

40:48-8.16 et al

LEGISLATIVE HISTORY CHECKLIST

WJSA 40:48-8.16 et al; 54:32B-8 (Local Luxury Tax - Establish fund in Department of Treasury - aid for county improvement bonds)

LAWS OF 1979 CHAPTER 273

Bill No. A3313

Sponsor(s) Matthews and Gormley

Date Introduced May 3, 1979

Committee: Assembly Taxation

Senate County and Municipal Government

Amended during passage Yes x/x Amendments denoted by asterisks

according to Governor's recommendations
Date of Passage: Assembly June 11, 1979 Re-enacted Dec. 10, 1979

Senate June 21, 1979 Re-enacted Dec. 17, 1979

Date of approval Jan. 3, 1980

Following statements are attached if available:

Sponsor statement	Yes	xxx
Committee Statement: Assembly	Yes	xxx
Senate	Yes	No
Fiscal Note	Yes	No
Veto message	Yes	xxx
Message on signing	Yes	xxx

Following were printed:

Reports	Yes	No
Hearings	Yes	No

Legislation under consideration mentioned in Assembly Committee statement:
A.3430 (1978)--enacted as L.1979, c.275.

ED/1/73

JUL 1980

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1979

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ASSEMBLY, No. 3313

STATE OF NEW JERSEY

INTRODUCED MAY 3, 1979

By Assemblymen MATTHEWS and GORMLEY

Referred to Committee on Taxation

AN ACT to establish a fund within the State Treasury to provide State Aid for County Improvement Authority bonds in certain cases, amending and supplementing P. L. 1947, c. 71, and amending the "Sales and Use Tax Act," approved April 27, 1966 (P. L. 1966, c. 30).

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 2 of P. L. 1947, c. 71 (C. 40:48-8.16) is amended to
2 read as follows:

3 2. As used in this act:

4 "Retail sale" or "sale at retail" means and includes

5 (1) Any sale in the ordinary course of business for consumption
6 **[**or use, or for any purpose other than resale of (a) Cigarettes,
7 cigars or other tobacco products; or (b) Whiskey,**]** *of whiskey,*
8 beer or other alcoholic beverages **[including the sales of drinks]**
9 *by the drink* in restaurants, cafes, bars, hotels and other similar
10 establishments;

11 (2) Any cover charge, minimum charge, entertainment, or other
12 similar charge made to any patron of any restaurant, cafe, bar,
13 hotel or other similar establishment;

14 (3) The hiring, with or without service, of any room in any
15 hotel, inn, rooming or boarding house;

16 (4) The hiring of any rolling chair, beach chair or cabana**[,];**
17 and

18 (5) The granting or sale of any ticket, license or permit for
19 admission to any theatre, moving picture exhibition or show, pier,
20 exhibition, or place of amusement.

21 "Vendor" means any person selling or hiring property or
22 services to another person upon the receipts from which a tax is
23 imposed.

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

24 "Purchaser" means any person purchasing or hiring property
 25 or services from another person, the receipts from which are tax-
 26 able.

27 *["Eligible municipality" means any municipality imposing a
 28 tax under an ordinance adopted under this act.]*

1 2. Section 3 of P. L. 1947, c. 71 (C. 40:48-8.17) is amended to
 2 read as follows:

3 3. Any such ordinance may impose such tax [up to the amount
 4 set forth in the following schedule but not in excess thereof:

5 (a) \$0.12 or less, no tax;

6 (b) over \$0.12 and not over \$0.19, a tax of \$0.01;

7 (c) \$0.20 and not over \$0.39, a tax of \$0.02;

8 (d) \$0.40 and not over \$0.59, a tax of \$0.03;

9 (e) \$0.60 and not over \$0.79, a tax of \$0.04;

10 (f) \$0.80 and not over \$1.00, a tax of \$0.05;

11 (g) over \$1.00 a tax of \$0.05 on each even \$1.00 thereof and if
 12 there is any fraction of \$1.00, a tax on such fraction according to the
 13 schedule above.] at a rate not to exceed 5% through June 30, 1980;
 14 at a rate not to exceed 4% from July 1, 1980 through June 30,
 15 **[1983]** *1981**; and at a rate not to exceed 3% on and after
 15A July 1, **[1983]** *1981**.

16 [In imposing any such tax on the sale of any cigars, cigarettes
 17 or other tobacco products, any such ordinance may provide that
 18 each cigar, each pack or tin of cigarettes and each other tobacco
 19 container involved in a sale shall be considered as a separate sale
 20 and any tax imposed on any such sale may be fixed in such ordinance
 21 at a different rate than on other retail sales but not in excess of the
 22 schedule above on each cigar, pack or tin of cigarettes and other
 23 tobacco container.]

1 3. Section 7 of P. L. 1947, c. 71 (C. 40:48-8.21) is amended to
 2 read as follows:

3 7. All revenues collected under any such ordinance shall be
 4 apportioned according to the following schedule:

5 (a) Through June 30, 1981, all such revenues shall be deposited
 6 in the general fund of the municipality and may be used for general
 7 municipal purposes, including the reduction and liquidation of
 8 bonded indebtedness, the payment of salaries, construction, recon-
 9 struction, maintenance and repair of municipal buildings, installa-
 10 tions and properties, and for such other purposes as may be pro-
 11 vided by existing ordinances or ordinances hereafter enacted for
 11A general municipal purposes;

12 (b) From July 1, 1981 through June 30, 1982, **[75%]**
 13 **66 $\frac{2}{3}$ %** of such revenues shall be deposited and used as pro-

14 *vided in subsection (a) of this section and **[25%]** **33⅓%***
 15 *of such revenues shall be paid over to the State Treasurer by the*
 16 *officer of the municipality designated for collection of such revenues*
 17 *for deposit in the fund established pursuant to the provisions of*
 18 *section 5 of this amendatory and supplementary act, to be used and*
 19 *distributed according to the terms herein provided;*

20 ***[(c) From July 1, 1982 through June 30, 1983, 50% of such rev-*
 21 *enues shall be deposited and used as provided in subsection (a) of*
 22 *this section and 50% of such revenues shall be so paid over to the*
 23 *State Treasurer for deposit in the fund established pursuant to*
 24 *the provisions of section 5 of this amendatory and supplementary*
 24A *act, to be used and distributed according to the terms herein*
 24B *provided;]***

25 ***[(d)]** *(c)** On and after July 1, **[1983]** **1982**,*
 26 *all such revenues shall be paid over to the State Treasurer for*
 27 *deposit in the fund established pursuant to section 5 of this*
 28 *amendatory and supplementary act and distributed according to*
 29 *the terms herein provided.*

1 4. (New section) In any municipality in which the provisions of
 2 the act of which this act is amendatory and supplementary are
 3 presently operative pursuant to an ordinance and referendum
 4 thereon approving the same heretofore adopted and held in accord-
 5 ance with the provisions of said act, any ordinance to adopt the
 6 provisions of this amendatory and supplementary act shall, upon
 7 adoption, become operative within the municipality without any
 8 requirement to submit the same to the voters for their approval or
 9 disapproval. Such municipality may also provide and covenant by
 10 ordinance that the ordinance authorizing such tax will not be
 11 amended so as to repeal or reduce such tax while bonds entitled to
 12 the benefits of this Act are outstanding with the holders of such
 13 bonds, unless the resolution authorizing such bonds shall provide
 14 otherwise. Such covenant shall constitute a valid and legally bind-
 15 ing contract between such municipality and such holders.

1 5. (New section) There is created a fund to be held by the State
 2 Treasurer, but not to exist in the State Treasury, to be the reposi-
 3 tory for moneys paid to the State Treasurer pursuant to this act
 4 and disbursed as provided herein.

1 6. (New section) In the fiscal year beginning on July 1, 1981 and
 2 each fiscal year thereafter, the State Treasurer shall deposit the
 3 revenues to be paid in the fund created herein which shall be held
 4 and disbursed in such amounts as may be necessary to fulfill the
 5 purposes of this act and subject to the requirements as prescribed
 6 hereafter. Such revenues are hereby dedicated and pledged to
 7 such uses and for such purposes.

1 7. (New section) Beginning July 1, 1981, the revenues paid over
2 to the State Treasurer pursuant to the provisions of section 3 of
3 this amendatory and supplementary act shall be deposited in the
4 fund created in section 5 of this amendatory and supplementary
5 act and shall be applied from time to time pursuant to the pro-
6 visions herein for the purposes of financing and maintaining
7 facilities now or hereafter authorized pursuant to section 11 of
8 P. L. 1960, c. 183 (C. 40 :37A-54) located in any eligible municipality.

1 8. (New section) (a) Prior to the adoption of any resolution of
2 a county improvement authority authorizing the issuance of notes
3 or bonds for an authorized facility located in an eligible munic-
4 ipality, and with respect to which an application for financing pur-
5 suant to the provision of this amendatory and supplementary act
6 is to be made, an application for the proposed project financing
7 shall be submitted to the Local Finance Board for review and
8 approval of estimated annual payments on behalf of said project
9 for all or a portion of its annual debt service covering principal
10 and interest. The Local Finance Board shall, in connection with
11 such review and approval, give consideration to the engineering
12 and feasibility studies prepared in connection with the project
13 financing and the terms and provisions of the proposed financing
14 agreements including any reserve funds required by the resolution
15 and security agreements, and the amounts of State revenues ex-
16 pected to be paid pursuant to the provisions of this amendatory
17 and supplementary act. In connection with its review, the Local
18 Finance Board may consider any estimates, computations or calcu-
19 lations made in connection with such submission, may require the
20 production of any papers, documents, witnesses or information to
21 be made, any audit or investigation, and may take any action which
22 it may determine advisable.

23 (b) The Local Finance Board shall approve the proposed project
24 financing and annual payments from the fund created herein if it
25 finds (i) that such proposal is an improvement or betterment ad-
26 vancing the health, safety and welfare of the persons served by
27 said county improvement authority; (ii) that the project cost has
28 been accurately calculated, that the terms and provisions of the
29 proposed financing agreements are fair, reasonable and fesible and
30 would not impose an undue burden on the persons served by the
31 county improvement authority; (iii) that annual payments to be
32 provided pursuant to this amendatory and supplementary act for
33 said project in addition to whatever funds, if any, are to be pro-
34 vided from the revenues realized from said project, or from any

35 other authorized revenue or funding sources, are adequate to meet
36 the debt service obligations for said project as approved pursuant
37 to this amendatory and supplementary act; (iv) that such agree-
38 ment will not materially impair the ability of the county improve-
39 ment authority to pay promptly the principal and interest on its
40 outstanding indebtedness or to provide essential public services to
41 the persons which said authority is required to support and to
42 advance the objects and purpose of the authority or either of the
43 aforesaid; (v) that the amounts to be expended for the facilities to
44 be financed pursuant to such resolution are not unreasonable or
45 exorbitant; and (vi) that issuance of the bonds to be authorized by
46 such resolution will not materially impair the credit of any municipi-
47 pality within the jurisdiction of the authority, or substantially
48 reduce its ability, during the ensuing 10 years, to pay punctually
49 the principal and interest of its debts and supply essential public
50 improvements and service. In addition, the Local Finance Board
51 shall, in its review of the proposed financing agreement or agree-
52 ments, give consideration to the nature and purpose of the project
53 financing, the amounts, terms and schedule of payments required
54 and the impact of such agreement on the budget and financial condi-
55 tion of the county improvement authority.

56 (c) Any approval granted by the Local Finance Board shall be
57 in writing and shall be filed with the secretary of the authority.
58 Such approval may contain such conditions as the Local Finance
59 Board may consider to be appropriate under the circumstances.
60 Said approval shall include a statement of the principal amount of
61 the bonds, or percentage thereof, for which payments will be made
62 and the maturity schedule for such principal amount of bonds
63 approved by said board. The Local Finance Board, in considering
64 such copy of the resolution submitted to it and before endorsing
65 its consent thereon may require the county improvement authority
66 or the governing body of any eligible municipality served by such
67 county improvement authority to adopt resolutions restricting or
68 limiting any future proceedings therein or other matters or things
69 deemed by the Local Finance Board to affect any estimate made
70 or to be made by it in accordance with this section, and every such
71 resolution so adopted shall constitute a valid and binding obligation
72 of such county improvement authority or municipality, as the case
73 may be, running to and enforceable by, and releasable by, the
74 Local Finance Board.

1 9. (New section) At any time within one year after an approval
2 by the Local Finance Board pursuant to section 8 of this amend-

3 atory and supplementary act with respect to a county improvement
4 authority, said authority shall submit to the Director of the Division
5 of Local Government Services a copy of a resolution authorizing
6 the issuance of bonds entitled to the benefits of this amendatory
7 and supplementary act in accordance with said approval. If no
8 such resolution is submitted within one year, said approval shall be
9 of no further force and effect and the director shall so notify said
10 authority. The Director of Local Government Services shall be
11 and is hereby authorized to endorse upon any copy of such resolu-
12 tion a certification thereof as being the resolution to which a
13 determination of the Local Finance Board has been made, and the
14 endorsement shall be made in such form or manner as the director
15 shall determine.

1 10. (New section) A copy of the approval of the Local Finance
2 Board referred to in section 8 of this amendatory and supplemen-
3 tary act and a copy of the resolution referred to in section 9 of this
4 amendatory and supplementary act, bearing the endorsement of
5 the Director of the Division of Local Government Services shall be
6 submitted to the State Treasurer.

1 11. (New section) If the county improvement authority shall
2 determine by resolution that the maturity schedule for bonds en-
3 titled to the benefits of this amendatory and supplementary act,
4 other than the maturity schedule approved by the Local Finance
5 Board by resolution pursuant to section 8 of this amendatory and
6 supplementary act, is in the best interest of said authority, it may
7 make application to the Local Finance Board setting forth such
8 belief and the grounds therefor and requesting approval of a
9 schedule of maturities for such bonds set forth in the application.
10 If the Local Finance Board, by resolution, shall find that the
11 schedule of maturities set forth in the application is in the best
12 interest of the authority and the State, and that such application is
13 well founded, and that issuance of the bonds mentioned and
14 described in such application would not materially impair the credit
15 of any municipality within the jurisdiction of the authority or sub-
16 stantially reduce its ability, during the ensuing 10 years, to pay
17 punctually the principal and interest of its debts and supply essen-
18 tial public improvements and services, it shall cause its approval
19 to be endorsed thereon within 60 days after submission to it, and
20 shall forward said application to the Treasurer.

1 12. (New section) All of such bonds when issued shall contain a
2 recital to the effect that they are issued pursuant to the "county
3 improvement authorities law" (P. L. 1960, c. 183) as amended and
4 are entitled to the benefits of the provisions of this amendatory and

5 supplementary act. Except as otherwise provided in this amend-
6 atory and supplementary act, any bonds entitled to the benefits of
7 the provisions of this amendatory and supplementary act shall be
8 authorized and issued in the manner provided for by the "county
9 improvement authorities law." Bonds entitled to the benefits of the
10 provisions of this act shall mature not later than 30 years from their
11 date, without regard to any limitations as to maturities or amounts
12 of annual installments for such bonds as provided in the "county
13 improvement authorities law."

1 13. (New section) Any county improvement authority which has
2 authorized bonds which are entitled to the benefits of this amend-
3 atory and supplementary act may issue temporary notes or loan
4 bonds, hereinafter called "notes", in anticipation of the issuance
5 of permanent bonds to the extent permitted or provided by or
6 pursuant to the provisions of the "county improvement authorities
7 law" (P. L. 1960, c. 183) or any other applicable laws, subject to
8 such additional terms or conditions with respect to such notes as
9 may be fixed or required by the Director of the Division of Local
10 Government Services to insure that funds are borrowed only as
11 needed to meet required payments for construction or acquisition
12 of the facilities to be financed by the issuance of permanent bonds.

1 14. (New section) Within 10 days after issuance of any bonds
2 or notes entitled to the benefits of this act, and from time to time
3 thereafter, the chief financial officer of the county improvement au-
4 thority issuing such bonds or notes or his designee shall certify to
5 the Director of the Division of Local Government Services that
6 exact amount payable on account of debt service covering interest
7 and principal on such bonds or notes in each year, the amount
8 needed to fund any reserve fund required by such resolution, and
9 the name and address of the paying agent or paying agents for
10 such bonds or notes. The Director of the Division of Local Govern-
11 ment Services shall thereupon verify said amounts and certify the
12 same to the State Treasurer, together with the name and address of
13 the paying agent or paying agents for such bonds or notes. The
14 certification by the Director of the Division of Local Government
15 Services as to amount payable in any year for debt service covering
16 principal and interest on such bonds or notes shall be fully con-
17 clusive as to said payments for such bonds or notes, notwithstand-
18 ing any irregularity, omission or failure as to compliance with any
19 of the provisions of this amendatory and supplementary act with
20 respect to such bonds or notes, provided that such bonds or notes
21 contain a recital to the effect that they are entitled to the benefits

22 of the provisions of this amendatory and supplementary act, and
23 all persons shall be forever estopped from denying that such bonds
24 or notes are entitled to the benefits of the provisions of this amend-
25 atory and supplementary act. Upon certification, the State Trea-
26 surer shall pay the amounts from the fund to the paying agent
27 specified which will equal any deficiency so certified of principal
28 and interest payments becoming due or any deficiency so certified
29 to exist in any such required reserve fund.

1 15. (New section) All amounts to be paid from the fund estab-
2 lished herein under the provisions of this amendatory and supple-
3 mentary act with respect to any county improvement authority for
4 debt service covering principal or interest on bonds or notes
5 entitled to the benefits of this amendatory and supplementary act,
6 or for funding any reserve fund required by such resolution, shall,
7 on or before the date for such payment of interest and principal,
8 be paid on behalf of the county improvement authority to the
9 paying agent or paying agents for such bonds or notes in the
10 amount with respect to such date as reflects the amount of principal
11 or interest, respectively, payable as to such date with respect to
12 such authority. Amounts so paid to such paying agent or paying
13 agents shall be applied to the payment of debt service covering
14 principal and interest on such bonds or notes, or to fund such
15 reserve, and for no other purpose.

1 16. (New section) Pending application to the purposes for which
2 bonds or notes entitled to benefits of this amendatory and supple-
3 mentary act are issued, the moneys in such fund shall be invested
4 or deposited subject to regulations prescribed by the State Trea-
5 surer for the deposit of State Funds. Any income from such invest-
6 ment shall be added to such fund.

1 17. (New section) No bonds or notes entitled to the benefits of
2 this amendatory and supplementary act shall be issued unless there
3 is designated therefor a trustee paying agent or paying agents, at
4 least one of which is a bank or trust company authorized to do
5 business in this State.

1 18. (New section) Any pledge or dedication of revenues, moneys
2 or funds held by the State Treasurer made by the county improve-
3 ment authority by such resolution or by the municipality by such
4 ordinance shall be valid and binding from the time when the pledge
5 is made; the revenues, moneys or funds so pledged and thereafter
6 received by the State Treasurer shall immediately be subject to
7 the lien of such pledge or dedication without any physical delivery
8 thereof or further act, and the lien of any such pledge or dedica-

9 tion shall be valid and binding as against all parties having claims
10 of any kind in tort, contract or otherwise against the State
11 Treasurer, the county improvement authority or the municipality,
12 irrespective of whether such parties have notice thereof.

13 All such provisions of said bond resolution and all such cov-
14 enants, pledges and dedications, and agreements shall constitute
15 valid and legally binding contracts between the authority and the
16 several holders of the bonds entitled to the benefits of the provisions
17 of this amendatory and supplementary act, and shall be enforceable
18 by any such holder or holders by appropriate action or proceeding
19 in any court of competent jurisdiction including a proceeding in
20 lieu of prerogative writ.

1 19. Section 8 of P. L. 1966, c. 30 (C. 54:32B-8) is amended to
2 read as follows:

3 8. Exempt sales. Receipts from the following shall be exempt
4 from the tax on retail sales imposed under subsection (a) of section
5 3 and the use tax imposed under section 6:

6 (a) Sales of medicines and drugs sold pursuant to a doctor's
7 prescription for human use; crutches, artificial limbs, artificial
8 eyes, artificial hearing devices, corrective eyeglasses, prosthetic
9 aids, artificial teeth or dentures, braces, tampons or like products,
10 orthopedic appliances and artificial devices designed to correct or
11 alleviate physical incapacity, medical oxygen, human blood and its
12 derivative when sold for human use, wheelchairs, and replacement
13 parts for any of the foregoing;

14 (b) Sales of food, food products, beverages except alcoholic
15 beverages, excluding draft beer sold by the barrel, as defined in the
16 Alcoholic Beverage Tax Law, dietary foods and health supple-
17 ments, sold for human consumption off the premises where sold
18 but not including (i) candy and confectionery, and (ii) carbonated
19 soft drinks and beverages all of which shall be subject to the retail
20 sales and compensating use taxes, whether or not the item is sold
21 in liquid form. Nothing herein shall be construed as exempting
22 food or drink from the tax imposed under subsection (c) of
23 section 3;

24 (c) Sales of food sold in an elementary or secondary school
25 cafeteria, sales of food sold in an institution of higher education
26 or in a fraternity, sorority or eating club operated in connection
27 therewith, to students of such an institution;

28 (d) Sales of articles of clothing and footwear for human use
29 except articles made of fur on the hide or pelt of an animal or
30 animals where such fur is the component material of chief value of
31 the article. "Clothing" as used herein, shall also mean and include

32 sales to noncommercial purchasers of common wearing apparel
33 materials intended to be incorporated into wearing apparel as a
34 constituent part thereof, such as fabrics, thread, knitting yarn,
35 buttons and zippers. The director shall prescribe regulations to
36 carry out the provisions of this subsection;

37 (e) Sales of newspapers, magazines and periodicals;

38 (f) Casual sales except as to sales of motor vehicles, whether
39 for use on the highways or otherwise, and except as to sales of boats
40 or vessels registered or subject to registration under the New
41 Jersey Boat Act of 1962 (P. L. 1962, c. 73, and all amendments
42 thereto);

43 (g) Sales of gas, water, steam, fuel, electricity, telephone or
44 telegraph services delivered to consumers through mains, lines,
45 pipe, or in containers or bulk;

46 (h) Sales of motor fuels as motor fuels are defined for purposes
47 of the New Jersey Motor Fuel Tax Law; and sale of fuel to an
48 airline for use in its airplanes or to a railroad for use in its
49 locomotives;

50 (i) Tangible personal property sold through coin-operated vend-
51 ing machines at \$0.10 or less, provided the retailer is primarily
52 engaged in making such sales and maintains records satisfactory
53 to the director;

54 (j) Sales not within the taxing power of this State under the
55 Constitution of the United States;

56 (k) The transportation of persons or property;

57 (l) Sales, repairs, alterations or conversion of commercial ships,
58 barges and other vessels of 50-ton burden or over, primarily en-
59 gaged in interstate or foreign commerce, and of governmentally-
60 owned ships, barges, and other vessels and property used by or
61 purchased for the use of such vessels for fuel, provisions, supplies,
62 maintenance and repairs (other than articles purchased for the
63 original equipping of a new ship);

64 (m) (1) Sales of machinery, apparatus or equipment for use or
65 consumption directly and primarily in the production of tangible
66 personal property by manufacturing, processing, assembling or
67 refining;

68 (2) Sales of machinery, apparatus or equipment for use or
69 consumption directly and primarily in the production, generation,
70 transmission or distribution of gas, electricity, refrigeration, steam
71 or water for sale or in the operation of sewerage systems;

72 (3) Sales of telephone lines, cables, central office equipment or
73 station apparatus, or other machinery, equipment or apparatus,
74 or comparable telegraph equipment, for use directly and primarily

75 in receiving at destination or initiating, transmitting and switching
76 telephone or telegraph communication;

77 (4) The exemptions granted under this subsection shall not be
78 construed to apply to sales, otherwise taxable, of machinery, equip-
79 ment or apparatus whose use is incidental to the activities described
80 in paragraphs (1), (2) and (4) of this subsection;

81 (5) The exemptions granted in this subsection (m) shall not
82 apply to motor vehicles or to parts with a useful life of 1 year or
83 less or tools or supplies used in connection with the machinery,
84 equipment or apparatus described in this subsection;

85 (n) Sales of tangible personal property purchased for use or
86 consumption directly and exclusively in research and development
87 in the experimental or laboratory sense. Such research and de-
88 velopment shall not be deemed to include the ordinary testing or
89 inspection of materials or products for quality control, efficiency
90 surveys, management studies, consumer surveys, advertising, pro-
91 motions or research in connection with literary, historical or similar
92 projects;

93 (o) Sales or use of wrapping paper, wrapping twine, bags, car-
94 tons, tape, rope, labels, nonreturnable containers, reusable milk
95 containers and all other wrapping supplies when such use is inci-
96 dental to the delivery of any personal property;

97 (p) Sales of tangible personal property (except automobiles, and
98 except property incorporated in a building or structure) for use
99 and consumption directly and exclusively in the production for
100 sale of tangible personal property on farms, including stock, dairy,
101 poultry, fruit, fur-bearing animals, and truck farms, ranches,
102 nurseries, greenhouses or other similar structures used primarily
103 for the raising of agricultural or horticultural commodities, and
104 orchards;

105 (q) Sales of tangible personal property sold by a mortician,
106 undertaker or funeral director. However, all tangible personal
107 property sold to a mortician, undertaker or funeral director for
108 use in the conducting of funerals shall not be deemed a sale for
109 resale and shall not be exempt from the tax imposed by this act;

110 (r) Sales of films, records, tapes or any type of visual or sound
111 transcriptions to, or produced for exhibition in or use through the
112 medium of, theatres and radio and television broadcasting stations
113 or networks, and not used for advertising purposes;

113A (s) Sales of tangible personal property and services taxable
114 under any municipal ordinance heretofore adopted pursuant to
115 P. L. 1947, c. 71, which is in effect on April 27, 1966, but only to
116 the extent such sales are taxable under said ordinance *and subject*
117 *to the following:*

118 (1) *To the extent that the tax that is or would be imposed under*
 119 *section 3 of P. L. 1966, c. 30 (C. 54:32B-3) is greater than the tax*
 120 *imposed by such ordinance, such sales shall not be exempt under*
 121 *this subsection; and*

122 (2) *To the extent permitted in the following schedule, irrespec-*
 123 *tive of the rate of tax imposed by such ordinance: (i) Through*
 124 *June 30, 1980, such sales shall be exempt only to the extent that they*
 125 *are subject to taxation under such ordinance at a rate not exceed-*
 126 *ing 5%;*

127 (ii) *From July 1, 1980 through June 30, 1981, such sales shall be*
 128 *exempt only to the extent that they are subject to taxation under*
 129 *such ordinance at a rate not exceeding 4%;*

130 ~~**[(iii) From July 1, 1981 through June 30, 1983, such sales shall~~
 131 *be exempt only to the extent that they are subject to taxation under*
 132 *such ordinance at a rate not exceeding 1%;]***

133 ~~**[(iv)]**~~ ~~*(iii)*~~ *On and after July 1, ~~**[1983]**~~ ~~**1981**~~,*
 134 *such sales shall not be exempt under this subsection;*

135 (t) *Sales of materials, such as chemicals and catalysts, used to*
 136 *induce or cause a refining or chemical process, where such materials*
 137 *are an integral or essential part of the processing operation, but*
 138 *do not become a component part of the finished product;*

139 (u) *Sales of school textbooks for use by students in a school,*
 140 *college, university or other educational institution, approved as*
 141 *such by the Department of Education or by the Department of*
 142 *Higher Education, when the educational institution, upon forms*
 143 *and pursuant to regulations prescribed by the director, has declared*
 144 *the books are required for school purposes and the purchaser has*
 145 *supplied the vendor with the form at the time of the sale;*

146 (v) *(Deleted by amendment.) P. L. 1970, c. 7, s. 5.*

147 (w) *Sales made to contractors, subcontractors or repairmen of*
 148 *materials, supplies or services for exclusive use in erecting struc-*
 149 *tures, or building on, or otherwise improving, altering or repairing*
 150 *real property of organizations described in subsections (a) and*
 151 *(b) of section 9 of this act, provided any person seeking to qualify*
 152 *for this exemption shall do so pursuant to such rules and regula-*
 153 *tions and upon such forms as shall be prescribed by the director;*

154 (x) *The renting, leasing, licensing or interchanging of trucks,*
 155 *tractors, trailers or semitrailers by persons not engaged in a reg-*
 156 *ular trade or business offering such renting, leasing, licensing or*
 157 *interchanging to the public, provided, that such renting, leasing,*
 158 *licensing or interchanging is carried on with persons engaged in*
 159 *a regular trade or business involving carriage of freight by such*
 160 *vehicles;*

161 (y) Sales of cigarettes subject to tax under the Cigarette Tax
162 Act;

163 (z) Sales of the Bible or similar sacred scripture of a bona fide
164 church or religious denomination;

165 (aa) Sales of the flag of the United States of America and of
166 the flag of the State of New Jersey;

167 (bb) Sales of locomotives, railroad cars and other railroad roll-
168 ing stock, including repair and replacement parts therefor, track
169 materials, and communication, signal and power transmission
170 equipment, to a railroad whose rates are regulated by the Inter-
171 state Commerce Commission or by the Board of Public Utilities;

172 (cc) Sales of buses for public passenger transportation, includ-
173 ing repair and replacement parts therefor, to bus companies whose
174 rates are regulated by the Interstate Commerce Commission or the
175 Board of Public Utilities or to an affiliate of said bus companies or
176 to common or contract carriers for their use in the transportation
177 of children to and from school. For the purposes of this subsection
178 "affiliate" shall mean a corporation whose stock is wholly owned
179 by the regulated bus company or whose stock is wholly owned by
180 the same persons who own all of the stock of the regulated bus
180A company.

181 (dd) Sales of newspaper production machinery, apparatus and
182 equipment for use and consumption directly and primarily in the
183 publication of newspapers in the production departments of a
184 newspaper plant, including, but not limited to: engraving, enlarg-
185 ing and development equipment, internal process cameras and
186 news transmission equipment, composing and pressroom apparatus
187 and equipment, type fonts, lead, mats, ink, plates, conveyors,
188 stackers, sorting, bundling, stuffing, labeling and wrapping equip-
189 ment and supplies for any of the foregoing except that sales of
190 motor vehicles, typewriters, and other equipment and supplies
191 otherwise taxable under this act are not exempt.

192 (ee) The sale of advertising to be published in a newspaper.

193 (ff) Sales, renting or leasing of: commercial motor vehicles,
194 and vehicles used in combination therewith, as defined in R. S.
195 39:1-1 and registered in New Jersey for more than 18,000 pounds;
196 or which are operated pursuant to a certificate or permit issued by
197 the Interstate Commerce Commission; and repair and replacement
198 parts therefor.

199 (gg) The sale of gold or silver and storage thereof, in the form
200 traded on any contract market or other board of trade or ex-
201 change licensed by the Federal Commodity Futures Trading Com-

202 mission as defined in the Commodity Exchange Act, as amended;
 203 provided that the sale shall have been in fulfillment of the obliga-
 204 tions of a contract for future delivery of gold or silver, or an option
 205 to purchase or sell such commodity, entered into on and in accord-
 206 ance with the rules of such licensed contract or options market; pro-
 207 vided, further that this exemption shall not apply with respect to
 208 any gold or silver subsequently converted to use by a purchaser
 209 and in such event such purchaser shall be liable for the sales and
 210 use tax imposed hereunder.

211 (hh) Sales of solar energy devices or systems designed to pro-
 212 vide heating or cooling, or electrical or mechanical power by
 213 collecting and transferring solar-generated energy and including
 214 mechanical or chemical devices for storing solar-generated energy.
 215 The Director of the Division of Energy Planning and Conservation
 216 in the Department of Energy shall establish standards with respect
 217 to the technical sufficiency of solar energy systems for purposes of
 218 qualification for exemption.

1 *20. For purposes of this amendatory and supplementary act,
 2 "eligible municipality" means any municipality imposing a tax
 3 under an ordinance adopted under this act.*

1 *~~[20.]~~* *21.* This act shall take effect immediately, except for
 2 section *~~[3]~~* *1*, which shall take effect July 1, 1981.

202 mission as defined in the Commodity Exchange Act, as amended;
 203 provided that the sale shall have been in fulfillment of the obliga-
 204 tions of a contract for future delivery of gold or silver, or an option
 205 to purchase or sell such commodity, entered into on and in accord-
 206 ance with the rules of such licensed contract or options market; pro-
 207 vided, further that this exemption shall not apply with respect to
 208 any gold or silver subsequently converted to use by a purchaser
 209 and in such event such purchaser shall be liable for the sales and
 210 use tax imposed hereunder.

211 (hh) Sales of solar energy devices or systems designed to pro-
 212 vide heating or cooling, or electrical or mechanical power by
 213 collecting and transferring solar-generated energy and including
 214 mechanical or chemical devices for storing solar-generated energy.
 215 The Director of the Division of Energy Planning and Conservation
 216 in the Department of Energy shall establish standards with respect
 217 to the technical sufficiency of solar energy systems for purposes of
 218 qualification for exemption.

1 20. This act shall take effect immediately, except for section 3,
 2 which shall take effect July 1, 1981.

STATEMENT

This bill amends the law establishing a local sales tax for Cities of the Fourth Class, commonly known as the "Luxury Tax", which is presently in effect in Atlantic City. The following changes are effected:

1. The present exemption from the State's Sales Tax which extends to transactions subject to the Luxury Tax is eliminated, on a phase-in period fully effective July 1, 1983. In the interim, Atlantic City loses, and the State gains, the revenues from this tax.

2. The Luxury Tax is reduced from 5% to 4% on July 1, 1980, and further to 3% on July 1, 1983.

3. The revenues from the Luxury Tax are shifted from the general budget of the City of Atlantic City to a special fund established in the Department of the Treasury and available to the Atlantic County Improvement Authority, for the purpose of funding bond issues incident to the improvement projects established by the Authority in Atlantic City.

4. Effective July 1, 1981, the Luxury Tax is eliminated from the sale of cigarettes and other tobacco products and package sales of whiskey and other alcoholic beverages.

The following table indicates the method for apportionment of the moneys to the State, to the City, and to the Atlantic County Improvement Authority over the period 1979-1983.

A.3313(1979)

	Available to Support Bonds of the Atlan-				Total
	State	Atlantic City General Purposes	tic County Improv- ment Authority		Tax
Through					
6/30/80	0	5%	0		5%
7/1/80-					
6/30/81	1%	4%	0		5%
7/1/81-					
6/30/82	4%	3%	1%		8%
7/1/82-					
6/30/83	4%	2%	2%		8%
On and after					
7/1/83	5%	0	3%		8%

ASSEMBLY TAXATION COMMITTEE

STATEMENT TO
ASSEMBLY, No. 3313
with committee amendments

STATE OF NEW JERSEY

DATED: MAY 14, 1979

This bill proposes to amend the law permitting a local sales tax to be imposed by cities of the fourth class, commonly known as the "Luxury Tax," and presently in effect in Atlantic City. The following changes are effected:

1. The "Sales and Use Tax Act" exempts from its provisions any transaction which is subject to the "luxury tax." This exemption is removed, on a phase-in basis, fully effective July 1, 1983. Therefore the State treasury will gain revenue as a result.

2. The "luxury tax" rate is reduced from the current 5% rate to 4% on July 1, 1980 and further reduced to 3% as of July 1, 1983.

3. The revenues from the "luxury tax" are presently considered general revenue to the Atlantic City treasury. These revenues are shifted, on a phased basis, to a special fund, newly established by the bill, in the State treasury, specifically dedicated to the payment of principal and interest on bonds issued by the Atlantic County Improvement Authority incident to authority projects in Atlantic City.

4. Effective July 1, 1981, the "luxury tax" base is modified, eliminating the current tax on cigarettes, cigars, and other tobacco products, and also package sales of alcoholic beverages, retaining the tax imposed on alcoholic beverages by the drink.

The following table indicates the time table and apportionment of rates to the State treasury, to Atlantic City, and to the special State treasury fund for support of Atlantic County Improvement Authority bonds over the period 1979 to 1983.

	State	Atlantic City General Purposes	Available to Support Bonds of the Atlantic County Improvement Authority	Total Tax
Through 6-30-80	0%	5%	0%	5%
7-1-80-6-30-81	1	4	0	5
7-1-81-6-30-82	4	3	1	8
7-1-82-6-30-83	4	2	2	8
On and after 7-1-83	5	0	3	8

COMMITTEE POSITION :

It is this committee's understanding and intent that the Atlantic City housing problem has a first priority claim on any funding made available to the Atlantic County Improvement Authority under this bill. It was represented to the committee by the representatives of the Second Legislative District that they, and the authority, enthusiastically support the committee's position regarding the priority need for housing programs. It did not escape the committee's attention that the improvement authority is not now empowered under its charter to get involved in housing programs. Nor did it escape the committee's attention that the Legislature is currently considering legislation to expand the type of projects in which county improvement authorities may get involved to include housing projects. Further, the governing body of Atlantic City requires a legislative determination as soon as possible on this proposal to facilitate budget planning. With this statement of intent, and with all of these factors in mind the committee favorably recommends this bill to the Assembly.

COMMITTEE AMENDMENT :

The committee amendment is technical in nature and adopted upon the request of the sponsor. The sponsor's intent was to have the modification of the tax base, accomplished in section 1, to be effective July 1, 1981. The committee amendment reflects that intent.

FISCAL IMPACT :

A fiscal note on this bill was not yet available to the committee. It is obvious, however, from a review of the bill that the State treasury will experience an increase in revenue because of the phase-out of the exemption from the State sales tax of certain transactions in Atlantic City. Further, the revenue from the "luxury tax" to Atlantic City will decline because of the change in rate and the disposition of revenue from the "luxury tax" to a point where on and after July 1, 1983 there will be no revenue from the "luxury tax" available to Atlantic City for budget purposes.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

974-901

961

December 3, 1979

ASSEMBLY BILL NO. 3313

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 3313, with my objections, for reconsideration.

This bill would amend the law permitting a local sales tax to be imposed by cities of the fourth class, commonly known as the "Luxury Tax," and presently in effect in Atlantic City. The tax would be reduced from 5% to 3% by July 1, 1982 and the revenue would be shifted from the Atlantic City treasury to a special fund dedicated to the payment of principal and interest on bonds issued by the Atlantic County Improvement Authority. The bill would also narrow the base of the Luxury Tax and would subject sales in Atlantic City to the state sales tax by July 1, 1981.

The bill is connected with Assembly Bill No. 3430 which would grant new powers with respect to housing development to the Atlantic County Improvement Authority.

I agree fully with the intent of this legislation and would suggest amendments only as to the timing of the shift of revenues from the city to the State and the County Improvement Authority. I believe that the recent dramatic rise in property values due to legalized gambling in Atlantic City will permit the city government to replace lost revenues in the immediate future and that the bill as passed unnecessarily extends the transition period.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

-2-

Accordingly, I return Assembly Bill No. 3313 and recommend that it be amended as follows:

Page 2, Section 2, Line 15: Delete "1983", insert "1981" in two places

Page 2, Section 3, Line 12: Delete "75%", insert "66 2/3%"

Page 3, Section 3, Line 14: Delete "25%", insert "33 1/3%"

Page 3, Section 3, Lines 20-24B: Delete lines in their entirety

Page 3, Section 3, Line 25: Delete "(d)", insert "(c)"
Delete "1983", insert "1982"

Page 12, Section 19, Lines 130-132: Delete lines in their entirety

Page 12, Section 19, Line 133: Delete "(iv)", insert "(iii)"
Delete "1983", insert "1981"

Respectfully,

/s/ Brendan Byrne

GOVERNOR

[seal]

Attest:

/s/ Harold L. Hodes

CHIEF OF STAFF, SECRETARY

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

JANUARY 3, 1980

PAT SWEENEY

Governor Brendan Byrne today signed two bills, which could facilitate construction of low and moderate income housing in Atlantic City.

This legislation shifts the "luxury tax" revenues from the city treasury to a special fund for the Atlantic County Improvement Authority.

A companion bill also expands the powers of the Improvement Authority to promote housing construction.

Signing the legislation, Governor Byrne referred to A-3313 and its companion A-3430 as "extremely important in addressing the housing problems in Atlantic County. The advent of casino gambling has dramatically altered the social complexion of Atlantic City," he added. "These bills represent positive initiatives in dealing with the issue of housing in this resort city."

Both bills were sponsored by Assemblyman Michael J. Matthews (D-Atlantic).

A-3313 amends the Atlantic City Luxury Tax in the following manner:

-- Over a three-year period, the tax will be gradually reduced from five percent to three percent and the revenues diverted from the City Treasury to a special fund in the State Treasury dedicated solely to the support of Atlantic County Improvement Authority projects in Atlantic City.

-- During the same period the State sales tax will take effect in the city.

-more-

--The base for the luxury tax will be reduced to eliminate the tax on tobacco products and the package sale of alcoholic beverages.

The following chart sets forth the schedule of changes:

	For Atlantic City	For State	For ACIA
Through 6/30/80	5%	0	0
7/1/80 - 6/30/81	4%	1%	0
7/1/81 - 6/30/82	2%	5%	1%
on and after 7/1/82	0	5%	3%

The other bill, A-3430, expands the powers of the county improvement authorities.

This bill makes it possible, with the financing produced by A-3313, for the Atlantic County Improvement Authority to function in a manner similar to the State Housing Finance Agency. The bill permits the county improvement authority to grant loans for low and moderate income housing projects.

The housing will be sponsored by private developers and will be available for low and moderate income families. The initial income limits, subject to cost of living adjustments, are set at \$32,100.

The Improvement Authority will also be granted redevelopment powers, subject to the actions of the governing body and the planning board of the municipality in promulgating a redevelopment plan.

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