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P.L. 2002, CHAPTER 72, *approved August 14, 2002*  
Assembly Committee Substitute for  
Assembly Bill No. 2312

1 AN ACT providing "Phase 2 Tourism Funding" to tourism and  
2 improvement development districts, amending and supplementing  
3 P.L.1992, c.165.

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

7  
8 1. Section 2 of P.L.1992, c.165 (C.40:54D-2) is amended to read  
9 as follows:

10 2. The Legislature finds and determines:

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

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

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

34 d. It is in the public interest to encourage these municipalities in  
35 counties of the sixth class to seek regional solutions to common  
36 problems related to economic prosperity of this State, and to enhance  
37 the prosperity of those municipalities by the adoption of appropriate  
38 ordinances to assess, levy and collect taxes upon receipts from certain

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

**Matter underlined thus is new matter.**

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

8 e. The extension of the tourism development fees provided by the  
9 amendatory and supplementary act, P.L. , c. (now before the  
10 Legislature as this bill) is intended to serve as a tool for the tourism  
11 improvement and development authority to attract visitors and tourists  
12 to the State. The municipalities that constitute the tourism  
13 improvement and development district will establish the amounts of  
14 the fees, in their sole discretion, with no fee schedule set by the State.  
15 (cf: P.L.1992, c.165, s.2)

16

17 2. Section 3 of P.L.1992, c.165 (C.40:54D-3) is amended to read  
18 as follows:

19 3. As used in this act:

20 "Authority" means a tourism improvement and development  
21 authority created pursuant to section 18 of this act, P.L.1992, c.165  
22 (C.40:54D-18).

23 "Beach operation offset payment" means a payment made by an  
24 authority to municipalities in its district for tourism development  
25 activities related to operating and maintaining public beaches within a  
26 zone to seaward of a line of demarcation located not more than 1,000  
27 feet from the mean high water line.

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

30 "Commissioner" means the Commissioner of the Department of  
31 Commerce and Economic Development.

32 "Construction" means the planning, designing, construction,  
33 reconstruction, rehabilitation, replacement, repair, extension,  
34 enlargement, improvement and betterment of a project, and includes  
35 the demolition, clearance and removal of buildings or structures on  
36 land acquired, held, leased or used for a project.

37 "Convention center facility" means any convention hall or center  
38 or like structure or building, and shall include all facilities, including  
39 commercial, office, community service, parking facilities and all  
40 property rights, easements and interests, and other facilities  
41 constructed for the accommodation and entertainment of tourists and  
42 visitors, constructed in conjunction with a convention center facility  
43 and forming reasonable appurtenances thereto but does not mean the  
44 Wildwood convention center facility as defined in this section.

45 "Tourism project" means the convention center facility or outdoor  
46 special events arena, or both, located in the territorial limits of the

1 district, and any costs associated therewith but does not mean the  
2 Wildwood convention center facility as defined in this section.

3 "Cost" means all or any part of the expenses incurred in connection  
4 with the acquisition, construction and maintenance of any real  
5 property, lands, structures, real or personal property rights,  
6 rights-of-way, franchises, easements, and interests acquired or used for  
7 a project; any financing charges and reserves for the payment of  
8 principal and interest on bonds or notes; the expenses of engineering,  
9 appraisal, architectural, accounting, financial and legal services; and  
10 other expenses as may be necessary or incident to the acquisition,  
11 construction and maintenance of a project, the financing thereof and  
12 the placing of the project into operation.

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

14 "Director" means the Director of the Division of Taxation in the  
15 Department of the Treasury.

16 "Fund" means a Reserve Fund created pursuant to section 13 of  
17 P.L.1992, c.165 (C.40:54D-13).

18 "Outdoor special events arena" means a facility or structure for the  
19 holding outdoors of public events, entertainments, sporting events,  
20 concerts or similar activities, and shall include all facilities, property  
21 rights and interests, and all appurtenances reasonably related thereto,  
22 constructed for the accommodation and entertainment of tourists and  
23 visitors.

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

31 "Predominantly tourism related retail receipts" means:

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

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

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

1 "Purchaser" means any person purchasing or hiring property or  
2 services from another person, the receipts or charges from which are  
3 taxable by an ordinance authorized under P.L.1992, c.165  
4 (C.40:54D-1 et seq.).

5 "Sports authority" means the New Jersey Sports and Exposition  
6 Authority established pursuant to P.L.1971, c.137 (C.5:10-1 et seq.).

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

11 "Tourism assessment" means an assessment on the rent for every  
12 occupancy of a room or rooms in a hotel subject to taxation pursuant  
13 to subsection (d) of section 3 of the "Sales and Use Tax Act,"  
14 P.L.1966, c.30 (C.54:32B-3).

15 "Tourism development activities" include operations of the  
16 authority to carry out its statutory duty to promote, advertise and  
17 market the district, including making beach operation offset payments.

18 "Tourism development fee" means a fee imposed by ordinance  
19 pursuant to section 15 of P.L.1992, c.165 (C.40:54D-15) [, within a  
20 tourism improvement and development district on:

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

25 b. Persons making charges for participant amusements as defined  
26 in this section;

27 c. Persons operating businesses that charge for parking, garaging  
28 or storing of motor vehicles;

29 d. Persons maintaining or operating coin-operated vending  
30 machines within the district, for the machines within the district,  
31 regardless of the types of commodities sold through the machines; and

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

39 "Tourism improvement and development district" or "district"  
40 means an area within two or more contiguous municipalities within a  
41 county of the sixth class established pursuant to ordinance enacted by  
42 those municipalities, for the purposes of promoting the acquisition,  
43 construction, maintenance, operation and support of a tourism project,  
44 and to devote the revenue and the proceeds from taxes upon  
45 predominantly tourism related retail receipts and from tourism  
46 development fees to the purposes as herein defined.

1 "Tourist industry" means the industry consisting of private and  
2 public organizations which directly or indirectly provide services and  
3 products to nonresidents and residents who travel to and in New  
4 Jersey for recreation and pleasure.

5 "Tourism lodging" means any dwelling unit, other than a dwelling  
6 unit in a hotel the rent for which is subject to taxation under the "Sales  
7 and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), rented with  
8 or without a lease, whether rented by the owner or by an agent for the  
9 owner: (1) within a multiple unit building of more than four units,  
10 which building is (a) under single ownership without regard to the  
11 form of ownership, or (b) organized as condominiums or cooperatives;  
12 or (2) in a group of buildings of more than four units, which group of  
13 buildings are (a) under single ownership without regard to the form  
14 of ownership, or (b) organized as condominiums or cooperatives.

15 "Vendor" means a person selling or hiring property or services to  
16 another person, the receipts or charges from which are taxable by an  
17 ordinance authorized under P.L.1992, c.165 (C.40:54D-1 et seq.).

18 "Wildwood convention center facility" means the project  
19 authorized by paragraph (12) of subsection a. of section 6 of  
20 P.L.1971, c.137 (C.5:10-6).  
21 (cf: P.L.1997, c.273, s.1)

22

23 3. Section 4 of P.L.1992, c.165 (C.40:54D-4) is amended to read  
24 as follows:

25 4. a. Two or more contiguous municipalities located in a county  
26 of the sixth class may, by ordinances of a substantially similar nature,  
27 create a tourism improvement and development district for the purpose  
28 of increasing public revenue and to levy taxes upon predominantly  
29 tourism related retail receipts at a rate not to exceed 2 percent, and to  
30 levy a tourism assessment at a rate of 1.85 percent, and to devote the  
31 proceeds therefrom for the purposes herein described. Municipal  
32 ordinances so adopted shall not affect which retail receipts are subject  
33 to the "Sales and Use Tax Act."

34 For the same purposes, the ordinances establishing the district shall  
35 also provide for the imposition of tourism development fees authorized  
36 pursuant to section 15 of P.L.1992, c.165 (C.40:54D-15). The taxes  
37 on predominantly tourism related retail receipts and tourism  
38 development fees so imposed shall be uniform throughout the district.

39 b. Notwithstanding any other law to the contrary, ordinances so  
40 adopted shall not be subject to referenda, and shall not be altered or  
41 repealed, except by mutual action of all such municipalities and then  
42 only upon the written approval of the State Treasurer and, so long as  
43 the sports authority shall own and be responsible for the construction  
44 and operation of the Wildwood convention center facility, upon the  
45 written approval of the sports authority. Each municipality which  
46 enters into the creation of the district shall covenant that the

1 ordinance, or a condition imposed by statute that each municipality is  
2 required to meet, shall not be altered or repealed in such manner as to  
3 affect any bonds or other obligations pertaining to projects within the  
4 district which are outstanding. Any alteration or repeal, or attempted  
5 alteration or repeal, in violation of this subsection, whether before or  
6 after the effective date of P.L.1997, c.273 (C.40:54D-25.1 et al.) shall  
7 be null and void.

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

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

14 e. A copy of an ordinance adopted pursuant to this section shall  
15 be transmitted upon adoption or amendment to the State Treasurer.  
16 An ordinance so adopted or any amendment thereto shall provide that  
17 the retail receipts tax provisions of the ordinance or any amendment  
18 to the retail receipts tax provisions shall take effect on the first day of  
19 the first full month occurring 90 days after the date of transmittal to  
20 the State Treasurer.

21 (cf: P.L.1997, c.273, s.2)

22  
23 4. Section 6 of P.L.1992, c.165 (C.40:54D-6) is amended to read  
24 as follows:

25 6. a. The director shall collect and administer any tax or tourism  
26 assessment imposed pursuant to the provisions of P.L.1992, c.165  
27 (C.40:54D-1 et seq.) notwithstanding the provisions of any other law  
28 or ordinance to the contrary. In carrying out the provisions of  
29 P.L.1992, c.165 (C.40:54D-1 et seq.) the director shall have all the  
30 powers granted in P.L.1996; c.30 (C.54:32B-1 et seq.).

31 b. The director shall determine and certify to the State Treasurer  
32 on a monthly basis the amount of revenues collected in a district on  
33 predominantly tourism related retail receipts pursuant to P.L.1992,  
34 c.165 (C.40:54D-1 et seq.). The State Treasurer, upon the  
35 certification of the director and upon the warrant of the State  
36 Comptroller, shall pay and distribute on a monthly basis to the fund  
37 established pursuant to section 13 of P.L.1992, c.165 (C.40:54D-13)  
38 the amount so determined and certified.

39 c. The director shall determine and certify to the State Treasurer  
40 on a monthly basis the amount of revenues collected in a district as  
41 tourism assessments pursuant to P.L.1992, c.165 (C.40:54D-1 et  
42 seq.). The State Treasurer, upon the certification of the director and  
43 upon the warrant of the State Comptroller, shall pay and distribute on  
44 a monthly basis to the fund established pursuant to section 9 of  
45 P.L. , c. (C. ) (now pending before the Legislature as this bill)  
46 the amount so determined and certified.

47 (cf: P.L.1997, c.273, s.3)



1       5. Section 7 of P.L.1992, c.165 (C.40:54D-7) is amended to read  
2 as follows:

3       7. An ordinance imposing a tax upon predominantly tourism  
4 related retail receipts or tourism assessments adopted pursuant to this  
5 act shall contain the following provisions:

6       a. All taxes or assessments imposed by the ordinance shall be paid  
7 by the purchaser;

8       b. A vendor shall not assume or absorb any tax or assessment  
9 imposed by the ordinance;

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

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

17      e. Penalties as fixed in the ordinance, for violation of the  
18 foregoing provisions.

19 (cf: P.L.1992, c.165, s.7)

20

21      6. Section 9 of P.L.1992, c.165 (C.40:54D-9) is amended to read  
22 as follows:

23      9. a. A vendor required to collect the tax upon predominantly  
24 tourism related retail receipts or tourism assessment imposed pursuant  
25 to this act shall on or before the dates required pursuant to section 17  
26 of P.L.1966, c.30 (C.54:32B-17), forward to the director the tax and  
27 assessments collected in the preceding month and make and file a  
28 return for the preceding month with the director on any form and  
29 containing any information as the Director of the Division of Taxation  
30 in the Department of the Treasury shall prescribe by rule or regulation  
31 as necessary to determine liability for the tax and assessment in the  
32 preceding month during which the person was required to collect the  
33 tax.

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

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

45      d. The director shall inform the authority for each month in which  
46 this tax and assessment is collected and returns made of the amount so

1 collected in each month.  
2 (cf: P.L.1992, c.165, s.9)

3  
4 7. Section 10 of P.L.1992, c.165 (C.40:54D-10) is amended to  
5 read as follows:

6 10. The tourism assessment and the tax imposed upon  
7 predominantly tourism related retail receipts pursuant to this act shall  
8 be governed by the provisions of the "State Tax Uniform Procedure  
9 Law," R.S.54:48-1 et seq.  
10 (cf: P.L.1992, c.165, s.10)

11  
12 8. Section 12 of P.L.1992, c.165 (C.40:54D-12) is amended to  
13 read as follows:

14 12. a. All revenues from a tax on predominantly tourism related  
15 retail receipts collected by the director under an ordinance adopted  
16 and authorized pursuant to this act, P.L.1992, c.165 (C.40:54D-1 et  
17 seq.), shall be retained by the State Treasurer for deposit in the fund  
18 established pursuant to section 13 of this act, P.L.1992, c.165  
19 (C.40:54D-13), to be used and distributed according to [the terms  
20 herein provided] P.L.1992, c.165 (C.40:54D-1 et seq.).

21 b. All revenues from tourism assessments collected by the  
22 director under an ordinance adopted and authorized pursuant to this  
23 act, P.L.1992, c.165 (C.40:54D-1 et seq.), shall be retained by the  
24 State Treasurer for deposit in the fund established pursuant to section  
25 9 of P.L. , c. (C. )(now pending before the Legislature as this bill)  
26 to be used and distributed according to the terms of that section.

27 c. The State Treasurer may deduct from amounts so retained prior  
28 to deposit in the [fund]funds an amount equal to that necessary to  
29 compensate the Department of the Treasury for costs actually incurred  
30 by that department in administering the provisions of this act. The  
31 State Treasurer shall annually provide the authority to which the [fund  
32 pertains] funds pertain with a written account of the amounts so  
33 deducted and of the costs so incurred in the previous fiscal year.  
34 Amounts deducted by the State Treasurer shall be retained by the  
35 Department of the Treasury and used exclusively for costs so incurred.  
36 (cf: P.L.1992, c.165, s.12)

37  
38 9. (New section) a. There is created for a tourism improvement  
39 and development district established pursuant to P.L.1992, c.165  
40 (C.40:54D-1 et seq.), a tourism assessment fund to be held by the  
41 State Treasurer, but not to exist in the State Treasury, to be the  
42 repository for monies paid to the State Treasurer pursuant to  
43 P.L.1992, c.165 (C.40:54D-1 et seq.) representing net collections of  
44 the tourism assessments.

45 b. The revenues deposited by the State Treasurer in the tourism  
46 assessment fund shall be used by the authority first to make payment

1 for services provided by a municipality in which a tourism project is  
2 located to that extent that those payments are required by an  
3 agreement entered into on or before February 8, 2000. The remaining  
4 tourism assessments collected shall be used for a beach operation  
5 offset payment and the balance of the funds shall be used by the  
6 authority for advertising, promotion and other tourism development  
7 activities as approved and budgeted by the authority.

8 c. The beach operation offset payment payable within the district  
9 in each calendar year shall be equal to the permitted percentage of  
10 50% of the amount deposited by the State Treasurer in the tourism  
11 assessment fund that remains after payment for the calendar year for  
12 services provided by a municipality in which a tourism project is  
13 located to that extent that those payments are required by an  
14 agreement entered into on or before February 8, 2000. Each  
15 municipality within the district shall receive an equal share of the  
16 beach operations offset payment payable in the district in which the  
17 municipality is located; provided however, that the share of a  
18 municipality that may not receive a payment due to the provisions of  
19 subsection d. of this section shall be used by the authority for  
20 advertising, promotion and other tourism development activities as  
21 approved and budgeted by the authority.

22 d. No beach operation offset payments may be made to a  
23 municipality in any year in which that municipality imposes beach fees,  
24 beach taxes or similar user fees, or "beach tag" type fees for access to,  
25 or the use of, a beach within the boundaries of that municipality.

26 e. For the purposes of this section, "permitted percentage" means,  
27 in the initial year after the implementation of the amendments to  
28 P.L.1992, c.165 (C.40:54D-1 et seq.) pursuant to P.L. , c. (C. )  
29 (now pending before the Legislature as this bill), 100%. The permitted  
30 percentage shall be determined in the second year after the  
31 implementation of the amendments to P.L.1992, c.165 (C.40:54D-1 et  
32 seq.) pursuant to P.L. , c. (C. ) (now pending before the  
33 Legislature as this bill) as the ratio of total of tourism development  
34 fees collected in that district in that year to 50% of the tourism  
35 assessments remaining after payments of services provided by a  
36 municipality in which a tourism project is located to the extent that  
37 those payments are required by an agreement entered into on or before  
38 February 8, 2000, expressed as a percentage, but not to exceed 100%.  
39 That permitted percentage of tourism development fees collected shall  
40 be used to calculate the beach operation offset payment to  
41 municipalities in years two through six, subject to the other restrictions  
42 of this section. The permitted percentage shall be recalculated for  
43 each fifth year following a calculation or recalculation year by  
44 comparing the average of the tourism development fees collected in  
45 the previous five year period to the average of 50% of the tourism  
46 assessments remaining after payments of services provided by a

1 municipality in which a tourism project is located, to that extent that  
2 those payments are required by an agreement entered into on or before  
3 February 8, 2000, in the previous five year period.

4  
5 10. Section 15 of P.L.1992, c.165 (C.40:54D-15) is amended to  
6 read as follows:

7 15. Ordinances adopted pursuant to this act, P.L.1992, c.165  
8 (C.40:54D-1 et seq.) shall impose a tourism development fee [which  
9 shall not be more than \$1,000 per year]. The ordinances imposing the  
10 fee shall set forth the method for the calculation thereof which shall be  
11 similar to that used for mercantile licenses and other such fees as  
12 established by the municipalities.

13 A business paying the tourism development fee or tourism  
14 assessment shall be exempt from any future room taxes, tourism taxes,  
15 beach fees, or other similar taxes imposed by a county or the State of  
16 New Jersey on tourism related business. The fee shall be uniform  
17 throughout the district and shall apply to:

18 a. all persons making sales of tangible personal property or  
19 services, the receipts from which are subject to the "Sales and Use Tax  
20 Act," P.L.1966, c.30 (C.54:32B-1 et seq.), not required to collect a  
21 tax on predominantly tourism related retail receipts;

22 b. all persons making charges for participant amusements;

23 c. all persons operating businesses that charge for parking,  
24 garaging or storing motor vehicles;

25 d. all persons maintaining or operating coin-operated vending  
26 machines within the district, for the machines within the district,  
27 regardless of the types of commodities sold through the machines; [  
28 and]

29 e. all persons making sales of tangible personal property or  
30 services, the receipts from which are subject to the "Sales and Use Tax  
31 Act," P.L.1966, c.30 (C.54:32B-1 et seq.) and who are required to  
32 collect a tax on predominately tourism related retail receipts, but only  
33 to the extent that the amount of tax on those receipts collected in a  
34 year by the person is less than the amount of the tourism development  
35 fee for that year, provided however that persons making sales of food  
36 and drink subject to taxation pursuant to subsection (c) of section 3 of  
37 P.L.1966, c.30 (C.54:32B-3) shall pay a tourism development fee in  
38 the amount determined in the sole discretion of the municipality by  
39 ordinance, which shall be in addition to any amount of the tax on  
40 predominantly tourism related retail receipts; and

41 f. all persons providing tourism lodging, who shall pay a tourism  
42 development fee in an amount determined in the sole discretion of the  
43 municipality by ordinance regardless of whether those sales are  
44 otherwise subject to the "Sales and Use Tax Act," P.L.1966, c.30  
45 (C.54:32B-1 et seq.) . If the lodging is rented by an agent on behalf  
46 of the owner, the agent shall retain the amount of the fee for each unit

1 of lodging from the amount or amounts of rent first collected on behalf  
2 of the owner on that unit in a year, and forward the amount or  
3 amounts on behalf of the person providing tourism lodging pursuant  
4 to the requirements of section 17 of P.L.1992, c.165 (C.40:54D-17).

5 A person shall be exempt from payment of a tourism development  
6 fee for a year if that person is a vendor required to collect the tax upon  
7 predominantly tourism related retail receipts under an ordinance  
8 authorized under this act, P.L.1992, c.165 (C.40:54D-1 et seq.), in an  
9 amount equal to the amount of tax so collected in that year, except as  
10 provided in subsection e.

11 A person claiming any exemption for an amount of fee otherwise  
12 required by this section by reason of the collection of amounts of tax  
13 on predominately tourism related retail receipts is deemed to have  
14 consented to the release of information concerning that person's tax on  
15 predominately tourism related retail receipts collections for the fee  
16 period sufficient, as determined by the director, to verify the claim for  
17 exemption. The municipality shall provide safeguards which restrict  
18 the use or disclosure of any such information provided to purposes  
19 directly connected with the administration of the fee.

20 A municipality may, at any time, notwithstanding the approval  
21 provisions of subsection b. of section 4 of P.L.1992 c.165 (C.40:54D-  
22 4), adjust by municipal ordinance, otherwise in compliance with the  
23 requirements of subsection b. of section 4 of P.L.1992 c.165  
24 (C.40:54D-4), the schedule of tourism development fees to reflect  
25 changes in the funds available for beach operation offset payments so  
26 as to maximize the beach operation offset payments that the  
27 municipalities can receive pursuant to the limitations of subsection e.  
28 of section 9 of P.L. , c. (C. ) (now pending before the Legislature  
29 as this bill).

30 (cf: P.L.1992, c.165, s.15)

31  
32 11. Section 17 of P.L.1992, c.165 (C.40:54D-17) is amended to  
33 read as follows:

34 17. a. All tourism development fees imposed by ordinance  
35 pursuant to section 15 of this act, P.L.1992, c.165 (C.40:54D-15),  
36 shall be paid to the municipality by the person making the charge that  
37 subjects the person or business to imposition of the fee or, in the case  
38 of an agent collecting rents on tourism lodging, by the agent making  
39 the collection on behalf of the person providing tourism lodging. The  
40 fees shall be remitted to the chief fiscal officer of the municipality, and  
41 shall be reported on such forms and paid at such times as may be  
42 prescribed by ordinance. The ordinance shall provide for the penalties  
43 and interest to be paid in the event of delinquency in payment of fees.

44 b. The amount of all fees paid to a municipality pursuant to this  
45 section shall be appropriated annually to the authority established  
46 pursuant to section 18 of this act, P.L.1992, c.165 (C.40:54D-18), to

1 be used by the authority to [advertise, promote and operate the  
2 tourism project of the authority, and to promote and enhance the  
3 public awareness of the tourism industry] develop, support, promote  
4 and advertise events in the district during all months of the year and to  
5 enhance the public awareness of those events promoted in the district.  
6 (cf: P.L.1992, c.165, s.17)

7

8 12. (New section) a. A qualified business outside of the district  
9 may enter into a marketing partnership with the authority and  
10 participate in events and any housing assignment programs or other  
11 services or programs administered by an authority, pursuant to this  
12 section.

13 b. An authority may establish and enter into marketing partnership  
14 contracts with a qualified business outside the district for participation  
15 in events or other services or programs administered by the authority.  
16 A qualified business electing to participate in those services of  
17 programs shall enter into a marketing partnership contract with the  
18 authority. Under the contract the authority shall agree to provide the  
19 business with all the rights and privileges applicable to that type of  
20 business located within the district, and the business shall agree to pay  
21 directly to the authority an amount equal to the tourism development  
22 fees and tourism assessments payable by that type of business as if  
23 located within the district.

24 c. For the purposes of this section, "qualified business" means a  
25 hotel, motel or other business collecting receipts, sales or charges  
26 subject to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1  
27 et seq.).

28

29 13. This act shall take effect immediately.

30

31

32

33

34 Provides "Phase 2 Tourism Funding" to tourism and improvement  
35 districts.

# ASSEMBLY, No. 2312

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## STATE OF NEW JERSEY

### 210th LEGISLATURE

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INTRODUCED MAY 9, 2002

**Sponsored by:**

**Assemblyman JEFF VAN DREW**

**District 1 (Cape May, Atlantic and Cumberland)**

**Assemblyman NICHOLAS ASSELTA**

**District 1 (Cape May, Atlantic and Cumberland)**

**SYNOPSIS**

Provides "Phase 2 Tourism Funding" to tourism and improvement development districts.

**CURRENT VERSION OF TEXT**

As introduced.



A2312 VAN DREW, ASSELTA

2

1 AN ACT providing "Phase 2 Tourism Funding" to tourism and  
2 improvement development districts, amending and supplementing  
3 P.L.1992, c.165.

4

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

7

8 1. Section 3 of P.L.1992, c.165 (C.40:54D-3) is amended to read  
9 as follows:

10 3. As used in this act:

11 "Authority" means a tourism improvement and development  
12 authority created pursuant to section 18 of this act, P.L.1992, c.165  
13 (C.40:54D-18).

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

16 "Commissioner" means the Commissioner of the Department of  
17 Commerce 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 includes  
21 the demolition, clearance and removal of buildings or structures on  
22 land acquired, held, leased or used for a project.

23 "Convention center facility" means any convention hall or center or  
24 like structure or building, and shall include all facilities, including  
25 commercial, office, community service, parking facilities and all  
26 property rights, easements and interests, and other facilities  
27 constructed for the accommodation and entertainment of tourists and  
28 visitors, constructed in conjunction with a convention center facility  
29 and forming reasonable appurtenances thereto but does not mean the  
30 Wildwood convention center facility as defined in this section.

31 "Tourism project" means the convention center facility or outdoor  
32 special events arena, or both, located in the territorial limits of the  
33 district, and any costs associated therewith but does not mean the  
34 Wildwood convention center facility as defined in this section.

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

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

**Matter underlined thus is new matter.**



1 the placing of the project into operation.

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

3 "Director" means the Director of the Division of Taxation in the  
4 Department of the Treasury.

5 "Fund" means a Reserve Fund created pursuant to section 13 of  
6 P.L.1992, c.165 (C.40:54D-13).

7 "Outdoor special events arena" means a facility or structure for the  
8 holding outdoors of public events, entertainments, sporting events,  
9 concerts or similar activities, and shall include all facilities, property  
10 rights and interests, and all appurtenances reasonably related thereto,  
11 constructed for the accommodation and entertainment of tourists and  
12 visitors.

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

20 "Predominantly tourism related retail receipts" means:

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

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

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

36 "Purchaser" means any person purchasing or hiring property or  
37 services from another person, the receipts or charges from which are  
38 taxable by an ordinance authorized under P.L.1992, c.165  
39 (C.40:54D-1 et seq.).

40 "Sports authority" means the New Jersey Sports and Exposition  
41 Authority established pursuant to P.L.1971, c.137 (C.5:10-1 et seq.).

42 "Tourism" means activities involved in providing and marketing  
43 services and products, including accommodations, for nonresidents  
44 and residents who travel to and in New Jersey for recreation and  
45 pleasure.

1 Tourism assessment" means an assessment on the rent for every  
2 occupancy of a room or rooms in a hotel subject to taxation pursuant  
3 to subsection (d) of section 3 of the "Sales and Use Tax Act,"  
4 P.L.1966, c.30 (C.54:32B-3).

5 "Tourism development activities" include operations of the  
6 authority to carry out its statutory duty to promote, advertise and  
7 market the district.

8 "Tourism development fee" means a fee imposed by ordinance  
9 pursuant to section 15 of P.L.1992, c.165 (C.40:54D-15)[, within a  
10 tourism improvement and development district on:

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

15 b. Persons making charges for participant amusements as defined  
16 in this section;

17 c. Persons operating businesses that charge for parking, garaging  
18 or storing of motor vehicles;

19 d. Persons maintaining or operating coin-operated vending  
20 machines within the district, for the machines within the district,  
21 regardless of the types of commodities sold through the machines; and

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

29 "Tourism improvement and development district" or "district"  
30 means an area within two or more contiguous municipalities within a  
31 county of the sixth class established pursuant to ordinance enacted by  
32 those municipalities, for the purposes of promoting the acquisition,  
33 construction, maintenance, operation and support of a tourism project,  
34 and to devote the revenue and the proceeds from taxes upon  
35 predominantly tourism related retail receipts and from tourism  
36 development fees to the purposes as herein defined.

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

41 "Tourism lodging" means any dwelling unit, other than a dwelling  
42 unit in a hotel the rent for which is subject to taxation under the "Sales  
43 and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), rented with  
44 or without a lease, whether rented by the owner or by an agent for the  
45 owner, within a multiple unit building of more than four units, or in  
46 group of buildings of more than four units, and under single

1 ownership, without regard to the form of ownership, or organized as  
2 condominiums or cooperatives.

3 "Vendor" means a person selling or hiring property or services to  
4 another person, the receipts or charges from which are taxable by an  
5 ordinance authorized under P.L.1992, c.165 (C.40:54D-1 et seq.).

6 "Wildwood convention center facility" means the project authorized  
7 by paragraph (12) of subsection a. of section 6 of P.L.1971, c.137  
8 (C.5:10-6).

9 (cf: P.L.1997, c.273, s.1)

10

11 2. Section 4 of P.L.1992, c.165 (C.40:54D-4) is amended to read  
12 as follows:

13 4. a. Two or more contiguous municipalities located in a county  
14 of the sixth class may, by ordinances of a substantially similar nature,  
15 create a tourism improvement and development district for the purpose  
16 of increasing public revenue and to levy taxes upon predominantly  
17 tourism related retail receipts at a rate not to exceed 2 percent, and to  
18 levy a tourism assessment at a rate of 1.85 percent, and to devote the  
19 proceeds therefrom for the purposes herein described. Municipal  
20 ordinances so adopted shall not affect which retail receipts are subject  
21 to the "Sales and Use Tax Act."

22 For the same purposes, the ordinances establishing the district  
23 **[shall]** may also provide for the imposition of a tourism development  
24 **[fees]** fee authorized pursuant to section 15 of P.L.1992, c.165  
25 (C.40:54D-15). The taxes on predominantly tourism related retail  
26 receipts and the tourism development **[fees]** fee so imposed shall be  
27 uniform throughout the district.

28 b. Notwithstanding any other law to the contrary, ordinances so  
29 adopted shall not be subject to referenda, and shall not be altered or  
30 repealed, except by mutual action of all such municipalities and then  
31 only upon the written approval of the State Treasurer and, so long as  
32 the sports authority shall own and be responsible for the construction  
33 and operation of the Wildwood convention center facility, upon the  
34 written approval of the sports authority. Each municipality which  
35 enters into the creation of the district shall covenant that the  
36 ordinance, or a condition imposed by statute that each municipality is  
37 required to meet, shall not be altered or repealed in such manner as to  
38 affect any bonds or other obligations pertaining to projects within the  
39 district which are outstanding. Any alteration or repeal, or attempted  
40 alteration or repeal, in violation of this subsection, whether before or  
41 after the effective date of P.L.1997, c.273 (C.40:54D-25.1 et al.) shall  
42 be null and void.

43 c. The district shall comprise all territory within the boundaries of  
44 the municipalities which create or enter into the district.

45 d. A contiguous municipality located in a county of the sixth class  
46 may, by such an ordinance, and with the mutual consent of the

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1 governing bodies of the municipalities which created the district, enter  
2 into the district so created after the date of the district's creation.

3 e. A copy of an ordinance adopted pursuant to this section shall be  
4 transmitted upon adoption or amendment to the State Treasurer. An  
5 ordinance so adopted or any amendment thereto shall provide that the  
6 retail receipts tax provisions of the ordinance or any amendment to the  
7 retail receipts tax provisions shall take effect on the first day of the  
8 first full month occurring 90 days after the date of transmittal to the  
9 State Treasurer.

10 (cf: P.L.1997, c.273, s.2)

11

12 3. Section 6 of P.L.1992, c.165 (C.40:54D-6) is amended to read  
13 as follows:

14 6. a. The director shall collect and administer any tax or tourism  
15 assessment imposed pursuant to the provisions of P.L.1992, c.165  
16 (C.40:54D-1 et seq.) notwithstanding the provisions of any other law  
17 or ordinance to the contrary. In carrying out the provisions of  
18 P.L.1992, c.165 (C.40:54D-1 et seq.) the director shall have all the  
19 powers granted in P.L.1996. c.30 (C.54:32B-1 et seq.).

20 b. The director shall determine and certify to the State Treasurer  
21 on a monthly basis the amount of revenues collected in a district on  
22 predominantly tourism related retail receipts pursuant to P.L.1992,  
23 c.165 (C.40:54D-1 et seq.). The State Treasurer, upon the  
24 certification of the director and upon the warrant of the State  
25 Comptroller, shall pay and distribute on a monthly basis to the fund  
26 established pursuant to section 13 of P.L.1992, c.165 (C.40:54D-13)  
27 the amount so determined and certified.

28 c. The director shall determine and certify to the State Treasurer  
29 on a monthly basis the amount of revenues collected in a district as  
30 tourism assessments pursuant to P.L.1992, c.165 (C.40:54D-1 et  
31 seq.). The State Treasurer, upon the certification of the director and  
32 upon the warrant of the State Comptroller, shall pay and distribute on  
33 a monthly basis to the fund established pursuant to section 8 of  
34 P.L. , c. (C. ) the amount so determined and certified.

35 (cf: P.L.1997, c.273, s.3)

36

37 4. Section 7 of P.L.1992, c.165 (C.40:54D-7) is amended to read  
38 as follows:

39 7. An ordinance imposing a tax upon predominantly tourism related  
40 retail receipts or tourism assessments adopted pursuant to this act shall  
41 contain the following provisions:

42 a. All taxes or assessments imposed by the ordinance shall be paid  
43 by the purchaser;

44 b. A vendor shall not assume or absorb any tax or assessment  
45 imposed by the ordinance;

46 c. A vendor shall not in any manner advertise or represent that a

1 tax or assessment imposed by the ordinance will be assumed or  
2 absorbed by the vendor;

3 d. Each assumption or absorption by a vendor of the tax or  
4 assessment shall be deemed a separate offense and each representation  
5 of advertisement by a vendor for each day the representation or  
6 advertisement continues shall be deemed a separate offense; and

7 e. Penalties as fixed in the ordinance, for violation of the foregoing  
8 provisions.

9 (cf: P.L.1992, c.165, s.7)

10

11 5. Section 9 of P.L.1992, c.165 (C.40:54D-9) is amended to read  
12 as follows:

13 9. a. A vendor required to collect the tax upon predominantly  
14 tourism related retail receipts or tourism assessment imposed pursuant  
15 to this act shall on or before the dates required pursuant to section 17  
16 of P.L.1966, c.30 (C.54:32B-17), forward to the director the tax and  
17 assessments collected in the preceding month and make and file a  
18 return for the preceding month with the director on any form and  
19 containing any information as the Director of the Division of Taxation  
20 in the Department of the Treasury shall prescribe by rule or regulation  
21 as necessary to determine liability for the tax and assessment in the  
22 preceding month during which the person was required to collect the  
23 tax.

24 b. The director may permit or require returns to be made covering  
25 other periods and upon any dates as the director may specify. In  
26 addition, the director may require payments of tax and assessment  
27 liability at any intervals and based upon any classifications as the  
28 director may designate. In prescribing any other periods to be covered  
29 by the return or intervals or classifications for payment of tax and  
30 assessment liability, the director may take into account the dollar  
31 volume of tax and assessment involved as well as the need for ensuring  
32 the prompt and orderly collection of the tax imposed.

33 c. The director may require amended returns to be filed within  
34 20 days after notice and to contain the information specified in the  
35 notice.

36 d. The director shall inform the authority for each month in which  
37 this tax and assessment is collected and returns made of the amount so  
38 collected in each month.

39 (cf: P.L.1992, c.165, s.9)

40

41 6. Section 10 of P.L.1992, c.165 (C.40:54D-10) is amended to  
42 read as follows:

43 10. The tourism assessment and the tax imposed upon  
44 predominantly tourism related retail receipts pursuant to this act shall  
45 be governed by the provisions of the "State Tax Uniform Procedure  
46 Law," R.S.54:48-1 et seq.

1 (cf: P.L.1992, c.165, s.10)

1       7. Section 12 of P.L.1992, c.165 (C.40:54D-12) is amended to  
2 read as follows:

3       12. a. All revenues from a tax on predominantly tourism related  
4 retail receipts collected by the director under an ordinance adopted  
5 and authorized pursuant to this act, P.L.1992, c.165 (C.40:54D-1 et  
6 seq.), shall be retained by the State Treasurer for deposit in the fund  
7 established pursuant to section 13 of this act, P.L.1992, c.165  
8 (C.40:54D-13), to be used and distributed according to [the terms  
9 herein provided] P.L.1992, c.165 (C.40:54D-1 et seq.).

10       b. All revenues from tourism assessments collected by the director  
11 under an ordinance adopted and authorized pursuant to this act,  
12 P.L.1992, c.165 (C.40:54D-1 et seq.), shall be retained by the State  
13 Treasurer for deposit in the fund established pursuant to section 8 of  
14 P.L. , c. (C. ) (now pending before the Legislature as this  
15 bill) to be used and distributed according to the terms of that section.

16       c. The State Treasurer may deduct from amounts so retained prior  
17 to deposit in the [fund] funds an amount equal to that necessary to  
18 compensate the Department of the Treasury for costs actually incurred  
19 by that department in administering the provisions of this act. The  
20 State Treasurer shall annually provide the authority to which the [fund  
21 pertains] funds pertain with a written account of the amounts so  
22 deducted and of the costs so incurred in the previous fiscal year.  
23 Amounts deducted by the State Treasurer shall be retained by the  
24 Department of the Treasury and used exclusively for costs so incurred.  
25 (cf: P.L.1992, c.165, s.12)

26  
27       8. (New section) a. There is created for a tourism improvement  
28 and development district established pursuant to P.L.1992, c.165  
29 (C.40:54D-1 et seq.), a tourism assessment fund to be held by the  
30 State Treasurer, but not to exist in the State Treasury, to be the  
31 repository for monies paid to the State Treasurer pursuant to  
32 P.L.1992, c.165 (C.40:54D-1 et seq.) representing net collections of  
33 the tourism assessments.

34       b. The revenues deposited by the State Treasurer in the tourism  
35 assessment fund shall be used by the authority first to make payment  
36 for services provided by a municipality in which a tourism project is  
37 located to that extent that those payments are required by an  
38 agreement entered into on or before February 8, 2000. The remaining  
39 tourism assessments collected shall be used for advertising and  
40 promotion of tourism within the district as approved and budgeted by  
41 the authority.

42  
43       9. Section 15 of P.L.1992, c.165 (C.40:54D-15) is amended to  
44 read as follows:

45       15. [Ordinances adopted] A municipality that adopts ordinances  
46 pursuant to this act, P.L.1992, c.165 (C.40:54D-1 et seq.) [shall] may

1 in its discretion impose a tourism development fee [which shall not be  
2 more than \$1,000 per year]. The [ordinances] ordinance imposing  
3 the fee shall set forth the method for the calculation thereof which  
4 shall be similar to that used for mercantile licenses and other such fees  
5 as established by the municipality.

6 A business paying the tourism development fee or tourism  
7 assessment shall be exempt from any future room taxes, tourism taxes,  
8 beach fees, or other similar taxes imposed by a county or the State of  
9 New Jersey on tourism related business. The fee shall be uniform  
10 throughout the district and shall apply to:

11 a. all persons making sales of tangible personal property or  
12 services, the receipts from which are subject to the "Sales and Use Tax  
13 Act," P.L.1966, c.30 (C.54:32B-1 et seq.), not required to collect a  
14 tax on predominantly tourism related retail receipts;

15 b. all persons making charges for participant amusements;

16 c. all persons operating businesses that charge for parking,  
17 garaging or storing motor vehicles;

18 d. all persons maintaining or operating coin-operated vending  
19 machines within the district, for the machines within the district,  
20 regardless of the types of commodities sold through the machines; [  
21 and]

22 e. all persons making sales of tangible personal property or  
23 services, the receipts from which are subject to the "Sales and Use Tax  
24 Act," P.L.1966, c.30 (C.54:32B-1 et seq.) and who are required to  
25 collect a tax on predominately tourism related retail receipts, but only  
26 to the extent that the amount of tax on those receipts collected in a  
27 year by the person is less than the amount of the tourism development  
28 fee for that year; provided however that persons making sales of food  
29 and drink subject to taxation pursuant to subsection (c) of section 3 of  
30 P.L.1966, c.30 (C.54:32B-3) shall pay if established by municipal  
31 ordinance a tourism development fee after implementation of the  
32 amendments to this act pursuant to P.L. , c. (C. ) (now  
33 pending before the Legislature as this bill) and in the amount specified  
34 by municipal ordinance, which shall be in addition to any amount of  
35 the tax on predominantly tourism related retail receipts; and

36 f. all persons providing tourism lodging, who shall pay the tourism  
37 development fee regardless of whether those sales are otherwise  
38 subject to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1  
39 et seq.) . If the lodging is rented by an agent on behalf of the owner,  
40 the agent shall retain the amount of the fee for each unit of lodging  
41 from the amount or amounts of rent first collected on behalf of the  
42 owner on that unit in a year, and forward the amount or amounts  
43 pursuant on behalf of the person providing tourism lodging to the  
44 requirements of section 17 of P.L.1992, c.165 (C.40:54D-17).

45 A person shall be exempt from payment of a tourism development  
46 fee for a year if that person is a vendor required to collect the tax upon



1 predominantly tourism related retail receipts under an ordinance  
2 authorized under this act, P.L.1992, c.165 (C.40:54D-1 et seq.), in an  
3 amount equal to the amount of tax so collected in that year, except as  
4 provided in subsection e.

5 A person claiming any exemption for an amount of fee otherwise  
6 required by this section by reason of the collection of amounts of tax  
7 on predominately tourism related retail receipts is deemed to have  
8 consented to the release of information concerning that person's tax on  
9 predominately tourism related retail receipts collections for the fee  
10 period sufficient, as determined by the director, to verify the claim for  
11 exemption. The municipality shall provide safeguards which restrict  
12 the use or disclosure of any such information provided to purposes  
13 directly connected with the administration of the fee.

14 (cf: P.L.1992, c.165, s.15)

15

16 10. Section 17 of P.L.1992, c.165 (C.40:54D-17) is amended to  
17 read as follows:

18 17. a. All tourism development fees imposed by ordinance  
19 pursuant to section 15 of this act, P.L.1992, c.165 (C.40:54D-15),  
20 shall be paid to the municipality by the person making the charge that  
21 subjects the person or business to imposition of the fee or, in the case  
22 of an agent collecting rents on tourism lodging, by the agent making  
23 the collection on behalf of the person providing tourism lodging. The  
24 fees shall be remitted to the chief fiscal officer of the municipality, and  
25 shall be reported on such forms and paid at such times as may be  
26 prescribed by ordinance. The ordinance shall provide for the penalties  
27 and interest to be paid in the event of delinquency in payment of fees.

28 b. The amount of all fees paid to a municipality pursuant to this  
29 section shall be appropriated annually to the authority established  
30 pursuant to section 18 of this act, P.L.1992, c.165 (C.40:54D-18), to  
31 be used by the authority to [advertise, promote and operate the  
32 tourism project of the authority, and to promote and enhance the  
33 public awareness of the tourism industry] develop, support, promote  
34 and advertise events in the district during all months of the year and to  
35 enhance the public awareness of those events promoted in the district.

36 (cf: P.L.1992, c.165, s.17)

37

38 11. (New section) a. A qualified business outside of the district  
39 may enter into a marketing partnership with the authority and  
40 participate in events and any housing assignment programs or other  
41 services or programs administered by an authority, pursuant to this  
42 section.

43 b. An authority may establish and enter into marketing partnership  
44 contracts with a qualified business outside the district for participation  
45 in events or other services or programs administered by the authority.

46 A qualified business electing to participate in those services of

1 programs shall enter into a marketing partnership contract with the  
2 authority. Under the contract the authority shall agree to provide the  
3 business with all the rights and privileges applicable to that type of  
4 business located within the district, and the business shall agree to pay  
5 directly to the authority an amount equal to the tourism development  
6 fee and tourism assessment payable by that type of business as if  
7 located within the district.

8 c. For the purposes of this section, "qualified business" means a  
9 hotel, motel or other business collecting receipts, sales or charges  
10 subject to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1  
11 et seq.).

12

13 12. This act shall take effect immediately.

14

15

16

#### STATEMENT

17

18 This bill provides new funding to tourism and improvement  
19 development districts to complement the funding that those districts  
20 already have used to develop tourism projects. From this "phase 2  
21 funding", districts that have established tourism projects will be able  
22 to effectively promote those projects and their existing tourism  
23 resources in an integrated way as a destination resort.

24 The bill allows municipalities in a tourism development district to  
25 impose a 1.85% tourism assessment on hotel room rentals (including  
26 motels, rooming houses and other transient accommodations) to  
27 provide an income stream for the tourism authority's regular activities,  
28 including the costs of destination advertising, marketing, public  
29 relations and promotion. The tourism assessment will be co-collected  
30 with the current tax on predominantly tourism related retail receipts.

31 Under current law, a participating municipality is required to  
32 establish a tourism development fee upon certain businesses, not to  
33 exceed \$1,000 per business, to provide funds for event sponsorship,  
34 promotion and advertising of the resorts events scheduled beyond the  
35 usual summer beach season. This bill changes the establishment of a  
36 tourism development fee from a required to an optional practice at the  
37 discretion of the municipality. The bill extends this fees to the renters  
38 of lodging that is not currently subject to the sales and use tax, to  
39 "level the playing field" between hotels that are licensed sales tax  
40 collectors and the more casual renters who enjoy the benefits of the  
41 market created by the licensed taxpayers.

42 The bill also allows businesses outside of the tourism district to  
43 enter into marketing partnerships with the tourism authority. If a  
44 business agrees to make the same payments to the tourism authority  
45 that is made by a business in the tourism district, that business can  
46 participate in the same marketing services and programs provided by

1 the authority to businesses in the district.

# ASSEMBLY TOURISM AND GAMING COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 2312

# STATE OF NEW JERSEY

DATED: MAY 16, 2002

The Assembly Tourism and Gaming Committee reports favorably an Assembly Committee Substitute for Assembly, No. 2312.

This committee substitute provides new funding to tourism and improvement development districts to complement the funding that those districts already have used to develop tourism projects. From this "phase 2 funding", districts that have established tourism projects will be able to effectively promote those projects and their existing tourism resources in an integrated way as a destination resort.

The substitute allows municipalities in a tourism development district to impose a 1.85% tourism assessment on hotel room rentals (including motels, rooming houses and other transient accommodations) to provide an income stream for the tourism authority's regular activities, including the costs of destination advertising, marketing, public relations and promotion, and for beach maintenance and operation. The tourism assessment will be co-collected with the current tax on predominantly tourism related retail receipts.

Beach maintenance and operation payment support is only available under the substitute to tourism district municipalities that do not impose beach fees.

Under current law, a participating municipality is required to impose a tourism development fee upon certain businesses, not to exceed \$1,000 per business, to provide funds for event sponsorship, promotion and advertising of the resorts events scheduled beyond the usual summer beach season. The substitute removes the \$1,000 cap, and extends these fees to the renters of lodging that are not currently subject to the sales and use tax, to "level the playing field" between hotels that are licensed sales tax collectors and the more casual renters who enjoy the benefits of the market created by the licensed taxpayers. The substitute also effectively extends the fees to bars and restaurants, by eliminating the provision in current law that allows these businesses to offset their tourism development fees by the amount of any tax on predominantly tourism related retail receipts that they collect.

The extension of the tourism development fees provided by the substitute is intended to serve as a tool for the tourism improvement and development authority to attract visitors and tourists to the State. The municipalities that constitute the tourism improvement and development district will establish the amounts of the fees, in their sole discretion, with no fee schedule set by the State.

The bill also allows businesses outside of the tourism district to enter into marketing partnerships with the tourism authority. If a business agrees to make the same payments to the tourism authority that is made by a business in the tourism district, that business can participate in the same marketing services and programs provided by the authority to businesses in the district.

This committee substitute for A-2312 differs from the original bill in the following ways:

- C provides that a portion of the proceeds from the tourism assessment will be used for a "beach offset payment" to municipalities that constitute the tourism improvement and development district for beach maintenance and operation.
- C eliminates the mandated \$500 tourism development fee for bars and restaurants, and instead provides that the fee amount will be determined by the municipalities that constitute the district.
- C clarifies that for the extension of the tourism development fees provided under the substitute, the municipalities that constitute the district will establish the amounts of the fees, in their sole discretion, with no fee schedule set by the State.
- C allows the municipalities that constitute the district to revise the schedule of tourism development fees to reflect changes in the funds available for beach offset payments.
- C makes technical amendments to: clarify the definition of "tourism lodging", remove redundant language in the definition of "tourism development fee", clarify that proceeds from the tourism assessment may be used for tourism development projects approved by the tourism improvement and development authority, and clarify that the municipalities that constitute the district may not completely eliminate tourism development fees that exist under current law.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 2312**

**STATE OF NEW JERSEY**

DATED: JUNE 6, 2002

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2312 (ACS).

Assembly Bill No. 2312 (ACS) provides new funding to tourism and improvement development districts to complement the funding that those districts already have used to develop tourism projects. From this "phase 2 funding", districts that have established tourism projects will be able to effectively promote those projects and their existing tourism resources in an integrated way as a destination resort.

The bill allows municipalities in a tourism development district to impose a 1.85% tourism assessment on the hotel, motel, rooming house and other transient accommodation rentals currently subject to the State sales and use tax for the tourism and improvement development authority's regular activities, including the costs of destination advertising, marketing, public relations and promotion, and for beach maintenance and operation. Beach maintenance and operation payment support is only available under the bill to tourism district municipalities that do not impose beach fees.

Under current law, a development district participating municipality is required to impose a tourism development fee upon certain businesses, not to exceed \$1,000 per business, to provide funds for event sponsorship, promotion and advertising of the resort's events scheduled beyond the usual summer beach season. The bill removes the \$1,000 cap, and allows imposition of these fees on the renters of lodging that is not currently subject to the State sales and use tax. The bill also has the effect of extending the fee to bars and restaurants, by exception to a provision in current law that allows those businesses to offset their tourism development fees by the amount of any tax on predominantly tourism related retail receipts that they collect.

The bill also allows businesses outside of the tourism district to enter into marketing partnerships with the development district authority. If a business agrees to make the same payments to the authority that are made by a business in the tourism district, that business can participate in the same marketing services and programs provided by the authority to businesses in the district.

FISCAL IMPACT:

The bill has no impact on State revenues or expenditures. The proposed tourism assessment on hotel rentals will be co-administered with the State sales and use tax and the tax on predominantly tourism-related retail receipts that currently imposed; there will be an initial expense to brief the vendors subject to the tax, update forms, and update programming. The law allows the Division of Taxation to recoup these implementation costs from collections.

Currently, the local fiscal impact is due to local implementation of the "Tourism Improvement and Development District Act," P.L.1992, c.165, which authorized municipalities in Cape May County to require retail businesses to collect an additional 2% retail sales tax on "tourism-related retail receipts:" food and drink sales, hotel room rentals, and admissions charges. That tax is co-collected and administered with the New Jersey sales and use tax; 90% of the revenues are directed to the New Jersey Sports and Exposition Authority for purposes in connection with the Wildwood convention center facility and 10% are directed to the Greater Wildwood Tourism Improvement and Development Authority (GWTIDA). The municipalities are also currently authorized to impose a "tourism development fee" on retail vendors, persons charging admissions fees not subject to sales tax, parking services, and coin operated vending machines, which is directed to the GWTIDA.

This bill provides new funding to the GWTIDA by:

- (1) allowing the municipalities to impose a tourism assessment of up to 1.85% on hotel room rentals;
- (2) removing the current \$1,000 cap on tourism development fees; extending the fees to the renters of lodging not subject to the sales and use tax; and, for bars and restaurants, eliminating a fee offset by the amount of any tax on predominantly tourism related retail receipts that they collect; and
- (3) allowing businesses outside of the tourism district to enter into marketing partnerships with the tourism authority.

The Office of Legislative Services (OLS) notes that the bill is an enabling act for the municipalities within the GWTIDA district; because the revenue streams are based on decisions, rates and fee structures set by municipal ordinance it is not possible to determine the local fiscal impact of this bill. However, the OLS notes that tourism literature suggests that approximately one-half of the expenditure of a resort tourist at the resort is for lodging. If this is true for the municipalities in the GWTIDA, then about one-half current revenue stream of about \$3.2 million annually from the 2% tax on predominantly tourism related retail receipts is from hotel rentals, so if the tourism assessment were imposed at the maximum permitted rate under the bill of 1.85%, then the revenue from the tourism assessment would be expected to be approximately \$1.48 million annually.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 2312

# STATE OF NEW JERSEY

DATED: JUNE 17, 2002

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 2312 ACS.

This bill would authorize a tourism improvement and development district to impose an additional assessment on hotel room rentals to fund tourism-related services and programs, permit a district to collect higher tourism development fees, and allow a district to expand its tourism marketing efforts.

**Background.** Under P.L.1992, c.165 (N.J.S.A.40:54D-1 et seq.), two or more contiguous municipalities located in a county of the sixth class may create a tourism improvement and development district and establish a tourism improvement and development authority to undertake tourism projects and promote tourism in the district. The only county of the sixth class is Cape May county; the only district established to date is the Greater Wildwood tourism improvement and development district, which is served by the Greater Wildwood Tourism Improvement and Development Authority ("GWTIDA").

As authorized by the enabling legislation, the Greater Wildwood tourism development district levies a tax, payable by the purchaser, of 2% on "predominantly tourism related retail receipts." Receipts subject to the tax are from certain transactions within the district that are also subject to the State sales tax: (i) room rentals at hotels, motels and rooming houses, (ii) sales of food and drink at restaurants, bars, etc., and (iii) admissions to places of amusement. The tax is treated as an adjunct to the State sales tax, and proceeds of the tax are remitted to and processed by the Director of the Division of Taxation in the same manner as that tax. Under a 1997 amendment to the original enabling legislation, those proceeds (after deduction by the director of administrative costs) are allocated, 90% to the New Jersey Sports and Exposition Authority to pay the cost of operating the Wildwood convention center and the debt service on bonds of the sports authority that were issued to finance that facility, and 10% to the GWTIDA to fund tourism projects and promotions.

The district is also required to, and does, levy a uniform annual tourism development fee on (a) vendors who must collect the State sales and use tax, but who do not collect the tax on tourism related



receipts or collect less annual revenue from that tax than the amount of the development fee, (b) "participant amusement" establishments (e.g., bowling alleys, water parks, miniature golf facilities), (c) parking lots and garages, and (d) vending machine operators. The tourism development fee is paid to the appropriate municipality and remitted to the GWTIDA to fund tourism projects and promotions.

**Bill provisions.** The bill authorizes new, and broadens existing, tourism development district levies; revises the uses to which current tourism levies may be put; and allows the GWTIDA to engage in broader tourism marketing efforts.

(1) Municipalities in the tourism development district would be authorized to impose, in addition to the retail receipts tax, a 1.85% tourism assessment on hotel room rentals (including motels, boarding houses and other transient accommodations). The tourism assessment will be co-collected with the current tax on predominantly tourism related retail receipts and deposited into a separate fund within the State Department of the Treasury for use by the authority to (a) pay for "services provided by a municipality in which a tourism project is located to that extent that those payments are required by an agreement entered into on or before February 8, 2000," then (b) fund tourism development activities related to operation and maintenance of public beaches (provided that the municipality does not assess beach access fees), and finally (c) support tourism advertisement and promotion. The bill includes a formula for determining the division of assessment revenue, in excess of that needed to fund municipal services under (a), between beach operation and maintenance under (b) and tourism advertisement and promotion under (c). Beach operation and maintenance payments to each eligible municipality in a district would be in equal amounts; any payment for which a municipality became ineligible due to imposition of beach access fees would be added to the district-wide budget for tourism promotion.

(2) The bill removes the current \$1,000-per-business limit on tourism development fees. The bill extends these fees to the renters of lodging that is not currently subject to the State sales and use tax. The bill removes bars and restaurants from the category of businesses allowed to offset their tourism development fees by the amount of any tax on predominantly tourism related retail receipts that they collect. The legislation includes a provision exempting any business that pays the tourism development fee or the tourism assessment from any future State or county room tax, tourism tax, beach fee, or similar tax on tourism-related business.

(3) Finally, the bill allows businesses outside of the tourism district to enter into marketing partnerships with the tourism authority. If the businesses agree to make the same payments to the tourism authority that are made by businesses in the tourism district, they can participate in the same marketing services and programs that the authority provides to businesses in the district.

The provisions of this bill are identical to those of Senate Bill No. 1142 Sca, which the committee also reports this day.

FISCAL IMPACT:

The bill has no impact on State revenues or expenditures. The proposed tourism assessment on hotel rentals will be co-administered with the State sales and use tax and the tax on predominantly tourism-related retail receipts that currently imposed; there will be an initial expense to brief the vendors subject to the tax, update forms, and update programming. The law allows the Division of Taxation to recoup these implementation costs from collections.

The local fiscal impact of the legislation will be incurred by the GWTIDA. As explained above, the bill provides new funding to the authority by (1) allowing the constituent municipalities to impose a tourism assessment of up to 1.85% on hotel room rentals; (2) removing the current \$1,000 cap on tourism development fees, extending the fees to the renters of lodging not subject to the sales tax, and, for bars and restaurants, eliminating a fee offset by the amount of any tax on predominantly tourism related retail receipts that they collect; and (3) letting businesses outside of the tourism district enter into marketing partnerships with the authority.

The Office of Legislative Services (OLS) notes that the bill is an enabling act for the municipalities within the GWTIDA district; because the revenue streams are based on decisions, rates and fee structures set by municipal ordinance it is not possible to determine the local fiscal impact of this bill. However, the OLS notes that tourism literature suggests that roughly one-half of the expenditure at a resort of the typical resort tourist is for lodging. If this is true for the municipalities in the GWTIDA, then about one-half current revenue stream of about \$3.2 million annually from the 2% tax on predominantly tourism related retail receipts is from hotel rentals, so if the tourism assessment were imposed at the maximum 1.85% rate permitted under the bill, then the revenue from the tourism assessment would be expected to be approximately \$1.48 million annually.

**SENATE, No. 1142**

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**STATE OF NEW JERSEY**  
**210th LEGISLATURE**

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INTRODUCED FEBRUARY 25, 2002

**Sponsored by:**

**Senator JAMES S. CAFIERO**

**District 1 (Cape May, Atlantic and Cumberland)**

**SYNOPSIS**

Provides "Phase 2 Tourism Funding" to tourism and improvement development districts.

**CURRENT VERSION OF TEXT**

As introduced.



S1142 CAFIERO

2

1 AN ACT providing "Phase 2 Tourism Funding" to tourism and  
2 improvement development districts, amending and supplementing  
3 P.L.1992, c.165.

4

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

7

8 1. Section 3 of P.L.1992, c.165 (C.40:54D-3) is amended to read  
9 as follows:

10 3. As used in this act:

11 "Authority" means a tourism improvement and development  
12 authority created pursuant to section 18 of this act, P.L.1992, c.165  
13 (C.40:54D-18).

14 "Beach operation offset payment" means a payment made by an  
15 authority to municipalities in its district for tourism development  
16 activities related to operating and maintaining public beaches within a  
17 zone to seaward of a line of demarcation located not more than 1,000  
18 feet from the mean high water line.

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

21 "Commissioner" means the Commissioner of the Department of  
22 Commerce and Economic Development.

23 "Construction" means the planning, designing, construction,  
24 reconstruction, rehabilitation, replacement, repair, extension,  
25 enlargement, improvement and betterment of a project, and includes  
26 the demolition, clearance and removal of buildings or structures on  
27 land acquired, held, leased or used for a project.

28 "Convention center facility" means any convention hall or center or  
29 like structure or building, and shall include all facilities, including  
30 commercial, office, community service, parking facilities and all  
31 property rights, easements and interests, and other facilities  
32 constructed for the accommodation and entertainment of tourists and  
33 visitors, constructed in conjunction with a convention center facility  
34 and forming reasonable appurtenances thereto but does not mean the  
35 Wildwood convention center facility as defined in this section.

36 "Tourism project" means the convention center facility or outdoor  
37 special events arena, or both, located in the territorial limits of the  
38 district, and any costs associated therewith but does not mean the  
39 Wildwood convention center facility as defined in this section.

40 "Cost" means all or any part of the expenses incurred in connection  
41 with the acquisition, construction and maintenance of any real  
42 property, lands, structures, real or personal property rights,  
43 rights-of-way, franchises, easements, and interests acquired or used for

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

**Matter underlined thus is new matter.**

1 a project; any financing charges and reserves for the payment of  
2 principal and interest on bonds or notes; the expenses of engineering,  
3 appraisal, architectural, accounting, financial and legal services; and  
4 other expenses as may be necessary or incident to the acquisition,  
5 construction and maintenance of a project, the financing thereof and  
6 the placing of the project into operation.

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

8 "Director" means the Director of the Division of Taxation in the  
9 Department of the Treasury.

10 "Fund" means a Reserve Fund created pursuant to section 13 of  
11 P.L.1992, c.165 (C.40:54D-13).

12 "Outdoor special events arena" means a facility or structure for the  
13 holding outdoors of public events, entertainments, sporting events,  
14 concerts or similar activities, and shall include all facilities, property  
15 rights and interests, and all appurtenances reasonably related thereto,  
16 constructed for the accommodation and entertainment of tourists and  
17 visitors.

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

25 "Predominantly tourism related retail receipts" means:

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

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

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

41 "Purchaser" means any person purchasing or hiring property or  
42 services from another person, the receipts or charges from which are  
43 taxable by an ordinance authorized under P.L.1992, c.165  
44 (C.40:54D-1 et seq.).

45 "Sports authority" means the New Jersey Sports and Exposition  
46 Authority established pursuant to P.L.1971, c.137 (C.5:10-1 et seq.).

1 "Tourism" means activities involved in providing and marketing  
2 services and products, including accommodations, for nonresidents  
3 and residents who travel to and in New Jersey for recreation and  
4 pleasure.

5 Tourism assessment" means an assessment on the rent for every  
6 occupancy of a room or rooms in a hotel subject to taxation pursuant  
7 to subsection (d) of section 3 of the "Sales and Use Tax Act,"  
8 P.L.1966, c.30 (C.54:32B-3).

9 "Tourism development activities" include operations of the  
10 authority to carry out its statutory duty to promote, advertise and  
11 market the district, including making beach operation offset payments.

12 "Tourism development fee" means a fee imposed by ordinance  
13 pursuant to section 15 of P.L.1992, c.165 (C.40:54D-15), within a  
14 tourism improvement and development district on:

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

19 b. Persons making charges for participant amusements as defined  
20 in this section;

21 c. Persons operating businesses that charge for parking, garaging  
22 or storing of motor vehicles;

23 d. Persons maintaining or operating coin-operated vending  
24 machines within the district, for the machines within the district,  
25 regardless of the types of commodities sold through the machines; and

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

33 "Tourism improvement and development district" or "district"  
34 means an area within two or more contiguous municipalities within a  
35 county of the sixth class established pursuant to ordinance enacted by  
36 those municipalities, for the purposes of promoting the acquisition,  
37 construction, maintenance, operation and support of a tourism project,  
38 and to devote the revenue and the proceeds from taxes upon  
39 predominantly tourism related retail receipts and from tourism  
40 development fees to the purposes as herein defined.

41 "Tourist industry" means the industry consisting of private and  
42 public organizations which directly or indirectly provide services and  
43 products to nonresidents and residents who travel to and in New  
44 Jersey for recreation and pleasure.

45 "Tourism lodging" means any dwelling unit, other than a dwelling  
46 unit in a hotel the rent for which is subject to taxation under the "Sales

1 and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), rented with  
2 or without a lease, whether rented by the owner or by an agent for the  
3 owner, within a multiple unit building of more than four units, or in  
4 group of buildings of more than four units, and under single  
5 ownership, without regard to the form of ownership, or organized as  
6 condominiums or cooperatives.

7 "Vendor" means a person selling or hiring property or services to  
8 another person, the receipts or charges from which are taxable by an  
9 ordinance authorized under P.L.1992, c.165 (C.40:54D-1 et seq.).

10 "Wildwood convention center facility" means the project authorized  
11 by paragraph (12) of subsection a. of section 6 of P.L.1971, c.137  
12 (C.5:10-6).

13 (cf: P.L.1997, c.273, s.1)

14  
15 2. Section 4 of P.L.1992, c.165 (C.40:54D-4) is amended to read  
16 as follows:

17 4. a. Two or more contiguous municipalities located in a county  
18 of the sixth class may, by ordinances of a substantially similar nature,  
19 create a tourism improvement and development district for the purpose  
20 of increasing public revenue and to levy taxes upon predominantly  
21 tourism related retail receipts at a rate not to exceed 2 percent, and to  
22 levy a tourism assessment at a rate of 1.85 percent, and to devote the  
23 proceeds therefrom for the purposes herein described. Municipal  
24 ordinances so adopted shall not affect which retail receipts are subject  
25 to the "Sales and Use Tax Act."

26 For the same purposes, the ordinances establishing the district shall  
27 also provide for the imposition of tourism development fees authorized  
28 pursuant to section 15 of P.L.1992, c.165 (C.40:54D-15). The taxes  
29 on predominantly tourism related retail receipts and tourism  
30 development fees so imposed shall be uniform throughout the district.

31 b. Notwithstanding any other law to the contrary, ordinances so  
32 adopted shall not be subject to referenda, and shall not be altered or  
33 repealed, except by mutual action of all such municipalities and then  
34 only upon the written approval of the State Treasurer and, so long as  
35 the sports authority shall own and be responsible for the construction  
36 and operation of the Wildwood convention center facility, upon the  
37 written approval of the sports authority. Each municipality which  
38 enters into the creation of the district shall covenant that the  
39 ordinance, or a condition imposed by statute that each municipality is  
40 required to meet, shall not be altered or repealed in such manner as to  
41 affect any bonds or other obligations pertaining to projects within the  
42 district which are outstanding. Any alteration or repeal, or attempted  
43 alteration or repeal, in violation of this subsection, whether before or  
44 after the effective date of P.L.1997, c.273 (C.40:54D-25.1 et al.) shall  
45 be null and void.

1 c. The district shall comprise all territory within the boundaries of  
2 the municipalities which create or enter into the district.

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

7 e. A copy of an ordinance adopted pursuant to this section shall be  
8 transmitted upon adoption or amendment to the State Treasurer. An  
9 ordinance so adopted or any amendment thereto shall provide that the  
10 retail receipts tax provisions of the ordinance or any amendment to the  
11 retail receipts tax provisions shall take effect on the first day of the  
12 first full month occurring 90 days after the date of transmittal to the  
13 State Treasurer.

14 (cf: P.L.1997, c.273, s.2)

15  
16 3. Section 6 of P.L.1992, c.165 (C.40:54D-6) is amended to read  
17 as follows:

18 6. a. The director shall collect and administer any tax or tourism  
19 assessment imposed pursuant to the provisions of P.L.1992, c.165  
20 (C.40:54D-1 et seq.) notwithstanding the provisions of any other law  
21 or ordinance to the contrary. In carrying out the provisions of  
22 P.L.1992, c.165 (C.40:54D-1 et seq.) the director shall have all the  
23 powers granted in P.L.1996. c.30 (C.54:32B-1 et seq.).

24 b. The director shall determine and certify to the State Treasurer  
25 on a monthly basis the amount of revenues collected in a district on  
26 predominantly tourism related retail receipts pursuant to P.L.1992,  
27 c.165 (C.40:54D-1 et seq.). The State Treasurer, upon the  
28 certification of the director and upon the warrant of the State  
29 Comptroller, shall pay and distribute on a monthly basis to the fund  
30 established pursuant to section 13 of P.L.1992, c.165 (C.40:54D-13)  
31 the amount so determined and certified.

32 c. The director shall determine and certify to the State Treasurer  
33 on a monthly basis the amount of revenues collected in a district as  
34 tourism assessments pursuant to P.L.1992, c.165 (C.40:54D-1 et  
35 seq.). The State Treasurer, upon the certification of the director and  
36 upon the warrant of the State Comptroller, shall pay and distribute on  
37 a monthly basis to the fund established pursuant to section 8 of  
38 P.L. , c. (C. ) the amount so determined and certified.

39 (cf: P.L.1997, c.273, s.3)

40  
41 4. Section 7 of P.L.1992, c.165 (C.40:54D-7) is amended to read  
42 as follows:

43 7. An ordinance imposing a tax upon predominantly tourism related  
44 retail receipts or tourism assessments adopted pursuant to this act shall  
45 contain the following provisions:



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- 1 a. All taxes or assessments imposed by the ordinance shall be paid  
2 by the purchaser;
- 3 b. A vendor shall not assume or absorb any tax or assessment  
4 imposed by the ordinance;
- 5 c. A vendor shall not in any manner advertise or represent that a  
6 tax or assessment imposed by the ordinance will be assumed or  
7 absorbed by the vendor;
- 8 d. Each assumption or absorption by a vendor of the tax or  
9 assessment shall be deemed a separate offense and each representation  
10 of advertisement by a vendor for each day the representation or  
11 advertisement continues shall be deemed a separate offense; and
- 12 e. Penalties as fixed in the ordinance, for violation of the foregoing  
13 provisions.  
14 (cf: P.L.1992, c.165, s.7)  
15
- 16 5. Section 9 of P.L.1992, c.165 (C.40:54D-9) is amended to read  
17 as follows:
- 18 9. a. A vendor required to collect the tax upon predominantly  
19 tourism related retail receipts or tourism assessment imposed pursuant  
20 to this act shall on or before the dates required pursuant to section 17  
21 of P.L.1966, c.30 (C.54:32B-17), forward to the director the tax and  
22 assessments collected in the preceding month and make and file a  
23 return for the preceding month with the director on any form and  
24 containing any information as the Director of the Division of Taxation  
25 in the Department of the Treasury shall prescribe by rule or regulation  
26 as necessary to determine liability for the tax and assessment in the  
27 preceding month during which the person was required to collect the  
28 tax.
- 29 b. The director may permit or require returns to be made covering  
30 other periods and upon any dates as the director may specify. In  
31 addition, the director may require payments of tax and assessment  
32 liability at any intervals and based upon any classifications as the  
33 director may designate. In prescribing any other periods to be covered  
34 by the return or intervals or classifications for payment of tax and  
35 assessment liability, the director may take into account the dollar  
36 volume of tax and assessment involved as well as the need for ensuring  
37 the prompt and orderly collection of the tax imposed.
- 38 c. The director may require amended returns to be filed within  
39 20 days after notice and to contain the information specified in the  
40 notice.
- 41 d. The director shall inform the authority for each month in which  
42 this tax and assessment is collected and returns made of the amount so  
43 collected in each month.  
44 (cf: P.L.1992, c.165, s.9)

1       6. Section 10 of P.L.1992, c.165 (C.40:54D-10) is amended to  
2 read as follows:

3       10. The tourism assessment and the tax imposed upon  
4 predominantly tourism related retail receipts pursuant to this act shall  
5 be governed by the provisions of the "State Tax Uniform Procedure  
6 Law," R.S.54:48-1 et seq.  
7 (cf: P.L.1992, c.165, s.10)

8  
9       7. Section 12 of P.L.1992, c.165 (C.40:54D-12) is amended to  
10 read as follows:

11       12. a. All revenues from a tax on predominantly tourism related  
12 retail receipts collected by the director under an ordinance adopted  
13 and authorized pursuant to this act, P.L.1992, c.165 (C.40:54D-1 et  
14 seq.), shall be retained by the State Treasurer for deposit in the fund  
15 established pursuant to section 13 of this act, P.L.1992, c.165  
16 (C.40:54D-13), to be used and distributed according to [the terms  
17 herein provided] P.L.1992, c.165 (C.40:54D-1 et seq.).

18       b. All revenues from tourism assessments collected by the director  
19 under an ordinance adopted and authorized pursuant to this act,  
20 P.L.1992, c.165 (C.40:54D-1 et seq.), shall be retained by the State  
21 Treasurer for deposit in the fund established pursuant to section 8 of  
22 P.L. , c. (C. ) (now pending before the Legislature as this bill)  
23 to be used and distributed according to the terms of that section.

24       c. The State Treasurer may deduct from amounts so retained prior  
25 to deposit in the [fund] funds an amount equal to that necessary to  
26 compensate the Department of the Treasury for costs actually incurred  
27 by that department in administering the provisions of this act. The  
28 State Treasurer shall annually provide the authority to which the [fund  
29 pertains] funds pertain with a written account of the amounts so  
30 deducted and of the costs so incurred in the previous fiscal year.  
31 Amounts deducted by the State Treasurer shall be retained by the  
32 Department of the Treasury and used exclusively for costs so incurred.  
33 (cf: P.L.1992, c.165, s.12)

34  
35       8. (New section) a. There is created for a tourism improvement  
36 and development district established pursuant to P.L.1992, c.165  
37 (C.40:54D-1 et seq.), a tourism assessment fund to be held by the  
38 State Treasurer, but not to exist in the State Treasury, to be the  
39 repository for monies paid to the State Treasurer pursuant to  
40 P.L.1992, c.165 (C.40:54D-1 et seq.) representing net collections of  
41 the tourism assessments.

42       b. The revenues deposited by the State Treasurer in the tourism  
43 assessment fund shall be used by the authority first to make payment  
44 for services provided by a municipality in which a tourism project is  
45 located to that extent that those payments are required by an  
46 agreement entered into on or before February 8, 2000. The remaining

1 tourism assessments collected shall be used for a beach operation  
2 offset payment and the balance of the funds shall be used by the  
3 authority for advertising, promotion and sponsorship of tourism events  
4 within the district as approved and budgeted by the authority.

5 c. The beach operation offset payment payable within the district  
6 in each calendar year shall be equal to the permitted percentage of  
7 50% of the amount deposited by the State Treasurer in the tourism  
8 assessment fund that remains after payment for the calendar year for  
9 services provided by a municipality in which a tourism project is  
10 located to that extent that those payments are required by an  
11 agreement entered into on or before February 8, 2000. Each  
12 municipality within the district shall receive an equal share of the  
13 beach operations offset payment payable in the district in which the  
14 municipality is located; provided however, that the share of a  
15 municipality that may not receive a payment due to the provisions of  
16 subsection d. of this section shall be used by the authority for  
17 advertising, promotion and sponsorship of tourism events within the  
18 district as approved and budgeted by the authority.

19 d. No beach operation offset payments may be made to a  
20 municipality in any year in which that municipality imposes beach fees,  
21 beach taxes or similar user fees, or "beach tag" type fees for access to,  
22 or the use of, a beach within the boundaries of that municipality.

23 e. For the purposes of this section, "permitted percentage" means,  
24 in the initial year after the implementation of the amendments to  
25 P.L.1992, c.165 (C.40:54D-1 et seq.) pursuant to P.L. , c.  
26 (C. ) (now pending before the Legislature as this bill), 100%. The  
27 permitted percentage shall be determined in the second year after the  
28 implementation of the amendments to P.L.1992, c.165 (C.40:54D-1 et  
29 seq.) pursuant to P.L. , c. (C. ) (now pending before the  
30 Legislature as this bill) as the ratio of total of tourism development  
31 fees collected in that district in that year to 50% of the tourism  
32 assessments remaining after payments of services provided by a  
33 municipality in which a tourism project is located to the extent that  
34 those payments are required by an agreement entered into on or before  
35 February 8, 2000, expressed as a percentage, but not to exceed 100%.  
36 That permitted percentage of tourism development fees collected shall  
37 be used to calculate the beach operation offset payment to  
38 municipalities in years two through six, subject to the other restrictions  
39 of this section. The permitted percentage shall be recalculated for  
40 each fifth year following a calculation or recalculation year by  
41 comparing the average of the tourism development fees collected in  
42 the previous five year period to the average of 50% of the tourism  
43 assessments remaining after payments of services provided by a  
44 municipality in which a tourism project is located, to that extent that  
45 those payments are required by an agreement entered into on or before  
46 February 8, 2000, in the previous five year period.

1 9. Section 15 of P.L.1992, c.165 (C.40:54D-15) is amended to  
2 read as follows:

3 15. Ordinances adopted pursuant to this act, P.L.1992, c.165  
4 (C.40:54D-1 et seq.) shall impose a tourism development fee [which  
5 shall not be more than \$1,000 per year]. The ordinances imposing the  
6 fee shall set forth the method for the calculation thereof which shall be  
7 similar to that used for mercantile licenses and other such fees as  
8 established by the municipalities.

9 A business paying the tourism development fee or tourism  
10 assessment shall be exempt from any future room taxes, tourism taxes,  
11 beach fees, or other similar taxes imposed by a county or the State of  
12 New Jersey on tourism related business. The fee shall be uniform  
13 throughout the district and shall apply to:

14 a. all persons making sales of tangible personal property or  
15 services, the receipts from which are subject to the "Sales and Use Tax  
16 Act," P.L.1966, c.30 (C.54:32B-1 et seq.), not required to collect a  
17 tax on predominantly tourism related retail receipts;

18 b. all persons making charges for participant amusements;

19 c. all persons operating businesses that charge for parking,  
20 garaging or storing motor vehicles;

21 d. all persons maintaining or operating coin-operated vending  
22 machines within the district, for the machines within the district,  
23 regardless of the types of commodities sold through the machines;  
24 [and]

25 e. all persons making sales of tangible personal property or  
26 services, the receipts from which are subject to the "Sales and Use Tax  
27 Act," P.L.1966, c.30 (C.54:32B-1 et seq.) and who are required to  
28 collect a tax on predominately tourism related retail receipts, but only  
29 to the extent that the amount of tax on those receipts collected in a  
30 year by the person is less than the amount of the tourism development  
31 fee for that year, provided however that persons making sales of food  
32 and drink subject to taxation pursuant to subsection (c) of section 3 of  
33 P.L.1966, c.30 (C.54:32B-3) shall pay a tourism development fee of  
34 \$500 in the initial five years after implementation of the amendments  
35 to this act pursuant to P.L. , c. (C. ) (now pending before the  
36 Legislature as this bill) and in the amount specified by municipal  
37 ordinance, but not less than \$500, in subsequent years and which shall  
38 be in addition to any amount of the tax on predominantly tourism  
39 related retail receipts; and

40 f. all persons providing tourism lodging, who shall pay the tourism  
41 development fee regardless of whether those sales are otherwise  
42 subject to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1  
43 et seq.). If the lodging is rented by an agent on behalf of the owner,  
44 the agent shall retain the amount of the fee for each unit of lodging  
45 from the amount or amounts of rent first collected on behalf of the  
46 owner on that unit in a year, and forward the amount or amounts

1 pursuant on behalf of the person providing tourism lodging to the  
2 requirements of section 17 of P.L.1992, c.165 (C.40:54D-17).

3 A person shall be exempt from payment of a tourism development  
4 fee for a year if that person is a vendor required to collect the tax upon  
5 predominantly tourism related retail receipts under an ordinance  
6 authorized under this act, P.L.1992, c.165 (C.40:54D-1 et seq.), in an  
7 amount equal to the amount of tax so collected in that year, except as  
8 provided in subsection e..

9 A person claiming any exemption for an amount of fee otherwise  
10 required by this section by reason of the collection of amounts of tax  
11 on predominately tourism related retail receipts is deemed to have  
12 consented to the release of information concerning that person's tax on  
13 predominately tourism related retail receipts collections for the fee  
14 period sufficient, as determined by the director, to verify the claim for  
15 exemption. The municipality shall provide safeguards which restrict  
16 the use or disclosure of any such information provided to purposes  
17 directly connected with the administration of the fee.

18 A municipality may, at any time, notwithstanding the approval  
19 provisions of subsection b. of section 4 of P.L.1992 (C.40:54D-4),  
20 adjust by municipal ordinance, otherwise in compliance with the  
21 requirements of subsection b. of section 4 of P.L.1992 (C.40:54D-4),  
22 the schedule of tourism development fees to reflect changes in the  
23 funds available for beach operation offset payments so as to maximize  
24 the beach operation offset payments that the municipalities can receive  
25 pursuant to the limitations of subsection e. of section 8 of P.L. , c.  
26 (C. ) (now pending before the Legislature as this bill).  
27 (cf: P.L1992, c.165, s.15)

28

29 10. Section 17 of P.L.1992, c.165 (C.40:54D-17) is amended to  
30 read as follows:

31 17. a. All tourism development fees imposed by ordinance pursuant  
32 to section 15 of this act, P.L.1992, c.165 (C.40:54D-15), shall be paid  
33 to the municipality by the person making the charge that subjects the  
34 person or business to imposition of the fee or, in the case of an agent  
35 collecting rents on tourism lodging, by the agent making the collection  
36 on behalf of the person providing tourism lodging. The fees shall be  
37 remitted to the chief fiscal officer of the municipality, and shall be  
38 reported on such forms and paid at such times as may be prescribed by  
39 ordinance. The ordinance shall provide for the penalties and interest  
40 to be paid in the event of delinquency in payment of fees.

41 b. The amount of all fees paid to a municipality pursuant to this  
42 section shall be appropriated annually to the authority established  
43 pursuant to section 18 of this act, P.L.1992, c.165 (C.40:54D-18), to  
44 be used by the authority to [advertise, promote and operate the  
45 tourism project of the authority, and to promote and enhance the  
46 public awareness of the tourism industry] develop, support, promote

1 and advertise events in the district during all months of the year and to  
2 enhance the public awareness of those events promoted in the district.

3 (cf: P.L.1992, c.165, s.17)

4

5 11. (New section) a. A qualified business outside of the district  
6 may enter into a marketing partnership with the authority and  
7 participate in events and any housing assignment programs or other  
8 services or programs administered by an authority, pursuant to this  
9 section.

10 b. An authority may establish and enter into marketing partnership  
11 contracts with a qualified business outside the district for participation  
12 in events or other services or programs administered by the authority.  
13 A qualified business electing to participate in those services of  
14 programs shall enter into a marketing partnership contract with the  
15 authority. Under the contract the authority shall agree to provide the  
16 business with all the rights and privileges applicable to that type of  
17 business located within the district, and the business shall agree to pay  
18 directly to the authority an amount equal to the tourism development  
19 fees and tourism assessments payable by that type of business as if  
20 located within the district.

21 c. For the purposes of this section, "qualified business" means a  
22 hotel, motel or other business collecting receipts, sales or charges  
23 subject to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1  
24 et seq.).

25

26 12. This act shall take effect immediately.

27

28

29

#### STATEMENT

30

31 This bill provides new funding to tourism and improvement  
32 development districts to complement the funding that those districts  
33 already have used to develop tourism projects. From this "phase 2  
34 funding", districts that have established tourism projects will be able  
35 to effectively promote those projects and their existing tourism  
36 resources in an integrated way as a destination resort.

37 The bill allows municipalities in a tourism development district to  
38 impose a 1.85% tourism assessment on hotel room rentals (including  
39 motels, rooming houses and other transient accommodations) to  
40 provide an income stream for the tourism authority's regular activities,  
41 the costs of destination advertising, marketing, public relations and  
42 promotion, and for beach maintenance and operation. The tourism  
43 assessment will be co-collected with the current tax on predominantly  
44 tourism related retail receipts.

45 This beach maintenance and operation payment support is only  
46 available under the bill to tourism district municipalities that do not

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13

1 impose beach fees.

2 The bill also removes the current \$1,000 cap on tourism  
3 development fees to provide funds for event sponsorship, promotion  
4 and advertising of the resorts events scheduled beyond the usual  
5 summer beach season. The bill extends these fees to the renters of  
6 lodging that is not currently subject to the sales and use tax, to "level  
7 the playing field" between hotels that are licensed sales tax collectors  
8 and the more casual renters who enjoy the benefits of the market  
9 created by the licensed taxpayers. For bars and restaurants, the bill  
10 eliminates the current provision that allows these businesses to offset  
11 their tourism development fees by the amount of any tax on  
12 predominantly tourism related retail receipts that they collect.

13 The bill also allows businesses outside of the tourism district to  
14 enter into marketing partnerships with the tourism authority. If the  
15 businesses agree to make the same payments to the tourism authority  
16 that are made by businesses in the tourism district, they can participate  
17 in the same marketing services and programs provided by the authority  
18 to businesses in the district.

SENATE ECONOMIC GROWTH, AGRICULTURE AND  
TOURISM COMMITTEE

STATEMENT TO

**SENATE, No. 1142**

**STATE OF NEW JERSEY**

DATED: MAY 13, 2002

The Senate Economic Growth, Agriculture and Tourism Committee reports favorably Senate Bill No. 1142.

As reported, this bill provides new funding to tourism and improvement development districts to complement the funding that those districts already have used to develop tourism projects. From this "phase 2 funding," districts that have established tourism projects will be able to effectively promote those projects and their existing tourism resources in an integrated way as a destination resort.

The bill allows municipalities in a tourism development district to impose a 1.85% tourism assessment on hotel room rentals (including motels, rooming houses and other transient accommodations) to provide an income stream for the tourism authority's regular activities, the costs of destination advertising, marketing, public relations and promotion, and for beach maintenance and operation. The tourism assessment will be co-collected with the current tax on predominantly tourism related retail receipts.

This beach maintenance and operation payment support is only available under the bill to tourism district municipalities that do not impose beach fees.

The bill also removes the current \$1,000 cap on tourism development fees to provide funds for event sponsorship, promotion and advertising of the resort's events scheduled beyond the usual summer beach season. The bill extends these fees to the renters of lodging that is not currently subject to the sales and use tax, to "level the playing field" between hotels that are licensed sales tax collectors and the more casual renters who enjoy the benefits of the market created by the licensed taxpayers. For bars and restaurants, the bill eliminates the current provision that allows these businesses to offset their tourism development fees by the amount of any tax on predominantly tourism related retail receipts that they collect.

The bill also allows businesses outside of the tourism district to enter into marketing partnerships with the tourism authority. If the businesses agree to make the same payments to the tourism authority that are made by businesses in the tourism district, they can participate in the same marketing services and programs provided by the authority to businesses in the district.



# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE, No. 1142

with committee amendments

# STATE OF NEW JERSEY

DATED: JUNE 17, 2002

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 1142.

This bill would authorize a tourism improvement and development district to impose an additional assessment on hotel room rentals to fund tourism-related services and programs, permit a district to collect higher tourism development fees, and allow a district to expand its tourism marketing efforts.

**Background.** Under P.L.1992, c.165 (N.J.S.A.40:54D-1 et seq.), two or more contiguous municipalities located in a county of the sixth class may create a tourism improvement and development district and establish a tourism improvement and development authority to undertake tourism projects and promote tourism in the district. The only county of the sixth class is Cape May county; the only district established to date is the Greater Wildwood tourism improvement and development district, which is served by the Greater Wildwood Tourism Improvement and Development Authority ("GWTIDA").

As authorized by the enabling legislation, the Greater Wildwood tourism development district levies a tax, payable by the purchaser, of 2% on "predominantly tourism related retail receipts." Receipts subject to the tax are from certain transactions within the district that are also subject to the State sales tax: (i) room rentals at hotels, motels and rooming houses, (ii) sales of food and drink at restaurants, bars, etc., and (iii) admissions to places of amusement. The tax is treated as an adjunct to the State sales tax, and proceeds of the tax are remitted to and processed by the Director of the Division of Taxation in the same manner as that tax. Under a 1997 amendment to the original enabling legislation, those proceeds (after deduction by the director of administrative costs) are allocated, 90% to the New Jersey Sports and Exposition Authority to pay the cost of operating the Wildwood convention center and the debt service on bonds of the sports authority that were issued to finance that facility, and 10% to the GWTIDA to fund tourism projects and promotions.

The district is also required to, and does, levy a uniform annual tourism development fee on (a) vendors who must collect the State sales and use tax, but who do not collect the tax on tourism related

receipts or collect less annual revenue from that tax than the amount of the development fee, (b) "participant amusement" establishments (e.g., bowling alleys, water parks, miniature golf facilities), (c) parking lots and garages, and (d) vending machine operators. The tourism development fee is paid to the appropriate municipality and remitted to the GWTIDA to fund tourism projects and promotions.

**Bill provisions.** The bill authorizes new, and broadens existing, tourism development district levies; revises the uses to which current tourism levies may be put; and allows the GWTIDA to engage in broader tourism marketing efforts.

(1) Municipalities in the tourism development district would be authorized to impose, in addition to the retail receipts tax, a 1.85% tourism assessment on hotel room rentals (including motels, boarding houses and other transient accommodations). The tourism assessment will be co-collected with the current tax on predominantly tourism related retail receipts and deposited into a separate fund within the State Department of the Treasury for use by the authority to (a) pay for "services provided by a municipality in which a tourism project is located to that extent that those payments are required by an agreement entered into on or before February 8, 2000," then (b) fund tourism development activities related to operation and maintenance of public beaches (provided that the municipality does not assess beach access fees), and finally (c) support tourism advertisement and promotion. The bill includes a formula for determining the division of assessment revenue, in excess of that needed to fund municipal services under (a), between beach operation and maintenance under (b) and tourism advertisement and promotion under (c). Beach operation and maintenance payments to each eligible municipality in a district would be in equal amounts; any payment for which a municipality became ineligible due to imposition of beach access fees would be added to the district-wide budget for tourism promotion.

(2) The bill removes the current \$1,000-per-business limit on tourism development fees. The bill extends these fees to the renters of lodging that is not currently subject to the State sales and use tax. The bill removes bars and restaurants from the category of businesses allowed to offset their tourism development fees by the amount of any tax on predominantly tourism related retail receipts that they collect. The legislation includes a provision exempting any business that pays the tourism development fee or the tourism assessment from any future State or county room tax, tourism tax, beach fee, or similar tax on tourism-related business.

(3) Finally, the bill allows businesses outside of the tourism district to enter into marketing partnerships with the tourism authority. If the businesses agree to make the same payments to the tourism authority that are made by businesses in the tourism district, they can participate in the same marketing services and programs that the authority provides to businesses in the district.

The provisions of this bill as amended are identical to those of

Assembly Bill No. 2312 ACS, which the committee also reports this day.

COMMITTEE AMENDMENTS:

Committee amendments to the bill:

(1) Incorporate into the statutory statement of legislative purpose a declaration that tourism development fees are to be established by a tourism district's constituent municipalities, and not the State;

(2) Specify more precisely the expanded category of "tourism lodging" covered by the requirement to pay tourism development fees;

(3) Exclude "sponsorship of tourism events" from among the permissible uses of revenue from the new tourism assessment; and

(4) Delete a provision regulating the level of future development fees applicable to bars and restaurants, leaving the amount of those fees to municipal discretion.

FISCAL IMPACT:

The bill has no impact on State revenues or expenditures. The proposed tourism assessment on hotel rentals will be co-administered with the State sales and use tax and the tax on predominantly tourism-related retail receipts that currently imposed; there will be an initial expense to brief the vendors subject to the tax, update forms, and update programming. The law allows the Division of Taxation to recoup these implementation costs from collections.

The local fiscal impact of the legislation will be incurred by the GWTIDA. As explained above, the bill provides new funding to the authority by (1) allowing the constituent municipalities to impose a tourism assessment of up to 1.85% on hotel room rentals; (2) removing the current \$1,000 cap on tourism development fees, extending the fees to the renters of lodging not subject to the sales tax, and, for bars and restaurants, eliminating a fee offset by the amount of any tax on predominantly tourism related retail receipts that they collect; and (3) letting businesses outside of the tourism district enter into marketing partnerships with the authority.

The Office of Legislative Services (OLS) notes that the bill is an enabling act for the municipalities within the GWTIDA district; because the revenue streams are based on decisions, rates and fee structures set by municipal ordinance it is not possible to determine the local fiscal impact of this bill. However, the OLS notes that tourism literature suggests that roughly one-half of the expenditure at a resort of the typical resort tourist is for lodging. If this is true for the municipalities in the GWTIDA, then about one-half current revenue stream of about \$3.2 million annually from the 2% tax on predominantly tourism related retail receipts is from hotel rentals, so if the tourism assessment were imposed at the maximum 1.85% rate permitted under the bill, then the revenue from the tourism assessment would be expected to be approximately \$1.48 million annually.