

SENATE, No. 1123

STATE OF NEW JERSEY

INTRODUCED MAY 9, 1996

By Senators GORMLEY and Lesniak

1 ANACT concerning development projects of the Casino Reinvestment  
2 Development Authority in Atlantic City, amending P.L.1984, c.218,  
3 and amending and supplementing P.L.1993, c.159.

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

7  
8 1. Section 1 of P.L. 1993, c. 159 (C.5:12-173.1) is amended to  
9 read as follows:

10 1. The Legislature finds that the single most significant factor  
11 contributing to the cost of constructing, maintaining, operating and  
12 supporting highways, roads and infrastructure, in Atlantic City, and  
13 particularly in the "corridor" region of the city, is the heavy volume of  
14 motor vehicular traffic occasioned by the attraction of casino gambling  
15 in Atlantic City. This traffic is encouraged by the provision of free  
16 parking by casino operations, by the relative underdevelopment of  
17 public transportation services, and by the shortage of hotel  
18 accommodations in the city. While the Legislature has taken various  
19 measures, most notably the "South Jersey Transportation Authority  
20 Act," P.L.1991, c.252 (C.27:25A-1 et al.), to provide and improve  
21 public transportation services in the South Jersey region as an  
22 alternative to the use of motor vehicles, the heavy capital costs  
23 associated with reconstruction of the corridor region's infrastructure  
24 require a continuous source of public funding. The Legislature  
25 declares, therefore, that it is in the public interest to require a standard  
26 minimum charge for casino parking within Atlantic City, and to impose  
27 fees on amounts received from those charges, with the proceeds of  
28 those fees to be used by the Casino Reinvestment Development  
29 Authority for projects which are related to improving the highways,  
30 roads, infrastructure, traffic regulation and public safety of the city, or  
31 which are otherwise necessary or useful to the economic development  
32 and redevelopment of the city in this regard. It is also in the public  
33 interest to establish a special temporary fund for the use of existing  
34 moneys of the authority for the provision of financial assistance to

**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.**

1 [casinos and] casino [hotels]licensees to construct, reconstruct or  
2 rehabilitate hotel rooms in Atlantic City.

3 The Legislature declares that it is the public purpose of this  
4 amendatory act, P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (now pending before  
5 the Legislature as this bill), that financial assistance to casino licensees  
6 to construct, reconstruct or rehabilitate hotel rooms in Atlantic City  
7 shall be determined after excluding costs reasonably related to space  
8 used for the conduct of casino gaming. It was, and continues to be,  
9 the public purpose of P.L.1993, c.159 (C.5:12-173.1 et seq.) that  
10 financial assistance may be provided to a project which includes,  
11 incorporates, facilitates or supports space used for the conduct of  
12 casino gaming in a casino hotel facility, but only for costs reasonably  
13 related to hotel rooms and their appurtenant facilities in the project.  
14 (cf: P.L.1993,c.159,s.1)

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16 2. Section 8 of P.L.1993, c.159 (C.5:12-173.8) is amended to  
17 read as follows:

18 8. a. From the moneys made available to the Casino Reinvestment  
19 Development Authority pursuant to section 3 of P.L.1984, c.218  
20 (C.5:12-144.1), the authority shall, in such manner as it may  
21 reasonably determine, set aside \$100,000,000 for investment on hotel  
22 development projects in Atlantic City undertaken by a casino licensee  
23 under the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.),  
24 operating an approved hotel on the effective date of this amendatory  
25 and supplementary act, P.L.1993, c.159 (C.5:12-173.1 et al.), which  
26 result in the construction, reconstruction or rehabilitation of at least  
27 200 hotel rooms in the City of Atlantic City. The authority shall, by  
28 regulation, adopt standards for determining the extent of construction,  
29 reconstruction or rehabilitation of hotel rooms or appurtenant facilities  
30 required in order to qualify for authority investment, which standards  
31 shall require at least that the hotel rooms be operated as part of a  
32 licensed casino facility or be first class hotel rooms located and  
33 operated in a manner consistent with an authority approved project.  
34 The authority shall require as a condition for authority investment that  
35 the hotel rooms be subject to an agreement with the authority that  
36 requires the rooms to be reserved, at certain times and under certain  
37 conditions agreeable to the authority, for convention business in  
38 connection with an authority approved project. A hotel development  
39 project may qualify for authority investment notwithstanding that it  
40 includes, incorporates, facilitates or supports an expansion of space  
41 used for the conduct of casino gaming in a casino hotel facility  
42 operated by a casino licensee. The provisions of section 30 of  
43 P.L.1984, c.218 (C.5:12-178) shall not apply to investments made out  
44 of the moneys so set aside.

45 The authority shall determine the amount each casino licensee shall  
46 be eligible to receive out of the moneys so set aside. The form,

1 amount and terms of the investment made by the authority shall be  
2 determined by the authority, but the maximum amount of the  
3 investment shall not exceed the lesser of the amount which the casino  
4 licensee applying therefor is eligible to receive, or ~~[an]the~~ amount  
5 equal to ~~[35%]~~27% of the costs reasonably related to constructing,  
6 reconstructing or rehabilitating the hotel rooms or appurtenant  
7 facilities in the project~~[, whichever is less.]excluding costs reasonably~~  
8 related to space used for the conduct of casino gaming.

9 For the purposes of determining each casino licensee's eligibility for  
10 authority investments from the moneys so set aside, the authority may  
11 by resolution permit the transfer of obligation to make payment under  
12 section 3 of P.L.1984, c.218 (C.5:12-144.1) to any other casino  
13 licensee which has received approval for investment in a project to  
14 construct, reconstruct or rehabilitate hotel rooms.

15 In approving a hotel development project, the authority shall  
16 establish a schedule for investments to be made by the authority as  
17 progressive stages of construction, reconstruction or rehabilitation are  
18 accomplished. [A schedule so established shall provide for the  
19 completion of the project on or before December 31, 1996, unless the  
20 authority shall prior to that date find, by resolution, that a time  
21 extension for project completion is warranted by special circumstances  
22 or unforeseen occurrences.] Any moneys remaining in the special fund  
23 thereafter shall be available for investment in otherwise eligible  
24 projects of the authority.

25 b. From the moneys made available to the Casino Reinvestment  
26 Development Authority pursuant to section 3 of P.L.1984, c.218  
27 (C.5:12-144.1), the authority shall, in such manner as it may  
28 reasonably determine, set aside \$75,000,000 for investment on hotel  
29 development projects in Atlantic City, which shall be in addition to the  
30 moneys set aside pursuant to subsection a. of this section. Any  
31 moneys set aside pursuant to that subsection a. which are not invested  
32 by the authority as the result of the failure of a casino licensee to  
33 comply with requirements, regulations, conditions or determinations  
34 made under that subsection a. shall be available for authority  
35 investment pursuant to this subsection b. Authority investments under  
36 this subsection b. shall be subject to the requirements, regulations,  
37 conditions and determinations of that subsection a., except as follows:

38 (1) The authority may provide an additional investment amount to  
39 a casino licensee which has had a hotel development project approved  
40 prior to the effective date of this amendatory act, P.L. \_\_\_\_\_, c. \_\_\_\_\_

41 (C. \_\_\_\_\_) (now pending before the Legislature as this bill), but  
42 which the authority has approved for an amount out of the moneys set  
43 aside pursuant to that subsection a. that is less than the maximum  
44 amount of investment for the approved project because sufficient  
45 investment funds were not available to fund all projects approved  
46 under that subsection a. at the maximum amount of investment. The

1 additional investment may be made only as the result of an application  
2 made to the authority on or before April 1, 1996. The additional  
3 investment amount shall not be greater than the difference between  
4 the maximum amount of investment for the approved project under  
5 that subsection a. and the amount which the authority actually  
6 approved for the project. The authority may provide an additional  
7 investment amount pursuant to this paragraph (1) only for those  
8 previously approved hotel development projects for which  
9 construction, reconstruction or rehabilitation has actually and  
10 substantially commenced on or before August 31, 1996.

11 (2) Thereafter, any casino licensee may be eligible to receive an  
12 investment out of moneys set aside pursuant to this subsection b.;  
13 provided, that the casino licensee shall apply for approval of a hotel  
14 development project by the authority within 90 days following the  
15 effective date of this amendatory act. The authority shall require as a  
16 condition for authority investment under this paragraph that  
17 construction, reconstruction or rehabilitation of the hotel development  
18 project actually and substantially commence within 12 months after the  
19 date upon which the authority and the casino licensee enter into a hotel  
20 room credit agreement.

21 (cf: P.L.1993, c.159,s.8)

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23 3. Section 5 of P.L.1984, c.218 (C.5:12-153) is amended to read  
24 as follows:

25 5. a. There is established in, but not of, the Department of the  
26 Treasury a Casino Reinvestment Development Authority to consist of  
27 the following members:

28 (1) Six members appointed by the Governor with the advice and  
29 consent of the Senate for terms of four years, except that of the initial  
30 members to be appointed pursuant to this 1991 amendatory act,  
31 P.L.1991, c.219, one shall be appointed for a term of two years and  
32 one for a term of four years;

33 (2) One member appointed by the Governor upon the  
34 recommendation of the President of the Senate for a term of four  
35 years, except that the initial member to be appointed shall be appointed  
36 for a term of three years;

37 (3) One member appointed by the Governor upon the  
38 recommendation of the Speaker of the General Assembly for a term of  
39 four years, except that the initial member to be appointed shall be  
40 appointed for a term of one year;

41 (4) A member of the Casino Control Commission, who shall be  
42 appointed by the Governor and shall be a voting member of the  
43 authority;

44 (5) The mayor of Atlantic City, ex officio and voting;

45 (6) The Attorney General and the State Treasurer, ex officio and  
46 voting; [and]

1 (7) Two casino industry representatives, both of whom shall be  
2 voting members, appointed by the Governor for terms of two years,  
3 except that of the initial appointees, one shall serve for a term of one  
4 year and one for a term of two years. No person shall be reappointed  
5 to succeed himself as a casino industry representative member, and no  
6 person appointed shall be an employee, officer or agent of the same  
7 casino licensee as the person whom he succeeds as a casino industry  
8 representative member; and

9 (8) One member appointed by the Governor to serve ex officio as  
10 a voting member, who shall be either the Commissioner of the  
11 Department of Commerce and Economic Development or the  
12 Commissioner of the Department of Community Affairs, or the  
13 Governor may appoint, in lieu thereof, an additional member of the  
14 Casino Control Commission as a voting member.

15 No more than four of the voting members appointed by the  
16 Governor pursuant to paragraph (1) of this subsection shall be of the  
17 same political party.

18 In the appointment of members of the authority, consideration  
19 should be given to achieving a membership of high quality and varied  
20 experience, with special emphasis on the fields of banking, finance,  
21 investment, and housing and urban development.

22 b. Each member appointed by the Governor shall hold office for  
23 the term of his appointment and until his successor shall have been  
24 appointed and qualified. A member shall be eligible for reappointment.  
25 Any vacancy in the membership occurring other than by expiration of  
26 term shall be filled in the same manner as the original appointment but  
27 for the unexpired term only.

28 c. The member or members of the Casino Control Commission  
29 appointed by the Governor shall serve as a member or members of the  
30 Casino Reinvestment Development Authority at the pleasure of the  
31 Governor, subject to the limitations in subsections c., f., and h. of  
32 section 52 of P.L.1977, c.110 (C.5:12-52). ~~[The]~~Such a member may  
33 be removed or suspended from office as a member of the Casino  
34 Reinvestment Development Authority as provided in section 6 of this  
35 act. Any removal or suspension from office of ~~[the]~~a member of the  
36 Casino Control Commission from the Casino Reinvestment  
37 Development Authority shall not affect his office held as a member of  
38 the Casino Control Commission. Removal from office as a member of  
39 the Casino Control Commission may only be done in accordance with  
40 subsection g. of section 52 of P.L.1977, c.110 (C.5:12-52).

41 (cf: P.L.1993,c.159,s.10)

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43 4. Section 7 of P.L. 1984, c.218 (C.5:12-155) is amended to read  
44 as follows:

45 7. The Governor shall designate from among the appointed and  
46 voting public members, a chairman and a vice chairman of the Casino

1 Reinvestment Development Authority, who shall serve in those  
2 capacities at the pleasure of the Governor. The powers of the Casino  
3 Reinvestment Development Authority shall be vested in the members  
4 thereof in office from time to time and ~~[seven]~~eight voting members  
5 of the Casino Reinvestment Development Authority shall constitute a  
6 quorum at any meeting thereof. Action may be taken by motions and  
7 resolutions adopted by the Casino Reinvestment Development  
8 Authority at any meeting thereof by the affirmative vote of at least  
9 ~~[seven]~~eight members of the Casino Reinvestment Development  
10 Authority. No vacancy in the membership of the Casino Reinvestment  
11 Development Authority shall impair the right of a quorum of the  
12 members to exercise all the powers and perform all the duties of the  
13 Casino Reinvestment Development Authority.

14 (cf: P.L.1995,c.18,s.42)

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16 5. Section 9 of P.L. 1984, c.218(C.5:12-157) is amended to read  
17 as follows:

18 9. The Attorney General and the State Treasurer, and, where  
19 appropriate, the Commissioner of the Department of Commerce and  
20 Economic Development or the Commissioner of the Department of  
21 Community Affairs, may designate an officer or employee of [his  
22 department]their respective departments and the Casino Control  
23 Commission member or members on the Casino Reinvestment  
24 Development Authority may designate another commissioner or  
25 employee of the commission to represent them at meetings of the  
26 Casino Reinvestment Development Authority, and each designee may  
27 lawfully vote and otherwise act on behalf of the member for whom he  
28 constitutes the designee. Any designation shall be in writing delivered  
29 to the Casino Reinvestment Development Authority and shall continue  
30 in effect until revoked or amended by writing delivered to the Casino  
31 Reinvestment Development Authority.

32 (cf: P.L.1991,c.219,s.4)

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34 6. (New section) The State of New Jersey hereby covenants with  
35 the purchasers, holders and owners, from time to time, of any bonds  
36 secured by funds derived from fees imposed for the use of casino  
37 parking spaces pursuant to section 3 of P.L.1993, c.159 (C.5:12-  
38 173.3) that it shall not repeal or reduce the fee so imposed under that  
39 act, while bonds entitled to benefits from the fee so imposed are  
40 outstanding, and shall not modify or amend the provisions of that act  
41 so as to create any lien or charge on, or any pledge, assignment,  
42 diversion, withholding payment or other use of or deduction from the  
43 fee so imposed which is prior in time or superior in right to any  
44 payments required to be made pursuant to any bond covenants entered  
45 into with the purchasers, holders and owners of the bonds so secured.

1       7. This act shall take effect immediately.

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#### STATEMENT

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6       It is the legislative intent of this bill that investments made by the  
7 Casino Reinvestment Development Authority under P.L.1993, c.159  
8 (C.5:12-173.1et seq.) exclude costs reasonably related to space used  
9 for the conduct of casino gaming. It is also the intent of this bill to  
10 address the decision of the trial court in CRDA v. Coking, et al.  
11 Docket No. ATL-L-2974-94 by clarifying that it was and continues to  
12 be the public purpose of P.L.1993, c.159 (C.5:12-173.1 et seq.) and  
13 of this bill that investment monies may be used for hotel development  
14 projects which include, incorporate, facilitate or support an expansion  
15 of casino space in a casino hotel facility, but only for costs reasonably  
16 related to constructing, reconstructing or rehabilitating hotel rooms or  
17 appurtenant facilities, and not for costs reasonably related to casino  
18 space.

19       The bill also clarifies the regulatory power of the authority to  
20 require that casinos licensees reserve hotel rooms in an approved hotel  
21 development project for convention business pursuant to an agreement  
22 with the authority.

23       The bill requires that the Casino Reinvestment Development  
24 Authority set aside for investment on hotel development projects in  
25 Atlantic City an additional \$75 million of moneys made available to the  
26 authority. The bill sets forth the order of priority for use of those  
27 investment moneys: first, for previously approved hotel development  
28 projects which were approved for less than the maximum amount of  
29 investment which they would have if sufficient funds were otherwise  
30 available; and second, for additional hotel development projects for  
31 casino licensees which apply after the effective date of the act. The  
32 bill provides appropriate application deadlines for new and additional  
33 hotel development projects, and deadlines by which construction,  
34 reconstruction or rehabilitation of a hotel development project must  
35 actually and substantially commence.

36       In addition, the bill provides for appointment of two additional  
37 members to the authority, the Attorney General and a second member  
38 appointed by the Governor who may be the Commissioner of  
39 Commerce and Economic Development, the Commissioner of  
40 Community Affairs or a second Casino Control Commission member.  
41 It provides that persons appointed to the authority as casino industry  
42 representatives cannot be reappointed to succeed themselves or to  
43 represent the same casino licensee as their predecessors.

44       The bill includes a provision pledging not to repeal or reduce the  
45 parking fee on casino parking spaces during the time that bonds  
46 secured by the parking fee revenues are outstanding.

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3 Concerns investments by Casino Reinvestment Development Authority

4 in development projects in Atlantic City.