

LEGISLATIVE HISTORY CHECKLIST
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"Tourism Improvement and
Development District Act"

NJSA: 40:54D-1

LAWS OF: 1992

CHAPTER: 165

BILL NO: A1053

SPONSOR(S) LoBiondo

DATE INTRODUCED: March 2, 1992

COMMITTEE: ASSEMBLY: Appropriations; Economic &
Community Development

SENATE: ---

AMENDED DURING PASSAGE: Yes Assembly committee substitute
(1R) enacted

DATE OF PASSAGE: ASSEMBLY: October 15, 1992

SENATE: October 19, 1992

DATE OF APPROVAL: December 2, 1992

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes 9-14-92 & 5-14-92

SENATE: No

FISCAL NOTE: Yes

VETO MESSAGE: No

MESSAGE ON SIGNING: ~~Yes~~ No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

See newspaper clippings on Legislative History L.1992, c160.

[FIRST REPRINT]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1053

STATE OF NEW JERSEY

ADOPTED SEPTEMBER 14, 1992

Sponsored by Assemblymen LoBIONDO, GIBSON,
Mikulak and Oros

1 AN ACT concerning the promotion of tourism in certain counties,
2 providing for the creation of tourism improvement and
3 development districts, authorizing the imposition of certain
4 taxes on certain retail receipts therein and of certain
5 municipal fees, creating certain tourism improvement and
6 development authorities and authorizing certain projects
7 thereof and supplementing Title 40 of the Revised Statutes.

8
9 BE IT ENACTED by the Senate and General Assembly of the
10 State of New Jersey:

11 1. This act shall be known and may be cited as the "Tourism
12 Improvement and Development District Act."

13 2. The Legislature finds and determines:

14 a. The State of New Jersey contains many unique natural,
15 recreational, and economic resources that are enjoyed not only by
16 the citizens of the State but also by millions of visitors from all
17 over the United States and the world, which in turn results in a
18 multi-billion dollar tourism industry that is crucial to the
19 economic well-being of the State.

20 b. The provision of appropriate public facilities and
21 improvements necessary to promote and sustain tourism is
22 especially difficult for public entities located in sixth class
23 counties of this State. In those counties a relatively small
24 permanent population combines with a relative lack of a
25 diversification in the economic base to present special obstacles
26 for public entities which seek to undertake and fund tourism
27 facilities and improvements without damaging the economic
28 prosperity of the locality by imposing onerous taxes on permanent
29 residents or businesses.

30 c. The creation of tourism improvement and development
31 districts may assist municipalities in those counties in promoting
32 economic growth and employment related to a tourism-economy
33 and that municipalities in counties of the sixth class should be
34 encouraged to create tourism improvement and development
35 districts to finance the acquisition, maintenance, operation and
36 support of convention center facilities and to promote tourism in
37 order to enhance the local tourism business climates.

38 d. It is in the public interest to encourage these municipalities
39 in counties of the sixth class to seek regional solutions to
40 common problems related to economic prosperity of this State,
41 and to enhance the prosperity of those municipalities by the
42 adoption of appropriate ordinances to assess, levy and collect

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 floor amendments adopted October 8, 1992.

1 taxes upon receipts from certain sales and services, and to
2 impose certain municipal fees. These special public finance
3 measures which are not generally available to other local units of
4 the State, are appropriate to address the particular economic
5 conditions of sixth class counties, and are not necessary or
6 appropriate in areas with a larger population base and more
7 diversified economic structure, which are not so heavily affected
8 by the seasonal fluctuations of a tourism based economy.

9 3. As used in this act:

10 "Authority" means a tourism improvement and development
11 authority created pursuant to section 18 of this act, P.L.,
12 c. (C.....) (now pending before the Legislature as this
13 bill).

14 "Bond" means any bond or note issued by an authority pursuant
15 to the provisions of this act.

16 "Commissioner" means the Commissioner of Commerce,
17 Energy and Economic Development.

18 "Construction" means the planning, designing, construction,
19 reconstruction, rehabilitation, replacement, repair, extension,
20 enlargement, improvement and betterment of a project, and
21 includes the demolition, clearance and removal of buildings or
22 structures on land acquired, held, leased or used for a project.

23 "Convention center facility" means any convention hall or
24 center or like structure or building, and shall include all
25 facilities, including commercial, office, community service,
26 parking facilities and all property rights, easements and interests,
27 and other facilities constructed for the accommodation and
28 entertainment of tourists and visitors, constructed in conjunction
29 with a convention center facility and forming reasonable
30 appurtenances thereto.

31 "Tourism project" means the convention center facility or
32 similar tourism improvement or development project located in
33 the territorial limits of the district, and any costs associated
34 therewith.

35 "Cost" means all or any part of the expenses incurred in
36 connection with the acquisition, construction and maintenance of
37 any real property, lands, structures, real or personal property
38 rights, rights-of-way, franchises, easements, and interests
39 acquired or used for a project; any financing charges and reserves
40 for the payment of principal and interest on bonds or notes; the
41 expenses of engineering, appraisal, architectural, accounting,
42 financial and legal services; and other expenses as may be
43 necessary or incident to the acquisition, construction and
44 maintenance of a project, the financing thereof and the placing
45 of the project into operation.

46 "County" means a county of the sixth class.

47 "Department" means the Department of Commerce, Energy
48 and Economic Development.

49 "Director" means the Director of the Division of Taxation in
50 the Department of the Treasury.

51 "Fund" means a Reserve Fund created pursuant to section 13
52 of this act, P.L., c. (C.) (now pending
53 before the Legislature as this bill).

54 "Participant amusement" means a sporting activity or

1 amusement the charge for which is exempt from taxation under
2 the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.)
3 by virtue of the participation of the patron in the activity or
4 amusement, such as bowling alleys, swimming pools, water slides,
5 miniature golf, boardwalk or carnival games and amusements,
6 baseball batting cages, tennis courts, and fishing and sightseeing
7 boats.

8 "Predominantly tourism related retail receipts" means:

9 a. The rent for every occupancy of a room or rooms in a hotel
10 subject to taxation pursuant to subsection (d) of section 3 of the
11 "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-3);

12 b. Receipts from the sale of food and drink in or by
13 restaurants, taverns, or other establishments in the district, or by
14 caterers, including in the amount of such receipt any cover,
15 minimum, entertainment or other charge made to patrons or
16 customers, subject to taxation pursuant to subsection (c) of
17 section 3 of the "Sales and Use Tax Act," P.L.1966, c.30
18 (C.54:32B-3) but excluding receipts from sales of food and
19 beverages sold through coin operated vending machines; and

20 c. Admissions charges to or the use of any place of amusement
21 or of any roof garden, cabaret or similar place, subject to
22 taxation pursuant to subsection (e) of section 3 of the "Sales and
23 Use Tax Act," P.L.1966, c.30 (C.54:32B-3).

24 "Purchaser" means any person purchasing or hiring property or
25 services from another person, the receipts or charges from which
26 are taxable by an ordinance authorized under this act. P.L., c.
27 (C.) (now pending before the Legislature as this bill).

28 "Tourism" means activities involved in providing and
29 marketing services and products, including accommodations, for
30 nonresidents and residents who travel to and in New Jersey for
31 recreation and pleasure.

32 "Tourism development fee" means a fee imposed by ordinance
33 pursuant to section 15 of this act, P.L., c. (C.
34) (now pending before the Legislature as this bill),
35 within a tourism improvement and development district on:

36 a. Persons making sales of tangible personal property or
37 services, the receipts from which are subject to the "Sales and
38 Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), but which are
39 not predominately tourism related retail receipts as defined in
40 this section;

41 b. Persons making charges for participant amusements as
42 defined in this section;

43 c. Persons operating businesses that charge for parking,
44 garaging or storing of motor vehicles; and

45 d. Persons maintaining or operating coin-operated vending
46 machines within the district, for the machines within the district,
47 regardless of the types of commodities sold through the machines.

48 e. Persons making sales of tangible personal property or
49 services, the receipts from which are subject to the "Sales and
50 Use Tax Act," P.L. 1966, c. 30 (C.54:32B-1 et seq.), and which
51 are predominately tourism related retail receipts as defined in
52 this section, but only to the extent that the amount of tax on
53 those receipts collected in a year by the person is less than the
54 amount of the tourism development fee for that year.

1 "Tourism improvement and development district" or "district"
2 means an area within two or more contiguous municipalities
3 within a county of the sixth class established pursuant to
4 ordinance enacted by those municipalities, for the purposes of
5 promoting the acquisition, construction, maintenance, operation
6 and support of a tourism project, and to devote the revenue and
7 the proceeds from taxes upon predominantly tourism related
8 retail receipts and from tourism development fees to the
9 purposes as herein defined.

10 "Tourist industry" means the industry consisting of private and
11 public organizations which directly or indirectly provide services
12 and products to nonresidents and residents who travel to and in
13 New Jersey for recreation and pleasure.

14 "Vendor" means a person selling or hiring property or services
15 to another person, the receipts or charges from which are taxable
16 by an ordinance authorized under this act, P.L., c. (C.
17) (now pending before the Legislature as this bill);

18 4. a. Two or more contiguous municipalities located in a
19 county of the sixth class may, by ordinances of a substantially
20 similar nature, create a tourism improvement and development
21 district for the purpose of increasing public revenue and to levy
22 taxes upon predominantly tourism related retail receipts at a rate
23 not to exceed 2 percent, and to devote the proceeds therefrom
24 for the purposes herein described. For the same purposes, the
25 ordinances establishing the district shall also provide for the
26 imposition of tourism development fees authorized pursuant to
27 section 15 of this act, P.L....., c. (C.)
28 (now pending before the Legislature as this bill). The taxes on
29 predominantly tourism related retail receipts and tourism
30 development fees so imposed shall be uniform throughout the
31 district.

32 b. Notwithstanding any other law to the contrary, ordinances
33 so adopted shall not be subject to referenda, and shall not be
34 altered or repealed, except by mutual action of all such
35 municipalities. Each municipality which enters into the creation
36 of the district shall covenant that the ordinance shall not be
37 altered or repealed in such manner as to affect any bonds or
38 other obligations pertaining to projects within the district which
39 are outstanding.

40 c. The district shall comprise all territory within the
41 boundaries of the municipalities which create or enter into the
42 district.

43 d. A contiguous municipality located in a county of the sixth
44 class may, by such an ordinance, and with the mutual consent of
45 the governing bodies of the municipalities which created the
46 district, enter into the district so created after the date of the
47 district's creation.

48 e. A copy of an ordinance adopted pursuant to this section
49 shall be transmitted upon adoption to the State Treasurer. An
50 ordinance so adopted shall provide that the retail receipts tax
51 provisions of the ordinance shall take effect on the first day of
52 the first full month occurring 90 days after the date of
53 transmittal to the State Treasurer.

54 5. No tax on predominantly tourism related retail receipts

1 shall be imposed upon:

2 a. The receipts of a sale or transaction originating or
3 consummated, or both, outside the tourism improvement and
4 development district, notwithstanding that some act may be
5 necessarily performed with respect to the sale or transaction
6 within the district;

7 b. A nonresident of the district or on account of any sale or
8 transaction by or with a nonresident of the district, except when
9 imposed without discrimination as between residents and
10 nonresidents on account of transfers, sales, or other transactions
11 actually made or consummated within the tourism improvement
12 and development district by a nonresident while within the
13 district.

14 6. a. The director shall collect and administer any tax
15 imposed pursuant to the provisions of this act, P.L., c.
16 (C.) (now pending before the Legislature as
17 this bill), notwithstanding the provisions of any other law or
18 ordinance to the contrary. In carrying out the provisions of this
19 act the director shall have all the powers granted in P.L.1966,
20 c.30 (C.54:32B-1 et seq.)

21 b. The director shall determine and certify to the State
22 Treasurer on a monthly basis the amount of revenues payable to
23 any authority operating in a district for which a tax on
24 predominantly tourism related retail receipts is imposed and
25 collected by the director pursuant to this act, P.L., c.
26 (C.) (now pending before the Legislature as this bill).
27 The State Treasurer, upon the certification of the director and
28 upon the warrant of the State Comptroller, shall pay and
29 distribute on a monthly basis to the fund established pursuant to
30 Section 13 of this act (C.) the amount so determined and
31 certified unless those amounts are otherwise required to be
32 placed in the reserve fund pursuant to this act.

33 7. An ordinance imposing a tax upon predominantly tourism
34 related retail receipts adopted pursuant to this act shall contain
35 the following provisions:

36 a. All taxes imposed by the ordinance shall be paid by the
37 purchaser:

38 b. A vendor shall not assume or absorb any tax imposed by the
39 ordinance;

40 c. A vendor shall not in any manner advertise or represent that
41 a tax imposed by the ordinance will be assumed or absorbed by
42 the vendor;

43 d. Each assumption or absorption by a vendor of the tax shall
44 be deemed a separate offense and each representation of
45 advertisement by a vendor for each day the representation or
46 advertisement continues shall be deemed a separate offense; and

47 e. Penalties as fixed in the ordinance, for violation of the
48 foregoing provisions.

49 8. A tax imposed pursuant to an ordinance shall apply only
50 within the territorial limits of the district within the
51 municipalities, and shall be in addition to all other taxes and
52 excises. ¹[Vendors required to collect a tax on predominantly
53 tourism related retail receipts or pay a tourism development fee
54 under this act, P.L., c. (C.) (now pending

1 before the Legislature as this bill), shall not be required to pay or
2 collect any State or local special purpose tax, fee or levy,
3 including user taxes and fees, taxes on retail sales, and room
4 taxes, imposed for tourism projects after the effective date of
5 the ordinances adopted pursuant to this act.]¹

6 9. a. A vendor required to collect the tax upon predominantly
7 tourism related retail receipts imposed pursuant to this act shall
8 on or before the ¹[last day of each month] dates required
9 pursuant to section 17 of P.L.1966, c.30 (C.54:32B-17), forward
10 to the director the tax collected in the preceding month and¹
11 make and file a return for the preceding month with the director
12 on any form and containing any information as the Director of
13 the Division of Taxation in the Department of the Treasury shall
14 prescribe by rule or regulation as necessary to determine liability
15 for the tax in the preceding month during which the person was
16 ¹[so subject to] required to collect¹ the tax.

17 b. The director may permit or require returns to be made
18 covering other periods and upon any dates as the director may
19 specify. In addition, the director may require payments of tax
20 liability at any intervals and based upon any classifications as the
21 director may designate. In prescribing any other periods to be
22 covered by the return or intervals or classifications for payment
23 of tax liability, the director may take into account the dollar
24 volume of tax involved as well as the need for ensuring the
25 prompt and orderly collection of the tax imposed.

26 c. The director may require amended returns to be filed within
27 20 days after notice and to contain the information specified in
28 the notice.

29 d. The director shall ¹[provide] inform¹ the authority for each
30 month in which this tax is collected and returns made ¹[with a
31 list of all vendors collecting that tax and]¹ of the amount so
32 collected ¹[by each vendor]¹ in each month.

33 10. The tax imposed upon predominantly tourism related retail
34 receipts pursuant to this act shall be governed by the provisions
35 of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq.

36 11. The director shall, pursuant to the "Administrative
37 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules
38 and regulations necessary to implement this act and the purposes
39 thereof, including the extension of, for cause shown by general
40 regulation or individual authorization, the time of filing a return
41 for a time not exceeding 3 months on such terms and conditions
42 as the director may require.

43 12. All revenues collected by the director under an ordinance
44 adopted and authorized pursuant to this act, P.L., c.
45 (C.) (now pending before the Legislature as this bill), shall
46 be retained by the State Treasurer for deposit in the fund
47 established pursuant to section 13 of this act, P.L., c.
48 (C.) (now pending before the Legislature as this bill), to be
49 used and distributed according to the terms herein provided.

50 The State Treasurer may deduct from amounts so retained
51 prior to deposit in the fund an amount equal to that necessary to
52 compensate the Department of Treasury for costs actually
53 incurred by that department in administering the provisions of
54 this act. The State Treasurer shall annually provide the authority

1 to which the fund pertains with a written account of the amounts
2 so deducted and of the costs so incurred in the previous fiscal
3 year. Amounts deducted by the State Treasurer shall be retained
4 by the Department of the Treasury and used exclusively for costs
5 so incurred.

6 13. There is created for a tourism improvement and
7 development district established pursuant to this act, P.L., c.
8 (C.) (now pending before the Legislature as this
9 bill), a reserve fund to be held by the State Treasurer, but not to
10 exist in the State Treasury, to be the repository for monies paid
11 to the State Treasurer pursuant to this act, P.L., c.
12 (C.) (now pending before the Legislature as this bill), and
13 disbursed as provided herein.

14 14. a. Until such time as the conditions set forth in subsection
15 b. of this section are met, the revenues deposited by the State
16 Treasurer in the fund shall be applied for the purposes of
17 financing the provision, advertising, promotion, improvement and
18 operation of the tourism project within the district, and the
19 acquisition, maintenance, operation and support of the tourism
20 project designated by the authority authorized to undertake those
21 activities pursuant to section 18 of this act, P.L., c.
22 (C.) (now pending before the Legislature as this bill).

23 b. Commencing on that date which is the later of (i) July 1,
24 1993, or (ii) 6 months prior to the first date on which any
25 payment of principal or interest on any bonds or notes issued for,
26 or any payment of rent under any lease entered into by the
27 authority in connection with the acquisition, construction,
28 reconstruction, maintenance, operation or support of a
29 convention center facility or other tourism project to accomplish
30 the purposes of the authority as set forth in section 21 of this
31 act, P.L., c. (C.) (now pending before the
32 Legislature as this bill), are required to be made from the
33 revenues collected pursuant to section 4 of this act, P.L.,
34 c. (C.) (now pending before the Legislature as this
35 bill), the revenues thereafter retained by the State Treasurer
36 pursuant to section 12 of this act, P.L., c. (C.
37) (now pending before the Legislature as this bill), shall be
38 applied exclusively in accordance with the provisions of the
39 resolution or resolutions authorizing the issuance of bonds by the
40 authority for that tourism project, to the payment of principal of
41 and interest on bonds so issued, the maintenance of necessary
42 reserves and the allocation of monies for future debt service
43 payments. On that date which is the later date determined
44 pursuant to paragraph 1 or 2 of this subsection, all monies then
45 accumulated in the fund shall be removed by the State Treasurer
46 and the proceeds, with the interest thereon, shall be used for any
47 of the purposes set forth in subsection a. of this section.

48 c. At the end of any full calendar year occurring after the
49 date which is the later date determined pursuant to paragraph 1
50 or 2 of subsection b. of this section and after all payments
51 coming due during that calendar year of principal and interest on
52 authority bonds or notes issued for a tourism project have been
53 made, and all obligations to the holders of those bonds have been
54 met, including the maintenance of necessary reserves and the

1 allocation of monies for future debt service payments, any
2 balance remaining in the fund in that calendar year shall be
3 applied to any deficiency between the operating expense budget
4 and the anticipated operating revenues available for the following
5 fiscal year to the entity operating the tourism project.

6 d. At the end of each full calendar year occurring after the
7 date which is the later date determined pursuant to paragraph 1
8 or 2 of subsection b. of this section and after all payments for
9 that year have been made from the fund pursuant to subsections
10 b. and c. of this section, any monies remaining in the fund in that
11 calendar year shall be used for the purposes set forth in
12 subsection a. of this section.

13 e. Pending application to the purposes for which monies
14 deposited in the fund may be used, the monies in the fund shall be
15 invested by the State Treasurer pursuant to applicable regulations
16 prescribed for the investment of State monies. Any income
17 received from these investments shall be added to the fund from
18 which earned, and used only for the purposes of the fund.

19 15. Ordinances adopted pursuant to this act, P.L., c.
20 (C.) (now pending before the Legislature as this
21 bill) shall impose a tourism development fee which shall not be
22 more than \$1,000 per year. The ordinances imposing the fee shall
23 set forth the method for the calculation thereof which shall be
24 similar to that used for mercantile licenses and other such fees.
25 The fee shall be uniform throughout the district and shall apply
26 to: a. all persons making sales of tangible personal property or
27 services, the receipts from which are subject to the "Sales and
28 Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), not required
29 to collect a tax on predominantly tourism related retail receipts,
30 b. all persons making charges for participant amusements, c. all
31 persons operating businesses that charge for parking, garaging or
32 storing motor vehicles, d. all persons maintaining or operating
33 coin-operated vending machines within the district, for the
34 machines within the district, regardless of the types of
35 commodities sold through the machines, and e. all persons
36 making sales of tangible personal property or services, the
37 receipts from which are subject to the "Sales and Use Tax Act,"
38 P.L.1966, c.30 (C.54:32B-1 et seq.) and who are required to
39 collect a tax on predominately tourism related retail receipts,
40 but only to the extent that the amount of tax on those receipts
41 collected in a year by the person is less than the amount of the
42 tourism development fee for that year. A person shall be exempt
43 from payment of a tourism development fee for a year if that
44 person is a vendor required to collect the tax upon predominantly
45 tourism related retail receipts under an ordinance authorized
46 under this act (P.L., c. (C.) (now pending
47 before the Legislature as this bill), in an amount equal to the
48 amount of tax so collected in that year.

49 ¹A person claiming any exemption for an amount of fee
50 otherwise required by this section by reason of the collection of
51 amounts of tax on predominately tourism related retail receipts
52 is deemed to have consented to the release of information
53 concerning that person's tax on predominately tourism related
54 retail receipts collections for the fee period sufficient, as

1 determined by the director, to verify the claim for exemption.
2 The municipality shall provide safeguards which restrict the use
3 or disclosure of any such information provided to purposes
4 directly connected with the administration of the fee.¹

5 16. The tourism development fee shall be due and payable in
6 the manner prescribed in the ordinance establishing the fee.

7 17. a. All tourism development fees imposed by ordinance
8 pursuant to section 15 of this act, P.L., c. (C.
9) (now pending before the Legislature as this bill), shall
10 be paid to the municipality by the person making the charge that
11 subjects the person or business to imposition of the fee. The fees
12 shall be remitted to the chief fiscal officer of the municipality,
13 and shall be reported on such forms and paid at such times as may
14 be prescribed by ordinance. The ordinance shall provide for the
15 penalties and interest to be paid in the event of delinquency in
16 payment of fees.

17 b. The amount of all fees paid to a municipality pursuant to
18 this section shall be appropriated annually to the authority
19 established pursuant to section 18 of this act, P.L., c.
20 (C.) (now pending before the Legislature as this
21 bill), to be used by the authority to advertise, promote and
22 operate the tourism project of the authority, and to promote and
23 enhance the public awareness of the tourism industry in the
24 district.

25 18. a. Ordinances adopted to create a tourism improvement
26 and development district pursuant to this act, P.L. c.
27 (C.) (now pending before the Legislature as this
28 bill) shall provide for the creation of a public body corporate and
29 politic for the district, under the name and style of "the Tourism
30 Improvement and Development Authority."

31 b. Copies of the ordinances for the creation of the authority
32 shall be filed in the office of the Secretary of State and in the
33 office of the Division of Local Government Services in the
34 Department of Community Affairs. A copy of the certified
35 ordinance shall be admissible in evidence in any action or
36 proceeding and shall be conclusive evidence of due and proper
37 adoption and filing thereof. After filing in the office of the
38 Secretary of State, a copy of the ordinance shall be published at
39 least once in a newspaper published or circulating in the adopting
40 municipalities, together with a notice stating the fact and date of
41 its adoption and the date of first publication of the notice. If no
42 action questioning the validity of the creation of the authority is
43 commenced within 45 days after the first publication of the
44 notice, then the authority shall be conclusively deemed to have
45 been validly created and authorized to transact business and
46 exercise powers pursuant to this act, P.L., c. (C.
47) (now pending before the Legislature as this bill).

48 c. An authority so established shall be subject to the provisions
49 of the "Local Authorities Fiscal Control Law," P.L.1983, c.313
50 (C.40A:5A-1 et seq.), except that the creation of the authority
51 shall not be subject to approval of the Local Finance Board in the
52 Department of Community Affairs.

53 19. The governing bodies of the municipalities which created
54 an authority pursuant to this act, P.L. ..., c. .. (C. ..)

1 (now pending before the Legislature as this bill) may by
2 ordinance, dissolve the authority pursuant to the "Local
3 Authorities Fiscal Control Law" P.L.1983, c.313 (C.40A:5A-1 et
4 seq.).

5 20. a. After the expiration of the period of 45 days following
6 the first publication of the creating ordinances, the governing
7 body of each municipality joining in the creation of the tourism
8 improvement and development district shall appoint the first
9 members to the authority. Each municipality shall be entitled to
10 appoint three members to the authority. Two of the three
11 members so appointed shall be owners, or employees of vendors,
12 for whom ¹[at least 50% of their] a regular part of a dominant
13 line of their business generates¹ retail receipts ¹[are]¹ subject to
14 taxation or who are subject to payment of municipal fees
15 pursuant to this act, P.L., c.(C.) (now
16 pending before the Legislature as this bill). The remaining
17 member appointed by each municipality shall be a resident of the
18 municipality who is not such an owner or employee of a vendor.
19 No member shall hold any elective public office.

20 b. The Commissioner of the Department of Commerce, Energy
21 and Economic Development shall be an ex officio member of the
22 authority.

23 c. Each member of the authority shall serve for a term of four
24 years, except of the members initially appointed, two shall be
25 appointed for a term of two years and one shall be appointed for
26 a term of four years. Each member shall hold office for the term
27 of the member's appointment and until the member's successor
28 is appointed and qualified. A member shall be eligible for
29 reappointment. A vacancy in the membership occurring other
30 than by expiration of term shall be filled in the same manner as
31 the original appointment but for the unexpired term only.

32 d. The Commissioner may designate an employee of the
33 department to represent the member at meetings of the
34 authority. The designee of the member may lawfully vote and
35 otherwise act on behalf of the member. The designation shall be
36 made annually in writing and delivered to the authority and shall
37 be effective until revoked or amended by written notice delivered
38 to the authority.

39 e. The authority, upon the first appointment of its members
40 and thereafter at the same time in each year, shall annually elect
41 from among its members, a chairman and a vice-chairman who
42 shall hold office until a successor is elected. The authority may
43 also appoint and employ, without regard to the provisions of Title
44 11A of the New Jersey Statutes, an executive director and other
45 agents and employees as the authority may require, and shall
46 determine their qualifications, terms of office, duties and
47 compensation thereof.

48 f. The powers of the authority shall be vested in the voting
49 members thereof in office from time to time; a majority of the
50 members of the authority shall constitute a quorum and the
51 affirmative vote of a majority of the full membership shall be
52 necessary for any action taken by the authority unless the bylaws
53 of the authority shall require a larger number. No vacancy in the
54 membership of the authority shall impair the right of a quorum to
55 exercise all the rights and perform all the duties of the authority.

1 g. The members of the authority shall serve without
2 compensation, but the authority may reimburse its members for
3 actual and necessary expenses incurred in the discharge of their
4 duties.

5 h. Each appointed member of the authority may be removed by
6 the appointing authority for cause after a public hearing and may
7 be suspended by the authority pending the completion of the
8 hearing. Each member of the authority before entering upon the
9 duties of office shall take and subscribe an oath to perform the
10 duties of the office faithfully, impartially, prudently and justly to
11 the best of the member's ability. A record of these oaths shall
12 be filed in the office of the Secretary of State.

13 21. The public purpose of an authority shall be to undertake a
14 tourism project which is necessary or useful to the economic
15 development and public welfare of the residents and tourist
16 industry of the creating municipalities, and to promote, advertise
17 and enhance the attractiveness of the district to visitors and
18 tourists. An authority shall have the following powers:

19 a. To adopt bylaws for the regulation of its affairs and the
20 conduct of its business;

21 b. To adopt an official common seal and alter it at its pleasure;

22 c. To maintain an office at a place or places within the
23 district as it may designate;

24 d. To sue and be sued in its own name;

25 e. To acquire from any predecessor owner or operator, and to
26 construct, reconstruct, maintain, and operate a convention
27 center facility or other tourism project;

28 f. To issue bonds or notes of the authority for the purposes of
29 this act and to provide for the rights of the holders thereof all as
30 provided in the "Local Bond Law" N.J.S.40A:2-1 et seq;

31 g. To set and collect rents, fees, charges or other payments
32 for the lease, use, occupancy or disposition of a convention
33 center facility or other project acquired, constructed or
34 reconstructed by the authority pursuant to the provisions of this
35 act, P.L., c. (C.) (now pending before the
36 Legislature as this bill). Any revenues collected shall be
37 available to the authority for use in furtherance of any of the
38 purposes of this act;

39 h. To acquire, lease as lessee or lessor, own, rent, use, hold
40 and dispose of real property and personal property or any interest
41 therein, in the exercise of its powers and the performance of its
42 duties under this act;

43 i. To acquire in the name of the authority by purchase, gift or
44 otherwise, on terms and conditions and in a manner as the
45 authority may deem proper, or by the exercise of the power of
46 eminent domain except as against the State of New Jersey, any
47 land and other property which the authority may determine is
48 necessary for the construction, reconstruction, maintenance,
49 operation or support of a convention center facility pursuant to
50 the provisions of this act, P.L., c. (C.) (now
51 pending before the Legislature as this bill) or parts thereof or
52 rights therein, and any fee simple absolute or any lesser interest
53 in private property, and any fee simple absolute in, easements
54 upon, or the benefit of restrictions upon abutting property to

- 1 preserve and protect same;
- 2 j. To grant by franchise, lease or otherwise, the use of any
3 property owned and controlled by the authority to any person for
4 the consideration and for the period or periods of time and upon
5 terms and conditions as are agreed upon;
- 6 k. To apply for, receive and accept from the United States of
7 America or any agency thereof, or the State and any subdivision
8 thereof, subject to the approval of the State Treasurer, grants for
9 or in aid of the planning, acquisition or construction of a
10 convention center facility or other tourism project, and to
11 receive and accept aid or contributions from any other public or
12 private source, of either money, property, labor or other things of
13 value, to be held, used and applied only for the purposes for which
14 those grants and contributions may be made;
- 15 l. Subject to the limitations of this act, to determine the
16 location, type and character of its tourism project and all other
17 matters in connection therewith;
- 18 m. To enter into contracts or agreements with any entity for
19 the entity to issue bonds or notes on behalf of the authority and
20 to make payments to the entity to secure those bonds or notes;
- 21 n. To procure and enter into contracts for any type of
22 insurance and indemnify against loss or damage to property from
23 any cause, including the loss of use and occupancy and business
24 interruption, death or injury of any person, employee liability,
25 any act of any member, officer, employee or servant of the
26 authority, whether part-time, compensated or uncompensated. In
27 the performance of the duties of office or employment or any
28 other insurable risk or any other losses in connection with
29 property, operations, assets or obligations in any amounts and
30 from any insurers as are deemed desirable. In addition, the
31 authority may carry its own liability insurance;
- 32 o. To promote and advertise the district and to promote the
33 use of the convention center facility by tourists and visitors to
34 the district; and
- 35 p. To enter into any and all agreements or contracts, execute
36 any and all instruments, and do and perform any and all acts or
37 things necessary, convenient or desirable for the purposes of the
38 authority or to carry out any power expressly given in this act.
- 39 22. All purchases, contracts or agreements made pursuant to
40 this act, P.L., c. (C.) (now pending before
41 the Legislature as this bill) shall be made or awarded pursuant to
42 the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1
43 et seq.).
- 44 23. Any convention center facility or other tourism project
45 constructed by the authority shall be maintained and kept in the
46 condition and repair as the authority determines, or the bond
47 covenants require. A project or any part thereof may be policed
48 and operated by employees and other persons as the authority
49 may employ or authorize.
- 50 24. The exercise of the power of eminent domain and the
51 compensation to be paid thereunder by the authority shall be in
52 accordance with the provisions of the "Eminent Domain Act of
53 1971," P.L.1971, c.361 (C.20:3-1 et seq.) in so far as the
54 provisions thereof are applicable and not inconsistent with the

1 provisions contained in this act.

2 25. a. The authority may from time to time issue its bonds or
3 notes for any of its purposes under this act, including the
4 payment, funding, or refunding of principal or interest or
5 redemption premiums on any bonds or notes issued by it whether
6 the bonds or notes or interest to be funded or refunded have or
7 have not become due. Bonds and notes so issued shall be subject
8 to the "Local Bond Law" N.J.S.40A:2-1 et seq. and the "Local
9 Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et
10 seq.).

11 b. Except as may be otherwise expressly provided by the
12 authority, every issue of bonds or notes shall be general
13 obligations payable out of any monies or revenues of the
14 authority, subject only to any agreements with the holders of
15 particular bonds or notes pledging any particular revenues or
16 funds. The authority may issue the types of bonds or notes as it
17 may determine, including, without limiting the generality of the
18 foregoing, bonds or notes on which the principal and interest are
19 payable (1) exclusively from the income and revenues derived
20 from a tax upon retail receipts of any vendor located within the
21 tourism improvement and development district created pursuant
22 to the provisions of section 4 of this act, P.L., (c.
23 (C.) (now pending before the Legislature as this bill); (2)
24 exclusively from the income and revenues from rates, charges
25 and fees of a convention center facility or other tourism project
26 operated by the authority, whether or not the project is financed
27 in whole or in part with the proceeds of the bonds or notes; or (3)
28 from its revenues generally. Any bonds or notes may be
29 additionally secured by a pledge of any grant or contribution from
30 the federal government or any State or any agency or public
31 subdivision thereof or any person or a pledge of any monies,
32 income or revenues of the authority from any source whatsoever.
33 In addition, the authority may, in anticipation of the issuance of
34 the bonds or the receipt of appropriations, grants,
35 reimbursements or other funds, including without limitation
36 grants from the federal government, issue notes, the principal of
37 or interest on which, or both, shall be payable out of the proceeds
38 of notes, bonds or other obligations of the authority or
39 appropriations, grants reimbursements or other funds or revenues
40 of the authority.

41 26. Prior to the adoption of any resolution of an authority
42 authorizing the issuance of notes or bonds for a tourism project,
43 an application for the proposed project financing shall be
44 submitted to the Local Finance Board for review and ¹[approval]
45 findings¹ pursuant to the "Local Authorities Fiscal Control Law,"
46 P.L.1983, c.313 (C.40A:5A-1 et seq.).

47 27. a. Within 30 days after the issuance of any bonds or notes
48 for, or the execution of lease in connection with, the acquisition,
49 construction, reconstruction or improvement of a convention
50 center facility or other tourism project pursuant to this act, P.L.
51, c. (C.) (now pending before the
52 Legislature as this bill), the authority shall file a report with the
53 Local Finance Board setting forth, if applicable, the principal
54 amount of bonds or notes issued for that project, the annual

1 payments of principal and interest to be made on the bonds or
2 notes with respect to that project, the terms and provisions of
3 the financing undertaken for, or the lease entered into in
4 connection with, the project, and such engineering and feasibility
5 studies as may have been commissioned and used by the authority
6 in connection with financing the project.

7 b. At least 90 days prior to the date which is the later date
8 determined pursuant to paragraph 1 or 2 of subsection b. of
9 section 14 of this act (C.), an authorized officer of the
10 authority issuing bonds or notes for, or entering into a lease in
11 connection with, the acquisition, construction, reconstruction or
12 improvement of the convention center facility or other tourism
13 project shall notify the Director of the Division of Local
14 Government Services in the Department of Community Affairs of
15 the precise date determined pursuant to subsection b. of section
16 14 of this act, the amounts payable thereafter (1) on account of
17 the principal and interest on, or reserve funding requirements on,
18 those bonds or notes, or (2) as rent under the lease, and the name
19 and address of the paying agent or agents for the bonds or notes,
20 or of the lessor under the lease. The director shall, upon the
21 receipt of that notice, verify the facts contained therein, and
22 certify the same to the State Treasurer.

23 c. Following the certification in subsection b. of this section
24 and upon the date set forth therein, the State Treasurer shall
25 thereafter pay prior to each payment date from the fund the
26 amounts certified to be paid (1) to the appropriate paying agent
27 or agents for the principal and interest on, or reserve funding
28 requirements on, the bonds or notes, or (2) to the lessor as rent
29 under the lease.

30 28. Any pledge of revenues or other monies made by the
31 authority shall be valid and binding from the time when the
32 pledge is made. The revenues or other monies so pledged and
33 thereafter received by the authority shall immediately be subject
34 to the lien of that pledge without any physical delivery thereof or
35 further act, and the lien of any pledge shall be valid and binding
36 as against all parties having claims of any kind in tort, contract
37 or otherwise against the authority, irrespective of whether the
38 parties have notice thereof. Neither the resolution nor any other
39 instrument by which a pledge is created need be filed or recorded
40 except in the records of the authority.

41 29. The State of New Jersey does hereby pledge to and
42 covenant and agree with the holders of any bonds or notes issued
43 by the authority or other entity pursuant to the provisions of this
44 act, P.L., c. (C.) (now pending before the
45 Legislature as this bill) that the State will not limit or alter the
46 rights or powers vested in the authority to acquire, construct,
47 maintain and operate any project, or to perform and fulfill the
48 terms of any agreement made with the holders of the bonds or
49 notes, or to fix, establish, charge and collect rates, fees or other
50 charges as may be convenient or necessary to produce sufficient
51 revenues to meet all expenses of the authority and fulfill the
52 terms of any contract with another entity or any agreement made
53 with the holders of the bonds or notes, and that the State will not
54 in any way impair the rights or remedies of the holders or modify

1 in any way the exemptions from taxation provided for in this act,
2 until the bonds and notes, together with interest thereon, with
3 interest on any unpaid installments of interest, and all costs and
4 expenses in connection with any action or proceedings by or on
5 behalf of such holders, are fully met and discharged or provided
6 for.

7 30. Neither the members of the authority nor any person
8 executing bonds or notes issued pursuant to this act, P.L.,
9 c. (C.) (now pending before the Legislature as this
10 bill) shall be liable personally on the bonds or notes by reason of
11 the issuance thereof.

12 31. a. The authority is authorized to fix, revise, charge and
13 collect rates, charges and fees for the use of a convention center
14 facility or other tourism project and the different parts or
15 sections thereof. The rates, charges and fees shall be so fixed
16 and adjusted as to effectuate the purposes of this act and in any
17 event to carry out and perform the terms and provisions of any
18 contract with or for the benefit of holders of bonds or notes. The
19 charges shall not be subject to supervision or regulation by any
20 other commission, board, bureau or agency of the State or
21 subdivision of the State, except as provided in the "Local
22 Authorities Fiscal Control Law" P.L.1983, c.313 (C.40A:5A-1 et
23 seq.). The use and disposition of charges and revenues shall be
24 subject to the provisions of any resolution authorizing the
25 issuance of the bonds or notes.

26 b. The authority is authorized to contract with any person,
27 partnership, association, corporation or federal, State or local
28 government entity or subdivision thereof desiring the use of any
29 part of a project, including the right-of-way adjoining a paved
30 portion, for operation or placing thereon telephone, telegraph,
31 electric light or power lines, gas stations, garages, stores, hotels,
32 or restaurants, or for any other purpose, and to fix the terms,
33 conditions, rents and rates of charges for that use. No contract
34 shall be required, and no rent, fee or other charge of any kind
35 shall be imposed, for the use and occupation for the installation,
36 construction, use, operation, maintenance or repair, renewal,
37 relocation or removal of tracks, pipes, mains, conduits, cables,
38 wires, towers, holes or other equipment or appliances in, on,
39 along, over or under any project by any public utility as defined in
40 section R.S.27:7-1 which is subject to taxation pursuant to either
41 P.L.1940, c.4 (C.54:30A-16 et seq.) or P.L.1940, c.5 (C.54:30A-49
42 et seq.), or pursuant to any other law imposing a tax for the
43 privilege of using the public streets, highways, roads or other
44 public places in the State.

45 32. In addition to the other powers conferred by this act or by
46 any other law and not in limitation thereof, the authority, in
47 connection with construction or operation of a convention center
48 facility as other tourism project, may make reasonable
49 regulations for the installation, construction, maintenance,
50 renewal and removal of tracks, pipes, mains, conduits, cables,
51 wires, towers, poles or any other equipment and appliances,
52 herein called "works," of any public utility as defined in
53 R.S.48:2-13, in, on or along, over or under the project, public
54 highway or real property, including public lands or waters.

1 Whenever in connection with construction or operation of the
2 project, the authority shall determine that it is necessary that
3 any works, which now are or hereafter may be located in, on,
4 along, over under any project, public highway, or real property,
5 should be relocated in the project, public highway, or real
6 property or should be removed therefrom, the public utility
7 owning or operating the works shall relocate or remove the same
8 in accordance with the order of the authority, provided, however,
9 that the cost and expenses of the relocation or removal, including
10 the cost of installing these works in a new location, and the cost
11 of any lands or any rights or interest in lands or any other rights
12 acquired to accomplish the relocation or removal, less the cost of
13 any lands or any rights or interest in lands or any other rights of
14 the public utility, paid to the public utility in connection with the
15 relocation or removal of the works, shall be paid by the authority
16 and may be included in the cost of the project. In case of any
17 relocation or removal of works, the public utility owning or
18 operating the same, its successors or assigns, may maintain and
19 operate the works, with the necessary appurtenances, in the new
20 location for as long a period, and upon the same terms and
21 conditions, as it had the right to maintain and operate the works
22 in their former location.

23 33. Any government entity, notwithstanding any contrary
24 provision of law, is authorized to lease, lend, grant or convey to
25 the authority at its request upon the terms and conditions as the
26 governing body or other proper agencies of the government entity
27 may deem reasonable and fair and without the necessity for any
28 advertisement, order of court or other action, other than the
29 authorizing resolution or other formal action of the government
30 entity, any real property or personal property or interest therein
31 which may be necessary or convenient to effectuate the purposes
32 of the authority, including any convention center buildings and
33 structures or other real property already devoted to such
34 purposes.

35 34. For the purpose of aiding and cooperating in the
36 acquisition, construction, or operation of any project of the
37 authority, any county or municipality may, upon agreement with
38 the authority and in the manner provided by law:

39 a. Appropriate monies for the purposes of the authority and to
40 loan or donate the money to the authority in the installments and
41 upon the terms as may be agreed upon by the authority.

42 b. Perform any act for the authority which it is empowered by
43 law to perform;

44 c. Incur indebtedness, borrow money and issue bonds or notes
45 for the purpose of financing a project pursuant to the provision of
46 the "Local Bond Law," N.J.S.40A:2-1 et seq.; and

47 d. Unconditionally guarantee the punctual payment of the
48 principal of and interest on any bonds or notes of the authority.

49 35. All property of the authority, except any property which is
50 subjected to a lien to secure any bonds or notes issued by the
51 authority, shall be exempt from levy and sale by virtue of an
52 execution and no execution or other judicial process shall issue
53 against the same, nor shall any such judgment against the
54 authority be a charge or lien upon its property; provided that

1 nothing herein contained shall apply to or limit the rights of the
2 holders of any bonds or notes to pursue any remedy for the
3 enforcement of any pledge or lien given by the authority on its
4 revenues or other monies.

5 36. The tourism project and other property of the authority
6 are declared to be public property of an instrumentality of the
7 State and devoted to an essential public and governmental
8 function and purpose and shall be exempt from all taxes and
9 special assessments of the State or any subdivision thereof. All
10 bonds or notes issued pursuant to this act, P.L., c.
11 (C.) (now pending before the Legislature as this bill) are
12 declared to be issued by an instrumentality of this State and for
13 an essential public and governmental purpose and the bonds and
14 notes, and the interest thereon and the income therefrom, and all
15 charges, funds, revenues, income and other monies pledged or
16 available to pay, or secure the payment of the bonds or notes, or
17 interest thereon, shall at all times be exempt from taxation
18 except for transfer inheritance and estate taxes.

19 37. All banks, trust companies, savings banks, investment
20 companies and other persons carrying on a banking business are
21 each authorized to give to the authority a good and sufficient
22 undertaking with the sureties as shall be approved by the
23 authority to the effect that the bank or banking institution shall
24 faithfully keep and pay over to the order of or upon the warrant
25 of the authority or its authorized agent all those funds as may be
26 deposited with it by the authority and agreed interest thereon, at
27 the times and upon the demands as may be agreed to with the
28 authority or, in lieu of these sureties, deposit with the authority
29 or its authorized agent or any trustee therefor or for the holders
30 of any bonds or notes, as collateral, these securities as the
31 authority may approve. The deposits of the authority may be
32 evidenced or secured by a depository collateral agreement in that
33 form and upon the terms and conditions as may be agreed upon by
34 the authority and at the bank or banking institution.

35 38. Notwithstanding the provisions of any other law, the State
36 and all public officers, municipalities, counties, political
37 subdivisions and public bodies and agencies thereof, all banks,
38 bankers, trust companies, savings banks and institutions, building
39 and loan associations, investment companies, savings and loan
40 associations, and other persons carrying on a banking or
41 investment business, all insurance companies, insurance
42 associations and other persons carrying on an insurance business,
43 and all executors, administrators, guardians, trustees and other
44 fiduciaries, may legally invest any sinking funds, monies or other
45 funds belonging to them or within their control in any bonds or
46 notes issued pursuant to this act, P.L., c. (C.
47) (now pending before the Legislature as this bill), and
48 these bonds and notes shall be authorized security for any and all
49 public deposits.

50 39. The authority shall cause a financial audit of its books and
51 accounts to be made at least once each year by certified public
52 accountants pursuant to the "Local Authorities Fiscal Control
53 Law," P.L.1983, c.313 (C.40A:5A-1 et seq.), and copies thereof
54 shall be filed with the State Treasurer and with the State Auditor.

1 40. Nothing in this act shall be construed to authorize or
2 empower the authority to:

3 a. Vacate, close, connect with, adjust, relocate, cross or
4 otherwise physically affect any State highway without written
5 approval by the Commissioner of Transportation; or

6 b. Acquire State property or any interest therein by the
7 exercise of the power of eminent domain.

8 41. The authority and its authorized agents and employees may
9 enter upon any lands, waters and premises other than State
10 property for the purpose of making surveys, soundings, drillings
11 and examinations as it may deem necessary or convenient for the
12 purposes of this act, and this entry shall not be deemed a
13 trespass, nor shall the entry for this purpose be deemed an entry
14 under any condemnation proceedings which may be then pending.
15 The authority shall make reimbursement for any actual damages
16 resulting to such lands, waters and premises as a result of those
17 activities.

18 42. The authority may enter into contracts, leases, or
19 agreements with any municipal government, concerning the
20 acquisition, construction, maintenance, operation, or support of a
21 convention center facility or other tourism project.

22 43. The powers granted pursuant to the provisions of this act,
23 P.L., c. (C.) (now pending before the
24 Legislature as this bill) are in addition to all powers under
25 existing laws and municipal charters.

26 44. Nothing in this act shall be construed to in any way impair
27 any obligation assumed by any municipality entered into prior to
28 the effective date of this act.

29 45. This act shall take effect immediately but sections 1
30 through 44 shall remain inoperative for 90 days following
31 enactment, provided however the Commissioner of Commerce,
32 Energy and Economic Development, the State Treasurer, the
33 Local Finance Board, the Director of the Division of Taxation and
34 the Director of the Division of Budget and Accounting may take
35 such anticipatory actions as may be necessary for the timely
36 implementation of this act on the operative date.

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41 _____

The "Tourism Improvement and Development District Act."

ASSEMBLY, No. 1053
STATE OF NEW JERSEY

INTRODUCED MARCH 2, 1992

By Assemblyman LoBIONDO

1 AN ACT concerning the promotion of tourism in certain counties,
2 providing for the creation of tourism improvement and
3 development districts, authorizing the imposition of certain
4 taxes on certain retail sales therein, creating certain tourism
5 improvement and development authorities and authorizing
6 certain projects thereof and supplementing Title 40 of the
7 Revised Statutes.

8
9 BE IT ENACTED *by the Senate and General Assembly of the*
10 *State of New Jersey:*

11 1. This act shall be known and may be cited as the "Tourism
12 Improvement and Development District Act."

13 2. The Legislature finds and determines:

14 a. The State of New Jersey contains many unique natural,
15 recreational, and economic resources that are enjoyed not only by
16 the citizens of the State but also by millions of visitors from all
17 over the United States and the world, which in turn results in a
18 multi-billion dollar tourism industry that is crucial to the
19 economic well-being of the State.

20 b. The provision of appropriate public facilities and
21 improvements necessary to promote and sustain tourism is
22 especially difficult for public entities located in sixth class
23 counties of this State. In those counties a relatively small
24 permanent population combines with a relative lack of a
25 diversification in the economic base to present special obstacles
26 for public entities which seek to undertake and fund tourism
27 facilities and improvements without damaging the economic
28 prosperity of the locality by imposing onerous taxes on permanent
29 residents or businesses.

30 c. The creation of tourism improvement and development
31 districts may assist municipalities in those counties in promoting
32 economic growth and employment related to a tourism-economy
33 and that municipalities in counties of the sixth class should be
34 encouraged to create tourism improvement and development
35 districts to finance the acquisition, construction, reconstruction,
36 maintenance, operation and support of convention center
37 facilities and similar projects to enhance the local tourism
38 business climates.

39 d. It is in the public interest to encourage these
40 municipalities in counties of the sixth class to seek regional
41 solutions to common problems related to economic prosperity of
42 this State, and to enhance the prosperity of those municipalities
43 by the adoption of appropriate ordinances to assess, levy and
44 collect taxes upon certain sales and services, and to impose
45 certain municipal fees, during those times of year when the level

1 of tourism is especially high in such municipalities. These special
2 public finance measures which are not generally available to
3 other local units of the State, are appropriate to address the
4 particular economic conditions of sixth class counties, and are
5 not necessary or appropriate in areas with a larger population
6 base and more diversified economic structure, which are not so
7 heavily affected by the seasonal fluctuations of a tourism based
8 economy.

9 3. As used in this act:

10 "Authority" means a tourism improvement and development
11 authority created pursuant to section 18 of this act, P.L., c. (C.....) (now pending before the Legislature as this
12 bill).
13

14 "Bond" means any bond or note issued by an authority
15 pursuant to the provisions of this act.

16 "Commissioner" means the Commissioner of Commerce,
17 Energy and Economic Development.

18 "Construction" or "construct" means the planning, designing,
19 construction, reconstruction, rehabilitation, replacement, repair,
20 extension, enlargement, improvement and betterment of a
21 project, and includes the demolition, clearance and removal of
22 buildings or structures on land acquired, held, leased or used for a
23 project.

24 "Convention center facility" means any convention hall or
25 center or like structure or building, and shall include all
26 facilities, including commercial, office, community service,
27 parking facilities and all property rights, easements and interests,
28 and other facilities constructed for the accommodation and
29 entertainment of tourists and visitors, constructed in conjunction
30 with a convention center facility and forming reasonable
31 appurtenances thereto.

32 "Tourism project" means the convention center facility or
33 similar tourism improvement or development project located in
34 the territorial limits of the district, and any costs associated
35 therewith.

36 "Cost" means all or any part of the expenses incurred in
37 connection with the acquisition, construction and maintenance of
38 any real property, lands, structures, real or personal property
39 rights, rights-of-way, franchises, easements, and interests
40 acquired or used for a project; any financing charges and reserves
41 for the payment of principal and interest on bonds or notes; the
42 expenses of engineering, appraisal, architectural, accounting,
43 financial and legal services; and other expenses as may be
44 necessary or incident to the acquisition, construction and
45 maintenance of a project, the financing thereof and the placing
46 of the project into operation.

47 "County" means a county of the sixth class.

48 "Department" means the Department of Commerce, Energy
49 and Economic Development.

50 "Director" means the Director of the Division of Taxation
51 in the Department of the Treasury.

52 "Fund" means a Reserve Fund created pursuant to section
53 13 of this act, P.L., c. (C.) (now pending
54 before the Legislature as this bill).

1 "Land and improvements" means any area or lands, any
2 interest, right or title in land, including but not limited to, any
3 reversionary right, and any real or personal property, structure,
4 facility, building or equipment.

5 "Participant amusement" means a sporting activity or
6 amusement the charge for which is exempt from taxation as a
7 retail sale under the "Sales and Use Tax Act," P.L. 1966, c. 30
8 (C.54:32B-1 et seq.) by virtue of the participation of the patron
9 in the activity or amusement, such as bowling alleys, swimming
10 pools, water slides, miniature golf, boardwalk or carnival games
11 and amusements, baseball batting cages, tennis courts, and
12 fishing and sightseeing boats.

13 "Person" means an individual, partnership, society,
14 association, joint stock company, corporation, public corporation
15 or public authority, estate, receiver, trustee, assignee, referee,
16 and any other person acting in a fiduciary or representative
17 capacity, whether appointed by a court or otherwise, and any
18 combination of the foregoing.

19 "Purchaser" means any person purchasing or hiring property or
20 services from another person, the receipts from which are
21 taxable.

22 "Real property" means lands within the State, above or
23 below water, and improvements thereof or thereon, or any
24 riparian or other rights or interests therein.

25 "Receipt" means the amount of the sales price of any
26 property and the charge for any service taxable under this act,
27 P.L., c. (C.) (now pending before the Legislature as
28 this bill), valued in money, whether received in money or
29 otherwise, including any amount for which credit is allowed by
30 the vendor to the purchaser, without any deduction for expenses
31 or early payment discounts, but excluding any credit for property
32 of the same kind accepted in part payment and intended for
33 resale and excluding the cost of transportation where such cost is
34 separately stated in the written contract, if any, and on the bill
35 rendered to the purchaser.

36 "Retail sales"

37 (1) The term retail sales includes:

38 (a) A retail sale of tangible personal property to any person
39 for any purpose;

40 (b) A sale, except for resale, of any service to any person
41 for any purpose;

42 (2) The term retail sales does not include:

43 (a) A retail sale which is not subject to taxation pursuant to
44 the "Sales and Use Tax Act," P.L. 1966, c. 30 (C.54:32B-1 et
45 seq.);

46 (b) A retail sale or lease of an automobile, motorcycle,
47 truck or similar motor vehicle designed to be operated on roads
48 or highways;

49 (c) A retail sale or lease of a boat or similar vessel;

50 (d) A retail sale or lease of aircraft;

51 (e) A retail sale or lease of telecommunications;

52 (f) A retail sale of an appliance, cooling device, furnace or
53 similar equipment for use in residential, commercial or other
54 structures, where the sales price exceeds \$100.00;

1 (g) A retail sale of home furnishings, where the sales price
2 exceeds \$100.00;

3 (h) A retail sale made between October 1 and April 30,
4 inclusive, in any year.

5 "Tourism" means activities involved in providing and
6 marketing services and products, including accommodations, for
7 nonresidents and residents who travel to and in New Jersey for
8 recreation and pleasure.

9 "Tourism improvement and development district" or
10 "district" means an area within two or more contiguous
11 municipalities within a county of the sixth class established
12 pursuant to ordinance enacted by those municipalities, for the
13 purposes of promoting the acquisition, construction, maintenance,
14 operation and support of a tourism project, and to devote the
15 revenue and the proceeds from taxes upon retail sales and fees
16 imposed upon charges to the purposes as herein defined.

17 "Vendor"

18 (1) The term "vendor" includes:

19 (a) A person making sales of tangible personal property or
20 services, the receipts from which are taxed by this act, P.L.,
21 c. (C.) (now pending before the Legislature as this
22 bill);

23 (b) A person maintaining a place of business in the State
24 and making sales, whether at such place of business or elsewhere,
25 to persons within the State of tangible personal property or
26 services, the use of which is taxed by this act;

27 (c) A person who solicits business either by employees,
28 independent contractors, agents or other representatives or by
29 distribution of catalogs or other advertising matter and by reason
30 thereof makes sales to persons within the State of tangible
31 personal property or services, the use of which is taxed by this
32 act; and,

33 (d) Any other person making sales to persons within the
34 State of tangible personal property or services, the use of which
35 is taxed by this act, who may be authorized to collect the tax
36 imposed by this act.

37 "Tourist industry" means the industry consisting of private
38 and public organizations which directly or indirectly provide
39 services and products to nonresidents and residents who travel to
40 and in New Jersey for recreation and pleasure.

41 4. a. Two or more contiguous municipalities located in a
42 county of the sixth class may, by ordinances of a substantially
43 similar nature, create a tourism improvement and development
44 district for the purpose of increasing public revenue and to levy
45 taxes upon receipts of vendors from retail sales at a rate not to
46 exceed 2 percent from May 1, 1992 and thereafter, and to devote
47 the proceeds therefrom for the purposes herein described. For
48 the same purposes, the ordinances may also provide for the
49 imposition of one or more of the fees authorized pursuant to
50 sections 15 through 17 of this act, P.L., c. (C.
51) (now pending before the Legislature as this bill).
52 Retail sales taxes and fees so imposed shall be uniform
53 throughout the district.

54 b. Notwithstanding any other law to the contrary,

1 ordinances so adopted shall not be subject to referenda, and shall
2 not be altered or repealed, except by mutual action of all such
3 municipalities. Each municipality which enters into the creation
4 of the district, shall covenant that the ordinance shall not be
5 altered or repealed during such time as any bonds or other
6 obligations pertaining to projects within the district are
7 outstanding.

8 c. The district shall comprise all territory within the
9 boundaries of the municipalities which create or enter into the
10 district.

11 d. A municipality located in a county of the sixth class may,
12 by such an ordinance, and with the mutual consent of the
13 governing bodies of the municipalities which created the district,
14 enter into the district so created after the date of creation.

15 5. No tax on retail sales shall be imposed upon:

16 a. A retail sale or transaction originating or consummated,
17 or both, outside the municipality, notwithstanding that some act
18 may be necessarily performed with respect to the sale or
19 transaction within the municipality;

20 b. A nonresident of the municipality or on account of any
21 sale or transaction by or with a nonresident of the municipality,
22 except when imposed without discrimination as between residents
23 and nonresidents on account of retail sales actually made or
24 consummated within a tourism improvement and development
25 district in a municipality by a nonresident while within the
26 municipality;

27 c. Any isolated transaction not made in the ordinary course
28 of repeated and successive transactions of a like character;

29 d. Any sales by any State use industry or any sales by any
30 governmental agency in this State to any other governmental
31 agency in this State;

32 e. Any sale by the State or to or by any political subdivision
33 thereof;

34 f. Any sales which the State is prohibited from taxing under
35 the Constitution and laws of the United States of America; and

36 g. Any sales or charges made by any church or bona fide
37 purely charitable association not conducted for profit, or upon
38 any organization exempted from the tax imposed under the "Sales
39 and Use Tax Act," P.L. 1966, c. 30 (C. 54:32B-1 et seq.) pursuant
40 to sections 9, 10 and 11 of that act, or by the provisions of P.L.
41 1980, c. 105 (C. 54:32B-8.1 et seq.), or any amendments or
42 supplements thereto.

43 6. a. The director shall collect and administer any tax imposed
44 pursuant to the provisions of this act, P.L., c.
45 (C.) (now pending before the Legislature as this bill),
46 notwithstanding the provisions of any other law or ordinance to
47 the contrary. In carrying out the provisions of this act the
48 director shall have all the powers granted in P.L. 1966, c. 30
49 (C.54:32B-1 et seq.)

50 b. The director shall determine and certify to the State
51 Treasurer on a monthly basis the amount of revenues payable to
52 any authority operating in a district for which a retail sales tax is
53 imposed and collected by the director pursuant to this act, P.L.
54, c. (C.) (now pending before the Legislature

1 as this bill). The State Treasurer, upon the certification of the
2 director and upon the warrant of the State Comptroller, shall pay
3 and distribute on a monthly basis to the authority the amount so
4 determined and certified unless those amounts are otherwise
5 required to be placed in the reserve fund pursuant to this act.

6 7. An ordinance imposing a tax upon retail sales adopted
7 pursuant to this act shall contain the following provisions:

8 a. All taxes imposed by the ordinance shall be paid by the
9 purchaser:

10 b. A vendor shall not assume or absorb any tax imposed by
11 the ordinance;

12 c. A vendor shall not in any manner advertise or represent
13 that a tax imposed by the ordinance will be assumed or absorbed
14 by the vendor;

15 d. Each assumption or absorption by a vendor of the tax
16 shall be deemed a separate offense and each representation of
17 advertisement by a vendor for each day the representation or
18 advertisement continues shall be deemed a separate offense; and

19 e. Penalties as fixed in the ordinance, for violation of the
20 foregoing provisions.

21 8. A tax imposed pursuant to an ordinance shall apply only
22 within the territorial limits of the district within the
23 municipalities, and shall be in addition to all other taxes and
24 excises.

25 9. a. A person subject to the tax upon retail sales imposed
26 pursuant to this act shall on or before the last day of each month
27 make and file a return for the preceding month with the director
28 on any form and containing any information as the Director of
29 the Division of Taxation in the Department of the Treasury shall
30 prescribe by rule or regulation as necessary to determine liability
31 for the tax in the preceding month during which the person was so
32 subject to the tax.

33 b. The director may permit or require returns to be made
34 covering other periods and upon any dates as the director may
35 specify. In addition, the director may require payments of tax
36 liability at any intervals and based upon any classifications as he
37 may designate. In prescribing any other periods to be covered by
38 the return or intervals or classifications for payment of tax
39 liability, the director may take into account the dollar volume of
40 tax involved as well as the need for ensuring the prompt and
41 orderly collection of the tax imposed.

42 c. The director may require amended returns to be filed within
43 20 days after notice and to contain the information specified in
44 the notice.

45 10. The tax imposed upon retail sales pursuant to this act shall
46 be governed by the provisions of the State Tax Uniform
47 Procedure Law, R.S.54:48-1 et seq.

48 11. The director shall, pursuant to the "Administrative
49 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules
50 and regulations necessary to implement this act and the purposes
51 thereof, including the extension of, for cause shown by general
52 regulation or individual authorization, the time of filing a return
53 for a time not exceeding 3 months on such terms and conditions
54 as the director may require.

1 12. All revenues collected by the director under an ordinance
2 adopted and authorized pursuant to this act, P.L., c.
3 (C.) (now pending before the Legislature as this bill) shall
4 be retained by the State Treasurer for deposit in the fund
5 established pursuant to section 13 of this act, P.L., c.
6 (C.) (now pending before the Legislature as this bill) to be
7 used and distributed according to the terms herein provided.

8 13. There is created for the tourism improvement and
9 development district established pursuant to this act, P.L.,
10 c. (C.) (now pending before the Legislature as this
11 bill) a reserve fund to be held by the State Treasurer, but not to
12 exist in the State Treasury, to be the repository for monies paid
13 to the State Treasurer pursuant to this act, P.L., c.
14 (C.) (now pending before the Legislature as this bill) and
15 disbursed as provided herein.

16 14. a. Until such time as the conditions set forth in subsection
17 b. of this section are met, the revenues deposited by the State
18 Treasurer in the fund shall be applied for the purposes of
19 financing the acquisition, construction, reconstruction,
20 maintenance, operation and support of the tourism project
21 designated by the authority authorized to undertake those
22 activities pursuant to section 18 of this act, P.L., c.
23 (C.) (now pending before the Legislature as this bill) and
24 to be limited to the establishment of funds to provide security for
25 bonds, notes or other obligations, or loans made from the
26 proceeds of those obligations, issued by the authority pursuant to
27 sections 25 through 34 of this act, P.L., c. (C.
28) (now pending before the Legislature as this bill).

29 b. Commencing on that date which is the later of (i) July 1,
30 1993, or (ii) 6 months prior to the first date on which any
31 payment of principal or interest on any bonds or notes issued for,
32 or any payment of rent under any lease entered into by the
33 authority in connection with, the acquisition, construction,
34 reconstruction, maintenance, operation or support of a
35 convention center facility or other tourism project to accomplish
36 the purposes of the authority as set forth in section 21 of this
37 act, P.L., c. (C.) (now pending before the
38 Legislature as this bill) are required to be made from the
39 revenues collected pursuant to section 4 of this act, P.L.,
40 c. (C.) (now pending before the Legislature as this
41 bill), the revenues thereafter retained by the State Treasurer
42 pursuant to section 27 of this act, P.L., c. (C.
43) (now pending before the Legislature as this bill) shall be
44 applied exclusively in accordance with the provisions of the
45 resolution or resolutions authorizing the issuance of bonds by the
46 authority for that tourism project, to the payment of principal of
47 and interest on bonds so issued, the maintenance of necessary
48 reserves and the allocation of monies for future debt service
49 payments. At the time this subsection takes effect, all monies
50 then accumulated in the fund shall be removed by the State
51 Treasurer and, which proceeds, with the interest thereon, shall be
52 used for any of the purposes set forth in subsection a. of this
53 section.

54 c. At the end of any full calendar year occurring after the

1 date on which the provisions of subsection b. of this section take
2 effect, and after all payments coming due during that calendar
3 year of principal and interest on authority bonds or notes issued
4 for a tourism project have been made, and all obligations to the
5 holders of those bonds have been met, including the maintenance
6 of necessary reserves and the allocation of monies for future debt
7 service payments, any balance remaining in the fund in that
8 calendar year shall be applied to any deficiency between the
9 operating expense budget and the anticipated operating revenues
10 available for the following fiscal year to the entity operating the
11 tourism project.

12 d. At the end of any full calendar year occurring after the
13 date on which the provisions of subsection b. of this section take
14 effect, and after all payments have been made from the fund
15 pursuant to subsections b. and c. of this section, any monies
16 remaining in the fund in that calendar year shall be used for the
17 purposes set forth in subsection a. of this section.

18 e. Pending application to the purposes for which monies
19 deposited in the fund may be used, the monies in the funds shall
20 be invested by the State Treasurer pursuant to applicable
21 regulations prescribed for the investment of State monies. Any
22 income received from these investments shall be added to the
23 fund from which earned, and used only for the purposes of the
24 fund.

25 15. Ordinances adopted pursuant to this act, P.L., c.
26 (C.) (now pending before the Legislature as this
27 bill) may impose a fee not to exceed 2% of the charge for
28 admission to, or use of, participant amusements within the
29 tourism improvement and development district. A fee so imposed
30 shall be uniform throughout the district.

31 16. Ordinances adopted pursuant to this act, P.L., c.
32 (C.) (now pending before the Legislature as this
33 bill) may impose a fee not to exceed 2% of the charge for
34 parking, garaging or storing motor vehicles. A fee so imposed
35 shall be uniform throughout the district.

36 17. a. All fees imposed by ordinance pursuant to section 15 or
37 16 of this act, P.L., c. (C.) (now pending
38 before the Legislature as this bill) shall be paid to the
39 municipality by the person making the charge upon which the fee
40 is imposed. The fees shall be remitted to the chief fiscal officer
41 of the municipality, and shall be reported on such forms and paid
42 at such times as may be prescribed by ordinance. The ordinance
43 shall provide for the penalties and interest to be paid in the event
44 of delinquency in payment of fees.

45 b. The amount of all fees paid to a municipality pursuant to
46 this section shall be appropriated annually to the authority
47 established pursuant to section 18 of this act, P.L., c.
48 (C.) (now pending before the Legislature as this
49 bill) to be used by the authority to advertise, promote and
50 operate the tourism projects of the authority, to promote and
51 enhance the public awareness of the tourism industry in the
52 district, and to provide adequate public facilities and
53 improvements to visitors and tourists to the district.

54 18. a. Ordinances adopted to create a tourism improvement

1 and development district pursuant to this act, P.L., c.
2 (C.) (now pending before the Legislature as this
3 bill) shall provide for the creation of a public body corporate and
4 politic for the district, under the name and style of "the Tourism
5 Improvement and Development Authority."

6 b. Copies of the ordinances for the creation of the authority
7 shall be filed in the office of the Secretary of State and in the
8 office of the Division of Local Government Services in the
9 Department of Community Affairs. A copy of the certified
10 ordinance shall be admissible in evidence in any action or
11 proceeding and shall be conclusive evidence of due and proper
12 adoption and filing thereof. After filing in the office of the
13 Secretary of State, a copy of the ordinance shall be published at
14 least once in a newspaper published or circulating in the adopting
15 municipalities, together with a notice stating the fact and date of
16 its adoption and the date of first publication of the notice. If no
17 action questioning the validity of the creation of the authority is
18 commenced within 45 days after the first publication of the
19 notice, then the authority shall be conclusively deemed to have
20 been validly created and authorized to transact business and
21 exercise powers pursuant to this act, P.L., c. (C.
22) (now pending before the Legislature as this bill).

23 19. The governing bodies of the municipalities which created
24 an authority pursuant to this act, P.L., c. (C.
25)(now pending before the Legislature as this bill) may by
26 ordinance, dissolve the authority if either (1) the authority has no
27 debts or obligations outstanding, or (2) all creditors or other
28 obligees of the authority have consented to the ordinance. A
29 copy of the ordinance, certified by the clerk of each
30 municipality, shall be filed in the office of the Secretary of State
31 and in the office of the Division of Local Government Services in
32 the Department of Community Affairs. Upon proof of filing and
33 upon proof either that the authority had no debts or obligations
34 outstanding at the time of the adoption of the ordinance or that
35 all creditors or other obligees of the authority have consented to
36 the ordinance, the authority shall be conclusively deemed to have
37 been lawfully and properly dissolved. Thereupon, all right, title
38 and interest in and to the property of the authority shall be
39 vested in the creating municipalities pursuant to terms
40 established in the ordinance of dissolution, except that any
41 particular property shall vest in any other governmental unit or
42 person if the terms of any lease or other agreement of the
43 authority with respect thereto shall so provide. A copy of the
44 certified ordinance, duly certified by or on behalf of the
45 Secretary of State, shall be admissible in evidence in any action
46 or proceeding and shall be conclusive evidence of due and proper
47 adoption and filing thereof as aforesaid.

48 20. a. After the expiration of the period of 45 days following
49 the first publication of the creating ordinances, the governing
50 body of each municipality joining in the creation of the tourism
51 improvement and development district shall appoint first
52 members to the authority. Each municipality shall be entitled to
53 appoint two members to the authority. The members so
54 appointed shall be owners or employees of vendors for whom at

1 least 50% of the receipts of their retail sales are subject to
2 taxation or payment of municipal fees pursuant to this act, P.L.
3, c.(C.) (now pending before the Legislature
4 as this bill), and shall not hold any elective public office.

5 b. The Commissioner of the Department of Commerce,
6 Energy and Economic Development shall be an ex officio member
7 of the authority.

8 c. Each member of the authority shall serve for a term of
9 four years, except of the members initially appointed, one shall
10 be appointed for a term of two years and one shall be appointed
11 for a term of four years. Each member shall hold office for the
12 term of the member's appointment and until the member's
13 successor is appointed and qualified. A member shall be eligible
14 for reappointment. A vacancy in the membership occurring other
15 than by expiration of term shall be filled in the same manner as
16 the original appointment but for the unexpired term only.

17 d. The Commissioner may designate an employee of the
18 department to represent the member at meetings of the
19 authority. The designee of the member may lawfully vote and
20 otherwise act on behalf of the member. The designation shall be
21 made annually in writing and delivered to the authority and shall
22 be effective until revoked or amended by written notice delivered
23 to the authority.

24 e. The authority, upon the first appointment of its members
25 and thereafter at the same time in each year, shall annually elect
26 from among its members, a chairman and a vice-chairman who
27 shall hold office until a successor is elected. The authority may
28 also appoint and employ, without regard to the provisions of Title
29 11A of the New Jersey Statutes, an executive director and other
30 agents and employees as the authority may require, and shall
31 determine their qualifications, terms of office, duties and
32 compensation thereof.

33 f. The powers of the authority shall be vested in the voting
34 members thereof in office from time to time; a majority of the
35 members of the authority shall constitute a quorum and the
36 affirmative vote of a majority of the full membership shall be
37 necessary for any action taken by the authority unless the bylaws
38 of the authority shall require a larger number. No vacancy in the
39 membership of the authority shall impair the right of a quorum to
40 exercise all the rights and perform all the duties of the authority.

41 g. The members of the authority shall serve without
42 compensation, but the authority may reimburse its members for
43 actual and necessary expenses incurred in the discharge of their
44 duties.

45 h. Each appointed member of the authority may be removed
46 by the appointing authority for cause after a public hearing and
47 may be suspended by the authority pending the completion of the
48 hearing. Each member of the authority before entering upon the
49 duties of office shall take and subscribe an oath to perform the
50 duties of the office faithfully, impartially and justly to the best
51 of the member's ability. A record of these oaths shall be filed in
52 the office of the Secretary of State.

53 21. The public purpose of an authority shall be to undertake
54 tourism projects which are necessary or useful to the economic

- 1 development and public welfare of the residents and tourist
2 industry of the creating municipalities, to promote, advertise and
3 enhance the attractiveness of the district to visitors and tourists
4 and to provide for adequate public facilities within the district
5 for the use of those visitors and tourists. An authority shall have
6 the following powers:
- 7 a. To adopt bylaws for the regulation of its affairs and the
8 conduct of its business;
- 9 b. To adopt an official common seal and alter it at its
10 pleasure;
- 11 c. To maintain an office at a place or places within the
12 district as it may designate;
- 13 d. To sue and be sued in its own name;
- 14 e. To acquire from any predecessor owner or operator, and
15 to construct, reconstruct, maintain, and operate a convention
16 center facility or other tourism project;
- 17 f. To issue bonds or notes of the authority for the purposes
18 of this act and to provide for the rights of the holders thereof as
19 provided in this act;
- 20 g. To set and collect rents, fees, charges or other payments
21 for the lease, use, occupancy or disposition of a convention
22 center facility or other project acquired, constructed or
23 reconstructed by the authority pursuant to the provisions of this
24 act, P.L., c. (C.) (now pending before the
25 Legislature as this bill). Any revenues collected shall be
26 available to the authority for use in furtherance of any of the
27 purposes of this act;
- 28 h. To acquire, lease as lessee or lessor, own, rent, use, hold
29 and dispose of real property and personal property or any interest
30 therein, in the exercise of its powers and the performance of its
31 duties under this act;
- 32 i. To acquire in the name of the authority by purchase, gift
33 or otherwise, on terms and conditions and in a manner as the
34 authority may deem proper, or by the exercise of the power of
35 eminent domain except as against the State of New Jersey, any
36 land and other property which the authority may determine is
37 necessary for the construction, reconstruction, maintenance,
38 operation or support of a convention center facility pursuant to
39 the provisions of this act, P.L., c. (C.) (now
40 pending before the Legislature as this bill) or parts thereof or
41 rights therein, and any fee simple absolute or any lesser interest
42 in private property, and any fee simple absolute in, easements
43 upon, or the benefit of restrictions upon abutting property to
44 preserve and protect same;
- 45 j. To grant by franchise, lease or otherwise, the use of any
46 property owned and controlled by the authority to any person for
47 the consideration and for the period or periods of time and upon
48 terms and conditions as are agreed upon;
- 49 k. To adopt rules and regulations pursuant to the
50 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
51 seq.) for the management and regulation of its affairs;
- 52 l. To apply for, receive and accept from the United States
53 of America or any agency thereof, or the State and any
54 subdivision thereof, subject to the approval of the State

1 Treasurer, grants for or in aid of the planning, acquisition or
2 construction of a convention center facility or other project, and
3 to receive and accept aid or contributions from any other public
4 or private source, of either money, property, labor or other things
5 of value, to be held, used and applied only for the purposes for
6 which those grants and contributions may be made;

7 m. Subject to the limitations of this act, to determine the
8 location, type and character of its tourism projects and all other
9 matters in connection therewith;

10 n. To enter into contracts or agreements with any entity for
11 the entity to issue bonds or notes on behalf of the authority and
12 to make payments to the entity to secure those bonds or notes;

13 o. To procure and enter into contracts for any type of
14 insurance and indemnify against loss or damage to property from
15 any cause, including the loss of use and occupancy and business
16 interruption, death or injury of any person, employee liability,
17 any act of any member, officer, employee or servant of the
18 authority, whether part-time, compensated or uncompensated, in
19 the performance of the duties of office or employment or any
20 other insurable risk or any other losses in connection with
21 property, operations, assets or obligations in any amounts and
22 from any insurers as are deemed desirable. In addition, the
23 authority may carry its own liability insurance;

24 p. To promote, advertise and enhance the attractiveness of
25 the district and to provide adequate public facilities for tourists
26 and visitors to the district; and

27 q. To enter into any and all agreements or contracts,
28 execute any and all instruments, and do and perform any and all
29 acts or things necessary, convenient or desirable for the purposes
30 of the authority or to carry out any power expressly given in this
31 act.

32 22. a. All purchases, contracts or agreements made pursuant
33 to this act, P.L., c. (C.) (now pending
34 before the Legislature as this bill) shall be made or awarded
35 directly by the authority, except as otherwise provided in this
36 act, only after public advertisement for bids therefor in the
37 manner provided by the authority and notwithstanding the
38 provisions of any other laws to the contrary.

39 b. Any purchase, contract or agreement may be made,
40 negotiated or awarded by the authority without public bid or
41 advertising under the following circumstances:

42 (1) When the aggregate amount involved does not exceed
43 the amount set forth in, or the amount calculated by the
44 Governor pursuant to, section 2 of P.L.1954, c.48 (C.52:34-7);

45 (2) To acquire subject matter which is described in section
46 4 of P.L.1954, c.48 (C.52:34-9);

47 (3) To make a purchase or award or make a contract or
48 agreement under the circumstances described in section 5 of
49 P.L.1954, c.48 (C.52:34-10);

50 (4) When the contract to be entered into is for the
51 furnishing or performing services of a professional or technical
52 nature or for the supplying of any product or the rendering of any
53 service by a public utility;

54 (5) When the authority deems it appropriate to have any

1 work performed by its own employees;

2 (6) When the authority has advertised for bids on two
3 occasions and has received no bids on both occasions in response
4 to its advertisement, or received no responsive bids. Any
5 purchase, contract or agreement may then be negotiated and may
6 be awarded to any contractor or supplier determined to be
7 responsible except that the terms, conditions, restrictions and
8 specifications set forth in the negotiated contract or agreement
9 are not substantially different from those which were the subject
10 of competitive bidding;

11 (7) The printing of bonds and documents necessary to the
12 issuance and sale thereof; and

13 (8) To contract pursuant to subsection o. of section 21 of
14 this act, P.L., (c. (C.) (now pending
15 before the Legislature as this bill).

16 23. Any convention center facility or other tourism project
17 constructed by the authority shall be maintained and kept in the
18 condition and repair as the authority determines, or the bond
19 covenants require. A project or any part thereof may be policed
20 and operated by employees and other persons as the authority
21 may employ or authorize.

22 24. The exercise of the power of eminent domain and the
23 compensation to be paid thereunder by the authority shall be in
24 accordance with the provisions of the "Eminent Domain Act of
25 1971," P.L.1971, c.361 (C.20:3-1 et seq.) in so far as the
26 provisions thereof are applicable and not inconsistent with the
27 provisions contained in this act.

28 25. a. The authority may from time to time issue its bonds or
29 notes for any of its purposes under this act, including the
30 payment, funding, or refunding of principal or interest or
31 redemption premiums on any bonds or notes issued by it whether
32 the bonds or notes or interest to be funded or refunded have or
33 have not become due.

34 b. Except as may be otherwise expressly provided by the
35 authority, every issue of bonds or notes shall be general
36 obligations payable out of any monies or revenues of the
37 authority, subject only to any agreements with the holders of
38 particular bonds or notes pledging any particular revenues or
39 funds. The authority may issue the types of bonds or notes as it
40 may determine, including, without limiting the generality of the
41 foregoing, bonds or notes on which the principal and interest are
42 payable (1) exclusively from the income and revenues derived
43 from a tax upon retail sales of any business located within the
44 tourism improvement and development district created pursuant
45 to the provisions of section 4 of this act, P.L., (c.
46 (C.) (now pending before the Legislature as this bill); (2)
47 exclusively from the income and revenues from rates, charges
48 and fees of a convention center facility or other tourism project
49 operated by the authority, whether or not the project is financed
50 in whole or in part with the proceeds of the bonds or notes; or (3)
51 from its revenues generally. Any bonds or notes may be
52 additionally secured by a pledge of any grant or contribution from
53 the federal government or any State or any agency or public
54 subdivision thereof or any person or a pledge of any monies,

1 income or revenues of the authority from any source whatsoever.
2 In addition, the authority may, in anticipation of the issuance of
3 the bonds or the receipt of appropriations, grants,
4 reimbursements or other funds, including without limitation
5 grants from the federal government, issue notes, the principal of
6 or interest on which, or both, shall be payable out of the proceeds
7 of notes, bonds or other obligations of the authority or
8 appropriations, grants reimbursements or other funds or revenues
9 of the authority. The authority may also enter into bank loan
10 agreements, lines of credit or bond insurance and other security
11 agreements and obtain for or on its behalf letters of credit in
12 each case for the purpose of securing its bonds, notes or other
13 obligations or to provide direct payment of any costs which the
14 authority is authorized to pay by this act and to secure
15 repayment of any borrowings under the loan agreement, line of
16 credit, letter of credit, bond insurance or other security
17 agreement by its bonds, notes or other obligations or the proceeds
18 thereof or by any or all of the revenues of and payments to the
19 authority or by any appropriation, grant or reimbursement to be
20 received by the authority and other monies or funds as the
21 authority shall determine.

22 c. Any provision of any law to the contrary notwithstanding,
23 any bond or note issued pursuant to this act, P.L., c.
24 (C.) (now pending before the Legislature as this
25 bill) shall be fully negotiable within the meaning and for all
26 purposes of the negotiable instruments law of the State, and each
27 holder or owner of a bond or note, or of any coupon appurtenant
28 thereto, by accepting the bond, note or coupon shall be
29 conclusively deemed to have agreed that the bond, note or coupon
30 is and shall be fully negotiable within the meaning and for all
31 purposes of the negotiable instruments law.

32 d. Bonds or notes of the authority shall be authorized by
33 resolution of the authority and may be issued in one or more
34 series and shall bear the date or dates, mature at the time or
35 times not exceeding 40 years from the date thereof, bear interest
36 at a rate or rates within the maximum rate, as shall be
37 determined by the authority, shall be in the denomination or
38 denominations, be in the form, either coupon or registered, carry
39 the conversion or registration privileges, have the rank or
40 priority, be executed in the manner, be payable from the sources
41 in the medium of payment at the place or places within or
42 without the State, and be subject to the terms of redemption,
43 with or without premium, as the resolution or resolutions may
44 provide.

45 e. Bonds or notes of the authority may be sold at public or
46 private sale at the price or prices as the authority shall
47 determine.

48 26. a. Prior to the adoption of any resolution of authority
49 authorizing the issuance of notes or bonds for a tourism project,
50 or authorizing establishment of a revolving fund, and with respect
51 to which an application for financing pursuant to the provisions of
52 this act, P.L., c. (C.) (now pending before
53 the Legislature as this bill) is to be made, an application for the
54 proposed project financing shall be submitted to the Local

1 Finance Board for review and approval of a single revolving fund
2 payment, or of estimated annual payments on behalf of the
3 project for all or a portion of its annual debt service covering
4 principal and interest or of any required lease payments. The
5 Local Finance Board shall, in its review and approval, give
6 consideration to the engineering and feasibility studies prepared
7 in connection with the project financing and the terms and
8 provisions of the proposed financing agreements or of any lease
9 agreement including any reserve funds required by the resolution
10 and security agreements, and the amounts of revenues expected
11 to be paid pursuant to the provisions of this act, P.L., c.
12 (C.) (now pending before the Legislature as this
13 bill). In connection with its review, the Local Finance Board may
14 consider any estimates, computations or calculations made in
15 connection with the submission, may require the production of
16 any papers, documents, witnesses or information to be made, any
17 audit or investigation, and may take any action which it may
18 determine advisable.

19 b. The Local Finance Board shall approve the proposed
20 revolving fund payment or the proposed project financing and
21 annual payments from the fund or funds created herein if it finds
22 that:

23 (1) The purpose to which the proposed payment or payments
24 will be put are consistent with the purposes of a tourism
25 improvement and development authority under this act;

26 (2) The current and projected revenues to the fund from
27 which the payment or payments are to be drawn, are anticipated
28 to be adequate to meet the requirements of the payment or
29 payments under consideration, taken in conjunction with any prior
30 payments from the fund approved by the Local Finance Board;

31 (3) In the case of any issue of notes or bonds to be
32 guaranteed by a county or municipality, as provided in this
33 act, or to be provided with financial support by a county or
34 municipality in some other fashion, the issuance of those notes or
35 bonds will not materially impair the credit of the county or
36 municipality providing the guarantee or other financial support,
37 or substantially reduce its ability, during the ensuing 10 years, to
38 pay punctually the principal and interest on its debts and supply
39 essential public services and improvements.

40 c. Any approval granted by the Local Finance Board shall be
41 in writing and shall be filed with the secretary of the authority.
42 The approval may contain such conditions as the Local Finance
43 Board may consider to be appropriate under the circumstances.
44 The approval shall include a statement of the principal amount of
45 the bonds, or percentage thereof, for which payments will be
46 made and the maturity schedule for the principal amount of bonds
47 approved by the board, or the terms and provisions of the lease
48 for which payments are to be made, as the case may be. The
49 Local Finance Board, in considering the copy of the resolution or
50 lease submitted to it and before endorsing its consent thereon
51 may require the authority or the governing bodies of the
52 municipalities served by the authority to adopt resolutions
53 restricting or limiting any future proceedings therein or other
54 matters or things deemed by the Local Finance Board to affect

1 any estimate made or to be made by it in accordance with this
2 section, and every resolution so adopted shall constitute a valid
3 and binding obligation of the authority or municipalities, as the
4 case may be, running to and enforceable by, and releasable by,
5 the Local Finance Board.

6 d. At the time of its initial application to the Local Finance
7 Board under this section, and at least annually thereafter, the
8 authority shall submit to the Local Finance Board a report, based
9 on the best information available to the authority with regard to
10 relevant tax revenues, and the economic trends underlying such
11 revenues, as well as anticipated undertakings by the authority
12 utilizing the funds provided under this act, containing projections
13 of revenues to and expenditures from the reserve fund. Beginning
14 one year after the initial report submitted under this section,
15 each report shall also contain an assessment of the accuracy of
16 the projections made in any previous report or reports.

17 27. a. Within 30 days after the issuance of any bonds or notes
18 for, or the execution of lease in connection with, the acquisition,
19 construction, reconstruction or improvement of a convention
20 center facility or other tourism project pursuant to this act, P.L.
21, c. (C.) (now pending before the
22 Legislature as this bill), the authority shall file a report with the
23 Local Finance Board setting forth, if applicable, the principal
24 amount of bonds or notes issued for that project, the annual
25 payments of principal and interest to be made on the bonds or
26 notes with respect to that project, the terms and provisions of
27 the financing undertaken for, or the lease entered into in
28 connection with, the project, and such engineering and feasibility
29 studies as may have been commissioned and used by the authority
30 in connection with financing the project.

31 b. At least 90 days prior to the date set forth in subsection
32 a. of section 14 of this act (C.), an authorized officer of
33 the authority issuing bonds or notes for, or entering into a lease
34 in connection with, the acquisition, construction, reconstruction
35 or improvement of the convention center facility or other
36 tourism project shall notify the Director of the Division of Local
37 Government Services in the Department of Community Affairs of
38 the precise date on which the provisions of that subsection shall
39 take effect, the amounts payable thereafter (1) on account of the
40 principal and interest on, or reserve funding requirements on,
41 those bonds or notes, or (2) as rent under the lease, and the name
42 and address of the paying agent or agents for the bonds or notes,
43 or of the lessor under the lease. The director shall, upon the
44 receipt of that notice, verify the facts contained therein, and
45 certify the same to the State Treasurer.

46 c. Following the certification in subsection b. of this section
47 and upon the date set forth therein, the State Treasurer shall
48 thereafter pay prior to each payment date from the fund the
49 amounts certified to be paid (1) to the appropriate paying agent
50 or agents for the principal and interest on, or reserve funding
51 requirements on, the bonds or notes, or (2) to the lessor as rent
52 under the lease.

53 28. If the authority shall determine by resolution that the
54 maturity schedule for bonds entitled to the benefits of this act,

1 other than the maturity schedule approved by the Local Finance
2 Board by resolution pursuant to section 26 of this act, P.L.
3, c. (C.) (now pending before the
4 Legislature as this bill), is in the best interest of the authority, it
5 may make application to the Local Finance Board setting forth
6 its belief and the grounds therefor and requesting approval of a
7 schedule of maturities for bonds set forth in the application. If
8 the Local Finance Board, by resolution, shall find that the
9 schedule of maturities set forth in the application is in the best
10 interest of the authority and the State, and the application is well
11 founded, and that issuance of the bonds mentioned and described
12 in the application would not materially impair the credit of any
13 municipality within the jurisdiction of the authority or
14 substantially reduce its ability, during the ensuing 10 years, to
15 pay punctually the principal and interest of its debts and supply
16 essential public improvements and services, it shall cause its
17 approval to be endorsed thereon within 60 days after submission
18 to it, and shall forward it to the Treasurer.

19 29. All bonds or notes when issued shall contain a recital to
20 the effect that they are issued pursuant to this act, P.L.
21, c. (C.) (now pending before the
22 Legislature as this bill) and are entitled to the benefits thereof.
23 Bonds or notes entitled to the benefits of the provisions of this
24 act shall mature not later than 40 years from their date, without
25 regard to any limitations as to maturities or amounts of annual
26 installments for such bonds or notes as provided in any other law.

27 30. An authority which has authorized bonds which are entitled
28 to the benefits of this act may issue temporary notes or loan
29 bonds, hereinafter called "notes," to the extent permitted or
30 provided by or pursuant to the provisions of this act, P.L.,
31 c. (C.) (now pending before the Legislature as this
32 bill) or any other applicable laws, subject to such additional terms
33 or conditions with respect to such notes as may be fixed or
34 required by the Director of the Division of Local Government
35 Services to insure that funds are borrowed only for those purposes
36 and in the manner specified in this act.

37 31. Within 10 days after issuance of any bonds or notes
38 entitled to the benefits of this act, and from time to time
39 thereafter, an authorized officer of the authority issuing the
40 bonds or notes shall certify to the Director of the Division of
41 Local Government Services that exact amount payable on
42 account of debt service covering interest and principal on the
43 bonds or notes in each year, the amount needed to fund any
44 reserve fund required by the resolution, and the name and address
45 of the paying agent or paying agents for the bonds or notes. The
46 Director of the Division of Local Government Services shall
47 thereupon verify those amounts and certify the same to the State
48 Treasurer, together with the name and address of the paying
49 agent or paying agents for the bonds or notes. The certification
50 by the Director of the Division of Local Government Services as
51 to the amount payable in any year for debt service covering
52 principal and interest on bonds or notes shall be fully conclusive
53 as to payments for the bonds or notes, notwithstanding any
54 irregularity, omission or failure as to compliance with any of the

1 provisions of this act with respect to the bonds or notes, provided
2 that the bonds or notes contain a recital to the effect that they
3 are entitled to the benefits of the provisions of this act, and all
4 persons shall be forever estopped from denying that the bonds or
5 notes are entitled to the benefits of the provisions of this act.
6 Upon certification, the State Treasurer shall pay the amounts
7 from the fund to the paying agent specified which will equal any
8 deficiency so certified of principal and interest payments
9 becoming due or any deficiency so certified to exist in the
10 required reserve fund.

11 32. The amounts to be paid from the fund established under
12 the provisions of this act with respect to any authority for debt
13 service covering principal or interest on bonds or notes entitled
14 to the benefits of this act, or for funding any reserve fund
15 required by resolution, shall, on or before the date for payment of
16 interest and principal, be paid on behalf of the authority to the
17 paying agent or paying agents for the bonds or notes in the
18 amount with respect to such date as reflects the amount of
19 principal or interest, respectively, payable as to that date with
20 respect to that authority. Amounts so paid to the paying agent or
21 paying agents shall be applied to the payment of debt service
22 covering principal and interest on the bonds or notes, or to fund
23 the reserve, and for no other purpose.

24 No bonds or notes entitled to the benefits of this act shall be
25 issued unless there is designated therefor a trustee paying agent
26 or paying agents, at least one of which is a bank or trust company
27 authorized to do business in this State.

28 33. No resolution or other action of the authority providing for
29 the issuance of bonds, notes, refunding bonds or other obligations
30 or for the fixing, revising or adjusting of rates, charges or fees
31 for the use of a convention center facility or other tourism
32 project or parts or sections thereof shall be adopted or otherwise
33 made effective by the authority without the prior approval in
34 writing of the State Treasurer or the Local Finance Board.

35 34. In any resolution of the authority authorizing or relating to
36 the issuance of any bonds or notes, the authority, in order to
37 secure the payment of the bonds or notes and in addition to its
38 other powers, shall have power by provisions therein which shall
39 constitute covenants by the authority and contracts with the
40 holders of the bonds or notes:

41 a. To pledge to any payment or purpose all or any part of its
42 leases, rents, receipts or revenues to which its right then exists
43 or may thereafter come into existence, and the monies derived
44 therefrom, and the proceeds of any bonds or notes.

45 b. To covenant against pledging all or any part of its rents,
46 receipts or revenues, or against mortgaging all or any part of its
47 real or personal property then owned or thereafter acquired, or
48 against permitting or suffering any lien on the revenues or
49 property.

50 c. To covenant with respect to limitations on any right to
51 sell, lease or otherwise dispose of a convention center facility
52 project or any part thereof or any property of any kind.

53 d. To covenant as to any bonds and notes to be issued and
54 the limitations thereon and the terms and conditions thereof and

- 1 as to the custody, application, investment and disposition of the
2 proceeds thereof.
- 3 e. To covenant as to the issuance of additional bonds or
4 notes or as to limitations on the issuance of additional bonds or
5 notes and on the incurring of other debts by the authority.
- 6 f. To covenant as to the payment of the principal of or
7 interest on the bonds or notes, or any other obligations, as to the
8 sources and methods of that payment, as to the rank or priority
9 of any bonds, notes or obligations with respect to any lien or
10 security or as to the acceleration of the maturity of any bonds,
11 notes or obligations.
- 12 g. To provide for the replacement of lost, stolen, destroyed
13 or mutilated bonds or notes.
- 14 h. To covenant against extending the time for the payment
15 of bonds or notes or interest thereon.
- 16 i. To covenant as to the redemption of bonds or notes and
17 privileges of exchange thereof for other bonds or notes of the
18 authority.
- 19 j. To covenant to create or authorize the creation of special
20 funds or monies to be held in pledge or otherwise for
21 construction, operating expenses, payment or redemption of
22 bonds or notes, reserves or other purposes and as to the use and
23 disposition of the monies held in the funds.
- 24 l. To establish the procedure, if any, by which the terms of
25 any contract or covenant with or for the benefit of the holders of
26 bonds or notes may be amended or abrogated, the amount of
27 bonds or notes the holders of which must consent thereto, and the
28 manner in which the consent may be given.
- 29 m. To covenant as to the construction, operation or
30 maintenance of its real property and personal property, the
31 replacement thereof, the insurance to be carried thereon, and the
32 use and disposition of insurance monies.
- 33 n. To provide for the release of property, leases or other
34 agreements, or revenues and receipts from any pledge or
35 mortgage and to reserve rights and powers in, or the right to
36 dispose of, property which is subject to a pledge or mortgage.
- 37 o. To mortgage all or any part of its property, real or
38 personal, then owned or thereafter to be acquired.
- 39 p. To provide for the rights and liabilities, powers and duties
40 arising upon the breach of any covenant, condition or obligation
41 and to prescribe the events of default and the terms and
42 conditions upon which any or all of the bonds, notes or other
43 obligations of the authority shall become or may be declared due
44 and payable before maturity and the terms and conditions upon
45 which any declaration and its consequences may be waived.
- 46 q. To vest in a trustee or trustees within or without the
47 State such property, rights, powers and duties in trust as the
48 authority may determine and to limit the rights, powers and
49 duties of the trustee.
- 50 r. To pay the costs or expenses incident to the enforcement
51 of the bonds or notes or of the provisions of the resolution or of
52 any covenant or agreement of the authority with the holders of
53 its bonds or notes.
- 54 s. To limit the rights of the holder of any bonds or notes to

1 enforce any pledge or covenant securing bonds or notes.

2 t. To make covenants other than and in addition to the
3 covenants herein expressly authorized, of like or different
4 character, and to make the covenants to do or refrain from doing
5 any acts and things as may be necessary, or convenient and
6 desirable, in order to better secure bonds or notes or which, in
7 the absolute discretion of the authority, will tend to make bonds
8 or notes more marketable, notwithstanding that the covenants,
9 acts or things may not be enumerated herein.

10 35. Any pledge of revenues or other monies made by the
11 authority shall be valid and binding from the time when the
12 pledge is made. The revenues or other monies so pledged and
13 thereafter received by the authority shall immediately be subject
14 to the lien of that pledge without any physical delivery thereof or
15 further act, and the lien of any pledge shall be valid and binding
16 as against all parties having claims of any kind in tort, contract
17 or otherwise against the authority, irrespective of whether the
18 parties have notice thereof. Neither the resolution nor any other
19 instrument by which a pledge is created need be filed or recorded
20 except in the records of the authority.

21 36. The State of New Jersey does hereby pledge to and
22 covenant and agree with the holders of any bonds or notes issued
23 by the authority or other entity pursuant to the provisions of this
24 act, P.L., c. (C.) (now pending before the
25 Legislature as this bill) that the State will not limit or alter the
26 rights or powers vested in the authority to acquire, construct,
27 maintain and operate any project, or to perform and fulfill the
28 terms of any agreement made with the holders of the bonds or
29 notes, or to fix, establish, charge and collect rates, fees or other
30 charges as may be convenient or necessary to produce sufficient
31 revenues to meet all expenses of the authority and fulfill the
32 terms of any contract with another entity or any agreement made
33 with the holders of the bonds or notes, and that the State will not
34 in any way impair the rights or remedies of the holders or modify
35 in any way the exemptions from taxation provided for in this act,
36 until the bonds and notes, together with interest thereon, with
37 interest on any unpaid installments of interest, and all costs and
38 expenses in connection with any action or proceedings by or on
39 behalf of such holders, are fully met and discharged or provided
40 for.

41 37. Neither the members of the authority nor any person
42 executing bonds or notes issued pursuant to this act, P.L.,
43 c. (C.) (now pending before the Legislature as this
44 bill) shall be liable personally on the bonds or notes by reason of
45 the issuance thereof.

46 38. The authority shall have power to purchase bonds or notes
47 of the authority out of any funds available therefor. The
48 authority may hold, cancel or resell the bonds or notes subject to
49 and in accordance with agreements with holders of its bonds or
50 notes.

51 39. a. The authority is authorized to fix, revise, charge and
52 collect rates, charges and fees for the use of a convention center
53 facility or other tourism project and the different parts or
54 sections thereof. The rates, charges and fees shall be so fixed

1 and adjusted as to effectuate the purposes of this act and in any
2 event to carry out and perform the terms and provisions of any
3 contract with or for the benefit of holders of bonds or notes. The
4 charges shall not be subject to supervision or regulation by any
5 other commission, board, bureau or agency of the State or
6 subdivision of the State. The use and disposition of charges and
7 revenues shall be subject to the provisions of any resolution
8 authorizing the issuance of the bonds or notes.

9 b. The authority is authorized to contract with any person,
10 partnership, association, corporation or federal, State or local
11 government entity or subdivision thereof desiring the use of any
12 part of a project, including the right-of-way adjoining a paved
13 portion, for operation or placing thereon telephone, telegraph,
14 electric light or power lines, gas stations, garages, stores, hotels,
15 or restaurants, or for any other purpose, and to fix the terms,
16 conditions, rents and rates of charges for that use. No contract
17 shall be required, and no rent, fee or other charge of any kind
18 shall be imposed, for the use and occupation for the installation,
19 construction, use, operation, maintenance or repair, renewal,
20 relocation or removal of tracks, pipes, mains, conduits, cables,
21 wires, towers, holes or other equipment or appliances in, on,
22 along, over or under any project by any public utility as defined in
23 section R.S.27:7-1 which is subject to taxation pursuant to either
24 P.L.1940, c.4 (C.54:30A-16 et seq.) or P.L.1940, c.5 (C.54:30A-49
25 et seq.), or pursuant to any other law imposing a tax for the
26 privilege of using the public streets, highways, roads or other
27 public places in the State.

28 40. In addition to the other powers conferred by this act or by
29 any other law and not in limitation thereof, the authority, in
30 connection with construction or operation of a convention center
31 facility as other tourism project, may make reasonable
32 regulations for the installation, construction, maintenance,
33 renewal and removal of tracks, pipes, mains, conduits, cables,
34 wires, towers, poles or any other equipment and appliances,
35 herein called "works," of any public utility as defined in
36 R.S.48:2-13, in, on or along, over or under the project, public
37 highway or real property, including public lands or waters.
38 Whenever in connection with construction or operation of the
39 project, the authority shall determine that it is necessary that
40 any works, which now are or hereafter may be located in, on,
41 along, over under any project, public highway, or real property,
42 should be relocated in the project, public highway, or real
43 property or should be removed therefrom, the public utility
44 owning or operating the works shall relocate or remove the same
45 in accordance with the order of the authority, provided, however,
46 that the cost and expenses of the relocation or removal, including
47 the cost of installing these works in a new location, and the cost
48 of any lands or any rights or interest in lands or any other rights
49 acquired to accomplish the relocation or removal, less the cost of
50 any lands or any rights or interest in lands or any other rights of
51 the public utility, paid to the public utility in connection with the
52 relocation or removal of the works, shall be paid by the authority
53 and may be included in the cost of the project. In case of any
54 relocation or removal of works, the public utility owning or

1 operating the same, its successors or assigns, may maintain and
2 operate the works, with the necessary appurtenances, in the new
3 location for as long a period, and upon the same terms and
4 conditions, as it had the right to maintain and operate the works
5 in their former location.

6 41. Any government entity, notwithstanding any contrary
7 provision of law, is authorized to lease, lend, grant or convey to
8 the authority at its request upon the terms and conditions as the
9 governing body or other proper agencies of the government entity
10 may deem reasonable and fair and without the necessity for any
11 advertisement, order of court or other action, other than the
12 authorizing resolution or other formal action of the government
13 entity, any real property or personal property or interest therein
14 which may be necessary or convenient to effectuate the purposes
15 of the authority, including any convention center buildings and
16 structures or other real property already devoted to such
17 purposes.

18 42. For the purpose of aiding and cooperating in the
19 acquisition, construction, or operation of any project of the
20 authority, any county or municipality may, upon agreement with
21 the authority and in the manner provided by law:

22 a. Appropriate monies for the purposes of the authority and to
23 loan or donate the money to the authority in the installments and
24 upon the terms as may be agreed upon by the authority.

25 b. Perform any act for the authority which it is empowered by
26 law to perform;

27 c. Incur indebtedness, borrow money and issue bonds or notes
28 for the purpose of financing a project pursuant to the provision of
29 the "Local Bond Law," N.J.S.40A:2-1 et seq.; and

30 d. Unconditionally guarantee the punctual payment of the
31 principal of and interest on any bonds or notes of the authority.

32 43. All property of the authority, except any property which is
33 subjected to a lien to secure any bonds or notes issued by the
34 authority, shall be exempt from levy and sale by virtue of an
35 execution and no execution or other judicial process shall issue
36 against the same, nor shall any such judgment against the
37 authority be a charge or lien upon its property; provided that
38 nothing herein contained shall apply to or limit the rights of the
39 holders of any bonds or notes to pursue any remedy for the
40 enforcement of any pledge or lien given by the authority on its
41 revenues or other monies.

42 44. The tourism projects and other property of the authority
43 are declared to be public property of an instrumentality of the
44 State and devoted to an essential public and governmental
45 function and purpose and shall be exempt from all taxes and
46 special assessments of the State or any subdivision thereof. All
47 bonds or notes issued pursuant to this act, P.L., c.
48 (C.) (now pending before the Legislature as this bill) are
49 declared to be issued by an instrumentality of this State and for
50 an essential public and governmental purpose and the bonds and
51 notes, and the interest thereon and the income therefrom, and all
52 charges, funds, revenues, income and other monies pledged or
53 available to pay, or secure the payment of the bonds or notes, or
54 interest thereon, shall at all times be exempt from taxation

1 except for transfer inheritance and estate taxes.

2 45. All banks, trust companies, savings banks, investment
3 companies and other persons carrying on a banking business are
4 each authorized to give to the authority a good and sufficient
5 undertaking with the sureties as shall be approved by the
6 authority to the effect that the bank or banking institution shall
7 faithfully keep and pay over to the order of or upon the warrant
8 of the authority or its authorized agent all those funds as may be
9 deposited with it by the authority and agreed interest thereon, at
10 the times and upon the demands as may be agreed to with the
11 authority or, in lieu of these sureties, deposit with the authority
12 or its authorized agent or any trustee therefor or for the holders
13 of any bonds or notes, as collateral, these securities as the
14 authority may approve. The deposits of the authority may be
15 evidenced or secured by a depository collateral agreement in that
16 form and upon the terms and conditions as may be agreed upon by
17 the authority and at the bank or banking institution.

18 46. Notwithstanding the provisions of any other law, the State
19 and all public officers, municipalities, counties, political
20 subdivisions and public bodies and agencies thereof, all banks,
21 bankers, trust companies, savings banks and institutions, building
22 and loan associations, investment companies, savings and loan
23 associations, and other persons carrying on a banking or
24 investment business, all insurance companies, insurance
25 associations and other persons carrying on an insurance business,
26 and all executors, administrators, guardians, trustees and other
27 fiduciaries, may legally invest any sinking funds, monies or other
28 funds belonging to them or within their control in any bonds or
29 notes issued pursuant to this act, P.L., c. (C.
30) (now pending before the Legislature as this bill), and
31 these bonds and notes shall be authorized security for any and all
32 public deposits.

33 47. The authority shall cause a financial audit of its books and
34 accounts to be made at least once each year by certified public
35 accountants and a copy thereof shall be filed with the State
36 Treasurer.

37 48. The State shall have the right, upon furnishing the
38 authority with sufficient funds therefor, to require the authority
39 to redeem, pay or cause to be paid, at or prior to maturity, in
40 whole or in part, any bonds or notes issued by the authority under
41 this act, provided that the redemption or payment shall be made
42 in accordance with the provisions of any contract entered into by
43 the authority with the holders of the bonds or notes.

44 49. Nothing in this act shall be construed to authorize or
45 empower the authority to:

46 a. Vacate, close, connect with, adjust, relocate, cross or
47 otherwise physically affect any State highway without written
48 approval by the Commissioner of Transportation; or

49 b. Acquire State property or any interest therein by the
50 exercise of the power of eminent domain.

51 50. The authority and its authorized agents and employees may
52 enter upon any lands, waters and premises other than State
53 property for the purpose of making surveys, soundings, drillings
54 and examinations as it may deem necessary or convenient for the

1 purposes of this act, and this entry shall not be deemed a
2 trespass, nor shall the entry for this purpose be deemed an entry
3 under any condemnation proceedings which may be then pending.
4 The authority shall make reimbursement for any actual damages
5 resulting to such lands, waters and premises as a result of those
6 activities.

7 51. The authority may enter into contracts, leases, or
8 agreements with any municipal government, concerning the
9 acquisition, construction, maintenance, operation, or support of a
10 convention center facility or other tourism project.

11 52. The powers granted pursuant to the provisions of this act,
12 P.L., c. (C.) (now pending before the
13 Legislature as this bill) are in addition to all powers under
14 existing laws and municipal charters.

15 53. Nothing in this act shall be construed to in any way impair
16 any obligation assumed by any municipality entered into prior to
17 the effective date of this act.

18 54. This act shall take effect in 90 days, but the Commissioner
19 of Commerce, Energy and Economic Development, the State
20 Treasurer, the Director of the Division of Taxation and the
21 Director of the Division of Budget and Accounting may take such
22 anticipatory actions as may be necessary for the timely
23 implementation of this act on the effective date.

24

25

26

STATEMENT .

27

28 This bill, the "Tourism Improvement and Development Act"
29 authorizes any two or more municipalities in a county of the sixth
30 class to create a tourism improvement and development district
31 and an authority to undertake tourism projects such as convention
32 center facilities therein. The particular purpose is the
33 construction or renovation of a convention center for the benefit
34 of the tourist industry of the area.

35 To provide funding for the tourism projects, the municipalities
36 would be permitted to levy a retail sales tax not to exceed 2% on
37 certain sales made between May 1 and September 30, annually.
38 The sales so taxed would include all items and services taxed
39 under the State sales tax, except for certain major items such as
40 automobiles, trucks, motorcycles, boats, aircraft,
41 telecommunications, and major appliances, cooling devices,
42 furnaces or similar equipment, and home furnishings, where the
43 price exceeds \$100.00. The local sales tax would "piggy back" on
44 to the States sales tax, be collected by the State, and placed in a
45 special reserve fund to pay principal and interest on bonds and
46 notes issued by the authority.

47 The municipalities creating a district are also permitted to
48 impose a fee not to exceed 2% on the charge for parking
49 facilities, and on the charge for participant amusements not
50 taxed under the State sales tax, such as water slides, swimming
51 pools, miniature golf, tennis courts, boardwalk and carnival
52 amusements, and the like. The moneys collected from these fees
53 would be appropriated annually by the municipalities to the
54 authority to be used to advertise, promote and operate the tourist

1 improvement and development district and to provide adequate
2 public facilities and improvements to tourists and visitors to the
3 district.

4 The bill requires the retail sales tax and the municipal fees to
5 be levied on a uniform basis throughout the district, which may
6 comprise all or any part of the territory of each creating
7 municipality. The authority would also be authorized to charge
8 fees for the use of its facilities.

9 The membership of an authority established for a district would
10 be two members for each municipality, and the Commissioner of
11 the Department of Commerce and Economic Development, ex
12 officio.

13 The authority would be authorized to acquire, construct,
14 improve, operate and maintain tourism projects, such as a
15 convention hall facility. To this end, it is authorized to issue
16 bonds and notes to be backed by the money placed in the reserve
17 fund from the retail sales tax. Before drawing on the money of
18 the reserve fund, the authority's project financing would have to
19 be approved by the Local Finance Board and the State Treasurer.
20 Thereafter, the State Treasurer would make principal and
21 interest payments on authority bonds or notes as required by the
22 bond schedule.

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27 The "Tourism Improvement and Development District Act."

ASSEMBLY ECONOMIC AND COMMUNITY DEVELOPMENT
AGRICULTURE AND TOURISM COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1053

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 14, 1992

The Assembly Economic and Community Development, Agriculture and Tourism Committee reports favorably Assembly Bill No. 1053 with committee amendments.

As amended, this bill, the "Tourism Improvement and Development Act" authorizes any two or more municipalities in a county of the sixth class to create a tourism improvement and development district and an authority to undertake tourism projects such as convention center facilities or beach protection and restoration. The particular purpose of the bill is the acquisition, construction, maintenance, operation and support of a convention center for the benefit of the tourist industry of the area.

To provide funding for the tourism projects, the bill authorizes the municipalities to levy a retail sales tax, not to exceed 2 percent, on predominantly tourism related retail sales made between May 1 and September 30, annually. The retail sales so taxed would include lodging by hotels, food and drink in restaurants and taverns or similar establishments, and admission to or use of amusement areas, roof gardens, cabarets or similar establishments, provided that all such retail sales are subject to the "Sales and Use Tax Act," P.L. 1966, c. 30 (C.54:32B-1 et seq.). The local sales tax would "piggy back" onto the State sales tax, be collected by the State, and would be placed in a special reserve fund to pay principal and interest on bonds and notes issued by the authority.

The bill requires the municipalities creating a district to impose a tourism development fee of not more than to \$1,000 which shall apply to all businesses not required to collect a tax on predominantly tourism related retail sales. In addition, the fee shall apply to participant amusements, to businesses which charge for parking, garaging or storing of motor vehicles, and to persons maintaining or operating vending machines within the district regardless of the types of commodities sold through the machines.

The moneys collected from these fees would be appropriated annually by the municipalities to the authority to be used to advertise, promote and operate the tourist improvement and development district and to provide adequate public facilities and improvements to tourists and visitors to the district.

The bill requires the retail sales tax and the municipal fees to be uniform throughout the district, which may comprise all or any part of the territory of each creating municipality. The authority would also be authorized to charge fees for the use of its facilities.

The membership of an authority established for a district would be three members for each municipality, and the Commissioner of the Department of Commerce and Economic Development, ex officio.

The authority would be authorized to acquire, construct, operate and maintain tourism projects, such as a convention hall facility. To this end, it is authorized to issue bonds and notes to be backed by the money placed in the reserve fund from the retail sales tax. Before drawing on the money of the reserve fund, the authority's project financing would have to be approved by the Local Finance Board and the State Treasurer. Thereafter, the State Treasurer would make principal and interest payments on authority bonds or notes as required by the bond schedule.

The committee adopted amendments to include beach protection and restoration among the tourism projects which the authority may undertake, and to establish two categories of revenue to the authority: 1) a predominantly tourism related retail sales tax which the municipality may levy at a rate of up to 2%; and 2) tourism development fees on business activities which do not involve predominantly tourism related retail sales, such as participant amusements, parking facilities and vending machine sales. The tourism development fee shall not exceed \$1,000.

The committee also amended the bill to clarify that the funds collected by the State Treasurer and deposited in the Reserve Fund established by the bill shall be used for financing tourism promotion activities and the acquisition, maintenance and operation of tourism projects within the district.

The committee amendments also require the tourism development fee to be paid in accordance with the ordinances establishing the fee.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 1053

STATE OF NEW JERSEY

DATED: SEPTEMBER 14, 1992

The Assembly Appropriations Committee reports favorably Assembly Bill No. 1053 by committee substitute.

Assembly Committee Substitute for Assembly Bill No. 1053, the "Tourism Improvement and Development Act" authorizes any two or more municipalities in a county of the sixth class to create a tourism improvement and development district and an authority to undertake tourism projects such as convention center facilities. The purpose of the substitute is the acquisition, construction, maintenance, operation and support of a convention center for the benefit of the tourism industry of the area.

To provide funding for the tourism project, the substitute authorizes the municipalities to levy a retail sales tax, not to exceed 2 percent, on predominantly tourism related retail receipts annually. The retail receipts so taxed would include hotel rents, food and drink in restaurants and taverns or similar establishments, and admission charges to or for the use of amusement areas, roof gardens, cabarets or similar establishments, provided that all such retail sales are subject to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.). The local tax would "piggy-back" onto the State sales tax, and be collected by the State. The State Treasurer may deduct the actual costs incurred in administration, and the State Treasurer shall provide the authority with an annual written accounting of amounts deducted and of costs incurred. Net revenues would be placed in a special reserve fund to pay principal and interest on bonds and notes issued by the authority.

The substitute requires the municipalities creating a district to impose a tourism development fee of not more than \$1,000 on all businesses not required to collect a tax on predominantly tourism related retail receipts; businesses charging for participant amusements; businesses charging for parking, garaging or storing of motor vehicles; and business maintaining or operating vending machines within the district regardless of the types of commodities sold through the machines.

The moneys collected from these fees would be appropriated annually by the municipalities to the authority to be used to advertise, promote and operate the tourist improvement and development district and to promote the use of convention center facilities by tourists and visitors to the district. Beach protection and restoration shall not be an authorized tourism project of the authority.

The substitute requires the retail receipts tax and the municipal fees to be uniform throughout the district, which may comprise all or any part of the territory of each creating municipality. The authority would also be authorized to charge fees for the use of its facilities.

The membership of an authority established for a district would be three members for each municipality, and the Commissioner of the Department of Commerce and Economic Development, ex officio. At least appointee of each municipality shall be a resident who is not a vendor or employee of a vendor or business subject to taxation or fees under the act

The authority would be authorized to acquire, construct, operate and maintain a tourism project, such as a convention hall facility. To this end, the authority may issue bonds and notes to be backed by the money placed in the reserve fund from the retail receipts tax. Before drawing on the money of the reserve fund, the authority's project financing would have to be approved by the Local Finance Board. Thereafter, the State Treasurer would make principal and interest payments on authority bonds or notes as required by the bond schedule.

The substitute relies largely on on the existing procedures of the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.) for State review and approval of project financing, of the "Local Bond Law," N.J.S.40A:2-1 et seq., for bonding procedures, and of the "Local Public Contracts Law," P.L.1971, c.128 (C.40A:11-1 et seq.), for contractual procedures.

FISCAL IMPACT:

The Division of Taxation has been unable to supply any data that would allow a estimate of the revenues produced by the local taxes and fees. However, the Division of Taxation has been able to determine that collection of the tax would require approximately \$200,000 per year in administrative costs; those costs actually incurred by the Department of the Treasury in the collection of tax would be deducted from collected tax revenues.

FISCAL NOTE TO
[FIRST REPRINT]
ASSEMBLY, No. 1053
STATE OF NEW JERSEY

DATED: September 17, 1992

Assembly Bill No. 1053 (1R) of 1992, the "Tourism Improvement and Development Act" authorizes any two or more municipalities in a county of the sixth class to create a tourism improvement and development district and an authority to undertake tourism projects, such as convention center facilities or beach protection and restoration. More specifically, the primary purpose of the bill is the acquisition, construction, maintenance, operation and support of a convention center for the benefit of the tourist industry of the area.

To provide funding for the tourism projects, the bill authorizes the municipalities in the district to levy a retail sales tax, not to exceed 2 percent, on predominantly tourism related retail sales made between May 1 and September 30, annually, provided that all such retail sales are subject to the "Sales and Use Tax Act, (P.L. 1066, c.30. The local sales tax would "piggy back" onto the State sales tax, be collected by the State, and would be placed in a special reserve fund to pay principal and interest on bonds and notes issued by the authority.

The bill also requires the municipalities creating a district to impose a tourism development fee of not more than \$1,000 which shall apply to all businesses not required to collect the additional tax on predominately tourism related retail sales. The funds are collected by the State Treasurer and deposited in the reserve fund established by the bill and used for financing tourism promotion activities and the acquisition, maintenance and operation of tourism projects within the district.

The Department of Commerce and Economic Development and the Division of Taxation in the Department of the Treasury, have both provided their estimated costs of implementing and administering the provisions of the bill.

The Division of Taxation has estimated that it would cost \$205,809, \$211,159 and \$211,159 in the next 3 years, respectively, for administrative costs to levy the additional 2 percent sales tax on tourism related retail sales. Approximately 90 percent of the total estimated would fund salaries and fringe benefits for five full-time positions (four professional and one clerical) and apportioned time of three professional staff and intermittent assistance from four hourly employees. The remaining 10 percent of the program's cost would fund materials and supplies (\$150,000 in each year), data processing (\$18,000, \$12,000 and \$12,000 in the next three years, respectively) and an average of \$486.00 per year for postage.

The Department of Commerce and Economic Development estimate indicates that the only costs to the department would be the direct travel costs of the commissioner and the "opportunity" costs of the commissioner's time. No estimate, however, is provided for these cost components.

The Office of Legislative Services (OLS) concurs with the Division of Taxation's estimate of administrative expenses in that the estimate appears reasonable. The OLS does not concur with the observation of the Department of Commerce and Economic Development that direct travel costs of the commissioner would be borne by the department. The bill indicates that, as an ex-officio member of an authority, the commissioner's actual and necessary expenses (such as travel) incurred in the discharge of her duties would be covered by the various local Tourism Improvement and Development Authorities.

The OLS also notes that the Division of Taxation did not provide information with regard to the estimated amount of revenue that would be collected from the additional 2 percent retail sales tax or the \$1,000 tourism development fee instituted by the bill, and indicated that data are not available to estimate the revenue that would be realized.

This fiscal note has been prepared pursuant to P.L.1980, c.67.