

[First Reprint]
ASSEMBLY, No. 2504

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 14, 1996

By Assemblymen GIBSON and ASSELTA

1 AN ACT concerning the imposition of certain taxes on retail receipts
2 for the funding of the projects of certain tourism improvement and
3 development authorities ¹and the membership and powers of those
4 authorities¹, amending ¹and supplementing ¹ P.L.1992, c.165 and
5 supplementing P.L.1966, c.30.

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

9
10 ¹1. Section 3 of P.L.1992, c.165 (C.40:54D-3) is amended to read
11 as follows:

12 3. As used in this act:

13 "Authority" means a tourism improvement and development
14 authority created pursuant to section 18 of this act, P.L.1992, c.165
15 (C.40:54D-18).

16 "Bond" means any bond or note issued by an authority pursuant to
17 the provisions of this act.

18 ["Commissioner" means the Commissioner of Commerce, Energy
19 and Economic Development.]

20 "Construction" means the planning, designing, construction,
21 reconstruction, rehabilitation, replacement, repair, extension,
22 enlargement, improvement and betterment of a project, and includes
23 the demolition, clearance and removal of buildings or structures on
24 land acquired, held, leased or used for a project.

25 "Convention center facility" means any convention hall or center or
26 like structure or building, and shall include all facilities, including
27 commercial, office, community service, parking facilities and all
28 property rights, easements and interests, and other facilities
29 constructed for the accommodation and entertainment of tourists and
30 visitors, constructed in conjunction with a convention center facility
31 and forming reasonable appurtenances thereto.

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ASI committee amendments adopted December 9, 1996.

1 "Tourism project" means the convention center facility or [similar
2 tourism improvement or development project] outdoor special events
3 arena, or both, located in the territorial limits of the district, and any
4 costs associated therewith.

5 "Cost" means all or any part of the expenses incurred in connection
6 with the acquisition, construction and maintenance of any real
7 property, lands, structures, real or personal property rights,
8 rights-of-way, franchises, easements, and interests acquired or used for
9 a project; any financing charges and reserves for the payment of
10 principal and interest on bonds or notes; the expenses of engineering,
11 appraisal, architectural, accounting, financial and legal services; and
12 other expenses as may be necessary or incident to the acquisition,
13 construction and maintenance of a project, the financing thereof and
14 the placing of the project into operation.

15 "County" means a county of the sixth class.

16 ["Department" means the Department of Commerce, Energy and
17 Economic Development.]

18 "Director" means the Director of the Division of Taxation in the
19 Department of the Treasury.

20 "Fund" means a Reserve Fund created pursuant to section 13 of this
21 act, P.L.1992, c.165 (C.40:54D-13).

22 "Outdoor special events arena" means a facility or structure for the
23 holding outdoors of public events, entertainments, sporting events,
24 concerts or similar activities, and shall include all facilities, property
25 rights and interests, and all appurtenances reasonably related thereto,
26 constructed for the accommodation and entertainment of tourists and
27 visitors.

28 "Participant amusement" means a sporting activity or amusement the
29 charge for which is exempt from taxation under the "Sales and Use
30 Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) by virtue of the
31 participation of the patron in the activity or amusement, such as
32 bowling alleys, swimming pools, water slides, miniature golf,
33 boardwalk or carnival games and amusements, baseball batting cages,
34 tennis courts, and fishing and sightseeing boats.

35 "Predominantly tourism related retail receipts" means:

36 a. The rent for every occupancy of a room or rooms in a hotel
37 subject to taxation pursuant to subsection (d) of section 3 of the "Sales
38 and Use Tax Act," P.L.1966, c.30 (C.54:32B-3);

39 b. Receipts from the sale of food and drink in or by restaurants,
40 taverns, or other establishments in the district, or by caterers,
41 including in the amount of such receipt any cover, minimum,
42 entertainment or other charge made to patrons or customers, subject
43 to taxation pursuant to subsection (c) of section 3 of the "Sales and
44 Use Tax Act," P.L.1966, c.30 (C.54:32B-3) but excluding receipts
45 from sales of food and beverages sold through coin operated vending
46 machines; and

1 c. Admissions charges to or the use of any place of amusement or
2 of any roof garden, cabaret or similar place, subject to taxation
3 pursuant to subsection (e) of section 3 of the "Sales and Use Tax Act,"
4 P.L.1966, c.30 (C.54:32B-3).

5 "Purchaser" means any person purchasing or hiring property or
6 services from another person, the receipts or charges from which are
7 taxable by an ordinance authorized under this act, P.L.1992, c.165
8 (C.40:54D-1 et seq.).

9 "Tourism" means activities involved in providing and marketing
10 services and products, including accommodations, for nonresidents
11 and residents who travel to and in New Jersey for recreation and
12 pleasure.

13 "Tourism development fee" means a fee imposed by ordinance
14 pursuant to section 15 of this act, P.L.1992, c.165 (C.40:54D-15),
15 within a tourism improvement and development district on:

16 a. Persons making sales of tangible personal property or services,
17 the receipts from which are subject to the "Sales and Use Tax Act,"
18 P.L.1966, c.30 (C.54:32B-1 et seq.), but which are not predominately
19 tourism related retail receipts as defined in this section;

20 b. Persons making charges for participant amusements as defined
21 in this section;

22 c. Persons operating businesses that charge for parking, garaging
23 or storing of motor vehicles;

24 d. Persons maintaining or operating coin-operated vending
25 machines within the district, for the machines within the district,
26 regardless of the types of commodities sold through the machines; and

27 e. Persons making sales of tangible personal property or services,
28 the receipts from which are subject to the "Sales and Use Tax Act,"
29 P.L.1966, c.30 (C.54:32B-1 et seq.), and which are predominately
30 tourism related retail receipts as defined in this section, but only to the
31 extent that the amount of tax on those receipts collected in a year by
32 the person is less than the amount of the tourism development fee for
33 that year.

34 "Tourism improvement and development district" or "district" means
35 an area within two or more contiguous municipalities within a county
36 of the sixth class established pursuant to ordinance enacted by those
37 municipalities, for the purposes of promoting the acquisition,
38 construction, maintenance, operation and support of a tourism project,
39 and to devote the revenue and the proceeds from taxes upon
40 predominantly tourism related retail receipts and from tourism
41 development fees to the purposes as herein defined.

42 "Tourist industry" means the industry consisting of private and
43 public organizations which directly or indirectly provide services and
44 products to nonresidents and residents who travel to and in New
45 Jersey for recreation and pleasure.

46 "Vendor" means a person selling or hiring property or services to

1 another person, the receipts or charges from which are taxable by an
2 ordinance authorized under this act, P.L.1992, c.165 (C.40:54D-1 et
3 seq.).¹

4 (cf: P.L.1992, c.165, s.3)

5
6 ¹[1.]2. ¹ Section 4 of P.L.1992, c.165 (C.40:54D-4) is amended
7 to read as follows:

8 4. a. Two or more contiguous municipalities located in a county
9 of the sixth class may, by ordinances of a substantially similar nature,
10 create a tourism improvement and development district for the purpose
11 of increasing public revenue and to levy taxes upon predominantly
12 tourism related retail receipts at a rate not to exceed ~~[2 percent]~~ five
13 percent, until certification by the director pursuant to subsection e. of
14 section 9 of P.L.1992, c.165 (C.40:54D-9), and thereafter at a rate not
15 to exceed 4 percent ¹, until the first day of the third month following
16 the certification by the State Treasurer that all payments for bonds
17 issued pursuant to section 20 of P.L. , c. (C.) (now pending
18 before the Legislature as this bill) have been made, and thereafter at a
19 rate not to exceed 2 percent¹, and to devote the proceeds therefrom
20 for the purposes herein described. ¹The ordinances shall provide that
21 to the extent that the revenues derived annually from the taxes so
22 levied in the district exceed \$6,250,000 in any year prior to
23 certification by the director pursuant to that subsection e., or
24 \$5,500,000 in any year thereafter, the excess revenues shall not be
25 used for the purposes of the district but shall be deposited in the State
26 General Fund to be used for general State purposes. Municipal
27 ordinances so adopted shall not affect which retail receipts are subject
28 to the "Sales and Use Tax Act."

29 A rate of tax in excess of 2 percent shall be permitted only in a
30 district in which each municipality that enters into the creation of the
31 district and each municipality entering the district after creation does
32 not impose a fee in excess of \$2 per day for general public access to
33 the beaches located within those municipalities. If any of those
34 municipalities creating the district or the municipalities entering the
35 district after creation impose a fee in excess of \$2 per day for general
36 public access to the beaches within those municipalities in any calendar
37 year, the tax rate upon predominantly tourism related retail receipts
38 within the district shall automatically be considered reduced to a rate
39 of 2 percent and this rate shall be deemed effective as of the first day
40 of the second month following a determination by the State Treasurer
41 that a beach fee in any of the municipalities exceeded \$2 per day for
42 general public access.¹

43 For the same purposes, the ordinances establishing the district shall
44 also provide for the imposition of tourism development fees authorized
45 pursuant to section 15 of this act, P.L.1992, c.165 (C.40:54D-15).
46 The taxes on predominantly tourism related retail receipts and tourism

1 development fees so imposed shall be uniform throughout the district.

2 b. Notwithstanding any other law to the contrary, ordinances so
3 adopted shall not be subject to referenda, and shall not be altered or
4 repealed, except by mutual action of all such municipalities. Each
5 municipality which enters into the creation of the district shall
6 covenant that the ordinance¹, or a condition imposed by statute that
7 each municipality is required to meet,¹ shall not be altered or repealed
8 in such manner as to affect any bonds or other obligations pertaining
9 to projects within the district which are outstanding.

10 c. The district shall comprise all territory within the boundaries of
11 the municipalities which create or enter into the district.

12 d. A contiguous municipality located in a county of the sixth class
13 may, by such an ordinance, and with the mutual consent of the
14 governing bodies of the municipalities which created the district, enter
15 into the district so created after the date of the district's creation.

16 e. A copy of an ordinance adopted pursuant to this section shall be
17 transmitted upon adoption or amendment to the State Treasurer. An
18 ordinance so adopted or any amendment thereto shall provide that the
19 retail receipts tax provisions of the ordinance or any amendment to the
20 retail receipts tax provisions shall take effect on the first day of the
21 first full month occurring 90 days after the date of transmittal to the
22 State Treasurer.

23 (cf: P.L.1992, c.165, s.4)

24

25 ¹[2.] 3.¹ Section 9 of P.L.1992, c.165 (C.40:54D-9) is amended to
26 read as follows:

27 9. a. A vendor required to collect the tax upon predominantly
28 tourism related retail receipts imposed pursuant to this act shall on or
29 before the dates required pursuant to section 17 of P.L.1966, c.30
30 (C.54:32B-17), forward to the director the tax collected in the
31 preceding month and make and file a return for the preceding month
32 with the director on any form and containing any information as the
33 Director of the Division of Taxation in the Department of the Treasury
34 shall prescribe by rule or regulation as necessary to determine liability
35 for the tax in the preceding month during which the person was
36 required to collect the tax.

37 b. The director may permit or require returns to be made covering
38 other periods and upon any dates as the director may specify. In
39 addition, the director may require payments of tax liability at any
40 intervals and based upon any classifications as the director may
41 designate. In prescribing any other periods to be covered by the return
42 or intervals or classifications for payment of tax liability, the director
43 may take into account the dollar volume of tax involved as well as the
44 need for ensuring the prompt and orderly collection of the tax
45 imposed.

46 c. The director may require amended returns to be filed within

1 20 days after notice and to contain the information specified in the
2 notice.

3 d. The director shall inform the authority for each month in which
4 this tax is collected and returns made of the amount so collected in
5 each month.

6 e. From the date that substantially similar amendments to
7 municipal ordinances to increase the tax rate ¹in excess of a rate of 2
8 percent¹ pursuant to P.L. _____, c. (C. _____) (now pending before the
9 Legislature as this bill), take effect in all municipalities in the district,
10 the director shall maintain a running total of the amounts collected
11 under the tax until such month as 20 percent of the amount collected
12 under the increased tax rate equals the total amount collected under
13 the tax during the time the tax was levied at a 2 percent rate pursuant
14 to P.L.1992, c.165 (C.40:54D-1 et seq.). The director shall, within 10
15 days of the receipt of that amount of tax collected, certify to the
16 governing body of each municipality in the district that such amount
17 has been collected.

18 (cf: P.L.1992, c.165, s.9)

19

20 ^{14.} Section 12 of P.L.1992, c.165 (C.40:54D-12) is amended to
21 read as follows:

22 12. **[All]** Of the revenues collected annually by the director under
23 an ordinance adopted and authorized pursuant to this act, P.L.199,
24 c.165 (C.40:54D-1 et seq.), an amount not to exceed \$6,250,000 in
25 any year prior to certification by the director pursuant to subsection
26 e. of section 9 of P.L.1992, c.165 (C.40:54D-9), or \$5,500,000 in any
27 year thereafter, after deduction of administrative costs as provided
28 herein, shall be retained by the State Treasurer for deposit in the fund
29 established pursuant to section 13 of this act, P.L.1992, c.165
30 (C.40:54D-13), to be used and distributed according to the terms
31 herein provided. Amounts collected in excess of such amounts shall
32 not be deposited to the fund but shall be deposited in the State General
33 Fund to be used for general State purposes.

34 The State Treasurer may deduct from amounts so retained prior to
35 deposit in the fund an amount equal to that necessary to compensate
36 the Department of the Treasury for costs actually incurred by that
37 department in administering the provisions of this act. The State
38 Treasurer shall annually provide the authority to which the fund
39 pertains with a written account of the amounts so deducted and of the
40 costs so incurred in the previous fiscal year. Amounts deducted by the
41 State Treasurer shall be retained by the Department of the Treasury
42 and used exclusively for costs so incurred.¹

43 (cf: P.L.1992, c.165, s.12)

44

45 ^{15.} Section 14 of P.L.1992, c.165 (C. 40:54D-14) is amended to
46 read as follows:

1 14. a. Until such time as the conditions set forth in subsection b.
2 of this section are met, the revenues deposited by the State Treasurer
3 in the fund shall be applied for the purposes of financing the provision,
4 advertising, promotion, improvement and operation of the tourism
5 project within the district, and the acquisition, maintenance, operation
6 and support of the tourism project designated by the authority
7 authorized to undertake those activities pursuant to section 18 of this
8 act, P.L.1992, c.165 (C.40:54D-18); provided however, that all funds
9 derived from taxes upon predominantly tourism related retail receipts
10 shall be used solely for the costs of capital construction or for the
11 issuance of bonds for the acquisition, construction, maintenance and
12 operation of a capital construction project and the payment of interest
13 and principal on such bonds, except as provided for operating
14 expenses of the authority in subsection b. of section 20 of P.L. _____,
15 c. _____ (C. _____) (now pending before the Legislature as this bill).

16 b. Commencing on that date which is the later of (1) July 1, 1993,
17 or (2) six months prior to the first date on which any payment of
18 principal or interest on any bonds or notes issued for, or any payment
19 of rent under any lease entered into [by the authority] in connection
20 with the acquisition, construction, reconstruction, maintenance,
21 operation or support of a convention center facility or other tourism
22 project to accomplish the purposes [of the authority as] set forth in
23 section 21 of this act, P.L.1992, c.165 (C.40:54D-21), are required to
24 be made from the revenues collected pursuant to section 4 of this act,
25 P.L.1992, c.165 (C.40:54D-4), the revenues thereafter retained by the
26 State Treasurer pursuant to section 12 of this act, P.L.1992, c.165
27 (C.40:54D-12), shall be applied exclusively in accordance with the
28 provisions of the resolution or resolutions authorizing the issuance of
29 bonds [by the authority] for that tourism project, to the payment of
30 principal of and interest on bonds so issued, the maintenance of
31 necessary reserves and the allocation of monies for future debt service
32 payments. On that date which is the later date determined pursuant to
33 paragraph 1 or 2 of this subsection, all monies then accumulated in the
34 fund shall be removed by the State Treasurer and the proceeds, with
35 the interest thereon, shall be used for any of the purposes set forth in
36 subsection a. of this section.

37 c. [At the end of any full calendar year occurring after the date
38 which is the later date determined pursuant to paragraph 1 or 2 of
39 subsection b. of this section and after all payments coming due during
40 that calendar year of principal and interest on authority bonds or notes
41 issued for a tourism project have been made, and all obligations to the
42 holders of those bonds have been met, including the maintenance of
43 necessary reserves and the allocation of monies for future debt service
44 payments, any balance remaining in the fund in that calendar year shall
45 be applied to any deficiency between the operating expense budget and
46 the anticipated operating revenues available for the following fiscal

1 year to the entity operating the tourism project.](Deleted by
2 amendment, P.L. , c. (now pending before the Legislature as this
3 bill).)

4 d. At the end of each full calendar year occurring after the date
5 which is the later date determined pursuant to paragraph 1 or 2 of
6 subsection b. of this section and after all payments for that year have
7 been made from the fund pursuant to [subsections b. and c. of] this
8 section, any monies remaining in the fund in that calendar year shall be
9 used for the purposes set forth in subsection a. of this section.

10 e. Pending application to the purposes for which monies deposited
11 in the fund may be used, the monies in the fund shall be invested by the
12 State Treasurer pursuant to applicable regulations prescribed for the
13 investment of State monies. Any income received from these
14 investments shall be added to the fund from which earned, and used
15 only for the purposes of the fund.¹

16 (cf: P.L.1992, c.165, s.14)

17

18 ¹6. Section 18 of P.L.1992, c.165 (C.40:54D-18) is amended to
19 read as follows:

20 18. a. Ordinances adopted to create a tourism improvement and
21 development district pursuant to this act, P.L.1992, c.165
22 (C.40:54D-1 et seq.) shall provide for the creation of a public body
23 corporate and politic for the district, under the name and style of "the
24 Tourism Improvement and Development Authority."

25 b. Copies of the ordinances for the creation of the authority or
26 amendments thereof shall be filed in the office of the Secretary of State
27 and in the office of the Division of Local Government Services in the
28 Department of Community Affairs. A copy of the certified ordinance
29 or amendment shall be admissible in evidence in any action or
30 proceeding and shall be conclusive evidence of due and proper
31 adoption and filing thereof. After filing in the office of the Secretary
32 of State, a copy of the ordinance or amendment shall be published at
33 least once in a newspaper published or circulating in the adopting
34 municipalities, together with a notice stating the fact and date of its
35 adoption and the date of first publication of the notice. If no action
36 questioning the validity of the creation of the authority is commenced
37 within 45 days after the first publication of the notice, then the
38 authority shall be conclusively deemed to have been validly created
39 and authorized to transact business and exercise powers pursuant to
40 this act, P.L.1992, c.165 (C.40:54D-1 et seq.).

41 c. An authority so established shall be subject to the provisions of
42 the "Local Authorities Fiscal Control Law," P.L.1983, c.313
43 (C.40A:5A-1 et seq.), except that the creation of the authority shall
44 not be subject to approval of the Local Finance Board in the
45 Department of Community Affairs.¹

46 (cf: P.L.1992, c.165, s.18)

1 ¹⁷. Section 19 of P.L.1992, c.165 (C.40:54D-19) is amended to
2 read as follows:

3 19. The governing bodies of the municipalities which created an
4 authority pursuant to this act, P.L.1992, c.165 (C.40:54D-1 et seq.)
5 may by ordinance, dissolve the authority pursuant to the "Local
6 Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et
7 seq.) , except that the authority shall not be dissolved prior the date
8 certified by the State Treasurer that all payments for bonds issued by
9 the State authority pursuant to section 20 of P.L. _____, c. _____ (C. _____)
10 (now pending before the Legislature as this bill) have been made.¹
11 (cf: P.L.1992, c.165, s.19)

12
13 ¹⁸. Section 20 of P.L.1992, c.165 (C.40:54D-20) is amended to
14 read as follows:

15 20. a. The authority shall consist of nine members. After the
16 expiration of the period of 45 days following the first publication of
17 the creating ordinances or amendments to those ordinances adopted
18 pursuant to P.L. _____, c. _____ (C. _____) (now pending before the
19 Legislature as this bill), the governing body of each municipality
20 joining in the creation of the tourism improvement and development
21 district shall appoint the [~~first~~]municipal members to the authority.
22 Each municipality shall be entitled to appoint [~~three members~~]one
23 member to the authority. [~~Two of the three members so appointed~~
24 ~~shall be owners, or employees of vendors, for whom a regular part of~~
25 ~~a dominant line of their business generates retail receipts subject to~~
26 ~~taxation or who are subject to payment of municipal fees pursuant to~~
27 ~~this act, P.L.1992, c.165 (C.40:54D-1 et seq.).~~ The remaining member
28 appointed by each municipality shall be a resident of the municipality
29 who is not such an owner or employee of a vendor. No member shall
30 hold any elective public office] The member shall be appointed by the
31 mayor of the municipality, and may be the mayor or other officer of
32 the municipality.

33 b. The [~~Commissioner of the Department of Commerce, Energy~~
34 ~~and Economic Development~~] State Treasurer shall be an ex officio
35 member of the authority.

36 c. The Governor shall appoint, with the advice and consent of the
37 Senate, five members to the authority, at least two of whom shall be
38 residents of the tourism improvement and development district who
39 are owners, or employees of vendors, for whom a regular part of a
40 dominant line of their business generates retail receipts subject to
41 taxation or who are subject to payment of municipal fees pursuant to
42 P.L.1992, c.165 (C.40:54D-1 et seq.). No more than three of the
43 members so appointed shall be members of the same political party.

44 d. The terms of office of all members of the authority serving on the
45 effective date of P.L. _____, c. _____ (C. _____) (now pending before the
46 Legislature as this bill) shall terminate 45 days following the

1 publication of amendments to the creating ordinances adopted
2 pursuant to P.L. _____, c. _____ (C. _____) as provided for in subsection a. of
3 this section and, thereafter, the Governor and the municipalities within
4 the district shall proceed to appoint members as provided by this
5 section.

6 e. Each member of the authority shall serve for a term of four
7 years, except of the members initially appointed by the Governor, two
8 shall be appointed for a term of two years and ~~[one]~~three shall be
9 appointed for a term of four years. Each member shall hold office for
10 the term of the member's appointment and until the member's
11 successor is appointed and qualified. A member shall be eligible for
12 reappointment. A vacancy in the membership occurring other than by
13 expiration of term shall be filled in the same manner as the original
14 appointment but for the unexpired term only.

15 ~~[d.]~~f. The ~~[commissioner]~~ State Treasurer may designate an
16 employee of the ~~[department]~~ Department of the Treasury to represent
17 the member at meetings of the authority. The designee of the member
18 may lawfully vote and otherwise act on behalf of the member. The
19 designation shall be made annually in writing and delivered to the
20 authority and shall be effective until revoked or amended by written
21 notice delivered to the authority.

22 ~~[e.]~~g. The authority, upon the first appointment of its members and
23 thereafter at the same time in each year, shall annually elect from
24 among its members, a chairman and a vice-chairman who shall hold
25 office until a successor is elected. The authority may also appoint and
26 employ, without regard to the provisions of Title 11A of the New
27 Jersey Statutes, an executive director and other agents and employees
28 as the authority may require, and shall determine their qualifications,
29 terms of office, duties and compensation thereof.

30 ~~[f.]~~h. The powers of the authority shall be vested in the voting
31 members thereof in office from time to time; a majority of the members
32 of the authority shall constitute a quorum and the affirmative vote of
33 a majority of the full membership shall be necessary for any action
34 taken by the authority unless the bylaws of the authority shall require
35 a larger number. No vacancy in the membership of the authority shall
36 impair the right of a quorum to exercise all the rights and perform all
37 the duties of the authority.

38 ~~[g.]~~i. The members of the authority shall serve without
39 compensation, but the authority may reimburse its members for actual
40 and necessary expenses incurred in the discharge of their duties.

41 ~~[h.]~~j. Each appointed member of the authority may be removed by
42 the appointing authority for cause after a public hearing and may be
43 suspended by the authority pending the completion of the hearing.
44 Each member of the authority before entering upon the duties of office
45 shall take and subscribe an oath to perform the duties of the office
46 faithfully, impartially, prudently and justly to the best of the member's

1 ability. A record of these oaths shall be filed in the office of the
2 Secretary of State.

3 k. A true copy of the minutes of every meeting of the authority shall
4 be forthwith delivered by and under the certification of the secretary
5 thereof to the Governor. No action taken at the meeting by the
6 authority shall take effect until 15 days after the copy of the minutes
7 is so delivered unless during that 15 day period the Governor approves
8 the same, in which case the action shall take effect upon that approval.
9 If in that 15 day period, the Governor returns the copy of the minutes
10 with veto of any action taken by the authority, that action shall be null
11 and void.¹

12 (cf: P.L.1992, c.165, s.20)

13

14 ^{19.} Section 21 of P.L.1992, c.165 (C.40:54D-21) is amended to
15 read as follows:

16 21. The public purpose of an authority shall be to undertake a
17 tourism project which is necessary or useful to the economic
18 development and public welfare of the residents and tourist industry
19 of the creating municipalities, and to promote, advertise and enhance
20 the attractiveness of the district to visitors and tourists. An authority
21 shall have the following powers:

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

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

25 c. To maintain an office at a place or places within the district as
26 it may designate;

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

28 e. To acquire from any predecessor owner or operator, and to
29 construct, reconstruct, maintain, and operate a convention center
30 facility or other tourism project;

31 f. [To]Except as otherwise provided in P.L. _____, c. _____ (C. _____)
32 (now pending before the Legislature as this bill), to issue bonds or
33 notes of the authority for the purposes of this act and to provide for
34 the rights of the holders thereof all as provided in the "Local Bond
35 Law," N.J.S.40A:2-1 et seq.;

36 g. To set and collect rents, fees, charges or other payments for the
37 lease, use, occupancy or disposition of a convention center facility or
38 other tourism project acquired, constructed or reconstructed by the
39 authority pursuant to the provisions of this act, P.L.1992, c.165
40 (C.40:54D-1 et seq.). Any revenues collected shall be available to the
41 authority for use in furtherance of any of the purposes of this act;

42 h. To acquire, lease as lessee or lessor, own, rent, use, hold and
43 dispose of real property and personal property or any interest therein,
44 in the exercise of its powers and the performance of its duties under
45 this act;

46 i. To acquire in the name of the authority by purchase, gift or

1 otherwise, on terms and conditions and in a manner as the authority
2 may deem proper, or by the exercise of the power of eminent domain
3 except as against the State of New Jersey, any land and other property
4 which the authority may determine is necessary for the construction,
5 reconstruction, maintenance, operation or support of [a convention
6 center facility] tourism projects pursuant to the provisions of this act,
7 P.L.1992, c.165 (C.40:54D-1 et seq.) or parts thereof or rights
8 therein, and any fee simple absolute or any lesser interest in private
9 property, and any fee simple absolute in, easements upon, or the
10 benefit of restrictions upon abutting property to preserve and protect
11 same;

12 j. To grant by franchise, lease or otherwise, the use of any
13 property owned and controlled by the authority to any person for the
14 consideration and for the period or periods of time and upon terms and
15 conditions as are agreed upon;

16 k. To apply for, receive and accept from the United States of
17 America or any agency thereof, or the State and any subdivision
18 thereof, subject to the approval of the State Treasurer, grants for or
19 in aid of the planning, acquisition or construction of a convention
20 center facility or other tourism project, and to receive and accept aid
21 or contributions from any other public or private source, of either
22 money, property, labor or other things of value, to be held, used and
23 applied only for the purposes for which those grants and contributions
24 may be made;

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

28 m. [To] Except as otherwise provided in section 20 of P.L. . . . , c.
29 (C. . . .) (now pending before the Legislature as this bill), to enter
30 into contracts or agreements with any entity for the entity to issue
31 bonds or notes on behalf of the authority and to make payments to the
32 entity to secure those bonds or notes;

33 n. To procure and enter into contracts for any type of insurance
34 and indemnify against loss or damage to property from any cause,
35 including the loss of use and occupancy and business interruption,
36 death or injury of any person, employee liability, any act of any
37 member, officer, employee or servant of the authority, whether
38 part-time, compensated or uncompensated, in the performance of the
39 duties of office or employment or any other insurable risk or any other
40 losses in connection with property, operations, assets or obligations in
41 any amounts and from any insurers as are deemed desirable. In
42 addition, the authority may carry its own liability insurance;

43 o. To promote and advertise the district and to promote the use of
44 the [convention center facility]tourism projects by tourists and
45 visitors to the district; and

46 p. To enter into any and all agreements or contracts, execute any

1 and all instruments, and do and perform any and all acts or things
2 necessary, convenient or desirable for the purposes of the authority or
3 to carry out any power expressly given in this act.¹

4 (cf: P.L.1992, c.165, s.21)

5

6 ¹10. Section 22 of P.L. 1992, c. 165 (C.40:54D-22) is amended to
7 read as follows:

8 22. All purchases, contracts or agreements made by the authority
9 pursuant to this act, P.L.1992, c.165 (C.40:54D-1 et seq.) shall be
10 made or awarded pursuant to the "Local Public Contracts Law,"
11 P.L.1971, c.198 (C.40A:11-1 et seq.).¹

12 (cf: P.L.1992, c.165, s.22.)

13

14 ¹11. Section 23 of P.L.1992, c.165 (C.40:54D-23) is amended to
15 read as follows:

16 23. Any convention center facility or other tourism project
17 [constructed by] of the authority shall be maintained and kept in the
18 condition and repair as the authority determines, or the bond
19 covenants require. A project or any part thereof may be policed and
20 operated by employees and other persons as the authority may employ
21 or authorize.¹

22 (cf: P.L.1992, c.165, s.23)

23

24 ¹12. Section 25 of P.L.1992, c.165 (C.40:54D-25) is amended to
25 read as follows:

26 25. a. [The] Except as otherwise provided in section 20 of P.L. ,
27 c. (C.) (now pending before the Legislature as this bill), the
28 authority may from time to time issue its bonds or notes for any of its
29 purposes under this act, including the payment, funding, or refunding
30 of principal or interest or redemption premiums on any bonds or notes
31 issued by it whether the bonds or notes or interest to be funded or
32 refunded have or have not become due. Bonds and notes so issued
33 shall be subject to the "Local Bond Law," N.J.S.40A:2-1 et seq. and
34 the "Local Authorities Fiscal Control Law," P.L.1983, c.313
35 (C.40A:5A-1 et seq.).

36 b. Except as may be otherwise expressly provided by the authority,
37 every issue of bonds or notes shall be general obligations payable out
38 of any monies or revenues of the authority, subject only to any
39 agreements with the holders of particular bonds or notes pledging any
40 particular revenues or funds. The authority may issue the types of
41 bonds or notes as it may determine, including, without limiting the
42 generality of the foregoing, bonds or notes on which the principal and
43 interest are payable: (1) exclusively from the income and revenues
44 derived from a tax upon retail receipts of any vendor located within
45 the tourism improvement and development district created pursuant to
46 the provisions of section 4 of this act, P.L.1992, c.165 (C.40:54D-4);

1 (2) exclusively from the income and revenues from rates, charges and
2 fees of a convention center facility or other tourism project operated
3 by the authority, whether or not the project is financed in whole or in
4 part with the proceeds of the bonds or notes; or (3) from its revenues
5 generally. Any bonds or notes may be additionally secured by a pledge
6 of any grant or contribution from the federal government or any State
7 or any agency or public subdivision thereof or any person or a pledge
8 of any monies, income or revenues of the authority from any source
9 whatsoever. In addition, the authority may, in anticipation of the
10 issuance of the bonds or the receipt of appropriations, grants,
11 reimbursements or other funds, including without limitation grants
12 from the federal government, issue notes, the principal of or interest
13 on which, or both, shall be payable out of the proceeds of notes, bonds
14 or other obligations of the authority or appropriations, grants
15 reimbursements or other funds or revenues of the authority.¹
16 (cf: P.L.1992, c.165, s.25.)

17

18 ¹13. Section 27 of P.L.1992, c.165 (C.40:54D-27) is amended to
19 read as follows:

20 27. a. Within 30 days after the issuance of any bonds or notes [for,
21 or the execution of lease in connection with, the acquisition,
22 construction, reconstruction or improvement of a convention center
23 facility or other tourism project] by the authority pursuant to this act,
24 P.L.1992, c.165 (C.40:54D-1 et seq.), the authority shall file a report
25 with the Local Finance Board setting forth, if applicable, the principal
26 amount of bonds or notes issued [for that project,] and the annual
27 payments of principal and interest to be made on the bonds or notes[
28 with respect to that project, the terms and provisions of the financing
29 undertaken for, or the lease entered into in connection with, the
30 project, and such engineering and feasibility studies as may have been
31 commissioned and used by the authority in connection with financing
32 the project].

33 b. At least 90 days prior to the date which is the later date
34 determined pursuant to paragraph 1 or 2 of subsection b. of section 14
35 of [this act] P.L.1992, c.165 (C.40:54D-14), an authorized officer of
36 the authority issuing bonds or notes for, or entering into a lease in
37 connection with, the acquisition, construction, reconstruction or
38 improvement of the convention center facility or other tourism project
39 shall notify the Director of the Division of Local Government Services
40 in the Department of Community Affairs of the precise date
41 determined pursuant to subsection b. of section 14 of [this act]
42 P.L.1992, c.165, the amounts payable thereafter: (1) on account of the
43 principal and interest on, or reserve funding requirements on, those
44 bonds or notes; or (2) as rent under the lease, and the name and
45 address of the paying agent or agents for the bonds or notes, or of the
46 lessor under the lease. The director shall, upon the receipt of that

1 notice, verify the facts contained therein, and certify the same to the
2 State Treasurer.

3 c. Following the certification in subsection b. of this section and
4 upon the date set forth therein, the State Treasurer shall thereafter pay
5 prior to each payment date from the fund the amounts certified to be
6 paid: (1) to the appropriate paying agent or agents for the principal
7 and interest on, or reserve funding requirements on, the bonds or
8 notes; or (2) to the lessor as rent under the lease.

9 d. With respect to the acquisition, construction, reconstruction or
10 improvement of a tourism project, the authorized officer of the State
11 authority designated under section 20 of P.L. , c. (C.) (now
12 pending before the Legislature as this bill) shall notify the State
13 Treasurer on the precise date determined pursuant to subsection b. of
14 section 14 of P.L.1992, c. 165 (C.40:54D-14) of the amounts payable
15 thereafter, and the State Treasurer shall thereafter pay prior to each
16 payment date from the fund the amounts required to be paid as
17 provided in subsection c. of this section.¹

18 (cf: P.L.1992, c.165, s.27)

19

20 ¹14. Section 29 of P.L.1992, c.165 (C.40:54D-29) is amended to
21 read as follows:

22 29. The State of New Jersey does hereby pledge to and covenant
23 and agree with the holders of any bonds or notes issued by [the] an
24 authority [or other entity] pursuant to the provisions of this act,
25 P.L.1992, c.165 (C.40:54D-1 et seq.) that the State will not limit or
26 alter the rights or powers vested in [the] an authority to acquire,
27 construct, maintain and operate any project, or to perform and fulfill
28 the terms of any agreement made with the holders of the bonds or
29 notes, or to fix, establish, charge and collect rates, fees or other
30 charges as may be convenient or necessary to produce sufficient
31 revenues to meet all expenses of [the] that authority and fulfill the
32 terms of any contract with another entity or any agreement made with
33 the holders of the bonds or notes, and that the State will not in any
34 way impair the rights or remedies of the holders or modify in any way
35 the exemptions from taxation provided for in this act, until the bonds
36 and notes, together with interest thereon, with interest on any unpaid
37 installments of interest, and all costs and expenses in connection with
38 any action or proceedings by or on behalf of such holders, are fully
39 met and discharged or provided for.¹

40 (cf: P.L.1992, c.165, s.29)

41

42 ¹15. Section 30 of P.L.1992, c.165 (C.40:54D-30) is amended to
43 read as follows:

44 30. Neither the members of [the] an authority nor any person
45 executing bonds or notes issued pursuant to this act, P.L.1992, c.165
46 (C.40:54D-1 et seq.) shall be liable personally on the bonds or notes

1 by reason of the issuance thereof.¹

2 (cf: P.L.1992, c.165, s.30)

3

4 ¹16. Section 32 of P.L.1992, c.165 (C.40:54D-32) is amended to
5 read as follows:

6 32. In addition to the other powers conferred by this act or by any
7 other law and not in limitation thereof, the relevant authority, in
8 connection with construction or operation of a convention center
9 facility or other tourism project, may make reasonable regulations for
10 the installation, construction, maintenance, renewal and removal of
11 tracks, pipes, mains, conduits, cables, wires, towers, poles or any
12 other equipment and appliances, herein called "works," of any public
13 utility as defined in R.S.48:2-13, in, on or along, over or under the
14 project, public highway or real property, including public lands or
15 waters. Whenever in connection with construction or operation of the
16 project, the relevant authority shall determine that it is necessary that
17 any works, which now are or hereafter may be located in, on, along,
18 over under any project, public highway, or real property, should be
19 relocated in the project, public highway, or real property or should be
20 removed therefrom, the public utility owning or operating the works
21 shall relocate or remove the same in accordance with the order of the
22 relevant authority, provided, however, that the cost and expenses of
23 the relocation or removal, including the cost of installing these works
24 in a new location, and the cost of any lands or any rights or interest in
25 lands or any other rights acquired to accomplish the relocation or
26 removal, less the cost of any lands or any rights or interest in lands or
27 any other rights of the public utility, paid to the public utility in
28 connection with the relocation or removal of the works, shall be paid
29 by the relevant authority and may be included in the cost of the
30 project. In case of any relocation or removal of works, the public
31 utility owning or operating the same, its successors or assigns, may
32 maintain and operate the works, with the necessary appurtenances, in
33 the new location for as long a period, and upon the same terms and
34 conditions, as it had the right to maintain and operate the works in
35 their former location.¹

36 (cf: P.L.1992, c.165, s.32)

37

38 ¹17. Section 35 of P.L.1992, c.165 (C.40:54D-35) is amended to
39 read as follows:

40 35. All property of the authority, except any property which is
41 subjected to a lien to secure any bonds or notes [issued by the
42 authority], shall be exempt from levy and sale by virtue of an
43 execution and no execution or other judicial process shall issue against
44 the same, nor shall any such judgment against the authority be a charge
45 or lien upon its property; provided that nothing herein contained shall
46 apply to or limit the rights of the holders of any bonds or notes to

1 pursue any remedy for the enforcement of any pledge or lien [given by
2 the authority on its revenues or other monies].¹

3 (cf: P.L.1992, c.165, s.35)

4
5 ¹18. Section 39 of P.L.1992, c.39 (C.40:54D-39) is amended to
6 read as follows:

7 39. a. The authority shall cause a financial audit of its books and
8 accounts to be made at least once each year by certified public
9 accountants pursuant to the "Local Authorities Fiscal Control Law,"
10 P.L.1983, c.313 (C.40A:5A-1 et seq.), and copies thereof shall be filed
11 with the State Treasurer and with the State Auditor.

12 b. The annual budget of the authority for administrative and
13 operating costs, and the annual budget for any tourism project, shall
14 be submitted for approval to the State Treasurer within 90 days after
15 the effective date of P.L. _____, c. _____ (C. _____) (now
16 pending before the Legislature as this bill), and, thereafter, on or
17 before the last day of October in each year. The State Treasurer shall,
18 within 30 days of submission, review and approve each requested
19 budget. The State Treasurer may object in whole or in part to any
20 item or items contained in a budget while approving the other portions
21 of a budget. If so, the State Treasurer shall append to a budget, along
22 with the treasurer's signature of approval, a statement of each item or
23 part thereof to which the treasurer objects, and each item or part so
24 objected to shall not take effect. A copy of each budget and any
25 statement shall be transmitted to the appropriate authority.
26 Expenditures associated with construction or a specific bond issue or
27 investment shall be considered costs of the State authority designated
28 under section 20 of P.L. _____, c. _____ (C. _____) (now pending before the
29 Legislature as this bill).¹

30 (cf: P.L.1992, c.39, s.39)

31
32 ¹[3.]¹ (New section) Receipts from sales of tangible personal
33 property and services subject to a tax on predominantly tourism
34 related retail receipts authorized by ¹corresponding¹ municipal
35 ordinances which were adopted pursuant to P.L.1992, c.165
36 (C.40:54D-1 et seq.) are exempt from the tax rate imposed under the
37 "Sales and Use Tax Act" to the extent that the tax rate imposed by the
38 ordinances exceeds 2% ¹, except that the combined rate of taxation
39 imposed under the corresponding ordinances and under the "Sales and
40 Use Tax Act" shall not exceed 8%. Municipal ordinances so adopted
41 shall not affect which retail receipts are subject to the "Sales and Use
42 Tax Act." The exemption provided under this section shall terminate
43 on the first day of the third month following the certification by the
44 State Treasurer that all payments for bonds issued pursuant to section
45 20 of P.L. _____, c. _____ (C. _____) (now pending before the
46 Legislature as this bill) have been made¹.

1 ¹20. (New section) a. The State Treasurer shall designate the
2 New Jersey Economic Development Authority established pursuant to
3 P.L.1974, c.80 (C.34:1B-1 et seq.), or any other State authority to
4 issue bonds for the costs of construction, and to manage the
5 construction of the tourism projects authorized herein. The authority
6 shall delegate to the State authority so designated by the State
7 Treasurer sole responsibility to provide for the bonding and
8 construction of the tourism projects within the district. Further, the
9 authority may advise the State authority with regard to the tourism
10 projects.

11 b. The State authority designated by the State Treasurer pursuant
12 to this section shall utilize monies from the fund to issue bonds for the
13 purpose of generating revenue for the construction of tourism
14 projects; however, up to \$500,000 of the fund in any year may be
15 allocated to the authority for operating expenses. In no event shall the
16 annual revenues deposited in the fund exceed \$5,750,000 for bonding
17 purposes in any year prior to certification by the director pursuant to
18 subsection e. of section 9 of P.L.1992, c.165 (C.40:54D-9), and
19 \$5,000,000 in any year thereafter, and \$500,000 for operating
20 expenses of the authority. To the extent that revenue generated
21 annually from taxes levied pursuant to section 4 of P.L.1992, c.165
22 (C.40:54D-4) exceeds in any calendar year the amount permitted to be
23 deposited in that fund under this section, the excess revenue shall be
24 deposited in the State General Fund to be used for general State
25 purposes.

26 c. Any monies expended from the fund for the construction of
27 tourism projects in excess of monies previously approved by the State
28 Treasurer in the annual budget of those tourism projects, pursuant to
29 section 39 of P.L.1992, c.165 (C.40:54D-39), shall be subject to
30 annual review and approval of the State Treasurer.

31 d. The State authority designated by the State Treasurer pursuant
32 to this section shall utilize competitive bidding measures in the
33 selection of all contractors, sub-contractors, and vendors; and
34 competitive request for proposal measures for selection of all
35 professional firms necessary for the development of the tourism
36 projects herein. The State authority shall also review any existing
37 agreements relating to the tourism projects for compliance with this
38 requirement.¹

39

40 ¹[4.] 21.¹ This act shall take effect immediately.

1

2

3 Permits increase in local share of State and local taxes on tourism

4 related retail receipts in certain tourism improvement and development

5 districts under certain conditions.