SYNOPSIS
Authorizes municipalities to facilitate private financing of water conservation, storm shelter construction, and flood and hurricane resistance projects through use of voluntary special assessments.

CURRENT VERSION OF TEXT
As reported by the Assembly Appropriations Committee on December 15, 2014, with amendments.
AN ACT concerning the [financing] implementation¹ of
renewable energy and energy efficiency systems and² water
conservation, storm shelter construction, and flood and
hurricane resistance projects, ¹[and]¹ amending P.L.1960, c.183
and P.L.2011, 187 ¹and supplementing chapter 56 of Title 40 of
the Revised Statutes¹.

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

¹I. (New section) As used in this section, and in P.L.2011,
c.187 (C.40:56-1.4 et al.):
"Bonds” mean bonds or other obligations issued by a
municipality or county improvement authority, as applicable, for
the purposes set forth in this act.
"Director” means the Director of the Division of Local
Government Services in the Department of Community Affairs.
"Energy efficiency improvement” means an improvement to
reduce energy consumption through conservation or a more
efficient use of electricity, natural gas, propane, or other forms of
energy, including, but not limited to: air sealing; installation of
insulation; installation of energy-efficient electrical, heating,
cooling or ventilation systems; building modifications to increase
the use of daylight; replacement of windows; installation of energy
controls or energy recovery systems; installation of electric vehicle
charging equipment; and installation of efficient lighting
equipment.
"Flood resistant construction project” means a project that
mitigates the likelihood of substantial flood damage, including but
not limited to the installation of break-away walls and building
elevation alterations.
"Hurricane resistant construction project” means an improvement
that brings a component of a structure into compliance with the
standards for a "wind-borne debris region” pursuant to the "State
et seq.), or into compliance with a successor standard under that
code.
"PACE” is an acronym for the term "property assessed clean
energy.”
"PACE project” means the purchase, lease, or installation, or any
combination thereof, of renewable energy systems or the energy
produced by such systems, energy efficiency improvements, water
conservation projects, flood resistant construction projects,
hurricane resistant construction projects, storm shelter projects, or

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

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
¹Assembly AAP committee amendments adopted December 15, 2014.
A2579 [1R] MUKHERJI, PINTOR MARIN

safe room projects, undertaken by property owners on properties
within a municipality.

"PACE program" means a program established by a municipality
by ordinance, providing for the imposition of PACE special
assessments on properties within the municipality, in which the
owner of such property has requested the PACE special assessment.

"PACE special assessment" means a special assessment to be
imposed on a property in connection with a PACE project.

"Project costs" mean the costs associated with a PACE project,
and shall be deemed to include: the hard costs of leasing,
purchasing, constructing or acquiring the project; soft costs,
including but not limited to engineering fees, inspection fees and
permits, and costs relating to the measurement and verification of
project savings; costs of utilizing the PACE program, including but
not limited to program fees and closing costs; and bond issuance
costs, including but not limited to professional fees and the costs of
funding capitalized interest, if any, or a debt service reserve fund, if
any.

"Property" means property within a municipality upon which a
PACE special assessment is imposed at the request of a property
owner in connection with a PACE project.

"Property owner" means the owner of a property within a
municipality who requests that a PACE special assessment be
imposed on the property in connection with a PACE project.

"Renewable energy system" means an improvement in which the
electrical, mechanical, or thermal energy is produced from a method
that uses one or more of the following fuels or energy sources:
hydrogen, solar energy, geothermal energy, bio-mass or wind
energy.

"Safe room project" or "storm shelter project" means an
improvement that creates a hardened structure specifically designed
to meet criteria set forth by the Federal Emergency Management
Agency and provide "near-absolute protection" in extreme weather
events, including tornados and hurricanes.

"Solar renewable energy certificate" shall have the same
meaning as set forth in section 3 of P.L.1999, c.23 (C.48:3-51).

"Water conservation project" means an improvement that
reduces water consumption, increases the efficiency of water use, or
reduces water loss.¹

¹ [1.2] ¹ Section 1 of P.L.2011, c.187 (C.40:56-1.4) is amended
to read as follows:

1. ¹[Upon application to and approval by the Director of the
Division of Local Government Services in the Department of
Community Affairs, the] a. The¹ governing body of a municipality
¹[. or a qualified private or non-profit entity serving as its
administrator.]¹ may ¹adopt an ordinance to¹ undertake the
financing of the purchase and installation of water conservation projects, flood resistant construction projects, hurricane resistant construction projects, storm shelter projects, safe room projects, renewable energy systems and energy efficiency improvements]
development, implementation, administration, or financing, or any combination thereof, of a PACE program. An introduced ordinance to establish a PACE program shall not be adopted without the director’s approval in municipalities that (1) are receiving, or have received State Aid through the Transitional Aid to Localities program within the three most recent fiscal years, (2) are subject to State supervision pursuant to the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), or (3) are subject to the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.). The director shall approve the ordinance for final adoption if the municipality demonstrates that it has the appropriate employees and other resources necessary to impose and collect the PACE special assessments and to execute any necessary transfers with respect to any pledge and assignment in connection therewith.

The PACE program shall consist of, among other things, the implementation of PACE projects to be undertaken by property owners as local improvements and may provide the provision by ordinance for a "clean energy and storm resistance" PACE special assessment to be imposed on property properties within the municipality, if the owner of a property requests the PACE special assessment in order to install such systems or improvements and undertake a PACE project. Each improvement PACE projects on an individual property subject to the same PACE special assessment agreement collectively shall constitute a separate local improvement and shall be assessed separately to the property owner benefitted thereby. The clean energy special assessment shall be payable in quarterly installments. The terms of the clean energy and storm resistance special assessment shall be in accordance with the terms of the financing provided by the municipality pursuant to section 2 of P.L.2011, c.187 (C.40:56-13.1).

b. A municipality may designate a county improvement authority or a private or non-profit entity to manage, oversee, administer, finance or implement, or any combination thereof, all or any part of the PACE program on the municipality’s behalf. To the extent that a county improvement authority is designated to manage, oversee, administer, finance or implement, or any combination thereof, all or any part of a PACE program on the municipality’s behalf, the county improvement authority may designate a private or non-profit entity to manage, oversee, administer, finance or
implement, or any combination thereof, all or any portion of such
activities.\footnote{1} (cf: P.L.2011, c.187, s.1)

\footnote{1} Section 2 of P.L.2011, c.187 (C.40:56-13.1) is amended to read as follows:

\footnote{2} Upon application to and approval by the Director of the Division of Local Government Services in the Department of Community Affairs, a qualified private or non-profit entity may establish a program to finance the purchase and installation of water conservation projects, flood resistant construction projects, hurricane resistant construction projects, storm shelter projects, safe room projects, renewable energy systems, and energy efficiency improvements by property owners within municipalities contracting with the entity that have also obtained the director’s approval. Repayment shall be completed through the clean energy and storm resistance special assessment. Upon application approval, the entity may administer: lending\footnote{3} A county improvement authority or private or non-profit entity designated by a municipality or county improvement authority pursuant to subsection b. of section 1 of P.L.2011, c.187 (C.40:56-1.4) to administer or implement a PACE program may: administer\footnote{4} agreements between \footnote{5} a private\footnote{6} entity \footnote{7} itself\footnote{8} and property owners; \footnote{9} lending\footnote{10} administer\footnote{11} agreements between municipalities and property owners pursuant to section 3 of P.L.2011, c.187 (C.40:56-13.2); \footnote{12} lending\footnote{13} administer\footnote{14} agreements involving county improvement authorities pursuant to paragraph (2) of subsection (i) of section 12 of P.L.1960, c.183 (C.40:37A-55); \footnote{15} lending\footnote{16} administer\footnote{17} agreements involving private entities that participate in the program; \footnote{18} administer\footnote{19} the sale of solar renewable energy certificates from participating property owners; and \footnote{20} undertake\footnote{21} any other appropriate responsibilities \footnote{22} as set forth in its agreement with the municipality or county improvement authority, as applicable\footnote{23}. Any contract between the entity and a municipality or county improvement authority shall be subject to the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.)

b. Notwithstanding the provisions of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), agreements between a municipality or county improvement authority and a private or non-profit entity shall be on such terms and conditions as the municipality or county improvement authority shall deem necessary or desirable\footnote{24}.

\footnote{1} Upon application to and approval by the Director of the Division of Local Government Services in the Department of Community Affairs, a municipality may adopt an ordinance to establish a program to finance the purchase and installation of water conservation projects, flood resistant construction projects,
hurricane resistant construction projects, storm shelter projects, safe room projects, renewable energy systems, and energy efficiency improvements by property owners. Pursuant to this section, the establishment of this program may merely involve contracting with a qualified private or non-profit entity, subject to the "Local Public Contracts Law." P.L.1971, c.198 (C.40A:11-1 et seq.), upon the director’s approval, to administer the program on the municipality’s behalf. The governing body may apply to a county improvement authority that issues bonds pursuant to paragraph (2) of subsection (j) of section 12 of P.L.1960, c.183 (C.40:37A-55), or may issue bonds to finance the program pursuant to section 3 of P.L.2011, c.187 (C.40:56-13.2).

(1) Bonds issued by a municipality shall be authorized and issued in the manner set forth in the "Local Bond Law" (N.J.S.40A:2-1 et seq.), except that:

(a) the ordinance may be adopted notwithstanding the provisions of N.J.S.40A:2-11, and no down payment will be required;
(b) the provisions of N.J.S.40A:2-22, concerning periods of usefulness, and N.J.S.40A:2-26, concerning bond maturity, shall not apply;
(c) the provisions of N.J.S.40A:2-27, concerning the public sale of bonds, shall not apply, and instead the bonds may be sold at public or private sale, at the option of the municipality; and
(d) if the bonds are non-recourse to the full faith and credit of the municipality, no review of the Local Finance Board with respect to the authorization or issuance of the bonds shall be required.

Bonds issued by a county improvement authority shall be authorized and issued in the manner set forth in the "county improvement authorities law," P.L.1960, c.183 (C.40:37A-44 et seq.).

(2) In addition, the municipal governing body, or the entity serving as its administrator, may use funding through private entities to finance the "PACE" program. Funds for the purchase and installation of water conservation projects, flood resistant construction projects, hurricane resistant construction projects, storm shelter projects, safe room projects, renewable energy systems, and energy efficiency improvements shall be loaned to property owners in exchange for a "clean energy and storm resistance" PACE special assessment on the property pursuant to section 1 of P.L.2011, c.187 (C.40:56-1.4); to be paid quarterly.

In the case of financing provided by bonds issued by a county improvement authority, or by the municipality through the issuance of municipal bonds, the clean energy and storm resistance The PACE special assessment shall be used to repay the "debt service on the" bonds or other obligations and the project costs. In the case of financing provided by the municipality through the issuance...
of municipal bonds, the clean energy special assessment shall be used to repay the bonds. In the case of financing through private entities, repayment shall also be completed through the clean energy and storm resistance special assessment.

A property owner who purchases and installs a renewable energy system under the program may also, if permitted by the municipality, assign or transfer any solar renewable energy certificates or other renewable energy certificates or credits that accrue to the property owner from the operation of the system to the municipality, or the county improvement authority, or the private entity to repay the loan for the system, as applicable, which has financed the PACE project. If any solar renewable energy certificates or other renewable energy certificates or credits are assigned or transferred to a municipality, county improvement authority, or private or non-profit entity, the municipality, county improvement authority, or private or non-profit entity is authorized to sell, grant, assign, convey or otherwise dispose of its interest in the certificates or credits to repay the bonds or obligations and the project costs.

The Director of the Division of Local Government Services in the Department of Community Affairs shall coordinate efforts with the Board of Public Utilities to ensure that the amount of financing made available by local programs authorized pursuant to this act, P.L.2011, c.187 (C.40:56-1.4 et al.), is in accordance with limits set from time to time by the Board of Public Utilities in order to ensure that local programs to fund projects categorized as renewable energy systems and energy efficiency improvements further the goals of the Office of Clean Energy in the Board of Public Utilities.

b. As used in this section, P.L.2011, c.187 (C.40:56-1.4 et al.):

"Director" means the Director of the Division of Local Government Services in the Department of Community Affairs.

"Flood resistant construction project" means a project that mitigates the likelihood of substantial flood damage, including but not limited to the installation of break-away walls and building elevation alterations, following standards that the director deems appropriate.

"Hurricane resistant construction project" means an improvement that brings a component of a structure into compliance with the standards for a “wind-borne debris region” under the State Uniform Construction Code, or another standard that the director deems appropriate.

"Safe room project" or "storm shelter project" means an improvement that creates a hardened structure specifically designed to meet criteria set forth by the Federal Emergency Management Agency and provide “near-absolute protection” in extreme weather.
events, including tornadoes and hurricanes, or another standard that
the director deems appropriate.

"Solar renewable energy certificate" shall have the same
meaning as set forth in section 3 of P.L.1999, c.23 (C.48:3-51).

"Water conservation project" means an alteration or upgrade of a
facility or equipment that reduces water consumption, maximizes
the efficiency of water use, or reduces water loss, following
standards that the director deems appropriate.

c. The Director of the Division of Local Government Services in
the Department of Community Affairs, in consultation with the
Director of the Division of Codes and Standards in the Department
of Community Affairs shall establish standards for flood resistant
construction projects, hurricane resistant construction projects, safe
room projects, storm shelter projects, and water conservation
projects.¹

(cf: P.L.2011, c.187, s.2)

¹Section 3 of P.L.2011, c.187 (C.40:56-13.2) is
amended to read as follows:

3. a. [Upon application to and approval by the Director of the
Division of Local Government Services in the Department of
Community Affairs, the governing body of a municipality may
establish the amounts of money to be expended by the municipality
for the improvements authorized in sections 1 and 2 of P.L.2011,
c.187 (C.40:56-1.4 and C.40:56-13.1). Any amount so appropriated
may be raised by the issuance of clean energy special assessment
bonds by the municipality. In making the appropriation, the
governing body may designate the particular projects to be financed
to which the moneys shall be applied.] Notwithstanding any
provision of chapter 56 of Title 40 of the Revised Statutes
(R.S.40:56-1 et seq.), or any other law to the contrary, a
municipality shall follow the following process to establish and
implement a PACE program:

(1) A municipality may adopt an ordinance pursuant to
R.S.40:49-2 to establish a PACE program without complying with
the publication, notice, and other requirements applicable to
ordinances providing for local improvements otherwise required
pursuant to R.S.40:49-6.

(2) The municipal ordinance may, but shall not be required to,
set eligibility criteria for participation in the PACE program,
establish a form of special assessment agreement to be entered into
with PACE program participants, and identify whether the PACE
program will be implemented, financed, and managed by the
municipality or by a county improvement authority. In lieu of
including such information in the ordinance establishing the PACE
program, the municipality may instead provide that one or more
such items shall be established through a subsequent municipal
resolution.
(3) The ordinance may establish standards for the maximum amount, or duration of PACE special assessments, or both, but in no event shall the maximum duration of a PACE special assessment exceed 30 years.¹

b. [Clean energy and storm resistance special assessments and bonds issued to finance them shall be issued and shall be generally subject to R.S.40:56-21 et seq., as the director shall determine to be applicable.] The amount of a PACE special assessment shall be a specific amount, not to exceed the project costs of the PACE project. The specific amount of a PACE special assessment, which shall be consented to by the property owner by its execution of a special assessment agreement in the form promulgated by the municipality, shall be deemed the benefit conferred with respect to the property and shall be in lieu of the amount being determined by any other procedures contained in this Title otherwise applicable to determining the actual benefit conferred on the property. No other confirmation or determination of the amount of the PACE special assessment, including, but not limited to the procedure set forth at R.S.40:56-30, shall be required.¹

c. [The director is authorized and empowered to take such action as deemed necessary and consistent with the intent of [this act], P.L.2011, c.187 (C.40:56-1.4 et al.) to implement its provisions.] A PACE special assessment shall be a single, continuous first lien on the property against which the PACE special assessment agreement is recorded, on and after the date of recordation of the agreement. Upon recordation of the PACE special assessment agreement, the lien thereof shall be perfected for all purposes in accordance with law and the lien shall be a continuous first lien upon the real estate described in the assessment, paramount to all prior or subsequent alienations and descents of such real estate or encumbrances thereon, except subsequent taxes or assessments, without any additional notice, recording, filing, continuation filing or action, until payment in full of the PACE special assessment, notwithstanding any mistake in the name or names of any owner or owners, or any omission to name any owner or owners who are unknown, and notwithstanding any lack of form therein, or in any other proceeding which does not impair the substantial rights of the owner or owners or other person or persons having a lien upon or interest in any such real estate. Any confirmation of the amount of the assessment by the governing body or by the court shall be considered as determining the amount of the existing lien and not as establishing the lien. All assessments shall be presumed to have been regularly assessed and confirmed and every assessment or proceeding preliminary thereto shall be presumed to have been regularly made or conducted until the contrary be shown. A PACE special assessment shall not be considered an "equivalent consensual security interest" for the
purposes of the "New Jersey Residential Mortgage Lending Act."
sections 1 through 39 of P.L.2009, c.53 (C.17:11C-51 et seq.).
PACE special assessments shall be treated as governmental liens
rather than contractual liens for all purposes of law.

d. The funds to implement a PACE project may be disbursed to
the property owner at execution of the special assessment
agreement, or may be disbursed in installments over time. Such
funds shall not constitute public funds, and shall not be subject to
the laws governing public funds, including but not limited to laws
regarding the receipt, expenditure, deposit, investment or
appropriation of the same. PACE projects shall not be considered
"facilities" or "public facilities," within the meaning of the "county
improvement authorities law," P.L.1960, c.183 (C.40:37A-44 et
seq.). Payments of PACE special assessments shall be due on
February 1, May 1, August 1 and November 1 in each year, and
shall commence as set forth in the PACE special assessment
agreement. It is not required that a PACE project be completed in
order for the obligation to make payments of the PACE special
assessment to commence. To the extent that upon completion of the
PACE project, funds remain which have not been disbursed to the
property owner for PACE project, those funds on hand shall be used
to reduce the amount of the PACE special assessment. To the
extent that during the implementation of a PACE project, it
becomes apparent that additional funds may be needed to complete
the PACE project, the municipality and the property owner may
enter into a supplemental special assessment agreement for the
additional amount. Upon recordation of the supplemental special
assessment agreement, payments required to be made pursuant to
the supplemental PACE special assessment for the completion of
the PACE project shall be a continuous lien against the property in
accordance with subsection c. of this section.

e. When any payment of a PACE special assessment shall not be
made within 30 days after the time when that payment shall have
become due, interest thereon shall be imposed at the same rate as
may be imposed upon unpaid property taxes in the municipality,
and collected and enforced in the same manner as unpaid property
taxes, including by accelerated tax sale if the municipality shall
enforce collection of its unpaid property taxes through accelerated
tax sale. However, the balance due on PACE special assessments
shall not be subject to acceleration in the event of a default in
payment.

f. PACE special assessments may be assigned directly by the
municipality as security for the repayment of bonds or other
obligations issued by the municipality or the county improvement
authority to finance the PACE projects. Notwithstanding any law to
the contrary, the assignment shall be an absolute assignment of all
of the municipality’s right, title and interest in and to the PACE
special assessment, along with the rights and remedies provided to
the municipality under the special assessment agreement, including, but not limited to, right to direct the collection of payments due. PACE special assessments assigned as provided hereunder shall not be included in the general funds of the municipality, or be subject to any laws regarding the receipt, deposit, investment or appropriation of public funds, and shall retain such status notwithstanding enforcement of the assessment by the municipality or assignee as provided herein. In the case of a municipality which is otherwise subject to tax or revenue sharing pursuant to law and which assigns PACE special assessments as set forth in this section, such PACE special assessments shall not be considered part of the tax or revenue sharing formula or calculation of municipal revenues for the purpose of determining whether that municipality is obligated to make payment to, or receive a credit from, any tax sharing or revenue sharing pool.

g. Notwithstanding any other law to the contrary, a municipality or county improvement authority, or both, as applicable, shall have the power to enter into any and all agreements as may be necessary or desirable to effectuate the purposes of P.L.2011, c.187 (C.40:56-1.4 et al.), on such terms and conditions as the municipality or county improvement authority shall deem reasonable, with or without public bidding.¹

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

11. The purposes of every authority shall be (a) provision within the county or any beneficiary county of public facilities for use by the State, the county or any beneficiary county, or any municipality in any such county, or any two or more or any subdivisions, departments, agencies or instrumentalities of any of the foregoing for any of their respective governmental purposes, (b) provision within the county or any beneficiary county of public facilities for use as convention halls, or the rehabilitation, improvement or enlargement of any convention hall, including appropriate and desirable appurtenances located within the convention hall or near, adjacent to or over it within boundaries determined at the discretion of the authority, including but not limited to office facilities, commercial facilities, community service facilities, parking facilities, hotel facilities and other facilities for the accommodation and entertainment of tourists and visitors, (c) provision within the county or any beneficiary county of structures, franchises, equipment and facilities for operation of public transportation or for terminal purposes, including development and improvement of port terminal structures, facilities and equipment for public use in counties in, along or through which a navigable river flows, (d) provision within the county or any beneficiary county of structures or other facilities used or operated by the authority or any
governmental unit in connection with, or relative to development
and improvement of, aviation for military or civilian purposes,
including research in connection therewith, and including structures
or other facilities for the accommodation of passengers, (e)
provision within the county or any beneficiary county of a public
facility for a combination of governmental and nongovernmental
uses; provided that not more than 50% of the usable space in any
such facility shall be made available for nongovernmental use under
a lease or other agreement by or with the authority, (f) acquisition
of any real property within the county or any beneficiary county,
with or without the improvements thereof or thereon or personal
property appurtenant or incidental thereto, from the United States of
America or any department, agency or instrumentality heretofore or
hereafter created, designated or established by or for it, and the
clearance, development or redevelopment, improvement, use or
disposition of the acquired lands and premises in accordance with
the provisions and for the purposes stated in this act, including the
construction, reconstruction, demolition, rehabilitation, conversion,
repair or alteration of improvements on or to said lands and
premises, and structures and facilities incidental to the foregoing as
may be necessary, convenient or desirable, (g) acquisition,
construction, maintenance and operation of garbage and solid waste
disposal systems for the purpose of collecting and disposing of
garbage, solid waste or refuse matter, whether owned or operated by
any person, the authority or any other governmental unit, within or
without the county or any beneficiary county, (h) the improvement,
furtherance and promotion of the tourist industries and recreational
attractiveness of the county or any beneficiary county through the
planning, acquisition, construction, improvement, maintenance and
operation of facilities for the recreation and entertainment of the
public, which facilities may include, without being limited to, a
center for the performing and visual arts, (i) provision of loans and
other financial assistance and technical assistance for the
construction, reconstruction, demolition, rehabilitation, conversion,
repair or alteration of buildings or facilities designed to provide
decent, safe and sanitary dwelling units for persons of low and
moderate income in need of housing, including the acquisition of
land, equipment or other real or personal properties which the
authority determines to be necessary, convenient or desirable
appurtenances, all in accordance with the provisions of this act, as
amended and supplemented, (j) planning, initiating and carrying out
redevelopment projects for the elimination, and for the prevention
of the development or spread of blighted, deteriorated or
deteriorating areas and the disposition, for uses in accordance with
the objectives of the redevelopment project, of any property or part
thereof acquired in the area of such project, (k) any combination or
combinations of the foregoing or following, and (l) subject to the
prior approval of the Local Finance Board, the planning, design,
acquisition, construction, improvement, renovation, installation, maintenance and operation of facilities or any other type of real or personal property within the county for a corporation or other person organized for any one or more of the purposes described in subsection a. of N.J.S.15A:2-1 except those facilities or any other type of real or personal property which can be financed pursuant to the provisions of P.L.1972, c.29 (C.26:21-1 et seq.) as amended. A county improvement authority shall also have as its purpose the pooling of loans for any local governmental units within the county or any beneficiary county that are refunding bonds in order to achieve more favorable interest rates and terms for those local governmental units. A county improvement authority shall also have as its purpose the implementation, management, oversight, administration, and financing of a PACE program, as defined in section 1 of P.L. , c. (C. ) (pending before the Legislature as this bill).

(cf: P.L.2002, c.42, s.8)

Section 12 of P.L.1960, c.183 (C.40:37A-55) is amended to read as follows:

12. Every authority shall be a public body politic and corporate constituting a political subdivision of the State established as an instrumentality exercising public and essential governmental functions to provide for the public convenience, benefit and welfare and shall have perpetual succession and, for the effectuation of its purposes, have the following additional powers:

(a) To adopt and have a common seal and to alter the same at pleasure;
(b) To sue and be sued;
(c) To acquire, hold, use and dispose of its facility charges and other revenues and other moneys;
(d) To acquire, rent, hold, use and dispose of other personal property for the purposes of the authority;
(e) Subject to the provisions of section 26 of this act P.L.1960. c.183 (C.40:37A-69) , to acquire by purchase, gift, condemnation or otherwise, or lease as lessee, real property and easements or interests therein necessary or useful and convenient for the purposes of the authority, whether subject to mortgages, deeds of trust or other liens or otherwise, and to hold and to use the same, and to dispose of property so acquired no longer necessary for the purposes of the authority; provided that the authority may dispose of such property at any time to any governmental unit or person if the authority shall receive a leasehold interest in the property for such term as the authority deems appropriate to fulfill its purposes;
(f) Subject to the provisions of section 13 of this act P.L.1960. c.183 (C.40:37A-56) , to lease to any governmental unit or person, all or any part of any public facility for such
consideration and for such period or periods of time and upon such other terms and conditions as it may fix and agree upon;

(g) To enter into agreements to lease, as lessee, public facilities for such term and under such conditions as the authority may deem necessary and desirable to fulfill its purposes, and to agree, pursuant thereto, to be unconditionally obligated to make payments for the term of the lease, without set-off or counterclaim, whether or not the public facility is completed, operating or operable, and notwithstanding the destruction of, damage to, or suspension, interruption, interference, reduction or curtailment of the availability or output of the public facility to which the agreement applies;

(h) To extend credit or make loans to any governmental unit or person for the planning, design, acquisition, construction, equipping and furnishing of a public facility, upon the terms and conditions that the loans be secured by loan and security agreements, mortgages, leases and other instruments, the payments on which shall be sufficient to pay the principal of and interest on any bonds issued for the purpose by the authority, and upon such other terms and conditions as the authority shall deem reasonable;

(i) Subject to the provisions of section 13 of [this act] P.L.1960, c.183 (C.40:37A-56), to make agreements of any kind with any governmental unit or person for the use or operation of all or any part of any public facility for such consideration and for such period or periods of time and upon such other terms and conditions as it may fix and agree upon;

(j) (1) To borrow money and issue negotiable bonds or notes or other obligations and provide for and secure the payment of any bonds and the rights of the holders thereof, and to purchase, hold and dispose of any bonds;

(2) To issue bonds, notes or other obligations to provide funding to a municipality or to an entity serving as the municipality’s administrator, that finances the purchase and installation of water conservation projects, flood resistant construction projects, hurricane resistant construction projects, storm shelter projects, safe room projects, renewable energy systems, and energy efficiency improvements for the implementation of PACE projects by property owners as provided in section 2 of P.L.2011, c.187 (C.40:56-13.1) and to manage, oversee, administer, implement, and finance PACE programs pursuant to subsection b. of section 2 of P.L.2011, c.187 (C.40:56-13.1);

(k) To apply for and to accept gifts or grants of real or personal property, money, material, labor or supplies for the purposes of the authority from any governmental unit or person, and to make and perform agreements and contracts and to do any and all things necessary or useful and convenient in connection with the procuring, acceptance or disposition of such gifts or grants;
(l) To determine the location, type and character of any public facility and all other matters in connection with all or any part of any public facility which it is authorized to own, construct, establish, effectuate or control;

(m) To make and enforce bylaws or rules and regulations for the management and regulation of its business and affairs and for the use, maintenance and operation of any public facility, and to amend the same;

(n) To do and perform any acts and things authorized by this act under, through or by means of its own officers, agents and employees, or by contract with any governmental unit or person;

(o) To acquire, purchase, construct, lease, operate, maintain and undertake any project and to fix and collect facility charges for the use thereof;

(p) To mortgage, pledge or assign or otherwise encumber all or any portion of its revenues and other income, real and personal property, projects and facilities for the purpose of securing its bonds, notes and other obligations or otherwise in furtherance of the purpose of this act;

(q) To extend credit or make loans to redevelopers for the planning, designing, acquiring, constructing, reconstructing, improving, equipping and furnishing any redevelopment project or redevelopment work;

(r) To conduct examinations and investigations, hear testimony and take proof, under oath at public or private hearings of any material matter, require the attendance of witnesses and the production of books and papers and issue commissions for the examination of witnesses who are out of the State, unable to attend, or excused from attendance;

(s) To authorize a committee designated by it consisting of one or more members, or counsel, or any officer or employee to conduct any such investigation or examination, in which case such committee, counsel, officer or employee shall have power to administer oaths, take affidavits and issue subpoenas or commissions;

(t) To enter into any and all agreements or contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient or desirable for the purposes of the authority or to carry out any power expressly given in this act subject to the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.); and

(u) To pool loans for any local governmental units within the county or any beneficiary county that are refunding bonds and do and perform any and all acts or things necessary, convenient or desirable for the purpose of the authority to achieve more favorable interest rates and terms for those local governmental units.

(cf: P.L.2011, c.187, s.4)
This act shall take effect on the first day of the fourth month next following enactment, but the Director of the Division of Local Government Services in the Department of Community Affairs may take such anticipatory action in advance thereof as shall be necessary for the implementation of this act immediately.