

ASSEMBLY, No. 2770

STATE OF NEW JERSEY

INTRODUCED MARCH 3, 1997

By Assemblywoman ALLEN and Assemblyman DeSOPO

1 AN ACT concerning revenue allocation financing, supplementing  
2 Chapter 27D of Title 52 and repealing P.L.1984, c.172.

3

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

6

7 1. This act shall be known and may be cited as the "Revenue  
8 Allocation Financing Act of 1996."

9

10 2. The Legislature finds and declares that:

11 a. There are areas within certain municipalities in this State that  
12 deter private capital investment because of the deteriorating condition  
13 of the land, buildings and infrastructure within those areas, or which  
14 have not experienced private capital investment due to inadequate  
15 infrastructure or adverse economic conditions.

16 b. These areas also create an economic burden for the municipality  
17 due to the limited tax base and underutilization of resources.

18 c. The scarcity of resources available to municipalities for  
19 redevelopment has severely hampered these municipalities' ability to  
20 rehabilitate these areas.

21 d. In order to redevelop these areas in a beneficial manner, these  
22 municipalities should be provided the means to finance certain costs of  
23 redevelopment so as to open new avenues for private investment;  
24 stimulate commercial, industrial, recreational, cultural, entertainment,  
25 civic and educational enterprise, and create favorable conditions for  
26 increases in economic activity, property values, employment  
27 opportunities and the provision of affordable housing.

28 e. The use of new redevelopment tools as a catalyst for economic  
29 revitalization can be maximized if employed in conjunction with the  
30 redevelopment planning process established pursuant to P.L.1992,  
31 c.79 (C.40A:12A-1 et al.).

32 f. It is, therefore, in the public interest to authorize the use of  
33 revenue allocation financing by certain municipalities toward the  
34 retirement of debt incurred in redevelopment, as set forth hereunder,  
35 to encourage private investment within areas that are blighted or in  
36 need of redevelopment or would otherwise remain unused.

1 3. As used in this act:

2 "Area in need of redevelopment" means a redevelopment area as  
3 defined pursuant to section 3 of P.L.1992, c.79 (C.40A:12A-3).

4 "Board" means the Local Finance Board established in the Division  
5 of Local Government Services in the Department of Community  
6 Affairs.

7 "Bonds" means the bonds, notes and bond anticipation notes issued  
8 to finance projects pursuant to this act.

9 "District" means the area or areas within a qualified municipality  
10 designated as a revenue allocation district pursuant to the provisions  
11 of this act.

12 "District agent" means that entity designated by the governing body  
13 of a qualified municipality pursuant to section 4 of P.L. , c. (C. )  
14 (pending before the Legislature as this bill) to administer a revenue  
15 allocation plan on behalf of the municipality.

16 "Eligible revenue" means the property tax increment and any other  
17 incremental revenues set forth in section 11 of P.L. , c. (C. )  
18 (pending before the Legislature as this bill).

19 "Permitted investment obligations" means any securities permitted  
20 for purchase by local units of government pursuant to section 8 of  
21 P.L.1977, c.396 (C.40A:5-15.1).

22 "Plan" means the final revenue allocation plan developed by a  
23 district agent pursuant to section 12 of P.L. , c. (C. ) (pending  
24 before the Legislature as this bill) and containing, among other  
25 elements, the proposed projects, estimated cost of the projects,  
26 sources of revenue, and the terms of any obligations, undertakings or  
27 commitments to be incurred by the district agent.

28 "Pledged revenues" means those eligible revenues designated in the  
29 plan for payment of project costs.

30 "Project" means the purchasing, leasing, condemning or otherwise  
31 acquiring of land or other property, or an interest therein, in the  
32 district or as necessary or convenient for the acquisition of any  
33 right-of-way or other easement to or from the revenue allocation  
34 district; the moving and relocation of persons or businesses displaced  
35 by the acquisition of land or property; the acquisition, construction,  
36 reconstruction or rehabilitation of land or property and the  
37 improvements thereon, or the financing thereof, including demolition,  
38 clearance, removal, relocation, renovation, alteration, construction,  
39 reconstruction, alteration or repair of any land, building, street,  
40 highway, alley, utility, mass transit facility, service or other structure,  
41 infrastructure or improvement in the district or necessary to effectuate  
42 the plan for the district, including infrastructure improvements outside  
43 the district, but only those which are integral to the effectuation of the  
44 district plan; the acquisition, construction, reconstruction,  
45 rehabilitation or installation of public facilities and improvements, or  
46 the financing thereof, other than facilities for the general conduct of

1 government and schools, nonprofit corporation or other suitable public  
2 or private person, firm, corporation or association, including  
3 educational, cultural, civic and recreational facilities including, but not  
4 limited to, convention centers, arenas and public meeting facilities;  
5 acquisition, construction, reconstruction or rehabilitation of residential  
6 structures, or the conversion to residential use of structures previously  
7 designed or used for other purposes, or the financing thereof,  
8 nonprofit corporation or other suitable public or private person, firm,  
9 corporation or association, and which, to the extent economically  
10 feasible, shall constitute housing affordable to persons and families of  
11 low and moderate income pursuant to P.L.1985, c.222 (C.52:27D-301  
12 et al.) or rules and regulations adopted pursuant thereto; and all costs  
13 associated with any of the foregoing, including the cost of  
14 administrative appraisals, legal, financial, economic and environmental  
15 analyses, engineering or cleanup, planning, design, architectural,  
16 surveying or other professional and technical services necessary to  
17 effectuate the purposes of P.L. , c. (C. ) (pending before the  
18 Legislature as this bill).

19 "Project cost" means the cost of the plan or project in all or any  
20 part of the district and of all and any property, rights, easements,  
21 privileges, agreements and franchises deemed by the district agent to  
22 be necessary or useful and convenient therefor or in connection  
23 therewith, including interest or discount on bonds; cost of issuance of  
24 bonds; engineering and inspection costs; legal expenses; costs of  
25 financial and other professional estimates and advice; organization,  
26 administrative, operating and other expenses of the district agent prior  
27 to and during the planning and implementation of a development, plan  
28 or project, including such provision as the district agent may determine  
29 for the payment, or security for payment, of principal of or interest on  
30 bonds during or after the implementation of any development, plan or  
31 project.

32 "Property tax increment" means the amount obtained by:

33 (1) multiplying the general tax rate levied each year by the taxable  
34 value of all the property assessed within a district in the same year,  
35 excluding any special assessments; and

36 (2) multiplying that product by a fraction having a numerator equal  
37 to the taxable value of all the property assessed within the district,  
38 minus the property tax increment base, and having a denominator  
39 equal to the taxable value of all property assessed within the district.

40 "Property tax increment base" means the aggregate taxable value of  
41 all property assessed which is located within a district as of October  
42 1 of the year preceding the year in which the district is authorized  
43 pursuant to this act.

44 "Qualified municipality" means a municipality that has a lower per  
45 capita income than the State per capita income according to the most  
46 recent federal decennial census.

1 "Redevelopment plan" means a redevelopment plan as the term is  
2 defined pursuant to section 3 of P.L.1992, c.79 (C.40A:12A-3).

3 "Revenue increment base" means the amount of any eligible  
4 revenues, other than the property tax increment, collected in the  
5 calendar year immediately preceding the adoption of the plan.

6 "Taxing entity" means the county, the school district or districts,  
7 and the municipality authorized to levy a tax on the taxable property  
8 within a municipality.

9

10 4. A revenue allocation district shall consist of all lots and streets  
11 within the borders of an area within a qualified municipality or within  
12 areas of the municipality designated in the plan. The lots and streets  
13 shall be contiguous unless the municipality determines that  
14 non-contiguous areas of the municipality should comprise one district  
15 because those areas are part of a common development project or  
16 plan. The total taxable value in all districts designated shall not exceed  
17 15 percent of the total taxable property assessed within the  
18 municipality, as determined by the municipal assessor, except that,  
19 upon a request by the governing body, the board may approve for  
20 inclusion in the district up to 20 percent of the total taxable property  
21 assessed in the municipality, as determined by the municipal assessor.  
22 The lots and streets to be designated as part of the plan shall be  
23 designated as a revenue allocation district as part of a duly adopted  
24 redevelopment plan approved by the governing body.

25 The governing body of a qualified municipality may by ordinance  
26 establish a district or districts. In the case of a qualified municipality  
27 whose redevelopment powers are assigned by law to a regional  
28 planning commission, the commission may, by resolution, establish a  
29 district or districts in the area within which the commission has  
30 jurisdiction. The ordinance or resolution, as appropriate, shall be  
31 adopted as provided in section 7 of P.L. , c. (C. ) (pending before  
32 the Legislature as this bill), and shall include or incorporate:

33 a. a map designating the area or areas within the municipality as a  
34 district or districts;

35 b. a certification by the municipal assessor that, upon the basis of  
36 property assessments as of October 1 of the year preceding the  
37 certification, the total taxable property value in all districts designated  
38 by the municipality, including the district being proposed in the  
39 ordinance, does not exceed 15 or 20 percent of the total taxable  
40 property assessed in the municipality, as appropriate, as provided in  
41 the ordinance adopted in accordance with the provisions of this  
42 section;

43 c. the designation of a district agent, which may be a county  
44 improvement authority, a municipal redevelopment agency, a local  
45 housing authority with redevelopment powers, or the local governing  
46 body; provided, however, that if a district is created in an area under

- 1 the jurisdiction of a regional planning commission which has been  
2 assigned redevelopment powers pursuant to law, that commission shall  
3 serve as the district agent in connection with that district;
- 4 d. a designation of all or any percentage of any eligible revenue or  
5 revenues as pledged revenues;
- 6 e. a statement of whether or not the municipality intends that the  
7 bonds issued by the district agent be guaranteed by the municipality,  
8 or be issued as qualified bonds pursuant to the "Municipal Qualified  
9 Bond Act," P.L.1976, c.38 (C.40A:3-1 et seq.), or both;
- 10 f. a proposed preliminary revenue allocation plan, as set forth in  
11 section 5 of P.L. , c. (C. ) (pending before the Legislature as this  
12 bill); and
- 13 g. documentation that the district has been identified in the  
14 appropriate redevelopment plan.
- 15
- 16 5. The proposed preliminary revenue allocation plan shall include:
- 17 a. a certification by the municipal tax assessor of the property tax  
18 increment base of the district;
- 19 b. a statement of the revenues if any to be pledged to support  
20 bonds of the district, the percentage of such revenues to be so  
21 pledged, and a certification by the chief financial officer of the  
22 municipality of the revenue increment base for each of the pledged  
23 revenues other than the property tax revenue base. If the amount of  
24 any such revenue base cannot be certified, then the chief financial  
25 officer shall estimate the amount and describe the basis for preparing  
26 the estimate and the manner in which the revenue increment base will  
27 be determined after adoption of the plan;
- 28 c. a description of the proposed project or projects, an estimate of  
29 their cost, a proposed construction schedule, and the projected debt  
30 service on the bonds issued to finance the project and the anticipated  
31 amount of private activity bonds, as that term is defined in 26  
32 U.S.C.§141, to be issued, if any;
- 33 d. a description of the development expected or planned within the  
34 district, including the identification of the developers, if any, other  
35 than the district agent or the municipality, and their contractual  
36 relationship, if any, with the district agent or the municipality;
- 37 e. an estimate of the taxable value of the assessed property within  
38 a district upon completion of the projects;
- 39 f. a projection of the amount of the pledged revenues during the  
40 period in which any bond will be outstanding;
- 41 g. a statement of whether or not the district agent intends to create  
42 a reserve for payment of project costs prior to the adoption of the final  
43 revenue allocation plan;
- 44 h. a statement of whether or not tax abatements or exemptions are  
45 expected to be granted in the district; and
- 46 i. a fiscal impact statement for the taxing entities involved.

1       6. When an ordinance establishing or amending a district has  
2 passed first reading, it shall be submitted as an application, together  
3 with all included and incorporated certificates and documents and such  
4 additional documentation as the board may by rule prescribe, to the  
5 board and the State Treasurer. The board shall notify the State  
6 Treasurer of its receipt of the submission.

7       The board shall approve the ordinance if it determines that:

8       a. the planned developments are likely to be realized and would not  
9 likely be accomplished by private enterprise without the creation of the  
10 district and the revenue allocation financing of the proposed project or  
11 projects;

12       b. the revenue increments and any other pledged revenues will be  
13 sufficient to pay debt service on bonds issued to effectuate the plan;

14       c. the credit of the municipality and its ability to pay the principal  
15 of and interest on its debts and to provide essential public services will  
16 not be impaired;

17       d. the creation of the district will contribute to the economic  
18 development of the municipality;

19       e. the size of the proposed district and the amount of the pledged  
20 revenues do not exceed the size and amount necessary to accomplish  
21 the purposes of the plan; and

22       f. the pledged revenue or guarantees would not pose inappropriate  
23 risk or undue financial hardship to the taxpayers of the community in  
24 the event of default.

25

26       7. a. The board and the State Treasurer may make written  
27 recommendations as to any aspect of the ordinance and the preliminary  
28 revenue allocation plan and any related fiscal matters of the  
29 municipality which in the opinion of the board or the State Treasurer  
30 must be changed in order to effectuate the plan. The board may  
31 condition its approval of the ordinance upon the adoption of its  
32 recommendations by the municipality.

33       b. The board shall approve, approve with conditions, or disapprove  
34 the ordinance within 60 days of its receipt of an application which the  
35 board has deemed to be complete. If the board does not act within 60  
36 days the ordinance shall be deemed approved. If the board  
37 disapproves the ordinance it shall, within 30 days of signifying its  
38 disapproval, set forth its reasons in writing. The municipality may  
39 amend the ordinance and resubmit it to the board and the State  
40 Treasurer.

41       c. Upon receipt of the approved ordinance from the board, the  
42 municipal governing body may adopt the ordinance at a meeting of the  
43 governing body by a majority of the authorized membership thereof.

44

45       8. After adoption of the ordinance establishing a district there shall  
46 be no changes in the boundaries of the district, the designation of the

1 district agent, or the designation of the pledged revenues without  
2 cause and without adoption of an amending ordinance approved by the  
3 board as provided in section 7 of P.L. , c. (C. ) (pending before  
4 the Legislature as this bill).

5 Cause for expanding the district or enlarging the designation of  
6 pledged revenues shall be based on the need to maintain pledged  
7 revenues sufficient to secure all outstanding and anticipated  
8 indebtedness of the district agent or to undertake additional projects.

9 Cause for contracting the district or reducing the designation of  
10 pledged revenues shall be based on the need to create other districts  
11 within the municipality and on the demonstration that the amount of  
12 the pledged revenue is excessive for the purposes of the district;  
13 however, in no case shall the size of the district be contracted or the  
14 pledged revenues be reduced if the district agent has issued bonds or  
15 incurred obligations and if such contraction or reduction would impair  
16 the security of the bonds or the district agent's ability to pay its  
17 obligations.

18  
19 9. Whenever a district is expanded as permitted under section 8 of  
20 P.L. , c. (C. ) (pending before the Legislature as this bill) the  
21 property tax increment base for any area added to the district shall be  
22 the aggregate taxable value of all property assessed which is located  
23 within the added area as of October 1 of the year preceding the year  
24 in which the area is added, as certified by the municipal assessor. The  
25 revenue increment base of all other eligible revenues shall include the  
26 amounts of all other eligible revenues from sources within the added  
27 area in the calendar year preceding the year in which the area is added,  
28 as certified by the chief financial officer of the municipality.

29 Whenever a district is contracted as permitted under section 8 of  
30 P.L. , c. (C. ) (pending before the Legislature as this bill) the tax  
31 increment base and the increment base of all other eligible revenues of  
32 the district shall be adjusted as if that area had not been a part of the  
33 district at the time when it became part of the district.

34  
35 10. The district agent shall have the following powers and  
36 responsibilities:

37 a. to make and enter into contracts or agreements with public  
38 agencies, nonprofit corporations or other suitable public or private  
39 persons, firms, corporations or associations, and to make loans or  
40 grants to, or guarantee the obligations of, any other public agency or  
41 corporation, as may be necessary, convenient or incidental to the  
42 execution of the plan and the exercise of the district agent's powers  
43 under P.L. , c. (C. ) (pending before the Legislature as this bill).

44 b. to enter into agreements or other transactions with, and accept  
45 grants, loans, appropriations or other assistance or cooperation from  
46 the United States or any agency thereof, or from the State or a county

1 or municipal governing body or any agency thereof, or any nonprofit  
2 corporation or other suitable public or private person, firm,  
3 corporation or association in furtherance of the purposes  
4 of P.L. , c. (C. ) (pending before the Legislature as this bill);

5 c. to prepare and administer the plan according to the provisions  
6 of P.L. , c. (C. ) (pending before the Legislature as this bill);

7 d. to hire or consult with private consultants when preparing the  
8 plan, or to enter into agreements with public or nonprofit private  
9 agencies to prepare and administer the plan;

10 e. to issue bonds for any purpose of the district authorized by or  
11 pursuant to P.L. , c. (C. ) (pending before the Legislature as this  
12 bill), or to issue refunding bonds for the purpose of paying or retiring  
13 bonds previously issued by it, and to issue notes in anticipation of the  
14 issuance of bonds as provided in P.L. , c. (C. ) (pending before the  
15 Legislature as this bill);

16 f. to seek and receive funds from local, State and federal  
17 governments and from private sources for the purpose of implementing  
18 any authorized development or project or meeting any project cost;  
19 and

20 g. to pay project costs, specifically including payments to a private  
21 developer, as reimbursement for project costs incurred by a private  
22 developer, in accordance with a redevelopment agreement entered into  
23 by the municipality or municipalities and the private developer.

24 Nothing herein is intended to limit the powers granted under any  
25 other law or regulation to the entity acting as district agent under  
26 P.L. , c. (C. ) (pending before the Legislature as this bill).

27

28 11. In addition to the property tax increment, the plan may include  
29 one or more of the following eligible revenues if the municipality is  
30 otherwise authorized by law to collect such revenues:

31 a. incremental payments in lieu of taxes, with respect to property  
32 located in the district, made pursuant to the "Long Term Tax  
33 Exemption Law," P.L.1991, c.431 (C.40A:20-1 et al.);

34 b. incremental revenues from payroll or wage taxes with respect to  
35 activities carried on within the district;

36 c. incremental revenue from lease payments made to the  
37 municipality or district agent with respect to property located in the  
38 district;

39 d. incremental revenue from payments in lieu of taxes or service  
40 charges with respect to property located within the district;

41 e. incremental revenue from parking taxes derived from parking  
42 facilities located within the district;

43 f. admissions and sales taxes received from the operation of a  
44 public facility which the district agent is authorized by law to retain;

45 g. sales and excise taxes which are derived from activities within  
46 the district and which are rebated to or retained by the municipality

1 pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983,  
2 c.303 (C.52:27H-60 et seq.) or any other law providing for such  
3 rebate or retention;

4 h. parking revenue from public parking facilities built as part of a  
5 project except for public parking facilities owned by parking  
6 authorities pursuant to the "Parking Authority Law," P.L.1948, c.198  
7 (C.40:11A-1 et seq.);

8 i. assessments levied against properties in a special improvement  
9 district pursuant to section 8 of P.L.1972, c.134 (C.40:56-72), if  
10 consented to by the governing body of the municipality in which the  
11 special improvement district is situated.

12 The incremental revenue for the revenues listed in subsections b.,  
13 c., d. and e. of this section shall be calculated as the difference  
14 between the amount collected in any calendar year from any eligible  
15 revenue source included in the plan, less the revenue increment base  
16 for that eligible revenue.

17

18 12. Before pledging any revenues, issuing any bonds, incurring any  
19 obligations or guaranteeing the obligations of any other entity with  
20 respect to the project costs of any project, the district agent shall  
21 adopt a final revenue allocation plan for that project. That plan shall  
22 include:

23 a. a description of the project or projects to be financed, including  
24 the projected cost and construction schedule;

25 b. a description of any development to be undertaken by any  
26 developer in connection with the project, including an estimate of the  
27 eligible revenues anticipated from the development;

28 c. a description of the eligible revenues to be pledged to the  
29 support of the project, or to the bonds or other obligations to be  
30 issued or incurred by the district agent;

31 d. a description of other anticipated projects for the district and  
32 the anticipated means of financing those projects;

33 e. a copy of any proposed bond resolution, contract, lease or other  
34 agreement to be adopted or authorized by the district agent. Any  
35 proposed bond resolution shall include a description of the security  
36 features of the bonds, including reserve funds or other security  
37 enhancements, if any, such as a municipal guarantee, qualified bond  
38 authorization, bond insurance or letter of credit; the maturity schedule  
39 for the bonds; the estimated interest rate; the period of capitalized  
40 interest, if any; an estimate of the costs of issuance, with identification  
41 of bond counsel, financial advisers, underwriters and other  
42 professionals engaged to assist in the issuance of bonds; lien priorities  
43 among projects, if any; and such other information as the board may  
44 require; and

45 f. a certification by the chief financial officer of the property tax  
46 increment base, if property tax increment revenue is to be pledged, and

1 of the revenue increment base for each other pledged revenue. If the  
2 amount of any such revenue increment base cannot be certified, then  
3 the chief financial officer shall estimate the amount and describe the  
4 basis for preparing the estimate and the manner in which the revenue  
5 increment base will be determined after adoption of the final plan.

6  
7 13. A final revenue allocation plan shall be submitted to the  
8 governing body of the municipality for approval by ordinance. When  
9 an ordinance embodying a final revenue allocation plan has been  
10 introduced in writing at a meeting of the governing body and approved  
11 on first reading, which may be by title, by a majority of the authorized  
12 membership thereof, it shall be submitted, together with all included  
13 and incorporated certificates and documents and such additional  
14 supporting documentation as the board may by rule prescribe, to the  
15 board and the State Treasurer. The board shall notify the State  
16 Treasurer of the receipt of the submission.

17 The board shall approve the plan if it determines that:

18 a. the planned developments are likely to be realized and would not  
19 be accomplished by private enterprise without the creation of the  
20 district and the financing of the proposed project or projects;

21 b. the pledged revenues will be sufficient to pay debt service on  
22 bonds and discharge any obligations undertaken by the district agent  
23 to effectuate the plan;

24 c. the credit of the municipality and its ability to pay the principal  
25 of and interest on its debts and to provide essential public services will  
26 not be impaired; and

27 d. the pledged revenues or guarantees would not pose  
28 inappropriate risk or undue financial hardship to the taxpayers of the  
29 community in the event of default.

30  
31 14. a. The board and the State Treasurer may make written  
32 recommendations as to any aspect of the plan and any related fiscal  
33 matters of the municipality or the district agent which, in the  
34 determination of the board and the State Treasurer, must be changed  
35 in order to effectuate the plan, and the board may condition its  
36 approval of the plan upon the adoption of its recommendations or  
37 those of the State Treasurer.

38 b. The board shall approve, approve with conditions, or  
39 disapprove the plan within 60 days of its receipt of an application  
40 which the board has deemed to be complete. If the board does not act  
41 within 60 days the plan shall be deemed approved. If the board  
42 disapproves the plan it shall set forth its reasons in writing within 30  
43 days of its disapproval. The governing body, upon recommendation  
44 of the district agent, may amend the ordinance and resubmit it to the  
45 board and the State Treasurer.

46 c. Upon receipt of the approved ordinance from the board the

1 municipal governing body may adopt the ordinance at a meeting of the  
2 governing body by a majority of the authorized membership thereof.  
3 Any changes to the plan as embodied in the ordinance shall be by  
4 amendment of the ordinance adopted and approved by the same  
5 method as prescribed in section 7 of P.L. , c. (C. ) (pending  
6 before the Legislature as this bill) in connection with the proposed  
7 preliminary revenue allocation plan included in the ordinance  
8 establishing the district.

9  
10 15. If the preliminary revenue allocation plan has designated the  
11 property tax increment as a pledged revenue, the property tax  
12 increment shall be calculated and paid to the revenue allocation fund  
13 or the bond trustee, as appropriate, as provided hereunder.

14 a. Upon the striking of the tax rate in each year following the  
15 adoption of the ordinance creating the district, the chief financial  
16 officer of the municipality, with assistance provided by the assessor  
17 and collector, shall calculate the amount of property tax increment, if  
18 any, for each revenue allocation district within the municipality and  
19 shall certify to the district agent of each such district a copy of that  
20 calculation. Thereafter the chief financial officer shall, within 10 days  
21 after each date fixed by statute for the payment of property taxes,  
22 cause to be deposited in the revenue allocation fund of the district  
23 agent or paid to the trustees as provided in the resolution authorizing  
24 the issuance of bonds the percentage of the property tax increments  
25 certified in the plan as designated to be so deposited or paid. The  
26 calculation of the property tax increment shall be based on the amount  
27 to be billed at the quarterly payment date, regardless of whether or not  
28 the increment is actually collected from the taxpayers within the  
29 district.

30 b. Whenever an added assessment shall occur within a district, the  
31 chief financial officer of the municipality shall notify the district agent  
32 and thereafter shall, within 10 days of the date fixed by law for  
33 payment of property taxes on such added assessment, cause to be paid  
34 to the revenue allocation fund or the bond trustee, as appropriate, the  
35 property taxes, or a percentage thereof as designated in the plan, billed  
36 upon such added assessment, regardless of whether or not the tax or  
37 any portion thereof is actually collected.

38 c. Whenever an omitted assessment which if not omitted would  
39 have been included in the computation of the tax increment of a  
40 district occurs, the chief financial officer of the municipality shall  
41 notify the district agent and thereafter shall, within 10 days after the  
42 date fixed by statute for payment of taxes upon such omitted  
43 assessments, cause to be deposited to the revenue allocation fund or  
44 paid to the bond trustees of the district, as appropriate, the proportion  
45 of tax upon such omitted assessments designated in the plan for such  
46 deposit or payment, regardless of whether or not the tax or any

1 portion thereof is actually collected.

2 d. In no event shall any changes in assessed valuation within a  
3 district due to appeals or correction of errors with respect to a tax  
4 year subsequent to the creation of the district alter the amount of  
5 property tax increment certified pursuant to this section for that tax  
6 year.

7 e. In no event shall any changes in assessed valuation within a  
8 district due to appeals or correction of errors alter the property tax  
9 increment base of the district.

10 f. Whenever a revaluation or general reassessment occurs in a  
11 municipality which has designated one or more districts, the property  
12 tax increment base for each district shall be adjusted to equal the  
13 absolute difference between the taxable value of the property in the  
14 district after revaluation or reassessment less the amount of the  
15 property tax increment base for the year immediately prior to the  
16 revaluation or reassessment divided by the adjusted tax rate. The  
17 adjusted tax rate shall be a fraction, the numerator of which is the total  
18 tax levy of the municipality before revaluation or reassessment and the  
19 denominator of which is the total taxable value of all taxable property  
20 in the municipality after revaluation or reassessment.

21

22 16. If the preliminary revenue allocation plan has designated any  
23 eligible revenues, in addition to or other than the property tax  
24 increment, as a pledged revenue, the other pledged revenues shall be  
25 deposited as provided in this section.

26 a. The collector of any pledged revenues shall certify to the  
27 municipal chief financial officer the amount of the eligible revenue  
28 collected in the preceding calendar year no later than January 30 of  
29 each year and shall pay to the municipality such amount, or the  
30 percentage thereof designated in the plan, beginning in the first  
31 calendar year after the creation of the district.

32 b. The municipality shall include in its budget the amount certified  
33 as collected in the preceding year and shall pay to the district agent for  
34 deposit in the revenue allocation financing fund the amount certified  
35 in the plan as designated for such payment.

36 c. Payments in lieu of taxes shall be deposited in four equal  
37 installments, regardless of the date or dates fixed for such payments by  
38 statute, agreement or otherwise.

39

40 17. The district agent shall submit its operating budget for the  
41 district annually to the Director of the Division of Local Government  
42 Services in the Department of Community Affairs and to the State  
43 Treasurer. If the district agent certifies that the budget is in  
44 compliance with a preliminary or final financing plan and all other  
45 relevant statutes and rules, the director shall approve the budget within  
46 45 days of receipt. If the director disapproves the budget he shall

1 state the reasons therefor. The district agent may then make the  
2 necessary changes and resubmit the budget for approval. The director  
3 may adopt rules and regulations in accordance with the  
4 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
5 seq.), to ensure the fiscal integrity of districts and effectuate the intent  
6 of P.L. , c. (C. ) (pending before the Legislature as this bill).

7  
8 18. The district agent shall establish and maintain a special fund  
9 called the "(Name of district agent) Revenue Allocation Fund," and  
10 herein referred to as "district fund" or "fund."

11 The fund shall be used by the district agent for purposes of P.L. ,  
12 c. (C. ) (pending before the Legislature as this bill), including but  
13 not limited to:

14 a. paying the project costs;

15 b. paying the principal of and interest on bonds or other obligations  
16 issued or guaranteed pursuant to P.L. , c. (C. ) (pending before the  
17 Legislature as this bill);

18 c. prepaying the principal of and interest on the bonds or other  
19 obligations;

20 d. paying additional property tax increment revenue, if any, to  
21 taxing entities, as provided for in subsections b. and c. of section 19  
22 of P.L. , c. (C. ) (pending before the Legislature as this bill) or in  
23 the final revenue allocation plan; and

24 e. reimbursing the municipality for any payments made by the State  
25 pursuant to the "Municipal Qualified Bond Act," P.L.1976, c.38  
26 (C.40A:3-1 et seq.) to pay debt service on any qualified bonds issued  
27 pursuant to section 26 of P.L. , c. (C. ) (pending before the  
28 Legislature as this bill).

29  
30 19. a. Prior to the adoption of a final revenue allocation plan, the  
31 district agent may draw money from the revenue allocation fund for  
32 purposes of paying all project costs incurred in connection with the  
33 development of the final revenue allocation plan as provided in the  
34 approved operating budget, including a reserve for project costs if  
35 such reserve is part of the preliminary plan.

36 b. At the end of each calendar year, any moneys in the fund not  
37 required by the district agent for development of the plan shall be  
38 distributed to the taxing entities that shall forgo the pledged revenues.  
39 The revenues shall be distributed by the district agent in proportion to  
40 the taxing effort of each taxing entity in the year of distribution; except  
41 that no revenues deposited in the fund shall be included in the  
42 calculation of any adjustment payments payable to an intermunicipal  
43 account pursuant to statute.

44 c. After the adoption of the final revenue allocation plan the district  
45 agent may decide to distribute to the taxing entities that shall forgo the  
46 revenues pursuant to P.L. , c. (C. ) (pending before the Legislature

1 as this bill) a portion of the revenue increments received by the district  
2 agent not pledged to the payment of debt service or necessary to pay  
3 project costs. The revenues shall be distributed in proportion to the  
4 taxing effort of each such taxing entity in the year of distribution.

5 d. Moneys in the fund may be invested in the State of New Jersey  
6 Cash Management Fund established pursuant to section 1 of P.L.1977,  
7 c.281 (C.52:18A-90.4) or in any securities that a local government is  
8 permitted to purchase pursuant to section 8 of P.L.1977, c.396  
9 (C.40A:5-15.1).

10  
11 20. Except where the governing body of a qualified municipality  
12 has designated itself as the district agent, or except in a qualified  
13 municipality which is under the jurisdiction of a regional planning  
14 commission assigned redevelopment powers pursuant to law, any  
15 action of the district agent shall be subject to the veto of the mayor of  
16 the qualified municipality. The veto shall be exercised by the veto of  
17 the minutes of the district agent by the mayor. The mayor shall have  
18 10 days, Saturdays, Sundays and legal holidays excepted, after receipt  
19 of the minutes to exercise the veto. If a mayoral veto is exercised  
20 during that period, the action of the district agent shall be considered  
21 null and void. If no veto is exercised during that period, the action of  
22 the district agent shall be considered valid. The mayor, upon receipt  
23 of the minutes, may in writing notify the district agent of the approval  
24 of the minutes before the expiration of the 10-day period. Where the  
25 municipal governing body has designated itself as the district agent,  
26 the mayor shall have only such veto powers as are granted to the  
27 mayor by law.

28 The veto power shall be exercised with due regard for the rights of  
29 the holders of bonds issued by the district agent and shall not limit,  
30 restrict or alter the obligations or powers of the district agent to carry  
31 out and perform in every detail each and every covenant, agreement or  
32 contract entered into with respect to the bonds or for the benefit,  
33 protection or security of the bond holders.

34  
35 21. Subject to the limitations contained in P.L. , c. (C. )  
36 (pending before the Legislature as this bill), each district shall remain  
37 in existence until obligations for any project in that district cease to be  
38 outstanding; provided, however, the district may be terminated if  
39 sufficient moneys have been deposited in the revenue allocation fund  
40 for the full payment of the principal of and interest on the bonds at  
41 maturity or full payment of any other obligations, and if the board  
42 approves the dissolution of the district. The Division of Local  
43 Government Services in the Department of Community Affairs may  
44 recommend to the municipality the dissolution of a district which has  
45 not taken substantial steps to implement the plan, so long as there are  
46 no bonded obligations outstanding or contractual obligations to pay

1 any part of project costs.

2

3 22. a. In calculating the general tax rate levied each year, the  
4 aggregate amount of the ratable increments of the tax increment  
5 districts shall not be considered a part of the total taxable value of land  
6 and improvements within the municipality.

7 b. In calculating the net valuation on which school district taxes are  
8 apportioned, the aggregate amount of the ratable increments in the tax  
9 increment district shall be excluded.

10 c. For purposes of this section, "ratable increment" means the  
11 taxable value of all property assessed within a district for the tax year,  
12 minus the tax increment base.

13

14 23. Upon approval by the board and adoption of an ordinance  
15 approving or adopting the final revenue allocation plan by the  
16 municipal governing body, the district agent shall have the power to  
17 incur indebtedness, borrow money and issue its bonds or notes for  
18 purposes of financing a project or funding or refunding its bonds or  
19 notes. If the district agent is the municipal governing body, any pledge  
20 of revenues or funds and obligations incurred shall be limited to the  
21 revenues and property accruing to the municipality as district agent  
22 and shall not be deemed to include any other municipal revenue or  
23 property unless such revenues are pledged or obligations are incurred  
24 pursuant to P.L. , c. (C. ) (pending before the Legislature as this  
25 bill). The district agent may from time to time issue its bonds or notes  
26 in such principal amounts as in the opinion of the district agent are  
27 necessary to provide sufficient funds for all or any portion of project  
28 costs, including the payment, funding or refunding of the principal of  
29 or interest or redemption premiums on any bonds or notes issued by  
30 it, whether the bonds or notes or interest to be funded or refunded has  
31 or has not become due; the establishment or increase of such reserves  
32 to secure or to pay the bonds or notes or interest thereon; and all other  
33 costs or expenses of the district agent incident to and necessary to  
34 carrying out its corporate purposes and powers.

35 Any provisions of law to the contrary notwithstanding, a bond  
36 issued pursuant to P.L. , c. (C. ) (pending before the Legislature  
37 as this bill) shall be fully negotiable within the meaning and for all  
38 purposes of Title 12A of the New Jersey Statutes, and each holder of  
39 the bond, or a coupon appurtenant thereto, by accepting the bond or  
40 coupon shall be conclusively deemed to have agreed that the bond or  
41 coupon is and shall be fully negotiable within the meaning and for the  
42 purposes of that title.

43

44 24. Bonds or notes of the district agent shall be authorized by a  
45 resolution or resolutions of the district agent and may be issued in one  
46 or more series and shall bear such dates, mature at such times, bear

1 interest at such rates of interest per annum, be in such denominations,  
2 be in such form, either coupon or registered, carry such conversion or  
3 registration privileges, have such rank or priority, be executed in such  
4 manner, be payable from such sources and in such medium of payment  
5 at such places within or without the State, and be subject to such  
6 terms of redemption, with or without premium, as the resolution or  
7 resolutions may provide.

8 Bonds or notes of the district agent may be sold at public or private  
9 sale at such price and in such manner as the district agent shall  
10 determine. Every bond shall mature and be paid not later than 35  
11 years from the date thereof.

12 Bonds or notes may be issued under the provisions of P.L. , c.  
13 (C. ) (pending before the Legislature as this bill) without any other  
14 proceeding or the occurrence of any other conditions or other things  
15 than those proceedings, conditions or things which are specifically  
16 required by P.L. , c. (C. ) (pending before the Legislature as this  
17 bill) except that bonds or notes of the district agent shall be subject to  
18 the qualified municipality's debt limitation under the "Local Bond  
19 Law," N.J.S.40A:2-1 et seq.

20 Bonds or notes of the district agent issued under the provisions of  
21 P.L. , c. (C. ) (pending before the Legislature as this bill) shall  
22 contain a statement to the effect that they are issued pursuant to  
23 P.L. , c. (C. ) (pending before the Legislature as this bill) and  
24 entitled to the provisions of P.L. , c. (C. ) (pending before the  
25 Legislature as this bill).

26  
27 25. Each issue of bonds or notes of the district may, if it is  
28 determined by the district agent, be general obligations thereof payable  
29 out of any revenues, receipts or funds held by the district agent,  
30 subject only to any agreements with the holders of particular bonds or  
31 notes pledging any particular revenues or funds, and may be secured  
32 by one or more of the following:

33 a. pledge of eligible revenues and any other revenues derived from  
34 leases, sales agreements, service contracts or similar contractual  
35 arrangements with one or more persons, firms, partnerships or  
36 corporations, whether or not the same relate to the project or part  
37 thereof financed with the bonds or notes;

38 b. pledge of grants, subsidies, contributions or other payments to  
39 be received from the United States of America or any instrumentality  
40 thereof, or from any State, county or municipal governmental body or  
41 agency;

42 c. a first mortgage on all or any part of the property, real or  
43 personal, of the district agent then owned or thereafter to be acquired;  
44 or

45 d. pledge of any moneys, funds, accounts, securities and other  
46 funds, including the proceeds of the bonds or notes.

1       26. The municipal governing body may issue general obligation  
2 bonds to guarantee payment of the bonds or notes pursuant to the  
3 provisions of the "Local Bond Law," N.J.S.40A:2-1 et seq. Such  
4 guarantees shall be set forth in the final revenue allocation plan  
5 approved pursuant to section 12 of P.L. , c. (C. ) (pending before  
6 the Legislature as this bill).

7       The district agent may file an application with the board to qualify  
8 an issue of its bonds pursuant to the "Municipal Qualified Bond Act,"  
9 P.L.1976, c.38 (C.40A:3-1 et seq.). Intention to file such an  
10 application shall be set forth in the final revenue allocation plan  
11 approved pursuant to section 12 of P.L. , c. (C. ) (pending before  
12 the Legislature as this bill). Bonds may be issued by the district agent  
13 as municipal qualified bonds upon the review and approval of the  
14 board as provided in the "Municipal Qualified Bond Act," P.L.1976,  
15 c.38 (C.40A:3-1 et seq.). In considering the ordinance, the board may  
16 require the governing body to adopt resolutions restricting or limiting  
17 any future issuance of bonds for any purpose.

18       Upon the issuance of such bonds and certification to the State  
19 Treasurer of the name and address of the paying agent, the maturity  
20 schedule, interest rates and dates of payment of debt service, the State  
21 Treasurer shall withhold municipal qualified revenues payable to the  
22 municipality in amounts sufficient to pay debt service on such bonds  
23 as the same shall mature and become due. The State Treasurer shall  
24 on or before each principal and interest payment date forward such  
25 withheld amounts to the paying agent for the sole purpose of paying  
26 debt service on such bonds. As such withheld amounts are forwarded  
27 to the paying agent, the district agent shall return a like amount of  
28 eligible revenues received by the district agent, if any, which may be  
29 applied to the payment of municipal operating expenses.

30  
31       27. In any resolution of the district agent authorizing or relating to  
32 the issuance of any bonds or notes, the district agent, in order to  
33 secure the payment of the bonds or notes and in addition to its other  
34 powers, shall have power by provisions in that resolution, which shall  
35 constitute covenants by the district agent and contracts with the  
36 holders of the bonds or notes, to:

37       a. secure the bonds or notes as provided in section 26 of P.L. ,  
38 c. (C. ) (pending before the Legislature as this bill);

39       b. covenant against pledging all or any part of its revenues or  
40 receipts from its lease, sales arrangement, service contracts or other  
41 security instruments, of the revenues or receipts under any of the  
42 foregoing or the proceeds thereof, or against mortgaging or leasing all  
43 or any part of real or personal property then owned or thereafter  
44 acquired, or against permitting or suffering any of the foregoing;

45       c. covenant with respect to limitations on any right to sell,  
46 mortgage, lease or otherwise dispose of any project or any part thereof

- 1 or any property of any kind;
- 2 d. covenant as to any bonds and notes to be issued and the  
3 limitations thereon and the terms and conditions thereof and as to the  
4 custody, application, investment, and disposition of the proceeds  
5 thereof;
- 6 e. covenant as to the issuance of additional bonds or notes or as to  
7 limitations on the issuance of additional bonds or notes and on the  
8 incurring of other debts by it;
- 9 f. covenant as to the payment of the principal of or interest on the  
10 bonds or notes, or any other obligations, as to the sources and  
11 methods of the payment, as to the rank or priority of the bonds, notes  
12 or obligations with respect to any lien or security or as to acceleration  
13 of the maturity of the bonds, notes or obligations;
- 14 g. provide for the replacement of lost, stolen, destroyed or  
15 mutilated bonds or notes;
- 16 h. covenant against extending the time for the payment of bonds or  
17 notes or interest thereon;
- 18 i. covenant as to the redemption of bonds or notes and privileges  
19 of exchange thereof for other bonds or notes of the district agent;
- 20 j. covenant as to the fixing and collection of rents, fees, rates and  
21 other charges, the amount to be raised each year or other period of  
22 time by rents, fees, rates and other charges and as to the use and  
23 disposition to be made thereof;
- 24 k. covenant to create or authorize the creation of special funds or  
25 moneys to be held in pledge or otherwise for construction, operating  
26 expenses, tax rebate, payment or redemption of bonds or notes;  
27 reserves or other purposes and as to the use, investment, and  
28 disposition of the moneys held in these funds;
- 29 l. establish the procedure, if any, by which the terms of any  
30 contract or covenant with or for the benefit of the holders of bonds or  
31 notes may be amended or abrogated, the amount of bonds or notes the  
32 holders of which must consent thereto, and the manner in which the  
33 consent may be given;
- 34 m. covenant as to the construction, improvement, operation or  
35 maintenance of any project and its other real and personal property,  
36 the replacement thereof, the insurance to be carried thereon, and the  
37 use and disposition of insurance moneys;
- 38 n. provide for the release of property, leases or other agreements,  
39 or revenues and receipts from any pledge or mortgage and to reserve  
40 rights and powers in, or the right to dispose of, property which is  
41 subject to a pledge or mortgage;
- 42 o. provide for the rights and liabilities, powers and duties arising  
43 upon the breach of any covenant, condition or obligation and prescribe  
44 the events of default and the terms and conditions upon which any or  
45 all of the bonds, notes or other obligations of the district agent shall  
46 become or may be declared due and payable before maturity and the

1 terms and conditions upon which the declaration and its consequences  
2 may be waived;

3 p. vest in a trustee or trustees within or without the State such  
4 property rights, powers and duties in trust as the district agent may  
5 determine, including the right to foreclose any mortgage, which may  
6 include any or all of the rights, powers and duties of any trustee  
7 appointed by the holders of any bonds or notes issued pursuant to this  
8 section and to limit or abrogate the right of the holders of any bonds  
9 or notes of the district agent to appoint a trustee under P.L. , c.  
10 (C. ) (pending before the Legislature as this bill), and to limit the  
11 rights, duties and powers of the trustee;

12 q. execute all mortgages, leases, sales agreements, service  
13 contracts, bills of sale, conveyances, deeds of trust and other  
14 instruments necessary or convenient in the exercise of its powers or in  
15 the performance of its covenants or duties;

16 r. pay the costs or expenses incident to the enforcement of the  
17 bonds or notes or of the provisions of the resolution or of any  
18 covenant or agreement of the district agent with the holders of its  
19 bonds or notes;

20 s. limit the rights of the holders of any bonds or notes to enforce  
21 any pledge or covenant securing bonds or notes; and

22 t. make covenants other than or in addition to the covenants  
23 authorized by P.L. , c. (C. ) (pending before the Legislature as this  
24 bill) of like or different character, and to make such covenants to do  
25 or refrain from doing such acts and things as may be necessary, or  
26 convenient and desirable, in order to better secure bonds or notes or  
27 which, in the absolute discretion of the district agent will tend to make  
28 bonds or notes more marketable, notwithstanding that the covenants,  
29 acts or things may not be enumerated herein.

30

31 28. Any pledge of revenues, receipts, moneys, funds, levies, sales  
32 agreements, service contracts or other property or instruments made  
33 by the district agent shall be valid and binding from the time when the  
34 pledge is made. The revenues, receipts, moneys, funds or other  
35 property so pledged and thereafter received by the district agent or a  
36 subsidiary shall immediately be subject to the lien of the pledge  
37 without any physical delivery thereof or further act, and the lien of any  
38 pledge shall be valid and binding as against all parties having claims of  
39 any kind in tort, contract or otherwise against the district agent  
40 irrespective of whether the parties have notice thereof. Neither the  
41 resolution nor any other instrument by which a pledge under this  
42 section is created need be filed or recorded except in the records of the  
43 district agent.

44

45 29. Neither the directors of the district agent nor any person  
46 executing bonds or notes issued pursuant to P.L. , c. (C. )

1 (pending before the Legislature as this bill) shall be liable personally  
2 on the bonds or notes by reason of the issuance thereof.

3  
4 30. The district agent may establish such reserves, funds or account  
5 as may be, in its discretion, necessary or desirable to further the  
6 accomplishment of the purposes of the district agent or to comply with  
7 the provisions of any agreement made by or any resolution of the  
8 district agent.

9 The State and all public officers, governmental units and agencies  
10 thereof, all banks, trust companies, savings banks and institutions,  
11 building and loan associations, savings and loan associations,  
12 investment companies, and other persons carrying on a banking  
13 business, all insurance companies, insurance associations and other  
14 persons carrying on an insurance business, and all executors,  
15 administrators, guardians, trustees and other fiduciaries may legally  
16 invest any sinking funds, moneys or other funds belonging to them or  
17 within their control in any bonds or notes issued pursuant to P.L. ,  
18 c. (C. ) (pending before the Legislature as this bill), and such bonds  
19 or notes shall be authorized security for any and all public deposits.

20  
21 31. Bonds, notes or other obligations issued pursuant to P.L. , c.  
22 (C. ) (pending before the Legislature as this bill) are for an essential  
23 public and governmental purpose, and the bonds, notes or other  
24 obligations, their transfer and the interest and premium, if any, thereon  
25 and the income therefrom, including any profit made on the sale  
26 thereof, and all assessments, charges, funds, revenues, income and  
27 other moneys pledged or available to pay or secure the payments of  
28 the bonds, or interest thereon, shall be exempt from taxation of every  
29 kind by the State and the municipality, except transfer inheritance and  
30 estate taxes unless exemptions from those taxes have been provided  
31 under other laws.

32  
33 32. If any section, part, phrase, or provision of P.L. , c. (C. )  
34 (pending before the Legislature as this bill) of the application thereof  
35 to any person, project or circumstances, be adjudged invalid by any  
36 court of competent jurisdiction, such judgment shall be confined in its  
37 operation to the section, part, phrase, provision or application directly  
38 involved in the controversy in which such judgment shall have been  
39 rendered and shall not affect or impair the validity of the remainder of  
40 P.L. , c. (C. ) (pending before the Legislature as this bill) or the  
41 application thereof to other persons, projects or circumstances.

42  
43 33. P.L.1984, c.172 (C.52:27D-250 et seq.) is hereby repealed.

44  
45 34. This act shall take effect immediately.

STATEMENT

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This bill would permit certain municipalities to finance significant projects using incremental tax and revenue receipts to pay for development costs. In so doing, this bill would replace the present statutory provisions relating to tax increment financing. "Incremental revenue" is defined in the bill as the increase in property tax and other revenues that results after the district is formed and development is commenced.

The bill would permit a municipality that has a lower per capita income than the state per capita income to designate one or more areas as a "revenue allocation district" and to designate a district agent to implement a development plan for the district. The ordinance creating the district would be submitted to the State Treasurer and the Local Finance board, and must be approved by the board. After the creation of the district, the district agent may issue bonds or notes to finance the development of specific projects or to finance the infrastructure (for example, roads, sewers, bridges) necessary to facilitate development within the district.

Prior to issuing any bonds or notes, the district would be required to adopt a final revenue allocation plan which describes the project to be developed and the incremental municipal taxes and other revenues intended to be pledged to payment of the bonds. The district may pledge all or a percentage of any eligible revenues identified in this bill. The plan must be approved by the municipality and the Local Finance Board. The revenues which may be pledged include the taxes attributable to the increase in the taxable value of property in the district.

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Authorizes certain municipalities to use revenue allocation financing.