

[Second 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 <sup>1</sup>and the membership and powers of those  
4 authorities<sup>1</sup>, amending <sup>1</sup>and supplementing <sup>1</sup> 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 <sup>1</sup>1. 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:**

<sup>1</sup> Assembly ASI committee amendments adopted December 9, 1996.

<sup>2</sup> Assembly AAP committee amendments adopted March 20, 1997.

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  
29 the 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"  
35 means an area within two or more contiguous municipalities within a  
36 county of the sixth class established pursuant to ordinance enacted by  
37 those 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.).<sup>1</sup>

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

5  
6 <sup>1</sup>[1.] 2.<sup>1</sup> Section 4 of P.L.1992, c.165 (C.40:54D-4) is amended to  
7 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<sup>1</sup>, 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 percent<sup>1</sup>, and to devote the proceeds therefrom  
20 for the purposes herein described. <sup>2</sup>[<sup>1</sup>The ordinances shall provide  
21 that 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.]<sup>2</sup> 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.<sup>1</sup>

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 ordinance <sup>1</sup>, or a condition imposed by statute that  
7 each municipality is required to meet,<sup>1</sup> 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 <sup>1</sup>[2.] 3.<sup>1</sup> 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 <sup>1</sup>in excess of a rate of 2  
8 percent<sup>1</sup> 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 <sup>14.</sup> 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.<sup>1</sup>

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

44

45 <sup>15.</sup> 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.<sup>1</sup>

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

17

18 <sup>1</sup>6. 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.<sup>1</sup>

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

1       <sup>1</sup>7. 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.<sup>1</sup>  
11 (cf: P.L.1992, c.165, s.19)

12  
13       <sup>1</sup>8. 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 <sup>2</sup>[nine] eleven<sup>2</sup> members.  
16 After the expiration of the period of 45 days following the first  
17 publication of the creating ordinances or amendments to those  
18 ordinances adopted pursuant to P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (now  
19 pending before the Legislature as this bill), the governing body of each  
20 municipality joining in the creation of the tourism improvement and  
21 development district shall appoint the [first] municipal members to the  
22 authority. Each municipality shall be entitled to appoint [three  
23 members]one member to the authority. [Two of the three members so  
24 appointed shall be owners, or employees of vendors, for whom a  
25 regular part of a dominant line of their business generates retail  
26 receipts subject to taxation or who are subject to payment of municipal  
27 fees pursuant to this act, P.L.1992, c.165 (C.40:54D-1 et seq.). The  
28 remaining member appointed by each municipality shall be a resident  
29 of the municipality who is not such an owner or employee of a vendor.  
30 No member shall hold any elective public office] The member shall be  
31 appointed by the mayor of the municipality, and may be the mayor or  
32 other officer of the municipality.

33       b. The [Commissioner of the Department of Commerce, Energy  
34 and Economic Development] State Treasurer <sup>2</sup>and the Director of the  
35 Division of Travel and Tourism in the Department of Commerce and  
36 Economic Development<sup>2</sup> shall be {an} <sup>2</sup>ex officio [m<sup>2</sup>member]  
37 members<sup>2</sup> of the authority.

38       c. The Governor shall appoint, with the advice and consent of the  
39 Senate, <sup>2</sup>[five]six<sup>2</sup> members to the authority <sup>2</sup>[, at least two of whom  
40 shall be residents] as follows: three public members who shall each be  
41 a resident of a different municipality joining in the creation of the  
42 district; and three tourism business members who shall each be a  
43 resident of a different municipality joining in the creation<sup>2</sup> of the  
44 tourism improvement and development district <sup>2</sup>[who are owners, or

1 employees of vendors] and be an owner, or an employee of a vendor<sup>2</sup>  
2 , for whom a regular part of a dominant line of <sup>2</sup>[their]<sup>2</sup> business  
3 generates retail receipts subject to taxation or who <sup>2</sup>[are] is<sup>2</sup> subject  
4 to payment of municipal <sup>2</sup>[fees] fee<sup>2</sup> pursuant to P.L.1992, c.165  
5 (C.40:54D-1 et seq.). No more than three of the members so  
6 appointed shall be members of the same political party.

7 d. The terms of office of all members of the authority serving on  
8 the effective date of P.L. , c. (C. ) (now pending before the  
9 Legislature as this bill) shall terminate 45 days following the  
10 publication of amendments to the creating ordinances adopted  
11 pursuant to P.L. , c. (C. ) as provided for in subsection a. of  
12 this section and, thereafter, the Governor and the municipalities within  
13 the district shall proceed to appoint members as provided by this  
14 section.

15 e. Each member of the authority shall serve for a term of <sup>2</sup>[four]  
16 three<sup>2</sup> years, except of the members initially appointed by the  
17 Governor, <sup>2</sup>[two] one public member and one tourism business  
18 member shall be appointed for a term of one year,one public member  
19 and one tourism business member<sup>2</sup> shall be appointed for a term of  
20 two years and [one] <sup>2</sup>[three] one public member and one tourism  
21 business member<sup>2</sup> shall be appointed for a term of <sup>2</sup>[four] three<sup>2</sup> years  
22 <sup>2</sup>,and of the members initially appointed by the municipalities, one  
23 municipality shall appoint for a term of one year, one for a term of two  
24 years and one for a term of three years, as shall be determined by  
25 agreement of the mayors of the municipalities or by rank in population  
26 of the municipalities from least to greatest<sup>2</sup>. Each member shall hold  
27 office for the term of the member's appointment and until the member's  
28 successor is appointed and qualified. A member shall be eligible for  
29 reappointment. A vacancy in the membership occurring other than by  
30 expiration of term shall be filled in the same manner as the original  
31 appointment but for the unexpired term only.

32 [d.]f. The [commissioner] State Treasurer may designate an  
33 employee of the [department] Department of the Treasury <sup>2</sup>, and the  
34 Director of the Division of Travel and Tourism may designate an  
35 employee of the division,<sup>2</sup> to represent the member at meetings of the  
36 authority. The designee of the member may lawfully vote and  
37 otherwise act on behalf of the member. The designation shall be made  
38 annually in writing and delivered to the authority and shall be effective  
39 until revoked or amended by written notice delivered to the authority.

40 [e.]g. <sup>2</sup>The Governor shall designate one of the Governor's  
41 appointees to serve as chairman at the pleasure of the Governor.<sup>2</sup> The  
42 authority, upon the first appointment of its members and thereafter at  
43 the same time in each year, shall annually elect from among its  
44 members, <sup>2</sup>[a chairman and]<sup>2</sup> a vice-chairman who shall hold office  
45 until a successor is elected. The authority may also appoint and  
46 employ, without regard to the provisions of Title 11A of the New

1 Jersey Statutes, an executive director and other agents and employees  
2 as the authority may require, and shall determine their qualifications,  
3 terms of office, duties and compensation thereof.

4 [f.] h. The powers of the authority shall be vested in the voting  
5 members thereof in office from time to time; a majority of the members  
6 of the authority shall constitute a quorum and the affirmative vote of  
7 a majority of the full membership shall be necessary for any action  
8 taken by the authority unless the bylaws of the authority shall require  
9 a larger number. No vacancy in the membership of the authority shall  
10 impair the right of a quorum to exercise all the rights and perform all  
11 the duties of the authority.

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

15 [h.] j. Each appointed member of the authority may be removed by  
16 the appointing authority for cause after a public hearing and may be  
17 suspended by the authority pending the completion of the hearing.  
18 Each member of the authority before entering upon the duties of office  
19 shall take and subscribe an oath to perform the duties of the office  
20 faithfully, impartially, prudently and justly to the best of the member's  
21 ability. A record of these oaths shall be filed in the office of the  
22 Secretary of State.

23 k. A true copy of the minutes of every meeting of the authority  
24 shall be forthwith delivered by and under the certification of the  
25 secretary thereof to the Governor. No action taken at the meeting by  
26 the authority shall take effect until 15 days after the copy of the  
27 minutes is so delivered unless during that 15 day period the Governor  
28 approves the same, in which case the action shall take effect upon that  
29 approval. If in that 15 day period, the Governor returns the copy of  
30 the minutes with veto of any action taken by the authority, that action  
31 shall be null and void.<sup>1</sup>

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

33

34 <sup>19.</sup> Section 21 of P.L.1992, c.165 (C.40:54D-21) is amended to  
35 read as follows:

36 21. The public purpose of an authority shall be to undertake a  
37 tourism project which is necessary or useful to the economic  
38 development and public welfare of the residents and tourist industry  
39 of the creating municipalities, and to promote, advertise and enhance  
40 the attractiveness of the district to visitors and tourists. An authority  
41 shall have the following powers:

42 a. To adopt bylaws for the regulation of its affairs and the conduct  
43 of its business;

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

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

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

1 connection therewith;

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

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

17 o. To promote and advertise the district and to promote the use of  
18 the [ convention center facility]tourism projects by tourists and  
19 visitors to the district; and

20 p. To enter into any and all agreements or contracts, execute any  
21 and all instruments, and do and perform any and all acts or things  
22 necessary, convenient or desirable for the purposes of the authority or  
23 to carry out any power expressly given in this act.<sup>1</sup>

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

25

26 <sup>1</sup>10. Section 22 of P.L.1992, c.165 (C.40:54D-22) is amended to  
27 read as follows:

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

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

33

34 <sup>1</sup>11. Section 23 of P.L.1992, c.165 (C.40:54D-23) is amended to  
35 read as follows:

36 23. Any convention center facility or other tourism project  
37 [constructed by] of the authority shall be maintained and kept in the  
38 condition and repair as the authority determines, or the bond  
39 covenants require. A project or any part thereof may be policed and  
40 operated by employees and other persons as the authority may employ  
41 or authorize.<sup>1</sup>

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

43

44 <sup>1</sup>12. Section 25 of P.L.1992, c.165 (C.40:54D-25) is amended to  
45 read as follows:

46 25. a. [ The] Except as otherwise provided in section 20 of P.L. ,

1 c. (C. ) (now pending before the Legislature as this bill), the  
2 authority may from time to time issue its bonds or notes for any of its  
3 purposes under this act, including the payment, funding, or refunding  
4 of principal or interest or redemption premiums on any bonds or notes  
5 issued by it whether the bonds or notes or interest to be funded or  
6 refunded have or have not become due. Bonds and notes so issued  
7 shall be subject to the "Local Bond Law," N.J.S.40A:2-1 et seq. and  
8 the "Local Authorities Fiscal Control Law," P.L.1983, c.313  
9 (C.40A:5A-1 et seq.).

10 b. Except as may be otherwise expressly provided by the authority,  
11 every issue of bonds or notes shall be general obligations payable out  
12 of any monies or revenues of the authority, subject only to any  
13 agreements with the holders of particular bonds or notes pledging any  
14 particular revenues or funds. The authority may issue the types of  
15 bonds or notes as it may determine, including, without limiting the  
16 generality of the foregoing, bonds or notes on which the principal and  
17 interest are payable: (1) exclusively from the income and revenues  
18 derived from a tax upon retail receipts of any vendor located within  
19 the tourism improvement and development district created pursuant to  
20 the provisions of section 4 of this act, P.L.1992, c.165 (C.40:54D-4);  
21 (2) exclusively from the income and revenues from rates, charges and  
22 fees of a convention center facility or other tourism project operated  
23 by the authority, whether or not the project is financed in whole or in  
24 part with the proceeds of the bonds or notes; or (3) from its revenues  
25 generally. Any bonds or notes may be additionally secured by a pledge  
26 of any grant or contribution from the federal government or any State  
27 or any agency or public subdivision thereof or any person or a pledge  
28 of any monies, income or revenues of the authority from any source  
29 whatsoever. In addition, the authority may, in anticipation of the  
30 issuance of the bonds or the receipt of appropriations, grants,  
31 reimbursements or other funds, including without limitation grants  
32 from the federal government, issue notes, the principal of or interest  
33 on which, or both, shall be payable out of the proceeds of notes, bonds  
34 or other obligations of the authority or appropriations, grants  
35 reimbursements or other funds or revenues of the authority.<sup>1</sup>  
36 (cf: P.L.1992, c.165, s.25.)

37  
38 <sup>1</sup>13. Section 27 of P.L.1992, c.165 (C.40:54D-27) is amended to  
39 read as follows:

40 27. a. Within 30 days after the issuance of any bonds or notes [for,  
41 or the execution of lease in connection with, the acquisition,  
42 construction, reconstruction or improvement of a convention center  
43 facility or other tourism project] by the authority pursuant to this act,  
44 P.L.1992, c.165 (C.40:54D-1 et seq.), the authority shall file a report  
45 with the Local Finance Board setting forth, if applicable, the principal  
46 amount of bonds or notes issued [for that project,] and the annual

1 payments of principal and interest to be made on the bonds or notes [  
2 with respect to that project, the terms and provisions of the financing  
3 undertaken for, or the lease entered into in connection with, the  
4 project, and such engineering and feasibility studies as may have been  
5 commissioned and used by the authority in connection with financing  
6 the project].

7 b. At least 90 days prior to the date which is the later date  
8 determined pursuant to paragraph 1 or 2 of subsection b. of section 14  
9 of [this act] P.L.1992, c.165 (C.40:54D-14), an authorized officer of  
10 the authority issuing bonds or notes for, or entering into a lease in  
11 connection with, the acquisition, construction, reconstruction or  
12 improvement of the convention center facility or other tourism project  
13 shall notify the Director of the Division of Local Government Services  
14 in the Department of Community Affairs of the precise date  
15 determined pursuant to subsection b. of section 14 of [this act]  
16 P.L.1992, c.165, the amounts payable thereafter: (1) on account of the  
17 principal and interest on, or reserve funding requirements on, those  
18 bonds or notes; or (2) as rent under the lease, and the name and  
19 address of the paying agent or agents for the bonds or notes, or of the  
20 lessor under the lease. The director shall, upon the receipt of that  
21 notice, verify the facts contained therein, and certify the same to the  
22 State Treasurer.

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

29 d. With respect to the acquisition, construction, reconstruction or  
30 improvement of a tourism project, the authorized officer of the State  
31 authority designated under section 20 of P.L. , c. (C. ) (now  
32 pending before the Legislature as this bill) shall notify the State  
33 Treasurer on the precise date determined pursuant to subsection b. of  
34 section 14 of P.L.1992, c. 165 (C.40:54D-14) of the amounts payable  
35 thereafter, and the State Treasurer shall thereafter pay prior to each  
36 payment date from the fund the amounts required to be paid as  
37 provided in subsection c. of this section.<sup>1</sup>

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

39

40 <sup>1</sup>14. Section 29 of P.L.1992, c.165 (C.40:54D-29) is amended to  
41 read as follows:

42 29. The State of New Jersey does hereby pledge to and covenant  
43 and agree with the holders of any bonds or notes issued by [the] an  
44 authority [or other entity] pursuant to the provisions of this act,  
45 P.L.1992, c.165 (C.40:54D-1 et seq.) that the State will not limit or  
46 alter the rights or powers vested in [the] an authority to acquire,

1 construct, maintain and operate any project, or to perform and fulfill  
2 the terms of any agreement made with the holders of the bonds or  
3 notes, or to fix, establish, charge and collect rates, fees or other  
4 charges as may be convenient or necessary to produce sufficient  
5 revenues to meet all expenses of [the ] that authority and fulfill the  
6 terms of any contract with another entity or any agreement made with  
7 the holders of the bonds or notes, and that the State will not in any  
8 way impair the rights or remedies of the holders or modify in any way  
9 the exemptions from taxation provided for in this act, until the bonds  
10 and notes, together with interest thereon, with interest on any unpaid  
11 installments of interest, and all costs and expenses in connection with  
12 any action or proceedings by or on behalf of such holders, are fully  
13 met and discharged or provided for.<sup>1</sup>

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

15

16 <sup>1</sup>15. Section 30 of P.L.1992, c.165 (C.40:54D-30) is amended to  
17 read as follows:

18 30. Neither the members of [the] an authority nor any person  
19 executing bonds or notes issued pursuant to this act, P.L.1992, c.165  
20 (C.40:54D-1 et seq.) shall be liable personally on the bonds or notes  
21 by reason of the issuance thereof.<sup>1</sup>

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

23

24 <sup>1</sup>16. Section 32 of P.L.1992, c.165 (C.40:54D-32) is amended to  
25 read as follows:

26 32. In addition to the other powers conferred by this act or by any  
27 other law and not in limitation thereof, the relevant authority, in  
28 connection with construction or operation of a convention center  
29 facility or other tourism project, may make reasonable regulations for  
30 the installation, construction, maintenance, renewal and removal of  
31 tracks, pipes, mains, conduits, cables, wires, towers, poles or any  
32 other equipment and appliances, herein called "works," of any public  
33 utility as defined in R.S.48:2-13, in, on or along, over or under the  
34 project, public highway or real property, including public lands or  
35 waters. Whenever in connection with construction or operation of the  
36 project, the relevant authority shall determine that it is necessary that  
37 any works, which now are or hereafter may be located in, on, along,  
38 over under any project, public highway, or real property, should be  
39 relocated in the project, public highway, or real property or should be  
40 removed therefrom, the public utility owning or operating the works  
41 shall relocate or remove the same in accordance with the order of the  
42 relevant authority, provided, however, that the cost and expenses of  
43 the relocation or removal, including the cost of installing these works  
44 in a new location, and the cost of any lands or any rights or interest in  
45 lands or any other rights acquired to accomplish the relocation or  
46 removal, less the cost of any lands or any rights or interest in lands or

1 any other rights of the public utility, paid to the public utility in  
2 connection with the relocation or removal of the works, shall be paid  
3 by the relevant authority and may be included in the cost of the  
4 project. In case of any relocation or removal of works, the public  
5 utility owning or operating the same, its successors or assigns, may  
6 maintain and operate the works, with the necessary appurtenances, in  
7 the new location for as long a period, and upon the same terms and  
8 conditions, as it had the right to maintain and operate the works in  
9 their former location.<sup>1</sup>

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

11

12 <sup>1</sup>17. Section 35 of P.L.1992, c.165 (C.40:54D-35) is amended to  
13 read as follows:

14 35. All property of the authority, except any property which is  
15 subjected to a lien to secure any bonds or notes [issued by the  
16 authority], shall be exempt from levy and sale by virtue of an  
17 execution and no execution or other judicial process shall issue against  
18 the same, nor shall any such judgment against the authority be a charge  
19 or lien upon its property; provided that nothing herein contained shall  
20 apply to or limit the rights of the holders of any bonds or notes to  
21 pursue any remedy for the enforcement of any pledge or lien [given by  
22 the authority on its revenues or other monies].<sup>1</sup>

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

24

25 <sup>1</sup>18. Section 39 of P.L.1992, c.39 (C.40:54D-39) is amended to  
26 read as follows:

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

32 b. The annual budget of the authority for administrative and  
33 operating costs, and the annual budget for any tourism project, shall  
34 be submitted for approval to the State Treasurer within 90 days after  
35 the effective date of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (now  
36 pending before the Legislature as this bill), and, thereafter, on or  
37 before the last day of October in each year. The State Treasurer shall,  
38 within 30 days of submission, review and approve each requested  
39 budget. The State Treasurer may object in whole or in part to any  
40 item or items contained in a budget while approving the other portions  
41 of a budget. If so, the State Treasurer shall append to a budget, along  
42 with the treasurer's signature of approval, a statement of each item or  
43 part thereof to which the treasurer objects, and each item or part so  
44 objected to shall not take effect. A copy of each budget and any  
45 statement shall be transmitted to the appropriate authority.  
46 Expenditures associated with construction or a specific bond issue or

1 investment shall be considered costs of the State authority designated  
 2 under section 20 of P.L. , c. (C. ) (now pending before the  
 3 Legislature as this bill).<sup>1</sup>  
 4 (cf: P.L.1992, c.39, s.39)

5  
 6 <sup>1</sup>[3.]<sup>1</sup> (New section) Receipts from sales of tangible personal  
 7 property and services subject to a tax on predominantly tourism  
 8 related retail receipts authorized by <sup>1</sup>corresponding<sup>1</sup> municipal  
 9 ordinances which were adopted pursuant to P.L.1992, c.165  
 10 (C.40:54D-1 et seq.) are exempt from the tax rate imposed under the  
 11 "Sales and Use Tax Act" to the extent that the tax rate imposed by the  
 12 ordinances exceeds 2% <sup>1</sup>, except that the combined rate of taxation  
 13 imposed under the corresponding ordinances and under the "Sales and  
 14 Use Tax Act" shall not exceed 8%. Municipal ordinances so adopted  
 15 shall not affect which retail receipts are subject to the "Sales and Use  
 16 Tax Act." The exemption provided under this section shall terminate  
 17 on the first day of the third month following the certification by the  
 18 State Treasurer that all payments for bonds issued pursuant to section  
 19 20 of P.L. , c. (C. ) (now pending before the  
 20 Legislature as this bill) have been made <sup>1</sup>.

21  
 22 <sup>1</sup>20. (New section) a. The State Treasurer shall designate the  
 23 New Jersey Economic Development Authority established pursuant to  
 24 P.L.1974, c.80 (C.34:1B-1 et seq.), or any other State authority to  
 25 issue bonds for the costs of construction, and to manage the  
 26 construction of the tourism projects authorized herein. The authority  
 27 shall delegate to the State authority so designated by the State  
 28 Treasurer sole responsibility to provide for the bonding and  
 29 construction of the tourism projects within the district. Further, the  
 30 authority may advise the State authority with regard to the tourism  
 31 projects.

32 b. The State authority designated by the State Treasurer pursuant  
 33 to this section shall utilize monies from the fund to issue bonds for the  
 34 purpose of generating revenue for the construction of tourism  
 35 projects; however, <sup>2</sup>[up to] the State Treasurer shall specify an  
 36 amount of not less than<sup>2</sup> \$500,000 of the fund in any year <sup>2</sup>[may] to<sup>2</sup>  
 37 be allocated to the authority for operating expenses <sup>2</sup>pursuant to a  
 38 budget approved by the State Treasurer under section 39 of P.L.1992,  
 39 c.39 (C.40:54D-39)<sup>2</sup>. <sup>2</sup>[In no event shall the annual revenues  
 40 deposited in the fund exceed \$5,750,000 for bonding purposes in any  
 41 year prior to certification by the director pursuant to subsection e. of  
 42 section 9 of P.L.1992, c.165 (C.40:54D-9), and \$5,000,000 in any  
 43 year thereafter, and \$500,000 for operating expenses of the  
 44 authority.]<sup>2</sup> To the extent that revenue generated annually from taxes  
 45 levied pursuant to section 4 of P.L.1992, c.165 (C.40:54D-4) exceeds  
 46 in any calendar year the amount <sup>2</sup>[permitted to be deposited in that

1 fund under this section, the excess revenue shall be deposited in the  
2 State General Fund to be used for general State purposes] required to  
3 meet payments for principal and interest on bonds for the construction  
4 of tourism projects authorized herein and for approved operating  
5 expenses of the authority, the excess revenue shall be placed in a  
6 sinking fund to be used to redeem bonds issued pursuant to this  
7 section by the State authority prior to maturity at the price or prices  
8 and upon the terms and conditions as may be provided in the bonds<sup>2</sup>.

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

14 d. The State authority designated by the State Treasurer pursuant  
15 to this section shall utilize competitive bidding measures in the  
16 selection of all contractors, sub-contractors, and vendors; and  
17 competitive request for proposal measures for selection of all  
18 professional firms necessary for the development of the tourism  
19 projects herein. The State authority shall also review any existing  
20 agreements relating to the tourism projects for compliance with this  
21 requirement.<sup>1</sup>

22 <sup>1</sup>[4.] 21.<sup>1</sup> This act shall take effect immediately.

23

24

25

26

27 Permits increase in local share of State and local taxes on tourism  
28 related retail receipts in certain tourism improvement and development  
29 districts under certain conditions.