

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

"Christie signs bill to teach teens about loans," The Record, 1-15-13

"Christie Takes Action and Signs 4 Bills into Law," NewJerseyNewsroom.com, 1-15-13

LAW/RWH

P.L.2013, CHAPTER 4, *approved January 14, 2013*
Assembly, No. 3325

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

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

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

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

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

14 b. To sue or be sued;

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

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

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

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

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

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

Matter underlined thus is new matter.

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

1 to invest and reinvest any of its moneys not required for immediate
2 use, including proceeds from the sale of any obligations, securities
3 or other investments as it shall deem prudent. All functions, powers
4 and duties relating to the investment or reinvestment of these funds,
5 including the purchase, sale or exchange of any investments or
6 securities, may upon the request of the Casino Reinvestment
7 Development Authority be exercised and performed by the Director
8 of the Division of Investment, in accordance with written directions
9 of the Casino Reinvestment Development Authority signed by an
10 authorized officer, without regard to any other law relating to
11 investments by the Director of the Division of Investment;

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

17 p. To exercise the right of eminent domain in the city of
18 Atlantic City;

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

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

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

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

35

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

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

40 (1) "Contracting unit" means:

41 (a) Any county; or

42 (b) Any municipality; or

43 (c) Any board, commission, committee, authority or agency,
44 which is not a State board, commission, committee, authority,
45 except as provided pursuant to P.L. , c. (C.) (pending
46 before the Legislature as this bill), or agency, and which has
47 administrative jurisdiction over any district other than a school
48 district, project, or facility, included or operating in whole or in

1 part, within the territorial boundaries of any county or municipality
2 which exercises functions which are appropriate for the exercise by
3 one or more units of local government, including functions
4 exercised in relation to the administration and oversight of a
5 tourism district located in a municipality in which authorized casino
6 gaming occurs, and which has statutory power to make purchases
7 and enter into contracts awarded by a contracting agent for the
8 provision or performance of goods or services.

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

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

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

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

25 (2) "Governing body" means:

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

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

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

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

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

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

46 (6) "Professional services" means services rendered or
47 performed by a person authorized by law to practice a recognized
48 profession, whose practice is regulated by law, and the performance

1 of which services requires knowledge of an advanced type in a field
2 of learning acquired by a prolonged formal course of specialized
3 instruction and study as distinguished from general academic
4 instruction or apprenticeship and training. Professional services
5 may also mean services rendered in the provision or performance of
6 goods or services that are original and creative in character in a
7 recognized field of artistic endeavor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46 (25) "Library and educational goods and services" means
47 textbooks, copyrighted materials, student produced publications and
48 services incidental thereto, including but not limited to books,

1 periodicals, newspapers, documents, pamphlets, photographs,
2 reproductions, microfilms, pictorial or graphic works, musical
3 scores, maps, charts, globes, sound recordings, slides, films,
4 filmstrips, video and magnetic tapes, other printed or published
5 matter and audiovisual and other materials of a similar nature,
6 necessary binding or rebinding of library materials, and specialized
7 computer software used as a supplement or in lieu of textbooks or
8 reference material.

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

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

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

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

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

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

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

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

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

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

1 (36) "Administrator" means a municipal administrator appointed
2 pursuant to N.J.S.40A:9-136 and N.J.S.40A:9-137; a business
3 administrator, a municipal manager or a municipal administrator
4 appointed pursuant to the "Optional Municipal Charter Law,"
5 P.L.1950, c.210 (C.40:69A-1 et seq.); a municipal manager
6 appointed pursuant to "the municipal manager form of government
7 law," R.S.40:79-1 et seq.; or the person holding responsibility for
8 the overall operations of an authority that falls under the "Local
9 Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et
10 seq.).

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

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

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

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

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

37 (42) "Mistake" means, for a public works project, a clerical error
38 that is an unintentional and substantial computational error or an
39 unintentional omission of a substantial quantity of labor, material,
40 or both, from the final bid computation.
41 (cf: P.L.2010, c.108, s.1)

42

43 3. This act shall take effect immediately.

44

45 STATEMENT

46

47 This bill authorizes the Casino Reinvestment Development
48 Authority (CRDA) to enter into certain cooperative purchasing

1 agreements with local government entities. Currently, under the
2 “Local Public Contracts Law” P.L.1971, c.198 (C.40A-11-1 et
3 seq.), a State authority, such as the CRDA, is not considered a
4 “contracting unit” and is therefore ineligible to enter into
5 cooperative purchasing agreements with local entities. This bill
6 would amend the law to allow the CRDA to engage in such
7 contracts for the purpose of purchasing fuel sold by local entities or
8 for purchasing other goods or services if deemed necessary,
9 convenient, or desirable as determined by a majority vote of the
10 members of the board.

11

12

13

14

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

ASSEMBLY, No. 3325

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED SEPTEMBER 24, 2012

Sponsored by:

Assemblyman RUBEN J. RAMOS, JR.

District 33 (Hudson)

Assemblyman JOHN J. BURZICHELLI

District 3 (Cumberland, Gloucester and Salem)

Assemblyman JOHN F. AMODEO

District 2 (Atlantic)

Assemblyman CHRIS A. BROWN

District 2 (Atlantic)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Assemblyman DECLAN J. O'SCANLON, JR.

District 13 (Monmouth)

Co-Sponsored by:

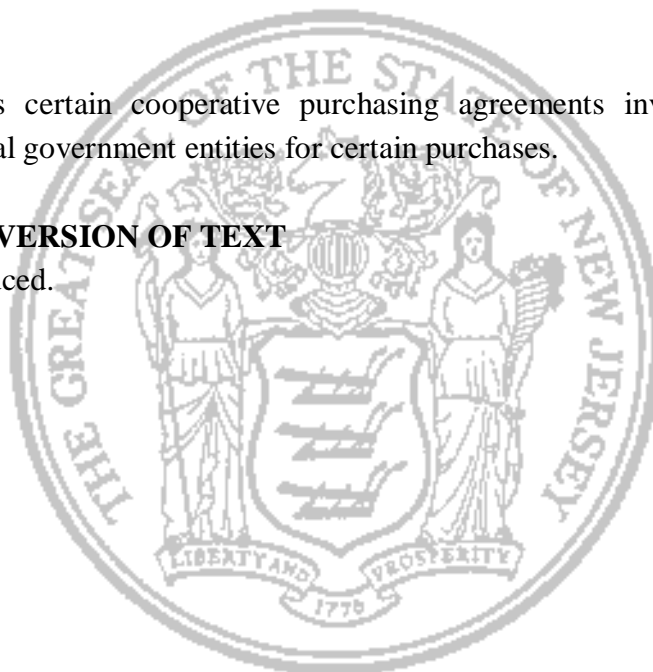
Assemblywoman Sumter, Senators Whelan and Beach

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



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

A3325 RAMOS, BURZICHELLI

2

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

4

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

7

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

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

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

14 b. To sue or be sued;

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

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

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

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

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

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

Matter underlined thus is new matter.

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

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

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

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

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

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

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

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

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

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

37 (1) "Contracting unit" means:

38 (a) Any county; or

39 (b) Any municipality; or

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

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

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

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

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

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

22 (2) "Governing body" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39

40 3. This act shall take effect immediately.

41

42

43

STATEMENT

44

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

A3325 RAMOS, BURZICHELLI

10

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

ASSEMBLY REGULATORY OVERSIGHT AND GAMING
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3325

STATE OF NEW JERSEY

DATED: OCTOBER 11, 2012

The Assembly Regulatory Oversight and Gaming Committee reports favorably Assembly Bill No. 3325.

This bill authorizes the Casino Reinvestment Development Authority (CRDA) to enter into cooperative purchasing agreements with local government entities. Currently, under the “Local Public Contracts Law” P.L.1971, c.198 (C.40A:11-1 et seq.), a State authority, such as the CRDA, is not considered a “contracting unit” and is therefore ineligible to enter into cooperative purchasing agreements with local entities. This bill would amend the law to allow the CRDA to engage in such contracts for the purpose of purchasing fuel or other goods or services deemed necessary, convenient, or desirable by a majority vote of the members of the CRDA.

Assembly Bill No. 3325 is identical to Senate Bill No. 2049(1R).

SENATE, No. 2049

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED JUNE 4, 2012

Sponsored by:
Senator JIM WHELAN
District 2 (Atlantic)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



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

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

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

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

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

14 b. To sue or be sued;

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

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

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

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

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

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

Matter underlined thus is new matter.

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

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

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

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

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

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

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

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

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

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

37 (1) "Contracting unit" means:

38 (a) Any county; or

39 (b) Any municipality; or

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

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

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

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

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

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

22 (2) "Governing body" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39

40 3. This act shall take effect immediately.

41

42

43

STATEMENT

44

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

S2049 WHELAN

10

1 seq.), a State authority, such as the CRDA, is not considered a
2 “contracting unit” and is therefore ineligible to enter into
3 cooperative purchasing agreements with local entities. This bill
4 would amend the law to allow the CRDA to engage in such
5 contracts for the limited purpose of purchasing fuel sold by local
6 entities.

SENATE STATE GOVERNMENT, WAGERING, TOURISM &
HISTORIC PRESERVATION COMMITTEE

STATEMENT TO

SENATE, No. 2049

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 13, 2012

The Senate State Government, Wagering, Tourism and Historic Preservation Committee reports favorably and with committee amendments Senate Bill No. 2049.

As amended by the committee, this bill authorizes the Casino Reinvestment Development Authority (CRDA) to enter into cooperative purchasing agreements with local government entities. Currently, under the "Local Public Contracts Law" P.L.1971, c.198 (C.40A:11-1 et seq.), a State authority, such as the CRDA, is not considered a "contracting unit" and is therefore ineligible to enter into cooperative purchasing agreements with local entities. This bill would amend the law to allow the CRDA to engage in such contracts for the purpose of purchasing fuel or other goods or services deemed necessary, convenient, or desirable by a majority vote of the members of the CRDA.

COMMITTEE AMENDMENTS

The committee amended the bill to expand the types of goods and services subject to cooperative purchasing from only fuel to other goods or services deemed necessary, convenient, or desirable by a majority vote of the members of the CRDA.