

ASSEMBLY, No. 2020

STATE OF NEW JERSEY

218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

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District 19 (Middlesex)

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District 20 (Union)

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District 29 (Essex)

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SYNOPSIS

Authorizes municipality to provide for imposition and collection of special assessment to secure developer's recovery of cost of certain improvements in connection with redevelopment project.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning certain municipal assessments, designated as
2 Special Assessment Development Improvement Act, amending
3 P.L.1960, c.183, and supplementing title 52 of the Revised
4 Statutes.

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. (New section) Sections 1 through 10 of P.L. , c. (C.)
10 (pending before the Legislature as this bill) shall be known and may
11 be cited as the "Special Assessment Development Improvement
12 Act."

13
14 2. (New section) As used in P.L. , c. (C.) (pending
15 before the Legislature as this bill):

16 "Assigned special assessment payments" means all special
17 assessment payments made, or required to be made, by an owner
18 pursuant to a special assessment agreement, which, upon the
19 assignment by the municipality to the lead developer under the
20 special assessment agreement pursuant to section 5 of P.L. , c. ,
21 (C.) have or will become payable to the lead developer as
22 reimbursement for the cost of a special assessment development
23 improvement undertaken by the lead developer on behalf of all
24 owners.

25 "Development project" means an economic redevelopment and
26 growth grant incentive project or a redevelopment project.
27 "Development project" also means two or more contiguous
28 economic redevelopment and growth grant incentive projects, two
29 or more contiguous redevelopment projects, or contiguous projects
30 comprising one or more economic redevelopment and growth grant
31 projects, and one or more redevelopment projects.

32 "Economic development and growth grant project" means a
33 project for which an incentive grant has been approved pursuant to
34 section 4 or section 5 of P.L.2009, c.90 (C.52:27D-489d or 52:27D-
35 489e).

36 "Lead developer" means any owner that enters into, or proposes
37 to enter into, a special assessment agreement with a municipality
38 pursuant to P.L. , c. , and that thereafter undertakes a special
39 assessment development improvement in connection with a
40 development project covered by that agreement.

41 "Owner" means any property owner, other than a lead developer,
42 that enters into, or proposes to enter into, a special assessment
43 agreement with a municipality pursuant to P.L. , c. . The term
44 "owner" shall also include every subsequent owner, other than a
45 lead developer, of any parcel subject to a duly recorded special

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.

1 assessment agreement. If any parcel is at any time converted into a
2 condominium form of ownership, the term "owner" shall include
3 each and every owner of a condominium interest in such parcel,
4 other than a lead developer, each as to its allocable share of the total
5 special assessment attributable to such parcel, as that allocable
6 share shall be determined in accordance with the special assessment
7 agreement.

8 "Redevelopment project" shall have the meaning prescribed for
9 that term under the "Local Redevelopment and Housing Law,"
10 P.L.1992, c.79 (C.40A:12A-1 et seq.).

11 "Special assessment" means an assessment upon the lands or
12 improvements to such lands, or both, benefitted by improvements
13 undertaken pursuant to P.L. , c. , imposed in accordance with an
14 ordinance adopted as provided in section 4 of P.L. , c. (C.).

15 "Special assessment agreement" means an agreement entered
16 into between a lead developer and a municipality concerning the
17 undertaking of a special assessment development improvement and
18 the special assessment of the costs thereof against the benefitted
19 properties, as provided in section 4 of P.L. , c. .

20 "Special assessment development improvement" means any or
21 all of the following items which are part of, or are necessary for the
22 completion of, a development project in a municipality: demolition
23 of existing structures, site preparation, environmental remediation,
24 installation of utilities, construction of sidewalks and roadways,
25 development of parks or open space, and such off-site
26 improvements as may be required by the municipality in connection
27 with the development of the development project.

28
29 3. (New section) In connection with any development project,
30 one or more owners may request that a special assessment
31 development improvement be undertaken, at the expense of such
32 owners, by a lead developer. Such request shall be made to the
33 municipality in which the development project is located, in an
34 application signed by all such owners, setting forth a description of
35 the property owned by each owner, a description and cost of each
36 element of the proposed special assessment development
37 improvement to be undertaken, and an allocation of such costs
38 among all owners, which allocation shall be made in proportion to
39 the relative benefits accruing to each owner from the undertaking of
40 such special assessment development improvement. The request
41 shall identify the lead developer that shall be requested to undertake
42 such special assessment development improvement on behalf of the
43 owners, and which shall be undertaken by the lead developer in
44 connection with its development project. The request shall also
45 contain an undertaking by each such owner to pay its share of the
46 cost of such special assessment development improvement, in the
47 manner provided in P.L. , c. (C.) (pending before the
48 Legislature as this bill). The request shall also contain the

1 agreement by the lead developer to undertake such special
2 assessment development improvement at the cost stated therein,
3 provided that the special assessment shall be approved by the
4 municipality.

5
6 4. (New section) The governing body of the municipality may
7 thereupon adopt an ordinance providing for the undertaking of such
8 special assessment development improvement by the lead
9 developer, and the special assessment of the cost thereof against
10 each owner, all of which shall be evidenced by a special assessment
11 agreement to be entered into among the municipality, the lead
12 developer, and each owner. Said ordinance shall be adopted in
13 accordance with chapter 56 of title 40 of the Revised Statutes
14 (R.S.40:56-1 et seq.); provided, however, that:

15 a. The specific amount to be assessed against each owner shall
16 be the amount set forth in the contract as that owner's allocable
17 portion of the cost thereof, not to exceed in the aggregate the actual
18 cost of the special assessment development improvement, and by
19 executing that contract, each owner shall be deemed to have
20 accepted that the amount set forth in the contract is the actual
21 benefit conferred. Accordingly, the procedures otherwise
22 applicable to determining the actual benefit conferred on the
23 property shall not be applicable.

24 b. The provisions of R.S.40:56-35 shall be applied so that if
25 any installment of a special assessment shall remain unpaid for 30
26 days after the time in which it shall become due, the municipality
27 may provide, by ordinance, either that (1) the whole assessment or
28 any unpaid balance thereof shall become due and be immediately
29 payable; or (2) any subsequent installments which would not yet
30 have become due except for the default shall be considered as not in
31 default and that the lien for the installments not yet due shall
32 continue.

33 c. The ordinance shall require that the special assessments be
34 payable in yearly installments, with legal interest thereon,
35 beginning not sooner than the date of completion of the special
36 assessment development improvement as certified to the
37 municipality pursuant to section 8 of P.L. , c. (C.) (pending
38 before the Legislature as this bill), and continuing over a period of
39 years up to but in no event exceeding thirty years from the date of
40 execution and recordation of the special assessment agreement.

41
42 5. (New section) The ordinance shall also provide that the
43 special assessment shall constitute an automatic, enforceable, and
44 perfected municipal lien for all purposes, including the federal
45 bankruptcy code, regardless of whether or not the amount of the
46 special assessments has been determined at the time the lien
47 attaches to any interest in the land, leasehold estate, or
48 improvements, as applicable. The certification process contained in

1 section 8 of P.L. , c. (C.) (pending before the Legislature
2 as this bill) to determine the amount of the special assessment
3 payments due shall not affect the commencement or validity of the
4 lien established under P.L. , c. (C.) (pending before the
5 Legislature as this bill).

6
7 6. (New section) Payments of the special assessment shall be
8 assigned directly by the municipality to the lead developer, as
9 reimbursement for the cost of undertaking the special assessment
10 development improvement. Notwithstanding any law to the
11 contrary, the assignment shall be an absolute assignment of all the
12 municipality's right, title, and interest in the special assessment
13 payments, together with the rights and remedies provided to the
14 municipality under the special assessment agreement, including, but
15 not limited to, the right of collection of payments due. Pursuant to
16 the absolute assignment, the lead developer, or any assignee or
17 pledgee thereof, in lieu of the municipality, shall be authorized to
18 conduct a sale of the land or improvements thereon, or both, or any
19 leasehold interests in the land or improvements thereon, or both, to
20 satisfy delinquencies in any special assessment payments. The sale
21 shall be held in accordance with the "tax sale law", R.S.54:5-1 et
22 seq.; provided, however, that notwithstanding any provision of that
23 law, the lead developer or its assignee or pledgee is authorized to
24 issue a tax sale certificate making sale of any interest, including any
25 interest less than a fee interest, that is subject to the lien established
26 under P.L. , c. (C.) (pending before the Legislature as this
27 bill). Prior to conducting a sale of the lands or improvements or
28 issuing a tax sale certificate as authorized under this section, the
29 lead developer or its assignee or pledgee shall provide the
30 governing body of the municipality with written notice of the
31 proposed sale or issuance at least five working days prior to the date
32 of the proposed sale or issuance. Any interest that is subject to the
33 lien established under P.L. , c. shall not be transferred,
34 conveyed, assigned, disposed of, or sold, whether by tax sale or
35 otherwise, free and clear of the special assessment agreement and
36 any special assessments due thereunder while any amounts remain
37 payable thereunder, regardless of the consent of the parties or order
38 of any court, whether in law or in equity, unless any such transfer or
39 conveyance is provided for under the terms and conditions set forth
40 in the special assessment agreement. Any purchaser, transferee,
41 successor, grantee, or assignee of such interest, whether at tax sale
42 or otherwise, shall take title to such interest subject to the
43 obligations imposed by the special assessment agreement. Special
44 assessments assigned by a municipality to a lead developer as
45 provided hereunder shall not be included in the general funds of the
46 municipality, nor shall they be subject to any laws regarding the
47 receipt, deposit, investment, or appropriation of public funds and
48 shall retain such status notwithstanding enforcement of the special

1 assessment by the municipality or assignee as provided herein.
2 Special assessments assigned by a municipality to a lead developer
3 pursuant to P.L. , c. shall not be considered public funds for any
4 purpose including, but not limited to, laws relating to public
5 contracting, and shall not be considered financial assistance for
6 purposes of P.L.2009, c.136 (C.52:18-42 et al.).
7

8 7. (New section) The municipality or the lead developer shall
9 record, either simultaneously or at a different time, any ordinance
10 enacted by the municipality relating to the payment of special
11 assessments and, either simultaneously with the ordinance or at a
12 different time, a copy of the special assessment agreement.
13 Notwithstanding any law to the contrary, upon recordation of both
14 the ordinance and the special assessment agreement, the lien thereof
15 shall be perfected for all purposes in accordance with law and the
16 lien shall thereafter have such priority as any other lien for special
17 benefit assessments upon real property; provided, however, that in
18 the event any ordinance or special assessment agreement is
19 amended or supplemented in a way which increases the amount of
20 special assessments, the lien as to that increase shall be perfected
21 and apply upon the recordation of the amended or supplemented
22 ordinance and special assessment agreement. Except as set forth in
23 this section, no amendment or supplement to the ordinance or
24 special assessment agreement thereafter recorded shall affect the
25 perfection or priority of the lien established upon original
26 recordation thereof. Payments required to be made in accordance
27 with a special assessment agreement entered into under
28 P.L. , c. (C.) (pending before the Legislature as this bill)
29 shall be a continuous lien on the land against which the ordinance is
30 recorded on and after the date of recordation of both the ordinance
31 and the special assessment agreement, whether or not those
32 recordations shall have occurred simultaneously. All subsequent
33 special assessments thereunder, interest and penalties and costs of
34 collection which thereafter fall due or accrue shall be added and
35 relate back to and be part of the initial lien.
36

37 8. (New section) Following recordation of the ordinance and
38 the special assessment agreement, the lead developer may proceed
39 to undertake the special assessment development improvement.
40 Upon completion of the special assessment development
41 improvement, the lead developer shall certify to the municipality
42 the completion thereof and the actual cost thereof. Such
43 certification shall also include an allocation of the total amount to
44 be assessed against the owners, which shall be the lesser of the
45 actual cost thereof as so certified to the municipality and the
46 maximum cost thereof as provided in the ordinance and the special
47 assessment agreement, against each owner. Upon receipt and
48 approval by the municipality, the municipality shall thereupon

1 notify each owner of the actual amount to be assessed against such
2 owner, in the manner generally provided in chapter 56 of Title 40 of
3 the Revised Statutes (C.40:56-1 et seq.).
4

5 9. (New section) The special assessment agreement shall
6 provide that all amounts payable thereunder shall, upon collection
7 and receipt by the municipality, be promptly paid over to the lead
8 developer, as assignee of the municipality, as reimbursement for the
9 cost of the special assessment development improvement
10 undertaken by the lead developer on behalf of all owners. A lead
11 developer that has entered into a special assessment agreement with
12 a municipality and any such other owners pursuant to
13 P.L., c. (C.) (pending before the Legislature as this bill)
14 may, upon notice to and consent of the municipality and each such
15 other owner, pledge and assign as security or support for any loan
16 or bond, including but not limited to any bond issued by a county
17 improvement authority pursuant to the county improvement
18 authorities law, P.L.1960, c.183 (C.40:37A-44 et al.), any or all of
19 its right, title, and interest in and to such special assessment
20 agreement and in the assigned special assessment payments
21 thereunder, and the right to receive same, along with the rights and
22 remedies provided to the lead developer under such agreement and
23 section 6 of P.L. , c. (C.). Any such assignment shall be an
24 absolute assignment for all purposes, including the federal
25 bankruptcy code, and thereafter may not be modified except as
26 provided by the terms of the instrument or by the terms of the
27 pledge or assignment. Any pledge of assigned special assessment
28 payments made by the lead developer shall be valid and binding
29 from the time when the pledge is made and filed in the records of
30 the municipality. The assigned special assessment payments so
31 pledged and thereafter received by the lead developer shall
32 immediately be subject to the lien of the pledge without any
33 physical delivery thereof or further act, and the lien of any pledge
34 shall be valid and binding as against all parties having claims of any
35 kind in tort, contract, or otherwise against the lead developer
36 irrespective of whether the parties have notice thereof. Neither the
37 special assessment agreement nor any other instrument by which a
38 pledge under this section is created need be filed or recorded except
39 with the municipality. Proceeds of bonds of a county improvement
40 authority loaned to a lead developer and secured by a pledge of
41 assigned special assessment payments shall be considered public
42 funds for purposes of laws relating to public contracting, but shall
43 not be considered financial assistance for purposes of P.L.2009,
44 c.136 (C.52:18-42 et al.).
45

46 10. (New section) In the event that any parcel is, at the time of
47 execution of a special assessment agreement, subject to a long-term
48 lease having a duration at least as long as that of the special

1 assessment agreement, the special assessment agreement may
2 provide that the leasehold interest, and not the fee interest, is
3 deemed to be benefitted from the special assessment redevelopment
4 project, in which event the term "owner" shall mean the owner of
5 said leasehold interest, and the parcel subject to the special
6 assessment agreement shall be deemed to be the leasehold interest.
7 In such event, notwithstanding any other applicable law, for the
8 purposes of P.L. , c. (C.) (pending before the Legislature as
9 this bill), a municipal lien on a leasehold estate shall constitute a
10 lien against the leasehold estate only, unless the special assessment
11 agreement specifically provides for a lien on the underlying fee
12 interest in the land. In any case, enforcement of a municipal lien on
13 a leasehold estate shall be limited to an in rem proceeding only.
14

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

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

19 (a) "Authority" shall mean a public body created pursuant to
20 this act;

21 (b) "Bond resolution" shall have the meaning ascribed thereto in
22 section 17 of P.L.1960, c.183 (C.40:37A-60);

23 (c) "Bonds" shall mean bonds, notes or other obligations issued
24 pursuant to this act;

25 (d) "Construct" and "construction" shall connote and include
26 acts of clearance, demolition, construction, development or
27 redevelopment, reconstruction, replacement, extension,
28 improvement and betterment;

29 (e) "Cost" shall mean, in addition to the usual connotations
30 thereof, the cost of planning, acquisition or construction of all or
31 any part of any public facility or facilities of an authority and of all
32 or any property, rights, easements, privileges, agreements and
33 franchises deemed by the authority to be necessary or useful and
34 convenient therefor or in connection therewith and the cost of
35 retiring the present value of the unfunded accrued liability due and
36 owing by the authority, as calculated by the system actuary for a
37 date certain upon the request of the authority, for early retirement
38 incentive benefits granted by the authority pursuant to P.L.1991,
39 c.230 and P.L.1993, c.181, including interest or discount on bonds,
40 cost of issuance of bonds, architectural, engineering and inspection
41 costs and legal expenses, cost of financial, professional and other
42 estimates and advice, organization, administrative, operating and
43 other expenses of the authority prior to and during such acquisition
44 or construction, and all such other expenses as may be necessary or
45 incident to the financing, acquisition, construction and completion
46 of such public facility or facilities or part thereof and the placing of
47 the same fully in operation or the disposition of the same, and also
48 such provision or reserves for working capital, operating,

1 maintenance or replacement expenses or for payment or security of
2 principal of or interest on bonds during or after such acquisition or
3 construction as the authority may determine, and also
4 reimbursements to the authority or any governmental unit or person
5 of any moneys theretofore expended for the purposes of the
6 authority;

7 (f) The term "county" shall mean any county of any class of the
8 State and shall include, without limitation, the terms "the county"
9 and "beneficiary county" defined in this act, and the term "the
10 county" shall mean the county which created an authority pursuant
11 to this act;

12 (g) "Development project" shall mean any lands, structures, or
13 property or facilities acquired or constructed or to be acquired or
14 constructed by an authority for the purposes of the authority
15 described in subsection (e) of section 11 of P.L.1960, c.183
16 (C.40:37A-54);

17 (h) "Facility charges" shall have the meaning ascribed to said
18 term in section 14 of P.L.1960, c.183 (C.40:37A-57);

19 (i) "Facility revenues" shall have the meaning ascribed to said
20 term in subsection (e) of section 20 of P.L.1960, c.183 (C.40:37A-
21 63);

22 (j) "Governing body" shall mean, in the case of a county, the
23 board of chosen freeholders, or in the case of a county operating
24 under article 3 or 5 of the "Optional County Charter Law,"
25 P.L.1972, c.154 (C.40:41A-1 et seq.) as defined thereunder, and, in
26 the case of a municipality, the commission, council, board or body,
27 by whatever name it may be known, having charge of the finances
28 of the municipality;

29 (k) "Governmental unit" shall mean the United States of
30 America or the State or any county or municipality or any
31 subdivision, department, agency, or instrumentality heretofore or
32 hereafter created, designated or established by or for the United
33 States of America or the State or any county or municipality;

34 (l) "Local bond law" shall mean chapter 2 of Title 40A,
35 Municipalities and Counties, of the New Jersey Statutes (N.J.S.) as
36 amended and supplemented;

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

39 (n) "Person" shall mean any person, partnership, association,
40 corporation or entity other than a nation, state, county or
41 municipality or any subdivision, department, agency or
42 instrumentality thereof;

43 (o) "Project" shall have the meaning ascribed to said term in
44 section 17 of P.L.1960, c.183 (C.40:37A-60);

45 (p) "Public facility" shall mean any lands, structures, franchises,
46 equipment, or other property or facilities acquired, constructed,
47 owned, financed, or leased by the authority or any other
48 governmental unit or person to accomplish any of the purposes of

1 an authority authorized by section 11 of P.L.1960, c.183
2 (C.40:37A-54);

3 (q) "Real property" shall mean lands within or without the State,
4 above or below water, and improvements thereof or thereon, or any
5 riparian or other rights or interests therein;

6 (r) "Garbage and solid waste disposal system" shall mean the
7 plants, structures and other real and personal property acquired,
8 constructed or operated or to be acquired, constructed or operated
9 by a county improvement authority, including incinerators, sanitary
10 landfill facilities or other plants for the treatment and disposal of
11 garbage, solid waste and refuse matter and all other real and
12 personal property and rights therein and appurtenances necessary or
13 useful and convenient for the collection and treatment or disposal in
14 a sanitary manner of garbage, solid waste and refuse matter (but not
15 including sewage);

16 (s) "Garbage, solid waste or refuse matter" shall mean garbage,
17 refuse and other discarded materials resulting from industrial,
18 commercial and agricultural operations, and from domestic and
19 community activities, and shall include all other waste materials
20 including sludge, chemical waste, hazardous wastes and liquids,
21 except for liquids which are treated in public sewage treatment
22 plants and except for solid animal and vegetable wastes collected by
23 swine producers licensed by the State Department of Agriculture to
24 collect, prepare and feed such wastes to swine on their own farms;

25 (t) "Blighted, deteriorated or deteriorating area" may include an
26 area determined heretofore by the municipality to be blighted in
27 accordance with the provisions of P.L.1949, c.187, repealed by
28 P.L.1992, c.79 (C.40:55-21.1 et seq.) and, in addition, areas which
29 are determined by the municipality, pursuant to the same procedures
30 as provided in said law, to be blighted, deteriorated or deteriorating
31 because of structures or improvements which are dilapidated or
32 characterized by disrepair, lack of ventilation or light or sanitary
33 facilities, faulty arrangement, location, or design, or other
34 unhealthful or unsafe conditions;

35 (u) "Redevelopment" may include planning, replanning,
36 conservation, rehabilitation, clearance, development and
37 redevelopment; and the construction and rehabilitation and
38 provision for construction and rehabilitation of residential,
39 commercial, industrial, public or other structures and the grant or
40 dedication or rededication of spaces as may be appropriate or
41 necessary in the interest of the general welfare for streets, parks,
42 playgrounds, or other public purposes including recreational and
43 other facilities incidental or appurtenant thereto, in accordance with
44 a redevelopment plan approved by the governing body of a
45 municipality;

46 (v) "Redevelopment plan" shall mean a plan as it exists from
47 time to time for the redevelopment of all or any part of a
48 redevelopment area, which plan shall be sufficiently complete to

1 indicate such land acquisition, demolition and removal of
2 structures, redevelopment, improvements, conservation or
3 rehabilitation as may be proposed to be carried out in the area of the
4 project, zoning and planning changes, if any, land uses, maximum
5 densities, building requirements, the plan's relationship to definite
6 local objectives respecting appropriate land uses, improved traffic,
7 public transportation, public utilities, recreational and community
8 facilities, and other public improvements and provision for
9 relocation of any residents and occupants to be displaced in a
10 manner which has been or is likely to be approved by the
11 Department of Community Affairs pursuant to the "Relocation
12 Assistance Law of 1967," P.L.1967, c.79 (C.52:31B-1 et seq.) and
13 the "Relocation Assistance Act," P.L.1971, c.362 (C.20:4-1 et seq.)
14 and rules and regulations pursuant thereto;

15 (w) "Redevelopment project" shall mean any undertakings and
16 activities for the elimination, and for the prevention of the
17 development or spread, of blighted, deteriorated, or deteriorating
18 areas and may involve any work or undertaking pursuant to a
19 redevelopment plan; such undertaking may include: (1) acquisition
20 of real property and demolition, removal or rehabilitation of
21 buildings and improvements thereon; (2) carrying out plans for a
22 program of voluntary repair and rehabilitation of buildings or other
23 improvements; and (3) installation, construction or reconstruction
24 of streets, utilities, parks, playgrounds or other improvements
25 necessary for carrying out the objectives of the redevelopment
26 project;

27 (x) "Redeveloper" shall mean any person or governmental unit
28 that shall enter into or propose to enter into a contract with an
29 authority for the redevelopment of an area or any part thereof under
30 the provisions of this act;

31 (y) "Redevelopment area" shall mean an area of a municipality
32 which the governing body thereof finds is a blighted area or an area
33 in need of rehabilitation whose redevelopment is necessary to
34 effectuate the public purposes declared in this act. A
35 redevelopment area may include lands, buildings, or improvements
36 which of themselves are not detrimental to the public health, safety
37 or welfare, but whose inclusion is found necessary, with or without
38 change in their condition, for the effective redevelopment of the
39 area of which they are a part;

40 (z) "Sludge" shall mean any solid, semisolid, or liquid waste
41 generated from a municipal, industrial or other sewage treatment
42 plant, water supply treatment plant, or air pollution control facility,
43 or any other such waste having similar characteristics and effects,
44 but shall not include effluent; **[and]**

45 (aa) "Beneficiary county" shall mean any county that has not
46 created an authority pursuant to this act;

1 (bb) "Assigned special assessment payments" shall have the
2 meaning prescribed for that term under section 2 of P.L. , c. (C.)
3 (pending before the Legislature as this bill);

4 (cc) "Lead developer" shall have the meaning prescribed for that
5 term under section 2 of P.L. , c. ; and

6 (dd) "Special assessment development improvement" shall have
7 the meaning prescribed for that term under section 2 of P.L. ,
8 c. .

9 (cf: P.L.2002, c.42, s.6)

10
11 12. Section 11 of P.L.1960, c.183 (C.40:37A-54) is amended to
12 read as follows:

13 11. The purposes of every authority shall be (a) provision within
14 the county or any beneficiary county of public facilities for use by
15 the State, the county or any beneficiary county, or any municipality
16 in any such county, or any two or more or any subdivisions,
17 departments, agencies or instrumentalities of any of the foregoing
18 for any of their respective governmental purposes, (b) provision
19 within the county or any beneficiary county of public facilities for
20 use as convention halls, or the rehabilitation, improvement or
21 enlargement of any convention hall, including appropriate and
22 desirable appurtenances located within the convention hall or near,
23 adjacent to or over it within boundaries determined at the discretion
24 of the authority, including but not limited to office facilities,
25 commercial facilities, community service facilities, parking
26 facilities, hotel facilities and other facilities for the accommodation
27 and entertainment of tourists and visitors, (c) provision within the
28 county or any beneficiary county of structures, franchises,
29 equipment and facilities for operation of public transportation or for
30 terminal purposes, including development and improvement of port
31 terminal structures, facilities and equipment for public use in
32 counties in, along or through which a navigable river flows, (d)
33 provision within the county or any beneficiary county of structures
34 or other facilities used or operated by the authority or any
35 governmental unit in connection with, or relative to development
36 and improvement of, aviation for military or civilian purposes,
37 including research in connection therewith, and including structures
38 or other facilities for the accommodation of passengers, (e)
39 provision within the county or any beneficiary county of a public
40 facility for a combination of governmental and nongovernmental
41 uses; provided that not more than 50% of the usable space in any
42 such facility shall be made available for nongovernmental use under
43 a lease or other agreement by or with the authority, (f) acquisition
44 of any real property within the county or any beneficiary county,
45 with or without the improvements thereof or thereon or personal
46 property appurtenant or incidental thereto, from the United States of
47 America or any department, agency or instrumentality heretofore or
48 hereafter created, designated or established by or for it, and the

1 clearance, development or redevelopment, improvement, use or
2 disposition of the acquired lands and premises in accordance with
3 the provisions and for the purposes stated in this act, including the
4 construction, reconstruction, demolition, rehabilitation, conversion,
5 repair or alteration of improvements on or to said lands and
6 premises, and structures and facilities incidental to the foregoing as
7 may be necessary, convenient or desirable, (g) acquisition,
8 construction, maintenance and operation of garbage and solid waste
9 disposal systems for the purpose of collecting and disposing of
10 garbage, solid waste or refuse matter, whether owned or operated by
11 any person, the authority or any other governmental unit, within or
12 without the county or any beneficiary county, (h) the improvement,
13 furtherance and promotion of the tourist industries and recreational
14 attractiveness of the county or any beneficiary county through the
15 planning, acquisition, construction, improvement, maintenance and
16 operation of facilities for the recreation and entertainment of the
17 public, which facilities may include, without being limited to, a
18 center for the performing and visual arts, (i) provision of loans and
19 other financial assistance and technical assistance for the
20 construction, reconstruction, demolition, rehabilitation, conversion,
21 repair or alteration of buildings or facilities designed to provide
22 decent, safe and sanitary dwelling units for persons of low and
23 moderate income in need of housing, including the acquisition of
24 land, equipment or other real or personal properties which the
25 authority determines to be necessary, convenient or desirable
26 appurtenances, all in accordance with the provisions of this act, as
27 amended and supplemented, (j) planning, initiating and carrying out
28 redevelopment projects for the elimination, and for the prevention
29 of the development or spread of blighted, deteriorated or
30 deteriorating areas and the disposition, for uses in accordance with
31 the objectives of the redevelopment project, of any property or part
32 thereof acquired in the area of such project, (k) any combination or
33 combinations of the foregoing or following, [and] (l) subject to the
34 prior approval of the Local Finance Board, the planning, design,
35 acquisition, construction, improvement, renovation, installation,
36 maintenance and operation of facilities or any other type of real or
37 personal property within the county for a corporation or other
38 person organized for any one or more of the purposes described in
39 subsection a. of N.J.S.15A:2-1 except those facilities or any other
40 type of real or personal property which can be financed pursuant to
41 the provisions of P.L.1972, c.29 (C.26:2I-1 et seq.) as amended, and
42 (m) provision of loans to lead developers secured by assigned
43 special assessment payments, in connection with special assessment
44 development improvements within the county or any beneficiary
45 county. A county improvement authority shall also have as its
46 purpose the pooling of loans for any local governmental units
47 within the county or any beneficiary county that are refunding

1 bonds in order to achieve more favorable interest rates and terms
2 for those local governmental units.
3 (cf: P.L.2002, c.42, s.8)

4
5 13. This act shall take effect immediately.

6
7
8 STATEMENT

9
10 This bill authorizes municipalities to impose special assessments
11 on the owners of certain “development projects” to secure payment
12 of the cost of various improvements related to the project for the
13 benefit of the developer undertaking those improvements.

14 The “development projects” covered under the bill are (1)
15 projects for which an economic redevelopment and growth grant
16 incentive has been approved under the “New Jersey Economic
17 Stimulus Act of 2009” (N.J.S.A.52:27D-489a et seq.), (2)
18 redevelopment projects under the “Local Redevelopment and
19 Housing Law” (N.J.S.A.40A:12A-1 et seq.), and (3) two or more
20 contiguous projects in either or both of the previous categories. The
21 improvements, the cost of which may be secured by the special
22 assessment, include demolition of existing structures, site
23 preparation, environmental remediation, installation of utilities,
24 construction of sidewalks and roadways, development of parks or
25 open space, and such off-site improvements as may be required by
26 the municipality in connection with the development of the
27 development project.

28 The bill provides that the owners of a development project may
29 submit to the municipality in which the project is located a request
30 that a “lead developer” undertake any of the aforementioned kinds
31 of improvements in connection with the development project. The
32 request would include the agreement of the designated lead
33 developer to undertake the improvement on behalf of the owners
34 and the agreement of each owner to pay a share of the cost of the
35 improvement in proportion to the benefits therefrom that would
36 accrue to that owner. The municipality is authorized under the bill
37 to agree with the lead developer and owners (1) to the undertaking
38 of the improvement, and (2) that a special assessment may be
39 imposed against each owner for that owner’s allocable portion of
40 the cost.

41 Under the bill, the governing body of the municipality could then
42 adopt an ordinance providing for the improvement to be undertaken
43 and for the assessment of costs “as evidenced by the agreement.”
44 The ordinance is to require that the special assessment payments be
45 payable in yearly installments over a period, not to exceed 30 years,
46 beginning on or after the date on which the improvements are
47 completed, and is to provide that the special assessment shall
48 constitute an “automatic, enforceable, and perfected municipal

1 lien.” Either the municipality or the lead developer is to record
2 both the ordinance and a copy of the special assessment agreement.

3 The municipality is to assign to the lead developer its right to
4 payments of the special assessment and any remedies it may have
5 under the assessment agreement, including the right to collect the
6 payments and, in the event of delinquency in making a payment, to
7 enforce the lien through sale, under the “tax sale law” of the
8 property to which the lien attaches. Assessment payments that a
9 municipality has assigned to a lead developer shall not be included
10 in the general funds of the municipality nor subject to laws
11 regarding the investment or appropriation of public funds; they
12 shall not be subject to laws relating to public contracting nor
13 considered as “financial assistance” under P.L.2009, c.136
14 (N.J.S.A.52:18-43 et al.).

15 Upon completion of the special assessment development
16 improvement, the lead developer is to certify to the municipality the
17 improvement is completed and the amount of actual cost, together
18 with an allocation of the amount to be assessed against the owners,
19 which amount shall be lesser of the actual cost so certified or the
20 cost as provided in the ordinance and special assessment agreement.
21 The municipality shall thereupon notify each owner of the actual
22 amount to be assessed against that owner.