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P.L. 2008, CHAPTER 65, *approved August 14, 2008*
Senate Committee Substitute (*Second Reprint*) for
Senate, No. 1339

1 AN ACT concerning the investment of certain municipal funds
2 ¹~~and~~,¹ supplementing chapter 5 of Title 40A of the New Jersey
3 Statutes ¹, and amending P.L.1992, c.79¹.

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

7
8 1. (New section) The Legislature finds and declares:

9 a. Elected municipal officials are the stewards for the property
10 owned by the municipality.

11 b. It is sometimes necessary or desirable for the municipality to
12 sell some of its assets that are no longer needed for a public
13 purpose.

14 c. ¹~~Elect~~ed officials are often subjected to pressures to act for
15 short term political gains, at the expense of the long-term interests
16 of the property taxpayers of the municipality.¹ The use of
17 proceeds from the sale or lease of a municipal asset that results in
18 relatively large proceeds, to either fund a new service or to provide
19 property tax relief for a limited period of time, are examples of
20 actions by a local governing body that often necessitate subsequent
21 property tax increases to either continue the new service or to fill-in
22 the revenue gap.

23 d. ²~~It~~ Since the development or redevelopment of high valued
24 municipal assets in a municipality in which casino gaming is
25 authorized may be inextricably intertwined with the success of the
26 casino gaming industry, an important revenue source for the State,
27 it² is in the best interests of ²~~the~~² municipal taxpayers ², as well as
28 the citizens of the State,² for the State ¹~~to exercise oversight by~~
29 ensuring that the and local¹ elected officials ¹~~act prudently~~
30 regarding the to work collaboratively together to effectuate the
31 prudent¹ disposition of high value assets ², to ensure that the
32 interests of the State's casino gaming industry are not harmed,² and
33 ²to plan for² the management of proceeds from the sale, assignment,
34 lease, transfer, or redevelopment of those assets, when significant
35 sums are involved, to ensure that any intended relief to municipal
36 property taxpayers is maximized.

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ATG committee amendments adopted May 5, 2008.

² Assembly floor amendments adopted May 19, 2008.

1 2. (New section) a. Whenever a municipality ²[¹, other than a
2 city of the first class,¹] in which casino gaming is authorized²
3 intends to sell, assign, lease, or transfer ownership, or any other
4 interest, in any real property, including real property to be sold,
5 assigned, leased, or transferred pursuant to a redevelopment plan, or
6 in any capital improvement or personal property, and:

7 (1) the asset has an assessed value of at least \$50 million, and
8 either

9 (2) (a) the proceeds to be realized by the municipality as a result
10 of the sale, assignment, lease, or transfer, regardless of the length of
11 the term of the payment, will exceed its final appropriations for the
12 previous year's budget, as determined pursuant to section 2 of
13 P.L.1976, c.68 (C.40A:4-45.2), or

14 (b) the sale, assignment, lease, or transfer is to another public
15 entity, regardless of the amount of the proceeds to be realized by
16 the municipality, then,

17 the governing body of the municipality shall submit an application
18 for approval by the Local Finance Board containing a plan for
19 conducting the sale, assignment, lease, transfer, or redevelopment
20 of the asset in accordance with procedures or forms promulgated by
21 the Local Finance Board for this purpose.

22 ¹(c) Notwithstanding subsection g. of section 8 of P.L.1992, c.79
23 (C.40A:12A-8), regarding the procedure for the sale or lease of
24 assets by a municipality or redevelopment entity pursuant to a
25 redevelopment plan, an asset subject to this subsection only shall be
26 sold, assigned, leased, or transferred through a fair and open
27 competitive process. ¹

28 b. Upon submission of the proposed plan required pursuant to
29 subsection a. of this section, the Local Finance Board shall schedule
30 a hearing ¹within 45 calendar days upon receipt of the proposed
31 plan,¹ for the purpose of approving the plan pursuant to subsection
32 c. of this section. ¹If the Local Finance Board does not schedule a
33 hearing within 45 calendar days, then the plan is deemed approved.¹

34 c. At a hearing scheduled pursuant to subsection b. of this
35 section, the Local Finance Board may approve the proposed plan
36 for the sale, assignment, lease, transfer, or redevelopment of the
37 asset. No actions to implement the proposed plan shall be taken
38 until it has been approved by the Local Finance Board.

39 d. ¹Subsequent to the issuance of an approval required by
40 subsection c. of this section and prior to adopting any resolution or
41 ordinance, or amending a resolution or ordinance introduced for the
42 purpose of the sale, assignment, lease, transfer, or redevelopment of
43 the asset, the municipality shall first obtain from the Local Finance
44 Board a certification that: (1) the municipality complied with the
45 requirements of P.L. _____, c. _____ (C. _____) (pending before the
46 Legislature as this bill); and (2) the proposed disposition of the
47 asset, as introduced by the governing body, reflects the highest and

1 best use of the asset, considering all relevant factors and
2 circumstances.

3 e. To provide the certification required by subsection d. of this
4 section, the Local Finance Board must find that the municipality
5 implemented, without material deviation, the approved plan
6 required by this section and has otherwise satisfied all other
7 requirements of P.L. _____, c. _____ (C. _____) (pending before the
8 Legislature as this bill). The findings of the Local Finance Board
9 shall be supported by a “fairness opinion” and appraisal,
10 commissioned by the board from a reputable, experienced, and
11 independent third-party entity licensed to do business in the State of
12 New Jersey. The cost and expenses incurred by the Local Finance
13 Board to commission the independent review may be reimbursed
14 from the proceeds realized by the municipality as a result of the
15 sale, assignment, lease or transfer of the asset.

16 f.¹ The sale, assignment, lease, transfer, or redevelopment of a
17 municipal asset requiring an application for approval by the Local
18 Finance Board pursuant to this section shall be voidable if the
19 municipal governing body fails to submit the application.

20
21 3. (New section) a. The governing body of a municipality shall
22 apply to the Local Finance Board '[,]'¹ on or before the 30th day
23 prior to the closing of an agreement for the disposition of an asset
24 requiring board approval in accordance with section 2 of P.L. _____,
25 c. (C. _____) (pending before the Legislature as this bill), for
26 approval of a plan, in the form of an ordinance, to allocate the
27 proceeds of the sale, assignment, lease, transfer, or execution of a
28 redevelopment agreement. The application shall be made in
29 accordance with procedures or forms promulgated by the Local
30 Finance Board. The proposed allocation plan shall state the
31 purposes for which the cash proceeds resulting from the sale,
32 assignment, lease, transfer, or redevelopment of the asset shall be
33 used.

34 b. Upon the filing of an application pursuant to subsection a. of
35 this section, the Local Finance Board shall schedule a hearing
36 'within 45 calendar days upon receipt of the application,'¹ for the
37 purpose of approving a proposed plan to allocate the proceeds of the
38 sale, assignment, lease, transfer, or redevelopment of the asset. At
39 the hearing the Local Finance Board may approve the proposed plan
40 or require its modification. The plan may be amended from time-
41 to-time, as deemed necessary by the governing body '[, with the
42 approval of] and'¹ the Local Finance Board 'subject to a two-thirds
43 majority voter referendum'¹.

44 c. Upon approval by the Local Finance Board in accordance
45 with subsection b. of this section, a proposed ordinance to
46 effectuate the allocation plan may be finally adopted by the
47 municipality.

1 d. A sale, assignment, lease, transfer, or redevelopment of a
2 municipal asset requiring approval of an allocation plan pursuant to
3 this section shall be voidable if the municipal governing body fails
4 to comply with the requirements of this section.

5
6 4. (New section) a. (1) Upon final approval of an ordinance by
7 the municipal governing body pursuant to subsection c. of section 3
8 of P.L. , c. (C.) (pending before the Legislature as this bill),
9 the Local Finance Board may order that the proceeds from the
10 disposition of municipal assets, described in section 3 of P.L. ,
11 c. (C.) (pending before the Legislature as this bill), shall be
12 deposited in a dedicated trust fund which shall be managed in
13 accordance with the provisions of this subsection.

14 (2) Funds, for purposes described in the approved allocation
15 plan, may be disbursed from the dedicated trust fund and shall be
16 invested and managed pursuant to the provisions of the allocation
17 plan required pursuant to subsection b of this section, and the
18 investment plan approved pursuant to subsection d. of this section.

19 b. The management of funds in the dedicated trust fund shall be
20 the responsibility of an investment oversight board which shall be
21 organized immediately after each member provided for in
22 subsection c. of this section has qualified and taken the oath of
23 office.

24 c. The investment oversight board of a dedicated trust fund
25 established pursuant to this section shall consist of three members
26 as follows:

27 (1) The mayor of the municipality, ex-officio, or his designee;

28 (2) One member of the municipal council of the municipality,
29 selected by a majority of its members, ex-officio, or his designee;
30 and

31 (3) The chief financial officer of the municipality, ex-officio.

32 d. Each investment oversight board member shall, within 10
33 days after his appointment or selection, take an oath of office that
34 so far as it devolves upon him, he will diligently and honestly
35 administer the affairs of the board, and that he will not knowingly
36 violate or willingly permit to be violated any of the provisions of
37 law applicable to the dedicated trust fund. The oath shall be
38 subscribed by the member making it, and certified by the officer
39 before whom it is taken, and immediately filed in the office of the
40 clerk of the municipality and in the office of the Secretary of State.

41 e. The members of the investment oversight board shall serve
42 without compensation, but they shall be reimbursed by the
43 municipality for all reasonable and necessary expenses that they
44 incur through service on the board.

45 f. Each investment oversight board member shall be entitled to
46 one vote on the board. A unanimous vote shall be necessary for a
47 decision by the members at any meeting of the board; provided,

1 however, that no vote shall be necessary for the annual distribution
2 of earnings from the dedicated trust fund to the municipality for
3 municipal property tax relief, if so provided in the allocation plan
4 ordinance adopted pursuant to section 3 of P.L. , c. (C.)
5 (pending before the Legislature as this bill).

6 g. Subject to the requirements and limitations of P.L. ,
7 c. (C.) (pending before the Legislature as this bill), the
8 investment oversight board shall, from time to time, establish an
9 investment management plan for the administration of the dedicated
10 trust fund established pursuant to this section.

11 h. The investment oversight board shall elect from its
12 membership a chairman. Any member of the board so elected shall
13 serve as the chairman for a term of two years and until election of
14 his successor. When the term of office of an elected official ends
15 prior to the completion of his two-year chairmanship term, then a
16 new chairman shall be selected for a term of two years.

17 i. The Director of the Division of Investment in the Department
18 of the Treasury, or a designee, shall be the secretary to any
19 investment oversight board established pursuant to this section.

20 j. An investment oversight board solely shall use the services of
21 the State Division of Investment to manage the business of its
22 dedicated trust fund.

23 k. The Attorney-General of the State of New Jersey shall be the
24 legal advisor to any investment oversight board established
25 pursuant to this section.

26 l. The assets of a dedicated trust fund established pursuant to
27 this section shall be maintained, invested, and expended solely in
28 accordance with an approved investment plan entered into pursuant
29 to section 5 of P.L. , c. (C.) (pending before the Legislature
30 as this bill); provided, however, that an investment plan shall not
31 permit the assets of the dedicated trust fund to be loaned,
32 transferred, or otherwise used by the State or any of its political
33 subdivisions. This subsection shall not be construed to prohibit the
34 investment oversight board from investing in, by purchase or
35 otherwise, bonds, notes, or other obligations of the State or of an
36 agency or instrumentality of the State.

37

38 5. (New section) a. An investment oversight board created
39 pursuant to section 4 of P.L. , c. (C.) (pending before the
40 Legislature as this bill), acting in consultation with the Director of
41 the Division of Investment in the Department of the Treasury, shall:

42 (1) establish an investment plan for the purposes of its dedicated
43 trust fund established pursuant to subsection a. of section 4 of
44 P.L. , c. (C.) (pending before the Legislature as this bill),
45 subject to the approval of the State Treasurer; and

46 (2) annually review its investment plan to assure that the
47 program remains actuarially sound.

1 b. (1) An investment plan established pursuant to subsection a.
2 of this section shall specify the investment policies, and
3 notwithstanding the provisions of section 8 of P.L.1977, c.396
4 (C.40A:5-15.1), the types of financial instruments permitted for
5 investment that shall be used by the Division of Investment in its
6 administration of the fund.

7 c. (1) When required by the allocation plan adopted pursuant to
8 section 3 of P.L. , c. (C.) (pending before the Legislature as
9 this bill), at the close of each fiscal year of the municipality, the
10 investment oversight board shall certify to the municipality the
11 amount of earnings that are available for distribution.

12 (2) If those earnings are to be used for municipal property tax
13 relief, then such amount shall be distributed from the dedicated trust
14 fund to the municipality on the following schedule: February 1,
15 25% of the total amount due; May 1, 25% of the total amount due,
16 August 1, 25% of the total amount due; and November 1, 25% of
17 the total amount due.

18 (3) Distribution of funds for purposes other than municipal
19 property tax relief shall be made pursuant to an agreement between
20 the municipality and the investment oversight board, if permitted by
21 municipal ordinance.

22 d. The investment oversight board shall be subject to the
23 “prudent person” standard of care applicable to the Division of
24 Investment in the Department of the Treasury pursuant to
25 subsection b. of section 11 of P.L.1950, c.270 (C.52:18A-89).

26 e. (1) The day-to-day administration of the investments of any
27 dedicated trust fund established pursuant to subsection a. of section
28 4 of P.L. , c. (C.) (pending before the Legislature as this
29 bill) shall be vested with the Division of Investment in the New
30 Jersey Department of the Treasury.

31 (2) The division shall be responsible for providing such services
32 as may be deemed necessary for the implementation of a
33 comprehensive investment program for the approved investment
34 plan, including, but not limited to:

- 35 (a) providing billing;
- 36 (b) individual and collective record keeping and accounting;
- 37 (c) asset purchase, control, and safe keeping;
- 38 (d) investment management, marketing, administration,
39 compliance, and internal control;
- 40 (e) program operations; and
- 41 (f) other services necessary to carry out the purposes of P.L. ,
42 c. (C.) (pending before the Legislature as this bill).

43
44 6. (New section) a. Every investment oversight board created
45 pursuant to section 4 of P.L. , c. (C.) (pending before the
46 Legislature as this bill) shall be responsible for keeping a record of
47 all of its proceedings, which shall be open to public inspection. It

1 shall publish a quarterly report of the trust account's operations and
2 an annual report showing the fiscal transactions of the dedicated
3 trust fund for the preceding year, the amount of accumulated cash
4 and securities of the fund, and the last balance sheet showing the
5 financial condition of the dedicated trust fund by means of an
6 actuarial valuation of the assets and liabilities of the dedicated trust
7 fund.

8 b. All reports required pursuant to subsection a. of this section
9 shall be submitted to the Governor, Commissioner of Community
10 Affairs, State Comptroller, the State Treasurer, and each member of
11 the governing body of the municipality no later than 45 days after
12 the end of the municipality's fiscal year.

13
14 7. (New section) a. The accounts of every dedicated trust fund
15 established pursuant to subsection a. of section 4 of P.L. ,
16 c. (C.) (pending before the Legislature as this bill) shall be
17 subject to annual audits by the State Auditor or a designee. In
18 addition, the investment oversight board of a dedicated trust fund
19 shall commission an independent audit of its program. The results
20 of the independent audit shall be open to public inspection and shall
21 be provided to the Governor, Commissioner of Community Affairs,
22 State Comptroller, the State Treasurer, and each member of the
23 governing body of the municipality. The investment oversight
24 board may use earnings of the fund to pay for the cost of an
25 independent audit required by this subsection.

26 b. Statements, reports on distributions, and information returns
27 relating to accounts for a dedicated trust fund shall be prepared,
28 distributed, and filed to the extent required by section 529 of the
29 federal Internal Revenue Code of 1986, 26U.S.C. s.529.

30
31 ¹8. Section 8 of P.L.1992, c.79 (C.40A:12A-8) is amended to
32 read as follows:

33 8. Upon the adoption of a redevelopment plan pursuant to
34 section 7 of P.L.1992, c.79 (C.40A:12A-7), the municipality or
35 redevelopment entity designated by the governing body may
36 proceed with the clearance, replanning, development and
37 redevelopment of the area designated in that plan. In order to carry
38 out and effectuate the purposes of this act and the terms of the
39 redevelopment plan, the municipality or designated redevelopment
40 entity may:

41 a. Undertake redevelopment projects, and for this purpose issue
42 bonds in accordance with the provisions of section 29 of P.L.1992,
43 c.79 (C.40A:12A-29).

44 b. Acquire property pursuant to subsection i. of section 22 of
45 P.L.1992, c.79 (C.40A:12A-22).

46 c. Acquire, by condemnation, any land or building which is
47 necessary for the redevelopment project, pursuant to the provisions

- 1 of the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et
2 seq.).
- 3 d. Clear any area owned or acquired and install, construct or
4 reconstruct streets, facilities, utilities, and site improvements
5 essential to the preparation of sites for use in accordance with the
6 redevelopment plan.
- 7 e. Prepare or arrange by contract for the provision of
8 professional services and the preparation of plans by registered
9 architects, licensed professional engineers or planners, or other
10 consultants for the carrying out of redevelopment projects.
- 11 f. Arrange or contract with public agencies or redevelopers for
12 the planning, replanning, construction, or undertaking of any
13 project or redevelopment work, or any part thereof; negotiate and
14 collect revenue from a redeveloper to defray the costs of the
15 redevelopment entity, including where applicable the costs incurred
16 in conjunction with bonds, notes or other obligations issued by the
17 redevelopment entity, and to secure payment of such revenue; as
18 part of any such arrangement or contract, provide for extension of
19 credit, or making of loans, to redevelopers to finance any project or
20 redevelopment work, or upon a finding that the project or
21 redevelopment work would not be undertaken but for the provision
22 of financial assistance, or would not be undertaken in its intended
23 scope without the provision of financial assistance, provide as part
24 of an arrangement or contract for capital grants to redevelopers; and
25 arrange or contract with public agencies or redevelopers for the
26 opening, grading or closing of streets, roads, roadways, alleys, or
27 other places or for the furnishing of facilities or for the acquisition
28 by such agency of property options or property rights or for the
29 furnishing of property or services in connection with a
30 redevelopment area.
- 31 g. **【Lease】** Except with regard to property subject to the
32 requirements of P.L. , c. (C.) (pending before the
33 Legislature as this bill), lease or convey property or improvements
34 to any other party pursuant to this section, without public bidding
35 and at such prices and upon such terms as it deems reasonable,
36 provided that the lease or conveyance is made in conjunction with a
37 redevelopment plan, notwithstanding the provisions of any law,
38 rule, or regulation to the contrary.
- 39 h. Enter upon any building or property in any redevelopment
40 area in order to conduct investigations or make surveys, sounding or
41 test borings necessary to carry out the purposes of this act.
- 42 i. Arrange or contract with a public agency for the relocation,
43 pursuant to the "Relocation Assistance Law of 1967," P.L.1967,
44 c.79 (C.52:31B-1 et seq.) and the "Relocation Assistance Act,"
45 P.L.1971, c.362 (C.20:4-1 et seq.), of residents, industry or
46 commerce displaced from a redevelopment area.

1 j. Make, consistent with the redevelopment plan: (1) plans for
2 carrying out a program of voluntary repair and rehabilitation of
3 buildings and improvements; and (2) plans for the enforcement of
4 laws, codes, and regulations relating to the use and occupancy of
5 buildings and improvements, and to the compulsory repair,
6 rehabilitation, demolition, or removal of buildings and
7 improvements.

8 k. Request that the planning board recommend and governing
9 body designate particular areas as being in need of redevelopment
10 or rehabilitation in accordance with the provisions of this act and
11 make recommendations for the redevelopment or rehabilitation of
12 such areas.

13 l. Study the recommendations of the planning board or
14 governing body for redevelopment of the area.

15 m. Publish and disseminate information concerning any
16 redevelopment area, plan or project.

17 n. Do all things necessary or convenient to carry out its powers.¹
18 (cf: P.L.1992, c.79, s.8)

19

20 ¹9. (New section) The Local Finance Board in the Department
21 of Community Affairs may adopt rules and regulations pursuant to
22 the provisions of the "Administrative Procedure Act," P.L. 1968,
23 c.410 (C. 52:14B-1 et seq.) as the Board may deem necessary to
24 implement or administer any of its responsibilities under this act,
25 P.L. , c. (C.) (pending before the Legislature as this bill).¹

26

27 ¹[8.] 10.¹ This act shall take effect immediately and shall be
28 retroactive with respect to resolutions for the sale, assignment,
29 lease, transfer, or redevelopment of municipal property that are
30 adopted on or after March 1, 2008.

31

32

33

34

35 Requires deposit of proceeds from sale, assignment, lease,
36 transfer, or redevelopment of certain high value municipal assets
37 into dedicated trust fund; provides for establishment, supervision,
38 and administration of dedicated trust fund.

SENATE, No. 1339

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED FEBRUARY 26, 2008

Sponsored by:
Senator JIM WHELAN
District 2 (Atlantic)

SYNOPSIS

Requires Local Finance Board oversight for the sale or lease of certain valuable municipal assets under certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the sale or lease of valuable assets by certain
2 municipalities and supplementing chapter 5 of Title 40A of the
3 New Jersey Statutes.

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

7
8 1. The Legislature finds and declares:

9 a. Elected municipal officials are the stewards for the property
10 owned by the municipality.

11 b. It is sometimes necessary or desirable for the municipality to
12 sell or lease some of its assets that are no longer needed for a public
13 purpose.

14 c. Elected officials are often subject to a lot of pressure to act
15 for short-term political gains, at the expense of the long-term
16 interests of the property taxpayers of the municipality. The use of
17 the proceeds from the sale or lease of a valuable municipal asset,
18 especially when those proceeds are relatively large, to either fund a
19 new service or to provide property tax relief for one year, are
20 examples of actions by a local governing body that often necessitate
21 a property tax increase for the following year to either continue the
22 new service or to fill-in the revenue gap.

23 d. It is in the best interests of municipal taxpayers for the State
24 to exercise some oversight by advising and assisting their elected
25 officials with the disposition of the proceeds from the sale or lease
26 of very valuable municipal assets, so that appropriate planning can
27 be accomplished to ensure that relief to property taxpayers is
28 maximized.

29
30 2. a. (1) Whenever a municipality intends to sell or lease any
31 real property, capital improvement, or personal property, or
32 interests therein, including real property to be sold or leased
33 pursuant to a redevelopment plan, and the cash proceeds to be
34 realized by the municipality as a result of the sale or lease,
35 regardless of the length of the term of the payment, will exceed its
36 final appropriations for the previous year, as determined pursuant to
37 section 2 of P.L.1976, c.68 (C.40A:4-45.2), the chief financial
38 officer of the municipality shall notify the Local Finance Board at
39 least 60 days prior to the date of adoption of any resolution or
40 ordinance authorizing the sale or lease, or prior to the advertisement
41 or issuance of a request for proposals concerning the sale or lease of
42 the municipal asset.

43 (2) The Director of the Division of Local Government Services
44 in the Department of Community Affairs, in consultation with the
45 Local Finance Board, may promulgate rules, regulations,
46 procedures, and forms for the purposes of this subsection.

47 b. Upon notification of intention to sell or lease a municipal
48 asset pursuant to subsection a. of this section, the Local Finance

1 Board shall promptly schedule a hearing for the purpose of
2 exercising continuing oversight over the sale or lease of the
3 municipal asset. The oversight responsibilities of the board shall be
4 to advise and assist the municipal governing body with appropriate
5 financial planning for the disposition of the proceeds from the sale
6 or lease, in order to maximize permanent property tax relief for the
7 municipal taxpayers.

8 c. The sale or lease of a municipal asset requiring notice to the
9 Local Finance Board pursuant to subsection a. of this section shall
10 be voidable if the notice to the board is not provided.

11 d. No request for proposals concerning the sale or lease of a
12 municipal asset requiring notice to the Local Finance Board
13 pursuant to subsection a. of this section, including requests for
14 proposals pursuant to a redevelopment plan, shall be authorized and
15 effective until approved by the Local Finance Board.

16

17 3. a. At a hearing scheduled in accordance with subsection b. of
18 section 2 of P.L. , c. (C.) (pending before the Legislature as
19 this bill), the Local Finance Board may order (1) that the cash
20 proceeds of a sale of municipal assets described in section 2 of
21 P.L. , c. (C.) (pending before the Legislature as this bill)
22 shall be deposited in a trust fund in the name of the municipality
23 and for the permanent relief of the property taxpayers of that
24 municipality, or (2) that a plan be developed for the use of the cash
25 proceeds and that the plan be approved by the Local Finance Board
26 prior to implementation.

27 b. (1) The Director of the Division of Investment in the
28 Department of the Treasury, or a designee, shall be the secretary of
29 any trust fund that may be required to be established pursuant to
30 subsection a. of this section.

31 (2) The Attorney General of the State of New Jersey shall be the
32 legal advisor of any board of trustees appointed pursuant to
33 subsection a. of this section.

34

35 4. This act shall take effect immediately and shall be retroactive
36 with respect to ordinances, resolutions, and requests for proposals
37 in furtherance of the sale or lease of a municipal asset and that are
38 adopted or advertised on or after March 1, 2008.

39

40

41

STATEMENT

42

43 This bill requires the chief financial officer of a municipality to
44 notify the Local Finance Board whenever the governing body of the
45 municipality intends to adopt a resolution or ordinance authorizing
46 the sale or lease of a municipal asset that is expected to result in
47 cash proceeds to be realized by the municipality, regardless of the
48 length of the term of the payment, that will exceed its final

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1 appropriations for the previous year as calculated under the local
2 budget cap. This notice would also be required for a sale or lease
3 pursuant to a redevelopment plan. The notice would have to be
4 provided at least 60 days prior to the date of any resolution or
5 ordinance authorizing the sale or lease, or 60 days prior to the
6 advertisement or issuance of a request for proposals.

7 Upon notification of the proposed sale or lease, the Local
8 Finance Board would schedule a hearing for the purpose of
9 exercising continuing oversight over the sale or lease in order to
10 advise and assist the municipal governing body with the disposition
11 of the proceeds from the sale or lease to ensure maximized
12 permanent relief to the municipality's property taxpayers. This may
13 be accomplished through the establishment of a trust, or by any
14 other means deemed appropriate by the Local Finance Board.

15 The bill would be retroactive to any resolution, ordinance, or
16 request for proposals concerning the sale or lease of a valuable
17 municipal asset that is adopted on or after March 1, 2008.

ASSEMBLY TOURISM AND GAMING COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 1339**

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 5, 2008

The Assembly Tourism and Gaming Committee reports favorably and with committee amendments the Senate Committee Substitute for Senate Bill No. 1339.

As amended by the committee, this Senate committee substitute bill requires any municipality, except for a city of the first class, to have a proposed sale, assignment, lease, transfer, or redevelopment of a municipal asset reviewed by the Local Finance Board when the assessed value of the asset is greater than \$50 million and the proceeds to be realized by the municipality, regardless of the length of the term of the payment, will exceed its final appropriations for the previous year's budget. Prior to the sale, the municipality must submit for approval by the Local Finance Board a proposed ordinance containing a plan for the sale of the asset.

Specifically, at least 30 days prior to the date of the closing of an agreement for the disposition of an asset requiring Local Finance Board approval, the municipality must submit an application for approval by the board containing a plan for conducting the sale, assignment, lease, transfer or redevelopment of the asset in accordance with procedures or forms promulgated by the board. An allocation plan ordinance, authorizing the transaction, must also state the purposes for which the cash proceeds from the sale or other disposition will be used. Upon notification of the proposed sale, assignment, lease, transfer, or redevelopment of a municipal asset, the Local Finance Board is required to schedule a hearing for the purpose of approving the allocation plan ordinance prior to its final adoption. The Local Finance Board may require changes to the ordinance and before the municipality can proceed, the board is required to certify that the municipality has complied with the requirements of this bill and that the proposed disposition of the asset "reflects the highest and best use of the asset, considering all relevant factors and circumstances." After the Local Finance Board and the governing body have both approved the ordinance authorizing the sale or other disposition, the Local Finance Board may order that the cash proceeds of the sale be

deposited in a dedicated trust account in the name of the municipality for the benefit of the residents of that municipality.

The general supervision of the trust account would be vested in a three-member investment oversight board comprised of the mayor of the municipality, ex officio; one member of the governing body of the municipality selected by a majority of its members, ex officio; and the chief financial officer of the municipality, ex officio. The investment oversight board members would not receive a salary, but would be reimbursed by the municipality for all reasonable and necessary expenses that they incur while serving on the board.

The board would be led by a chairman, elected by the members for a two-year term. The Director of the Division of Investment in the Department of the Treasury, or a designee, would serve as secretary of the dedicated trust account. The Attorney General would serve as the legal advisor to the investment oversight board. The board would have the authority to engage other special services that may be required to transact the business of the trust account and set the compensation of all persons engaged by the trust account. The administration of the trust account assets would be delegated by the board to the Division of Investment in the Department of the Treasury. The division would be responsible for providing any services that may be deemed necessary for the implementation of the comprehensive investment plan. The division would deduct from the fund the costs for the administration of the dedicated trust fund.

The investment oversight board, acting in consultation with the Director of the Division of Investment in the Department of the Treasury, would be required to establish a comprehensive investment plan and annually review the plan to ensure that it remains actuarially sound. The comprehensive investment plan must specify the investment policies to be used by the division in its administration of the account. One-quarter of the interest earnings are to be distributed to the municipality each quarter, specifically on February 1, May 1, August 1, and November 1 of each year. The investment oversight board and the Director of the Division of Investment must agree on the plan, subject to final approval from the State Treasurer.

The assets of a dedicated trust account would be maintained, invested, and expended solely in compliance with the comprehensive investment plan and could not be loaned, transferred, or otherwise used by the State or any of its political subdivisions. The board can choose to invest trust account assets in bonds, notes or other obligations of the State or any agency or instrumentality of the State and would be subject to the "prudent person" standard of care applicable to the Division of Investment in the Department of the Treasury.

This Senate committee substitute bill, as amended by the committee, requires the investment oversight board to keep a record of its meetings that would be available to the public. The board must also

publish a quarterly report of the accounts operations. The board would also be required to publish an annual report showing the financial transactions of the dedicated trust fund for the preceding year, the amount of cash and accumulated securities of the system, and the last balance sheet showing the financial condition of the trust account by means of an actuarial valuation of the assets and liabilities of the dedicated trust fund. All reports would be distributed to the Governor, Commissioner of Community Affairs, State Comptroller, and State Treasurer and each member of the governing body of the municipality no later than 45 days after the end of the municipality's fiscal year.

The accounts of the dedicated trust fund would be subject to annual audits by the State Auditor, or a designee. The board would be required to commission an independent audit of the program, the results of which would be made available of the public and provided to the Governor, Commissioner of Community Affairs, State Comptroller, State Treasurer, and each member of the governing body of the municipality to ensure transparency.

This Senate committee substitute bill, as amended by the committee, would be retroactive to any sale, assignment, lease, transfer, or redevelopment of a municipal asset proposed on or after March 1, 2008.

COMMITTEE AMENDMENTS

The committee amended the bill to:

(1) modify the findings to focus on a municipality working with the State, for the benefit of the taxpayers, to effectuate the prudent disposition of high value assets;

(2) exempt cities of the first class (Newark and Jersey City) from the provisions of the bill;

(3) ensure that the provisions of the bill cannot be avoided by the transfer of an asset to a redevelopment entity pursuant to a redevelopment plan under the "Local Redevelopment and Housing Law." The asset would be required to be sold, assigned, leased, or transferred through a "fair and open competitive process;"

(4) require the Local Finance Board to schedule a hearing on a proposed plan to sell a high value municipal asset within 45 days, or the plan is deemed approved by the board;

(5) require the certification of the Local Finance Board that a municipality has complied with the requirements of the bill and that the proposed disposition of the asset "reflects the highest and best use of the asset, considering all relevant factors and circumstances" before the municipality can adopt an ordinance or resolution for the sale of the high value asset;

(6) require the Local Finance Board to commission an independent review of the disposition plan, including an appraisal of the high value municipal asset, to support its compliance certification;

(7) require the Local Finance Board to schedule a hearing on a proposed plan regarding the allocation of the proceeds of a sale, or other disposition, of a high value asset within 45 days;

(8) permit the amendment of a proceeds allocation plan by the municipal governing body and the Local Finance Board, subject to approval by two-thirds of the municipal voters voting at a referendum on the proposed amendments;

(9) amend N.J.S.A.40A:12A-8 of the "Local Redevelopment and Housing Law" to create an exception from the general power of a redevelopment entity to lease or convey property, for high value assets that are subject to the requirements of this bill; and

(10) authorize the Local Finance Board in the Department of Community Affairs to adopt rules and regulations pursuant to the provisions of the "Administrative Procedure Act," P.L. 1968, c.410 (C. 52:14B-1 et seq.) as the Board may deem necessary to implement or administer any of its responsibilities under the bill.

As amended, this Senate committee substitute is identical to Assembly, No. 2563 (1R).

SENATE STATE GOVERNMENT COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 1339**

STATE OF NEW JERSEY

DATED: MARCH 10, 2008

The Senate State Government Committee reports favorably a Senate Committee Substitute for Senate Bill No. 1339.

This Senate committee substitute bill requires any municipality to have a proposed sale, assignment, lease, transfer, or redevelopment of a municipal asset reviewed by the Local Finance Board when the assessed value of the asset is greater than \$50 million and the proceeds to be realized by the municipality, regardless of the length of the term of the payment, will exceed its final appropriations for the previous year's budget. Prior to the sale, the municipality must submit for approval by the Local Finance Board a proposed ordinance containing a plan for the sale of the asset.

Specifically, at least 30 days prior to the date of the closing of an agreement for the disposition of an asset requiring Local Finance Board approval, the municipality must submit an application for approval by the board containing a plan for conducting the sale, assignment, lease, transfer or redevelopment of the asset in accordance with procedures or forms promulgated by the board. An allocation plan ordinance, authorizing the transaction, must also state the purposes for which the cash proceeds from the sale or other disposition will be used. Upon notification of the proposed sale, assignment, lease, transfer, or redevelopment of a municipal asset, the Local Finance Board is required to schedule a hearing for the purpose of approving the allocation plan ordinance prior to its final adoption. The Local Finance Board may require changes to the ordinance. After the Local Finance Board and the governing body have both approved the ordinance authorizing the sale or other disposition, the Local Finance Board may order that the cash proceeds of the sale be deposited in a dedicated trust account in the name of the municipality for the benefit of the residents of that municipality.

The general supervision of the trust account would be vested in a three-member investment oversight board comprised of the mayor of the municipality, ex officio; one member of the governing body of the municipality selected by a majority of its members, ex officio; and the chief financial officer of the municipality, ex officio. The investment oversight board members would not receive a salary, but would be

reimbursed by the municipality for all reasonable and necessary expenses that they incur while serving on the board.

The board would be led by a chairman, elected by the members for a two-year term. The Director of the Division of Investment in the Department of the Treasury, or a designee, would serve as secretary of the dedicated trust account. The Attorney General would serve as the legal advisor to the investment oversight board. The board would have the authority to engage other special services that may be required to transact the business of the trust account and set the compensation of all persons engaged by the trust account. The administration of the trust account assets would be delegated by the board to the Division of Investment in the Department of the Treasury. The division would be responsible for providing any services that may be deemed necessary for the implementation of the comprehensive investment plan. The division would deduct from the fund the costs for the administration of the dedicated trust fund.

The investment oversight board, acting in consultation with the Director of the Division of Investment in the Department of the Treasury, would be required to establish a comprehensive investment plan and annually review the plan to ensure that it remains actuarially sound. The comprehensive investment plan must specify the investment policies to be used by the division in its administration of the account. One-quarter of the interest earnings are to be distributed to the municipality each quarter, specifically on February 1, May 1, August 1, and November 1 of each year. The investment oversight board and the Director of the Division of Investment must agree on the plan, subject to final approval from the State Treasurer.

The assets of a dedicated trust account would be maintained, invested, and expended solely in compliance with the comprehensive investment plan and could not be loaned, transferred, or otherwise used by the State or any of its political subdivisions. The board can choose to invest trust account assets in bonds, notes or other obligations of the State or any agency or instrumentality of the State and would be subject to the "prudent person" standard of care applicable to the Division of Investment in the Department of the Treasury.

This bill requires the investment oversight board to keep a record of its meetings that would be available to the public. The board must also publish a quarterly report of the accounts operations. The board would also be required to publish an annual report showing the financial transactions of the dedicated trust fund for the preceding year, the amount of cash and accumulated securities of the system, and the last balance sheet showing the financial condition of the trust account by means of an actuarial valuation of the assets and liabilities of the dedicated trust fund. All reports would be distributed to the Governor, Commissioner of Community Affairs, State Comptroller, and State

Treasurer and each member of the governing body of the municipality no later than 45 days after the end of the municipality's fiscal year.

The accounts of the dedicated trust fund would be subject to annual audits by the State Auditor, or a designee. The board would be required to commission an independent audit of the program, the results of which would be made available of the public and provided to the Governor, Commissioner of Community Affairs, State Comptroller, State Treasurer, and each member of the governing body of the municipality to ensure transparency.

Finally, the committee substitute would take effect immediately, but be retroactive to any sale, assignment, lease, transfer, or redevelopment of a municipal asset proposed on or after March 1, 2008.

STATEMENT TO

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1339

with Assembly Floor Amendments
(Proposed By Assemblyman BURZICHELLI)

ADOPTED: MAY 19, 2008

These floor amendments are intended to make the bill applicable only to Atlantic City. Because it is the only municipality in which casino gaming is authorized, it has unique characteristics which make it sensible to have a joint municipal and State decision process regarding the disposition of high value municipal assets, so that the casino gaming industry is not inadvertently harmed.

ASSEMBLY, No. 2563

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED MAY 5, 2008

Sponsored by:

Assemblyman JOHN J. BURZICHELLI

District 3 (Salem, Cumberland and Gloucester)

SYNOPSIS

Requires deposit of proceeds from sale, assignment, lease, transfer, or redevelopment of certain high value municipal assets into dedicated trust fund; provides for establishment, supervision, and administration of dedicated trust fund.

CURRENT VERSION OF TEXT

As introduced.



A2563 BURZICHELLI

2

1 AN ACT concerning the investment of certain municipal funds,
2 supplementing chapter 5 of Title 40A of the New Jersey Statutes,
3 and amending P.L.1992, c.79.

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

7
8 1. (New section) The Legislature finds and declares:

9 a. Elected municipal officials are the stewards for the property
10 owned by the municipality.

11 b. It is sometimes necessary or desirable for the municipality to
12 sell some of its assets that are no longer needed for a public
13 purpose.

14 c. The use of proceeds from the sale or lease of a municipal
15 asset that results in relatively large proceeds, to either fund a new
16 service or to provide property tax relief for a limited period of time,
17 are examples of actions by a local governing body that often
18 necessitate subsequent property tax increases to either continue the
19 new service or to fill-in the revenue gap.

20 d. It is in the best interests of municipal taxpayers for the State
21 and local elected officials to work collaboratively together to
22 effectuate the prudent disposition of high value assets and the
23 management of proceeds from the sale, assignment, lease, transfer,
24 or redevelopment of those assets, when significant sums are
25 involved, to ensure that any intended relief to municipal property
26 taxpayers is maximized.

27
28 2. (New section) a. Whenever a municipality, other than a city
29 of the first class, intends to sell, assign, lease, or transfer ownership,
30 or any other interest, in any real property, including real property to
31 be sold, assigned, leased, or transferred pursuant to a redevelopment
32 plan, or in any capital improvement or personal property, and:

33 (1) the asset has an assessed value of at least \$50 million, and
34 either

35 (2) (a) the proceeds to be realized by the municipality as a result
36 of the sale, assignment, lease, or transfer, regardless of the length of
37 the term of the payment, will exceed its final appropriations for the
38 previous year's budget, as determined pursuant to section 2 of
39 P.L.1976, c.68 (C.40A:4-45.2), or

40 (b) the sale, assignment, lease, or transfer is to another public
41 entity, regardless of the amount of the proceeds to be realized by
42 the municipality, then,

43 the governing body of the municipality shall submit an application
44 for approval by the Local Finance Board containing a plan for
45 conducting the sale, assignment, lease, transfer, or redevelopment

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.

A2563 BURZICHELLI

1 of the asset in accordance with procedures or forms promulgated by
2 the Local Finance Board for this purpose.

3 (c) Notwithstanding subsection g. of section 8 of P.L.1992, c.79
4 (C.40A:12A-8), regarding the procedure for the sale or lease of
5 assets by a municipality or redevelopment entity pursuant to a
6 redevelopment plan, an asset subject to this subsection only shall be
7 sold, assigned, leased, or transferred through a fair and open
8 competitive process.

9 b. Upon submission of the proposed plan required pursuant to
10 subsection a. of this section, the Local Finance Board shall schedule
11 a hearing within 45 calendar days upon receipt of the proposed
12 plan, for the purpose of approving the plan pursuant to subsection c.
13 of this section. If the Local Finance Board does not schedule a
14 hearing within 45 calendar days, then the plan is deemed approved.

15 c. At a hearing scheduled pursuant to subsection b. of this
16 section, the Local Finance Board may approve the proposed plan
17 for the sale, assignment, lease, transfer, or redevelopment of the
18 asset. No actions to implement the proposed plan shall be taken
19 until it has been approved by the Local Finance Board.

20 d. Subsequent to the issuance of an approval required by
21 subsection c. of this section and prior to adopting any resolution or
22 ordinance, or amending a resolution or ordinance introduced for the
23 purpose of the sale, assignment, lease, transfer, or redevelopment of
24 the asset, the municipality shall first obtain from the Local Finance
25 Board a certification that: (1) the municipality complied with the
26 requirements of P.L. , c. (C.) (pending before the
27 Legislature as this bill); and (2) the proposed disposition of the
28 asset, as introduced by the governing body, reflects the highest and
29 best use of the asset, considering all relevant factors and
30 circumstances.

31 e. To provide the certification required by subsection d. of this
32 section, the Local Finance Board must find that the municipality
33 implemented, without material deviation, the approved plan
34 required by this section and has otherwise satisfied all other
35 requirements of P.L. , c. (C.) (pending before the
36 Legislature as this bill). The findings of the Local Finance Board
37 shall be supported by a "fairness opinion" and appraisal,
38 commissioned by the board from a reputable, experienced, and
39 independent third-party entity licensed to do business in the State of
40 New Jersey. The cost and expenses incurred by the Local Finance
41 Board to commission the independent review may be reimbursed
42 from the proceeds realized by the municipality as a result of the
43 sale, assignment, lease or transfer of the asset.

44 f. The sale, assignment, lease, transfer, or redevelopment of a
45 municipal asset requiring an application for approval by the Local
46 Finance Board pursuant to this section shall be voidable if the
47 municipal governing body fails to submit the application.

A2563 BURZICHELLI

1 3. (New section) a. The governing body of a municipality shall
2 apply to the Local Finance Board on or before the 30th day prior to
3 the closing of an agreement for the disposition of an asset requiring
4 board approval in accordance with section 2 of P.L. , c. (C.)
5 (pending before the Legislature as this bill), for approval of a plan,
6 in the form of an ordinance, to allocate the proceeds of the sale,
7 assignment, lease, transfer, or execution of a redevelopment
8 agreement. The application shall be made in accordance with
9 procedures or forms promulgated by the Local Finance Board. The
10 proposed allocation plan shall state the purposes for which the cash
11 proceeds resulting from the sale, assignment, lease, transfer, or
12 redevelopment of the asset shall be used.

13 b. Upon the filing of an application pursuant to subsection a. of
14 this section, the Local Finance Board shall schedule a hearing
15 within 45 calendar days upon receipt of the application, for the
16 purpose of approving a proposed plan to allocate the proceeds of the
17 sale, assignment, lease, transfer, or redevelopment of the asset. At
18 the hearing the Local Finance Board may approve the proposed plan
19 or require its modification. The plan may be amended from time-
20 to-time, as deemed necessary by the governing body and the Local
21 Finance Board subject to a two-thirds majority voter referendum.

22 c. Upon approval by the Local Finance Board in accordance
23 with subsection b. of this section, a proposed ordinance to
24 effectuate the allocation plan may be finally adopted by the
25 municipality.

26 d. A sale, assignment, lease, transfer, or redevelopment of a
27 municipal asset requiring approval of an allocation plan pursuant to
28 this section shall be voidable if the municipal governing body fails
29 to comply with the requirements of this section.

30
31 4. (New section) a. (1) Upon final approval of an ordinance by
32 the municipal governing body pursuant to subsection c. of section 3
33 of P.L. , c. (C.) (pending before the Legislature as this bill),
34 the Local Finance Board may order that the proceeds from the
35 disposition of municipal assets, described in section 3 of P.L. ,
36 c. (C.) (pending before the Legislature as this bill), shall be
37 deposited in a dedicated trust fund which shall be managed in
38 accordance with the provisions of this subsection.

39 (2) Funds, for purposes described in the approved allocation
40 plan, may be disbursed from the dedicated trust fund and shall be
41 invested and managed pursuant to the provisions of the allocation
42 plan required pursuant to subsection b of this section, and the
43 investment plan approved pursuant to subsection d. of this section.

44 b. The management of funds in the dedicated trust fund shall be
45 the responsibility of an investment oversight board which shall be
46 organized immediately after each member provided for in
47 subsection c. of this section has qualified and taken the oath of
48 office.

1 c. The investment oversight board of a dedicated trust fund
2 established pursuant to this section shall consist of three members
3 as follows:

4 (1) The mayor of the municipality, ex-officio, or his designee;

5 (2) One member of the municipal council of the municipality,
6 selected by a majority of its members, ex-officio, or his designee;
7 and

8 (3) The chief financial officer of the municipality, ex-officio.

9 d. Each investment oversight board member shall, within 10
10 days after his appointment or selection, take an oath of office that
11 so far as it devolves upon him, he will diligently and honestly
12 administer the affairs of the board, and that he will not knowingly
13 violate or willingly permit to be violated any of the provisions of
14 law applicable to the dedicated trust fund. The oath shall be
15 subscribed by the member making it, and certified by the officer
16 before whom it is taken, and immediately filed in the office of the
17 clerk of the municipality and in the office of the Secretary of State.

18 e. The members of the investment oversight board shall serve
19 without compensation, but they shall be reimbursed by the
20 municipality for all reasonable and necessary expenses that they
21 incur through service on the board.

22 f. Each investment oversight board member shall be entitled to
23 one vote on the board. A unanimous vote shall be necessary for a
24 decision by the members at any meeting of the board; provided,
25 however, that no vote shall be necessary for the annual distribution
26 of earnings from the dedicated trust fund to the municipality for
27 municipal property tax relief, if so provided in the allocation plan
28 ordinance adopted pursuant to section 3 of P.L. , c. (C.)
29 (pending before the Legislature as this bill).

30 g. Subject to the requirements and limitations of P.L. ,
31 c. (C.) (pending before the Legislature as this bill), the
32 investment oversight board shall, from time to time, establish an
33 investment management plan for the administration of the dedicated
34 trust fund established pursuant to this section.

35 h. The investment oversight board shall elect from its
36 membership a chairman. Any member of the board so elected shall
37 serve as the chairman for a term of two years and until election of
38 his successor. When the term of office of an elected official ends
39 prior to the completion of his two-year chairmanship term, then a
40 new chairman shall be selected for a term of two years.

41 i. The Director of the Division of Investment in the Department
42 of the Treasury, or a designee, shall be the secretary to any
43 investment oversight board established pursuant to this section.

44 j. An investment oversight board solely shall use the services of
45 the State Division of Investment to manage the business of its
46 dedicated trust fund.

1 k. The Attorney-General of the State of New Jersey shall be the
2 legal advisor to any investment oversight board established
3 pursuant to this section.

4 l. The assets of a dedicated trust fund established pursuant to
5 this section shall be maintained, invested, and expended solely in
6 accordance with an approved investment plan entered into pursuant
7 to section 5 of P.L. , c. (C.) (pending before the Legislature
8 as this bill); provided, however, that an investment plan shall not
9 permit the assets of the dedicated trust fund to be loaned,
10 transferred, or otherwise used by the State or any of its political
11 subdivisions. This subsection shall not be construed to prohibit the
12 investment oversight board from investing in, by purchase or
13 otherwise, bonds, notes, or other obligations of the State or of an
14 agency or instrumentality of the State.

15

16 5. (New section) a. An investment oversight board created
17 pursuant to section 4 of P.L. , c. (C.) (pending before the
18 Legislature as this bill), acting in consultation with the Director of
19 the Division of Investment in the Department of the Treasury, shall:

20 (1) establish an investment plan for the purposes of its dedicated
21 trust fund established pursuant to subsection a. of section 4 of
22 P.L. , c. (C.) (pending before the Legislature as this bill),
23 subject to the approval of the State Treasurer; and

24 (2) annually review its investment plan to assure that the
25 program remains actuarially sound.

26 b. (1) An investment plan established pursuant to subsection a.
27 of this section shall specify the investment policies, and
28 notwithstanding the provisions of section 8 of P.L.1977, c.396
29 (C.40A:5-15.1), the types of financial instruments permitted for
30 investment that shall be used by the Division of Investment in its
31 administration of the fund.

32 c. (1) When required by the allocation plan adopted pursuant to
33 section 3 of P.L. , c. (C.) (pending before the Legislature as
34 this bill), at the close of each fiscal year of the municipality, the
35 investment oversight board shall certify to the municipality the
36 amount of earnings that are available for distribution.

37 (2) If those earnings are to be used for municipal property tax
38 relief, then such amount shall be distributed from the dedicated trust
39 fund to the municipality on the following schedule: February 1,
40 25% of the total amount due; May 1, 25% of the total amount due,
41 August 1, 25% of the total amount due; and November 1, 25% of
42 the total amount due.

43 (3) Distribution of funds for purposes other than municipal
44 property tax relief shall be made pursuant to an agreement between
45 the municipality and the investment oversight board, if permitted by
46 municipal ordinance.

47 d. The investment oversight board shall be subject to the
48 "prudent person" standard of care applicable to the Division of

1 Investment in the Department of the Treasury pursuant to
2 subsection b. of section 11 of P.L.1950, c.270 (C.52:18A-89).

3 e. (1) The day-to-day administration of the investments of any
4 dedicated trust fund established pursuant to subsection a. of section
5 4 of P.L. , c. (C.) (pending before the Legislature as this
6 bill) shall be vested with the Division of Investment in the New
7 Jersey Department of the Treasury.

8 (2) The division shall be responsible for providing such services
9 as may be deemed necessary for the implementation of a
10 comprehensive investment program for the approved investment
11 plan, including, but not limited to:

12 (a) providing billing;

13 (b) individual and collective record keeping and accounting;

14 (c) asset purchase, control, and safe keeping;

15 (d) investment management, marketing, administration,
16 compliance, and internal control;

17 (e) program operations; and

18 (f) other services necessary to carry out the purposes of P.L. ,
19 c. (C.) (pending before the Legislature as this bill).

20

21 6. (New section) a. Every investment oversight board created
22 pursuant to section 4 of P.L. , c. (C.) (pending before the
23 Legislature as this bill) shall be responsible for keeping a record of
24 all of its proceedings, which shall be open to public inspection. It
25 shall publish a quarterly report of the trust account's operations and
26 an annual report showing the fiscal transactions of the dedicated
27 trust fund for the preceding year, the amount of accumulated cash
28 and securities of the fund, and the last balance sheet showing the
29 financial condition of the dedicated trust fund by means of an
30 actuarial valuation of the assets and liabilities of the dedicated trust
31 fund.

32 b. All reports required pursuant to subsection a. of this section
33 shall be submitted to the Governor, Commissioner of Community
34 Affairs, State Comptroller, the State Treasurer, and each member of
35 the governing body of the municipality no later than 45 days after
36 the end of the municipality's fiscal year.

37

38 7. (New section) a. The accounts of every dedicated trust fund
39 established pursuant to subsection a. of section 4 of P.L. ,
40 c. (C.) (pending before the Legislature as this bill) shall be
41 subject to annual audits by the State Auditor or a designee. In
42 addition, the investment oversight board of a dedicated trust fund
43 shall commission an independent audit of its program. The results
44 of the independent audit shall be open to public inspection and shall
45 be provided to the Governor, Commissioner of Community Affairs,
46 State Comptroller, the State Treasurer, and each member of the
47 governing body of the municipality. The investment oversight

1 board may use earnings of the fund to pay for the cost of an
2 independent audit required by this subsection.

3 b. Statements, reports on distributions, and information returns
4 relating to accounts for a dedicated trust fund shall be prepared,
5 distributed, and filed to the extent required by section 529 of the
6 federal Internal Revenue Code of 1986, 26U.S.C. s.529.

7

8 8. Section 8 of P.L.1992, c.79 (C.40A:12A-8) is amended to
9 read as follows:

10 8. Upon the adoption of a redevelopment plan pursuant to
11 section 7 of P.L.1992, c.79 (C.40A:12A-7), the municipality or
12 redevelopment entity designated by the governing body may
13 proceed with the clearance, replanning, development and
14 redevelopment of the area designated in that plan. In order to carry
15 out and effectuate the purposes of this act and the terms of the
16 redevelopment plan, the municipality or designated redevelopment
17 entity may:

18 a. Undertake redevelopment projects, and for this purpose issue
19 bonds in accordance with the provisions of section 29 of P.L.1992,
20 c.79 (C.40A:12A-29).

21 b. Acquire property pursuant to subsection i. of section 22 of
22 P.L.1992, c.79 (C.40A:12A-22).

23 c. Acquire, by condemnation, any land or building which is
24 necessary for the redevelopment project, pursuant to the provisions
25 of the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et
26 seq.).

27 d. Clear any area owned or acquired and install, construct or
28 reconstruct streets, facilities, utilities, and site improvements
29 essential to the preparation of sites for use in accordance with the
30 redevelopment plan.

31 e. Prepare or arrange by contract for the provision of
32 professional services and the preparation of plans by registered
33 architects, licensed professional engineers or planners, or other
34 consultants for the carrying out of redevelopment projects.

35 f. Arrange or contract with public agencies or redevelopers for
36 the planning, replanning, construction, or undertaking of any
37 project or redevelopment work, or any part thereof; negotiate and
38 collect revenue from a redeveloper to defray the costs of the
39 redevelopment entity, including where applicable the costs incurred
40 in conjunction with bonds, notes or other obligations issued by the
41 redevelopment entity, and to secure payment of such revenue; as
42 part of any such arrangement or contract, provide for extension of
43 credit, or making of loans, to redevelopers to finance any project or
44 redevelopment work, or upon a finding that the project or
45 redevelopment work would not be undertaken but for the provision
46 of financial assistance, or would not be undertaken in its intended
47 scope without the provision of financial assistance, provide as part
48 of an arrangement or contract for capital grants to redevelopers; and

1 arrange or contract with public agencies or redevelopers for the
2 opening, grading or closing of streets, roads, roadways, alleys, or
3 other places or for the furnishing of facilities or for the acquisition
4 by such agency of property options or property rights or for the
5 furnishing of property or services in connection with a
6 redevelopment area.

7 g. **【Lease】** Except with regard to property subject to the
8 requirements of P.L. , c. (C.) (pending before the
9 Legislature as this bill), lease or convey property or improvements
10 to any other party pursuant to this section, without public bidding
11 and at such prices and upon such terms as it deems reasonable,
12 provided that the lease or conveyance is made in conjunction with a
13 redevelopment plan, notwithstanding the provisions of any law,
14 rule, or regulation to the contrary.

15 h. Enter upon any building or property in any redevelopment
16 area in order to conduct investigations or make surveys, sounding or
17 test borings necessary to carry out the purposes of this act.

18 i. Arrange or contract with a public agency for the relocation,
19 pursuant to the "Relocation Assistance Law of 1967," P.L.1967,
20 c.79 (C.52:31B-1 et seq.) and the "Relocation Assistance Act,"
21 P.L.1971, c.362 (C.20:4-1 et seq.), of residents, industry or
22 commerce displaced from a redevelopment area.

23 j. Make, consistent with the redevelopment plan: (1) plans for
24 carrying out a program of voluntary repair and rehabilitation of
25 buildings and improvements; and (2) plans for the enforcement of
26 laws, codes, and regulations relating to the use and occupancy of
27 buildings and improvements, and to the compulsory repair,
28 rehabilitation, demolition, or removal of buildings and
29 improvements.

30 k. Request that the planning board recommend and governing
31 body designate particular areas as being in need of redevelopment
32 or rehabilitation in accordance with the provisions of this act and
33 make recommendations for the redevelopment or rehabilitation of
34 such areas.

35 l. Study the recommendations of the planning board or
36 governing body for redevelopment of the area.

37 m. Publish and disseminate information concerning any
38 redevelopment area, plan or project.

39 n. Do all things necessary or convenient to carry out its powers.
40 (cf: P.L.1992, c.79, s.8)

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42 9. This act shall take effect immediately and shall be retroactive
43 with respect to resolutions for the sale, assignment, lease, transfer,
44 or redevelopment of municipal property that are adopted on or after
45 March 1, 2008.

STATEMENT

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This bill requires any municipality, except for a city of the first class, to have a proposed sale, assignment, lease, transfer, or redevelopment of a municipal asset reviewed by the Local Finance Board when the assessed value of the asset is greater than \$50 million and the proceeds to be realized by the municipality, regardless of the length of the term of the payment, will exceed its final appropriations for the previous year's budget. Prior to the sale, the municipality must submit for approval by the Local Finance Board a proposed ordinance containing a plan for the sale of the asset.

Specifically, at least 30 days prior to the date of the closing of an agreement for the disposition of an asset requiring Local Finance Board approval, the municipality must submit an application for approval by the board containing a plan for conducting the sale, assignment, lease, transfer or redevelopment of the asset in accordance with procedures or forms promulgated by the board. An allocation plan ordinance, authorizing the transaction, must also state the purposes for which the cash proceeds from the sale or other disposition will be used. Upon notification of the proposed sale, assignment, lease, transfer, or redevelopment of a municipal asset, the Local Finance Board is required to schedule a hearing for the purpose of approving the allocation plan ordinance prior to its final adoption. The Local Finance Board may require changes to the ordinance and before the municipality can proceed, the board is required to certify that the municipality has complied with the requirements of this bill and that the proposed disposition of the asset "reflects the highest and best use of the asset, considering all relevant factors and circumstances." After the Local Finance Board and the governing body have both approved the ordinance authorizing the sale or other disposition, the Local Finance Board may order that the cash proceeds of the sale be deposited in a dedicated trust account in the name of the municipality for the benefit of the residents of that municipality.

The general supervision of the trust account would be vested in a three-member investment oversight board comprised of the mayor of the municipality, ex officio; one member of the governing body of the municipality selected by a majority of its members, ex officio; and the chief financial officer of the municipality, ex officio. The investment oversight board members would not receive a salary, but would be reimbursed by the municipality for all reasonable and necessary expenses that they incur while serving on the board.

The board would be led by a chairman, elected by the members for a two-year term. The Director of the Division of Investment in the Department of the Treasury, or a designee, would serve as secretary of the dedicated trust account. The Attorney General

1 would serve as the legal advisor to the investment oversight board.
2 The board would have the authority to engage other special services
3 that may be required to transact the business of the trust account
4 and set the compensation of all persons engaged by the trust
5 account. The administration of the trust account assets would be
6 delegated by the board to the Division of Investment in the
7 Department of the Treasury. The division would be responsible for
8 providing any services that may be deemed necessary for the
9 implementation of the comprehensive investment plan. The
10 division would deduct from the fund the costs for the administration
11 of the dedicated trust fund.

12 The investment oversight board, acting in consultation with the
13 Director of the Division of Investment in the Department of the
14 Treasury, would be required to establish a comprehensive
15 investment plan and annually review the plan to ensure that it
16 remains actuarially sound. The comprehensive investment plan
17 must specify the investment policies to be used by the division in its
18 administration of the account. One-quarter of the interest earnings
19 are to be distributed to the municipality each quarter, specifically on
20 February 1, May 1, August 1, and November 1 of each year. The
21 investment oversight board and the Director of the Division of
22 Investment must agree on the plan, subject to final approval from
23 the State Treasurer.

24 The assets of a dedicated trust account would be maintained,
25 invested, and expended solely in compliance with the
26 comprehensive investment plan and could not be loaned,
27 transferred, or otherwise used by the State or any of its political
28 subdivisions. The board can choose to invest trust account assets in
29 bonds, notes or other obligations of the State or any agency or
30 instrumentality of the State and would be subject to the "prudent
31 person" standard of care applicable to the Division of Investment in
32 the Department of the Treasury.

33 This bill requires the investment oversight board to keep a record
34 of its meetings that would be available to the public. The board must
35 also publish a quarterly report of the account's operations. The
36 board would also be required to publish an annual report showing
37 the financial transactions of the dedicated trust fund for the
38 preceding year, the amount of cash and accumulated securities of
39 the system, and the last balance sheet showing the financial
40 condition of the trust account by means of an actuarial valuation of
41 the assets and liabilities of the dedicated trust fund. All reports
42 would be distributed to the Governor, Commissioner of Community
43 Affairs, State Comptroller, and State Treasurer and each member of
44 the governing body of the municipality no later than 45 days after
45 the end of the municipality's fiscal year.

46 The accounts of the dedicated trust fund would be subject to
47 annual audits by the State Auditor, or a designee. The board would
48 be required to commission an independent audit of the program, the

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1 results of which would be made available of the public and
2 provided to the Governor, Commissioner of Community Affairs,
3 State Comptroller, State Treasurer, and each member of the
4 governing body of the municipality to ensure transparency.

5 The bill would be retroactive to any sale, assignment, lease,
6 transfer, or redevelopment of a municipal asset proposed on or after
7 March 1, 2008.

ASSEMBLY TOURISM AND GAMING COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2563

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 5, 2008

The Assembly Tourism and Gaming Committee reports favorably and with committee amendments Assembly Bill No. 2563.

As amended by the committee, this bill requires any municipality, except for a city of the first class, to have a proposed sale, assignment, lease, transfer, or redevelopment of a municipal asset reviewed by the Local Finance Board when the assessed value of the asset is greater than \$50 million and the proceeds to be realized by the municipality, regardless of the length of the term of the payment, will exceed its final appropriations for the previous year's budget. Prior to the sale, the municipality must submit for approval by the Local Finance Board a proposed ordinance containing a plan for the sale of the asset.

Specifically, at least 30 days prior to the date of the closing of an agreement for the disposition of an asset requiring Local Finance Board approval, the municipality must submit an application for approval by the board containing a plan for conducting the sale, assignment, lease, transfer or redevelopment of the asset in accordance with procedures or forms promulgated by the board. An allocation plan ordinance, authorizing the transaction, must also state the purposes for which the cash proceeds from the sale or other disposition will be used. Upon notification of the proposed sale, assignment, lease, transfer, or redevelopment of a municipal asset, the Local Finance Board is required to schedule a hearing for the purpose of approving the allocation plan ordinance prior to its final adoption. The Local Finance Board may require changes to the ordinance and before the municipality can proceed, the board is required to certify that the municipality has complied with the requirements of this bill and that the proposed disposition of the asset "reflects the highest and best use of the asset, considering all relevant factors and circumstances." After the Local Finance Board and the governing body have both approved the ordinance authorizing the sale or other disposition, the Local Finance Board may order that the cash proceeds of the sale be deposited in a dedicated trust account in the name of the municipality for the benefit of the residents of that municipality.

The general supervision of the trust account would be vested in a three-member investment oversight board comprised of the mayor of

the municipality, ex officio; one member of the governing body of the municipality selected by a majority of its members, ex officio; and the chief financial officer of the municipality, ex officio. The investment oversight board members would not receive a salary, but would be reimbursed by the municipality for all reasonable and necessary expenses that they incur while serving on the board.

The board would be led by a chairman, elected by the members for a two-year term. The Director of the Division of Investment in the Department of the Treasury, or a designee, would serve as secretary of the dedicated trust account. The Attorney General would serve as the legal advisor to the investment oversight board. The board would have the authority to engage other special services that may be required to transact the business of the trust account and set the compensation of all persons engaged by the trust account. The administration of the trust account assets would be delegated by the board to the Division of Investment in the Department of the Treasury. The division would be responsible for providing any services that may be deemed necessary for the implementation of the comprehensive investment plan. The division would deduct from the fund the costs for the administration of the dedicated trust fund.

The investment oversight board, acting in consultation with the Director of the Division of Investment in the Department of the Treasury, would be required to establish a comprehensive investment plan and annually review the plan to ensure that it remains actuarially sound. The comprehensive investment plan must specify the investment policies to be used by the division in its administration of the account. One-quarter of the interest earnings are to be distributed to the municipality each quarter, specifically on February 1, May 1, August 1, and November 1 of each year. The investment oversight board and the Director of the Division of Investment must agree on the plan, subject to final approval from the State Treasurer.

The assets of a dedicated trust account would be maintained, invested, and expended solely in compliance with the comprehensive investment plan and could not be loaned, transferred, or otherwise used by the State or any of its political subdivisions. The board can choose to invest trust account assets in bonds, notes or other obligations of the State or any agency or instrumentality of the State and would be subject to the "prudent person" standard of care applicable to the Division of Investment in the Department of the Treasury.

This bill requires the investment oversight board to keep a record of its meetings that would be available to the public. The board must also publish a quarterly report of the account's operations. The board would also be required to publish an annual report showing the financial transactions of the dedicated trust fund for the preceding year, the amount of cash and accumulated securities of the system, and the last balance sheet showing the financial condition of the trust account by

means of an actuarial valuation of the assets and liabilities of the dedicated trust fund. All reports would be distributed to the Governor, Commissioner of Community Affairs, State Comptroller, and State Treasurer and each member of the governing body of the municipality no later than 45 days after the end of the municipality's fiscal year.

The accounts of the dedicated trust fund would be subject to annual audits by the State Auditor, or a designee. The board would be required to commission an independent audit of the program, the results of which would be made available of the public and provided to the Governor, Commissioner of Community Affairs, State Comptroller, State Treasurer, and each member of the governing body of the municipality to ensure transparency.

The bill would be retroactive to any sale, assignment, lease, transfer, or redevelopment of a municipal asset proposed on or after March 1, 2008.

COMMITTEE AMENDMENTS

The committee amended the bill to authorize the Local Finance Board in the Department of Community Affairs to adopt rules and regulations pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as the Board may deem necessary to implement or administer any of its responsibilities under the bill.

As amended, this bill is identical to Senate, No. 1339 (SCS) (1R).