

ASSEMBLY, No. 606

STATE OF NEW JERSEY 214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:

Assemblyman ERIK PETERSON

District 23 (Warren and Hunterdon)

SYNOPSIS

Eliminates awards of punitive damages against public entities, and against public officers, employees and servants acting within the scope or under color of their office, employment or agency.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning punitive damages and amending various parts
2 of the statutory law.

3
4 BE IT ENACTED by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 2 of P.L.1995, c.142 (C.2A:15-5.10) is amended to
8 read as follows:

9 2. As used in this act:

10 "Actual malice" means an intentional wrongdoing in the sense of
11 an evil-minded act.

12 "Clear and convincing evidence" means that standard of
13 evidence which leaves no serious or substantial doubt about the
14 correctness of the conclusions drawn from the evidence. It is a
15 standard which requires more than a **[preponderance]**
16 preponderance of evidence, but less than beyond a reasonable
17 doubt, to draw a conclusion.

18 "Compensatory damages" means damages intended to make
19 good the loss of an injured party, and no more. The term includes
20 general and special damages and does not include nominal,
21 exemplary or punitive damages.

22 "Defendant" means any party against whom punitive damages
23 are sought.

24 "Nominal damages" are damages that are not designed to
25 compensate a plaintiff and are less than \$500.

26 "Plaintiff" means any party claiming punitive damages.

27 "Public employee" means an officer, employee, or servant of a
28 public entity, whether or not compensated or part-time, who is
29 authorized to perform any act or service, and includes: a person
30 participating, under the supervision of the Palisades Interstate Park
31 Commission, in a volunteer program in that part of the Palisades
32 Interstate Park located in New Jersey; a volunteer doing work for
33 the Division of Parks and Forestry, the Division of Fish, Game and
34 Wildlife, or the New Jersey Natural Lands Trust, as authorized by
35 the Commissioner of Environmental Protection; a volunteer doing
36 work for the New Jersey Historic Trust; and any person retained by
37 the public defender to serve as an arbitrator, mediator, or in such
38 similar capacity. The term "public employee" does not include an
39 independent contractor.

40 "Public entity" means the State, and any county, municipality,
41 district, public authority, public agency, and any other political
42 subdivision or public body in the State.

43 "Punitive damages" includes exemplary damages and means
44 damages awarded against a party , other than a public entity or a
45 public employee acting within the scope or under color of his

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 office, employment or agency, in a civil action because of
2 aggravating circumstances in order to penalize and to provide
3 additional deterrence against a defendant to discourage similar
4 conduct in the future. Punitive damages do not include
5 compensatory damages or nominal damages.

6 "Wanton and willful disregard" means a deliberate act or
7 omission with knowledge of a high degree of probability of harm to
8 another and reckless indifference to the consequences of such act or
9 omission.

10 (cf: P.L.1995, c.142, s.2)

11
12 2. Section 4 of P.L.1995, c.142 (C.2A:15-5.12) is amended to
13 read as follows:

14 4. a. Punitive damages may be awarded to the plaintiff **only if**
15 **the plaintiff proves** in any action, other than an action against a
16 public entity or a public employee acting within the scope or under
17 color of his office, employment or agency. The plaintiff shall
18 prove, by clear and convincing evidence, that the harm suffered was
19 the result of the defendant's acts or omissions, and such acts or
20 omissions were actuated by actual malice or accompanied by a
21 wanton and willful disregard of persons who foreseeably might be
22 harmed by those acts or omissions. This burden of proof may not
23 be satisfied by proof of any degree of negligence including gross
24 negligence.

25 b. In determining whether punitive damages are to be awarded,
26 the trier of fact shall consider all relevant evidence, including but
27 not limited to, the following:

28 (1) The likelihood, at the relevant time, that serious harm would
29 arise from the defendant's conduct;

30 (2) The defendant's awareness of reckless disregard of the
31 likelihood that the serious harm at issue would arise from the
32 defendant's conduct;

33 (3) The conduct of the defendant upon learning that its initial
34 conduct would likely cause harm; and

35 (4) The duration of the conduct or any concealment of it by the
36 defendant.

37 c. If the trier of fact determines that punitive damages should
38 be awarded, the trier of fact shall then determine the amount of
39 those damages. In making that determination, the trier of fact shall
40 consider all relevant evidence, including, but not limited to, the
41 following:

42 (1) All relevant evidence relating to the factors set forth in
43 subsection b. of this section;

44 (2) The profitability of the misconduct to the defendant;

45 (3) When the misconduct was terminated; and

46 (4) The financial condition of the defendant.

47 (cf: P.L.1995, c.142, s.4)

1 3. Section 6 of P.L.1995, c.142 (C.2A:15-5.14) is amended to
2 read as follows:

3 6. a. Before entering judgment for an award of punitive
4 damages, the trial judge shall ascertain that the award is reasonable
5 in its amount and justified in the circumstances of the case, in light
6 of the purpose to punish the defendant and to deter that defendant
7 from repeating such conduct. If necessary to satisfy the
8 requirements of this section, the judge may reduce the amount of or
9 eliminate the award of punitive damages.

10 b. No defendant shall be liable for punitive damages in any
11 action in an amount in excess of five times the liability of that
12 defendant for compensatory damages or \$350,000, whichever is
13 greater.

14 c. The provisions of subsection b. of this section shall not
15 apply to causes of action brought pursuant to P.L.1993, c.137
16 (C.2A:53A-21 et seq.), P.L.1945, c.169 (C.10:5-1 et seq.),
17 P.L.1989, c.303 (C.26:5C-5 et seq.) or P.L.1992, c.109 (C.2A:61B-
18 1), or in cases in which a defendant has been convicted pursuant to
19 R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a).

20 d. Notwithstanding the provisions of subsections b. and c. of
21 this section, a public entity or a public employee acting within the
22 scope or under color of his office, employment or agency shall not
23 be liable for punitive damages in any action.

24 (cf: P.L.2005, c.329, s.3)
25

26 4. Section 3 of P.L.1979, c.488 (C.2A:84A-21.11) is amended
27 to read as follows:

28 3. a. A person, corporation, partnership, proprietorship or
29 other entity aggrieved by a search for or seizure of materials in
30 violation of this act shall have a civil cause of action for damages
31 for such search or seizure:

32 (1) Against the State of New Jersey, or against any other
33 governmental unit, all of which shall be liable for violations of this
34 act by their officers, employees or agents while acting within the
35 scope or under color of their office, employment or agency.

36 (2) Against an officer, employee or agent of the State of New
37 Jersey or any other governmental unit who has violated this act
38 while acting other than within the scope or under color of his office,
39 employment or agency. It shall be a complete defense to a civil
40 action brought under this paragraph that the officer, employee or
41 agent had a reasonable good faith belief in the lawfulness of his
42 conduct unless his error is due to an ignorance of an official
43 statement of the law.

44 b. The State of New Jersey or any other governmental unit,
45 liable for violations of this act under paragraph **【3 a. (1)】** (1) of
46 subsection a. of this section, may not assert as a defense to a claim
47 arising under this act the immunity of the officer, employee or agent
48 whose violation is complained of or his reasonable good faith belief

1 in the lawfulness of his conduct, except that such a defense may be
2 asserted if the violation complained of is that of a judge.

3 c. The remedy provided by paragraph **【3 a. (1)】** (1) of
4 subsection a. of this section against the State of New Jersey or any
5 other governmental unit is exclusive of any other civil action or
6 proceeding for conduct constituting a violation of this act, against
7 the officer, employee or agent whose violation gave rise to the
8 claim, or against the estate of such officer, employee or agent.

9 d. A person, corporation, partnership, proprietorship or other
10 entity having a cause of action under this section shall be entitled to
11 recover actual damages but not less than liquidated damages of
12 \$1,000.00, such punitive damages as may be warranted if the cause
13 of action involves a violation of paragraph (2) of subsection a. of
14 this section, and such reasonable attorney's fee and other litigation
15 costs reasonably incurred as the court, in its discretion, may award;
16 provided, however, that the State of New Jersey or any other
17 governmental unit shall not be liable for interest prior to judgment.

18 e. The Attorney General is authorized to settle a claim for
19 damages brought against the State of New Jersey under this section
20 and shall promulgate regulations to provide for the commencement
21 of an administrative inquiry following a determination of a
22 violation of this act by an officer, employee or agent of the State of
23 New Jersey or any other governmental unit and for the imposition
24 of administrative sanctions against such officer, employee or agent
25 if warranted.

26 f. A county prosecutor may settle a claim for damages brought
27 against the county of his jurisdiction or any other governmental unit
28 under this section.

29 (cf: P.L.1979, c.488, s.3)

30
31 5. Section 24 of P.L.1968, c.409 (C.2A:156A-24) is amended
32 to read as follows:

33 24. Any person whose wire, electronic or oral communication is
34 intercepted, disclosed or used in violation of this act shall have a
35 civil cause of action against any person who intercepts, discloses or
36 uses or procures any other person to intercept, disclose or use, such
37 communication; and shall be entitled to recover from any such
38 person:

39 a. Actual damages, but not less than liquidated damages
40 computed at the rate of \$100.00 a day for each day of violation, or
41 \$1,000.00, whichever is higher;

42 b. Punitive damages , except in an action against an officer,
43 including an investigative or law enforcement officer, or employee
44 of the State or of any political subdivision thereof acting within the
45 scope or under color of his office, employment or agency; and

46 c. A reasonable attorney's fee and other litigation costs
47 reasonably incurred.

48 (cf: P.L.1993, c.29, s.20)

1 6. N.J.S.2B:21-10 is amended to read as follows:

2 2B:21-10. a. Any person who, with the intent to injure another,
3 purposely discloses any information concerning the proceedings of
4 a grand jury, other than as authorized or required by law, commits a
5 crime of the fourth degree. A public officer or employee who is
6 convicted of a violation of this subsection shall be dismissed from
7 public office or employment.

8 b. A person injured as a result of a violation of subsection a. of
9 this section may bring a civil action against the person convicted of
10 the violation. The person convicted shall be liable to the person
11 injured for actual damages, punitive damages of not less than
12 \$1,000.00 or more than \$100,000.00, reasonable litigation costs and
13 reasonable attorney fees ; except that a public officer or employee
14 acting within the scope or under color of his office, employment or
15 agency shall not be liable for punitive damages.

16 (cf: N.J.S.2B:21-10)

17

18 7. Section 1 of P.L.2001, c.385 (C.10:5-12.6) is amended to
19 read as follows:

20 1. No employer, public or private, shall discharge or
21 discriminate against an employee in compensation or in terms,
22 conditions or privileges of employment for displaying the American
23 flag on the employee's person or work station, provided the display
24 does not substantially and materially interfere with the employee's
25 job duties. An employer who discharges or discriminates against an
26 employee as described in this section shall be liable to the employee
27 for damages caused by the discharge or discrimination, including
28 punitive damages if a private employer, and for reasonable
29 attorney's fees as part of the costs of any action for damages. A
30 public employer, or an officer, employee or a servant thereof acting
31 within the scope or under color of his office, employment or
32 agency, shall not be liable to the aggrieved employee for punitive
33 damages. If the court determines that the action for damages was
34 brought without substantial justification, the court may award costs
35 and reasonable attorney's fees to the employer.

36 (cf: P.L.2001, c.385, s.1)

37

38 8. Section 6 of P.L.1983, c.466 (C.17:16K-6) is amended to
39 read as follows:

40 6. If a court of competent jurisdiction determines that a
41 financial institution or a government agency acted negligently,
42 willfully, or recklessly in violating this act, the financial institution
43 or government agency shall be liable to the aggrieved person for
44 actual damages sustained by him; reasonable litigation costs;
45 reasonable attorneys' fees; and only in cases where a financial
46 institution **【or government agency】** acted willfully or recklessly, a

1 court of competent jurisdiction may award punitive damages where
2 appropriate.

3 (cf: P.L.1983, c.466, s.6)

4
5 9. Section 19 of P.L.1983, c.65 (C.17:30E-7) is amended to
6 read as follows:

7 19. Pursuant to the plan of operation, the association shall have
8 the power and duty to:

9 a. Enter into contracts as are necessary or proper to carry out
10 the provisions and purposes of this act;

11 b. Sue or be sued in the name of the association, including
12 taking any legal actions necessary or proper for recovery of any
13 assessments for, on behalf of, or against members. A judgment
14 against the association shall not create any direct liability against
15 the servicing carrier, board of directors or the individual members,
16 or the individual participating members of the association;

17 c. Indemnify its directors and employees for any and all
18 claims, suits, costs of investigations, costs of defense, settlements
19 or judgments against them on account of an act or omission in the
20 scope of a director's duties or employee's employment. The
21 association shall refuse to indemnify if it determines that the act or
22 failure to act was because of actual fraud, willful misconduct or
23 actual malice, or for claims for exemplary or punitive damages;

24 d. Take such action as is necessary to prevent and avoid the
25 payment of improper claims against the association or the coverage
26 provided by or through the association;

27 e. Arrange for the issuance of automobile insurance to any
28 qualified applicant through servicing carriers. Each servicing
29 carrier shall issue policies in the name of the servicing carrier, on
30 behalf of the association, to the extent the plan of operation
31 provides. Servicing carriers, as agents of the association, shall have
32 no individual liability for claims or policies written by the
33 association. However, notwithstanding the above, or any other
34 provision of law to the contrary, the association shall not arrange
35 for the issuance or renewal of any automobile insurance policy,
36 either through a servicing carrier or on its own behalf, on or after
37 October 1, 1990;

38 f. Appoint from among its members appropriate legal,
39 actuarial, claims, investment and other committees as necessary to
40 provide technical assistance in the operation of the association,
41 policy and other contract design, and any other function within the
42 authority of the association;

43 g. Establish standards for, and review operating practices of,
44 servicing carriers and producers to determine whether such
45 practices are adequate to properly service association business, and
46 to take appropriate action to eliminate inadequate operating
47 practices and develop adequate operating practices, and to appoint
48 an audit committee to review operating practices. The audit

- 1 committee shall be composed of servicing carriers, producers, and
2 member companies who are not servicing carriers;
- 3 h. Develop criteria and establish a monitoring system to ensure
4 that: (1) servicing carriers do not obtain an unfair advantage,
5 because of their servicing carrier relationship with producers over
6 other member companies which are not servicing carriers; and (2)
7 member companies do not obtain an unfair advantage over
8 producers of record without a contractual relationship with a
9 voluntary market company, as a result of an offer of voluntary
10 market coverage to an insured of the association;
- 11 i. Order the reporting of such statistics by the members of the
12 association as it deems necessary;
- 13 j. Reimburse servicing carriers from association funds;
- 14 k. Adopt bylaws for the regulation of its internal affairs;
- 15 l. Employ a general manager, who shall serve at its pleasure
16 and be responsible for the conduct of the administrative affairs of
17 the association. The board may employ other necessary personnel
18 and may delegate to the general manager and other personnel such
19 authority as it deems necessary to assure proper administration and
20 operation of the association consistent with the plan of operation.
21 The board shall arrange and contract if necessary for suitable
22 quarters within the State of New Jersey for operations of the
23 association; for such equipment, goods and services; and incur such
24 expenses as it deems necessary to assure efficient administration of
25 the association consistent with the plan of operation. If required by
26 the plan of operation, the board may establish service centers in
27 underserved areas, which service centers shall provide for the
28 dissemination of full information on the coverages available under
29 this act and for referrals to appropriate outlets for the acquisition of
30 such coverage;
- 31 m. Hear and determine complaints of any member or producer
32 concerning the operation of the association in accordance with
33 procedures prescribed in section 28 of this act;
- 34 n. Annually report to the commissioner on the operation of the
35 association;
- 36 o. Record and investigate complaints involving the conduct of
37 producers and to take appropriate corrective action or to
38 recommend to the commissioner appropriate disciplinary action,
39 including suspension or revocation of authority to write association
40 business;
- 41 p. Review servicing practices of servicing carriers to determine
42 whether such practices are adequate to properly service the risks
43 written by the association; and upon finding that the practices of
44 any servicing carrier are inadequate, establish a program for that
45 member which will assist the servicing carrier in the performance of
46 its duties and charge that servicing carrier a reasonable fee for
47 establishing and operating such a program;

1 q. Audit the operations of members for the purpose of
2 determining compliance with this act;

3 r. Develop methods and standards for the establishment of
4 adequate, actuarially sound reserves for unpaid losses and loss
5 adjustment expenses, including provision for incurred but not
6 reported losses; and

7 s. Take such other action as is necessary to effectuate the
8 purposes of this act.

9 (cf: P.L.1990, c.8, s.16)

10

11 10. N.J.S.18A:12-20 is amended to read as follows:

12 18A:12-20. Whenever a civil, administrative, criminal or quasi-
13 criminal action or other legal proceeding has been or shall be
14 brought against any person for any act or omission arising out of
15 and in the course of the performance of his duties as a member of a
16 board of education, and in the case of a criminal or quasi-criminal
17 action such action results in final disposition in favor of such
18 person, the board of education shall defray all costs of defending
19 such action, including reasonable counsel fees and expenses,
20 together with costs of appeal, if any, and shall save harmless and
21 protect such person from any financial loss resulting therefrom.
22 **【Indemnification for exemplary or punitive damages shall not be**
23 **mandated and shall be governed by the standards and procedures set**
24 **forth in N.J.S.59:10-4.】** Any board of education may arrange for
25 and maintain appropriate insurance to cover all such damages,
26 losses and expenses.

27 (cf: P.L.2001, c.178, s.1)

28

29 11. N.J.S.18A:16-6 is amended to read as follows:

30 18A:16-6. Whenever any civil or administrative action or other
31 legal proceeding has been or shall be brought against any person
32 holding any office, position or employment under the jurisdiction of
33 any board of education, including any student teacher or person
34 assigned to other professional pre-teaching field experience, for any
35 act or omission arising out of and in the course of the performance
36 of the duties of such office, position, employment or student
37 teaching or other assignment to professional field experience, the
38 board shall defray all costs of defending such action, including
39 reasonable counsel fees and expenses, together with costs of appeal,
40 if any, and shall save harmless and protect such person from any
41 financial loss resulting therefrom; provided that such person

42 a. **【no employee】** shall not be entitled to be held harmless or
43 have his defense costs defrayed in a disciplinary proceeding
44 instituted against him by the board or when **【the employee is】**
45 appealing an action taken by the board**【; and】** .

46 b. **【indemnification for exemplary or punitive damages shall not**
47 **be mandated and shall be governed by the standards and procedures**

1 set forth in N.J.S.59:10-4.】 (Deleted by amendment P.L. , c. (C.)
2 (now pending before the Legislature as this bill).

3 Any board of education may arrange for and maintain
4 appropriate insurance to cover all such damages, losses and
5 expenses.

6 (cf: P.L.2001, c.178, s.2)

7
8 12. Section 3 of P.L.1993, c.282 (C.26:2H-14.7) is amended to
9 read as follows:

10 3. A person shall have a cause of action against the residential
11 health care facility for any violation of this act. The Department of
12 Health and Senior Services may maintain an action in the name of
13 the State to enforce the provisions of this act and any rules and
14 regulations promulgated pursuant to this act. The action to recover
15 actual damages and, if the cause of action is against a private
16 residential health care facility, punitive damages , shall be brought
17 in a court of competent jurisdiction. A plaintiff shall not be entitled
18 to recover punitive damages in any action against a public
19 residential health care facility, or against an officer, employee, or a
20 servant thereof acting within the scope or under color of his office,
21 employment or agency. A plaintiff who prevails in an action shall
22 be entitled to recover reasonable attorney's fees and costs of the
23 action.

24 (cf: P.L.1993, c.282, s.3)

25
26 13. Section 13 of P.L.1997, c.192 (C.26:2S-13) is amended to
27 read as follows:

28 13. a. An employee of the department who participates in the
29 Independent Health Care Appeals Program shall not be liable in any
30 action for damages to any person for any action taken within the
31 scope of his function in the Independent Health Care Appeals
32 Program. The Attorney General shall defend the person in any civil
33 suit and the State shall provide indemnification for any damages
34 awarded pursuant to the "New Jersey Tort Claims Act," N.J.S.59:1-
35 1 et seq.

36 b. The carrier that is the subject of a review shall not be liable in
37 any action for damages to any person for any action taken to
38 implement a recommendation of the independent utilization review
39 organization pursuant to this act.

40 (cf: P.L.1997, c.192, s.13)

41
42 14. Section 10 of P.L.1989, c.303 (C.26:5C-14) is amended to
43 read as follows:

44 10. a. A person who has or is suspected of having AIDS or HIV
45 infection who is aggrieved as a result of a violation of this act may
46 commence a civil action against the individual or institution who
47 committed the violation to obtain appropriate relief, including
48 actual damages, equitable relief and reasonable attorney's fees and

1 court costs. Punitive damages may be awarded against any
2 individual or institution, other than the department, a local health
3 department, or a health care facility operated at the direction of or
4 under the management of the State or a political subdivision
5 thereof, or against any other public entity, or against an officer,
6 employee, or a servant of the department, or the local health
7 department, or the provider of health care for, or health care facility
8 operated or managed by, the State or political subdivision thereof,
9 or any other public entity, while acting within the scope or under
10 color of his office, employment or agency, when the violation
11 evidences wantonly reckless or intentionally malicious conduct by
12 the person or institution who committed the violation.

13 b. Each disclosure made in violation of this act is a separate and
14 actionable offense.

15 (cf: P.L.1989, c.303, s.10)

16

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

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

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

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

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

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

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

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

37 (g) In the exercise of any of its powers, by resolution to fix and
38 revise from time to time and charge and collect tolls, fees, licenses,
39 rents, concession charges and other charges for each transportation
40 project or any part thereof constructed or acquired by it. No toll
41 revenues derived from the New Jersey Turnpike or the Garden State
42 Parkway shall be used or available for any transportation project
43 other than a highway project and all transportation projects other
44 than highway projects shall be self-sustaining; provided however
45 that such toll revenues may be used to finance or support the costs
46 of non-highway transportation projects on an interim basis
47 according to such terms, with or without interest, as the authority
48 shall establish;

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

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

10 (j) To acquire in the name of the authority by purchase or
11 otherwise, on such terms and conditions and in such manner as it
12 may deem proper, or by the exercise of the power of eminent
13 domain, except as against the State of New Jersey, any land and
14 other property, which it may determine is reasonably necessary for
15 any transportation project or feeder road or for the relocation or
16 reconstruction of any highway by the authority under the provisions
17 of this act and any and all rights, title and interest in such land and
18 other property, including public lands, parks, playgrounds,
19 reservations, highways or parkways, owned by or in which the State
20 of New Jersey or any county, city, borough, town, township,
21 village, or other political subdivision of the State of New Jersey has
22 any right, title or interest, or parts thereof or rights therein and any
23 fee simple absolute or any lesser interest in private property, and
24 any fee simple absolute in, easements upon, or the benefit of
25 restrictions upon, abutting property to preserve and protect
26 transportation projects.

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

42 Upon the filing of such petition or complaint or at any time
43 thereafter the authority may file with the clerk of the county in
44 which such property is located and also with the Clerk of the
45 Superior Court a declaration of taking, signed by the authority,
46 declaring that possession of one or more of the tracts or parcels of
47 land or property described in the petition or complaint is thereby
48 being taken by and for the use of the authority. The said declaration

1 of taking shall be sufficient if it sets forth: (1) a description of each
2 tract or parcel of land or property to be so taken sufficient for the
3 identification thereof, to which there may or may not be attached a
4 plan or map thereof; (2) a statement of the estate or interest in the
5 said land or property being taken; and (3) a statement of the sum of
6 money estimated by the authority by resolution to be just
7 compensation for the taking of the estate or interest in each tract or
8 parcel of land or property described in said declaration.

9 Upon the filing of the said declaration, the authority shall deposit
10 with the Clerk of the Superior Court the amount of the estimated
11 compensation stated in said declaration.

12 Upon the filing of the said declaration as aforesaid and
13 depositing with the Clerk of the Superior Court the amount of the
14 estimated compensation stated in said declaration, the authority,
15 without other process or proceedings, shall be entitled to the
16 exclusive possession and use of each tract of land or property
17 described in said declaration and may forthwith enter into and take
18 possession of said land or property, it being the intent of this
19 provision that the proceedings for compensation or any other
20 proceedings relating to the taking of said land or interest therein or
21 other property shall not delay the taking of possession thereof and
22 the use thereof by the authority for the purpose or purposes for
23 which the authority is authorized by law to acquire or condemn
24 such land or other property or interest therein.

25 The authority shall cause notice of the filing of said declaration
26 and the making of said deposit to be served upon each party in
27 interest named in the petition residing in this State, either personally
28 or by leaving a copy thereof at his residence, if known, and upon
29 each party in interest residing out of the State, by mailing a copy
30 thereof to him at his residence, if known. In the event that the
31 residence of any such party or the name of such party is unknown,
32 such notice shall be published at least once in a newspaper
33 published or circulating in the county or counties in which the land
34 is located. Upon the application of any party in interest and after
35 notice to other parties in interest, including the authority, any judge
36 of the Superior Court assigned to sit for said county may order that
37 the money deposited with the Clerk of the Superior Court or any
38 part thereof be paid forthwith to the person or persons entitled
39 thereto for or on account of the just compensation to be awarded in
40 said proceeding; provided, that each such person shall have filed
41 with the Clerk of the Superior Court a consent in writing that, in the
42 event the award in the condemnation proceeding shall be less than
43 the amount deposited, the court, after notice as herein provided and
44 hearing, may determine his liability, if any, for the return of such
45 difference or any part thereof and enter judgment therefor. If the
46 amount of the award as finally determined shall exceed the amount
47 so deposited, the person or persons to whom the award is payable
48 shall be entitled to recover from the authority the difference

1 between the amount of the deposit and the amount of the award,
2 with interest at the rate of six per centum (6%) per annum thereon
3 from the date of making the deposit. If the amount of the award
4 shall be less than the amount so deposited, the Clerk of the Superior
5 Court shall return the difference between the amount of the award
6 and the deposit to the authority, unless the amount of the deposit or
7 any part thereof shall have theretofore been distributed, in which
8 event the court, on petition of the authority and notice to all persons
9 interested in the award and affording them an opportunity to be
10 heard, shall enter judgment in favor of the authority for such
11 difference against the party or parties liable for the return thereof.
12 The authority shall cause notice of the date fixed for such hearing to
13 be served upon each party thereto residing in this State, either
14 personally or by leaving a copy thereof at his residence, if known,
15 and upon each party residing out of the State, by mailing a copy to
16 him at his residence, if known. In the event that the residence of
17 any party or the name of such party is unknown, such notice shall
18 be published at least once in a newspaper published or circulating in
19 the county or counties in which the land is located. Such service,
20 mailing or publication shall be made at least 10 days before the date
21 fixed for such hearing.

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

25 (k) To designate the locations, and establish, limit and control
26 such points of ingress to and egress from each highway or
27 transportation project as may be necessary or desirable in the
28 judgment of the authority to insure the proper operation and
29 maintenance of such project, and to prohibit entrance to such
30 project from any point or points not so designated;

31 (l) To make and enter into all contracts and agreements necessary
32 or incidental to the performance of its duties and the execution of
33 its powers under this act and to enter into contracts with federal,
34 State and local governments and private entities for the financing,
35 administration, operation, management and construction of
36 transportation projects;

37 (m) To appoint such additional officers, who need not be
38 members of the authority, as the authority deems advisable, and to
39 employ consulting engineers, attorneys, accountants, construction
40 and financial experts, superintendents, managers, and such other
41 similarly situated employees and agents as may be necessary in its
42 judgment; to fix their compensation; and to promote and discharge
43 such officers, employees and agents, all without regard to the
44 provisions of Title 11A of the New Jersey Statutes;

45 (n) To receive and accept from any federal agency, subject to the
46 approval of the Governor, grants for or in aid of the acquisition or
47 construction of any transportation project or any part thereof, and to
48 receive and accept aid or contributions, from any source, of either

1 money, property, labor or other things of value, to be held, used and
2 applied only for the purposes for which such grants and
3 contributions may be made;

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

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

10 (q) To apply for, receive and accept from any federal agency,
11 any bistate agency, or the State and any subdivision thereof, grants
12 for or in aid of the planning, acquisition, management, maintenance,
13 operation or construction of any project, and to receive and accept
14 aid or contributions from any other public or private source, of
15 either money, property, labor or other things of value, to be held,
16 used and applied only for the purposes for which those grants and
17 contributions may be made;

18 (r) To procure and enter into contracts for any type of insurance
19 and to indemnify against loss or damage to property from any
20 cause, including the loss of use and occupancy and business
21 interruption, death or injury of any person, employee liability, any
22 act of any member, officer, employee or servant of the authority,
23 whether part-time, compensated or uncompensated, in the
24 performance of the duties of office or employment or any other
25 insurable risk or any other losses in connection with property,
26 operations, assets or obligations in any amounts and from any
27 insurers as are deemed desirable. The authority shall not indemnify
28 any member, officer, employee or servant for claims for exemplary
29 or punitive damages. In addition, the authority may carry its own
30 liability insurance;

31 (s) To adopt regulations, pursuant to the "Administrative
32 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to provide
33 open and competitive procedures for awarding contracts for towing
34 and storage services. Towing and storage services on a highway
35 project may be provided on a rotating basis, provided that the
36 authority determines that there would be no additional cost to the
37 authority, excepting administrative costs, as a result of those
38 services being provided on a rotating basis. The regulations shall
39 fix maximum towing and storage fees, and establish objective
40 criteria to be considered in awarding a contract for towing and
41 storage services which shall include, but shall not be limited to,
42 reliability, experience, response time, acceptance of credit cards and
43 prepaid towing contracts, adequate equipment to safely handle a
44 sufficient volume of common vehicle types under a variety of
45 traffic and weather conditions, location of storage and repair
46 facilities, security of vehicles towed or stored, financial return to
47 the authority, maintenance of adequate liability insurance and
48 appropriate safeguards to protect the personal safety of customers,

1 including considerations related to the criminal background of
2 employees. The Division of Consumer Affairs in the Department of
3 Law and Public Safety shall provide, at the authority's request, a
4 report to the authority on any prospective contractor for which the
5 division has information relevant to the prospective contractor's
6 service record, subject to the provisions of the New Jersey
7 consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.). The Division
8 of Insurance Fraud Prevention in the Department of Banking and
9 Insurance also shall provide, at the authority's request, a report to
10 the authority on any prospective contractor for which the division
11 has information relevant to the prospective contractor's service
12 record, subject to the "New Jersey Insurance Fraud Prevention Act,"
13 P.L.1983, c.320 (C.17:33A-1 et seq.);

14 (t) To adopt, prior to the Transfer Date and notwithstanding any
15 other provision of law to the contrary, a resolution authorizing the
16 issuance of bonds, notes or other obligations on such terms as
17 otherwise provided for in this act for the retirement by defeasance,
18 redemption, secondary market purchase, tender payment at maturity
19 or otherwise, of all of the New Jersey Highway Authority's
20 outstanding bonds, notes or other obligations, as if the Transfer
21 Date transferring to the authority the rights, duties and obligations
22 to operate, maintain and manage the Garden State Parkway had
23 already occurred; and

24 (u) To transfer, sell, dispose of, or otherwise relinquish all right,
25 title, or interest in the Garden State Arts Center, and any related or
26 auxiliary facilities, to the New Jersey Sports and Exposition
27 Authority, established by P.L.1971, c.137 (C.5:10-1 et seq.), or to
28 any other entity, according to such terms and process as the
29 authority may establish in its discretion.

30 (cf: P.L.2003, c.79, s.9)

31

32 16. Section 5 of P.L.1979, c.150 (C.27:25-5) is amended to read
33 as follows:

34 5. In addition to the powers and duties conferred upon it
35 elsewhere in this act, the corporation may do all acts necessary and
36 reasonably incident to carrying out the objectives of this act,
37 including but not in limitation thereof the following:

- 38 a. Sue and be sued;
- 39 b. Have an official seal and alter the same at pleasure;
- 40 c. Make and alter bylaws for its organization and internal
41 management and for the conduct of its affairs and business;
- 42 d. Maintain an office at such place or places within the State as
43 it may determine;
- 44 e. Adopt, amend and repeal such rules and regulations as it
45 may deem necessary to effectuate the purposes of this act, which
46 shall have the force and effect of law; it shall publish the same and
47 file them in accordance with the "Administrative Procedure Act,"

- 1 P.L.1968, c.410 (C.52:14B-1 et seq.) with the Director of the Office
- 2 of Administrative Law;
- 3 f. Call to its assistance and avail itself of the service of such
- 4 employees of any federal, State, county or municipal department or
- 5 agency as it may require and as may be available to it for said
- 6 purpose;
- 7 g. Apply for, accept and expend money from any federal, State,
- 8 county or municipal agency or instrumentality and from any private
- 9 source; comply with federal statutes, rules and regulations, and
- 10 qualify for and receive all forms of financial assistance available
- 11 under federal law to assure the continuance of, or for the support or
- 12 improvement of public transportation and as may be necessary for
- 13 that purpose to enter into agreements, including federally required
- 14 labor protective agreements;
- 15 h. Plan, design, construct, equip, operate, improve and
- 16 maintain, either directly or by contract with any public or private
- 17 entity, public transportation services, capital equipment and
- 18 facilities or any parts or functions thereof, and other transportation
- 19 projects, or any parts or functions thereof, which may be funded
- 20 under section 3 of the federal Urban Mass Transportation Act of
- 21 1964, Pub.L.88-365 (49 U.S.C. s.1602), or any successor or
- 22 additional federal act having substantially the same or similar
- 23 purposes or functions; the operation of the facilities of the
- 24 corporation, by the corporation or any public or private entity, may
- 25 include appropriate and reasonable limitations on competition in
- 26 order that maximum service may be provided most efficiently to the
- 27 public;
- 28 i. Apply for and accept, from appropriate regulatory bodies,
- 29 authority to operate public transportation services where necessary;
- 30 j. Purchase, lease as lessee, or otherwise acquire, own, hold,
- 31 improve, use and otherwise deal in and with real or personal
- 32 property, or any interest therein, from any public or private entity,
- 33 wherever situated;
- 34 k. Lease as lessor, sell or otherwise dispose of on terms which
- 35 the corporation may prescribe, real and personal property, including
- 36 tangible or intangible property and consumable goods, or any
- 37 interest therein, to any public or private entity, in the exercise of its
- 38 powers and the performance of its duties under this act. In order to
- 39 provide or encourage adequate and efficient public transportation
- 40 service, the corporation may lease or otherwise permit the use or
- 41 occupancy of property without cost or at a nominal rental;
- 42 l. Restrict the rights of persons to enter upon or construct any
- 43 works in or upon any property owned or leased by the corporation,
- 44 except under such terms as the corporation may prescribe; perform
- 45 or contract for the performance of all acts necessary for the
- 46 management, maintenance and repair of real or personal property
- 47 leased or otherwise used or occupied pursuant to this act;

- 1 m. Establish one or more operating divisions as deemed
2 necessary. Upon the establishment of an operating division, there
3 shall be established a geographically coincident advisory committee
4 to be appointed by the Governor with the advice and consent of the
5 Senate. The committee shall consist of county and municipal
6 government representatives and concerned citizens, in the number
7 and for such terms as may be fixed by the corporation, and shall
8 advise the corporation as to the public transportation service
9 provided in the operating division. At least two members of each
10 advisory committee shall be public transportation riders, including
11 but not limited to urban transit users and suburban commuters as
12 appropriate. One public member from the board of the corporation
13 shall serve as a liaison to each advisory committee;
- 14 n. Set and collect fares and determine levels of service for
15 service provided by the corporation either directly or by contract
16 including, but not limited to, such reduced fare programs as deemed
17 appropriate by the corporation; revenues derived from such service
18 may be collected by the corporation and shall be available to the
19 corporation for use in furtherance of any of the purposes of this act;
- 20 o. Set and collect rentals, fees, charges or other payments from
21 the lease, use, occupancy or disposition of properties owned or
22 leased by the corporation; such revenues shall be available to the
23 corporation for use in furtherance of any of the purposes of this act;
- 24 p. Deposit corporate revenues in interest bearing accounts or in
25 the State of New Jersey Cash Management Fund established
26 pursuant to section 1 of P.L.1977, c.281 (C.52:18A-90.4);
- 27 q. Delegate to subordinate officers of the corporation such
28 powers and duties as the corporation shall deem necessary and
29 proper to carry out the purposes of this act;
- 30 r. Procure and enter into contracts for any type of insurance
31 and indemnify against loss or damage to property from any cause,
32 including loss of use and occupancy, against death or injury of any
33 person, against employees' liability, against any act of any member,
34 officer, employee or servant of the corporation, whether part-time,
35 full-time, compensated or noncompensated, in the performance of
36 the duties of his office or employment or any other insurable risk.
37 The corporation shall not indemnify any member, officer, employee
38 or servant for claims for exemplary or punitive damages. In
39 addition, the corporation may carry its own liability insurance and
40 may also establish and utilize a wholly-owned insurance subsidiary
41 or captive provided the subsidiary or captive is domiciled in the
42 United States in a state which is accredited by the National
43 Association of Insurance Commissioners and which licenses and
44 regulates wholly-owned insurance subsidiaries or captives;
- 45 s. Promote the use of public transportation services, coordinate
46 ticket sales and passenger information and sell, lease or otherwise
47 contract for advertising in or on the equipment or facilities of the
48 corporation;

- 1 t. Adopt and maintain employee benefit programs for
2 employees of the corporation including, but not limited to, pension,
3 deferred compensation, medical disability, and death benefits, and
4 which programs may utilize insurance contracts, trust funds, and
5 any other appropriate means of providing the stipulated benefits,
6 and may involve new plans or the continuation of plans previously
7 established by entities acquired by the corporation;
- 8 u. Own, vote, and exercise all other rights incidental to the
9 ownership of shares of the capital stock of any incorporated entity
10 acquired by the corporation pursuant to the powers granted by this
11 act;
- 12 v. Enter into any and all agreements or contracts, execute any
13 and all instruments, and do and perform any and all acts or things
14 necessary, convenient or desirable for the purposes of the
15 corporation, or to carry out any power expressly or implicitly given
16 in this act;
- 17 w. Notwithstanding the provisions of section 17 of P.L.1979,
18 c.150 (C.27:25-17) or any other law to the contrary, (1) issue
19 operating grant anticipation notes which shall be secured and retired
20 from operating assistance grants authorized under section 9 of the
21 federal Urban Mass Transportation Act of 1964, Pub.L.88-365 (49
22 U.S.C. s.1602), or any successor or additional federal act having
23 substantially the same or similar purposes or functions and (2) issue
24 capital grant anticipation notes which shall be secured and retired
25 from capital assistance grants authorized under section 3 or section
26 9 of the federal Urban Mass Transportation Act of 1964, Pub.L.88-
27 365 (49 U.S.C. s.1602), or any successor or additional federal act
28 having substantially the same or similar purposes or functions. As
29 used in this subsection, "operating grant anticipation notes" or
30 "capital grant anticipation notes" (hereinafter referred to as "notes")
31 means credit obligations issued in anticipation of these grants. The
32 notes shall be authorized by a resolution or resolutions of the
33 corporation, and may be issued in one or more series and shall bear
34 the date, or dates, bear interest at the rate or rates of interest per
35 annum, be in the denomination or denominations, be in the form,
36 carry the conversion or registration privileges, have the rank or
37 priority, be executed in such manner as the resolution or resolutions
38 require. The notes may be sold at public or private sale at the price
39 or prices and in the manner that the corporation determines. The
40 notes of the corporation, the sale or transfer thereof, and the income
41 derived therefrom by the purchasers of the notes, shall, at all times,
42 be free from taxation for State or local purposes, under any law of
43 the State or any political subdivision thereof. Notes may be issued
44 under the provisions of P.L.1979, c.150 (C.27:25-1 et seq.) without
45 obtaining the consent of any department, division, commission,
46 board, bureau or agency of the State, and without any other
47 proceedings, conditions, or things which are specifically required
48 by P.L.1979, c.150 (C.27:25-1 et seq.). The notes issued pursuant

1 to P.L.1979, c.150 (C.27:25-1 et seq.) shall not in any way create or
2 constitute any indebtedness, liability or obligation of the State or of
3 any political subdivision thereof or of the corporation, except as
4 provided herein.

5 The notes shall be payable solely from (1) note proceeds, to the
6 extent not disbursed to the corporation, (2) grant payments if, as,
7 and when received from the federal government, and (3) investment
8 earnings on note proceeds, to the extent not disbursed to the
9 corporation. Each note shall contain on its face a statement to the
10 effect that the corporation is obligated to pay the principal thereof
11 or the interest thereon only from these grants to the corporation and
12 from the proceeds of the notes and investment earnings on the
13 proceeds of the notes, to the extent not disbursed to the corporation,
14 and that neither the faith and credit nor the taxing power of the
15 State or of any political subdivision thereof or of the corporation is
16 pledged to the payment of the principal and interest on these notes.
17 Neither the members of the corporation's board nor any person
18 executing the transactions are personally liable on those notes nor
19 are they otherwise liable for their actions; and

20 x. Enter into agreements with a public or private entity or
21 consortia thereof to provide for the development of demonstration
22 projects through the use of public-private partnerships pursuant to
23 sections 1 through 9 of P.L.1997, c.136 (C.27:1D-1 through
24 C.27:1D-9).

25 (cf: P.L.2004, c.1, s.1)

26

27 17. Section 7 of P.L.1991, c.252 (C.27:25A-7) is amended to
28 read as follows:

29 7. The authority shall have the following powers:

30 a. To adopt bylaws for the regulation of its affairs and the
31 conduct of its business;

32 b. To adopt an official common seal and alter it at its pleasure;

33 c. To maintain an office at a place or places within the State as
34 it may designate;

35 d. To sue and be sued in its own name;

36 e. To acquire, construct, maintain, operate and support
37 projects;

38 f. To assist in planning for the development of the
39 transportation system in South Jersey, in conjunction with federal,
40 State, local, and other public entities, as appropriate;

41 g. To acquire, construct, maintain, and operate feeder roads;

42 h. To issue bonds or notes of the authority for the purposes of
43 this act and to provide for the rights of the holders thereof as
44 provided in this act;

45 i. In the exercise of any of its powers, to fix and revise from
46 time to time and charge and collect tolls, fares, passenger facility
47 charges or other charges for transit over or use of any project of the
48 authority, including but not limited to any reduced fare or charge

1 programs as deemed appropriate by the authority; and to determine
2 levels of service to be provided by the authority either directly or by
3 contract. Any revenues collected shall be available to the authority
4 for use in furtherance of any of the purposes of this act;

5 j. To set and collect rents, fees, charges or other payments for
6 the lease, use, occupancy or disposition of properties owned or
7 leased by the authority. Any revenues collected shall be available
8 to the authority for use in furtherance of any of the purposes of this
9 act;

10 k. To enter into contracts with any public or private entity to
11 operate motorbus regular route service, motorbus charter service,
12 marine passenger service, rail passenger service, and air passenger
13 service or portions or functions thereof; however, these contracts
14 shall not supplant any services operated pursuant to the "New
15 Jersey Public Transportation Act of 1979," P.L.1979, c.150
16 (C.27:25-1 et seq.);

17 l. To acquire, lease as lessee or lessor, own, rent, use, hold and
18 dispose of real property and personal property or any interest
19 therein, in the exercise of its powers and the performance of its
20 duties under this act;

21 m. To acquire in the name of the authority by purchase, gift or
22 otherwise, on terms and conditions and in a manner as the authority
23 may deem proper, or by the exercise of the power of eminent
24 domain except as against the State of New Jersey, any land and
25 other property which the authority may determine is necessary for
26 any project or for the relocation or reconstruction of any public
27 highway by the authority under the provisions of this act or the
28 construction of any feeder road which the authority is or may be
29 authorized to construct and any and all rights, title and interest in
30 that land and other property, including public lands, parks,
31 playgrounds, reservations, highways or parkways owned by or in
32 which the State of New Jersey or any county, municipality or other
33 governmental subdivision of South Jersey or any other federal,
34 State or local government entity has any right, title or interest, or
35 parts thereof or rights therein, and any fee simple absolute or any
36 lesser interest in private property, and any fee simple absolute in,
37 easements upon, or the benefit of restrictions upon abutting
38 property to preserve and protect projects;

39 n. To grant by franchise, lease or otherwise, the use of any
40 project, facility or property owned and controlled by the authority
41 to any person for the consideration and for the period or periods of
42 time and upon terms and conditions as are agreed upon, including
43 but not limited to, the condition that the lessee may construct or
44 provide any buildings or structures for the project facility or
45 property or portions thereof;

46 o. To locate and designate, and to establish, limit and control
47 points of ingress to and egress from each project as may be
48 necessary or desirable in the judgment of the authority to insure the

- 1 proper operation and maintenance of that project and to prohibit
2 entrance to a project from any point or points not so designated;
- 3 p. Subject to the limitations of this act, to acquire, construct,
4 maintain, or operate any public highway connecting with any one or
5 more projects which in the opinion of the authority will increase the
6 use of a project or projects, to take over for construction,
7 maintenance or operation any existing public highway as a feeder
8 road and to realign any existing public highway and build additional
9 sections of road over new alignment in connection with that
10 existing public highway;
- 11 q. To establish rules and regulations pursuant to the
12 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
13 seq.) as are necessary for the management and regulation of its
14 affairs, the use, maintenance and operation of the transportation
15 system, any project, the properties of the authority and the provision
16 of paratransit services to and from any transportation project and to
17 establish a plan for the management, control and regulation of
18 motorbus regular route and motorbus charter services, except for
19 those services which are operated pursuant to the "New Jersey
20 Public Transportation Act of 1979," P.L.1979, c.150 (C.27:25-1 et
21 seq.);
- 22 r. To apply for, receive and accept from any federal agency, any
23 bi-State agency, or the State and any subdivision thereof, subject to
24 the approval of the commissioner, grants for or in aid of the
25 planning, acquisition or construction of any project, and to receive
26 and accept aid or contributions from any other public or private
27 source, of either money, property, labor or other things of value, to
28 be held, used and applied only for the purposes for which those
29 grants and contributions may be made;
- 30 s. Subject to the limitations of this act, to determine the location,
31 type and character of any project and all other matters in connection
32 with the project;
- 33 t. Subject to the rights and security interests of the holders from
34 time to time of bonds or notes issued by the authority, to enter into
35 contracts with the State or the department or the Transportation
36 Trust Fund Authority, providing for the payment from the revenues
37 of the authority to the State or to the Transportation Trust Fund
38 Authority of the amount or amounts of revenues that may be set
39 forth in or determined in accordance with the contracts, provided,
40 that the payments shall be used solely for financing projects in
41 South Jersey, including the payment of principal and interest on any
42 bonds, notes or other obligations issued or entered into by the
43 Transportation Trust Fund Authority, the proceeds of which shall be
44 allocated by the Transportation Trust Fund Authority to projects
45 within South Jersey; any contracts authorized pursuant to this
46 subsection may include conditions and covenants necessary and
47 desirable to facilitate the issuance and sale of bonds, notes and
48 other obligations of the Transportation Trust Fund Authority;

1 u. To enter into contracts or agreements with any entity for the
2 entity to issue bonds or notes on behalf of the authority and to make
3 payments to the entity to secure those bonds or notes;

4 v. To establish any reserves, funds or accounts as may be
5 deemed necessary by the authority and to deposit authority revenues
6 in interest bearing accounts or in the State of New Jersey Cash
7 Management Fund established pursuant to section 1 of P.L.1977
8 c.281 (C.52:18A-90.4);

9 w. To procure and enter into contracts for any type of insurance
10 and indemnify against loss or damage to property from any cause,
11 including the loss of use and occupancy and business interruption,
12 death or injury of any person, employee liability, any act of any
13 member, officer, employee or servant of the authority, whether part-
14 time, compensated or uncompensated, in the performance of the
15 duties of office or employment or any other insurable risk or any
16 other losses in connection with property, operations, assets or
17 obligations in any amounts and from any insurers as are deemed
18 desirable. The authority shall not indemnify any member, officer,
19 employee or servant for claims for exemplary or punitive damages.

20 In addition, the authority may carry its own liability insurance; and

21 x. To enter into any and all agreements or contracts, execute any
22 and all instruments, and do and perform any and all acts or things
23 necessary, convenient or desirable for the purposes of the authority
24 or to carry out any power expressly given in this act.

25 (cf: P.L.1991, c.252, s.7)

26
27 18. Section 2 of P.L.1991, c.262 (C.30:13-4.2) is amended to
28 read as follows:

29 2. A person shall have a cause of action against the nursing
30 home for any violation of this act. The Department of Health and
31 Senior Services may maintain an action in the name of the State to
32 enforce the provisions of this act and any rules and regulations
33 promulgated pursuant to this act. The action to recover actual
34 damages and, if the cause of action is against a private nursing
35 home, punitive damages , shall be brought in a court of competent
36 jurisdiction. A plaintiff shall not be entitled to recover punitive
37 damages in any action against a public nursing home, or against an
38 officer, employee, or a servant thereof acting within the scope or
39 under color of his office, employment or agency. A plaintiff who
40 prevails in an action shall be entitled to recover reasonable
41 attorney's fees and costs of the action.

42 (cf: P.L.1991, c.262, s.2)

43
44 19. Section 8 of P.L.1976, c.120 (C.30:13-8) is amended to read
45 as follows:

46 8. a. Any person or resident whose rights as defined herein are
47 violated shall have a cause of action against any person committing
48 such violation. The Department of Health and Senior Services may

1 maintain an action in the name of the State to enforce the provisions
2 of this act and any rules or regulations promulgated pursuant to this
3 act. The action may be brought in any court of competent
4 jurisdiction to enforce such rights and to recover actual damages
5 and, if the cause of action is against a private nursing home,
6 punitive damages , for their violation. A plaintiff shall not be
7 entitled to recover punitive damages in any action against a public
8 nursing home, or against an officer, employee, or servant thereof
9 acting within the scope or under color of his office, employment or
10 agency. Any plaintiff who prevails in **any such** an action shall be
11 entitled to recover reasonable attorney's fees and costs of the action.

12 b. In addition to the provisions of subsection a. of this section,
13 treble damages may be awarded to a resident or alleged third party
14 guarantor of payment who prevails in any action to enforce the
15 provisions of section 3 of P.L.1997, c.241 (C.30:13-3.1).
16 (cf: P.L.1997, c.241, s.2)

17
18 20. Section 4 of P.L.1985, c.386 (C.34:1B-50) is amended to
19 read as follows:

20 4. The authority shall have the power:

21 a. To adopt bylaws for the regulation of its affairs and the
22 conduct of its business, which shall include a code of ethics with
23 respect to conflicts of interest;

24 b. To sue or be sued in the name of the authority, provided that
25 a judgment against the authority shall not create any direct liability
26 against its directors, employees, or its agents;

27 c. To indemnify its directors, employees and agents for any and
28 all claims, suits, costs of investigations, costs of defense,
29 settlements, or judgments against them on account of an act or
30 omission in the scope of a director's duties, or an employee's or
31 agent's employment, but the authority shall refuse to indemnify if it
32 determines that the act or failure to act was because of actual fraud,
33 willful misconduct, or actual malice, or for claims for exemplary or
34 punitive damages;

35 d. To enter into any contracts as are necessary or proper to
36 carry out the provisions and purposes of this act;

37 e. To establish and maintain any reserve or insurance funds as
38 may be necessary to carry out the provisions of this act;

39 f. To sell, convey, lease, purchase, or otherwise acquire real or
40 personal property to carry out its functions under the act;

41 g. To borrow money, to issue bonds, notes, or other debt
42 instruments, which may be at a fixed rate of return or otherwise,
43 commensurate with the risk, and to provide for the rights of holders
44 thereof as provided in this act, which obligations shall be an eligible
45 investment pursuant to the provisions of section 144 of P.L.1977,
46 c.110 (C.5:12-144) and section 33 of P.L.1984, c.218 (C.5:12-181);

47 h. Subject to any agreements with bondholders or noteholders,
48 to purchase bonds or notes of the authority out of any funds or

- 1 money of the authority available therefor and to hold, cancel, or
2 resell these bonds or notes;
- 3 i. To contract for and to accept any gifts, grants, loans of funds
4 or financial or other aid in any form from any person, including an
5 individual, authority, partnership, or otherwise, or from the United
6 States of America or any agency or instrumentality thereof, or from
7 the State or any agency, instrumentality, or political subdivision
8 thereof;
- 9 j. In connection with any application for financing or other
10 assistance under this act, to require and collect any reasonable fees
11 and charges, including commitment fees, as the authority may deem
12 necessary for its services;
- 13 k. Subject to any agreement with bondholders or noteholders,
14 to invest moneys of the authority not required for immediate use,
15 including proceeds from the sale of bonds and notes, in any
16 obligations, securities, and other investments which the authority
17 deems prudent;
- 18 l. To appoint and employ any persons as may be necessary to
19 carry out the purposes of this act, and to determine their
20 qualifications, terms of office, duties and compensation without
21 regard to the provisions of Title 11, Civil Service, of the Revised
22 Statutes;
- 23 m. To extend credit, make long-term or short-term loans, loan
24 guarantees, or provide other financial assistance, including letters of
25 credit or guarantees of letters of credit;
- 26 n. To establish underwriting standards for eligibility for
27 financial assistance, as provided in section 5 of this act;
- 28 o. To establish a financial and technical assistance investment
29 policy which delineates the proposed allocation of assistance by the
30 authority by type of business, which policy shall include a provision
31 that no more than 50% of the total assistance made available by the
32 authority be made available to small businesses, and no more than
33 25% of the total assistance made available by the authority be made
34 available to minorities and 25% of the total assistance made
35 available by the authority be made available to women; except that
36 notwithstanding the foregoing, and in addition to the funds
37 otherwise allocated by the authority to minorities and women
38 pursuant to this subsection, 100% of the funds made available
39 pursuant to the provisions of section 33 of P.L.1984, c.218 (C.5:12-
40 181), shall be made available to minorities and women, 50% of
41 which shall be made available to women, and 50% of which shall be
42 made available to minorities and shall be invested in accordance
43 with the geographic restrictions established by that act; provided,
44 however, that any repayment of principal and interest due to the
45 Casino Reinvestment Development Authority with respect to
46 obligations purchased or monies otherwise invested in the New
47 Jersey Development Authority for Small Businesses, Minorities,
48 and Women's Enterprises shall be the obligation of the New Jersey

1 Development Authority for Small Businesses, Minorities', and
2 Women's Enterprises;

3 p. To establish standards for providing a letter of credit or
4 other guarantee for businesses which are unable to secure
5 performance bonds;

6 q. To take any security which it deems necessary in connection
7 with any direct loan or any guaranteed loan or other extension of
8 credit;

9 r. To purchase any loan or assistance package which is
10 consistent with the underwriting standards established by the
11 authority from any person, including any financial institution or
12 subsidiary thereof, and to contract with any person to originate
13 these loans;

14 s. To participate with financial institutions and other investors
15 in providing financial assistance to eligible businesses, under
16 underwriting standards established by the authority, by means of
17 direct loan participations or loan guarantees;

18 t. To make any rules and regulations necessary to effectuate
19 the purposes of this act;

20 u. To take any other actions which are reasonable and
21 necessary to effectuate the provisions of this act.

22 (cf: P.L.1985, c.386, s.4)

23
24 21. Section 11 of P.L.1989, c.261 (C.34:11B-11) is amended to
25 read as follows:

26 11. Any person may initiate suit in Superior Court or file a
27 complaint with the division on either an individual or class basis.
28 In addition to the remedies provided in section 16 of P.L.1945,
29 c.169 (C.10:5-17), the aggrieved party, in any action other than an
30 action against a public employer or against an officer, employee or
31 a servant thereof acting within the scope or under color of his
32 office, employment or agency, may be awarded punitive damages in
33 an amount not greater than \$10,000.00 , except that in the case of a
34 class action or a director's complaint the total amount of punitive
35 damages shall not exceed \$500,000.00 or 1% of the net worth of the
36 defendant, whichever is less. In determining the amount of punitive
37 damages, the court or director shall consider, among other relevant
38 factors, the amount of compensatory damages awarded, the amount
39 of civil penalty to be paid by the employer, the frequency and
40 persistence of the violation of this act by the employer, the
41 resources of the employer, the number of persons adversely affected
42 by the violation, and the extent to which the employer's failure to
43 comply with this act was intentional.

44 (cf: P.L.1989, c.261, s.11)

45
46 22. Section 5 of P.L.1986, c.105 (C.34:19-5) is amended to read
47 as follows:

1 5. Upon a violation of any of the provisions of this act, an
2 aggrieved employee or former employee may, within one year,
3 institute a civil action in a court of competent jurisdiction. Upon
4 the application of any party, a jury trial shall be directed to try the
5 validity of any claim under this act specified in the suit. All
6 remedies available in common law tort actions shall be available to
7 prevailing plaintiffs. These remedies are in addition to any legal or
8 equitable relief provided by this act or any other statute. The court
9 shall also order, where appropriate and to the fullest extent possible:

10 a. An injunction to restrain any violation of this act which is
11 continuing at the time that the court issues its order;

12 b. The reinstatement of the employee to the same position held
13 before the retaliatory action, or to an equivalent position;

14 c. The reinstatement of full fringe benefits and seniority rights;

15 d. The compensation for all lost wages, benefits and other
16 remuneration; **[and]**

17 e. The payment by the employer of reasonable costs, and
18 attorney's fees.

19 In addition, the court or jury may order: the assessment of a civil
20 fine of not more than \$10,000 for the first violation of the act and
21 not more than \$20,000 for each subsequent violation, which shall be
22 paid to the State Treasurer for deposit in the General Fund; punitive
23 damages except in an action against a public employer, or an
24 officer, employee or a servant thereof acting within the scope or
25 under color of his office, employment or agency; or both a civil fine
26 and punitive damages. In determining the amount of punitive
27 damages, the court or jury shall consider not only the amount of
28 compensatory damages awarded to the employee, but also the
29 amount of all damages caused to shareholders, investors, clients,
30 patients, customers, employees, former employees, retirees or
31 pensioners of the employer, or to the public or any governmental
32 entity, by the activities, policies or practices of the employer which
33 the employee disclosed, threatened to disclose, provided testimony
34 regarding, objected to, or refused to participate in.

35 (cf: P.L.2005, c.329, s.2)

36
37 23. Section 21 of P.L.1992, c.165 (C.40:54D-21) is amended to
38 read as follows:

39 21. The public purpose of an authority shall be to undertake a
40 tourism project if it is necessary or useful to the economic
41 development and public welfare of the residents and tourist industry
42 of the creating municipalities, and to promote, advertise and
43 enhance the attractiveness of the district to visitors and tourists;
44 provided however, that such promotion, advertisement and
45 enhancement shall not be undertaken by any authority with respect
46 to the Wildwood convention center facility unless any such
47 authority is expressly authorized by the sports authority to
48 undertake such activities. Except as otherwise provided in, and

- 1 subject to any limitations in P.L.1997, c.273 (C.40:54D-25.1 et al.),
- 2 an authority shall have the following powers:
- 3 a. To adopt bylaws for the regulation of its affairs and the
- 4 conduct of its business;
- 5 b. To adopt an official common seal and alter it at its pleasure;
- 6 c. To maintain an office at a place or places within the district
- 7 as it may designate;
- 8 d. To sue and be sued in its own name;
- 9 e. To acquire from any predecessor owner or operator, and to
- 10 construct, reconstruct, maintain, and operate a convention center
- 11 facility or other tourism project;
- 12 f. To issue bonds or notes of the authority for the purposes of
- 13 this act and to provide for the rights of the holders thereof all as
- 14 provided in the "Local Bond Law," N.J.S.40A:2-1 et seq.;
- 15 g. To set and collect rents, fees, charges or other payments for
- 16 the lease, use, occupancy or disposition of a convention center
- 17 facility or other tourism project acquired, constructed or
- 18 reconstructed by the authority pursuant to the provisions of
- 19 P.L.1992, c.165 (C.40:54D-1 et seq.). Any revenues collected shall
- 20 be available to the authority for use in furtherance of any of the
- 21 purposes of this act;
- 22 h. To acquire, lease as lessee or lessor, own, rent, use, hold and
- 23 dispose of real property and personal property or any interest
- 24 therein, in the exercise of its powers and the performance of its
- 25 duties under this act;
- 26 i. To acquire in the name of the authority by purchase, gift or
- 27 otherwise, on terms and conditions and in a manner as the authority
- 28 may deem proper, or by the exercise of the power of eminent
- 29 domain except as against the State of New Jersey, any land and
- 30 other property which the authority may determine is necessary for
- 31 the construction, reconstruction, maintenance, operation or support
- 32 of tourism projects pursuant to the provisions of this act, P.L.1992,
- 33 c.165 (C.40:54D-1 et seq.) or parts thereof or rights therein, and any
- 34 fee simple absolute or any lesser interest in private property, and
- 35 any fee simple absolute in, easements upon, or the benefit of
- 36 restrictions upon abutting property to preserve and protect same;
- 37 j. To grant by franchise, lease or otherwise, the use of any
- 38 property owned and controlled by the authority to any person for
- 39 the consideration and for the period or periods of time and upon
- 40 terms and conditions as are agreed upon;
- 41 k. To apply for, receive and accept from the United States of
- 42 America or any agency thereof, or the State and any subdivision
- 43 thereof, subject to the approval of the State Treasurer, grants for or
- 44 in aid of the planning, acquisition or construction of a convention
- 45 center facility or other tourism project, and to receive and accept
- 46 aid or contributions from any other public or private source, of
- 47 either money, property, labor or other things of value, to be held,
- 48 used and applied only for the purposes for which those grants and

1 contributions may be made;

2 l. Subject to the limitations of this act, to determine the location,
3 type and character of its tourism project and all other matters in
4 connection therewith;

5 m. To enter into contracts or agreements with any entity for the
6 entity to issue bonds or notes on behalf of the authority and to make
7 payments to the entity to secure those bonds or notes;

8 n. To procure and enter into contracts for any type of insurance
9 and indemnify against loss or damage to property from any cause,
10 including the loss of use and occupancy and business interruption,
11 death or injury of any person, employee liability, any act of any
12 member, officer, employee or servant of the authority, whether part-
13 time, compensated or uncompensated, in the performance of the
14 duties of office or employment or any other insurable risk or any
15 other losses in connection with property, operations, assets or
16 obligations in any amounts and from any insurers as are deemed
17 desirable. The authority shall not indemnify any member, officer,
18 employee or servant for claims for exemplary or punitive damages.

19 In addition, the authority may carry its own liability insurance;

20 o. To promote and advertise the district and to promote the use
21 of the tourism projects by tourists and visitors to the district; and

22 p. To enter into any and all agreements or contracts, execute any
23 and all instruments, and do and perform any and all acts or things
24 necessary, convenient or desirable for the purposes of the authority
25 or to carry out any power expressly given in P.L.1992, c.165
26 (C.40:54D-1 et seq.).

27 (cf: P.L.1997, c.273, s.9)

28

29 24. Section 11 of P.L.1989, c.300 (C.45:9-19.11) is amended to
30 read as follows:

31 11. A member of the State Board of Medical Examiners or the
32 Medical Practitioner Review Panel, the medical director to the State
33 Board of Medical Examiners, the Attorney General, any medical
34 consultant to the board or review panel and any employee of the
35 board or review panel shall not be liable in any action for damages
36 to any person for any action taken or recommendation made by him
37 within the scope of his function as a member, consultant or
38 employee, if the action or recommendation was taken or made
39 without malice. The Attorney General shall defend the person in
40 any civil suit and the State shall provide indemnification for any
41 damages awarded pursuant to the "New Jersey Tort Claims Act,"
42 N.J.S.59:1-1 et seq.

43 (cf: P.L.1989, c.300, s.11)

44

45 25. Section 10 of P.L.1988, c.121 (C.48:5A-63) is amended to
46 read as follows:

47 10. a. Subject, where appropriate, to the "New Jersey Tort
48 Claims Act" (N.J.S.59:1-1 et seq.), any person, State or local

1 agency or other governmental or public entity which discloses
2 personally identifiable information in violation of this act, or
3 otherwise engages in negligent, willful or reckless conduct in
4 violation of this act, shall be liable to the aggrieved subscriber for:

5 (1) Actual damages, but not less than liquidated damages
6 computed at a rate of \$100.00 per day for each day of violation or a
7 total of \$1,000.00 for all violations, whichever is greater;

8 (2) Such punitive damages as **the court may allow** provided by
9 law, except that the State, or a local agency or other government or
10 public entity, or an officer, employee, or a servant thereof acting
11 within the scope or under color of his office, employment or
12 agency, shall not be liable for punitive damages; and

13 (3) Attorney's fees and other litigation costs reasonably and
14 actually incurred.

15 b. In determining the amount of punitive damages, if any, the
16 court shall consider, among other relevant factors, the amount of
17 any actual damages awarded, the nature and seriousness of any
18 intangible harm suffered by the subscriber, the frequency and
19 persistence of failures of compliance by the defendant, the
20 resources of the defendant, the number of persons adversely
21 affected, and the extent to which the failure of the defendant to
22 comply was intentional.

23 (cf: P.L.1988, c.121, s.10)

24
25 26. Section 5 of P.L.1979, c.500 (C.55:13B-21) is amended to
26 read as follows:

27 5. Any person or resident whose rights as defined herein are
28 violated shall have a cause of action against any person committing
29 such violation. The action may be brought in any court of
30 competent jurisdiction to enforce such rights and to recover actual
31 damages and, if the cause of action is against a private boarding
32 facility, punitive damages , for their violation. A plaintiff shall not
33 be entitled to recover punitive damages in any action against a
34 public boarding facility, or against an officer, employee, or a
35 servant thereof acting within the scope or under color of his office,
36 employment or agency. Any plaintiff who prevails in **any such**
37 an action shall be entitled to recover reasonable attorney's fees and
38 costs of the action.

39 (cf: P.L.1979, c.500, s.5)

40
41 27. N.J.S.59:9-2 is amended to read as follows:

42 59:9-2. a. No interest shall accrue prior to the entry of judgment
43 against a public entity or public employee.

44 b. No judgment shall be granted against a public entity or public
45 employee on the basis of strict liability, implied warranty or
46 products liability.

1 c. No punitive or exemplary damages shall be awarded against a
2 public entity or a public employee acting within the scope or under
3 color of his office, employment or agency.

4 d. No damages shall be awarded against a public entity or public
5 employee for pain and suffering resulting from any injury;
6 provided, however, that this limitation on the recovery of damages
7 for pain and suffering shall not apply in cases of permanent loss of
8 a bodily function, permanent disfigurement or dismemberment
9 where the medical treatment expenses are in excess of \$3,600.00.
10 For purposes of this section medical treatment expenses are defined
11 as the reasonable value of services rendered for necessary surgical,
12 medical and dental treatment of the claimant for such injury,
13 sickness or disease, including prosthetic devices and ambulance,
14 hospital or professional nursing service.

15 e. If a claimant receives or is entitled to receive benefits for the
16 injuries allegedly incurred from a policy or policies of insurance or
17 any other source other than a joint tortfeasor, such benefits shall be
18 disclosed to the court and the amount thereof which duplicates any
19 benefit contained in the award shall be deducted from any award
20 against a public entity or public employee recovered by such
21 claimant; provided, however, that nothing in this provision shall be
22 construed to limit the rights of a beneficiary under a life insurance
23 policy. No insurer or other person shall be entitled to bring an
24 action under a subrogation provision in an insurance contract
25 against a public entity or public employee.

26 (cf: P.L.2000, c.126, s.32)

27
28 28. N.J.S.59:10-1 is amended to read as follows:

29 59:10-1. Indemnification. If pursuant to the provisions of
30 P.L.1972, c.48 (C.59:10A-1 et seq.) the Attorney General provides
31 for the defense of an employee or former employee, the State shall
32 provide indemnification for the State employee.

33 Nothing in this section requires the State to pay for punitive or
34 exemplary damages , or for damages resulting from the commission
35 of a crime. **【The State may, however, indemnify a State employee
36 for exemplary or punitive damages resulting from the employee's
37 civil violation of State or federal law if, in the opinion of the
38 Attorney General, the acts committed by the State employee upon
39 which the damages are based did not constitute actual fraud, actual
40 malice, willful misconduct, or an intentional wrong.】**

41 (cf: P.L.1987, c.340, s.1)

42
43 29. N.J.S.59:10-2 is amended to read as follows:

44 59:10-2. Refusal to defend--indemnification. If the Attorney
45 General refuses to provide for the defense of a State employee as
46 required by the provisions of P.L.1972, c.48 (C.59:10A-1 et seq.),
47 the employee or former employee of the State shall be entitled to

1 indemnification from the State if he establishes that the act or
2 omission upon which the claim or judgment was based occurred
3 within the scope of his employment as an employee of the State and
4 the State fails to establish that he acted or failed to act because of
5 actual fraud, actual malice or willful misconduct.

6 If the State employee establishes that he was entitled to a defense
7 under the provisions of this chapter, the State shall pay or reimburse
8 him for any bona fide settlement agreements entered into by the
9 employee, and shall pay or reimburse him for any judgments
10 entered against the employee, and shall pay or reimburse him for all
11 costs of defending the action, including reasonable counsel fees and
12 expenses, together with costs of appeal, if any.

13 Nothing in this section requires the State to pay for punitive or
14 exemplary damages , or for damages resulting from the commission
15 of a crime. **【The State may indemnify a State employee for
16 exemplary or punitive damages resulting from the employee's civil
17 violation of State or federal law if, in the opinion of the Attorney
18 General, the acts committed by the State employee upon which the
19 damages are based did not constitute actual fraud, actual malice,
20 willful misconduct, or an intentional wrong.】**

21 (cf: P.L.1987, c.340, s.2)

22
23 30. N.J.S.59:10-4 is amended to read as follows:

24 59:10-4. Local public entities--authority to indemnify. Local
25 public entities are hereby empowered to indemnify local public
26 employees consistent with the provisions of this act. **【A local
27 public entity may indemnify an employee of the local public entity
28 for exemplary or punitive damages resulting from the employee's
29 civil violation of State or federal law if, in the opinion of the
30 governing body of the local public entity, the acts committed by the
31 employee upon which the damages are based did not constitute
32 actual fraud, actual malice, willful misconduct or an intentional
33 wrong.】** Nothing in this section authorizes a local public entity to
34 indemnify an employee of the local public entity for exemplary or
35 punitive damages.

36 (cf: P.L.1987, c.340, s.3)

37
38 31. This act shall take effect on the 60th day following its
39 enactment, and only contracts entered into, or causes of action filed,
40 on or after the effective date shall be governed by its provisions.

41 42 43 STATEMENT

44
45 This bill would eliminate awards of punitive damages against all
46 public entities and public employees acting within the scope or
47 under color of their office, employment or agency. The provisions

1 of the bill would clearly establish that public entities, including the
2 State and all political subdivisions thereof, as well as all public
3 officers, employees, and servants would not be liable in any civil
4 action for punitive damages.

5 Since these officers, employees, and servants would no longer be
6 liable for punitive damages while acting within the scope or under
7 color of their office, employment or agency, the public entities
8 would no longer need the authority to indemnify such individuals in
9 their official capacity. In order to properly reflect this point, the
10 bill would also amend several statutory sections concerning the
11 authority of public entities to indemnify these individuals.

12 The amendments within the bill changing the "Punitive Damages
13 Act," N.J.S.A.2A:15-5.9 et seq., the "Conscientious Employee
14 Protection Act," N.J.S.A.34:19-1 et seq., and the "Law Against
15 Discrimination," N.J.S.A.10:5-1 et seq., as well as amendments to
16 several other specific causes of action set forth throughout the
17 statutory law, would create a consistent legislative framework
18 prohibiting awards of punitive damages against public entities and
19 public employees. This action would clarify the Legislature's
20 position on the issue of punitive damages against public entities,
21 and guide future court decisions when ruling on the availability of
22 such awards. See Abbamont v. Piscataway Tp. Bd. of Educ., 138
23 N.J. 405 (1994) (permitting punitive damages against government
24 entities under the "Conscientious Employee Protection Act");
25 Lockley v. N.J. Dep't of Corrections, 177 N.J. 413 (2003)
26 (permitting punitive damages against public entity under the "Law
27 Against Discrimination").