

SENATE, No. 2539

STATE OF NEW JERSEY
212th LEGISLATURE

INTRODUCED FEBRUARY 8, 2007

Sponsored by:

Senator RAYMOND J. LESNIAK

District 20 (Union)

SYNOPSIS

Permits State Treasurer to enter into a public-private partnership providing certain concession rights to private parties or a public-public partnership under same terms and conditions; directs that proceeds of this transaction be used for reduction of State debt and refunding of Turnpike Authority debt.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning public-private partnerships and public-public
2 partnerships, revising various parts of the statutory law and
3 supplementing P.L.1948, c.454 (C.27:23-1 et seq.).
4

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

8 1. (New section) Sections 1 through 14 of this act shall be
9 known and may be cited as the "Public-Private or Public-Public
10 Partnership Act."
11

12 2. (New section) The Legislature finds and declares:

13 a. In various foreign countries, and now commencing in the
14 United States, legislation has been enacted transferring
15 responsibility for operating public toll roads, public highways or
16 other public facilities, such as airports, from public agencies to
17 private operators, with a view to increasing efficiency in operations
18 and to providing increased revenue to public entities.

19 b. A public-private partnership providing certain concession
20 rights to private parties on the transportation projects of the New
21 Jersey Turnpike Authority could provide needed funds to the State
22 of New Jersey while retaining the authority, whose members are
23 appointed by the Governor, to carry out certain other important
24 functions and to monitor the public's interest in those public assets.
25 In the event that the New Jersey Turnpike Authority submits an
26 offer to the Treasurer under this bill for the maintenance and
27 operation of the authority's transportation projects under the same
28 terms and conditions as proposed by a private firm, the Department
29 of Transportation or an entity designated by the department will
30 monitor the public's interest under the concession agreement if the
31 offer is accepted.

32 c. The New Jersey Turnpike and the Garden State Parkway, as
33 transportation projects of the New Jersey Turnpike Authority, are
34 valuable public assets which constitute essential elements in the
35 State's transportation system, and the use of these public assets for
36 the benefit of the State is in the public interest. A public-private
37 partnership agreement granting concession rights to private parties
38 on these projects can be crafted in a way that will not affect the
39 current tax exempt status of the Turnpike Authority, its
40 transportation projects, property, interests, activities or income.

41 d. It is in the public interest for the Treasurer of the State of
42 New Jersey to be authorized to solicit proposals for a public-private
43 partnership to be embodied in an agreement for a public-private
44 partnership between the New Jersey Turnpike Authority and a

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 private entity or entities for the operation and maintenance of the
2 Turnpike Authority's transportation projects.

3 e. Alternatively, it is also in the public interest for the Treasurer
4 of the State of New Jersey to be authorized to solicit a proposal for
5 a public-public partnership to be embodied in an agreement for a
6 public-public partnership between the State and the Turnpike
7 Authority for the operation and maintenance of the authority's
8 transportation projects if the agreement is at least as financially
9 advantageous to the State as a public-private agreement.

10

11 3. (New section) a. The Treasurer of the State of New Jersey
12 may enter into an agreement for a public-private partnership with a
13 private firm to operate and maintain transportation projects of the
14 Turnpike Authority and to undertake certain related duties for a
15 period of time not to exceed 50 years. If the Treasurer determines
16 to seek such an agreement he shall solicit requests for proposals
17 from private firms for a public-private partnership pursuant to
18 section 6 of this act.

19 b. The Turnpike Authority is also authorized to maintain and
20 operate the transportation projects under a public-public partnership
21 with the State containing the same rights and duties as a public-
22 private partnership, provided that the public-public partnership is at
23 least as financially advantageous to the State as the proposed
24 public-private partnership.

25 c. As used in this act, "transportation project" means a
26 transportation project of the New Jersey Turnpike Authority
27 (hereinafter the "authority").

28

29 4. (New section) a. Prior to publishing notice of his intent to
30 solicit requests for proposals from private firms pursuant to section
31 6 of this act, the Treasurer shall appoint an independent financial
32 consultant to advise the Treasurer on the proposals and on the
33 public-private partnership or public-public partnership agreement,
34 respectively, as provided in this act. The independent financial
35 consultant shall be a financial consultant or firm of such financial
36 consultants who, or each of whom: (1) is, in the opinion of the
37 Treasurer, experienced with respect to public finance and the lease
38 of transportation facilities; (2) is in fact independent and not under
39 the control of the Treasurer or the authority; (3) did not have any
40 substantial interest, direct or indirect, with the Treasurer or the
41 authority during the two-year period immediately preceding
42 appointment; and (4) was not, during the two-year period preceding
43 appointment, and shall not become during service as the
44 independent financial consultant, connected with the Treasurer or
45 the authority as an officer or employee of the Treasurer or the
46 authority; provided, however, that the person or firm appointed as
47 independent financial consultant may be regularly retained to make
48 reports, render opinions, and provide other services to the Treasurer

1 in connection with the proposals and the public-private partnership
2 or the public-public partnership agreement as provided in this act.

3 b. The independent financial consultant shall not enter into any
4 contract or agreement in connection with the public-private
5 partnership or public-public partnership agreement nor render any
6 service, or represent, or advise the Treasurer or any party related
7 thereto except in the independent financial consultant's role as
8 independent financial consultant to the Treasurer.

9
10 5. (New section) In addition to the appointment of an
11 independent financial consultant pursuant to section 4 of this act,
12 prior to publishing the notice of intent to solicit proposals for a
13 public-private partnership under section 6 of this act, the Treasurer
14 shall establish a review committee to which the Treasurer may
15 delegate all or part of the powers granted to and duties imposed on
16 the Treasurer under sections 6 and 7 of this act, except for the
17 powers and duties established under subsections e., f., g., and h. of
18 section 7. The Treasurer shall appoint the members of the review
19 committee, which shall consist at a minimum of a professional
20 engineer, a financial expert, and an employee in the Executive
21 Branch of State Government other than an employee of the
22 authority.

23
24 6. (New section) a. The Treasurer shall publish notice of his
25 intent to solicit requests for proposals for a public-private
26 partnership authorized pursuant to section 3 of this act in at least
27 one newspaper of general circulation in this State and at least one
28 newspaper or journal dealing with financial matters in the City of
29 New York. The notice shall identify the factors set forth in
30 subsection e. of this section, and any other factor that the Treasurer
31 may prescribe, that the Treasurer shall consider in selecting a
32 proposal. The public notice required under this subsection shall
33 describe the scope of the public-private partnership and the deadline
34 for submission of proposals.

35 b. A request for proposals shall include a request for
36 qualifications. Prior to publication of the notice of a request for
37 proposals, the Treasurer shall prepare a draft thereof, and shall
38 solicit the opinion of the independent financial consultant appointed
39 pursuant to section 4 of this act on the draft request for proposals
40 and any revision thereof before the notice of intent to solicit
41 requests for proposals is published and before the request for
42 proposals is revised. The Treasurer may at any time revise the
43 request for proposals and each party that received a request for
44 proposals shall be provided with the revised request for proposals.

45 c. The Treasurer shall conduct a review of the proposals
46 submitted by the parties to determine which proposals meet the
47 minimum qualifications and standards. The review shall be
48 conducted in a manner that avoids disclosure of the contents of a

1 proposal to any party submitting a competing proposal. The
2 Treasurer may conduct discussions with a party submitting a
3 qualified proposal for the purpose of clarifying the information
4 submitted in the proposal. The Treasurer may at any time revise the
5 request for proposals after the review of the submitted proposals,
6 and shall notify simultaneously, and in writing, each party that
7 submitted a proposal of the revision and provide a uniform time
8 within which a party may submit a revised proposal for review.

9 d. The Treasurer shall select one qualified proposal for a public-
10 private partnership from among those submitted. The Treasurer
11 shall negotiate with the party that submitted the selected proposal
12 for the purpose of obtaining a final public-private partnership. If
13 the Treasurer is unable to negotiate satisfactorily with the selected
14 party, he may select another qualified proposal from among those
15 submitted and proceed to negotiate with the party that submitted the
16 proposal. The Treasurer shall set forth in writing the reasons for the
17 selection of the qualified proposal and the opinion of the
18 independent financial consultant pursuant to paragraph (6) of
19 subsection e. of this section and shall make this document available
20 to the public along with the proposal upon request and during the
21 public hearing conducted pursuant to section 7 of this act.

22 e. In selecting a qualified proposal for a public-private
23 partnership, the Treasurer shall at a minimum consider the
24 following factors:

25 (1) The ability of the party to properly execute a public-private
26 partnership as authorized under section 3 of this act.

27 (2) The financial strength of the party, including its
28 capitalization.

29 (3) The experience of the party in operating toll roads or
30 highways and other transportation projects and the performance of
31 the party on toll, highway or transportation projects.

32 (4) The integrity, background and reputation of the party,
33 including the absence of criminal, civil, or regulatory claims or
34 actions against the party.

35 (5) Whether the lease payment to be included in the partnership
36 proposal is reasonable and commensurate with the value of the
37 transportation project.

38 (6) The written opinion of the independent financial consultant
39 as to the relative merits of the qualified proposals.
40

41 7. (New section) a. After the Treasurer has successfully
42 negotiated with the party and designated the proposal as the
43 selected negotiated proposal, the Treasurer shall conduct a public
44 hearing on the negotiated proposal for a public-private partnership.

45 b. The Treasurer shall provide at least 14 days' prior notice of
46 the public hearing by publication in at least one newspaper of
47 general circulation in this State. The publication shall include
48 notice of the date, time and place of the public hearing, and notice

1 of the place and times at which copies of the negotiated proposal
2 will be available for public inspection.

3 c. At the public hearing, the Treasurer shall explain the
4 negotiated proposal.

5 d. The Treasurer shall produce a verbatim record of the public
6 hearing. The record of the public hearing shall be kept open for a
7 period of seven days following the conclusion of the hearing, during
8 which time interested parties may submit written documents to be
9 included in the hearing report. The Treasurer shall prepare a
10 written hearing report, which shall include a copy of the proposal, a
11 copy of the statement setting forth the Treasurer's reasons for the
12 selection of the proposal, the verbatim record of the public hearing,
13 written statements submitted by interested parties, a copy of the
14 opinion of the independent financial consultant on the relative
15 merits of the qualified proposals required pursuant to paragraph (6)
16 of subsection e. of section 6 of this act, and a statement prepared by
17 the Treasurer summarizing the major issues raised at the public
18 hearing and the Treasurer's responses to those issues. The
19 Treasurer shall make copies of the hearing report available to
20 interested parties at a cost not to exceed the actual cost of printing
21 and copying and shall also post copies of the hearing report on the
22 Treasury Department's website.

23 e. The Treasurer shall review the hearing report and may
24 preliminarily approve the negotiated proposal or may renegotiate
25 the proposal and subsequently preliminarily approve a revised
26 negotiated proposal. No further public hearing shall be required.

27 f. Upon preliminary approval of the negotiated proposal, the
28 Treasurer shall request the authority to analyze the proposal and
29 advise the Treasurer whether it can make a counter-proposal which
30 is as financially advantageous to the State as the negotiated
31 proposal, utilizing the same terms and conditions as the negotiated
32 proposal, including but not limited to, limitations on the increase in
33 tolls and funding of any lease payments to the State. The authority
34 shall have no more than 180 days from the date of submission of the
35 negotiated proposal to develop its counter-proposal and arrange
36 funding commitments. If the counter-proposal is at least as
37 financially advantageous to the State as the negotiated proposal
38 from the firm, the Treasurer shall accept the counter-proposal of the
39 authority rather than the negotiated proposal of the private firm. In
40 that event, the Treasurer shall enter into public-public partnership
41 agreement with the authority for the operation and maintenance of
42 the transportation projects of the authority for the term of no more
43 than 50 years, subject to approval of the Governor;

44 g. If the authority does not make an acceptable counter-proposal
45 within the period prescribed, the preliminarily approved negotiated
46 proposal concerning the public-private partnership shall be
47 delivered to the Governor for the Governor's approval.

1 h. After the Governor approves the negotiated proposal, the
2 Treasurer may enter into an agreement for a public-private
3 partnership embodying the proposal. A summary of the agreement
4 shall be delivered by the Treasurer to the Senate and General
5 Assembly on a day on which both of those Houses shall be meeting
6 in the course of a regular or special session. The agreement shall
7 take effect at the end of 30 calendar days after the date on which the
8 agreement is delivered unless the Legislature passes a concurrent
9 resolution stating in substance that the Legislature does not favor
10 the agreement.

11
12 8. (New section) a. The public-private partnership agreement
13 or public-public partnership agreement entered into pursuant to
14 section 7 of this act shall provide for the maintenance and operation
15 of the authority's transportation projects by a private firm,
16 hereinafter the "concessionaire," or by the authority, as the case
17 may be. The agreement shall expire in no more than 50 years.

18 b. During the term of the agreement as provided in the
19 agreement:

20 (1) The annual capital and maintenance expenditures of the
21 authority on transportation projects shall be so maintained that the
22 projects operate at levels of safety and efficiency which are
23 comparable to the levels of safety and efficiency in effect before the
24 agreement took effect. The authority, in the case of a public-private
25 partnership agreement, and the Department of Transportation or its
26 designee in the case of a public-public partnership agreement, shall
27 annually certify that the annual capital and maintenance
28 expenditures are sufficient to meet the required levels of safety and
29 efficiency, and that those maintenance expenditures include
30 resources dedicated to snow removal sufficient to fund a service
31 level adequate to meet levels of safety equivalent to those in effect
32 prior to the execution of the agreement;

33 (2) Increases in tolls, if any, in any calendar year shall not
34 exceed the percentage increase in the Consumer Price Index
35 reported in the previous calendar year, except that increases in tolls
36 for commercial motor vehicles shall not exceed the percentage
37 increase in the Per Capita Nominal Gross Domestic Product
38 ("GDP"), in current dollars, not seasonably adjusted, reported in the
39 previous calendar year; and except that with regard to the tolls
40 charged on the Garden State Parkway, during ten years from the
41 date of the agreement, tolls shall not exceed \$0.50 and may be
42 increased no more than \$0.10 during each succeeding ten-year
43 period, provided, that this limitation shall only apply to passenger
44 motor vehicles; and

45 (3) A process shall be established in the agreement for the
46 expenditure of funds on new capital construction which does not
47 involve repair or rehabilitation of existing projects.

1 c. (1) Nothing in the agreement shall affect the obligation of the
2 authority to make payments to the State or the Transportation Trust
3 Fund Authority under contracts entered into pursuant to subsection
4 b. of section 1 of P.L.1966, c.8 (C.27:23-5.8);

5 (2) The authority shall continue to enter into agreements
6 providing for the patrol of the New Jersey Turnpike and the Garden
7 State Parkway by the State Police and these projects shall be subject
8 to inspections by the Office of Homeland Security and Preparedness
9 as currently provided by law.

10 d. Any pledge or other assurance given by the Treasurer under
11 the agreement shall not be deemed to constitute a debt or liability of
12 the State or any political subdivision thereof or a pledge of the faith
13 and credit of the State or of any such political subdivision. Nothing
14 in the agreement or in this act shall be construed to authorize the
15 authority to incur indebtedness or liability on behalf of or payable
16 by the State or any political subdivision thereof.

17 e. The agreement shall provide for remedies available to the
18 Treasurer in the event of a default by other parties to the agreement
19 or of their failure to abide by its terms and conditions. The parties
20 to the agreement may avail themselves of the remedies under
21 section 11 of this act in the event a dispute over the agreement
22 cannot be resolved pursuant to procedures set forth in the
23 agreement.

24 f. The Treasurer may enter into contracts or agreements
25 collateral, related, or subsequent to the public-private partnership
26 agreement or public-public partnership agreement (hereinafter, the
27 "related agreements") to facilitate the public-private partnership
28 agreement or the public-public partnership agreement. If he so
29 determines that it is in the public interest, the Treasurer may enter
30 into public-private partnership agreements or related agreements
31 with more than one firm.

32 g. The authority shall obtain the written opinion of bond counsel
33 as to the effect of the agreement or related agreements or both on
34 the tax exempt status of existing and future financial instruments
35 executed by the authority given the provisions of the agreement and
36 the federal law and regulations concerning this matter.

37 h. Any revenues which may be realized from the development of
38 ancillary activities on property of the authority shall be used to
39 lower tolls charged by the authority or the concessionaire and not
40 for the expenses of the authority or the concessionaire. In the case
41 of a public-private partnership, the concessionaire will consult with
42 the New Jersey Economic Development Authority concerning
43 development of the ancillary activities. In the case of a public-
44 public partnership, the authority shall develop a plan for the
45 development of the ancillary activities.

46 i. No regular maintenance, new or expanded highway project, or
47 project funded by the New Jersey Department of Transportation, the
48 Transportation Trust Fund Authority, a county, municipality or bi-

1 state agency or authority shall be adversely affected by a public-
2 private partnership agreement.

3

4 9. (New section) A public-private partnership agreement shall
5 address the following:

6 a. The employment of those employed by the authority on the
7 effective date of the public-private partnership agreement. The
8 agreement shall provide that those employees subject to a collective
9 bargaining agreement on the effective date of the public-private
10 partnership agreement shall continue as employees of the authority
11 for the term of two successive collective bargaining agreements of
12 their respective bargaining unit or six years, whichever is longer,
13 and, at the end of that period, they may be continued in employment
14 by the authority at the absolute discretion of the authority or may be
15 offered employment by the concessionaire, at the concessionaire's
16 absolute discretion.

17 b. The continuation of regulatory power by the authority, the
18 exercise of police power by the authority through its own officers
19 and employees or the State Police, and the regular monitoring by
20 the authority of the performance of the concessionaire in carrying
21 out the provisions of the public-private partnership agreement and
22 the related agreements.

23 c. The appropriate division of toll and other revenue between the
24 authority and the concessionaire providing the authority with
25 sufficient revenue to permit the authority to exercise its regulatory,
26 police, monitoring and other functions.

27 d. The continuation of the award of contracts for the
28 construction and repair of highway projects by the authority under
29 existing regulations and as they may be modified from time to time.
30 The authority shall comply with the provisions of the "Set-Aside
31 Act for Small Businesses, Female Businesses, and Minority
32 Businesses," P.L.1983, c.428 (C.52:32-17 et seq.).

33 e. The appropriate division of toll and other revenue between the
34 authority and the concessionaire providing the authority with
35 sufficient revenue to permit the undertaking of capital projects by
36 the authority.

37 f. The fixing and revising of tolls on highway projects by the
38 concessionaire, as provided in this act.

39 g. The status of current contracts between the authority and
40 other parties, including but not limited to those contracts regarding
41 E-Z Pass, the operation of restaurants and service areas, and towing,
42 as well as the status of current collective bargaining agreements
43 between other parties and their employees.

44 h. Actions taken in the area of safety and roadway maintenance.
45 The agreement shall provide for action which can be taken by the
46 authority in emergent cases dealing with safety and roadway
47 maintenance issues.

1 10. The public-public partnership agreement, if entered into,
2 shall address the following:

3 a. The regular monitoring by the Department of Transportation
4 or its designee of the performance of the authority in carrying out
5 the provisions of the public-public partnership agreement and the
6 related agreements.

7 b. The fixing and revising of tolls on highway projects by the
8 authority as provided in this act.

9 c. The appropriate division of toll and other revenue between the
10 department and the concessionaire providing the department with
11 sufficient revenue to permit the department to exercise its
12 regulatory, police, monitoring, and other functions.

13

14 11. (New section) If a dispute over contract compliance,
15 performance, or termination in relation to a public-private
16 partnership agreement cannot be resolved by the Treasurer and the
17 concessionaire pursuant to the procedures set forth in the
18 agreement, either party to the agreement may file with the Superior
19 Court a request for an order either to terminate the agreement based
20 on the reasons stated in the request or for an order for appropriate
21 relief in the dispute. The court may take such action as it may deem
22 necessary to facilitate an expeditious response to the request and the
23 expeditious resolution of the dispute, including ordering the parties
24 to undertake a dispute resolution or mediation process. The court
25 may use the services of an expert in the area of public finance
26 contracts in its analysis of the agreement and the issues before it.
27 Within 90 days after the filing of a request, the court shall either
28 grant or deny the request. If the request is granted, the court shall
29 order such appropriate relief measures or remedies as it deems
30 appropriate and necessary.

31

32 12. (New section) a. The monies received by the Treasurer as a
33 result of the agreement in the form of a lease payment shall be
34 deposited in a special fund to be known as the "Indebtedness
35 Retirement Fund," to be established and held in the Treasury and
36 kept separate and apart from all other funds of the State.

37 b. The monies in the fund shall be used for the following
38 purposes:

39 (1) The refunding, defeasing or retirement of the outstanding
40 bonded indebtedness of the authority;

41 (2) And with respect to the amount remaining after the purposes
42 provided in paragraph (1) are carried out, that amount shall be
43 allocated to the retirement of the debt of the State of New Jersey.

44 c. Monies in the fund not required for disbursement under
45 subsection b. of this section may be invested and reinvested by the
46 Treasurer as other funds of the Treasurer are invested or the
47 Treasurer may invest and reinvest the monies in the manner

1 proposed by an investment policy established by order of the
2 Treasurer prior to required dispersal.

3
4 13. (New section) a. Notwithstanding any provision of law to
5 the contrary, during the term of any public-private partnership
6 agreement, the concessionaire shall have the exclusive authority to
7 set, fix, revise, and adjust tolls for the use of highway projects,
8 subject to the limitations prescribed under paragraph (2) of
9 subsection b. of section 8 of this act, as provided in this act and in
10 accordance with the agreement. The power of the authority to set,
11 fix, revise and adjust tolls is hereby superseded during that period.

12 b. Notwithstanding the provisions of section 8 of this act and
13 paragraph (2) of subsection d. of section 1 of P.L.1966, c.8
14 (C.27:23-5.8), the concessionaire or the authority, as the case may
15 be, may increase tolls in excess of the increase in the Consumer
16 Price Index, or the Gross Domestic Product, as the case may be, if
17 the increase is dedicated solely to pay principal and interest on
18 bonds issued by the New Jersey Turnpike Authority to finance the
19 cost of the Turnpike Widening Project from exit 6 to exit 8A of the
20 Turnpike.

21
22 14. (New section) The Treasurer may adopt rules and
23 regulations, pursuant to the "Administrative Procedure Act,"
24 P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to implement the
25 provisions of this act.

26
27 15. The Treasurer and the Commissioner of Transportation shall
28 conduct a study of the feasibility of establishing a public-private
29 partnership or a public-public partnership for the South Jersey
30 Transportation Authority, with emphasis on the appropriate
31 disposition of the non-expressway facilities, such as the Atlantic
32 City International Airport, shuttle bus service, and parking garages.
33 A report of the findings and recommendations of the study shall be
34 submitted to the Joint Budget Oversight Committee, the Senate
35 Transportation Committee, and the Assembly Transportation and
36 Public Works Committee not later than one year from the effective
37 date of this act.

38
39 16. Section 4 of P.L.1948, c.454 (C.27:23-4) is amended to read
40 as follows:

41 4. Definitions. As used in this act, the following words and
42 terms shall have the following meanings, unless the context shall
43 indicate another or different meaning or intent:

44 "Act" means P.L.1948, c.454 (C.27:23-1 et seq.), as amended
45 and supplemented.

46 "Authority" means the New Jersey Turnpike Authority, created
47 by section 3 of this act, or, if said authority shall be abolished, the
48 board, body or commission succeeding to the principal functions

1 thereof or to whom the powers given by this act to the authority
2 shall be given by law.

3 "Bonds" or "transportation revenue bonds" means any bonds,
4 refunding bonds, notes or other obligations issued by the authority
5 authorized under the provisions of this act or issued by or for the
6 Highway Authority.

7 "Commissioner" means the Commissioner of Transportation.

8 "Construction" or "construct" means the planning, designing,
9 construction, development, reconstruction, rehabilitation,
10 redevelopment, replacement, repair, extension, enlargement,
11 improvement and betterment of highway and transportation
12 projects, and includes the demolition, clearance and removal of
13 buildings or structures on land acquired, held, leased or used for
14 those projects.

15 "Consumer Price Index" means the average annual increase,
16 expressed as a decimal, in the consumer price index for all urban
17 consumers, northeast urban average, during the calendar year
18 preceding the calendar year in question as reported by the United
19 States Department of Labor. If this index shall be discontinued,
20 then the State Treasurer shall designate any successor Consumer
21 Price Index of the Department of Labor, or any successor thereto,
22 for the northeast urban area.

23 "Cost" means all or any part of the expenses incurred in
24 connection with the acquisition, construction, operation,
25 management and maintenance of any real property, lands,
26 structures, real or personal property rights, rights-of-way,
27 franchises, easements, and interests acquired or used for a project;
28 any financing charges and reserves for the payment of principal,
29 premium and interest on bonds; the expenses of engineering,
30 appraisal, architectural, accounting, financial, legal and other
31 consulting services; and other expenses as may be necessary,
32 desirable, convenient, or incident to the financing, acquisition,
33 construction, operation, improvement, management, repair and
34 maintenance of a project.

35 "Credit Agreement" means loan agreement, lease agreement,
36 revolving credit agreement, agreement establishing a line of credit,
37 letter of credit, reimbursement to purchase bonds, purchase or sale
38 agreements, or commitments or other contracts or agreements
39 authorized and approved by the authority in connection with the
40 authorization, issuance, security, purchase, tender, redemption, or
41 payment of bonds.

42 "Department" means the Department of Transportation.

43 "Feeder road" means any road or highway project that in the
44 determination of the authority is necessary, desirable or convenient
45 to create or facilitate access to a transportation project.

46 "Garden State Arts Center" means the Garden State Arts Center,
47 sometimes referred to as the PNC Bank Arts Center, a highway
48 project of the authority.

1 "Highway project" means [the acquisition, operation,
2 improvement, management, repair, construction, including] express
3 E-ZPass where determined by the authority, [and maintenance of]
4 the New Jersey Turnpike [and of] , the Garden State Parkway,
5 including the demolition and removal of toll houses and toll
6 barriers, and [of] the Garden State Arts Center, as transferred to the
7 authority pursuant to P.L.2003, c.79 (C.27:23-41 et al.), and [of]
8 any other highway or feeder road at the locations and between the
9 termini as may hereafter be established by the authority or by law
10 and acquired or constructed under the provisions of this act by the
11 authority, and shall include but not be limited to all bridges, parking
12 facilities, public highways, feeder roads, tunnels, overpasses,
13 underpasses, interchanges, traffic circles, grade separations,
14 entrance and exit plazas, approaches, toll houses, service areas,
15 stations and facilities, communications facilities, administration,
16 storage and other buildings and facilities, and other structures
17 directly or indirectly related to a transportation project, intersecting
18 highways and bridges and feeder roads which the authority may
19 deem necessary, desirable, or convenient in its discretion for the
20 operation, maintenance or management, either directly or indirectly,
21 of a transportation project, and includes any planning, design or
22 other preparation work necessary for the execution of any highway
23 project, and adjoining park or recreational areas and facilities,
24 directly or indirectly related to the use of a transportation project as
25 the authority shall find to be necessary and desirable, and the costs
26 associated therewith.

27 "Land and improvements" means any area or lands, any interest,
28 right or title in land, including but not limited to, any reversionary
29 right, fee, license or leasehold interest and any real or personal
30 property, structure, facility, building or equipment.

31 "Maintenance and operation" mean, in relation to the public-
32 private partnership agreement authorized by section 3 of P.L. , c.
33 (C.) (pending before the Legislature as this bill), the operation,
34 improvement, management, repair and maintenance of
35 transportation projects, but does not include the authority to issue
36 regulations, police transportation projects, or undertake capital
37 projects.

38 "Owner" means all individuals, copartnerships, associations,
39 private or municipal corporations and all political subdivisions of
40 the State having any title or interest in any property, rights,
41 easements and interests authorized to be acquired by this act.

42 "Parking facility" means any area or place, garage, building, or
43 other improvement or structure for the parking or storage of motor
44 or other vehicles, including but not limited to all real property and
45 personal property, driveways, roads and other structures or areas
46 necessary, useful or convenient for access to a facility from a public
47 street, road or highway, or from any project; meters, mechanical

1 equipment necessary, useful or convenient for or in connection with
2 that parking or storage; and any structures, buildings, space or
3 accommodations, whether constructed by the authority or by the
4 lessee, to be leased for any business, commercial or other use,
5 including the sale of gasoline or accessories for, or the repair or
6 other servicing of automobiles and other motor vehicles, or motorist
7 services, if, in the opinion of the authority, the inclusion, provision
8 and leasing is necessary, desirable or convenient to assist in
9 defraying the expenses of the authority and make possible the
10 operation of the parking facility at reasonable rates.

11 "Private firm" or "firm" means a corporation, a professional
12 corporation, a limited liability company, a limited liability
13 partnership, or any other lawful form of business organization or
14 consortium of such firms.

15 "Public highway" means all public highways, roads and streets in
16 the State, whether maintained by the State or by any county, city,
17 borough, town, township, village or other political subdivision.

18 "Public-private partnership agreement" or "agreement for a
19 public-private partnership" means a public-private partnership
20 agreement authorized pursuant to section 3 of P.L. , c. (C.)
21 (pending before the Legislature as this bill).

22 "Public-public partnership agreement" means a public-public
23 partnership agreement authorized pursuant to section 3 of P.L. ,
24 c. (C.) (pending before the Legislature as this bill).

25 "Real property" means lands within the State, above or below
26 water, and improvements thereof or thereon, or any riparian or other
27 rights or interests therein.

28 "Related agreements" means contracts or agreements collateral,
29 related, or subsequent to the public-private partnership agreement
30 or public-public partnership agreement in furtherance of that
31 agreement.

32 "Transfer Date" means, with respect to the assumption by the
33 authority of the powers, duties, assets and responsibilities of the
34 New Jersey Highway Authority, the date on which the Chair of the
35 authority and the commissioner certify to the Governor that: (i) all
36 bonds issued by the New Jersey Highway Authority cease to be
37 outstanding within the meaning of the resolutions pursuant to which
38 those bonds were issued; and (ii) upon which the authority assumes
39 all debts, and statutory responsibilities and obligations of the New
40 Jersey Highway Authority.

41 "Transportation project" or "project" means, in addition to
42 highway projects, any other transportation facilities or activities
43 determined necessary or appropriate by the authority in its
44 discretion to fulfill the purposes of the authority, and the costs
45 associated therewith.

46 (cf: P.L. 2003, c.79, s.8)

1 17. Section 5 of P.L.1948, c.454 (C.27:23-5) is amended to read
2 as follows:

3 5. General grant of powers. The authority shall be a body
4 corporate and politic and shall have perpetual succession and shall
5 have the following powers:

6 (a) To adopt bylaws for the regulation of its affairs and the
7 conduct of its business;

8 (b) To adopt an official seal and alter the same at pleasure;

9 (c) To maintain an office at such place or places within the State
10 as it may designate and to organize itself into such sub-departments,
11 operating divisions or units as it deems appropriate;

12 (d) To sue and be sued in its own name;

13 (e) To acquire, improve, construct, maintain, repair, manage,
14 and operate transportation projects or any part thereof at such
15 locations as shall be established by law or by the authority;

16 (f) To borrow money and issue negotiable bonds for any of its
17 corporate purposes, and to secure the same through the pledging of
18 tolls and other revenues and proceeds of such bonds, or other
19 available sources, and to refund its bonds, and to enter into any
20 credit agreement, all as provided in this act;

21 (g) In the exercise of any of its powers, except as provided in a
22 public-private partnership agreement or public-public partnership
23 agreement by resolution to fix and revise from time to time and
24 charge and collect tolls, fees, licenses, rents, concession charges
25 and other charges for each transportation project or any part thereof
26 constructed or acquired by it. No toll revenues derived from the
27 New Jersey Turnpike or the Garden State Parkway shall be used or
28 available for any transportation project other than a highway project
29 and all transportation projects other than highway projects shall be
30 self-sustaining; provided however that such toll revenues may be
31 used (1) to finance or support the costs of non-highway
32 transportation projects on an interim basis according to such terms,
33 with or without interest, as the authority shall establish, or (2) in
34 accordance with the public-private partnership agreement or related
35 agreements;

36 (h) To establish rules and regulations for the use of any project
37 including restrictions on the type, weight and size of vehicles
38 utilizing transportation projects, and also including the power to
39 exclude from any part of a highway project any traffic other than
40 passenger automobiles if the authority finds that such part is not
41 suitable or sufficient as a highway to carry mixed traffic;

42 (i) To acquire, hold and dispose of real and personal property in
43 the exercise of its powers and the performance of its duties under
44 this act;

45 (j) To acquire in the name of the authority by purchase or
46 otherwise, on such terms and conditions and in such manner as it
47 may deem proper, or by the exercise of the power of eminent
48 domain, except as against the State of New Jersey, any land and

1 other property, which it may determine is reasonably necessary for
2 any transportation project or feeder road or for the relocation or
3 reconstruction of any highway by the authority under the provisions
4 of this act and any and all rights, title and interest in such land and
5 other property, including public lands, parks, playgrounds,
6 reservations, highways or parkways, owned by or in which the State
7 of New Jersey or any county, city, borough, town, township,
8 village, or other political subdivision of the State of New Jersey has
9 any right, title or interest, or parts thereof or rights therein and any
10 fee simple absolute or any lesser interest in private property, and
11 any fee simple absolute in, easements upon, or the benefit of
12 restrictions upon, abutting property to preserve and protect
13 transportation projects.

14 Upon the exercise of the power of eminent domain, the
15 compensation to be paid thereunder shall be ascertained and paid in
16 the manner provided in the "Eminent Domain Act of 1971,"
17 P.L.1971, c.361 (C.20:3-1 et seq.), insofar as the provisions thereof
18 are applicable and not inconsistent with the provisions contained in
19 this act. The authority may join in separate subdivisions in one
20 petition or complaint the descriptions of any number of tracts or
21 parcels of land or property to be condemned and the names of any
22 number of owners and other parties who may have an interest
23 therein and all such land or property included in said petition or
24 complaint may be condemned in a single proceeding; provided,
25 however, that separate awards be made for each tract or parcel of
26 land or property; and provided, further, that each of said tracts or
27 parcels of land or property lies wholly in or has a substantial part of
28 its value lying wholly within the same county.

29 Upon the filing of such petition or complaint or at any time
30 thereafter the authority may file with the clerk of the county in
31 which such property is located and also with the Clerk of the
32 Superior Court a declaration of taking, signed by the authority,
33 declaring that possession of one or more of the tracts or parcels of
34 land or property described in the petition or complaint is thereby
35 being taken by and for the use of the authority. The said declaration
36 of taking shall be sufficient if it sets forth: (1) a description of each
37 tract or parcel of land or property to be so taken sufficient for the
38 identification thereof, to which there may or may not be attached a
39 plan or map thereof; (2) a statement of the estate or interest in the
40 said land or property being taken; and (3) a statement of the sum of
41 money estimated by the authority by resolution to be just
42 compensation for the taking of the estate or interest in each tract or
43 parcel of land or property described in said declaration.

44 Upon the filing of the said declaration, the authority shall deposit
45 with the Clerk of the Superior Court the amount of the estimated
46 compensation stated in said declaration.

47 Upon the filing of the said declaration as aforesaid and
48 depositing with the Clerk of the Superior Court the amount of the

1 estimated compensation stated in said declaration, the authority,
2 without other process or proceedings, shall be entitled to the
3 exclusive possession and use of each tract of land or property
4 described in said declaration and may forthwith enter into and take
5 possession of said land or property, it being the intent of this
6 provision that the proceedings for compensation or any other
7 proceedings relating to the taking of said land or interest therein or
8 other property shall not delay the taking of possession thereof and
9 the use thereof by the authority for the purpose or purposes for
10 which the authority is authorized by law to acquire or condemn
11 such land or other property or interest therein.

12 The authority shall cause notice of the filing of said declaration
13 and the making of said deposit to be served upon each party in
14 interest named in the petition residing in this State, either personally
15 or by leaving a copy thereof at his residence, if known, and upon
16 each party in interest residing out of the State, by mailing a copy
17 thereof to him at his residence, if known. In the event that the
18 residence of any such party or the name of such party is unknown,
19 such notice shall be published at least once in a newspaper
20 published or circulating in the county or counties in which the land
21 is located. Upon the application of any party in interest and after
22 notice to other parties in interest, including the authority, any judge
23 of the Superior Court assigned to sit for said county may order that
24 the money deposited with the Clerk of the Superior Court or any
25 part thereof be paid forthwith to the person or persons entitled
26 thereto for or on account of the just compensation to be awarded in
27 said proceeding; provided, that each such person shall have filed
28 with the Clerk of the Superior Court a consent in writing that, in the
29 event the award in the condemnation proceeding shall be less than
30 the amount deposited, the court, after notice as herein provided and
31 hearing, may determine his liability, if any, for the return of such
32 difference or any part thereof and enter judgment therefor. If the
33 amount of the award as finally determined shall exceed the amount
34 so deposited, the person or persons to whom the award is payable
35 shall be entitled to recover from the authority the difference
36 between the amount of the deposit and the amount of the award,
37 with interest at the rate of six per centum (6%) per annum thereon
38 from the date of making the deposit. If the amount of the award
39 shall be less than the amount so deposited, the Clerk of the Superior
40 Court shall return the difference between the amount of the award
41 and the deposit to the authority, unless the amount of the deposit or
42 any part thereof shall have theretofore been distributed, in which
43 event the court, on petition of the authority and notice to all persons
44 interested in the award and affording them an opportunity to be
45 heard, shall enter judgment in favor of the authority for such
46 difference against the party or parties liable for the return thereof.
47 The authority shall cause notice of the date fixed for such hearing to
48 be served upon each party thereto residing in this State, either

1 personally or by leaving a copy thereof at his residence, if known,
2 and upon each party residing out of the State, by mailing a copy to
3 him at his residence, if known. In the event that the residence of
4 any party or the name of such party is unknown, such notice shall
5 be published at least once in a newspaper published or circulating in
6 the county or counties in which the land is located. Such service,
7 mailing or publication shall be made at least 10 days before the date
8 fixed for such hearing.

9 Whenever under the "Eminent Domain Act of 1971" the amount
10 of the award may be paid into court, payment may be made into the
11 Superior Court and may be distributed according to law;

12 (k) To designate the locations, and establish, limit and control
13 such points of ingress to and egress from each highway or
14 transportation project as may be necessary or desirable in the
15 judgment of the authority to insure the proper operation and
16 maintenance of such project, and to prohibit entrance to such
17 project from any point or points not so designated;

18 (l) To make and enter into all contracts and agreements
19 necessary or incidental to the performance of its duties and the
20 execution of its powers under this act and to enter into contracts
21 with federal, State and local governments and private entities for
22 the financing, administration, operation, management and
23 construction of transportation projects;

24 (m) To appoint such additional officers, who need not be
25 members of the authority, as the authority deems advisable, and to
26 employ consulting engineers, attorneys, accountants, construction
27 and financial experts, superintendents, managers, and such other
28 similarly situated employees and agents as may be necessary in its
29 judgment; to fix their compensation; and to promote and discharge
30 such officers, employees and agents, all without regard to the
31 provisions of Title 11A of the New Jersey Statutes;

32 (n) To receive and accept from any federal agency, subject to
33 the approval of the Governor, grants for or in aid of the acquisition
34 or construction of any transportation project or any part thereof, and
35 to receive and accept aid or contributions, from any source, of
36 either money, property, labor or other things of value, to be held,
37 used and applied only for the purposes for which such grants and
38 contributions may be made;

39 (o) To do all acts and things necessary or convenient to carry
40 out the powers expressly or impliedly granted in this act;

41 (p) Subject to any agreement with the bondholders, to invest
42 moneys of the authority not required for immediate use, including
43 proceeds from the sale of any bonds, in such obligations, securities
44 and other investments as the authority shall deem prudent;

45 (q) To apply for, receive and accept from any federal agency,
46 any bistate agency, or the State and any subdivision thereof, grants
47 for or in aid of the planning, acquisition, management, maintenance,
48 operation or construction of any project, and to receive and accept

1 aid or contributions from any other public or private source, of
2 either money, property, labor or other things of value, to be held,
3 used and applied only for the purposes for which those grants and
4 contributions may be made;

5 (r) To procure and enter into contracts for any type of insurance
6 and to indemnify against loss or damage to property from any
7 cause, including the loss of use and occupancy and business
8 interruption, death or injury of any person, employee liability, any
9 act of any member, officer, employee or servant of the authority,
10 whether part-time, compensated or uncompensated, in the
11 performance of the duties of office or employment or any other
12 insurable risk or any other losses in connection with property,
13 operations, assets or obligations in any amounts and from any
14 insurers as are deemed desirable. In addition, the authority may
15 carry its own liability insurance;

16 (s) To adopt regulations, pursuant to the "Administrative
17 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to provide
18 open and competitive procedures for awarding contracts for towing
19 and storage services. Towing and storage services on a highway
20 project may be provided on a rotating basis, provided that the
21 authority determines that there would be no additional cost to the
22 authority, excepting administrative costs, as a result of those
23 services being provided on a rotating basis. The regulations shall fix
24 maximum towing and storage fees, and establish objective criteria
25 to be considered in awarding a contract for towing and storage
26 services which shall include, but shall not be limited to, reliability,
27 experience, response time, acceptance of credit cards and prepaid
28 towing contracts, adequate equipment to safely handle a sufficient
29 volume of common vehicle types under a variety of traffic and
30 weather conditions, location of storage and repair facilities, security
31 of vehicles towed or stored, financial return to the authority,
32 maintenance of adequate liability insurance and appropriate
33 safeguards to protect the personal safety of customers, including
34 considerations related to the criminal background of employees.
35 The Division of Consumer Affairs in the Department of Law and
36 Public Safety shall provide, at the authority's request, a report to the
37 authority on any prospective contractor for which the division has
38 information relevant to the prospective contractor's service record,
39 subject to the provisions of the New Jersey consumer fraud act,
40 P.L.1960, c.39 (C.56:8-1 et seq.). The Division of Insurance Fraud
41 Prevention in the Department of Banking and Insurance also shall
42 provide, at the authority's request, a report to the authority on any
43 prospective contractor for which the division has information
44 relevant to the prospective contractor's service record, subject to the
45 "New Jersey Insurance Fraud Prevention Act," P.L.1983, c.320
46 (C.17:33A-1 et seq.);

47 (t) To adopt, prior to the Transfer Date and notwithstanding any
48 other provision of law to the contrary, a resolution authorizing the

1 issuance of bonds, notes or other obligations on such terms as
2 otherwise provided for in this act for the retirement by defeasance,
3 redemption, secondary market purchase, tender payment at maturity
4 or otherwise, of all of the New Jersey Highway Authority's
5 outstanding bonds, notes or other obligations, as if the Transfer
6 Date transferring to the authority the rights, duties and obligations
7 to operate, maintain and manage the Garden State Parkway had
8 already occurred; and

9 (u) To transfer, sell, dispose of, or otherwise relinquish all right,
10 title, or interest in the Garden State Arts Center, and any related or
11 auxiliary facilities, to the New Jersey Sports and Exposition
12 Authority, established by P.L.1971, c.137 (C.5:10-1 et seq.), or to
13 any other entity, according to such terms and process as the
14 authority may establish in its discretion.
15 (cf: P.L. 2003, c.79, s.9)

16
17 18. Section 1 of P.L.1966, c.8 (C.27:23-5.8) is amended to read
18 as follows:

19 1. The New Jersey Turnpike Authority shall have, in addition to
20 the powers heretofore granted to it, power:

21 a. To pay or make any advance or contribution to the United
22 States Government or the State of New Jersey or any agency thereof
23 for the purpose of paying the State's share or any portion thereof
24 under the federal aid highway laws of the cost of construction of
25 any transportation improvement determined by the authority to be a
26 major improvement necessary to restore or prevent physical damage
27 to any transportation project or any feeder roads, for the safe or
28 efficient operation of such project, or to prevent loss of revenues
29 there from.

30 b. Subject to the rights and security interests of the holders from
31 time to time of bonds or notes heretofore or hereafter issued by the
32 New Jersey Turnpike Authority, to enter into contracts with the
33 State or the New Jersey Transportation Trust Fund Authority
34 established by section 4 of the "New Jersey Transportation Trust
35 Fund Authority Act of 1984," P.L.1984, c.73 (C.27:1B-4),
36 providing for the payment from the revenues of the New Jersey
37 Turnpike Authority to the State or to the New Jersey Transportation
38 Trust Fund Authority of the amount or amounts of revenues that
39 may be set forth in or determined in accordance with the contracts.
40 Any contracts authorized pursuant to this section may include
41 conditions and covenants necessary and desirable to facilitate the
42 issuance and sale of bonds, notes and other obligations of the New
43 Jersey Transportation Trust Fund Authority. Any agreements
44 entered into between the State and the Turnpike Authority pursuant
45 to this subsection shall terminate upon the effective date of any
46 agreement entered into between the Turnpike Authority and the
47 New Jersey Transportation Trust Fund Authority providing for the
48 payment of revenues of the Turnpike Authority directly from the

1 Turnpike Authority to the New Jersey Transportation Trust Fund
2 Authority.

3 c. To enter into agreements with the Department of
4 Transportation with respect to the funding of the resurfacing,
5 restoring, rehabilitation and reconstruction of the I-95 Extension of
6 the New Jersey Turnpike through the allocation of monies
7 apportioned by the United States Department of Transportation
8 pursuant to 23 U.S.C. s.119 or a successor program. Any such
9 agreement shall be subject to the continued eligibility of the I-95
10 Extension for federal aid, the availability of funds appropriated by
11 Congress and the appropriation of funds by the Legislature for that
12 purpose. No such agreement shall constitute or create a debt or
13 liability of the State within the meaning of any constitutional or
14 statutory limitation nor shall any such agreement constitute a pledge
15 of either the faith and credit or the taxing power of the State. Funds
16 payable or paid to the authority pursuant to any such agreement
17 shall not be pledged as security for any indebtedness of the
18 authority.

19 d. Notwithstanding any other provision of law to the contrary:

20 (1) To enter into a public-public partnership agreement with the
21 State Treasurer for the maintenance and operation of transportation
22 projects;

23 (2) To receive monies from the agreement in the “Indebtedness
24 Retirement Fund” to be held by the authority and disburse such
25 monies pursuant to section 12 of P.L. , c. (C.) (pending before
26 the Legislature as this bill); and

27 (3) To borrow monies, issue bonds, or make financial
28 arrangements to make a payment to the State Treasurer for the
29 maintenance and operation of transportation projects of the
30 authority under a public-public partnership agreement.

31 (cf: P.L.2003, c.79, s.14)

32

33 19. Section 1 of P.L.1977, c.230 (C.27:23-5.10) is amended to
34 read as follows:

35 1. **【The】** Except as provided in a public-private partnership
36 agreement and P.L. , c. (C.) (pending before the Legislature as
37 this bill), the authority shall, whenever it desires to increase any
38 existing toll or establish any new toll for the use of any highway
39 project and the different parts or sections thereof, hold a public
40 hearing on such proposed toll at least 45 days prior to the date on
41 which such toll is proposed to become effective.

42 (cf: P.L.2003, c.79, s.16)

43

44 20. Section 2 of P.L.1977, c.230 (C.27:23-5.11) is amended to
45 read as follows:

46 2. **【The】** Except as provided in a public-private partnership
47 agreement, the authority shall cause to be published notice of such

1 hearing at least 10 days prior to such hearing in at least 10
2 newspapers with a daily circulation in this State.

3 (cf: P.L.1977, c. 230, s. 2)

4
5 21. Section 7 of P.L.1948, c.454 (C.27:23-7) is amended to read
6 as follows:

7 7. The authority is hereby authorized to provide by resolution, at
8 one time or from time to time, for the issuance of bonds of the
9 authority for any of its corporate purposes, including the refunding
10 of its bonds. **【The】** Except as provided in a public-private
11 partnership agreement and P.L. , c. (C.) (pending before the
12 Legislature as this bill), the principal of and the interest on any
13 issue of such bonds shall be payable solely from and may be
14 secured by a pledge of tolls and other revenues of all or any part of
15 the transportation projects. The proceeds of any such bonds may be
16 used or pledged for the payment or security of the principal of or
17 interest on bonds and for the establishment of any or all reserves for
18 such payment or security or for other corporate purposes as the
19 authority may authorize in the resolution authorizing the issuance of
20 bonds or in the trust agreement securing the same. The bonds of
21 each issue shall be dated, shall bear interest at such rate or rates,
22 shall mature at such time or times not exceeding 40 years from their
23 date or dates, as may be determined by the authority, and may be
24 made redeemable before maturity, at the option of the authority, at
25 such price or prices and under such terms and conditions as may be
26 fixed by the authority prior to the issuance of the bonds. The
27 authority shall determine the form of the bonds including any
28 interest coupons to be attached thereto, and shall fix the
29 denomination or denominations of the bonds and the place or places
30 of payment of principal and interest, which may be at any bank or
31 trust company within or without the State. The bonds shall be
32 signed by the chairman of the authority or shall bear his facsimile
33 signature and the official seal of the authority or a facsimile thereof
34 shall be impressed, imprinted, engraved or otherwise reproduced
35 thereon. The official seal or facsimile thereof shall be attested by
36 the secretary and Treasurer of the authority, or by such other officer
37 or agent as the authority shall appoint and authorize and any
38 coupons attached to such bonds shall bear the facsimile signature of
39 the chairman of the authority. In case any officer whose signature or
40 a facsimile of whose signature shall appear on any bonds or
41 coupons shall cease to be such officer before the delivery of such
42 bonds, such signature or such facsimile shall nevertheless be valid
43 and sufficient for all purposes the same as if he had remained in
44 office until such delivery. All bonds issued under the provisions of
45 this act shall have and are hereby declared to have all the qualities
46 and incidents of negotiable instruments under the negotiable
47 instruments law of the State. The bonds may be issued in coupon or
48 in registered form, or both, as the authority may determine, and

1 provision may be made for the registration of any coupon bonds as
2 to principal alone and also as to both principal and interest, and for
3 the reconversion into coupon bonds of any bonds registered as to
4 both principal and interest. The authority may sell such bonds in
5 such manner and for such price, as it may determine to be for the
6 best interests of the authority. Neither the members of the authority
7 nor any person executing the bonds shall be personally liable on the
8 bonds or be accountable by reason of the issuance thereof in
9 accordance with the provisions of this act.

10 The proceeds of the bonds of each issue shall be disbursed in
11 such manner and under such restrictions, if any, as the authority
12 may provide in the resolution authorizing the issuance of such
13 bonds or in the trust agreement hereinafter mentioned securing the
14 same.

15 Prior to the preparation of definitive bonds, the authority may,
16 under like restrictions, issue interim receipts or temporary bonds,
17 with or without coupons, exchangeable for definitive bonds when
18 such bonds shall have been executed and are available for delivery.
19 The authority may also provide for the replacement of any bonds
20 which shall become mutilated or shall be destroyed or lost. Bonds
21 may be issued under the provisions of this act without obtaining the
22 consent of any department, division, commission, board, bureau or
23 agency of the State, and without any other proceedings or the
24 happening of any other conditions or things than those proceedings,
25 conditions or things which are specifically required by this act.

26 The State of New Jersey does pledge to and agree with the
27 holders of the bonds issued pursuant to authority contained in this
28 act, that the State will not limit or restrict the rights hereby vested
29 in the authority to acquire, maintain, construct, improve, manage,
30 repair, reconstruct, and operate any projects as defined in this act,
31 or to establish and collect such charges and tolls as may be
32 convenient or necessary to produce sufficient revenue to meet the
33 expenses of maintenance and operation thereof and to fulfill the
34 terms of any agreements made with the holders of bonds authorized
35 by this act or in any way impair the rights or remedies of the
36 holders of such bonds until, the bonds, together with interest
37 thereon, are fully paid and discharged.

38 (cf: P.L.2003, c.79, s.19)

39

40 22. Section 9 of P.L.1948, c.454 (C.27:23-9) is amended to read
41 as follows:

42 9. Revenues. (A) 【The】 Except as provided in a public-private
43 partnership agreement or a public-public partnership agreement and
44 in P.L. , c. (C.) (pending before the Legislature as this bill), the
45 authority is hereby authorized by resolution to fix, revise, charge
46 and collect tolls, fees, licenses, rents, concession charges and other
47 charges for the use of each project and the different parts or
48 sections thereof, and to contract with any person, partnership,

1 association or corporation desiring the use of any part thereof,
2 including the right-of-way adjoining the paved portion, for placing
3 thereon telephone, telegraph, electric light or power lines, gas
4 stations, garages, stores, hotels, and restaurants, offices,
5 entertainment facilities, or for any other purpose, and to fix the
6 terms, conditions, rents and rates of charges for such use; provided,
7 that a sufficient number of gas stations may be authorized to be
8 established in each service area along any such highway to permit
9 reasonable competition by private business in the public interest.
10 Such tolls shall be so fixed and adjusted as to carry out and perform
11 the terms and provisions of any contract with or for the benefit of
12 bondholders. Such tolls shall not be subject to supervision or
13 regulation by any other commission, board, bureau or agency of the
14 State. The use and disposition of tolls and revenues shall be subject
15 to the provisions of the resolution authorizing the issuance of such
16 bonds or of the trust agreement securing the same or the public-
17 private partnership agreement and P.L. , c. (C.) (pending
18 before the Legislature as this bill).

19 (B) (Deleted by amendment, P.L.2003, c.79).

20 (C) All revenues and other funds of the authority not pledged or
21 otherwise required to pay or secure the payment of principal and
22 interest on any indebtedness of the authority existing from time to
23 time under, and not otherwise required for the purpose of, this act
24 and not pledged under a contract providing for payment of funds to
25 the State or New Jersey Transportation Trust Fund Authority
26 created pursuant to P.L.1984, c.73 (C.27:1B-1 et seq.) shall be
27 applied to the authority's corporate purposes or as hereafter
28 provided by law.

29 (cf: P.L.2003, c.79, s.22)

30

31 23. Section 12 of P.L.1948, c.454 (C.27:23-12) is amended to
32 read as follows:

33 12. The exercise of the powers granted by this act will be in all
34 respects for the benefit of the people of the State, for the increase of
35 their commerce and prosperity, and for the improvement of their
36 health and living conditions, and as the operation and maintenance
37 of transportation projects and other property by the Authority will
38 constitute the performance of essential governmental functions, the
39 Authority shall not be required to pay any taxes or assessments
40 upon any transportation project or any property acquired or used by
41 the Authority or maintained and operated by a concessionaire under
42 a public-private partnership agreement under the provisions of this
43 act or upon the income therefrom, and any transportation project
44 and any property acquired or used by the Authority or maintained
45 and operated by a concessionaire under a public-private partnership
46 agreement under the provisions of this act and the income therefrom
47 (including any profit made on the lease thereof), and the bonds
48 issued under the provisions of this act, their transfer and the income

1 therefrom (including any profit made on the sale thereof) shall be
2 exempt from taxation. The Legislature reaffirms that all existing
3 facilities and property, and their operations, and management, of the
4 authority and of the New Jersey Highway Authority, as transferred
5 to the authority, are deemed public and essential governmental
6 functions and are exempt from local taxes or assessments. The
7 Legislature further reaffirms that no change in the tax-exempt status
8 of the Authority, its transportation projects, or other interests and
9 activities shall be affected by the execution of a public-private
10 partnership agreement, related agreements in furtherance thereof, or
11 monies received by the Authority in accordance with their
12 provisions.

13 (cf: P.L.2003, c.79, s.23)

14
15 24. Section 14 of P.L.1948, c.454 (C.27:23-14) is amended to
16 read as follows:

17 14. Miscellaneous. Each highway project when constructed and
18 opened to traffic shall be maintained and kept in good condition and
19 repair by the Authority. Each such project shall also be policed and
20 operated by such force of police, toll-takers and other operating
21 employees as the Authority may in its discretion employ, unless the
22 Authority provides otherwise by agreement with any federal, state
23 [or], local, or private entity. The expenses for this maintenance
24 and operation shall be paid by the authority from its own funds or
25 from funds made available to the authority, unless the authority
26 provides otherwise by agreement with any federal, state [or], local
27 or private entity.

28 All counties, cities, boroughs, towns, townships, villages, and
29 other political subdivisions and all public departments, agencies and
30 commissions of the State of New Jersey, notwithstanding any
31 contrary provision of law, are hereby authorized and empowered to
32 sell, lease, lend, grant or otherwise convey to the Authority at its
33 request upon such terms and conditions as the proper authorities of
34 such counties, cities, boroughs, towns, townships, villages, and
35 political subdivisions and departments, agencies or commissions of
36 the State may deem reasonable and fair and without the necessity
37 for any advertisement, order of court or other action or formality,
38 other than the regular and formal action of the authorities
39 concerned, any real property which may be necessary or convenient
40 to the effectuation of the authorized purposes of the Authority,
41 including public roads and other real property already devoted to
42 public use.

43 The Authority shall cause an audit of its books and accounts to
44 be made at least once in each year by certified public accountants
45 and the cost thereof may be treated as a part of the cost of
46 construction or of operation of the project.

47 Any member, agent or employee of the Authority who is
48 interested, either directly or indirectly, in any contract of another

1 with the Authority, or in the sale of any property, either real or
2 personal, to the Authority shall be guilty of a crime of the fourth
3 degree.

4 (cf: P.L.2003,c.79,s.24)

5
6 25. Section 1 of P.L.1951, c.264 (C.27:23-25) is amended to
7 read as follows:

8 1. No vehicle shall be permitted to make use of any highway
9 project or part thereof operated by the New Jersey Turnpike
10 Authority created pursuant to P.L.1948, c.454 (C.27:23-1 et seq.)
11 (hereinafter called the "Authority") except upon the payment of
12 such tolls, if any, as may from time to time be prescribed by the
13 Authority or as provided in a public-private partnership agreement.
14 It is hereby declared to be unlawful for any person to refuse to pay,
15 or to evade or to attempt to evade the payment of such tolls.

16 (cf: P.L.2003, c.79, s.29)

17
18 26. Section 16 of P.L.1948, c.454 (C.27:23-16) is repealed.

19
20 27. This act shall take effect immediately.

21 22 23 STATEMENT

24
25 This bill, entitled the "Public-Private or Public-Public
26 Partnership Act," permits the State Treasurer to enter into a public-
27 private partnership agreement (or "agreement") with a private firm
28 ("concessionaire") to operate and maintain the authority's
29 transportation projects, including the New Jersey Turnpike, the
30 Garden State Parkway, and the PNC Bank Arts Center, and to
31 receive the monies from the agreement. The monies are to be
32 deposited in a special fund held by the Treasurer and used for
33 retirement of State debt.

34 The Treasurer is authorized to solicit proposals for a public-
35 private partnership from private firms. Prior to issuing requests for
36 proposals, the Treasurer would appoint an independent financial
37 consultant to advise the Treasurer on the requests for proposals and
38 the proposed agreement. In addition, the Treasurer would appoint a
39 review committee to which he would delegate all or part of the
40 request for proposals process and the evaluation of the proposals.
41 After the holding of a public hearing on the selected negotiated
42 proposal, the Treasurer would preliminarily approve the negotiated
43 proposal. The proposal would be transmitted to the authority which
44 could submit a counter-proposal under the same terms and
45 conditions as the private firm. The Treasurer is required to accept
46 the counter-proposal if it is as financially advantageous to the State
47 as that of the private firm and to enter into a public-public
48 partnership with the authority to maintain and operate the

1 authority's transportation projects. If the counter-proposal is not
2 acceptable, a public-private partnership agreement embodying the
3 proposal would go into effect after being approved by the Treasurer,
4 subject to Gubernatorial approval, 30 days after being submitted to
5 the Legislature, if the Legislature failed to disapprove the
6 agreement.

7 Further, the Treasurer would be authorized to enter into "related
8 agreements" to facilitate the agreement. The agreements would be
9 for no more than 50 years. Public-private partnership agreements or
10 related agreements could be made with more than one firm. Any
11 agreement (including the related agreements) would provide that:

12 (1) Maintenance and capital expenditures of the authority would
13 be continued at appropriate levels;

14 (2) Toll increases could not exceed increases in the Consumer
15 Price Index (CPI) or, in the case of commercial motor vehicles,
16 increases in the Per Capita Nominal Gross Domestic Product
17 (GDP), except that in the case of passenger vehicles on the Garden
18 State Parkway a \$0.50 limitation during the first 10 years plus a
19 maximum \$0.10 increase every 10 years thereafter are provided for;

20 (3) A process will be established for new capital improvements;

21 (4) The State Police would continue to patrol the toll roads and
22 the roads would be subject to homeland security inspections as is
23 currently the case; and

24 (5) The obligation of the authority to make its annual
25 contributions to the State or the Transportation Trust Fund
26 Authority, as contained in contracts authorized under existing law,
27 would continue.

28 The public-private partnership agreement would also address the
29 following:

30 (1) The continued employment of authority employees. The
31 agreement would provide that employees covered by a collective
32 bargaining agreement shall be continued as authority employees for
33 the term of two successive collective bargaining agreements of their
34 respective bargaining unit or six years, whichever is longer, at the
35 end of which period they may be offered continued employment by
36 the authority or the concessionaire at the authority's or the
37 concessionaire's absolute discretion.

38 (2) The continuation of the regulatory and police power of the
39 authority, as well as the authority's power to regularly monitor the
40 performance of the concessionaire.

41 (3) The appropriate division of toll and other revenues between
42 the authority and the concessionaire to permit the authority to
43 exercise its regulatory, police, monitoring, and other functions.

44 (4) Continuation of the award of highway projects under existing
45 regulations.

46 (5) The appropriate division of toll and other revenue between
47 the authority and the concessionaire sufficient to permit the
48 undertaking of capital projects.

1 (6) The fixing and revising of tolls on highway projects by the
2 concessionaire. The bill removes the power to fix and revise tolls
3 from the authority and, subject to cost-of-living limitations
4 prescribed under the bill, grants that power to the concessionaire
5 during the term of a public-private agreement.

6 (7) The status of current contracts between the authority and
7 various private parties and current collective bargaining agreements
8 between other parties and their employees.

9 (8) Actions taken in the area of safety and roadway maintenance.

10 This bill would prohibit the Treasurer from pledging the credit of
11 the State of New Jersey in any agreement authorized by the bill.

12 The monies realized from the public-private partnership
13 agreement lease or public-public partnership lease would be
14 deposited in an "Indebtedness Retirement Fund" held by the
15 Treasurer. The monies in the fund would be first used to retire the
16 authority's outstanding indebtedness and then the remainder would
17 be allocated for the reduction of the State's debt.

18 The bill would permit an exception to the limitation on toll
19 increases to increases in the CPI or GDP if the toll increases are
20 dedicated solely to pay debt service on bonds to be issued by the
21 authority for the Turnpike Widening Project from Exit 8A to Exit 6.