

**ASSEMBLY, No. 3325**

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**STATE OF NEW JERSEY**

**215th LEGISLATURE**

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INTRODUCED SEPTEMBER 24, 2012

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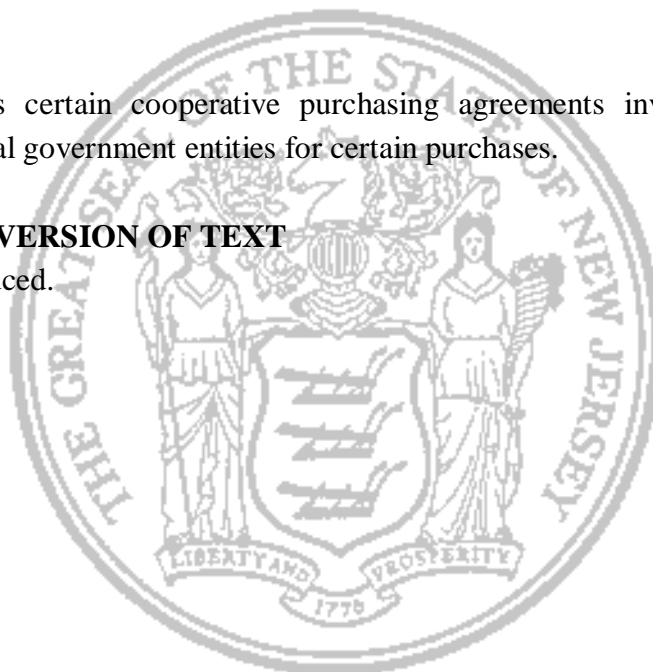
**Assemblywoman Sumter, Senators Whelan and Beach**

**SYNOPSIS**

Authorizes certain cooperative purchasing agreements involving certain State and local government entities for certain purchases.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 11/30/2012)**

1 AN ACT authorizing certain cooperative purchasing agreements for  
2 certain purchases and amending P.L.1984, c.218 and P.L.1971,  
3 c.198.

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

7  
8 1. Section 13 of P.L.1984, c.218 (C.5:12-161) is amended to  
9 read as follows:

10 13. The Casino Reinvestment Development Authority shall have  
11 the following powers:

12 a. To adopt and have a common seal and to alter the same at  
13 pleasure;

14 b. To sue or be sued;

15 c. To acquire, hold, use and dispose of any eligible project in  
16 which it is making an investment;

17 d. To acquire, rent, hold, use, and dispose of other personal  
18 property for the purposes of the Casino Reinvestment Development  
19 Authority;

20 e. To acquire by purchase, gift, or otherwise, or lease as lessee,  
21 real property or easements or interests therein necessary or useful  
22 and convenient for the purposes of the Casino Reinvestment  
23 Development Authority which real property, easements or interests  
24 may be subject to mortgages, deeds of trust, or other liens or  
25 otherwise, and to hold and to use the same, and to dispose of the  
26 property so acquired no longer necessary for the purposes of the  
27 Casino Reinvestment Development Authority;

28 f. To make and enforce bylaws or rules and regulations for the  
29 management and regulation of its business and affairs and for the  
30 use, maintenance, and operation of any facility, and to amend the  
31 same;

32 g. To enter into any agreements or contracts, execute any  
33 instruments, and do and perform any acts or things necessary,  
34 convenient, or desirable for the purposes of the Casino  
35 Reinvestment Development Authority, including the entering into  
36 of cooperative purchasing agreements for the purchase of fuel, or  
37 other goods or services deemed necessary, convenient, or desirable  
38 by a majority vote of the members of the Casino Reinvestment  
39 Development Authority, with any governmental unit, including a  
40 county or municipal authority, and the entering into of agreements  
41 or contracts with any such governmental unit to provide for the  
42 payment of principal of and interest on any obligation issued by that  
43 governmental unit, the maintenance of necessary reserves in  
44 connection with these obligations or the payments under any lease  
45 entered into in connection with any eligible project;

**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       h. To determine eligibility for investments in eligible projects
- 2 in order to accomplish the purposes of the Casino Reinvestment
- 3 Development Authority;
- 4       i. To collect and invest any proceeds received under subsection
- 5 b. of section 3 and section 14 of this act;
- 6       j. To invest in obligations of local governmental units issued
- 7 to finance eligible projects, provided that the investment shall only
- 8 be effected through direct negotiation by the Casino Reinvestment
- 9 Development Authority with the local governmental unit;
- 10      k. To make agreements of any kind with any governmental unit
- 11 or person for the use or operation of all or any part of any eligible
- 12 project for consideration and for periods of time and upon other
- 13 terms and conditions as the Casino Reinvestment Development
- 14 Authority may fix and agree upon, which agreements may include a
- 15 partnership, limited partnership, joint venture or association in
- 16 which the Casino Reinvestment Development Authority is a general
- 17 or limited partner or participant;
- 18      l. To require and collect fees and charges as the Casino
- 19 Reinvestment Development Authority shall determine to be
- 20 reasonable in connection with the exercise of any power given to
- 21 the Casino Reinvestment Development Authority under the act;
- 22      m. To the extent permitted under a contract of the Casino
- 23 Reinvestment Development Authority with purchasers of its bonds
- 24 entered into pursuant to section 3 of this 1984 amendatory and
- 25 supplementary act, to invest and reinvest any of its moneys not
- 26 required for immediate use, including moneys received for the
- 27 purchase of its bonds prior to the bonds being issued as it shall
- 28 deem prudent. A pro rata share of  $66 \frac{2}{3}$  % of all interest earned by
- 29 the Casino Reinvestment Development Authority on any such
- 30 investments shall be paid to the licensees who entered into a
- 31 contract with the Casino Reinvestment Development Authority for
- 32 the purchase of its bonds and who contributed to the moneys which
- 33 were received by the Casino Reinvestment Development Authority
- 34 and were invested pursuant to this subsection. All functions,
- 35 powers and duties relating to the investment or reinvestment of
- 36 these funds, including the purchase, sale or exchange of any
- 37 investments or securities, may, upon the request of the Casino
- 38 Reinvestment Development Authority, be exercised and performed
- 39 by the Director of the Division of Investment, in accordance with
- 40 written directions of the Casino Reinvestment Development
- 41 Authority signed by an authorized officer, without regard to any
- 42 other law relating to investments by the Director of the Division of
- 43 Investment;
- 44      n. To the extent permitted under the contract of the Casino
- 45 Reinvestment Development Authority with the holders of its bonds,
- 46 to invest and reinvest any of its moneys not required for immediate
- 47 use, including proceeds from the sale of any obligations, securities
- 48 or other investments as it shall deem prudent. All functions, powers

1 and duties relating to the investment or reinvestment of these funds,  
2 including the purchase, sale or exchange of any investments or  
3 securities, may upon the request of the Casino Reinvestment  
4 Development Authority be exercised and performed by the Director  
5 of the Division of Investment, in accordance with written directions  
6 of the Casino Reinvestment Development Authority signed by an  
7 authorized officer, without regard to any other law relating to  
8 investments by the Director of the Division of Investment;

9 o. To enter into all agreements or contracts with any  
10 governmental unit or person, execute any instruments, and do and  
11 perform any acts or things necessary, convenient or desirable for  
12 the purposes of the Casino Reinvestment Development Authority to  
13 carry out any power expressly given in this act;

14 p. To exercise the right of eminent domain in the city of  
15 Atlantic City;

16 q. To establish and exercise authority over the Atlantic City  
17 Tourism District established pursuant to section 5 of P.L.2011, c.18  
18 (C.5:12-219) and, in addition to the powers provided in this section,  
19 to exercise, with regard to the tourism district, those powers granted  
20 to the authority pursuant to P.L.2011, c.18 (C.5:12-218 et al.);

21 r. To meet and hold hearings at places as it shall designate; and

22 s. To establish, develop, construct, acquire, own, operate,  
23 manage, promote, maintain, repair, reconstruct, restore, improve  
24 and otherwise effectuate, either directly or indirectly, through  
25 lessees, licensees or agents, projects consisting of facilities, at a site  
26 or sites within the State of New Jersey, that are related to, incidental  
27 to, necessary for or complementary to, the accomplishment of any  
28 of the purposes of the authority or of any project of the authority  
29 authorized in accordance with P.L.1984, c.218 (C.5:12-144.1 et  
30 seq.), as amended.

31 (cf: P.L.2011, c.18, s.4)

32  
33 2. Section 2 of P.L.1971, c.198 (C.40A:11-2) is amended to  
34 read as follows:

35 2. As used herein the following words have the following  
36 definitions, unless the context otherwise indicates:

37 (1) "Contracting unit" means:

38 (a) Any county; or

39 (b) Any municipality; or

40 (c) Any board, commission, committee, authority or agency,  
41 which is not a State board, commission, committee, authority,  
42 except as provided pursuant to P.L. , c. (C. ) (pending  
43 before the Legislature as this bill), or agency, and which has  
44 administrative jurisdiction over any district other than a school  
45 district, project, or facility, included or operating in whole or in  
46 part, within the territorial boundaries of any county or municipality  
47 which exercises functions which are appropriate for the exercise by  
48 one or more units of local government, including functions

1 exercised in relation to the administration and oversight of a  
2 tourism district located in a municipality in which authorized casino  
3 gaming occurs, and which has statutory power to make purchases  
4 and enter into contracts awarded by a contracting agent for the  
5 provision or performance of goods or services.

6 The term shall not include a private firm that has entered into a  
7 contract with a public entity for the provision of water supply  
8 services pursuant to P.L.1995, c.101 (C.58:26-19 et al.).

9 "Contracting unit" shall not include a private firm or public  
10 authority that has entered into a contract with a public entity for the  
11 provision of wastewater treatment services pursuant to P.L.1995,  
12 c.216 (C.58:27-19 et al.).

13 "Contracting unit" shall not include a duly incorporated nonprofit  
14 association that has entered into a contract with the governing body  
15 of a city of the first class for the provision of water supply services  
16 or wastewater treatment services pursuant to section 2 of P.L.2002,  
17 c.47 (C.40A:11-5.1).

18 "Contracting unit" shall not include a duly incorporated nonprofit  
19 entity that has entered into a contract for management and operation  
20 services with a municipal hospital authority established pursuant to  
21 P.L.2006, c.46 (C.30:9-23.15 et al.).

22 (2) "Governing body" means:

23 (a) The governing body of the county, when the purchase is to  
24 be made or the contract or agreement is to be entered into by, or in  
25 behalf of, a county; or

26 (b) The governing body of the municipality, when the purchase  
27 is to be made or the contract or agreement is to be entered into by,  
28 or on behalf of, a municipality; or

29 (c) Any board, commission, committee, authority or agency of  
30 the character described in subsection (1) (c) of this section.

31 (3) "Contracting agent" means the governing body of a  
32 contracting unit, or appointed membership of a State authority  
33 authorized to enter into a cooperative purchasing agreement  
34 pursuant to P.L. , c. (C. ) (pending before the Legislature as  
35 this bill), or its authorized designee, which has the power to prepare  
36 the advertisements, to advertise for and receive bids and, as  
37 permitted by this act, to make awards for the contracting unit in  
38 connection with purchases, contracts or agreements.

39 (4) "Purchase" means a transaction, for a valuable consideration,  
40 creating or acquiring an interest in goods, services and property,  
41 except real property or any interest therein.

42 (5) (Deleted by amendment, P.L.1999, c.440.)

43 (6) "Professional services" means services rendered or  
44 performed by a person authorized by law to practice a recognized  
45 profession, whose practice is regulated by law, and the performance  
46 of which services requires knowledge of an advanced type in a field  
47 of learning acquired by a prolonged formal course of specialized  
48 instruction and study as distinguished from general academic

1 instruction or apprenticeship and training. Professional services  
2 may also mean services rendered in the provision or performance of  
3 goods or services that are original and creative in character in a  
4 recognized field of artistic endeavor.

5 (7) "Extraordinary unspecifiable services" means services which  
6 are specialized and qualitative in nature requiring expertise,  
7 extensive training and proven reputation in the field of endeavor.

8 (8) (Deleted by amendment, P.L.1999, c.440.)

9 (9) "Work" includes services and any other activity of a tangible  
10 or intangible nature performed or assumed pursuant to a contract or  
11 agreement with a contracting unit.

12 (10) "Homemaker--home health services" means at home  
13 personal care and home management provided to an individual or  
14 members of the individual's family who reside with the individual,  
15 or both, necessitated by the individual's illness or incapacity.  
16 "Homemaker--home health services" includes, but is not limited to,  
17 the services of a trained homemaker.

18 (11) "Recyclable material" means those materials which would  
19 otherwise become municipal solid waste, and which may be  
20 collected, separated or processed and returned to the economic  
21 mainstream in the form of raw materials or products.

22 (12) "Recycling" means any process by which materials which  
23 would otherwise become solid waste are collected, separated or  
24 processed and returned to the economic mainstream in the form of  
25 raw materials or products.

26 (13) "Marketing" means the sale, disposition, assignment, or  
27 placement of designated recyclable materials with, or the granting  
28 of a concession to, a reseller, processor, materials recovery facility,  
29 or end-user of recyclable material, in accordance with a district  
30 solid waste management plan adopted pursuant to P.L.1970, c.39  
31 (C.13:1E-1 et seq.) and shall not include the collection of such  
32 recyclable material when collected through a system of routes by  
33 local government unit employees or under a contract administered  
34 by a local government unit.

35 (14) "Municipal solid waste" means, as appropriate to the  
36 circumstances, all residential, commercial and institutional solid  
37 waste generated within the boundaries of a municipality; or the  
38 formal collection of such solid wastes or recyclable material in any  
39 combination thereof when collected through a system of routes by  
40 local government unit employees or under a contract administered  
41 by a local government unit.

42 (15) "Distribution" (when used in relation to electricity) means  
43 the process of conveying electricity from a contracting unit that is a  
44 generator of electricity or a wholesale purchaser of electricity to  
45 retail customers or other end users of electricity.

46 (16) "Transmission" (when used in relation to electricity) means  
47 the conveyance of electricity from its point of generation to a  
48 contracting unit that purchases it on a wholesale basis for resale.

1 (17) "Disposition" means the transportation, placement, reuse,  
2 sale, donation, transfer or temporary storage of recyclable materials  
3 for all possible uses except for disposal as municipal solid waste.

4 (18) "Cooperative marketing" means the joint marketing by two  
5 or more contracting units of the source separated recyclable  
6 materials designated in a district recycling plan required pursuant to  
7 section 3 of P.L.1987, c.102 (C.13:1E-99.13) pursuant to a written  
8 cooperative agreement entered into by the participating contracting  
9 units thereof.

10 (19) "Aggregate" means the sums expended or to be expended  
11 for the provision or performance of any goods or services in  
12 connection with the same immediate purpose or task, or the  
13 furnishing of similar goods or services, during the same contract  
14 year through a contract awarded by a contracting agent.

15 (20) "Bid threshold" means the dollar amount set in section 3 of  
16 P.L.1971, c.198 (C.40A:11-3), above which a contracting unit shall  
17 advertise for and receive sealed bids in accordance with procedures  
18 set forth in P.L.1999, c.440 (C.40A:11-4.1 et al.).

19 (21) "Contract" means any agreement, including but not limited  
20 to a purchase order or a formal agreement, which is a legally  
21 binding relationship enforceable by law, between a vendor who  
22 agrees to provide or perform goods or services and a contracting  
23 unit which agrees to compensate a vendor, as defined by and subject  
24 to the terms and conditions of the agreement. A contract also may  
25 include an arrangement whereby a vendor compensates a  
26 contracting unit for the vendor's right to perform a service, such as,  
27 but not limited to, operating a concession.

28 (22) "Contract year" means the period of 12 consecutive months  
29 following the award of a contract.

30 (23) "Competitive contracting" means the method described in  
31 sections 1 through 5 of P.L.1999, c.440 (C.40A:11-4.1 thru 40A:11-  
32 4.5) of contracting for specialized goods and services in which  
33 formal proposals are solicited from vendors; formal proposals are  
34 evaluated by the purchasing agent or counsel or administrator; and  
35 the governing body awards a contract to a vendor or vendors from  
36 among the formal proposals received.

37 (24) "Goods and services" or "goods or services" means any  
38 work, labor, commodities, equipment, materials, or supplies of any  
39 tangible or intangible nature, except real property or any interest  
40 therein, provided or performed through a contract awarded by a  
41 contracting agent, including goods and property subject to  
42 N.J.S.12A:2-101 et seq.

43 (25) "Library and educational goods and services" means  
44 textbooks, copyrighted materials, student produced publications and  
45 services incidental thereto, including but not limited to books,  
46 periodicals, newspapers, documents, pamphlets, photographs,  
47 reproductions, microfilms, pictorial or graphic works, musical  
48 scores, maps, charts, globes, sound recordings, slides, films,

1 filmstrips, video and magnetic tapes, other printed or published  
2 matter and audiovisual and other materials of a similar nature,  
3 necessary binding or rebinding of library materials, and specialized  
4 computer software used as a supplement or in lieu of textbooks or  
5 reference material.

6 (26) "Lowest price" means the least possible amount that meets  
7 all requirements of the request of a contracting agent.

8 (27) "Lowest responsible bidder or vendor" means the bidder or  
9 vendor: (a) whose response to a request for bids offers the lowest  
10 price and is responsive; and (b) who is responsible.

11 (28) "Official newspaper" means any newspaper designated by  
12 the contracting unit pursuant to R.S.35:1-1 et seq.

13 (29) "Purchase order" means a document issued by the  
14 contracting agent authorizing a purchase transaction with a vendor  
15 to provide or perform goods or services to the contracting unit,  
16 which, when fulfilled in accordance with the terms and conditions  
17 of a request of a contracting agent and other provisions and  
18 procedures that may be established by the contracting unit, will  
19 result in payment by the contracting unit.

20 (30) "Purchasing agent" means the individual duly assigned the  
21 authority, responsibility, and accountability for the purchasing  
22 activity of the contracting unit, and who has such duties as are  
23 defined by an authority appropriate to the form and structure of the  
24 contracting unit, pursuant to P.L.1971, c.198 (C.40A:11-1 et seq.)  
25 and who possesses a qualified purchasing agent certificate.

26 (31) "Quotation" means the response to a formal or informal  
27 request made by a contracting agent by a vendor for provision or  
28 performance of goods or services, when the aggregate cost is less  
29 than the bid threshold. Quotations may be in writing, or taken  
30 verbally if a record is kept by the contracting agent.

31 (32) "Responsible" means able to complete the contract in  
32 accordance with its requirements, including but not limited to  
33 requirements pertaining to experience, moral integrity, operating  
34 capacity, financial capacity, credit, and workforce, equipment, and  
35 facilities availability.

36 (33) "Responsive" means conforming in all material respects to  
37 the terms and conditions, specifications, legal requirements, and  
38 other provisions of the request.

39 (34) "Public works" means building, altering, repairing,  
40 improving or demolishing any public structure or facility  
41 constructed or acquired by a contracting unit to house local  
42 government functions or provide water, waste disposal, power,  
43 transportation, and other public infrastructures.

44 (35) "Director" means the Director of the Division of Local  
45 Government Services in the Department of Community Affairs.

46 (36) "Administrator" means a municipal administrator appointed  
47 pursuant to N.J.S.40A:9-136 and N.J.S.40A:9-137; a business  
48 administrator, a municipal manager or a municipal administrator



1 appointed pursuant to the "Optional Municipal Charter Law,"  
2 P.L.1950, c.210 (C.40:69A-1 et seq.); a municipal manager  
3 appointed pursuant to "the municipal manager form of government  
4 law," R.S.40:79-1 et seq.; or the person holding responsibility for  
5 the overall operations of an authority that falls under the "Local  
6 Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et  
7 seq.).

8 (37) "Concession" means the granting of a license or right to act  
9 for or on behalf of the contracting unit, or to provide a service  
10 requiring the approval or endorsement of the contracting unit, and  
11 which may or may not involve a payment or exchange, or provision  
12 of services by or to the contracting unit.

13 (38) "Index rate" means the rate of annual percentage increase,  
14 rounded to the nearest half-percent, in the Implicit Price Deflator  
15 for State and Local Government Purchases of Goods and Services,  
16 computed and published quarterly by the United States Department  
17 of Commerce, Bureau of Economic Analysis.

18 (39) "Proprietary" means goods or services of a specialized  
19 nature, that may be made or marketed by a person or persons having  
20 the exclusive right to make or sell them, when the need for such  
21 goods or services has been certified in writing by the governing  
22 body of the contracting unit to be necessary for the conduct of its  
23 affairs.

24 (40) "Service or services" means the performance of work, or the  
25 furnishing of labor, time, or effort, or any combination thereof, not  
26 involving or connected to the delivery or ownership of a specified  
27 end product or goods or a manufacturing process. Service or  
28 services may also include an arrangement in which a vendor  
29 compensates the contracting unit for the vendor's right to operate a  
30 concession.

31 (41) "Qualified purchasing agent certificate" means a certificate  
32 granted by the director pursuant to section 9 of P.L.1971, c.198  
33 (C.40A:11-9).

34 (42) "Mistake" means, for a public works project, a clerical error  
35 that is an unintentional and substantial computational error or an  
36 unintentional omission of a substantial quantity of labor, material,  
37 or both, from the final bid computation.

38 (cf: P.L.2010, c.108, s.1)

39  
40 3. This act shall take effect immediately.

#### 41 42 43 STATEMENT

44  
45 This bill authorizes the Casino Reinvestment Development  
46 Authority (CRDA) to enter into certain cooperative purchasing  
47 agreements with local government entities. Currently, under the  
48 "Local Public Contracts Law" P.L.1971, c.198 (C.40A-11-1 et

1 seq.), a State authority, such as the CRDA, is not considered a  
2 “contracting unit” and is therefore ineligible to enter into  
3 cooperative purchasing agreements with local entities. This bill  
4 would amend the law to allow the CRDA to engage in such  
5 contracts for the purpose of purchasing fuel sold by local entities or  
6 for purchasing other goods or services if deemed necessary,  
7 convenient, or desirable as determined by a majority vote of the  
8 members of the board.