treatment management planning region while authorizing the State to conduct a continuing planning process as required by Section 303(e) of the Federal Act. Although the State generally supports the concepts outlined in this Bill, recent events in Federal law and changes in regulations have overtaken us and the Department concludes that this Bill should be amended to make it compatible with the new Federal process. Several 208 planning areas and agencies have already been designated by the Governor and funded by federal E.P.A. These designations have been on a countywide basis with one exception which includes a portion of an adjacent county. Therefore, this Bill should be amended to reflect planning activities which have already begun and to provide flexibility for future designations by the Governor. In addition, some of the timing requirements in this Bill are inconsistent with the federal law.

S-3084, "County Utility Authorities," creates an authority to finance, acquire, construct, and operate sewage, surface water, water supply, potable water, and solid waste systems. We support the concept of regional management for wastewater and solid waste, and suggest the development of a mechanism by which county government may consolidate and strengthen small potable water supply systems. However, the county approach to control of flood waters and the development of adequate water supplies is in many cases ineffective. Flood plain management is to be carried out within the appropriate drainage basin and should not be restricted to county boundaries. Large areas of our state are dependent upon areawide development of adequate water supplies, including interbasin transfer of water.

In closing, I would like to again acknowledge the work of the Committee and staff on the development of these Bills and the opportunity for the discussion which they will generate. We look forward to working with you to create a modern statutory structure for the State's water pollution control program.

CITY OF SEA ISLE CITY
NEW JERSEY

RESOLUTION NO. 450 (1975)

WHEREAS, Senate Bill 3084 provides for the transfer of local responsibility of sewer and water systems, drainage of surface water and solid waste disposal to a county authority, and

WHEREAS, on November 25, 1975, there will be a public hearing in the Assembly Chamber, Trenton, on the aforesaid bill.

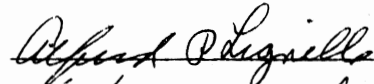

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the City of Sea Isle City, New Jersey, that:

1. The City of Sea Isle City strongly opposes the passage of Senate Bill 3084 because passage of same would take away from the City of Sea Isle City its right to operate its utilities on a financially sound basis which it has done since the utilities were created.

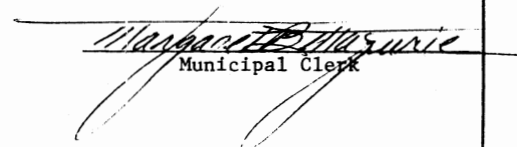
2. The power of "Home Rule" would be taken from the municipal level and vested in a county authority without adequate controls. Once again taxation without proper representation would be thrust upon the local taxpayers.

3. The borrowing powers of municipalities are subject to laws establishing percentage rates of indebtedness and are subject to and controlled by a State agency when the local debt limit is in excess of the established percentage rate; the bonded debt of the State of New Jersey is subject to referendum; Senate Bill 3084 contains no provision for the control of indebtedness by the county authority, which debt must be met from local service rates collected by local government.

4. The Honorable William R. Wilsey, Director of Public Affairs and Public Safety, is hereby directed to present a certified copy of this resolution to Senator Joseph L. McGahn, Chairman of the Senate Committee on Energy, Agriculture and Environment, and to note that the City of Sea Isle City vehemently opposes the enactment of Senate Bill 3084 for the reasons recited above and to voice his comments in connection therewith.



Commissioners

I HEREBY CERTIFY THAT the foregoing resolution was duly adopted by the Board of Commissioners of the City of Sea Isle City, New Jersey, at the regular meeting held on Monday, November 24, 1975.


Municipal Clerk

BOROUGH OF STONE HARBOR

Cape May County, New Jersey

RESOLUTION

NO. 81

RE: Opposing Senate Bill 3084

C WHEREAS, the Borough of Stone Harbor, believes that certain utilities may be best operated by local government, and,

WHEREAS, municipal management services through its awareness of responsibility to supervise and maintenance of high standards of quality will effect a more proficient operation, and,

O WHEREAS, Senate Bill 3084 creates an infeasible administrative bureaucracy whose abilities to efficiently perform the necessary services are questionable and whose charges might exceed all reasonable and plausible bounds, and,

WHEREAS, the creation of a mammoth utility eliminates the prerogative of local government to control decision making policies, and,

WHEREAS, this bill would violate the principal of home rule, and,

P WHEREAS, decades of New Jersey history has proven that Municipal government and control over local services are best performed by that management "closest" to local problems,

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Stone Harbor that it hereby records its formal opposition to the passage of Senate Bill 3084, and,

Y BE IT FURTHER RESOLVED that copies of this resolution be forwarded to our Senator, the Hon. James S. Cafiero; to our Assemblyman, the Hon. James R. Hurley and the Hon. Joseph W. Chinnici; and also to the Governor of the State of New Jersey, His Excellency Brendan T. Byrne.

Offered by Donald Cramer Seconded by Jack Fitzpatrick

STATE OF NEW JERSEY, }
COUNTY OF CAPE MAY, } ss.:

I, the undersigned, Borough Clerk of the Borough of Stone Harbor, in the County of Cape May, State of New Jersey, do hereby certify that the foregoing is a correct and true copy of a resolution adopted by the Borough Council at a meeting duly held on the 24TH day of NOVEMBER 1975 and approved by the Mayor on the 24TH day of NOVEMBER 1975

6x

Maym E. Walsh
Borough Clerk

STATEMENT OF THE LANDIS SEWERAGE AUTHORITY TO THE SENATE
ENERGY, AGRICULTURAL AND ENVIRONMENT COMMITTEE CONCERNING
SENATE BILLS 3084, 3085, 3086 and 3087.

November 25, 1975

The Landis Sewerage Authority of the City of Vineland in Cumberland County is unalterably opposed to Senate Bills 3084, 3085, 3086 and 3087.

The County approach to water and waste management will do little to resolve the problems of the State in these important areas and the County approach in fact would have very serious detrimental effects.

First, it is a poor system of classification to unify water, drainage, sewerage and solid waste disposal under a single authority. Very different considerations enter into water management as opposed to sewerage, drainage and solid waste management. Sewerage and drainage are best handled on a drainage basin approach, whereas water problems can be totally unrelated to drainage basins and are dependent upon water sources and storage areas; finally, solid waste management depends on none of the foregoing and each area of the State may have its own unique problems. To arbitrarily mix these three areas under a county authority which is confined by county lines bearing no relationship to drainage basins, population or water sources and supplies, can only result in added problems in an already troubled area. Moreover, to mix the expertise required for sewerage, drainage, water and solid waste will dilute the effectiveness of such a county authority. It is difficult to believe that a county authority composed of five or more members could command the amount of expertise needed to deal with the numerous problems which would arise by managing the three or four vital areas packaged under these Senate Bills. Therefore, it is the suggestion of the Landis Sewerage Authority that drainage and waste-water disposal, water management and solid waste be separated into at least three separate areas of legislative study.

It is the position of the Landis Sewerage Authority that the county approach to waste-water management and to the other functions packaged under the Senate Bills, be completely abandoned as being unworkable. The County approach does not get to the heart of each individual problem in the State, since the various problems differ widely throughout the State. The differences result not only from the inherent dissimilarity of sewerage and drainage from water and solid waste, but also from the dissimilarity of the northern urbanized areas from the southern and western rural areas and the environmental and geographic differences ranging from the mountainous northwest, to the inland and from them to the seaboard areas. Each area of the State requires separate study and solutions which are not possible on a county-line approach; problems extend across county lines and problems exist within counties.

As a representative of the City of Vineland, the Landis Sewerage Authority must also voice its opposition to the aspects of these Bills which would subvert the principle of municipal control over the services rendered to citizens. It is a political reality that a municipality is much more responsive to the needs of its citizens than a larger political unit. To unify the problems of numerous municipalities and numerous drainage basins under the auspices of the county, would inevitably result in the solution of problems based solely on political consideration as opposed to the considerations of the needs of local municipalities. For example, a county authority would be much more responsive to the desires of highly populated areas at the expense of the less densely populated areas.

The county approach would also undermine each municipality's effort to plan and control orderly growth within its own confines. Obviously, considerations of sewerage, drainage, water and solid waste form an important part in the planning, zoning and growth patterns of any community. To fragment these between a municipality and a county can only lead to strife,

confusion and unordered growth.

Further problems are foreseeable in the area of rate structuring on a county level. The State has many municipalities and utility authorities which have diligently and efficiently provided services to citizens for many years. These municipalities and authorities are the owners of vast systems which provide services to local areas through networks of pipes and plants which may have been constructed many years ago and which have been paid for by the users. It is difficult to see how a county authority could fit such an existing system into an overall county plan without penalizing some citizens by forcing them to pay for expansion of water and sewer systems into areas which were less diligent or into areas which have been newly formed. This could lead to the anomolous situation of forcing our already overburdened urban areas to pay for the construction of sewer and water facilities in the suburbs.

Another reason for the opposition of the Landis Sewerage Authority to the Senate Bills is based upon the fact that to create a county utilities authority would be to concentrate undue economic power in the hands of a few. The control of vital utility services by a small group, subject to limited scrutiny and control, is an open invitation to graft and corruption. The economic power which would be wielded by a county authority would be so great as to permit this single authority to virtually guarantee the economic development or nondevelopment of any particular area of a county. Moreover, the economic power controlled by such an authority in parcelling out contracts for construction, engineering services, legal services and operational services is so immense as to be a fertile ground for the breeding of corruption. Such dangers are less on a local level since local officials are more directly subject to scrutiny and accountability from the citizens and governing bodies of their community.

Finally, the Landis Sewerage Authority necessarily must make comment upon the structure and wording of the Senate Bills especially Senate Bill No. 3084. The wording of the Bill in many respects is confusing and the exact powers and methods of operation envisioned for the county authorities is extremely unclear. Specific reference is made to Section 4 of Senate Bill No. 3084 in which it is unclear whether the county authority is intended to replace all local authorities and municipal utilities, or is merely given some type of concurrent jurisdiction with local authorities and municipalities. Further reference is made to Section 5 of the Bill which gives the county authority veto power over the creation of new authorities or the joining of authorities by municipalities. This effectively prevents local solutions to problems.

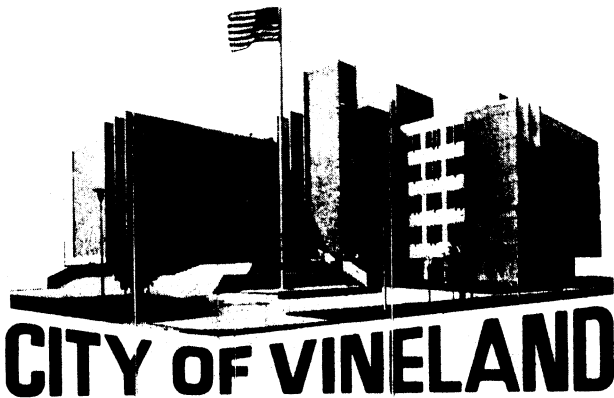
Reference is also made to Section 15 of the Bill which spells out very broad purposes and authorizes county authorities "to acquire . . . by purchase, gift, condemnation or otherwise, . . . such utilities systems as in the judgment of the authority will provide an effective and satisfactory method for promoting the purposes of the authority." It would appear from this language that the county authority could acquire the entire utilities system of another authority or of a municipality. This Section should be compared with Section 33 of the Bill which seems to limit some such acquisitions. A measure of such sweeping consequences should be very clearly worded and should specifically define the exact functions envisioned for the county authority so as to limit the amount of disruption and litigation which would result from the passage of these Bills.

With respect to the borrowing powers of the proposed county authorities, the Landis Sewerage Authority has great concern for the broad bonding powers given to such authorities without limitation or control. The unfettered creation of debt by a county authority could have very dangerous economic consequences by raising the costs of utilities services. Also,

the authority to issue bonds and the supporting rate-making powers given to a county authority could result in serious conflicts with the borrowing powers given to municipalities and other utility authorities within the county. It would appear that the customers of many utility systems would be forced to support not only indebtedness incurred before the passage of these Bills but may also be required to support new indebtedness created by a county authority. Also unanswered by the proposed legislation is the effect it would have on the bonds of existing utilities authorities and municipal bonds issued for water and waste management purposes.

For the foregoing reasons, the Landis Sewerage Authority and the citizens of the City of Vineland declare their opposition to this legislation and request that these Bills not be reported out of Committee in their present form, but that further intensive study be made, first, by separating waste water, solid waste and water and, secondly, by separating the various problems such legislation would create in various sections of the State. The scope of the Bills is so vast that localized public hearings should be held in order to insure accurate local input from every area of the State.

nx



MAYOR
LT. COL. JOSEPH H. D'IPPOLITO, RET.

COUNCIL
JOSEPH A. MAGAZZI, PRESIDENT
CARLO COSTANTINO
FRANK A. DENSEVICH
PETER H. MARCACCI
JOSEPH E. ROMANO

VINELAND, NEW JERSEY 08360 • TELEPHONE: (609) 691-3000

November 25, 1975

Senate Energy, Agriculture & Environment Committee
State House
Trenton, N.J. 08360

Re: S. 3084, 3085, 3086 and 3087

Mr. Chairman:

~~Some of these~~, these bills contemplate further implementation of the regionalization concept in various fields of public works, including sewerage and potable water.

Without disputing the probable desirability of the regionalization concept, we do believe that the advancement of some parts of these bills is motivated by political considerations which are totally unacceptable.

The bills in question contemplate creation of County utilities authorities (S. 3084) and vest County Boards of Freeholders with the obligation of determining the future status of all sewerage facilities and the agency to be responsible for their operation. (S. 3087).

The development of the regional concept in many public areas is inevitable, and the use of the County level for implementation purposes may be reasonable for some, but we emphatically do not believe this to be so regarding public sewerage and water. Provision of public sewerage and potable water services inherently involves geological considerations resulting in questions concerning gravity flow, pumping stations, etc; more specifically, as to sewerage, the sane way of regionalizing is to join together those communities resting upon a common, natural water basin, no matter in which counties situate. To vest jurisdiction in a regional authority premised upon county lines delineated hundreds of years ago, without reference to the number

CITY OF VINELAND

VINELAND, NEW JERSEY 08360

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and location of natural water basins is folly and fraught with danger--danger of all types of high level wheelings and dealings of the kind we read about daily in the newspaper.

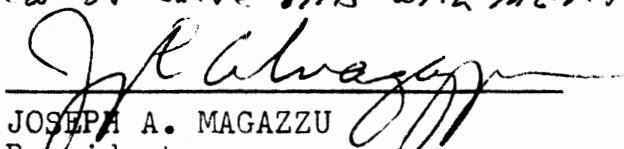
The authority to decide where to lay water and sewer lines involves a tremendous amount of economic power. Development will follow those lines, hence the desire to develop in any given direction, with money behind it, can command an uncommon amount of influence upon members of county authorities not responsive to municipal desires and plans. Indeed, Municipal Planning Boards could close their doors and go home. Such unbridled development would also play havoc with the capacity of the municipality to keep pace with necessary services, the cost of which would progress in geometric proportions to the traumatic disadvantage of the already overburdened property taxpayer. This is to be distinguished from the controlled, orderly growth we believe will occur, for instance, in a Municipal sewerage authority that will service neighboring communities on a common water basin.

It may be that S.3084 and S.3087 will serve the purposes of other counties but in Cumberland County there are two major water basins. An authority having jurisdiction over both basins, in dealing with construction of sewerage facilities, will always have the question of priority-which basin is to be expanded?

Again, being provincial,

In Vineland, our own Landis Sewerage Authority has been frustrated for several years in it's expansion plans by the existing County Sewerage Authority. Now that the State Department of Environmental Protection, after a protracted battle, appears to have given the Landis Sewerage Authority the green light to move ahead and hopefully build it's own new treatment plant, we believe S.3084 ~~and S.3087~~ will circumvent said DEP approval and again vest all authority in the County, ~~which is not the case~~, for all the reasons above expressed, we strongly oppose ~~its~~ ^{their} passage, as they exist.

We will watch your review of these bills with interest.


JOSEPH A. MAGAZZU
President
City Council at Vineland

Pompton Lakes Borough Municipal Utilities Authority

2000 Lincoln Avenue

Pompton Lakes, New Jersey 07442

November 21, 1975

Mr. Leon Lowenstern, Chairman
The Landis Sewerage Authority
Room 202 City Hall
Vineland, New Jersey 08360

Dear Mr. Lowenstern:

This will acknowledge your letter dated November 17, 1975, relating to Senate Bills 3084, 3085, 3086 and 3087, and a public hearing thereon scheduled for November 25, 1975.

Although the members of this Authority are unable to attend the public hearing, attached is a copy of our letter concerning our opposition to the passage of these bills. Similar letters have been sent to Assemblyman John J. Sinsimer and Assemblywoman Barbara A. Curran. Also attached are replies received from Mr. Vreeland and Mrs. Curran, advising of their opposition to the proposed bills.

The Pompton Lakes Borough Municipal Utilities Authority has been a member of the Authorities Association of New Jersey since its inception.

Very truly yours,

POMPTON LAKES BOROUGH
MUNICIPAL UTILITIES AUTHORITY

Alfred Lockwood / cg

Alfred Lockwood
Chairman

AL:cg
Attachments

Pompton Lakes Borough Municipal Utilities Authority

2000 Lincoln Avenue

Pompton Lakes, New Jersey 07442

August 18, 1975

Honorable James P. Vreeland, Jr.
Member of the New Jersey Assembly
State House
Trenton, New Jersey 08625

Re: Senate Bill 3084

Dear Mr. Vreeland:

The Authorities Association of New Jersey, of which we are a member, has brought to our attention the above proposed legislation which, if enacted into law, would do away with municipal utilities authorities by assimilating them into county utilities authorities.

As commissioners of the Pompton Lakes Borough Municipal Utilities Authority, we are taking this opportunity to advise you that we are strongly opposed to this bill and to request that you advocate its defeat.

Present law authorizes counties to establish utilities authorities (N.J.S. 40:14B-4), but the law provides that the area of a municipality which has created a municipal utilities authority shall be excluded from the area of a county authority which is thereafter created. (N.J.S. 40:14B-10). The proposed legislation would have the effect of repealing the latter statute.

The objective of Senate Bill 3084 appears to be the centralization of control over waste disposal and water supply. This view pre-supposes, erroneously, that local authorities exist in a vacuum and are oblivious to regional problems in the areas of water supply and disposal of sewage. An equally erroneous assumption is that local authorities are improperly managed and inefficiently run.

For many years the members of the Pompton Lakes Borough Municipal Utilities Authority and its consulting engineer have been, and continue to be, deeply involved with the New Jersey Department of Environmental Protection and with the United States Environmental Protection Agency on the matter of expansion of our sewage treatment facilities to accommodate neighboring municipalities. The programs for such expansion and the financing thereof are controlled by those agencies whose outlook, understandably, extends beyond the territorial borders of this borough.

In the area of sewerage the State is served by, in addition to the D.E.P., such regional bodies as the Passaic Valley Sewerage Commission. In the area of water supply, the State is served by a number of agencies, such as the Water Policy and Supply Council, which exercises general supervisory power over all sources of


public water within the State, and by other State and regional administrative bodies. It is therefore apparent to us that the needs of the State as a whole will not be served by the abolition of local municipal utilities authorities and by their assimilation into county-wide authorities.

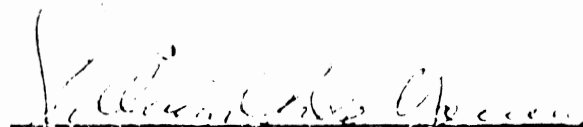
There is no evidence before us to indicate that, for example, a Passaic County Utilities Authority run by Passaic County Freeholders, would be able to operate a water and sewer system in Pompton Lakes any more efficiently or professionally than the system is presently run under local control. For many years we have been able to provide quality service to the residents of Pompton Lakes at modest rates, while at the same time maintaining the reputation of the Authority's bonds as sound investments.

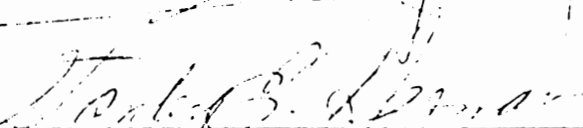
For these reasons, we urge you to vote against this proposed legislation, which is contrary to the interests of the citizens of Pompton Lakes and to those of the citizens of other municipalities within the State of New Jersey.

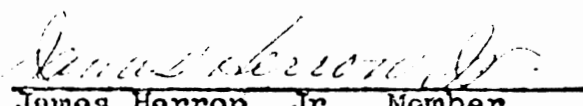
Respectfully yours,

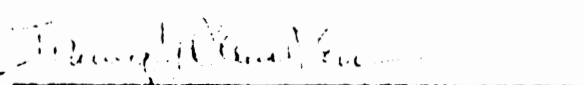
POMPTON LAKES BOROUGH
MUNICIPAL UTILITIES AUTHORITY


Alfred Lockwood, Chairman


William De Young, Member


Stanley E. Herman, Member


James Herron, Jr., Member


Irving Weinstein, Member



NEW JERSEY SENATE

JAMES P. VREELAND

SENATOR, 24TH DISTRICT

1180 ROUTE 46

PARSIPPANY, NEW JERSEY 07054

201-334 8077

August 25, 1975

Mr. Alfred Lockwood, Chairman
Pompton Lakes Borough Municipal Utilities Authority
2000 Lincoln Avenue
Pompton Lakes, New Jersey 07442

Dear Mr. Lockwood,

Thank you for your letter of August 18th, regarding
S-3084 which your Authority opposes. I would agree with
your views and also oppose this bill.

Thank you again for your interest in writing.

Sincerely yours,

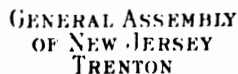
James P. Vreeland, Jr.
James P. Vreeland, Jr.

JPV/sf

RECEIVED

AUG 26 1975

POMPTON LAKES BOROUGH
MUNICIPAL UTILITIES AUTHORITY



260 SPRINGFIELD AVENUE
SUMMIT, N. J. 07901

TEL. 201-267-2512 (DISTRICT OFFICE)
TEL. 201-273-3709 (RES)

September 15, 1975

Mr. Alfred Lockwood, Chairmen
Pompton Lakes Borough
Municipal Utilities Authority
2000 Lincoln Avenue
Pompton Lakes, New Jersey 07442

Dear Mr. Lockwood:

Thank you for your letter of August 18th, regarding Senate Bill 3084, which is designated the "County Utilities Authorities Act".

I am definitely opposed to the creation of such an authority, and will vote accordingly in the Assembly.

If there is any way that I may be of help in the future, please let me know.

Sincerely,

Barbara A. Curran
MEMBER OF THE
GENERAL ASSEMBLY

BAC: rmn

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 2. *Scirpus americanus*
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STATEMENT

MR. CHAIRMAN AND MEMBERS OF THE SENATE ENERGY AGRICULTURE AND ENVIRONMENT COMMITTEE.

I AM WILLIAM E. KENNY, ASSISTANT SECRETARY OF AGRICULTURE, SPEAKING FOR SECRETARY PHILLIP ALAMPI AND THE DEPARTMENT OF AGRICULTURE. MAY I FIRST THANK YOU FOR THIS OPPORTUNITY TO PARTICIPATE IN THESE DELIBERATIONS AND COMMEND YOU ON YOUR EFFORTS TO SEEK PRACTICAL AND EFFECTIVE MEANS TO IMPROVE POLLUTION CONTROL, WATER QUALITY AND ENVIRONMENTAL HEALTH.

CONCERNING THE BILLS UNDER DISCUSSION, MY COMMENTS ARE LIMITED TO THEIR AFFECT UPON CHAPTER 251, LAWS OF 1975 AND S-1042 WHICH WAS APPROVED BY THE SENATE.

C-251, PL 1975

CHAPTER 251 ASSIGNED CERTAIN POWERS AND RESPONSIBILITIES TO THE STATE SOIL CONSERVATION COMMITTEE. INCLUDED WAS AUTHORITY TO ESTABLISH STANDARDS FOR SOIL EROSION AND SEDIMENTATION CONTROL. THE ACT ALSO DIRECTED LOCAL SOIL CONSERVATION DISTRICTS TO REVIEW AND APPROVE ALL APPLICATIONS FOR DEVELOPMENT EXCEPT SINGLE FAMILY DWELLINGS NOT ASSOCIATED WITH A LARGER DEVELOPMENT AND ALL DEVELOPMENT IN WHICH THE AREA AFFECTED IS LESS THAN 5000 SQ. FT.

TO AVOID DUPLICATION OF EFFORT AND CONFLICT BETWEEN APPROVING AGENCIES, IT IS SUGGESTED S-3084 BE AMENDED TO INCLUDE A REFERENCE IN SECTION 4 - FOLLOWING PARAGRAPH H. FOR JOINT AGREEMENT BETWEEN THE COUNTY UTILITIES AUTHORITY AND THE LOCAL SOIL CONSERVATION DISTRICTS.

S-1042

S-1042 IS, IN OUR JUDEGMENT, MODEL LEGISLATION WHICH RECOGNIZES UNIQUE WASTE PROBLEMS ENCOUNTERED IN AGRICULTURAL OPERATIONS. THE BILL WOULD ESTABLISH A SPECIAL BASIS FOR THE CONTROL OF POLLUTANTS THAT MAY EMANATE FROM LIVESTOCK FACILITIES WHILE SEEKING AN ECONOMIC - ENVIRONMENTAL BALANCE.

ALTHOUGH THE SCIENTIFIC COMMUNITY HAS DEVELOPED NEW METHODS AND PROCEDURES FOR HANDLING SOLID WASTES, MANY ARE NOT YET ECONOMICALLY FEASIBLE FOR AGRICULTURAL NEEDS. IN OUR JUDEGEMENT, S-1042 OFFERS A VERY PRACTICAL APPROACH FOR RESOLVING FARM POLLUTION PROBLEMS SO THAT WE SUGGEST AGRICULTURE BE SPECIFICALLY EXEMPT FROM S-3086 BY AMENDING SECTION 6 - PARAGRAPH E.

AGAIN, ON BEHALF OF SECRETARY ALAMPI AND THE DEPARTMENT OF AGRICULTURE, THANK YOU FOR THIS OPPORTUNITY TO PRESENT OUR VIEWS ON THESE VERY SIGNIFICANT BILLS.

Statement of

John Reed

New Jersey Builders Association

on

Senate Bills 3084, 3085, 3086 & 3087

before

Senate Energy, Agriculture & Environment Committee

November 25, 1975

Trenton, N. J.

Today's hearing on Senate Bills 3084, 3085, 3086 and 3087 affords the opportunity to discuss the relative merits of countywide bodies performing functions which heretofore had normally been performed on a municipal level, as well as the opportunity to consider the expanded exercise of authorities on the part of the Department of Environmental Protection.

Our comments on each of the bills will be a combination of the positive and negative elements of each measure and rather than stamp any bill as one which would be unalterably opposed, we believe it would serve a greater purpose if we simply bring to the attention of the committee certain points about the legislation which may have been overlooked or to which the committee should devote additional attention. Each of the bills will be discussed separately.

S-3084

The proposed "County Utilities Authorities Act" would establish 21 county utility authorities, which would replace any existing county sewerage authorities and any municipal sewerage and utilities authorities and place the functions of these existing authorities under a single controlling body.

The first thought that comes to mind is that when a county assumes so many different functions, which were previously performed by various municipal authorities, that county authority must, by necessity, be a full-time body in order to ensure that decisions are made promptly and without the traditional month-to-month delay that one frequently encounters when dealing with municipal bodies. We realize that the legislation proposes to fill the positions on the authority through appointments by the Board of Chosen Freeholders. However, the committee should give additional consideration to the staffing of the authority, so that the county utility authority will not simply become a large unwieldy body, but rather an agency which performs its tasks as promptly and as expeditiously as possible. Certainly, this should be a primary goal of a county utility authority and it seems impossible to meet this goal if members of the authority are not full time members, and if the authority

does not meet on a regular basis. In addition, the committee should incorporate into the legislation some meaningful criteria for the appointment of an individual to ensure that.

With the previous thoughts in mind, we commend the sponsor for the interest which he has shown in seeking to consolidate the utilities authority function under a single entity. Municipal utility authorities, in many instances, have proven loath to the initiation of sewerage treatment facility improvements or construction because of a lack of funds or a lack of desire to accommodate additional growth or both. Ideally, utility authorities would be established on a regional or drainage basin formula. However, in view of the likelihood that such an environmentally superior form of regulation is politically impossible, the institution of county utility authorities is the most desirable alternative.

Despite the basically favorable concept of the legislation, there are several sections of the bill which point toward either a continuation of present municipal abuse or which would open the way for awkward situations, should they remain as a part of S-3084. We are calling your attention to these sections not as a means of opposing the legislation, but rather with the hope that the committee will take the necessary steps to modify these sections, and thereby, in establishing county utility authorities to bring to these authorities an ease of operation which has oftentimes been lacking in the past on a municipal level.

Section 15, through language which is identical to that of the municipal utilities authority law, will provide a means for justifying the requirement that developers design, construct, and install sewerage treatment and disposal facilities in accordance with specifications set forth by the authority and that the developers then turn the entire system over to the authority at no cost.

We are not recommending that the developer be compensated in such an instance, but rather would urge the committee to modify this section to insure that the developer pays only his fair share and that some

protection exist against oversizing, unnecessary equipment and other excessive requirements which the authority may impose, along with the cost burden upon the developers, since the authority realizes that the developer will pay the full cost of any facility. Unless this section is modified to contain such a safeguard, authorities will continue to abuse this right and make such excessive demands in order to force individual developers to provide facility growth accommodations above and beyond those necessary or those attributable to individual projects.

Section 19, which deals with the establishment of rents, rates and fees for direct or indirect connection to a sewerage system, contains no provision for safeguard against the present practice of arbitrary and excessive connection fees. Ideally, S-3084 would be amended to contain a specific formula for the computation of such charges and at the least, it should contain a provision that a builder either receive a credit against such connection fees in the instance where he has constructed part of the facility; or a provision for a rate review board so that the fees established by the authority can be subject to review by an independent body.

Additionally, we are, of course, concerned, as many other people would be, over the placement of broad authority in the hands of a single county body. While we are certain that consideration has been given to establishing a balance of power so that no county authority should be able to abuse such power, we nevertheless retain a desire to see that the authority report regularly to a supervisory body. Hopefully the provision in Section 17, which requires the submission of an annual budget to the Departments of Environmental Protection, Public Utilities, and Community Affairs, will be expanded so that these Departments will not only review and comment on the budget, but will have the right of modification and/or approval. Of particular concern is the rate schedule and each county utility authority should be subject to PUC review and approval with regard to its fees and charges.

One of the major stumbling blocks to even greater success on the part of certain utility authorities are the rather stringent bonding laws in the State of New Jersey which make the issuance of bond resolutions unnecessarily expensive. Certainly, a measure which is to be dependant upon the State's bonding system for success should devote attention to the methods for lessening some of the costs involved in such a system as an integral part of effective legislation.

Finally, the State of New Jersey has come to realize the impropriety of excessive review and approval periods by various State bodies, the effect of such delays upon the cost of facilities, the role which they play in discouraging growth and their impact upon the overall economy. Consequently, there is no question that S-3084 should contain a specific schedule of permissible review and approval periods for each of the various facilities which the county utility authorities would be called upon to consider. Punitive provisions should accompany these time schedules in the same manner in which the alternative of automatic approval has accompanied the time limits in other legislation.

In conclusion then, S-3084 is a conceptually sound bill which would require certain modifications, but nevertheless, sets forth a principle which should be pursued in order to eliminate the morass which is presently caused by the existence of numerous municipal utility authorities that frequently operate without benefit of clear communication with neighboring municipal utility authorities.

S-3085

In a manner not unlike that of the preceding bill, this measure would establish county department's of health to be guided by uniform standards as promulgated by the Department of Environmental Protection. Again, the concept is a sound one, but the administration of the bill can be severely questioned with regard to Section 8.

That section relates to the role of county departments of health in terms of septic tank installation and the establishment of standards for the operation of new or existing septic tanks. The county board should

not be permitted to establish such standards but should be guided by the rules and regulations adopted by the Department of Environmental Protection and recently revised as they concern "The Realty Improvement Sewerage and Facility Act" (P.L. 1954, c. 199). This concept should, therefore, also be incorporated in Section 6a, which spells out the monitoring duties of the County Board of Health.

The principle of countywide administration is a sound one, but the standards which govern the administration must be uniform throughout the State and must be promulgated at a State level and by a technically competent agency.

S-3086

It is our understanding that this bill provides, to the Department of Environmental Protection, administrative authority which the Federal Water Pollution Control Act amendments sought to extend to the environmental protection departments of each State so as to implement, as effectively as possible, the water pollution control permit system stipulated within the Federal statute.

In that respect, the bill is a sound one and will move the State toward the eventual federal goal of complete State administration of such a program.

In fact, at the present time, Federal legislation, commonly referred to as the Cleveland-Wright Bill (HR 2175) has been introduced, and has gathered considerable support as a measure which would promote greater delegation of FWPCA program responsibilities to the States.

The Cleveland-Wright Bill would authorize the State agency to certify that plans, specifications, and estimates for a proposed sewerage treatment project meet the requirements of the Federal Water Pollution Control Act and that the proposed project conforms to applicable area-wide and State plans, is entitled to priority, and relates directly to the needs to be served by such works, including sufficient reserve capacity.

One of the most significant prerequisites for economy recovery in New Jersey is the assurance, to whatever degree possible, that the instances in which housing production is jeopardized by a lack of sewerage treatment construction grant funds are minimized. The general intent of the Cleveland-Wright Bill is to process grants more effectively and efficiently, and to further ensure, through greater State assumption of authority, that there is a coordination between the New Jersey facilities which need Federal Water Pollution Control funds to "reopen" and the facilities which are earmarked for such funds by the Federal EPA. Such coordination was sorely lacking in the last fiscal year budget when only 15 of the 70 facilities under a sewer ban in New Jersey received FWPCA construction grant funds.

The Cleveland-Wright Bill will ensure against the repetition of such an error, but the Cleveland-Wright Bill requires that a State Water Pollution Control Agency demonstrate that it "has the authority, responsibility, and capability to take all of the actions, determinations or approvals for which certification is submitted." Senate Bill 3086 would provide the N. J. Department of Environmental Protection with the legislatively-granted authority and responsibility, and the bill's \$200,000 appropriation would enhance the Department's capability.

All indications are that a combination of the Federal Cleveland-Wright Act and Senate Bill 3086 will increase the likelihood of an improved New Jersey water pollution control program and one which is responsive to the environmental and economic needs of the State.

S-3087

This bill provides that the Commissioner of the Department of Environmental Protection institute a continuing planning process and adopt a State water quality management plan. Such a provision is obviously a necessary one so that land use planning does not continue to be done on the basis of municipal boundaries, but rather weighs such factors as drainage basin areas and water supply in determining the availability of certain areas to accommodate growth. It incorporates the concept of regional considerations rather than municipal limitations, and consequently, is the most practical way of assessing growth opportunities.

In addition, it not only assures a more judicious use of Federal Water Pollution Control construction grant funds, but allows the Department to comply with a requirement for such a planning program under the Federal Water Pollution Control Act Amendments of 1972. It is, therefore, a measure worthy of support and necessary for the continued movement toward greater coordination and less wasted effort by the State and Federal environmental protection agencies.

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In conclusion, the four bills under discussion today, are all of a varying degree of merit, with some, such as S-3084 in need of considerable safeguard amendments; others, such as S-3085, probably in need of a second look to guard against a diversity of standards; and still others, such as S-3086 and S-3087, necessary for the effective implementation of the Federal Water Pollution Act and apparently in a form which would not require considerable change.

Perhaps the most meaningful final statement we could make would be a recommendation for a continuation of dialogue on all four bills, because of the conceptual soundness of each measure.

BURLINGTON COUNTY HEALTH DEPARTMENT

HIGH AND GRANT STREETS
MOUNT HOLLY, N. J. 08060

WALTER TROMMELEN, M.P.H.
HEALTH OFFICER AND PUBLIC HEALTH COORDINATOR

PHS DE 267-3300

EXT 321,322,323

AREA CODE 609

Statement for Presentation to the
State Clean Water Council at the Public Hearing,
September 19, 1974 Ramada Inn, East Brunswick, New Jersey

Thank you for this opportunity to present a statement regarding the Water Pollution Control Program administered by the New Jersey Department of Environmental Protection.

I will confine my remarks to the question-how can other government agencies and the public assist DEP in its Water Pollution Control Program?

In my own County of Burlington, I assure you that the number of water pollution control problems are many. I wouldn't be surprised to find that they are typical of many other problem areas throughout the State.

The present procedure of the State DEP, Bureau of Water Pollution Control, as I understand it, in trying to cope with these problems, is for their field staff to research water pollution complaints themselves as well as to try and maintain surveillance of sewage treatment plants, industrial dischargers and monitoring for other known point sources of pollution, along with assessment of water quality in coastal and inland surface waters. It is indeed a monumental task. In fact it appears to be of such magnitude that it maybe beyond present and even beyond an expanded level of staffing which even a minimally complete program would entail.

Why couldn't there be greater utilization of knowledgeable and qualified people at the municipal and county level in carrying out certain functions in the Water Pollution Control Program under the auspices of the State DEP?

For example, the Burlington County Health Department as the official agent for all forty local Boards of Health presently has fourteen state licensed sanitary inspectors in its employ. While we feel we have a good rapport with the State DEP, Bureau of Water Pollution Control and have worked closely with their staff on many pollution problems, there seems to be a tendency to go it alone. I believe this leads to duplication and a waste of valuable manpower.

Many other full time Health Departments throughout the State have a resource of trained and knowledgeable licensed sanitary inspectors that could be called upon by the State.

Such an approach would free up a great number of the State's own field staff to devote more time in the more technical aspects of water quality management, enforcement activities and in the more complex pollution problems which require State expertise.

In other words, greater utilization of manpower available at the local level would greatly assist the State in their Water Pollution Control Program. It might well be a means to aid the State in meeting their needs to comply with the Federal Water Pollution Control Act 1972, as well as being a factor in qualifying for the assumption of the National Pollutant Discharge Elimination System now administered by the U. S. Environmental Protection Agency (EPA).

Since 1970 we have seen our State Health aid monies greatly reduced and presently over 60% of our budget is supported by County Freeholders appropriations. Our Department presently utilizes 30% of its environmental health budget in sewage and stream pollution control programs, which translates to about \$80,000 a year in costs related to water pollution control efforts in Burlington County. The State Department of Environmental Protection provides us with no financial assistance to carry out our water pollution control activities. We stand ready to assist the State in a more intensive overall Water Pollution Control Program, but realistically, we cannot appreciably increase our efforts without additional funds from the State.

As one health department, we see stream pollution and sewage disposal as a priority program for local environmental health services; not only because of the health hazards associated with improper sewage disposal, but also with an interest in the importance of water pollution control as an overall upgrading of the community environment.

Also, another area which the State Clean Water Council should be aware of is the duplication which exists when State officials review local applications for on-site sewage disposal systems in the "Critical Areas", as required under present State regulations. I feel that where qualified agencies exist at the local level, their reviews should be accepted by the State as fulfilling the requirements in the "Critical Areas", where perhaps a contractual agreement could be worked out between the State and local agencies.

I enclose herewith a copy of the May 1974 Water Resources Management Newsletter No. 3, which provides an overview on Powers of the Health Officer and Local Boards of Health in Water Pollution Control and Environmental Protection. Excerpts by William R. Potter, legal analyst for the N. J. Department of Environmental Protection in the article illustrate more completely the type of role local health departments could undertake which would result in a cooperative local/state Water Pollution Control Program.

Walter A. Trommelen, M.P.H.
Health Officer and Public Health
Coordinator

(1)

STATEMENT OF ALFRED A. PORRO, JR.
ON BEHALF OF AUTHORITIES' ASSOCIATION OF NEW JERSEY
RE SENATE BILL NO. 3084

On behalf of the Authorities' Association of New Jersey and pursuant to the resolution of that Association dated Wednesday, November 19, 1975, I, as counsel to that Association do hereby object to the passage of Senate Bill Number 3084 and do hereby respectfully request the delay of any further action thereon until a thorough study can be completed relative to the impact of said Bill on existing Authorities and future needs in various regional water basins. The Authorities' Association is a State-wide Association representing sewage, water, solid waste and other authorities. The Bill in question was discussed extensively at its most recent meeting in Atlantic City as referred to above. Great concern is expressed by this Association and its membership respecting this Bill.

Further study of the Bill is particularly needed respecting the following problem areas.

1. False regionalization tool. The proposal of a County Unit to serve as a regionalization mechanism for the management of water resources and for the disposal and recycling of waste is indeed a false premise. The management of these problem areas, particularly that of water resources is not at all confined or dictated by county lines. Water shed basins in many instances covering more than one county appears to be the proper regional designation. A thorough study relative to all of the water shed and drainage basins

must be completed and proposed districts set up along those lines essential.

2. Take over of existing municipal authorities.

The Bill authorizes the proposed county authority "to operate and maintain any sewage system, water system, surface water system or solid waste system which is owned by a municipality". This provision, when combined with the other powers contained in the act and particularly the power of condemnation is indeed a much too powerful weapon to vest in any governmental body. A thorough study, of which this Association will lend its aid, is necessary respecting all municipal authorities, their present systems, service areas, indebtedness and operations. Only in this way can the tremendous impact of such a powerful proposal be realized.

3. Mandatory establishment. The mandatory nature of subsection 4 requiring, i.e. "Every County shall establish" is a provision which requires extensive study. It would appear that the needs of each of the 21 counties varies greatly and that such a mandatory provision would serve no utility, if not be detrimental in many of the counties.

4. Merging of authorities. The mandatory merging of authorities set forth in section 4b also appears to be a very dangerous broadsweeping mandate in need of indepth study. Likewise, such a mandatory provision can be counterproductive both in present and future situations in the various counties.

5. Financial disability. A forcing of a mandatory merger or takeover of any given authority which may in and of itself may be financially sound could have a substantial detri-

mental if not fatal effect on that authority and particularly its outstanding bonds relative to a situation where its merger or takeover with a less sound proposed county utilities authority is the case. Thus, a complete study of the financial stability of all of the existing authorities and the impact upon their outstanding or future bonding is essential.

6. Impairment of bond contracts. The provisions of the act in question appear to lay the basis for substantial impairment of outstanding bond issues, obligations and agreements.

7. Potential political abuses. Section 7 allowing the dissolution of any such authority by the mere taking over of its assets, liabilities and contractual obligations sets the seeds for substantial political abuse under certain circumstances. A change of government in a particular county can effectuate a dissolution of an existing authority and even the eventual creation of another one, having substantial impact upon the outstanding contractual obligations of the authority and the employees and continuity thereof. This provision must be revised to prevent such potential political abuse.

8. Conflict of interest provision. Section 10 of the Bill attempting to avoid conflict of interest, is merely the old archaic provision contained in similar acts and does not provide any remedial enforcement or provisions relative to the same. Such provisions are now essential in this respect. Further, disclosure provisions appear to be relevant and advisable at this point.

9. Budget approval. Section 17 requiring the annual budget to be approved by the freeholders of the county appears

to be one in further need of study. Such a mandatory approval could result in an arbitrary withholding of said approval, without standards and remedies, substantially effecting the stability not only of the proposed county authority but the various authorities which it is proposed that it shall takeover.

10. Rate schedule provisions. It is apparent that the rate schedule provision in the act are far too generalized, without sufficient standards or criteria and certainly failed to respect the recent case law respecting rate schedule structuring for sewage and water authorities generally.

11. Connection with existing facilities. Although section 45 appears to be a reasonable authorization allowing for the entering into the existing systems by the county authority, provision must be made that the same is subject to the voluntary agreement of the existing facilities and not a potential mandatory provisions of this section at this time. When combined with the power of condemnation, this section, without further standards and procedures is indeed dangerous.

12. Conclusion. Since the preliminary review of this Bill discloses substantial problem areas in essential need of indepth study and revision, it is the request of the Authorities' Association of New Jersey that passage of this Bill be delayed until completion of an extensive study relative to the major operating provisions of the Bill, with particular emphasis on the items mentioned above. The Authorities' Association of New Jersey, through its membership, stands ready to aid in the collection of the essential data required for such a study.

Monmouth County Planning Board

STATEMENT OF THE MONMOUTH COUNTY PLANNING BOARD CONCERNING SENATE BILLS

NO. 3084, 3085, 3086 AND 3087 ON NOVEMBER 25, 1975, BEFORE THE

SENATE COMMITTEE ON ENERGY, AGRICULTURE AND ENVIRONMENT

My name is Robert D. Halsey. I am the Planning Director of the Monmouth County Planning Board and offer the following statement authorized by the Board at its meeting yesterday, November 24, 1975.

The Monmouth County Planning Board has no objections to Senate Bills No. 3085 and 3086. Both appear to be straight forward bills with worthwhile objectives and clearly defined guidelines.

The Board does, however, have problems with Senate Bills No. 3084 and 3087 and must oppose both.

SENATE NO. 3084, "County Utilities Authority Act":

Appears to be too broad and all encompassing. The Board can see advantages in having a single overall-planning function at the County level, but does not see the value of joining this wide array of operational functions into a single agency.

It would appear that this legislation would give a utilities authority significant control over all of the key determinants of development patterns with the exception of transportation facilities. The veto power over the authority budget by the Board of Chosen Freeholders does not appear adequate. Authorities of this nature should be officially constrained by County, State and Regional comprehensive planning.

A few specific questions and comments concerning provision of this Bill are as follows:

Page 6 - Section 4

Although the section regarding creation of a county utilities authority is somewhat clouded, it appears that the Monmouth County Bayshore Outfall Authority would become the County Utilities Authority in Monmouth County. While the members of this Authority

S-3084, cont'd.: (Pg. 6 - Sect. 4)

are beyond reproach and have done an excellent job in construction of the Bayshore Outfall System, they represent a limited geographic area of the County and one which probably would not be directly affected by the sewerage portion of the designated duties of a utilities authority. Part of the area served by the Outfall Authority is served by a regional sewerage authority over which the County has no jurisdiction under this Act.

Page 8 - Section 7:

Since this section would allow the County the right to dissolve the Utilities Authority and assume its duties, why not give the County the option of assuming any or all of the designated duties without going through the sham of creating an authority.

Page 8 - Section 8a:

This section is cloudy since a regional sewerage authority might not serve the entire territorial limits of a given municipality (i.e., Holmdel, which is partially served by a regional authority).

Page 12 - Section 17:

This section giving Board of Chosen Freeholders power to approve an authority budget is a two edged sword.

1. There is no clear time limit within which the County can act and no mechanism for breaking a stalemate.
2. A blanket veto would seem to weaken the salability of authority bonds and notes.

Page 22 - Section 33:

Disagree with the unlimited power to condemn public lands, especially parks and open space lands.

Monmouth County has found it very advantageous to decentralize its sewerage system responsibilities into regional authorities organized on a drainage basin concept. The County has also elected to plan, construct and

(Continued)

operate a solid waste disposal and reclamation facility as part of the general function of County Government.

It is the considered opinion of this Board that this proposed legislation does not serve the best interests of Monmouth County, particularly as it applies to sanitary sewage disposal and solid waste disposal.

SENATE NO. 3087, "Water Quality Planning Act":

S-3087 creates several problems for Monmouth County. It mandates planning responsibility and some degree of responsibility for control of non-point sources of pollution. This is pollution caused by storm drainage and uncontrolled runoff, an area in which serious technical, financial and legal questions and pitfalls abound.

The passage of this Bill will generate a requirement in Monmouth County for an expenditure of at least 1.2 million dollars for aerial topographic mapping necessary prior to any intelligent and meaningful assault on any drainage-related pollution problems. This expenditure is not eligible for Section 208 funding and is one of the reasons why Monmouth County did not request designation as a 208 Planning Agency.

The estimated cost to the Monmouth County taxpayer for the local share of the estimated \$750,000. planning cost would range from \$90,000. to \$120,000. depending upon the level of State funding for the local share. It thus appears that the Monmouth County budget would have to provide for an added locally financed expenditure of from 1.3 to 1.5 million dollars if this Bill is passed.

Another problem with this Bill as it now stands, is that the totally inadequate time constraint. It provides for a two-year deadline from date of passage of the Bill for the adoption of a County plan. The Bill also gives the State two years to adopt its plan, and further requires the County plan to be consistent with the State plan. This is a difficult if not impossible task. It should also be noted that the Commissioner has 180 days to promulgate guidelines, thus leaving counties with only 18 months to perform its task.

The Board suggests that a four year time frame be established, and further recommends that this type of legislation provide for a six month delay between the passage of the Bill and the date upon which

(Continued)

S-3087, cont'd.:

its measures take effect. This would allow affected agencies to make funding and staffing provisions, interview consultants and establish operational mechanisms necessary to carry out the mandated duties.

The Monmouth County situation is also somewhat unique in that the County has an adopted Master Sewerage Plan, an adopted Master Water Plan and a non-adopted, but utilized general plan for solid waste disposal. All of these Monmouth County Plan elements are coordinated with the adopted Monmouth County General Development Plan, which in turn is consistent with the land use element of the Tri-State Regional Planning Commission.

The Monmouth County Planning Board appreciates the opportunity to comment on these Bills. The Board and its Staff stand willing to discuss any or all of its comments in greater detail with the Committee or its Staff. Our comments have been closely oriented toward our own situation in Monmouth County and we recognize that others may have entirely different viewpoints.



MAYOR

LT. COL. JOSEPH H. D'IPPOLITO, R.I.
EXT. 225 / 226

VINELAND, NEW JERSEY 08360 • TELEPHONE: (609) 691-3000

TO WHOM IT MAY CONCERN:

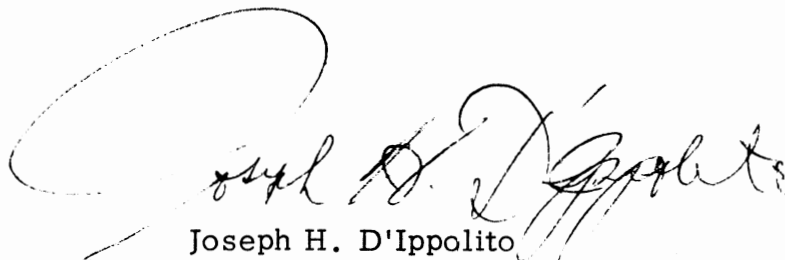
Re: Senate Bills 3084, 3085, 3086 & 3087

On Monday, November 24, 1975, the undersigned received a telephone call from Mr. Aquino and Mr. Bassani who spoke on behalf of Mayor Newton Miller of Wayne Township and strongly accentuated their opposition to the above Bills.

The Mayor's feeling is that these Bills virtually gives the responsibility of our local sewer and water systems over to a County Authority. Further, it will dictate the economic and social growth of our city in accordance with the thinking of the county since they will have the say as to what areas of our city will receive these services in the future; most importantly, who controls the borrowing power of the County Authority and who controls the rates for these services to various municipalities served.

Obviously, the power of home rule is being violated. Although a community would lose control of the water and sewer Utility we still would have the responsibility to maintain connecting lines and to collect fees. Thus, we would still have the major headaches and would be answering complaints but have no power to control or decision ability to make a change.

Rather than place more responsibility and control at a local level it is being taken away. Consequently, confusion and aggravation increases, making it very difficult for communities to function in an efficient manner.


Joseph H. D'Ippolito
Mayor

MORRIS COUNTY MUNICIPAL UTILITIES AUTHORITY

COURTHOUSE

MORRISTOWN, NEW JERSEY 07960



November 21, 1975

State of New Jersey
Senate Energy, Agriculture and Environment Committee
Room 223
State House
Trenton, New Jersey 08625

RE: County Utilities Authority Act (S3084)

Gentlemen:

The members of the Morris County Municipal Utilities Authority have made a rather exhaustive study of the proposed Senate Bill 3084 known as "County Utilities Authority Act" and opposes the adoption of the Bill in its present form.

The MCMUA has embarked upon an extensive water supply program for the County of Morris, and has spent millions of dollars for acquisitions of lands for reservoir and well purposes. The long-range plan of the MCMUA is to establish three reservoirs within the County of Morris for the purpose of selling water at wholesale rates to the various municipalities. The Authority is presently furnishing water to several municipalities within the County of Morris from wells which have been constructed at the Alamatong Reservoir Site. The members are of the opinion that, as of this date, it would be impossible for it to handle sewerage disposal and solid waste. The members further feel that the municipalities which had the foresight to establish sewerage authorities and/or utilities authorities should not be penalized and have these bodies taken over or come under the control of a County Utilities Authority.

Query: If sewerage and utilities authorities are to come under the County Utilities Authority's jurisdictions, why should not all water supplies and sewerage systems come under the same jurisdiction? The mere fact that a municipality or a region provided for authorities should not now be taken away from it, nor should they be under the direct control or jurisdiction of another body.

Further, the MCMUA objects to that part of the Bill that makes it mandatory for a County to create a utilities authority and then,

November 21, 1975

when such authority is created, that authority, or, in the event there is already an existing County Utilities Authority, must take over the management of water resources, operate and maintain sewerage systems, solid waste disposal, etc.

The MCMUA is not opposed to a bill which will authorize the creation of a County Utilities Authority provided the same is not mandatory upon the County to provide for the same and, further, provided that the authority, if created, is not required to take on all phases of operation as provided for in the present Bill.

Very truly yours,

MORRIS COUNTY MUNICIPAL
UTILITIES AUTHORITY

Mary B. Rolio

By Mary B. Rolio,
Secretary

The Wharton Sewerage Authority

WHARTON, NEW JERSEY

CHESTER F. RITZER
Chairman

WILLIAM J. SWEENEY
Vice-Chairman

WILLIAM ADAMS
Member

STEPHEN A. SMITH
Member

WILLIAM J. LYONS
Member

November 21, 1975

EDWIN W. ORR, JR.
Attorney

PATRICIA A. TRIMMER
Secretary-Treasurer

LEE T. PURCELL
Consulting Engineer

State of New Jersey
Senate Energy, Agriculture and Environment Committee
Room 223
State House
Trenton, New Jersey 08625

RE: County Utilities Authority Act (S3084)

Gentlemen:

The members of the Wharton Sewerage Authority have made a rather exhaustive study of the proposed Senate Bill 3084 known as "County Utilities Authority Act" and opposes the adoption of the Bill.

Wharton Sewerage Authority originally constructed the sewerage system in the Borough of Wharton, Morris County, New Jersey, and has continued to expand and operate the same since its inception. The members are of the opinion that the Authority should be able to continue to operate in the Borough of Wharton as it has done in the past without being taken over by the County or come under its jurisdiction.

If the Borough of Wharton had built and operated the sewerage system on its own instead of creating a sewerage authority, the Borough of Wharton would not come under the jurisdiction of the County as proposed in the "County Utilities Authority Act". It would appear that such regulation is unnecessary, unrealistic, and violates home rule.

This Authority has no objection to County Utilities Authorities provided that there are no mandatory provisions that the County would then obtain jurisdiction over existing authorities.

Very truly yours,

WHARTON SEWERAGE AUTHORITY



By Patricia Trimmer,
Secretary



COUNTY OF MERCER
ADMINISTRATION BUILDING
TRENTON, NEW JERSEY 08607

ROBERT A. CARMIGNANI
County Administrator

May 19, 1975

Honorable Joseph L. McGahn
Senator
Senate Energy, Agriculture
and Environment Committee
Room 223
State House
Trenton, New Jersey 08625

Dear Senator McGahn:

I received your letter of April 28, 1975, concerning a package of waste management bills.

I have reviewed these bills with Planning Director Leo Laaksonen, and would like to make the following comments:

S-3084 - We would have no reason to oppose this bill, but there is one apparent weakness; i.e., there is no reference to utility planning, financial or fiscal, by an authority. It's emphasis is on funding and operation.

S-3085 - We would certainly be in favor of this bill as it mandates the establishment of a County board and Department of Health. Municipalities then could contract with the County for municipal health functions.

The funding provision of \$200,000 with a maximum of 50 percent State participation would seem to be inadequate.

S-3086 - We are very much in favor of this bill, which provides for State regulation of waste water discharge and issuance of permits.

S-3087 - This bill is mandated under the Federal Water Pollution Control Act for participation in various programs, 106, 201, 208, 303E, etc.

The Commissioner (DEP) must develop a continuing planning process, formulate and adopt a State water quality management plan.

This legislation appropriates \$50,000 for administration (State) and \$150,000 for grants to counties.

I hope my comments have been of some assistance.

Sincerely,

Robert A. Carmignani
Mercer County Administrator

RAC rm

cc: Mr. Laaksonen

OFFICE OF THE
DEPARTMENT OF PLANNING

JOSEPH T. PATERMO, AIP, PP
Planning Director

HILLIARD T. MOORE, SR., Freeholder
Chairman,
Committee on Transportation & Planning



Camden County

2276 N. 48rd Street, Pennsauken, N. J. 08110

October 24, 1975

Mr. David C. Mattek, Committee Aide
Senate Energy, Agriculture & Environment Committee
Room 223, State House
Trenton, New Jersey 08625

RE: Bills S-3084 through S-3087

Dear Mr. Mattek:

In reply to Senator McGahn's request for my opinions on bills S-3084 through S-3087 for the Committee's November 25 hearing, I have the following comments:

- S-3084 (Establishes a county utilities authority in each county, to operate water supply, sewage, flood control and solid waste facilities).

- Comments as follows:

The regionalization of key public services (sewer, water and solid waste) through a multi-purpose county utilities authority would strengthen county government. The Act gives County Board of Freeholders greater control over the activities of such authorities thereby limiting their authority. Such an authority could also serve as the 208 implementing agency, if coordinated with the provisions of S-3087.

- S-3085 (Gives county boards of health the responsibility for enforcing certain health standards and for enacting such standards).

- Comments as follows:

This represents needed legislation which could delegate State DEP powers to county level. It gives county powers to exercise control over pollution. County is closer to the people and knows requirements of area and citizens. Weakness of act is that it takes powers RE: resolutions and ordinances away from the elected officials. Act should be amended in this regard.

- S-3086 (Delegates permit system to regulate discharge of pollution into water from the federal government to the state).

- Comments as follows:

Such regulatory powers were permissive under the Federal Water Pollution Control Act but the provisions of this bill specify state's role in the area. It appears to consolidate Dept. of Health regulations into the Dept. of Environmental Protection.

45x

New telephone No.
(609) 757-8620

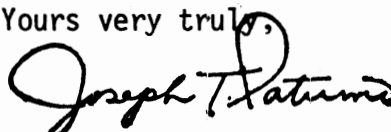
~~(609) 964-5776, (609) 964-8700, Ext. 353 or Ext. 250~~

- S-3087 (Designates each county as a Section 208 areawide planning agency).
- Comments as follows:

This legislation should be endorsed with the proper recognition of existing 208 agencies. As you know, Camden, Burlington, and Gloucester counties have been designated as a 208 waste water management planning area. DVRPC has been designated as the leading planning agent to perform the 208 planning. The two year period in which to prepare the plan may prove to be too short a period. An extension of time with supporting evidence would be needed. The funds appropriated are insufficient even if the Federal government were to pick up 75% of the cost.

I hope these comments are of value in the Committee's deliberations. We appreciate the Committee's concern for our opinions.

Yours very truly,



JOSEPH T. PATERMO, AIP, PP
Planning Director

JTP/ds 10-24-75

cc: Ronald Kerins, County Administrator



THE OCEAN COUNTY SEWERAGE AUTHORITY

COMMISSIONERS
LAWRENCE SIMPSON, CHAIRMAN
EDWARD J. MORAN, VICE CHAIRMAN
J. CHESTER HOLMAN
JACK MEYER
JOHN J. SWEENEY

1005 HOOPER AVENUE
TOMS RIVER, NEW JERSEY 08753
201 / 349-3664

November 24, 1975

State of New Jersey Senate
Energy Agriculture & Environmental Committee
State House Room 223
Trenton, New Jersey 08625

Re: Senate Committee letter 10/10/75
Senate Bills Nos. S-3084-3087,
Public Hearing- November 25, 1975

Gentlemen:

The Ocean County Sewerage Authority wishes to provide the comments herein for incorporation into the record of the public hearing to be held on November 25, 1975 concerning proposed Senate Bills Nos. 3084 through 3087.

The Ocean County Sewerage Authority is in conceptual agreement with the intent of proposed Senate Bill No. 3084 and wishes to supplement the intent of said Bill with the following additional arguments:

1. Most of Ocean County is supplied with potable water from groundwater sources. This water after use is converted to wastewater which will be conveyed through the regional sewerage system under construction by this Authority which system will treat and dispose of the treated wastes to the ocean. In the near future however, as our population grows and our potable waters are being depleted, it appears highly probable that the U. S. Environmental Protection Agency and the State of New Jersey Department of Environmental Protection will require that the treated wastewater be recycled to be used again in conjunction with potable water supplies. With the eventuality of recycling in view, this Authority's regional system has been planned and designed in a manner to easily accommodate advance treatment units when the need arises and thus will be involved in a water resources program in the future.

THE OCEAN COUNTY SEWERAGE AUTHORITY

State of N. J. Senate Energy
Agriculture & Environmental
Committee

November 24, 1975
Page Two

2. In the design and construction of this Authority's regional sewerage system the Authority has received over \$200 million in Federal and State grants necessary for said construction. As a condition for the receipt of these Federal and State grants, this Authority was required to develop and implement a county-wide groundwater monitoring program which is presently in the initial implementation stage. This program will quantitatively and qualitatively monitor the groundwaters throughout Ocean County. Thus as a result of Federal and State requirements, this Authority has already instituted the initial steps in the proper development of a regional water resources management program. In addition, it is also apparent that a centralized Authority in Ocean County must be created which will have the ability to monitor and detect changes or overall development of our groundwater aquifers in order that they are protected for use by future generations and to promote orderly economic growth in the County. To convey this responsibility to another agency, which is possible without the passage of Senate Bill No. 3084, while this Authority is already performing a substantial part of this function can only result in duplication of responsibilities with resulting economic inefficiencies. In this same respect we feel that Senate Bill No. 3085 should be restructured to avoid duplication of responsibilities with that of Senate Bill No. 3084.
3. In the area of solid wastes management and disposal, this Authority is responsible for the proper and efficient disposal of approximately 15,000 dry tons per year of wastewater solids (sewage sludge). Thus this Authority through its implementation of a regional sewerage system will be involved in solid wastes management activities. It appears that enlargement of these activities to also include the disposal of municipally generated solid waste as covered by Senate Bill No. 3084, would be a most cost effective solution to an overall solid waste program in any county.

THE OCEAN COUNTY SEWERAGE AUTHORITY

State of N. J. Senate Energy
Agriculture & Environmental
Committee

November 24, 1975
Page Three

4. In the development of the regional sewerage system, the Ocean County Sewerage Authority has developed a staff that is geared to effectively coordinate the activities of the various engineering, legal, environmental and administrative consultants that are needed to develop a regional plan. Consolidating all of the utility oriented regional activities of the County, as proposed by Senate Bill S-3084, under one Authority would conceivably avoid the duplication of staffs, consultants and various other facilities.

This Authority would be please to expand upon the above agreements should you desire.

Very truly yours,

THE OCEAN COUNTY SEWERAGE AUTHORITY



Michael Gritzuk
Executive Director

MG:js

cc: Commissioners
Hiering, Grasso, Gelzer & Kelaher

Testimony before the Senate Energy, Agriculture and
Environment Committee on November 25, 1975

On

The Clean Water Bills, S.3084 thru S.3087

by the Department of Community Affairs

STATEMENT

We are pleased to have the opportunity to present the views of the Department of Community Affairs regarding the clean water bills currently under consideration by this Committee. Our Department is anxious to insure that these bills reflect the needs and requirements of the "Federal Water Pollution Control Act Amendments of 1972" and that they are also consistent with the policies and programs currently undertaken by this Department.

Our primary concern with this package of bills is that they totally fail to recognize the existence and merits of the Hackensack Meadowlands Development Commission. This Commission was created pursuant to the Hackensack Meadowlands Reclamation and Development Act by the Legislature in 1968. The Commission is empowered to, and has, adopted a master plan for the meadowlands district, is enforcing codes and standards for the effectuation of the plan, undertaking redevelopment projects, and providing solid waste disposal facilities for the district. Their master plan includes provisions for water supply, utilities, and sewerage as well as flood control and other related elements of growth and development. The Commission has adopted codes and standards covering land use, and the control of air and water pollution and solid waste disposal.

The Commission is also currently undertaking sewerage, water, and solid waste planning for the district and is providing a regional response to these serious environmental problems facing the district and its affected municipalities. The proposed clean water package which you are considering today ignores the Commission, its powers and proven ability to deal responsively with these issues. Proposed bills Senate numbers 3084 and 3085 should specifically designate each county and the Hackensack Meadowlands Development Commission as the authorized entities to undertake the responsibilities enumerated under these bills.

I strongly recommend that the sponsors of these bills sit down with the Commission and its staff. They can describe its activities and programs to you in much greater detail than time permits me to here today. I think you will find the Commission quite able and willing to actively participate with you in this regard.

Our other primary concern with this package is that the functions and responsibilities under each of the bills accurately meets the requirements presented to the State under the "Federal Water Pollution Control Act Amendments of 1972". We feel that Senate Bill 3087 combines the 303(e) continuing planning process and the 208 areawide waste treatment management planning process in a manner which unnecessarily confuses the objectives and goals of the two programs. The primary focus of S.3087 is upon the 208 planning process and we feel this bill should be restricted to the requirements and elements of that program. It would appear to be more consistent to include the 303(e) planning process within Senate Bill 3086 under the Pollution Discharge Elimination System Program. Both the 303(e) and pollution discharge permit programs are to be undertaken by the Department of Environmental Protection, and current Federal Regulations provide for coordination of many of the planning components of the 303(e) program with the permit terms under the NPDES program.

In addition, while we appreciate the need to look to some governmental jurisdiction for administrative purposes, we believe that water quality considerations should form the basis of defining the region. Therefore, we feel that the Commissioner should have adequate flexibility and discretion to designate regions on the basis of water quality factors as deemed necessary by the Department of Environmental Protection.

Finally, we feel that the Legislature must authorize sufficient funds for the Department of Environmental Protection to administer these bills. We realize that the current fiscal situation in the State may not permit greater appropriations to be made; however, we would stress that programs under the "Federal Water Pollution Control Act Amendments of 1972" are bringing hundreds of millions of dollars into the State and that this commitment by the Federal Government should be met by a commitment from the State that such funds be administered in the most capable fashion possible.

We appreciate your consideration and efforts in providing the Department with the opportunity to review this package of bills. We hope that our comments will prove helpful in the further refinement of them, again strongly encourage you to work with the Hackensack Meadowlands Development Commission to insure their input into these important bills.

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