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"New agency to steer future at Army base," The Press, 8-10-10

"New agency to oversee redevelopment of base," The Philadelphia Inquirer, 8-18-10

"Gov signs new bill to rework Ft. Monmouth," The Trentonian, 8-18-10

"Fort Monmouth rehab authority commissioned," The Record, 8-18-10

"On a mission to recycle Fort Monmouth," The Star Ledger, 8-18-10

"Chrisite signs bill creating Fort Monmouth revitalization authority," NewJerseyNewsroom.com, 8-18-10

"Christie Creates Redevelopment Agency for Ft. Monmouth," New Jersey 101.5, 8-18-10

"Christie signs bill creating fort panel," Asbury Park Press, 8-18-10

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**SENATE, No. 917**

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**STATE OF NEW JERSEY**

**214th LEGISLATURE**

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INTRODUCED FEBRUARY 1, 2010

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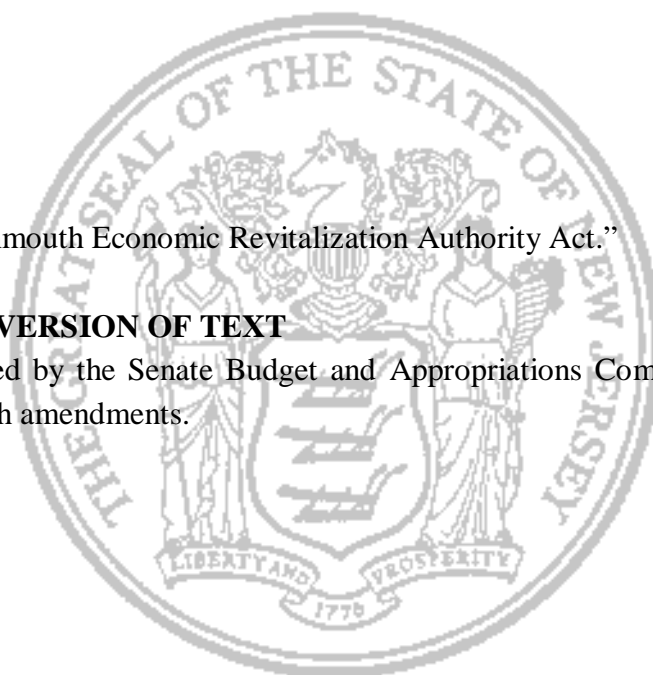
**Senator Kyrillos and Assemblyman Chivukula**

**SYNOPSIS**

“Fort Monmouth Economic Revitalization Authority Act.”

**CURRENT VERSION OF TEXT**

As reported by the Senate Budget and Appropriations Committee on June 24, 2010, with amendments.



**(Sponsorship Updated As Of: 6/29/2010)**

1 AN ACT establishing the <sup>1</sup>Fort<sup>1</sup> Monmouth Economic Revitalization  
2 Authority, supplementing Title 52 of the Revised Statutes and  
3 repealing parts of the statutory law.

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

7  
8 1. This act shall be known and may be cited as the  
9 <sup>1</sup>["Monmouth"] Fort Monmouth<sup>1</sup> Economic Revitalization  
10 Authority Act."

11  
12 2. The Legislature finds and declares that:

13 a. The closure and revitalization of Fort Monmouth is a matter  
14 of great concern for the host municipalities of Eatontown,  
15 Oceanport, and Tinton Falls; for Monmouth County; and for the  
16 State of New Jersey.

17 b. The economies, environment, and quality of life of the host  
18 municipalities, Monmouth County, and the State will benefit from  
19 the efficient, coordinated, and comprehensive redevelopment and  
20 revitalization of Fort Monmouth. The Fort Monmouth Economic  
21 Revitalization Planning Authority was established pursuant to  
22 P.L.2006, c.16 (C.52:27I-1 et seq.) to plan for the comprehensive  
23 conversion and revitalization of Fort Monmouth, so as to encourage  
24 enlightened land use and to create employment and other business  
25 opportunities for the benefit of the host municipalities, of that  
26 county and the entire State. On September 4, 2008, the Fort  
27 Monmouth Economic Revitalization Planning Authority submitted a  
28 comprehensive conversion and revitalization plan for Fort  
29 Monmouth, known as the "Fort Monmouth Reuse and  
30 Redevelopment Plan," and a homeless assistance submission to the  
31 United States Department of Defense and the United States  
32 Department of Housing and Urban Development, as required under  
33 the applicable federal Base Closure and Realignment law and  
34 regulations. The Fort Monmouth Reuse and Redevelopment Plan is  
35 the result of an extensive, coordinated, and collaborative process  
36 conducted by the Fort Monmouth Economic Revitalization Planning  
37 Authority, and reflects input from the host municipalities,  
38 Monmouth County, State departments and agencies and the general  
39 public as to the future of Fort Monmouth.

40 c. Upon acceptance by the United States Department of  
41 Defense and the United States Department of Housing and Urban  
42 Development as required under applicable federal Base Closure and  
43 Realignment law and regulations, the Fort Monmouth Reuse and  
44 Redevelopment Plan will constitute the plan for the redevelopment

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

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup>Senate SEG committee amendments adopted June 3, 2010.

<sup>2</sup>Senate SBA committee amendments adopted June 24, 2010.

1 and revitalization of Fort Monmouth to be implemented pursuant to  
2 and in accordance with the provisions of this act.

3 d. A coordinated and comprehensive redevelopment and  
4 revitalization of Fort Monmouth will be facilitated by establishing  
5 and empowering a new authority, to be known as the  
6 <sup>1</sup>["Monmouth"] "Fort Monmouth"<sup>1</sup> Economic Revitalization  
7 Authority," to implement the Fort Monmouth Reuse and  
8 Redevelopment Plan, including the adoption of any modifications  
9 or amendments to the Fort Monmouth Reuse and Redevelopment  
10 Plan and the adoption of development and design guidelines and  
11 land use regulations in furtherance thereof, as provided in this act.

12 e. The New Jersey Economic Development Authority (EDA)  
13 has substantial and significant experience with partnering with local  
14 communities and leveraging public-private partnerships. The EDA  
15 manages large scale, redevelopment projects, utilizes a system of  
16 internal controls and procedures to ensure the integrity of  
17 redevelopment activities, and maintains a staff with a wide range of  
18 experience in redevelopment projects, real estate, finance, and job  
19 creation. <sup>1</sup>["Therefore the EDA is the appropriate entity to serve as  
20 the staff to the authority to enable the authority to implement the  
21 Fort Monmouth Reuse and Redevelopment Plan."] <sup>1</sup>To this end, an  
22 office is to be created within the EDA staffed by such EDA  
23 employees on a part or full time basis as the EDA determines  
24 necessary to carry out the functions of the office.

25 f. Furthermore, because of the experience and expertise of the  
26 EDA in redevelopment projects, it is appropriate to authorize the  
27 authority established by this act to enter into a <sup>1</sup>["master"]  
28 designated<sup>1</sup> redevelopment agreement with the EDA for the  
29 redevelopment of Fort Monmouth. The activities of the EDA as <sup>1</sup>a  
30 designated<sup>1</sup> redeveloper pursuant to the <sup>1</sup>["master"] designated<sup>1</sup>  
31 redevelopment agreement are to be accounted for, managed and  
32 supervised <sup>1</sup>["separate"] separately<sup>1</sup> and apart from the activities of  
33 the office established by this act, notwithstanding the possible  
34 sharing of staff between the EDA's activities as <sup>1</sup>a designated<sup>1</sup>  
35 redeveloper and EDA's activities in staffing the office.

36 g. The host municipalities have an ongoing interest in the  
37 implementation of the plan, and the planning boards of the host  
38 municipalities have knowledge, expertise, and experience as well as  
39 procedures in place for reviewing and approving proposed  
40 subdivisions and site plans as provided in this act.

41

42 3. The following words or terms as used in this act shall have  
43 the following meaning unless a different meaning clearly appears  
44 from the context:

45 "Act" means the <sup>1</sup>["Monmouth"] "Fort Monmouth"<sup>1</sup> Economic  
46 Revitalization Authority Act."

1 “Authority” means the <sup>1</sup>Fort<sup>1</sup> Monmouth Economic  
2 Revitalization Authority established by section 4 of this act.

3 “Conditional use” means a use permitted within the project area  
4 only upon a showing that such use in a specified location will  
5 comply with the conditions and standards for the location or  
6 operation of such use as contained in the development and design  
7 guidelines or land use regulations adopted by the authority, and  
8 upon the issuance of an authorization therefor by the planning  
9 board.

10 “County” means Monmouth County.

11 “County planning board” means the Monmouth County planning  
12 board.

13 “Density” means the permitted number of dwelling units per  
14 gross area of land to be developed.

15 “Designated redevelopment agreement” means the  
16 redevelopment agreement to be entered into by and between the  
17 authority and the EDA as provided in this act for properties within  
18 the project area acquired by the authority.<sup>1</sup>

19 “Development and design guidelines” means the development  
20 and design guidelines to be adopted by the authority pursuant to this  
21 act, as revised or amended as provided in this act, which when  
22 adopted shall apply to all applications for subdivision or site plan  
23 approval within the project area and shall supersede the zoning  
24 ordinances and land use regulations of the host municipalities and  
25 the county with respect to the project area.

26 “EDA” means the New Jersey Economic Development  
27 Authority, established pursuant to section 4 of P.L.1974, c.80  
28 (C.34:1B-4).

29 “Federal government” means the United States of America, and  
30 any officer, department, board, commission, bureau, division,  
31 corporation, agency or instrumentality thereof, including, but not  
32 limited to, the United States Department of Defense and the United  
33 States Department of Housing and Urban Development.

34 “Floor area ratio” means the sum of the area of all floors of  
35 buildings or structures compared to the total area of the site.

36 “Fort Monmouth” means the federally owned or operated  
37 military installation located in the municipalities of Eatontown,  
38 Oceanport, and Tinton Falls in the county that, as of May 13, 2005,  
39 was functioning, but was scheduled for closure by recommendation  
40 of the federal Base Realignment and Closure Commission issued on  
41 that date, including any facilities, real property and improvements,  
42 infrastructure and appurtenances and personal property.

43 “Homeless assistance submission” means the homeless assistance  
44 submission submitted to the United States Department of Defense and  
45 the United States Department of Housing and Urban Development on  
46 September 4, 2008 required under the Defense Base Closure and  
47 Realignment Act of 1990, Pub.L.101-510 (10 U.S.C. s.2687).

1       “Host municipality” means the municipalities of Eatontown,  
2 Oceanport or Tinton Falls.

3       “Land use regulations” means the regulations to be adopted by  
4 the authority pursuant to this act, revised or amended as provided in  
5 this act, which when adopted shall apply to all applications for  
6 subdivision or site plan approval within the project area and shall  
7 supersede the zoning ordinances and land use regulations of the  
8 host municipalities and the county with respect to the project area.

9       “Master plan” or “plan” or “revitalization plan” means the  
10 comprehensive conversion and revitalization plan and the homeless  
11 assistance submission prepared and adopted by the predecessor  
12 authority and entitled "Fort Monmouth Reuse and Redevelopment  
13 Plan" submitted to the United States Department of Defense and the  
14 United States Department of Housing and Urban Development on  
15 September 4, 2008, pursuant to section 14 of P.L.2006, c.16  
16 (C.52:27I-14), as accepted by the federal government, and as may  
17 be amended, revised, or modified as provided in this act.

18       <sup>1</sup>“Master redevelopment agreement” means the redevelopment  
19 agreement to be entered into by and between the authority and the  
20 EDA as provided in this act for properties within the project area  
21 acquired by the authority. <sup>1</sup>

22       “Minor subdivision” means “minor subdivision” as defined in  
23 section 3.2 of P.L.1975, c.291 (C.40:55D-5).

24       “Nonconforming use” means a legal or pre-existing use or  
25 activity which fails to conform to the development and design  
26 guidelines or land use regulations adopted by the authority.

27       “Planning board” means the planning board of a host  
28 municipality.

29       "Predecessor authority" means the Fort Monmouth Economic  
30 Revitalization Planning Authority established pursuant to section 4  
31 of P.L.2006, c.16 (C.52:27I-4), repealed by this act.

32       “Project area” means that area encompassed by the metes and  
33 bounds of Fort Monmouth.

34       “Project parcel” means a portion of the project area that is the  
35 subject of a development or redevelopment project.

36       "Redevelopment" means clearance, replanning, development and  
37 redevelopment; the conservation and rehabilitation of any structure  
38 or improvement; the construction and provision for construction of  
39 residential, commercial, industrial, public or other structures or  
40 infrastructure; and the grant or dedication of spaces as may be  
41 appropriate or necessary in the interest of the general welfare for  
42 streets, utilities, parks, playgrounds, or other public purposes,  
43 including recreational and other facilities incidental or appurtenant  
44 thereto, in accordance with the approved Fort Monmouth Reuse and  
45 Redevelopment Plan submitted to the federal government, with the  
46 intent of supporting the economic revitalization of the region.

1 "Revitalization" means a comprehensive program of planning,  
2 conservation, rehabilitation, clearance, development and  
3 redevelopment, preservation, and historic restoration.

4 "Site Plan" means "site plan" as defined in section 3.4 of  
5 P.L.1975, c.291 (C.40:55D-7).

6 "Subdivision" means "subdivision" as defined in section 3.4 of  
7 P.L.1975, c.291 (C.40:55D-7).

8 "Variance" means permission to depart from the literal  
9 requirements of the master plan, the development and design  
10 guidelines adopted by the authority or the land use regulations  
11 adopted by the authority.

12

13 4. There is hereby established in, but not of, the Department of  
14 the Treasury a public body corporate and politic, with corporate  
15 succession, to be known as the 'Fort' Monmouth Economic  
16 Revitalization Authority as the successor to the predecessor  
17 authority. The authority is hereby constituted as an instrumentality  
18 of the State exercising public and essential governmental functions  
19 to provide for the public safety, convenience, benefit, and welfare.  
20 The exercise by the authority of the powers conferred by this act  
21 shall be deemed and held to be an essential governmental function  
22 of the State. For the purposes of complying with the provisions of  
23 Article V, Section IV, paragraph 1 of the New Jersey Constitution,  
24 the authority is allocated within the Department of the Treasury, but  
25 notwithstanding that allocation, the authority shall be independent  
26 of any supervision or control by the Department of the Treasury or  
27 any board or officer thereof, except as may be provided in this act.

28

29 5. Effective and automatically upon the first meeting of the  
30 authority:

31 a. The authority shall assume all of the powers, rights, assets,  
32 and duties of the predecessor authority to the extent provided by  
33 this act, and such powers shall then and thereafter be vested in and  
34 shall be exercised by the authority.

35 b. The terms of office of the members of the predecessor  
36 authority shall terminate, the officers having custody of the funds of  
37 the predecessor authority shall deliver those funds into the custody  
38 of the person having charge of the financial affairs of the authority,  
39 the property and assets of the predecessor authority shall, without  
40 further act or deed, become the property and assets of the authority,  
41 and the predecessor authority shall cease to exist.

42 c. <sup>1</sup>【The offices and terms of the officers and employees of the  
43 predecessor authority, as provided for through an agreement with  
44 the Department of the Treasury, except as otherwise provided in  
45 this act, shall terminate. Upon such termination, any current  
46 employee may be retained by the EDA at its discretion on either a  
47 full-time or a part-time basis.



1 d.]<sup>1</sup> All debts, liabilities, obligations and contracts of the  
2 predecessor authority, except to the extent specifically provided or  
3 established to the contrary in this act, are imposed upon the  
4 authority, and all creditors of the predecessor authority and persons  
5 having claims against or contracts with the predecessor authority of  
6 any kind or character may enforce those debts, claims and contracts  
7 against the authority as successor to the predecessor authority in the  
8 same manner as they might have had against the predecessor  
9 authority, and the rights and remedies of those holders, creditors  
10 and persons having claims against or contracts with the predecessor  
11 authority shall not be limited or restricted in any manner by this act.

12 [e.] d.<sup>1</sup> In continuing the functions, contracts, obligations and  
13 duties of the predecessor authority, the authority is authorized to act  
14 in its own name or in the name of the predecessor authority as may  
15 be convenient or advisable under the circumstances from time to  
16 time.

17 [f.] e.<sup>1</sup> Any references to the predecessor authority in any  
18 other law or regulation shall be deemed to refer and apply to the  
19 authority.

20 [g.] f.<sup>1</sup> All operations of the predecessor authority shall  
21 continue as operations of the authority until altered by the authority  
22 as may be permitted pursuant to this act.

23 [h.] g.<sup>1</sup> The powers vested in the authority by this act shall be  
24 construed as being in addition to and not in diminution of the  
25 powers heretofore vested by law in the predecessor authority to the  
26 extent not otherwise altered or provided for in this act.

27

28 6. a. There is hereby established in the EDA an office which  
29 shall be staffed by employees of the EDA which shall remain under  
30 the supervision and control of the EDA. The office shall be  
31 responsible for carrying out the policies set forth by the authority,  
32 in a collaborative manner with the host municipalities and the  
33 county. The office shall be administered by a director whose hiring  
34 shall be reviewed and approved by a subcommittee of the members  
35 of the authority to be appointed and convened at the direction of the  
36 chairperson of the authority for the purposes of this action.

37 b. The authority will rely solely on the office for all support  
38 services it requires to carry out its mission under this act, including,  
39 but not limited, to administrative, procurement, budgetary, clerical,  
40 and other similar types of services.

41 c. The authority and the EDA may enter into any agreements  
42 necessary to provide for the establishment, operation, and financial  
43 support of the office.

44 d. The costs of the office shall be paid for by the authority.  
45 The EDA shall on an annual basis submit to the authority a budget  
46 for review and approval by the authority for the anticipated costs of  
47 the office for the succeeding calendar year. If, during the course of

1 the calendar year, it is necessary to amend the budget, the EDA  
2 shall submit an amendment or amendments to the authority for  
3 review and approval by the authority. All costs and expenses of the  
4 office shall be accounted for ~~'[separate]~~ separately<sup>1</sup> and apart from  
5 the costs and expenses of the EDA in its capacity as redeveloper  
6 pursuant to the ~~'[master]~~ designated<sup>1</sup> redevelopment agreement.  
7 'In the event the authority does not have adequate monies to fund  
8 the budget, the EDA may make a loan to the authority in the amount  
9 of the unfunded portion of the budget on terms and conditions  
10 acceptable to the EDA and the authority.<sup>1</sup>

11 e. When it is necessary for the authority to engage the services  
12 of professional consultants, including registered architects, licensed  
13 professional engineers, planners, attorneys, accountants, or other  
14 professional consultants, the office shall assist the authority in the  
15 procurement process.

16  
17 7. It shall be the purpose of the authority to oversee,  
18 administer, and implement the plan as provided in this act, in a  
19 manner that will promote, develop, encourage, and maintain  
20 employment, commerce, economic development, and the public  
21 welfare; to conserve the natural resources of the State; to provide  
22 housing, including housing to address identified needs related to  
23 homelessness; and to advance the general prosperity and economic  
24 welfare of the people in the host municipalities, the county, and the  
25 entire State by cooperating and acting in conjunction with other  
26 organizations, public and private, to promote and advance the  
27 economic use of the facilities located at Fort Monmouth.

28  
29 8. a. The authority shall consist of 13 members to be appointed  
30 and qualified as follows:

31 (1) Three voting members appointed by the Governor with the  
32 advice and consent of the Senate, for staggered terms of five years,  
33 one of whom shall be a representative of the private sector with  
34 relevant business experience or background; one of whom shall be  
35 an individual who is knowledgeable in environmental issues,  
36 conservation, or land use issues; and one of whom shall have  
37 appropriate experience in workforce development and job training.  
38 Preference shall be given to professionals with a background in  
39 technology, finance, energy industry, or real estate. ~~'[At least one]~~  
40 One<sup>1</sup> of the members 'appointed under this paragraph<sup>1</sup> shall be a  
41 resident of the county 'selected from a list of five candidates  
42 recommended by the Monmouth County Board of Chosen  
43 Freeholders and submitted to the Governor; the list of candidates  
44 for the initial selection of this member shall be so submitted within  
45 45 days after the date of enactment of this act. In the event the  
46 Governor rejects all five candidates for the member to be selected  
47 upon the recommendation of the Monmouth County Board of

1 Chosen Freeholders, the Monmouth County Board of Chosen  
2 Freeholders may submit an additional list of five different  
3 candidates within 30 days of the Governor's rejection of the prior  
4 list. If the Monmouth County Board of Chosen Freeholders does  
5 not submit a list of five candidates within either of the  
6 aforementioned time periods, within ten days after the expiration of  
7 such time period, the Governor shall inform the Monmouth County  
8 Board of Chosen Freeholders in writing that the Governor, at the  
9 Governor's discretion, will make such appointment<sup>1</sup>. Not more  
10 than two of the members appointed by the Governor pursuant to this  
11 paragraph shall be members of the same political party <sup>1</sup>, but the  
12 provisions of this paragraph regarding the selection of one such  
13 member from among candidates recommended by the Monmouth  
14 County Board of Chosen Freeholders shall not be construed to  
15 prohibit the appointment of a resident of the county for either or  
16 both of the memberships under this paragraph that are not filled  
17 from among candidates so recommended<sup>1</sup>;

18 (2) The <sup>1</sup>**['Chief Executive Officer] Chairperson**<sup>1</sup> of the New  
19 Jersey Economic Development Authority, ex officio and voting;

20 (3) <sup>1</sup>**['The Governor shall also appoint another] Another**<sup>1</sup>  
21 member of the Executive Branch <sup>1</sup>appointed by the Governor<sup>1</sup> to  
22 serve on the authority, ex officio and voting;

23 (4) One voting member, who shall be a <sup>1</sup>**['resident] member**<sup>1</sup> of  
24 <sup>1</sup>the<sup>1</sup> Monmouth County <sup>1</sup>**['.] Board of Chosen Freeholders**<sup>1</sup> to be  
25 appointed by the Monmouth County Board of Chosen Freeholders  
26 <sup>1</sup>**['for a term of three years, who shall be either:**

27 (a) a member of the board, or

28 (b) a qualified person, who shall be nominated by the board,  
29 with relevant business experience or background, or who may be an  
30 employee of the county]<sup>1</sup>;

31 (5) The mayors of Eatontown, Oceanport, and Tinton Falls, ex  
32 officio and voting;

33 (6) The Commissioner of Labor and Workforce Development,  
34 who shall serve as an ex officio, non-voting member;

35 (7) The Commissioner of Environmental Protection, who shall  
36 serve as an ex officio, non-voting member;

37 (8) The Commissioner of Community Affairs, who shall serve  
38 as an ex officio, non-voting member; and

39 (9) The Commissioner of Transportation, who shall serve as an  
40 ex officio, non-voting member.

41 Each member appointed by the Governor <sup>1</sup>**['and the member**  
42 **appointed by the county Board of Chosen Freeholders]**<sup>1</sup> shall hold  
43 office for the term of that member's appointment and until a  
44 successor shall have been appointed and qualified. <sup>1</sup>The member  
45 appointed by the Monmouth County Board of Chosen Freeholders  
46 shall hold office for the term of that member's service on the board.  
47 In the event that a member appointed by the Monmouth County

1 Board of Chosen Freeholders ceases to serve on that board, that  
2 member shall no longer hold office on the authority and the board  
3 shall appoint a member of the board to serve as a new member of  
4 the authority.<sup>1</sup> A member shall be eligible for reappointment. Any  
5 vacancy in the membership occurring other than by expiration of  
6 term shall be filled in the same manner as the original appointment  
7 but for the unexpired term only.

8 b. Each ex officio member of the authority and the member  
9 appointed by the Monmouth County Board of Chosen Freeholders  
10 may designate an employee of the member's department or office to  
11 represent the member at meetings of the authority. The designee  
12 may act on behalf of the member. The designation shall be in  
13 writing and shall be delivered to the authority and shall be effective  
14 until revoked or amended in writing to the authority.

15 c. Each member appointed by the Governor may be removed  
16 from office by the Governor for cause, after a public hearing, and  
17 may be suspended by the Governor pending the completion of that  
18 hearing. Each such member, before entering the duties of  
19 membership, shall take and subscribe an oath to perform those  
20 duties faithfully, impartially, and justly to the best of the person's  
21 ability. A record of those oaths shall be filed in the office of the  
22 Secretary of State.

23 d. The Governor shall appoint the chairperson of the  
24 authority.<sup>1</sup> The members of the authority shall annually elect a  
25 ['chairperson and']<sup>1</sup> vice-chairperson from among their members.  
26 The chairperson shall appoint a secretary and treasurer. The powers  
27 of the authority shall be vested in the voting members thereof in  
28 office from time to time; five voting members of the authority shall  
29 constitute a quorum, and the affirmative vote of five voting  
30 members shall be necessary for any action taken by the authority,  
31 except as otherwise provided in subsection e. of this section, or  
32 unless the bylaws of the authority shall require a larger number. No  
33 vacancy in the membership of the authority shall impair the right of  
34 a quorum to exercise all the rights and perform all the duties of the  
35 authority.

36 e. The affirmative vote of seven members shall be required for  
37 the following actions taken by the authority:

38 (1) any action to adopt or revise the plan<sup>1</sup>, as provided in section  
39 18 of this act,<sup>1</sup> or to adopt or revise the development and design  
40 guidelines or land use regulations adopted by the authority as  
41 provided in 'section 17 of'<sup>1</sup> this act; (2) any action to enter into a  
42 ['master'] designated<sup>1</sup> redevelopment agreement with the EDA 'as  
43 provided in subsection a. of section 16 of this act'<sup>1</sup>; (3) any action to  
44 adopt any amendment to the plan pursuant to 'paragraph (1) of  
45 subsection e. of'<sup>1</sup> section ['16] 17'<sup>1</sup> of this act; (4) any action to  
46 'approve any project undertaken by the EDA; (5) any action to'<sup>1</sup>  
47 acquire easements, rights of way, or fee title to properties pursuant

1 to subsection g. of section 9 of this act; '(6) in any year that the  
2 authority is anticipated to receive no funding from the federal  
3 government, any action to approve the budget of the office for that  
4 year or any amendment to the budget pursuant to subsection d. of  
5 section 6 of this act;<sup>1</sup> and '[(5)] (7)'<sup>1</sup> consent to the designation of  
6 any portion of the project area as an area in need of redevelopment  
7 or any area in need of rehabilitation pursuant to the provisions of  
8 the "Local Redevelopment and Housing Law," P.L.1992, c.79  
9 (C.40A:12A-1 et al.), as provided in 'subsection o. of section 9 of'  
10 this act.

11 f. The members of the authority shall serve without  
12 compensation, but the authority may, within the limits of funds  
13 appropriated or otherwise made available for such purposes,  
14 reimburse its members for necessary expenses incurred in the  
15 discharge of their official duties.

16 g. (1) No member, officer, employee or agent of the authority  
17 or office shall have a personal interest, either directly or indirectly,  
18 in any project, employment agreement or any contract, sale,  
19 purchase, lease, or transfer of real or personal property to which the  
20 authority or office is a party.

21 (2) The '[members, officers, and employees of the]'<sup>1</sup> authority<sup>1</sup>,  
22 as well as any business entity performing or seeking to perform a  
23 contract for the authority,<sup>1</sup> shall be subject to the provisions of  
24 P.L.2005, c.51 (C.19:44A-20.13 et seq.).

25 (3) The members, officers, and employees of the authority shall  
26 be subject to the same financial disclosure requirements as the  
27 members, officers, and employees of State authorities subject to  
28 executive orders of the Governor with respect to financial  
29 disclosure.

30 h. The authority may be dissolved by act of the Legislature on  
31 condition that the authority has no debts or obligations outstanding  
32 or provision has been made for the payment, retirement,  
33 termination, or assumption of its debts and obligations. Upon  
34 dissolution of the authority, all property, funds, and assets thereof  
35 shall be vested in the State, unless the Legislature directs otherwise.

36 i. A true copy of the minutes of every meeting of the authority  
37 shall be forthwith delivered by and under the certification of the  
38 secretary thereof to the Governor. No action taken at such meeting  
39 by the authority shall have force or effect until 10 days, Saturdays,  
40 Sundays, and public holidays excepted, after the copy of the  
41 minutes shall have been so delivered, unless during such 10-day  
42 period the Governor shall approve the same, in which case such  
43 action shall become effective upon such approval. If, in that 10-day  
44 period, the Governor returns such copy of the minutes with veto of  
45 any action taken by the authority or any member thereof at such  
46 meeting, such action shall be void.

1 j. Any and all proceedings, hearings or meetings of the  
2 authority shall be conducted in conformance with the "Senator  
3 Byron M. Baer Open Public Meetings Act," P.L.1975, c.231  
4 (C.10:4-6 et seq.).

5 k. Records of minutes, accounts, bills, vouchers, contracts or  
6 other papers connected with or used or filed with the authority or  
7 with any officer or employee acting for or in its behalf are declared  
8 to be public records, and shall be open to public inspection in  
9 accordance with P.L.1963, c.73 (C.47:1A-1 et seq.).

10  
11 9. The authority shall have the following powers:

12 a. To enter into a 'master designated' redevelopment  
13 agreement as set forth in subsection a. of section '14 16' of this  
14 act;

15 b. As designated and empowered as the "local redevelopment  
16 authority" for Fort Monmouth for all purposes of the Defense Base  
17 Closure and Realignment Act of 1990, Pub.L.101-510 (10 U.S.C.  
18 s.2687), and, in that capacity, to enter into agreements with the  
19 federal government, State departments, agencies or authorities, the  
20 county, the host municipalities, or private parties;

21 c. To adopt development and design guidelines and land use  
22 regulations consistent with and in furtherance of the plan; and to  
23 adopt, revise, adjust, and implement (1) any aspect of the plan or  
24 the development and design guidelines and land use regulations  
25 adopted in furtherance thereof, or to grant variances therefrom; (2)  
26 the economic revitalization study prepared pursuant to section 16 of  
27 P.L.2006, c.16 (C.52:27I-16); and (3) if designated as the  
28 designated agency pursuant to section 2 of P.L.2008, c.28  
29 (C.52:27I-8.2), any aspect of the homeless assistance submission  
30 required under the Defense Base Closure and Realignment Act of  
31 1990, Pub.L.101-510 (10 U.S.C. s.2687);

32 d. To undertake redevelopment projects pursuant to the plan;

33 e. To acquire or contract to acquire, and to dispose of the  
34 project area or any portion, tract or subdivision of the project area,  
35 or any utility system or infrastructure servicing the project area;

36 f. To lease as lessee, lease as lessor whether as a titleholder or  
37 not, own, rent, use, and take and hold title to, and to convey title of,  
38 and collect rent from, real property and personal property or any  
39 interest therein, in the exercise of its powers and the performance of  
40 its duties under this act;

41 g. To acquire, including by condemnation where necessary  
42 pursuant to the provisions of the "Eminent Domain Act of 1971,"  
43 P.L.1971, c.361 (C.20:3-1 et seq.), easements, rights of way, or fee  
44 title to properties within the project area where necessary in  
45 connection with the provision of utilities, streets, roads or other  
46 infrastructure required for implementation of the plan;

47 h. To arrange for the clearance of any parcel owned or  
48 acquired, and for the installation, construction or reconstruction of

- 1 streets, facilities, utilities, and site improvements essential to the  
2 preparation of sites for use in accordance with the plan;
- 3 i. To contract for the provision of professional services,  
4 including, but not limited to, the preparation of plans for the  
5 carrying out of redevelopment projects by registered architects,  
6 licensed professional engineers or planners, or other consultants;
- 7 j. To issue requests for proposals or requests for qualifications;  
8 to arrange or contract with other public agencies or public or private  
9 redevelopers, including but not limited to nonprofit entities, for the  
10 planning, replanning, construction, or undertaking of any project or  
11 redevelopment work, or any part thereof; to negotiate and collect  
12 revenue from a redeveloper to defray the costs of the authority, and  
13 to secure payment of such revenue; as part of any such arrangement  
14 or contract, to negotiate financial or in-kind contributions from a  
15 redeveloper to the authority or to the host municipalities to offset or  
16 mitigate impacts of the project; as part of any such arrangement or  
17 contract, to require the posting of performance guarantees in  
18 connection with any redevelopment project; as part of any such  
19 arrangement or contract, to facilitate the extension of credit, or  
20 making of loans, by the EDA, by other public agencies or funding  
21 sources, or by private entities to redevelopers to finance any project  
22 or redevelopment work, or upon a finding that the project or  
23 redevelopment work would not be undertaken but for the provision  
24 of financial assistance, or would not be undertaken in its intended  
25 scope without the provision of financial assistance, to facilitate as  
26 part of an arrangement or contract for capital grants to redevelopers;  
27 and to arrange or contract with public agencies or redevelopers for  
28 the opening, grading or closing of streets, roads, roadways, alleys,  
29 or other places or for the furnishing of facilities or for the  
30 acquisition by such agency of property options or property rights or  
31 for the furnishing of property or services in connection with the  
32 project area;
- 33 k. To participate in, conduct, or contract for the performance of  
34 environmental assessment or remediation activities or restoration  
35 arising out of or relating to environmental conditions within the  
36 project area, including but not limited to insurance or bonds related  
37 to such activities;
- 38 l. To enter upon any building or property in the project area in  
39 order to conduct investigations or make surveys, sounding or test  
40 borings necessary to carry out the purposes of the plan;
- 41 m. To arrange or contract with the EDA or other public  
42 agencies to facilitate or provide relocation assistance, of the types  
43 and in the amounts provided for businesses in the “Relocation  
44 Assistance Law of 1967,” P.L.1967, c.79 (C.52:31B-1 et seq.) and  
45 the “Relocation Assistance Act,” P.L.1971, c.362 (C.20:4-1 et seq.),  
46 to businesses operating within the project area who are displaced as  
47 a result of the closure and who request such assistance within a  
48 period to be determined by the authority;

- 1 n. To make, consistent with the plan: (1) plans for carrying out  
2 a program of voluntary repair and rehabilitation of buildings and  
3 improvements; and (2) plans for the enforcement of laws, codes,  
4 and regulations relating to the use and occupancy of buildings and  
5 improvements, and to the compulsory repair, rehabilitation,  
6 demolition, or removal of buildings and improvements;
- 7 o. Notwithstanding any other law to the contrary, to consent to  
8 a request by a host municipality for, or request that the host  
9 municipality consider, the designation of portions of the project  
10 area as being in need of redevelopment or rehabilitation in  
11 accordance with the provisions of the "Local Redevelopment and  
12 Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.);
- 13 p. To publish and disseminate information concerning the plan  
14 or any project within the project area;
- 15 q. To adopt and from time to time amend and repeal bylaws for  
16 the regulation of its affairs and the conduct of its business;
- 17 r. To adopt and use an official seal and alter it at its pleasure;
- 18 s. To maintain an office at a place or places within the State as  
19 it may designate;
- 20 t. To sue and be sued in its own name;
- 21 u. <sup>1</sup>[To appoint advisory committees to assist in its activities in  
22 such areas as it deems appropriate. The membership of the  
23 committees shall be determined by the authority. If appointed, the  
24 historical preservation committee and the environmental committee  
25 shall for all intents and purposes be the exclusive "historic  
26 preservation commission," as established pursuant to section 21  
27 of P.L.1985, c.516 (C.40:55D-107), and the "environmental  
28 commission," as established pursuant to P.L.1968, c.245  
29 (C.40:56A-1 et seq.), for all land use matters and approvals within  
30 the project area;
- 31 v.]<sup>1</sup> To provide that any revenues collected shall be available to  
32 the authority for use in furtherance of any of the purposes of this  
33 act;
- 34 <sup>1</sup>[w.] v.<sup>1</sup> Pursuant to an adopted cash management plan, to  
35 invest any funds held in reserve or sinking funds, or any funds not  
36 required for immediate disbursement, in property or securities in  
37 which governmental units may legally invest funds subject to their  
38 control;
- 39 <sup>1</sup>[x.] w.<sup>1</sup> To enter into mortgages as mortgagee;
- 40 <sup>1</sup>[y.] x.<sup>1</sup> To apply for, receive, and accept from any federal,  
41 State, or other public or private source, grants or loans for, or in aid  
42 of, the authority's authorized purposes;
- 43 <sup>1</sup>[z.] y.<sup>1</sup> To consent to the modification of any contract,  
44 mortgage, or other instrument entered into by it or on its behalf;
- 45 <sup>1</sup>[aa.] z.<sup>1</sup> To pay or compromise any claim arising on, or  
46 because of any agreement, mortgage, or instrument;



1       **1** **[bb.] aa.**<sup>1</sup> To acquire or contract to acquire from any person,  
2 firm, or corporation, public or private, by contribution, gift, grant,  
3 bequest, devise, purchase, or otherwise, real or personal property or  
4 any interest therein, including such property as it may deem  
5 necessary or proper, although temporarily not required for such  
6 purposes, in the project area or in any area outside the project area  
7 designated by the authority as necessary for carrying out the  
8 relocation of the businesses displaced from the project area as a  
9 result of the closure of Fort Monmouth or other acquisitions needed  
10 to carry out the master plan;

11       **1** **[cc.] bb.**<sup>1</sup> To subordinate, waive, sell, assign or release any  
12 right, title, claim, lien or demand however acquired, including any  
13 equity or right of redemption, foreclosure, sell or assign any  
14 mortgage held by it, or any interest in real or personal property; and  
15 to purchase at any sale, upon such terms and at such prices as it  
16 determines to be reasonable, and take title to the property, real,  
17 personal, or mixed, so acquired and similarly sell, exchange, assign,  
18 convey or otherwise dispose of any property;

19       **1** **[dd.] cc.**<sup>1</sup> To complete, administer, operate, obtain, and pay for  
20 insurance on, and maintain, renovate, repair, modernize, lease or  
21 otherwise deal with any property;

22       **1** **[ee.] dd.**<sup>1</sup> To retain attorneys, planners, engineers, architects,  
23 managers, financial experts, and other types of consultants as may  
24 be necessary;

25       **1** **[ff.] ee.**<sup>1</sup> To arrange or contract with any public agency, to the  
26 extent that it is within the scope of that agency's functions, to cause  
27 the services customarily provided by that agency to be rendered for  
28 the benefit of the occupants of the project area, and have that  
29 agency provide and maintain parks, recreation centers, schools,  
30 sewerage, transportation, water and other municipal facilities  
31 adjacent to or in connection with the project area;

32       **1** **[gg.] ff.**<sup>1</sup> To conduct examinations and investigations, hear  
33 testimony and take proof, under oath at public or private hearings of  
34 any material matter, compel witnesses and the production of books  
35 and papers and issue commissions for the examination of witnesses  
36 who are out of State, unable to attend, or excused from attendance;  
37 and to authorize a committee designated by it consisting of one or  
38 more members, or counsel, or any officer or employee to conduct  
39 the examination or investigation, in which case it may authorize in  
40 its name the committee, counsel, officer or employee to administer  
41 oaths, take affidavits and issue subpoenas or commissions;

42       **1** **[hh.] gg.**<sup>1</sup> To make and enter into all contracts and agreements  
43 necessary or incidental to the performance of the duties authorized  
44 in this act;

45       **1** **[ii.] hh.**<sup>1</sup> After thorough evaluation and investigation, to bring  
46 an action on behalf of a tenant within the project area to collect or

1 enforce any violation of subsection g. or h. of section 11 of the  
2 “Law Against Discrimination,” P.L.1945, c.169 (C.10:5-12);

3 <sup>1</sup>[jj.] ii. To designate members or employees, who shall be  
4 knowledgeable of federal and State discrimination laws, and who  
5 shall be available during all normal business hours, to evaluate a  
6 complaint made by a tenant within the project area pursuant to  
7 section 11 of the “Law Against Discrimination,” P.L.1945, c.169  
8 (C.10:5-12);

9 <sup>1</sup>[kk.] jj. To borrow monies from the EDA to fund an approved  
10 budget on terms and conditions acceptable to the EDA;

11 kk.<sup>1</sup> To adopt, pursuant to the “Administrative Procedure Act,”  
12 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations  
13 necessary to implement this act; and

14 ll. To do all things necessary or convenient to carry out its  
15 purposes and exercise the powers given and granted in this act.  
16

17 <sup>1</sup>10. The authority shall appoint a historical preservation  
18 advisory committee and an environmental advisory committee to  
19 assist in its activities in such areas, and any other advisory  
20 committee as it deems appropriate. The membership of the  
21 committees shall be determined by the authority. The historical  
22 preservation committee and the environmental committee shall for  
23 all intents and purposes be the exclusive “historic preservation  
24 commission,” as established pursuant to section 21 of P.L.1985,  
25 c.516 (C.40:55D-107), and the “environmental commission,” as  
26 established pursuant to P.L.1968, c.245 (C.40:56A-1 et seq.), for all  
27 land use matters and approvals within the project area.<sup>1</sup>  
28

29 <sup>1</sup>11. All State departments and agencies, to the extent not  
30 inconsistent with law and within budget constraints, shall cooperate  
31 with the authority and respond to requests for such information and  
32 assistance as are necessary to accomplish the purposes of this act.

33 To the extent not inconsistent with law and within budget  
34 constraints, and to the extent necessary to ensure a coordinated and  
35 comprehensive redevelopment and revitalization of Fort Monmouth,  
36 upon the recommendation of the EDA that a project be prioritized, a  
37 State department, agency or authority shall supersede existing  
38 priority setting or ranking systems to place applications that would  
39 benefit that project within the project area in the highest priority or  
40 ranking category for award or approval of grants, benefits, loans,  
41 projects, including highways, roads, sewer, or other infrastructure  
42 projects, or other considerations that would benefit the project area.  
43 Funding from State sources shall augment, and not replace, any  
44 funding from the federal government or as authorized by sections  
45 22 through 24 of this act.<sup>1</sup>

1       ~~'[10.]~~ 12.<sup>1</sup> All property of the authority or EDA shall be exempt  
2 from levy and sale by virtue of an execution and no execution or  
3 other judicial process shall issue against the same nor shall any  
4 judgment against the authority or EDA be a charge or lien upon its  
5 property; provided, that nothing herein contained shall apply to or  
6 limit the rights of the holder of any bonds to pursue any remedy for  
7 the enforcement of any pledge or lien given by the authority or  
8 EDA on or with respect to any project or any revenues or other  
9 moneys.

10

11       ~~'[11.]~~ 13.<sup>1</sup> The authority and the EDA shall not be required to  
12 pay any taxes or assessments upon or in respect of a project or any  
13 property or moneys of the authority and the EDA, and the authority  
14 and EDA, their projects, property, and moneys, their transfer and  
15 the income therefrom, including any profit made on the sale thereof,  
16 shall at all times be free from taxation of every kind by the State  
17 except for transfer, inheritance, and estate taxes and by any political  
18 subdivision of the State; provided, that any person occupying a  
19 project whether as lessee, vendee or otherwise shall, as long as title  
20 thereto shall remain in the authority or EDA, pay to the political  
21 subdivision in which such project is located a payment in lieu of  
22 taxes which shall equal the taxes on real and personal property,  
23 whether for municipal, county, fire, or school purposes, as  
24 applicable, including water and sewer service charges or  
25 assessments, which such person would have been required to pay  
26 had it been the owner of such property during the period for which  
27 such payment is made and neither the authority nor the EDA nor  
28 their projects, property, money or bonds and notes shall be  
29 obligated, liable or subject to lien of any kind for the enforcement,  
30 collection or payment thereof. If and to the extent provided by  
31 contract, the authority or EDA may agree to cooperate with such  
32 person occupying a project, in connection with any administrative  
33 or judicial proceedings for determining the validity or amount of  
34 such payments and may agree to appoint or designate and reserve  
35 the right in and for such person to take all action which the  
36 authority may lawfully take in respect of such payments and all  
37 matters relating thereto, provided such person shall bear and pay all  
38 costs and expenses of the authority thereby incurred at the request  
39 of such person or by reason of any such action taken by such person  
40 in behalf of the authority. If such person occupying a project has  
41 paid the amounts in lieu of taxes required by this section to be paid,  
42 such person shall not be required to pay any such taxes as to which  
43 a payment in lieu thereof has been made to the State or to any  
44 political subdivision, any other statute to the contrary  
45 notwithstanding.

46       b. Except as provided in subsection a. of this section, a host  
47 municipality is authorized to assess and collect taxes on real and

1 personal property within the project area as provided by law for  
2 municipal, county, fire, or school purposes, as applicable.

3

4 <sup>1</sup>~~['12.]~~ 14. Each worker employed on any project to which the  
5 authority is a party, shall be paid not less than the prevailing wage  
6 rate for the worker's craft or trade, as determined by the  
7 Commissioner of Labor and Workforce Development pursuant to  
8 P.L.1963, c. 150 (C.34:11-56.25 et seq.).

9

10 <sup>1</sup>~~['13.]~~ 15. a. All purchases, contracts, or agreements made  
11 pursuant to this act shall be made or awarded directly by the  
12 authority, except as otherwise provided in this act, only after public  
13 advertisement for bids therefor in the manner provided by the  
14 authority and notwithstanding the provisions of any other laws to  
15 the contrary.

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

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

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

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

27 (4) When the contract to be entered into is for the furnishing or  
28 performing of services of a professional or technical nature,  
29 including legal services, provided that the contract shall be made or  
30 awarded directly by the authority;

31 (5) When the authority has advertised for bids and has received  
32 no bids in response to its advertisement, or received no responsive  
33 bids. Any purchase, contract, or agreement may then be negotiated  
34 and may be awarded to any contractor or supplier determined to be  
35 responsible, as "responsible" is defined in section 2 of P.L.1971,  
36 c.198 (C.40A:11-2), provided that the terms, conditions,  
37 restrictions, and specifications set forth in the negotiated contract or  
38 agreement are not substantially different from those which were the  
39 subject of competitive bidding;

40 (6) When a purchase is to be made through or by the Director of  
41 the Division of Purchase and Property pursuant to section 1 of  
42 P.L.1959, c.40 (C.52:27B-56.1), or through a contract made by any  
43 of the following: the New Jersey Sports and Exposition Authority  
44 established under section 4 of P.L.1971, c.137 (C.5:10-4); the New  
45 Jersey Meadowlands Commission established under section 5 of  
46 P.L.1968, c.404 (C.13:17-5); the New Jersey Turnpike Authority  
47 established under section 3 of P.L.1948, c.454 (C.27:23-3); the New  
48 Jersey Water Supply Authority established under section 4 of

1 P.L.1981, c.293 (C.58:1B-4); the Port Authority of New York and  
2 New Jersey established under R.S.32:1-4; the Delaware River Port  
3 Authority established under R.S.32:3-2; or the Higher Education  
4 Student Assistance Authority established under N.J.S.18A:71A-3.

5  
6 **'[14.] 16.'** a. Upon the acceptance by the federal government of  
7 the revitalization plan adopted by the predecessor authority pursuant to  
8 section 14 of P.L.2006, c.16 (C.52:27I-14), the EDA is hereby  
9 designated as **'[master] a designated'** redeveloper for any property  
10 acquired by or conveyed to the authority. The authority and EDA  
11 shall enter into a **'[master] designated'** redevelopment agreement  
12 detailing the terms and conditions of the **'[master] designated'**  
13 redeveloper relationship, including, but not limited to, the tasks and  
14 scope of powers and authorities delegated to the EDA as **'[master] a**  
15 **designated'** redeveloper, which may include the power and authority  
16 to perform all acts and do all things that the authority is empowered to  
17 do pursuant to this act, except for the powers enumerated in  
18 subsections b., c., o., q., r., s., t., **'[u., gg.,] ff., hh.'** ii., jj., kk. **'i'** and  
19 ll. of section 9 of this act and the ability to adopt or amend the plan or  
20 the development and design guidelines and land use regulations  
21 adopted by the authority as provided in this act. In addition to such  
22 delegated power and authority, in order to carry out and effectuate the  
23 purposes of this act and the terms of the plan, the **'[master]**  
24 **designated'** redeveloper may do and perform any acts and things  
25 authorized by the "New Jersey Economic Development Authority  
26 Act," P.L.1974, c.80 (C.34:1B-1 et seq.) necessary or convenient to  
27 carry out the purposes of this act.

28 b. No municipality shall modify or change the drawings, plans,  
29 or specifications for the construction, reconstruction, rehabilitation,  
30 alteration, or improvement of any project of the authority, or of the  
31 EDA, or the construction, plumbing, heating, lighting, or other  
32 mechanical branch of work necessary to complete the work in  
33 question, or require that any person, firm or corporation employed  
34 on any such work shall perform the work in any other or different  
35 manner than that provided by the drawings, plans, and  
36 specifications, or require that any person, firm or corporation obtain  
37 any other or additional authority, approval, permit, or certificate  
38 from the municipality in relation to the work being done, and the  
39 doing of the work by any person, firm, or corporation in accordance  
40 with the terms of the drawings, plans, specifications, or contracts  
41 shall not subject the person, firm, or corporation to any liability or  
42 penalty, civil or criminal, other than as may be stated in the  
43 contracts or incidental to the proper enforcement thereof; nor shall  
44 any municipality require the authority, the EDA, or any person,  
45 firm, partnership or corporation which leases or purchases the  
46 project for lease or purchase to a State agency, to obtain any other  
47 or additional authority, approval, permit, certificate, or certificate of

1 occupancy from the municipality as a condition of owning, using,  
2 maintaining, operating, or occupying any project acquired,  
3 constructed, reconstructed, rehabilitated, altered, or improved by  
4 the authority or by the EDA. Notwithstanding the provisions of  
5 subsections b. and d. of section '[15] 17' of this act, municipal site  
6 plan approval and municipal subdivision approval shall not be  
7 required for any project undertaken by the authority or the EDA,  
8 but '[the] a' project 'undertaken by the EDA' shall require the  
9 affirmative vote of seven members of the authority. The foregoing  
10 provisions shall not preclude any municipality from exercising the  
11 right of inspection for the purpose of requiring compliance by any  
12 project with local requirements for operation and maintenance  
13 affecting the health, safety, and welfare of the occupants thereof,  
14 provided that the compliance does not require changes,  
15 modifications or additions to the original construction of the  
16 project.

17  
18 '[15.] 17.' a. The authority shall propose and adopt  
19 development and design guidelines and land use regulations  
20 consistent with and in furtherance of the plan. Provisions may be  
21 made by the authority for the waiver, according to definite criteria,  
22 of strict compliance with the standards promulgated, where  
23 necessary to alleviate hardship. The plan and the development and  
24 design guidelines and land use regulations adopted by the authority  
25 shall supersede the master plans, the zoning and land use ordinances  
26 and regulations, and the zoning maps of the host municipalities  
27 adopted pursuant to the "Municipal Land Use Law," P.L.1975,  
28 c.291 (C.40:55D-1 et seq.) insofar as the same may pertain to the  
29 project area, except with respect to the procedures to be followed  
30 for submitting and processing applications for subdivision or site  
31 plan approvals.

32 b. Applications for subdivision approval, site plan approval,  
33 and redevelopment within the project area shall utilize the  
34 development and design guidelines and land use regulations  
35 adopted by the authority, and shall be submitted to the planning  
36 board of the host municipality in which the project parcel is located  
37 for review and approval, and where required by law to the county  
38 planning board. The procedures for the approval of subdivisions  
39 and site plans within the project area shall be the procedures  
40 adopted by such host municipality pursuant to the "Municipal Land  
41 Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) (including, but not  
42 limited to, notice provisions and the payment of application fees  
43 and the posting of escrow deposits, if any). The authority shall by  
44 regulation provide for mandatory conceptual review by or on behalf  
45 of the authority; provided, however, that unless accompanied by a  
46 request for a variance to be granted by the authority pursuant to  
47 subsection e. of this section, any such mandatory conceptual review  
48 shall be completed within 45 days of the authority's receipt of the

1 application, or within such later time period if agreed to by the  
2 applicant.

3 c. Whenever an application pursuant to subsection b. of this  
4 section is filed with a planning board, a copy of the application  
5 shall be submitted simultaneously to the authority, and notice of all  
6 public hearings in connection therewith shall be provided to the  
7 authority. The authority shall be deemed an interested party  
8 entitled to notice of all applications for properties within the project  
9 area or within 200 feet of the project area's boundaries, irrespective  
10 of whether the authority owns the portion of the project area within  
11 200 feet.

12 d. In connection with subdivision and site plan approval, the  
13 planning boards shall have the authority to grant variances from the  
14 requirements of the development and design guidelines and land use  
15 regulations adopted by the authority to the extent such variances are  
16 permitted pursuant to subsection c. of section 57 of P.L.1975, c.291  
17 (C.40:55D-70).

18 e. (1) The provisions of subsection d. of section 57 of  
19 P.L.1975, c.291 (C.40:55D-70) notwithstanding and except as  
20 provided in paragraph (2) of this subsection, the authority shall  
21 have sole and exclusive jurisdiction to grant for special reasons  
22 shown, a variance from the requirements of the master plan,  
23 development and design guidelines or land use regulations adopted  
24 by the authority to permit: (a) a use or principal structure in a  
25 district restricted against such use or principal structure, (b) a  
26 continuation or an expansion of a nonconforming use, (c) deviation  
27 from a specification or standard pursuant to land use regulations  
28 adopted by the authority pertaining solely to a conditional use, (d)  
29 an increase in the permitted floor area ratio as established by the  
30 land use regulations adopted by the authority, (e) an increase in the  
31 permitted density as established by the land use regulations adopted  
32 by the authority or (f) a height of a principal structure which  
33 exceeds by 10 feet or 10 percent the maximum height permitted in  
34 the district for a principal structure. Such variances shall not be  
35 granted unless the applicant demonstrates to the satisfaction of the  
36 authority that special reasons exist for the granting of such variance,  
37 that the granting of the requested variance will not substantially  
38 impair the intent and purpose of the plan, and that the variance can  
39 be granted without substantial detriment to the public good.  
40 Application for such a variance shall be submitted together with or  
41 prior to an application for mandatory conceptual review pursuant to  
42 subsection b. of this section, and the authority shall approve or deny  
43 the application within 120 days of a complete submission unless the  
44 applicant agrees to extend the time. In lieu of granting a variance,  
45 the authority in its discretion may require the adoption of a plan  
46 amendment.

47 (2) Variances granted pursuant to subparagraphs (a) through (f)  
48 of paragraph (1) of this subsection shall require the affirmative vote

1 of seven members of the authority, except that variances granted  
2 pursuant to subparagraph (e) shall be heard and **'[recommended]**  
3 **decided**<sup>1</sup> by the zoning boards of the host municipalities **'[to the**  
4 **authority for its action on the variance request]**<sup>1</sup>. **'If the zoning**  
5 **board of the host municipality hearing such variance request does**  
6 **not vote in favor of the variance request, the authority shall not be**  
7 **permitted to grant such variance.**<sup>1</sup>

8 f. Notwithstanding any other provision of this act or law to the  
9 contrary, the host municipalities shall not designate the project area  
10 or any portion thereof as an area in need of redevelopment or an  
11 area in need of rehabilitation, or adopt a redevelopment plan for any  
12 property within the project area pursuant to the "Local  
13 Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1  
14 et al.) without the consent of the authority.

15  
16 **'[16.] 18.**<sup>1</sup> Prior to the adoption of any amendment to the plan,  
17 the authority shall transmit a copy of the proposed plan amendment  
18 to the governing body of each host municipality. Within 45 days  
19 after referral, each governing body may transmit to the authority a  
20 report containing its recommendation concerning the proposed plan  
21 amendment. The authority, when considering the adoption of the  
22 plan amendment<sup>1</sup>, **and in taking into account a decision by a zoning**  
23 **board of an affected host municipality as to whether a request for a**  
24 **variance to increase the permitted density is granted, as provided in**  
25 **subsection e. of section 17 of this act,**<sup>1</sup> shall review all reports  
26 received from the host municipalities and may accept or not accept  
27 any recommendations of the host municipalities; provided,  
28 however, that the authority shall record in its minutes its reasons for  
29 not accepting any such recommendations.

30  
31 **'[17.] 19.**<sup>1</sup> a. If the authority or the EDA, as **'[master]** **a**  
32 **designated**<sup>1</sup> redeveloper, shall find it necessary in connection with  
33 the undertaking of any of its projects to change the location of any  
34 portion of any public highway, or road, it may contract with any  
35 government agency, or public or private corporation which may  
36 have jurisdiction over the public highway or road to cause the  
37 public highway or road to be constructed at such location as the  
38 authority or the EDA, as **'[master]** **a designated**<sup>1</sup> redeveloper, shall  
39 deem most favorable. The cost of the reconstruction and any  
40 damage incurred in changing the location of the highway shall be  
41 ascertained and paid by the authority or the EDA, as applicable, as a  
42 part of the cost of the project. Any public highway affected by the  
43 construction of any project may be vacated or relocated by the  
44 authority or the EDA, as **'[master]** **a designated**<sup>1</sup> redeveloper, in  
45 the manner now provided by law for the vacation or relocation of  
46 public roads, and any damages awarded on account thereof shall be  
47 paid by the authority or the EDA, as applicable, as a part of the cost



1 of the project. In all undertakings authorized by this subsection, the  
2 authority or the EDA, as **'[master] a designated'** redeveloper, shall  
3 consult and obtain the approval of the Commissioner of  
4 Transportation.

5 b. In addition to the foregoing powers, the authority or the  
6 EDA, as **'[master] a designated'** redeveloper and their respective  
7 authorized agents and, in with respect to EDA, its employees, may  
8 enter upon any lands, waters, and premises for the purpose of  
9 making surveys, soundings, drillings and examinations as it may  
10 deem necessary or convenient for the purposes of this act, all in  
11 accordance with due process of law, and this entry shall not be  
12 deemed a trespass nor shall an entry for this purpose be deemed an  
13 entry under any condemnation proceedings which may be then  
14 pending. The authority or the EDA, as applicable, shall make  
15 reimbursement for any actual damages resulting to the lands,  
16 waters, and premises as a result of these activities.

17 c. The authority or the EDA, as **'[master] a designated'**  
18 redeveloper, shall also have power to make regulations, based on  
19 the appropriate national model code, for the installation,  
20 construction, maintenance, repair, renewal, relocation, and removal  
21 of tracks, pipes, mains, conduits, cables, wires, towers, poles and  
22 other equipment and appliances, herein called "public utility  
23 facilities," of any public utility as defined in R.S.48:2-13, in, on,  
24 along, over or under any project. Whenever the authority or the  
25 EDA, as **'[master] a designated'** redeveloper, shall determine that  
26 it is necessary that any public utility facilities which now are, or  
27 hereafter may be, located in, on, along, over or under any project  
28 shall be relocated in the project, or should be removed from the  
29 project, the public utility owning or operating the facilities shall  
30 relocate or remove the same in accordance with the order of the  
31 authority or the EDA, as **'[master] a designated'** redeveloper. The  
32 cost and expenses of the relocation or removal, including the cost of  
33 installing the facilities in a new location, or new locations, and the  
34 cost of any lands, or any rights or interests in lands, and any other  
35 rights, acquired to accomplish the relocation or removal, shall be  
36 ascertained and paid by the authority or the EDA, as applicable, as a  
37 part of the cost of the project. In case of any relocation or removal  
38 of facilities, as aforesaid, the public utility owning or operating the  
39 same, its successors or assigns, may maintain and operate the  
40 facilities, with the necessary appurtenances, in the new location or  
41 new locations, for as long a period, and upon the same terms and  
42 conditions, as it had the right to maintain and operate the facilities  
43 in their former location or locations. In all undertakings authorized  
44 by this subsection the authority or the EDA, as **'[master] a  
45 designated'** redeveloper, shall consult with the affected utilities in  
46 an attempt to come to agreement on the proposed undertaking. If  
47 the authority or the EDA, as **'[master] a designated'** redeveloper,

1 are not able to come to an agreement on such undertakings, the  
2 authority or the EDA, as **'[master] a designated'** redeveloper, shall  
3 petition the Board of Public Utilities to obtain approval for such  
4 undertakings. The provisions of this subsection shall not affect the  
5 Board of Public Utilities' jurisdiction over any public utility as  
6 defined in R.S.48:2-13.

7  
8 **'[18.] 20.'** The authority is directed to prepare and complete a  
9 business plan which comprises all issues related to the closure,  
10 conversion, revitalization, and future use of Fort Monmouth.  
11 Further, this business plan shall: include a validation review of any  
12 extant studies on the perceived economic impact of this project on  
13 the State, the county, and the boroughs of Eatontown, Oceanport  
14 and Tinton Falls; refine existing market analyses and develop an  
15 absorption schedule; develop a short and long term job creation  
16 schedule; include a detailed fiscal analysis that considers cash flow,  
17 annual revenue and costs, cumulative revenue and costs, off-site  
18 infrastructure costs, and product absorption by year; include an  
19 investment and financing strategy that includes grants, local  
20 funding options such as the tax allocation district, bonds, taxation,  
21 licensing, permitting and fees, and private investment; include a  
22 determination of fair market value of property by parcel and overall,  
23 and propose an appropriate and feasible strategy for using available  
24 BRAC transfer tools.

25  
26 **'[19. All redevelopment] 21. Redevelopment'** within the project  
27 area shall be implemented pursuant to a redevelopment agreement  
28 between the authority and the redeveloper, or **'between'** the  
29 authority and the EDA as **'[master] a designated'** redeveloper, or  
30 between the EDA as **'[master] a designated'** redeveloper and the  
31 redeveloper, as the case may be. All redevelopment agreements  
32 from or between the authority or the **'[master] designated'**  
33 redeveloper and to or with a redeveloper shall contain, without  
34 being limited to, the following provisions: a. a provision limiting  
35 the use of the property to the uses permitted pursuant to the plan; b.  
36 a provision requiring the redeveloper to commence and complete  
37 the project within a period of time that the authority or the  
38 **'[master] designated'** redeveloper fixes as reasonable; c. any lease  
39 to a redeveloper may provide that all improvements shall become  
40 the property of the authority; and d. such other covenants,  
41 provisions, and continuing controls as may be deemed necessary to  
42 effectuate the purposes of this act.

43  
44 **'[20.] 22.'** a. For the purposes of this section:

45 "Affected municipality" means a municipality that is located  
46 within, in whole or in part, a Fort Monmouth special improvement  
47 district established pursuant to subsection b. of this section.

1 “Fort Monmouth special improvement district” means an area  
2 within the project area designated by resolution of the authority  
3 ‘and by concurring ordinance of an affected municipality’<sup>1</sup> as an  
4 area in which a special assessment on property within the project  
5 area shall be imposed for the purposes of promoting the economic  
6 and general welfare of the project area. The resolution shall  
7 exempt residential properties, residential portions of mixed use  
8 properties, or parcels with any number of residential units located  
9 within the Fort Monmouth special improvement district from  
10 special assessment. The resolution may exempt vacant properties  
11 within the Fort Monmouth special improvement district from  
12 special assessment.

13 b. A Fort Monmouth special improvement district resolution  
14 may be adopted if the authority finds: (1) that an area within the  
15 project area, as described by lot and block numbers and by street  
16 addresses in the enabling resolution, would benefit from being  
17 designated as a Fort Monmouth special improvement district; (2)  
18 that the authority would provide administrative and other services  
19 to benefit the businesses, employees, residents and consumers in the  
20 Fort Monmouth special improvement district; (3) that a special  
21 assessment shall be imposed and collected by the affected  
22 municipality or municipalities with the regular property tax  
23 payment or payment in lieu of taxes or otherwise, and that all or a  
24 portion of these payments shall be transferred to the authority to  
25 effectuate the purposes of this act and to exercise the powers given  
26 to it by resolution; and (4) that it is in the best interest of the public  
27 to create a Fort Monmouth special improvement district. If the  
28 authority determines that the imposition and collection of the  
29 special assessment will involve annual costs to an affected  
30 municipality in addition to the initial cost of the imposition and  
31 collection of the regular property tax payment or payment in lieu of  
32 taxes or otherwise, and that such annual costs relate to property tax  
33 payment imposition and collection activities peculiar to the Fort  
34 Monmouth special improvement district, and distinguished from  
35 property tax payment imposition and collection activities normally  
36 provided by the municipality outside of the Fort Monmouth special  
37 improvement district, the authority shall provide that the property  
38 tax payment imposition and collection activities of the affected  
39 municipality be conducted pursuant to the provisions of this act and  
40 provide that ‘[a portion] no more than 25 percent’<sup>1</sup> of the funds  
41 generated from the proceeds of the collection of the special  
42 assessment be retained by the affected municipality to cover the  
43 costs of the property tax payment imposition and collection  
44 activities of the affected municipality conducted pursuant to the  
45 provisions of this act. ‘The percentage amount of funds to be  
46 retained by the affected municipality for such purpose shall be  
47 established by agreement with the authority and by concurring  
48 ordinance of the affected municipality prior to the collection of the

1 special assessment, and such percentage amount shall not be  
2 changed throughout the duration of the agreement.<sup>1</sup>

3 c. The authority may, by resolution, authorize the  
4 commencement of studies and the development of preliminary plans  
5 and specifications relating to the creation and maintenance of a Fort  
6 Monmouth special improvement district, including, whenever  
7 possible, estimates of construction and maintenance, and costs and  
8 estimates of potential gross benefit assessment. These studies and  
9 plans may include criteria to regulate the construction and alteration  
10 of facades of buildings and structures in a manner which promotes  
11 unified or compatible design.

12 d. Upon review of the reports and recommendations submitted,  
13 a resolution may be adopted authorizing and directing the  
14 establishment and maintenance of a Fort Monmouth special  
15 improvement district. In addition to other requirements for the  
16 consideration and adoption of resolutions, at least 10 days prior to  
17 the date fixed for a public hearing thereon, a copy of the proposed  
18 resolution and notice of the date, time, and place of the hearing  
19 shall be mailed to the owners of the lots or parcels of land abutting  
20 or included in the Fort Monmouth special improvement district  
21 proposed by the resolution.

22 e. A Fort Monmouth special improvement district resolution  
23 may provide that a Fort Monmouth special improvement district  
24 shall be deemed a local improvement in accordance with this act  
25 and the provisions of chapter 56 of Title 40 of the Revised Statutes,  
26 R.S.40:56-1 et seq.; that all costs of development, construction, and  
27 acquisition relating to the provision of improvements for a Fort  
28 Monmouth special improvement district, as the case may be, shall  
29 be financed by the authority and assessed by the affected  
30 municipality or municipalities, as the case may be, to properties  
31 especially benefited thereby as provided generally by R.S.40:56-1  
32 et seq., and the resolution shall list and describe, by lot and block  
33 numbers and by street addresses, all properties to be assessed for  
34 the Fort Monmouth special improvement district improvements.  
35 The affected municipality or municipalities, as the case may be,  
36 may provide by ordinance or parallel ordinance for one or more  
37 special assessments within the Fort Monmouth special improvement  
38 district in accordance with chapter 56 of Title 40 of the Revised  
39 Statutes, R.S.40:56-1 et seq.; provided that the special assessment  
40 carried out pursuant to this section shall be deemed an assessment  
41 for benefits and shall be as nearly as may be in proportion to and  
42 not in excess of the peculiar benefit, advantage, or increase in value  
43 which the respective lots and parcels of real estate shall be deemed  
44 to receive by reason of such improvement.

45 f. If the authority determines that the improvements will  
46 involve annual costs to an affected municipality, in addition to the  
47 initial cost of constructing and making the improvements, and that  
48 such annual costs relate to maintenance services peculiar to the Fort

1 Monmouth special improvement district, and distinguished from  
2 maintenance services normally provided by the municipality outside  
3 of the Fort Monmouth special improvement district, and will  
4 provide benefits primarily to property included in the district, rather  
5 than to the municipality as a whole, the resolution shall provide that  
6 the improvements and facilities thereof shall be operated and  
7 maintained pursuant to the provisions of this act and the  
8 municipality shall be authorized to provide that the costs thereof be  
9 assessed or taxed to benefited properties or businesses pursuant to  
10 the provisions of section 16 of P.L.1972, c.134 (C.40:56-80). At  
11 any time after the Fort Monmouth special improvement district  
12 resolution has been adopted or lands have been acquired or  
13 improved for a Fort Monmouth special improvement district, the  
14 authority may upon such determination provide, by separate  
15 resolution or by amendment to the resolution, that the  
16 improvements and facilities thereof shall be so operated and  
17 maintained and the costs so assessed to benefited properties or  
18 businesses. In any such case, such resolution shall describe the  
19 properties to be assessed, or in which any businesses may be  
20 contained which may be assessed, for such annual costs, which area  
21 may be given the name “(name of Fort Monmouth Special  
22 Improvement District) Fort Monmouth Improvement District.”

23

24 <sup>1</sup>[21.] 23.<sup>1</sup> a. There is established the Fort Monmouth  
25 Transportation Planning District which shall consist of those lands  
26 which comprise the project area. The authority shall administer and  
27 manage the transportation planning district and carry out such  
28 additional functions as provided herein.

29 b. In furtherance of the development of a coherent and  
30 sustainable transportation system for the project area, the authority  
31 shall initiate a joint planning process with participation by: State  
32 departments and agencies, corporations, commissions, boards, and  
33 authorities; metropolitan planning organizations, and counties and  
34 municipalities with jurisdiction in the district; and private  
35 representatives. The authority shall oversee the development and  
36 updating of a comprehensive, future-oriented district transportation  
37 plan.

38 c. The district transportation plan shall establish goals,  
39 policies, needs, and improvement priorities for all modes of  
40 transportation, including walking and bicycling, within the district  
41 and shall be consistent with the revitalization plan. The district  
42 transportation plan shall be based on a reasonable assessment of  
43 likely future growth reflected in the revitalization plan.

44 d. The district transportation plan shall quantify transportation  
45 needs arising from anticipated future traffic passing within or  
46 through the district based upon future development anticipated to  
47 occur within or through the district, and reflected in the  
48 revitalization plan. The district transportation plan shall set forth

1 proposed transportation projects designed to address that future  
2 development, prioritized over increments of five years, the  
3 allocation of public and private shares of project costs and  
4 allowable administrative costs, and the amount, schedule, and  
5 collection of development fees. If new developments are proposed  
6 in the district which are not considered in the district transportation  
7 plan which is currently in effect, that plan shall be reevaluated,  
8 notwithstanding the five-year increment provision.

9 e. The district transportation plan shall be in accordance with  
10 the State transportation master plan adopted under section 5 of  
11 P.L.1966, c.301 (C.27:1A-5), the applicable county master plans  
12 adopted under R.S.40:27-2, and the applicable regional  
13 transportation plan or plans adopted by a metropolitan planning  
14 organization pursuant to 23 C.F.R.s.450.322.

15 f. The district transportation plan shall include a financial  
16 element setting forth a statement of projected revenue and expenses,  
17 including all project costs. The financial element of the district  
18 transportation plan shall identify public and private financial  
19 resources which may be available to fund, in whole or in part, those  
20 transportation projects set forth in that plan. The financial element  
21 shall make recommendations for the types and rates of development  
22 fees to be assessed under subsection i. of this section, formulas to  
23 govern the assessment of those fees, and the projected annual  
24 revenue to be derived therefrom.

25 g. The authority staff shall make copies of the district  
26 transportation plan available to the public for inspection no less  
27 than 14 days prior to any formal action by the authority to adopt the  
28 plan. In addition, the authority staff shall take steps to notify  
29 members of the business community and other interested parties of  
30 the district transportation plan and shall hold a public hearing  
31 thereon after having given public notice of the hearing.

32 h. The authority may, by resolution adopt the district  
33 transportation plan as recommended by the staff or with  
34 modifications.

35 i. After the adoption of the district transportation plan by the  
36 authority pursuant to subsection h. of this section, the authority  
37 may, by resolution, provide for the assessment and collection of  
38 development fees on developments within the transportation  
39 planning district as provided hereunder.

40 j. Development fees assessed by the authority shall be based  
41 upon the growth and development forecasts contained in the district  
42 transportation plan and shall be levied in order to raise only those  
43 amounts needed to accomplish the transportation projects set forth  
44 in the district transportation plan and allowable administrative  
45 costs. Those fees shall be assessed based upon the formula or  
46 formulas contained in the resolution adopted pursuant to subsection  
47 i. of this section and shall be uniformly applied, with such  
48 exceptions as are authorized or required herein.

1 k. A formula or formulas adopted by the authority by  
2 resolution shall reflect a methodology which relates the use of land  
3 to the impact of the proposed development on the transportation  
4 system, including, but not limited to: vehicle trips generated by the  
5 development; the square footage of an occupied structure; the  
6 number of employees regularly employed at the development; or the  
7 number of parking spaces located at the development; or any  
8 combination thereof.

9 l. The resolution may provide for credits against assessed  
10 development fees for payments made or expenses incurred which  
11 have been determined by the authority to be in furtherance of the  
12 district transportation plan, including, but not limited to,  
13 contributions to transportation improvements other than those  
14 required for safe and efficient highway access to a development,  
15 and costs attributable to the promotion of public transit, walking,  
16 bicycling, or ridesharing.

17 m. The resolution may either exempt or reduce the development  
18 fee for specified land uses which have been determined by the  
19 authority to have a beneficial, neutral, or comparatively minor  
20 adverse impact on the transportation needs of the transportation  
21 planning district.

22 n. The resolution may provide for a reduced rate of  
23 development fees for developers submitting a peak-hour automobile  
24 trip reduction plan approved by the authority under standards  
25 adopted by the authority. Standards for the approval of peak-hour  
26 automobile trip reduction plans may include, but need not be  
27 limited to, physical design for improved transit, ridesharing, and  
28 pedestrian access; design of developments which include a mix of  
29 residential and nonresidential uses; and proximity to potential labor  
30 pools.

31 o. The assessment of a development fee shall be reasonably  
32 related to the impact of the proposed development on the  
33 transportation system of the transportation planning district and  
34 shall not exceed the development's fair share of the cost of the  
35 transportation improvement necessary to accommodate the  
36 additional burden on the district's transportation system that is  
37 attributable to the proposed development and related allowable  
38 administrative costs.

39 p. A resolution shall be sufficiently certain and definitive to  
40 enable every person who may be required to pay a fee to know or  
41 calculate the limit and extent of the fee which is to be assessed  
42 against a specific development.

43 q. Upon the adoption by the authority of a resolution pursuant  
44 to subsection i. of this section, no separate assessment for off-site  
45 transportation improvements within the transportation planning  
46 district shall be made by the State, a county, or municipality except  
47 as permitted pursuant to this act.

1 r. A resolution adopted by the authority pursuant to subsection  
2 i. of this section shall provide for the establishment of a  
3 transportation planning district fund under the control of the  
4 authority and administered by the New Jersey Economic  
5 Development Authority. All monies collected from development  
6 fees shall be deposited into the fund, which shall be invested in an  
7 interest-bearing account. Monies deposited in the fund shall be  
8 used to defray project costs and allowable administrative costs.

9 s. Every transportation project funded, in whole or in part, by  
10 funds from a transportation planning district fund shall be subject to  
11 a project agreement to which the relevant entities are parties. The  
12 expenditure of funds for this purpose shall not be made from a  
13 transportation planning district fund, except by approval of the  
14 project budget by the authority and upon certification of the chief  
15 fiscal officer of the New Jersey Economic Development Authority  
16 that the expenditure is in accordance with a project agreement or is  
17 otherwise a project cost and has the approval of the authority.

18 t. Notwithstanding any other law to the contrary, no  
19 development fees shall be assessed for any low and moderate  
20 income housing units which are constructed pursuant to the "Fair  
21 Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) or under court  
22 order or settlement.

23 u. (1) The payments due to the authority, whether as a lump  
24 sum or as balances due when a series of payments is to be made,  
25 shall be enforceable by the authority as a lien on the land and any  
26 improvements thereon. The lien shall be recorded by the county  
27 officer in the record book of the county office.

28 (2) When the fee is paid in full on the development or portion  
29 thereof, the lien on the development or portion thereof, as  
30 appropriate, shall be removed. When a series of payments is to be  
31 made, failure to make any one payment within 30 days after receipt  
32 of a notice of late payment shall constitute a default and shall  
33 obligate the person owing the unpaid balance to pay that balance in  
34 its entirety.

35 (3) All amounts assessed as a lien pursuant to this section shall  
36 be a lien upon the land against which they are assessed in the same  
37 manner that taxes are made a lien against land pursuant to Title 54  
38 of the Revised Statutes, and the payment thereof shall be enforced  
39 within the same time and in the same manner and by the same  
40 proceedings as the payment of taxes is otherwise enforced under  
41 Title 54 of the Revised Statutes.

42 v. (1) Any fees collected, plus earned interest, not committed  
43 to a transportation project under a project agreement entered into  
44 under subsection s. of this section within 10 years of the date of  
45 collection, or not used for other allowable administrative costs  
46 within 10 years of the date of collection, shall be refunded to the  
47 fee-payer under a procedure prescribed by the authority; provided,  
48 however, that if the fee-payer transfers the development or any



1 portion thereof, the fee-payer shall enter into an agreement with the  
2 grantee in such form as shall be provided by the authority which  
3 shall indicate who shall be entitled to receive any refund, and that  
4 agreement shall be filed with the chief fiscal officer of the EDA.

5 (2) Any person who has been assessed a development fee may  
6 request in writing a reconsideration of the assessment and a hearing  
7 by an employee so delegated by the authority within 90 days of the  
8 receipt of notification of the amount of the assessment on the  
9 grounds that the authority or its officers or employees in issuing the  
10 assessment did not abide by the provisions of this section or the  
11 provisions of the resolution adopted by the authority pursuant to  
12 this section.

13 w. A person may appeal to the authority any decision made in  
14 connection with the reconsideration of an assessment as authorized  
15 pursuant to subsection v. of this section. The authority shall review  
16 the record of the hearing and render its decision, which shall  
17 constitute an administrative action subject to review by the  
18 Appellate Division of the Superior Court. Nothing contained herein  
19 shall be construed as limiting the ability of any person so assessed  
20 from filing an appeal based upon an agreement to pay or actual  
21 payment of the fee.

22 x. ‘If the authority, in conjunction with the New Jersey Transit  
23 Corporation, shall cause a passenger rail station to be designed,  
24 constructed and operated within the project area, prior to taking any  
25 such action, the authority shall receive written approval by  
26 resolution from the governing body of the host municipality in  
27 which the passenger rail station is to be located.

28 y.<sup>1</sup> For the purposes of this section:

29 “Allowable administrative costs” means expenses incurred by the  
30 authority in developing a district transportation plan, including a  
31 financial element, and in managing a transportation planning  
32 district.

33 “Developer” means the legal or beneficial owner or owners of a  
34 lot or of any land proposed to be included in a proposed  
35 development, including the holder of an option or contract to  
36 purchase, or other person having an enforceable proprietary interest  
37 in such land.

38 “Development” means “development” in the meaning of section  
39 3.1 of the “Municipal Land Use Law,” P.L.1975, c.291 (C.40:55D-  
40 4).

41 “Development fee” means a fee assessed on a development  
42 pursuant to a resolution of the authority adopted under subsection i.  
43 of this section.

44 “District” or “transportation planning district” means the Fort  
45 Monmouth Transportation Planning District established pursuant to  
46 subsection a. of this section.

47 “Project agreement” means an agreement between the authority  
48 and a developer providing the terms and conditions under which the

1 developer agrees to perform any work or undertaking necessary for  
2 a transportation project.

3 “Project costs” means expenses incurred in the planning, design,  
4 engineering and construction of any transportation project, and shall  
5 include debt service.

6 “Public highways” means public roads, streets, expressways,  
7 freeways, parkways, motorways, and boulevards including bridges,  
8 tunnels, overpasses, underpasses, interchanges, rest areas, express  
9 bus roadways, bus pullouts and turnarounds, park-ride facilities,  
10 traffic circles, grade separations, traffic control devices, the  
11 elimination or improvement of crossings of railroads and highways,  
12 whether at grade or not at grade, bicycle and pedestrian pathways,  
13 pedestrian and bicycle bridges traversing public highways, and any  
14 facilities, equipment, property, rights-of-way, easements and  
15 interests therein needed for the construction, improvement, and  
16 maintenance of highways.

17 “Public transportation project” means, in connection with public  
18 transportation service or regional ridesharing programs, passenger  
19 stations, shelters and terminals, automobile parking facilities,  
20 ferries and ferry facilities including capital projects for ferry  
21 terminals, approach roadways, pedestrian accommodations, parking,  
22 docks, and other necessary land-side improvements, ramps, track  
23 connections, signal systems, power systems, information and  
24 communication systems, roadbeds, transit lands or rights-of-way  
25 equipment storage and servicing facilities, bridges, grade crossings,  
26 rail cars, locomotives, motorbus and other motor vehicles,  
27 maintenance and garage facilities, revenue handling equipment and  
28 any other equipment, facility or property useful for or related to the  
29 provision of public transportation service or regional ridesharing  
30 programs.

31 “Transportation project” or “transportation improvement” means,  
32 in addition to public highways and public transportation projects,  
33 any equipment, facility, or property useful or related to the  
34 provision of any ground, waterborne, or air transportation for the  
35 movement of people and goods within or through the district,  
36 including rail freight infrastructure.

37  
38 <sup>1</sup>[22.] 24. a. The authority may adopt a resolution creating an  
39 infrastructure district whenever the authority determines that the  
40 improvement of the infrastructure of the property within the  
41 infrastructure district will promote the health and general welfare of  
42 the residents of the project area, the host municipalities, and the  
43 infrastructure district. An infrastructure district created pursuant to  
44 this subsection may be comprised of any or all lands which  
45 comprise the project area. The authority may create, by separate  
46 resolution, more than one infrastructure district.

47 b. (1) If so determined by the authority, the receipts of retail  
48 sales, except retail sales of motor vehicles, of alcoholic beverages

1 as defined in the "Alcoholic beverage tax law," R.S.54:41-1 et seq.,  
2 of cigarettes as defined in the "Cigarette Tax Act," P.L.1948, c.65  
3 (C.54:40A-1 et seq.), <sup>2</sup>[of manufacturing machinery, equipment or  
4 apparatus,]<sup>2</sup> and of energy, made by a certified vendor from a place  
5 of business owned or leased and regularly operated by the vendor  
6 for the purpose of making retail sales, and which place of business  
7 is located within an infrastructure district created pursuant to  
8 subsection a. of this section, will be exempt to the extent of 50  
9 percent of the tax imposed under the "Sales and Use Tax Act,"  
10 P.L.1966, c.30 (C.54:32B-1 et seq.); and the authority for the  
11 purpose of increasing public revenue may adopt a resolution to levy  
12 and collect, within an infrastructure district created pursuant to  
13 subsection a. of this section, a franchise assessment not to exceed  
14 an amount equivalent to 50 percent of the tax imposed under the  
15 "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) and  
16 to devote the proceeds from those assessments to purposes as  
17 provided in this section.

18 Any vendor having a place of business located within an  
19 infrastructure district may apply to the <sup>2</sup>Executive<sup>2</sup> Director of the  
20 <sup>2</sup>[Division of Taxation in the Department of Treasury] EDA<sup>2</sup> for  
21 certification pursuant to this paragraph. The <sup>2</sup>executive<sup>2</sup> director  
22 shall certify a vendor if <sup>2</sup>[he] the executive director<sup>2</sup> shall find that  
23 the vendor owns or leases and regularly operates a place of business  
24 located in an infrastructure district for the purposes of making retail  
25 sales, that items are regularly exhibited and offered for retail sale at  
26 that location, and that the place of business is not utilized primarily  
27 for the purpose of catalogue, Internet or mail order sales. The  
28 <sup>2</sup>executive<sup>2</sup> director may at any time revoke a certification granted  
29 pursuant to this paragraph. <sup>2</sup>The executive director shall  
30 immediately notify the Director of the Division of Taxation in the  
31 Department of the Treasury of any such certification or revocation.<sup>2</sup>

32 (2) The rate of the franchise assessment shall be uniform  
33 throughout the infrastructure district. The franchise assessment  
34 shall apply only within the territorial limits of the infrastructure  
35 district and shall be in addition to any other assessments, taxes, and  
36 excises.

37 (3) The resolution adopted pursuant to subsection a. of this  
38 section shall continue in force and effect until repealed by the  
39 authority.

40 (4) No franchise assessment shall be imposed on gross receipts  
41 which a municipality or the State is prohibited from taxing under  
42 New Jersey law, or the Constitution and laws of the United States of  
43 America.

44 (5) Upon adoption, the authority shall immediately transmit a  
45 copy of the resolution to the Director of the Division of Local  
46 Government Services in the Department of Community Affairs and  
47 to the Director of the Division of Taxation in the Department of the

1 Treasury. Every resolution levying a franchise assessment pursuant  
2 to this section shall provide for reporting assessments due and for  
3 the collection thereof, and all franchise assessments pursuant to  
4 such a resolution shall be remitted to the chief financial officer of  
5 the EDA. A resolution levying a franchise assessment shall take  
6 effect only on the first day of any month in any year. The  
7 resolution shall provide for the allocation and distribution of the  
8 proceeds of the franchise assessments collected.

9 (6) The resolution shall set forth the person or persons subject to  
10 the franchise assessment payment and collection procedures, and  
11 any other matters deemed relevant by the authority with the  
12 authority having discretion as to the mechanism to be utilized. The  
13 resolution shall also contain findings that the imposition of the  
14 franchise assessment is necessary because of the substantial risks  
15 undertaken to develop an infrastructure district.

16 (7) The resolution shall provide for the collection of the  
17 franchise assessment by an officer of the authority who shall be  
18 designated in the resolution; shall provide methods for enforcement;  
19 shall provide the permitted uses of the franchise assessment; and  
20 may provide penalties for the violation of any of the provisions of  
21 the resolution. "Permitted uses" may include the provision of loans,  
22 grants, or debt service for financing or refinancing the construction,  
23 reconstruction, repair, alteration, improvement, and development of  
24 any on-site or off-site infrastructure improvements, or parking or  
25 transportation facilities, or work that reduces, abates, or prevents  
26 environmental pollution, or other improvements that provide a  
27 public benefit within or to an infrastructure district.

28 c. For the purposes of effective administration of the franchise  
29 assessment, the authority shall have the authority to:

30 (1) Collect the franchise assessment, interest, and penalties  
31 imposed by a resolution adopted pursuant to paragraph (1) of  
32 subsection b. of this section which shall from the time due be a debt  
33 of the person by whom payable to the authority, recoverable in a  
34 court of competent jurisdiction in a civil action in the name of the  
35 authority to be instituted within three years of the date due.

36 (2) Authorize, as an additional remedy, the chief financial  
37 officer of the EDA to issue a certificate to the clerk of the Superior  
38 Court that any person is indebted under the resolution in an amount  
39 stated in the certificate. Thereupon, the clerk to whom the  
40 certificate is issued shall immediately enter upon the record of  
41 documented judgments the name of the person, the address of the  
42 place of business where the franchise assessment liability was  
43 incurred, the amount of the debt so certified, and the date of making  
44 of the entry. The making of the entry shall have the same force and  
45 effect as the entry of a documented judgment in the office of the  
46 clerk, and the chief financial officer of the EDA shall have all the  
47 remedies and may take all the proceedings for the collection of the

1 debt which may be had or taken upon the recovery of a judgment in  
2 an action, but without prejudice to the person's right of appeal.

3 (3) Provide that, if for any reason the franchise assessment is  
4 not paid when due, interest at the rate of 12% per annum on the  
5 amount of the franchise assessment due, and an additional penalty  
6 of one-half of 1% of the amount of the unpaid assessment for each  
7 month or fraction thereof during which the franchise assessment  
8 remains unpaid, shall be added and collected. When action is  
9 brought for the recovery of any franchise assessment, the person  
10 liable therefor shall, in addition, be liable for the reasonable costs of  
11 collection and the interest and penalties imposed.

12 Any aggrieved person may, within 90 days of the entry of the  
13 decision, order, finding, assessment or action of the chief financial  
14 officer of the EDA under this section, file an appeal in the Superior  
15 Court, upon payment of the amount stated by the chief financial  
16 officer of the EDA to be due. The appeal provided by this section  
17 shall be the exclusive remedy available to any person for review of  
18 a determination of the chief financial officer of the EDA with  
19 respect to a liability for the franchise assessment imposed.

20 For the purposes of this section, “franchise assessment” means  
21 an assessment on the amount of the <sup>2</sup>[sale] sales<sup>2</sup> price of all  
22 tangible <sup>2</sup>personal<sup>2</sup> property <sup>2</sup>and specified digital products,<sup>2</sup> sold  
23 by a business, valued in money, whether received in money or  
24 otherwise, <sup>2</sup>[excluding the cost of transportation if such cost is  
25 separately stated in the written contract and]<sup>2</sup> in the amount of 50  
26 percent of the tax imposed pursuant to the “Sales and Use Tax Act,”  
27 P.L.1966, c.30 (C.54:32B-1 et seq.) <sup>2</sup>; “sales price,” “tangible  
28 personal property,” and “specified digital products” have the  
29 meanings given those terms by section 2 of P.L.1966, c.30  
30 (C.54:32B-2)<sup>2</sup>.

31

32 <sup>1</sup>[23.] 25.<sup>1</sup> The following are repealed:  
33 Sections 1 through 13 of P.L.2006, c.16 (C.52:27I-1 to 27:I-13);  
34 Sections 15 and 16 of P.L.2006, c.16 (C.52:27I-15 and 27:I-16).

35

36 <sup>1</sup>[24.] 26.<sup>1</sup> This act shall take effect on the <sup>1</sup>[45th] 30th<sup>1</sup> day  
37 after the date of enactment, except that section <sup>1</sup>[23] 25<sup>1</sup> shall take  
38 effect on the date that the authority assumes all of the powers,  
39 rights, assets, and duties of the predecessor authority.

# SENATE, No. 917

## STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED FEBRUARY 1, 2010

**Sponsored by:**

**Senator RAYMOND J. LESNIAK**

**District 20 (Union)**

**Senator JENNIFER BECK**

**District 12 (Mercer and Monmouth)**

**Co-Sponsored by:**

**Senator Kyrillos**

**SYNOPSIS**

"Monmouth Economic Revitalization Authority Act."

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 3/23/2010)**

1 AN ACT establishing the Monmouth Economic Revitalization  
2 Authority, supplementing Title 52 of the Revised Statutes and  
3 repealing parts of the statutory law.

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

7  
8 1. This act shall be known and may be cited as the “Monmouth  
9 Economic Revitalization Authority Act.”

10  
11 2. The Legislature finds and declares that:

12 a. The closure and revitalization of Fort Monmouth is a matter  
13 of great concern for the host municipalities of Eatontown,  
14 Oceanport, and Tinton Falls; for Monmouth County; and for the  
15 State of New Jersey.

16 b. The economies, environment, and quality of life of the host  
17 municipalities, Monmouth County, and the State will benefit from  
18 the efficient, coordinated, and comprehensive redevelopment and  
19 revitalization of Fort Monmouth. The Fort Monmouth Economic  
20 Revitalization Planning Authority was established pursuant to  
21 P.L.2006, c.16 (C.52:27I-1 et seq.) to plan for the comprehensive  
22 conversion and revitalization of Fort Monmouth, so as to encourage  
23 enlightened land use and to create employment and other business  
24 opportunities for the benefit of the host municipalities, of that  
25 county and the entire State. On September 4, 2008, the Fort  
26 Monmouth Economic Revitalization Planning Authority submitted a  
27 comprehensive conversion and revitalization plan for Fort  
28 Monmouth, known as the “Fort Monmouth Reuse and  
29 Redevelopment Plan,” and a homeless assistance submission to the  
30 United States Department of Defense and the United States  
31 Department of Housing and Urban Development, as required under  
32 the applicable federal Base Closure and Realignment law and  
33 regulations. The Fort Monmouth Reuse and Redevelopment Plan is  
34 the result of an extensive, coordinated, and collaborative process  
35 conducted by the Fort Monmouth Economic Revitalization Planning  
36 Authority, and reflects input from the host municipalities,  
37 Monmouth County, State departments and agencies and the general  
38 public as to the future of Fort Monmouth.

39 c. Upon acceptance by the United States Department of  
40 Defense and the United States Department of Housing and Urban  
41 Development as required under applicable federal Base Closure and  
42 Realignment law and regulations, the Fort Monmouth Reuse and  
43 Redevelopment Plan will constitute the plan for the redevelopment  
44 and revitalization of Fort Monmouth to be implemented pursuant to  
45 and in accordance with the provisions of this act.

46 d. A coordinated and comprehensive redevelopment and  
47 revitalization of Fort Monmouth will be facilitated by establishing  
48 and empowering a new authority, to be known as the “Monmouth

1 Economic Revitalization Authority,” to implement the Fort  
2 Monmouth Reuse and Redevelopment Plan, including the adoption  
3 of any modifications or amendments to the Fort Monmouth Reuse  
4 and Redevelopment Plan and the adoption of development and  
5 design guidelines and land use regulations in furtherance thereof, as  
6 provided in this act.

7 e. The New Jersey Economic Development Authority (EDA)  
8 has substantial and significant experience with partnering with local  
9 communities and leveraging public-private partnerships. The EDA  
10 manages large scale, redevelopment projects, utilizes a system of  
11 internal controls and procedures to ensure the integrity of  
12 redevelopment activities, and maintains a staff with a wide range of  
13 experience in redevelopment projects, real estate, finance, and job  
14 creation. Therefore the EDA is the appropriate entity to serve as  
15 the staff to the authority to enable the authority to implement the  
16 Fort Monmouth Reuse and Redevelopment Plan. To this end, an  
17 office is to be created within the EDA staffed by such EDA  
18 employees on a part or full time basis as the EDA determines  
19 necessary to carry out the functions of the office.

20 f. Furthermore, because of the experience and expertise of the  
21 EDA in redevelopment projects, it is appropriate to authorize the  
22 authority established by this act to enter into a master  
23 redevelopment agreement with the EDA for the redevelopment of  
24 Fort Monmouth. The activities of the EDA as redeveloper pursuant  
25 to the master redevelopment agreement are to be accounted for,  
26 managed and supervised separate and apart from the activities of  
27 the office established by this act, notwithstanding the possible  
28 sharing of staff between the EDA’s activities as redeveloper and  
29 EDA’s activities in staffing the office.

30 g. The host municipalities have an ongoing interest in the  
31 implementation of the plan, and the planning boards of the host  
32 municipalities have knowledge, expertise, and experience as well as  
33 procedures in place for reviewing and approving proposed  
34 subdivisions and site plans as provided in this act.

35

36 3. The following words or terms as used in this act shall have  
37 the following meaning unless a different meaning clearly appears  
38 from the context:

39 “Act” means the “Monmouth Economic Revitalization Authority  
40 Act.”

41 “Authority” means the Monmouth Economic Revitalization  
42 Authority established by section 4 of this act.

43 “Conditional use” means a use permitted within the project area  
44 only upon a showing that such use in a specified location will  
45 comply with the conditions and standards for the location or  
46 operation of such use as contained in the development and design  
47 guidelines or land use regulations adopted by the authority, and



1 upon the issuance of an authorization therefor by the planning  
2 board.

3 “County” means Monmouth County.

4 “County planning board” means the Monmouth County planning  
5 board.

6 “Density” means the permitted number of dwelling units per  
7 gross area of land to be developed.

8 “Development and design guidelines” means the development  
9 and design guidelines to be adopted by the authority pursuant to this  
10 act, as revised or amended as provided in this act, which when  
11 adopted shall apply to all applications for subdivision or site plan  
12 approval within the project area and shall supersede the zoning  
13 ordinances and land use regulations of the host municipalities and  
14 the county with respect to the project area.

15 “EDA” means the New Jersey Economic Development  
16 Authority, established pursuant to section 4 of P.L.1974, c.80  
17 (C.34:1B-4).

18 “Federal government” means the United States of America, and  
19 any officer, department, board, commission, bureau, division,  
20 corporation, agency or instrumentality thereof, including, but not  
21 limited to, the United States Department of Defense and the United  
22 States Department of Housing and Urban Development.

23 “Floor area ratio” means the sum of the area of all floors of  
24 buildings or structures compared to the total area of the site.

25 “Fort Monmouth” means the federally owned or operated  
26 military installation located in the municipalities of Eatontown,  
27 Oceanport, and Tinton Falls in the county that, as of May 13, 2005,  
28 was functioning, but was scheduled for closure by recommendation  
29 of the federal Base Realignment and Closure Commission issued on  
30 that date, including any facilities, real property and improvements,  
31 infrastructure and appurtenances and personal property.

32 “Homeless assistance submission” means the homeless assistance  
33 submission submitted to the United States Department of Defense and  
34 the United States Department of Housing and Urban Development on  
35 September 4, 2008 required under the Defense Base Closure and  
36 Realignment Act of 1990, Pub. L. 101-510 (10 U.S.C. s.2687).

37 “Host municipality” means the municipalities of Eatontown,  
38 Oceanport or Tinton Falls.

39 “Land use regulations” means the regulations to be adopted by  
40 the authority pursuant to this act, revised or amended as provided in  
41 this act, which when adopted shall apply to all applications for  
42 subdivision or site plan approval within the project area and shall  
43 supersede the zoning ordinances and land use regulations of the  
44 host municipalities and the county with respect to the project area.

45 “Master plan” or “plan” or “revitalization plan” means the  
46 comprehensive conversion and revitalization plan and the homeless  
47 assistance submission prepared and adopted by the predecessor  
48 authority and entitled "Fort Monmouth Reuse and Redevelopment

1 Plan" submitted to the United States Department of Defense and the  
2 United States Department of Housing and Urban Development on  
3 September 4, 2008, pursuant to section 14 of P.L.2006, c.16  
4 (C.52:27I-14), as accepted by the federal government, and as may  
5 be amended, revised, or modified as provided in this act.

6 "Master redevelopment agreement" means the redevelopment  
7 agreement to be entered into by and between the authority and the  
8 EDA as provided in this act for properties within the project area  
9 acquired by the authority.

10 "Minor subdivision" means "minor subdivision" as defined in  
11 section 3.2 of P.L.1975, c.291 (C.40:55D-5).

12 "Nonconforming use" means a legal or pre-existing use or  
13 activity which fails to conform to the development and design  
14 guidelines or land use regulations adopted by the authority.

15 "Planning board" means the planning board of a host  
16 municipality.

17 "Predecessor authority" means the Fort Monmouth Economic  
18 Revitalization Planning Authority established pursuant to section 4  
19 of P.L.2006, c. 16 (C.52:27I-4), repealed by this act.

20 "Project area" means that area encompassed by the metes and  
21 bounds of Fort Monmouth.

22 "Project parcel" means a portion of the project area that is the  
23 subject of a development or redevelopment project.

24 "Redevelopment" means clearance, replanning, development and  
25 redevelopment; the conservation and rehabilitation of any structure  
26 or improvement; the construction and provision for construction of  
27 residential, commercial, industrial, public or other structures or  
28 infrastructure; and the grant or dedication of spaces as may be  
29 appropriate or necessary in the interest of the general welfare for  
30 streets, utilities, parks, playgrounds, or other public purposes,  
31 including recreational and other facilities incidental or appurtenant  
32 thereto, in accordance with the approved Fort Monmouth Reuse and  
33 Redevelopment Plan submitted to the federal government, with the  
34 intent of supporting the economic revitalization of the region.

35 "Revitalization" means a comprehensive program of planning,  
36 conservation, rehabilitation, clearance, development and  
37 redevelopment, preservation, and historic restoration.

38 "Site Plan" means "site plan" as defined in section 3.4 of  
39 P.L.1975, c.291 (C.40:55D-7).

40 "Subdivision" means "subdivision" as defined in section 3.4 of  
41 P.L.1975, c.291 (C.40:55D-7).

42 "Variance" means permission to depart from the literal  
43 requirements of the master plan, the development and design  
44 guidelines adopted by the authority or the land use regulations  
45 adopted by the authority.

46

47 4. There is hereby established in, but not of, the Department of  
48 the Treasury a public body corporate and politic, with corporate

1 succession, to be known as the Monmouth Economic Revitalization  
2 Authority as the successor to the predecessor authority. The  
3 authority is hereby constituted as an instrumentality of the State  
4 exercising public and essential governmental functions to provide  
5 for the public safety, convenience, benefit, and welfare. The  
6 exercise by the authority of the powers conferred by this act shall be  
7 deemed and held to be an essential governmental function of the  
8 State. For the purposes of complying with the provisions of Article  
9 V, Section IV, paragraph 1 of the New Jersey Constitution, the  
10 authority is allocated within the Department of the Treasury, but  
11 notwithstanding that allocation, the authority shall be independent  
12 of any supervision or control by the Department of the Treasury or  
13 any board or officer thereof, except as may be provided in this act.  
14

15 5. Effective and automatically upon the first meeting of the  
16 authority:

17 a. The authority shall assume all of the powers, rights, assets,  
18 and duties of the predecessor authority to the extent provided by  
19 this act, and such powers shall then and thereafter be vested in and  
20 shall be exercised by the authority.

21 b. The terms of office of the members of the predecessor  
22 authority shall terminate, the officers having custody of the funds of  
23 the predecessor authority shall deliver those funds into the custody  
24 of the person having charge of the financial affairs of the authority,  
25 the property and assets of the predecessor authority shall, without  
26 further act or deed, become the property and assets of the authority,  
27 and the predecessor authority shall cease to exist.

28 c. The offices and terms of the officers and employees of the  
29 predecessor authority, as provided for through an agreement with  
30 the Department of the Treasury, except as otherwise provided in  
31 this act, shall terminate. Upon such termination, any current  
32 employee may be retained by the EDA at its discretion on either a  
33 full-time or a part-time basis.

34 d. All debts, liabilities, obligations and contracts of the  
35 predecessor authority, except to the extent specifically provided or  
36 established to the contrary in this act, are imposed upon the  
37 authority, and all creditors of the predecessor authority and persons  
38 having claims against or contracts with the predecessor authority of  
39 any kind or character may enforce those debts, claims and contracts  
40 against the authority as successor to the predecessor authority in the  
41 same manner as they might have had against the predecessor  
42 authority, and the rights and remedies of those holders, creditors  
43 and persons having claims against or contracts with the predecessor  
44 authority shall not be limited or restricted in any manner by this act.

45 e. In continuing the functions, contracts, obligations and duties  
46 of the predecessor authority, the authority is authorized to act in its  
47 own name or in the name of the predecessor authority as may be  
48 convenient or advisable under the circumstances from time to time.

1 f. Any references to the predecessor authority in any other law  
2 or regulation shall be deemed to refer and apply to the authority.

3 g. All operations of the predecessor authority shall continue as  
4 operations of the authority until altered by the authority as may be  
5 permitted pursuant to this act.

6 h. The powers vested in the authority by this act shall be  
7 construed as being in addition to and not in diminution of the  
8 powers heretofore vested by law in the predecessor authority to the  
9 extent not otherwise altered or provided for in this act.

10

11 6. a. There is hereby established in the EDA an office which  
12 shall be staffed by employees of the EDA which shall remain under  
13 the supervision and control of the EDA. The office shall be  
14 responsible for carrying out the policies set forth by the authority,  
15 in a collaborative manner with the host municipalities and the  
16 county. The office shall be administered by a director whose hiring  
17 shall be reviewed and approved by a subcommittee of the members  
18 of the authority to be appointed and convened at the direction of the  
19 chairperson of the authority for the purposes of this action.

20 b. The authority will rely solely on the office for all support  
21 services it requires to carry out its mission under this act, including,  
22 but not limited, to administrative, procurement, budgetary, clerical,  
23 and other similar types of services.

24 c. The authority and the EDA may enter into any agreements  
25 necessary to provide for the establishment, operation, and financial  
26 support of the office.

27 d. The costs of the office shall be paid for by the authority.  
28 The EDA shall on an annual basis submit to the authority a budget  
29 for review and approval by the authority for the anticipated costs of  
30 the office for the succeeding calendar year. If, during the course of  
31 the calendar year, it is necessary to amend the budget, the EDA  
32 shall submit an amendment or amendments to the authority for  
33 review and approval by the authority. All costs and expenses of the  
34 office shall be accounted for separate and apart from the costs and  
35 expenses of the EDA in its capacity as redeveloper pursuant to the  
36 master redevelopment agreement.

37 e. When it is necessary for the authority to engage the services  
38 of professional consultants, including registered architects, licensed  
39 professional engineers, planners, attorneys, accountants, or other  
40 professional consultants, the office shall assist the authority in the  
41 procurement process.

42

43 7. It shall be the purpose of the authority to oversee,  
44 administer, and implement the plan as provided in this act, in a  
45 manner that will promote, develop, encourage, and maintain  
46 employment, commerce, economic development, and the public  
47 welfare; to conserve the natural resources of the State; to provide  
48 housing, including housing to address identified needs related to

1 homelessness; and to advance the general prosperity and economic  
2 welfare of the people in the host municipalities, the county, and the  
3 entire State by cooperating and acting in conjunction with other  
4 organizations, public and private, to promote and advance the  
5 economic use of the facilities located at Fort Monmouth.

6

7 8. a. The authority shall consist of 13 members to be appointed  
8 and qualified as follows:

9 (1) Three voting members appointed by the Governor with the  
10 advice and consent of the Senate, for staggered terms of five years,  
11 one of whom shall be a representative of the private sector with  
12 relevant business experience or background; one of whom shall be  
13 an individual who is knowledgeable in environmental issues,  
14 conservation, or land use issues; and one of whom shall have  
15 appropriate experience in workforce development and job training.  
16 Preference shall be given to professionals with a background in  
17 technology, finance, energy industry, or real estate. At least one of  
18 the members shall be a resident of the county. Not more than two  
19 of the members appointed by the Governor pursuant to this  
20 paragraph shall be members of the same political party;

21 (2) The Chief Executive Officer of the New Jersey Economic  
22 Development Authority, ex officio and voting;

23 (3) The Governor shall also appoint another member of the  
24 Executive Branch to serve on the authority, ex officio and voting;

25 (4) One voting member, who shall be a resident of Monmouth  
26 County, to be appointed by the Monmouth County Board of Chosen  
27 Freeholders for a term of three years, who shall be either:

28 (a) a member of the board, or

29 (b) a qualified person, who shall be nominated by the board,  
30 with relevant business experience or background, or who may be an  
31 employee of the county;

32 (5) The mayors of Eatontown, Oceanport, and Tinton Falls, ex  
33 officio and voting;

34 (6) The Commissioner of Labor and Workforce Development,  
35 who shall serve as an ex officio, non-voting member;

36 (7) The Commissioner of Environmental Protection, who shall  
37 serve as an ex officio, non-voting member;

38 (8) The Commissioner of Community Affairs, who shall serve  
39 as an ex officio, non-voting member; and

40 (9) The Commissioner of Transportation, who shall serve as an  
41 ex officio, non-voting member.

42 Each member appointed by the Governor and the member  
43 appointed by the county Board of Chosen Freeholders shall hold  
44 office for the term of that member's appointment and until a  
45 successor shall have been appointed and qualified. A member shall  
46 be eligible for reappointment. Any vacancy in the membership  
47 occurring other than by expiration of term shall be filled in the same  
48 manner as the original appointment but for the unexpired term only.

1       b. Each ex officio member of the authority and the member  
2 appointed by the Monmouth County Board of Chosen Freeholders  
3 may designate an employee of the member's department or office to  
4 represent the member at meetings of the authority. The designee  
5 may act on behalf of the member. The designation shall be in  
6 writing and shall be delivered to the authority and shall be effective  
7 until revoked or amended in writing to the authority.

8       c. Each member appointed by the Governor may be removed  
9 from office by the Governor for cause, after a public hearing, and  
10 may be suspended by the Governor pending the completion of that  
11 hearing. Each such member, before entering the duties of  
12 membership, shall take and subscribe an oath to perform those  
13 duties faithfully, impartially, and justly to the best of the person's  
14 ability. A record of those oaths shall be filed in the office of the  
15 Secretary of State.

16       d. The members of the authority shall annually elect a  
17 chairperson and vice-chairperson from among their members. The  
18 chairperson shall appoint a secretary and treasurer. The powers of  
19 the authority shall be vested in the voting members thereof in office  
20 from time to time; five voting members of the authority shall  
21 constitute a quorum, and the affirmative vote of five voting  
22 members shall be necessary for any action taken by the authority,  
23 except as otherwise provided in subsection e. of this section, or  
24 unless the bylaws of the authority shall require a larger number. No  
25 vacancy in the membership of the authority shall impair the right of  
26 a quorum to exercise all the rights and perform all the duties of the  
27 authority.

28       e. The affirmative vote of seven members shall be required for  
29 the following actions taken by the authority:

30       (1) any action to adopt or revise the plan or to adopt or revise  
31 the development and design guidelines or land use regulations  
32 adopted by the authority as provided in this act; (2) any action to  
33 enter into a master redevelopment agreement with the EDA; (3) any  
34 action to adopt any amendment to the plan pursuant to section 16 of  
35 this act; (4) any action to acquire easements, rights of way, or fee  
36 title to properties pursuant to subsection g. of section 9 of this act;  
37 and (5) consent to the designation of any portion of the project area  
38 as an area in need of redevelopment or any area in need of  
39 rehabilitation pursuant to the provisions of the "Local  
40 Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1  
41 et al.), as provided in this act.

42       f. The members of the authority shall serve without  
43 compensation, but the authority may, within the limits of funds  
44 appropriated or otherwise made available for such purposes,  
45 reimburse its members for necessary expenses incurred in the  
46 discharge of their official duties.

47       g. (1) No member, officer, employee or agent of the authority  
48 or office shall have a personal interest, either directly or indirectly,

1 in any project, employment agreement or any contract, sale,  
2 purchase, lease, or transfer of real or personal property to which the  
3 authority or office is a party.

4 (2) The members, officers, and employees of the authority shall  
5 be subject to the provisions of P.L.2005, c.51 (C.19:44A-20.13 et  
6 seq.).

7 (3) The members, officers, and employees of the authority shall  
8 be subject to the same financial disclosure requirements as the  
9 members, officers, and employees of State authorities subject to  
10 executive orders of the Governor with respect to financial  
11 disclosure.

12 h. The authority may be dissolved by act of the Legislature on  
13 condition that the authority has no debts or obligations outstanding  
14 or provision has been made for the payment, retirement,  
15 termination, or assumption of its debts and obligations. Upon  
16 dissolution of the authority, all property, funds, and assets thereof  
17 shall be vested in the State, unless the Legislature directs otherwise.

18 i. A true copy of the minutes of every meeting of the authority  
19 shall be forthwith delivered by and under the certification of the  
20 secretary thereof to the Governor. No action taken at such meeting  
21 by the authority shall have force or effect until 10 days, Saturdays,  
22 Sundays, and public holidays excepted, after the copy of the  
23 minutes shall have been so delivered, unless during such 10-day  
24 period the Governor shall approve the same, in which case such  
25 action shall become effective upon such approval. If, in that 10-day  
26 period, the Governor returns such copy of the minutes with veto of  
27 any action taken by the authority or any member thereof at such  
28 meeting, such action shall be void.

29 j. Any and all proceedings, hearings or meetings of the  
30 authority shall be conducted in conformance with the "Senator  
31 Byron M. Baer Open Public Meetings Act," P.L.1975, c.231  
32 (C.10:4-6 et seq.).

33 k. Records of minutes, accounts, bills, vouchers, contracts or  
34 other papers connected with or used or filed with the authority or  
35 with any officer or employee acting for or in its behalf are declared  
36 to be public records, and shall be open to public inspection in  
37 accordance with P.L.1963, c.73 (C.47:1A-1 et seq.).

38

39 9. The authority shall have the following powers:

40 a. To enter into a master redevelopment agreement as set forth  
41 in subsection a. of section 14 of this act;

42 b. As designated and empowered as the "local redevelopment  
43 authority" for Fort Monmouth for all purposes of the Defense Base  
44 Closure and Realignment Act of 1990, Pub. L. 101-510 (10 U.S.C.  
45 s.2687), and, in that capacity, to enter into agreements with the  
46 federal government, State departments, agencies or authorities, the  
47 county, the host municipalities, or private parties;

1 c. To adopt development and design guidelines and land use  
2 regulations consistent with and in furtherance of the plan; and to  
3 adopt, revise, adjust, and implement (1) any aspect of the plan or  
4 the development and design guidelines and land use regulations  
5 adopted in furtherance thereof, or to grant variances therefrom; (2)  
6 the economic revitalization study prepared pursuant to section 16 of  
7 P.L.2006, c.16 (C.52:27I-16); and (3) if designated as the  
8 designated agency pursuant to section 2 of P.L.2008, c.28  
9 (C.52:27I-8.2), any aspect of the homeless assistance submission  
10 required under the Defense Base Closure and Realignment Act of  
11 1990, Pub. L. 101-510 (10 U.S.C. s.2687);

12 d. To undertake redevelopment projects pursuant to the plan;

13 e. To acquire or contract to acquire, and to dispose of the  
14 project area or any portion, tract or subdivision of the project area,  
15 or any utility system or infrastructure servicing the project area;

16 f. To lease as lessee, lease as lessor whether as a titleholder or  
17 not, own, rent, use, and take and hold title to, and to convey title of,  
18 and collect rent from, real property and personal property or any  
19 interest therein, in the exercise of its powers and the performance of  
20 its duties under this act;

21 g. To acquire, including by condemnation where necessary  
22 pursuant to the provisions of the "Eminent Domain Act of 1971,"  
23 P.L.1971, c.361 (C.20:3-1 et seq.), easements, rights of way, or fee  
24 title to properties within the project area where necessary in  
25 connection with the provision of utilities, streets, roads or other  
26 infrastructure required for implementation of the plan;

27 h. To arrange for the clearance of any parcel owned or  
28 acquired, and for the installation, construction or reconstruction of  
29 streets, facilities, utilities, and site improvements essential to the  
30 preparation of sites for use in accordance with the plan;

31 i. To contract for the provision of professional services,  
32 including, but not limited to, the preparation of plans for the  
33 carrying out of redevelopment projects by registered architects,  
34 licensed professional engineers or planners, or other consultants;

35 j. To issue requests for proposals or requests for qualifications;  
36 to arrange or contract with other public agencies or public or private  
37 redevelopers, including but not limited to nonprofit entities, for the  
38 planning, replanning, construction, or undertaking of any project or  
39 redevelopment work, or any part thereof; to negotiate and collect  
40 revenue from a redeveloper to defray the costs of the authority, and  
41 to secure payment of such revenue; as part of any such arrangement  
42 or contract, to negotiate financial or in-kind contributions from a  
43 redeveloper to the authority or to the host municipalities to offset or  
44 mitigate impacts of the project; as part of any such arrangement or  
45 contract, to require the posting of performance guarantees in  
46 connection with any redevelopment project; as part of any such  
47 arrangement or contract, to facilitate the extension of credit, or  
48 making of loans, by the EDA, by other public agencies or funding



1 sources, or by private entities to redevelopers to finance any project  
2 or redevelopment work, or upon a finding that the project or  
3 redevelopment work would not be undertaken but for the provision  
4 of financial assistance, or would not be undertaken in its intended  
5 scope without the provision of financial assistance, to facilitate as  
6 part of an arrangement or contract for capital grants to redevelopers;  
7 and to arrange or contract with public agencies or redevelopers for  
8 the opening, grading or closing of streets, roads, roadways, alleys,  
9 or other places or for the furnishing of facilities or for the  
10 acquisition by such agency of property options or property rights or  
11 for the furnishing of property or services in connection with the  
12 project area;

13 k. To participate in, conduct, or contract for the performance of  
14 environmental assessment or remediation activities or restoration  
15 arising out of or relating to environmental conditions within the  
16 project area, including but not limited to insurance or bonds related  
17 to such activities;

18 l. To enter upon any building or property in the project area in  
19 order to conduct investigations or make surveys, sounding or test  
20 borings necessary to carry out the purposes of the plan;

21 m. To arrange or contract with the EDA or other public  
22 agencies to facilitate or provide relocation assistance, of the types  
23 and in the amounts provided for businesses in the "Relocation  
24 Assistance Law of 1967," P.L.1967, c.79 (C.52:31B-1 et seq.) and  
25 the "Relocation Assistance Act," P.L.1971, c.362 (C.20:4-1 et seq.),  
26 to businesses operating within the project area who are displaced as  
27 a result of the closure and who request such assistance within a  
28 period to be determined by the authority;

29 n. To make, consistent with the plan: (1) plans for carrying out  
30 a program of voluntary repair and rehabilitation of buildings and  
31 improvements; and (2) plans for the enforcement of laws, codes,  
32 and regulations relating to the use and occupancy of buildings and  
33 improvements, and to the compulsory repair, rehabilitation,  
34 demolition, or removal of buildings and improvements;

35 o. Notwithstanding any other law to the contrary, to consent to  
36 a request by a host municipality for, or request that the host  
37 municipality consider, the designation of portions of the project  
38 area as being in need of redevelopment or rehabilitation in  
39 accordance with the provisions of the "Local Redevelopment and  
40 Housing Law," P.L.1992, c.79 (C. 40A:12A-1 et al.);

41 p. To publish and disseminate information concerning the plan  
42 or any project within the project area;

43 q. To adopt and from time to time amend and repeal bylaws for  
44 the regulation of its affairs and the conduct of its business;

45 r. To adopt and use an official seal and alter it at its pleasure;

46 s. To maintain an office at a place or places within the State as  
47 it may designate;

48 t. To sue and be sued in its own name;

- 1       u. To appoint advisory committees to assist in its activities in  
2 such areas as it deems appropriate. The membership of the  
3 committees shall be determined by the authority. If appointed, the  
4 historical preservation committee and the environmental committee  
5 shall for all intents and purposes be the exclusive “historic  
6 preservation commission,” as established pursuant to section 21 of  
7 P.L.1985, c.516 (C.40:55D-107), and the “environmental  
8 commission,” as established pursuant to P.L.1968, c.245  
9 (C.40:56A-1 et seq.), for all land use matters and approvals within  
10 the project area;
- 11       v. To provide that any revenues collected shall be available to  
12 the authority for use in furtherance of any of the purposes of this  
13 act;
- 14       w. Pursuant to an adopted cash management plan, to invest any  
15 funds held in reserve or sinking funds, or any funds not required for  
16 immediate disbursement, in property or securities in which  
17 governmental units may legally invest funds subject to their control;
- 18       x. To enter into mortgages as mortgagee;
- 19       y. To apply for, receive, and accept from any federal, State, or  
20 other public or private source, grants or loans for, or in aid of, the  
21 authority's authorized purposes;
- 22       z. To consent to the modification of any contract, mortgage, or  
23 other instrument entered into by it or on its behalf;
- 24       aa. To pay or compromise any claim arising on, or because of  
25 any agreement, mortgage, or instrument;
- 26       bb. To acquire or contract to acquire from any person, firm, or  
27 corporation, public or private, by contribution, gift, grant, bequest,  
28 devise, purchase, or otherwise, real or personal property or any  
29 interest therein, including such property as it may deem necessary  
30 or proper, although temporarily not required for such purposes, in  
31 the project area or in any area outside the project area designated by  
32 the authority as necessary for carrying out the relocation of the  
33 businesses displaced from the project area as a result of the closure  
34 of Fort Monmouth or other acquisitions needed to carry out the  
35 master plan;
- 36       cc. To subordinate, waive, sell, assign or release any right, title,  
37 claim, lien or demand however acquired, including any equity or  
38 right of redemption, foreclosure, sell or assign any mortgage held  
39 by it, or any interest in real or personal property; and to purchase at  
40 any sale, upon such terms and at such prices as it determines to be  
41 reasonable, and take title to the property, real, personal, or mixed,  
42 so acquired and similarly sell, exchange, assign, convey or  
43 otherwise dispose of any property;
- 44       dd. To complete, administer, operate, obtain, and pay for  
45 insurance on, and maintain, renovate, repair, modernize, lease or  
46 otherwise deal with any property;

- 1 ee. To retain attorneys, planners, engineers, architects,  
2 managers, financial experts, and other types of consultants as may  
3 be necessary;
- 4 ff. To arrange or contract with any public agency, to the extent  
5 that it is within the scope of that agency's functions, to cause the  
6 services customarily provided by that agency to be rendered for the  
7 benefit of the occupants of the project area, and have that agency  
8 provide and maintain parks, recreation centers, schools, sewerage,  
9 transportation, water and other municipal facilities adjacent to or in  
10 connection with the project area;
- 11 gg. To conduct examinations and investigations, hear testimony  
12 and take proof, under oath at public or private hearings of any  
13 material matter, compel witnesses and the production of books and  
14 papers and issue commissions for the examination of witnesses who  
15 are out of State, unable to attend, or excused from attendance; and  
16 to authorize a committee designated by it consisting of one or more  
17 members, or counsel, or any officer or employee to conduct the  
18 examination or investigation, in which case it may authorize in its  
19 name the committee, counsel, officer or employee to administer  
20 oaths, take affidavits and issue subpoenas or commissions;
- 21 hh. To make and enter into all contracts and agreements  
22 necessary or incidental to the performance of the duties authorized  
23 in this act;
- 24 ii. After thorough evaluation and investigation, to bring an  
25 action on behalf of a tenant within the project area to collect or  
26 enforce any violation of subsection g. or h. of section 11 of the  
27 "Law Against Discrimination," P.L.1945, c. 169 ( C.10:5-12);
- 28 jj. To designate members or employees, who shall be  
29 knowledgeable of federal and State discrimination laws, and who  
30 shall be available during all normal business hours, to evaluate a  
31 complaint made by a tenant within the project area pursuant to  
32 section 11 of the "Law Against Discrimination," P.L.1945, c. 169  
33 (C.10:5-12);
- 34 kk. To adopt, pursuant to the "Administrative Procedure Act,"  
35 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations  
36 necessary to implement this act; and
- 37 ll. To do all things necessary or convenient to carry out its  
38 purposes and exercise the powers given and granted in this act.  
39
- 40 10. All property of the authority or EDA shall be exempt from  
41 levy and sale by virtue of an execution and no execution or other  
42 judicial process shall issue against the same nor shall any judgment  
43 against the authority or EDA be a charge or lien upon its property;  
44 provided, that nothing herein contained shall apply to or limit the  
45 rights of the holder of any bonds to pursue any remedy for the  
46 enforcement of any pledge or lien given by the authority or EDA on  
47 or with respect to any project or any revenues or other moneys.

1       11. a. The authority and the EDA shall not be required to pay  
2 any taxes or assessments upon or in respect of a project or any  
3 property or moneys of the authority and the EDA, and the authority  
4 and EDA, their projects, property, and moneys, their transfer and  
5 the income therefrom, including any profit made on the sale thereof,  
6 shall at all times be free from taxation of every kind by the State  
7 except for transfer, inheritance, and estate taxes and by any political  
8 subdivision of the State; provided, that any person occupying a  
9 project whether as lessee, vendee or otherwise shall, as long as title  
10 thereto shall remain in the authority or EDA, pay to the political  
11 subdivision in which such project is located a payment in lieu of  
12 taxes which shall equal the taxes on real and personal property,  
13 whether for municipal, county, fire, or school purposes, as  
14 applicable, including water and sewer service charges or  
15 assessments, which such person would have been required to pay  
16 had it been the owner of such property during the period for which  
17 such payment is made and neither the authority nor the EDA nor  
18 their projects, property, money or bonds and notes shall be  
19 obligated, liable or subject to lien of any kind for the enforcement,  
20 collection or payment thereof. If and to the extent provided by  
21 contract, the authority or EDA may agree to cooperate with such  
22 person occupying a project, in connection with any administrative  
23 or judicial proceedings for determining the validity or amount of  
24 such payments and may agree to appoint or designate and reserve  
25 the right in and for such person to take all action which the  
26 authority may lawfully take in respect of such payments and all  
27 matters relating thereto, provided such person shall bear and pay all  
28 costs and expenses of the authority thereby incurred at the request  
29 of such person or by reason of any such action taken by such person  
30 in behalf of the authority. If such person occupying a project has  
31 paid the amounts in lieu of taxes required by this section to be paid,  
32 such person shall not be required to pay any such taxes as to which  
33 a payment in lieu thereof has been made to the State or to any  
34 political subdivision, any other statute to the contrary  
35 notwithstanding.

36       b. Except as provided in subsection a. of this section, a host  
37 municipality is authorized to assess and collect taxes on real and  
38 personal property within the project area as provided by law for  
39 municipal, county, fire, or school purposes, as applicable.  
40

41       12. Each worker employed on any project to which the authority  
42 is a party, shall be paid not less than the prevailing wage rate for the  
43 worker's craft or trade, as determined by the Commissioner of  
44 Labor and Workforce Development pursuant to P.L1963, c. 150  
45 (C.34:11-56.25 et seq.).  
46

47       13. a. All purchases, contracts, or agreements made pursuant to  
48 this act shall be made or awarded directly by the authority, except

1 as otherwise provided in this act, only after public advertisement for  
2 bids therefor in the manner provided by the authority and  
3 notwithstanding the provisions of any other laws to the contrary.

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

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

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

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

15 (4) When the contract to be entered into is for the furnishing or  
16 performing of services of a professional or technical nature,  
17 including legal services, provided that the contract shall be made or  
18 awarded directly by the authority;

19 (5) When the authority has advertised for bids and has received  
20 no bids in response to its advertisement, or received no responsive  
21 bids. Any purchase, contract, or agreement may then be negotiated  
22 and may be awarded to any contractor or supplier determined to be  
23 responsible, as "responsible" is defined in section 2 of P.L.1971,  
24 c.198 (C.40A:11-2), provided that the terms, conditions,  
25 restrictions, and specifications set forth in the negotiated contract or  
26 agreement are not substantially different from those which were the  
27 subject of competitive bidding;

28 (6) When a purchase is to be made through or by the Director of  
29 the Division of Purchase and Property pursuant to section 1 of  
30 P.L.1959, c.40 (C.52:27B-56.1), or through a contract made by any  
31 of the following: the New Jersey Sports and Exposition Authority  
32 established under section 4 of P.L.1971, c.137 (C.5:10-4); the New  
33 Jersey Meadowlands Commission established under section 5 of  
34 P.L.1968, c.404 (C.13:17-5); the New Jersey Turnpike Authority  
35 established under section 3 of P.L.1948, c.454 (C.27:23-3); the New  
36 Jersey Water Supply Authority established under section 4 of  
37 P.L.1981, c.293 (C.58:1B-4); the Port Authority of New York and  
38 New Jersey established under R.S.32:1-4; the Delaware River Port  
39 Authority established under R.S.32:3-2; or the Higher Education  
40 Student Assistance Authority established under N.J.S.18A:71A-3.

41  
42 14. a. Upon the acceptance by the federal government of the  
43 revitalization plan adopted by the predecessor authority pursuant to  
44 section 14 of P.L.2006, c.16 (C.52:27I-14), the EDA is hereby  
45 designated as master redeveloper for any property acquired by or  
46 conveyed to the authority. The authority and EDA shall enter into a  
47 master redevelopment agreement detailing the terms and conditions of  
48 the master redeveloper relationship, including, but not limited to, the

1 tasks and scope of powers and authorities delegated to the EDA as  
2 master redeveloper, which may include the power and authority to  
3 perform all acts and do all things that the authority is empowered to do  
4 pursuant to this act, except for the powers enumerated in subsections  
5 b., c., o., q., r., s., t., u., gg., ii., jj., kk. and ll. of section 9 of this act  
6 and the ability to adopt or amend the plan or the development and  
7 design guidelines and land use regulations adopted by the authority as  
8 provided in this act. In addition to such delegated power and  
9 authority, in order to carry out and effectuate the purposes of this act  
10 and the terms of the plan, the master redeveloper may do and perform  
11 any acts and things authorized by the "New Jersey Economic  
12 Development Authority Act," P.L.1974, c.80 (C.34:1B-1 et seq.)  
13 necessary or convenient to carry out the purposes of this act.

14 b. No municipality shall modify or change the drawings, plans,  
15 or specifications for the construction, reconstruction, rehabilitation,  
16 alteration, or improvement of any project of the authority, or of the  
17 EDA, or the construction, plumbing, heating, lighting, or other  
18 mechanical branch of work necessary to complete the work in  
19 question, or require that any person, firm or corporation employed  
20 on any such work shall perform the work in any other or different  
21 manner than that provided by the drawings, plans, and  
22 specifications, or require that any person, firm or corporation obtain  
23 any other or additional authority, approval, permit, or certificate  
24 from the municipality in relation to the work being done, and the  
25 doing of the work by any person, firm, or corporation in accordance  
26 with the terms of the drawings, plans, specifications, or contracts  
27 shall not subject the person, firm, or corporation to any liability or  
28 penalty, civil or criminal, other than as may be stated in the  
29 contracts or incidental to the proper enforcement thereof; nor shall  
30 any municipality require the authority, the EDA, or any person,  
31 firm, partnership or corporation which leases or purchases the  
32 project for lease or purchase to a State agency, to obtain any other  
33 or additional authority, approval, permit, certificate, or certificate of  
34 occupancy from the municipality as a condition of owning, using,  
35 maintaining, operating, or occupying any project acquired,  
36 constructed, reconstructed, rehabilitated, altered, or improved by  
37 the authority or by the EDA. Notwithstanding the provisions of  
38 subsections b. and d. of section 15 of this act, municipal site plan  
39 approval and municipal subdivision approval shall not be required  
40 for any project undertaken by the authority or the EDA, but the  
41 project shall require the affirmative vote of seven members of the  
42 authority. The foregoing provisions shall not preclude any  
43 municipality from exercising the right of inspection for the purpose  
44 of requiring compliance by any project with local requirements for  
45 operation and maintenance affecting the health, safety, and welfare  
46 of the occupants thereof, provided that the compliance does not  
47 require changes, modifications or additions to the original  
48 construction of the project.

1       15. a. The authority shall propose and adopt development and  
2 design guidelines and land use regulations consistent with and in  
3 furtherance of the plan. Provisions may be made by the authority  
4 for the waiver, according to definite criteria, of strict compliance  
5 with the standards promulgated, where necessary to alleviate  
6 hardship. The plan and the development and design guidelines and  
7 land use regulations adopted by the authority shall supersede the  
8 master plans, the zoning and land use ordinances and regulations,  
9 and the zoning maps of the host municipalities adopted pursuant to  
10 the “Municipal Land Use Law,” P.L.1975, c.291 (C.40:55D-1 et  
11 seq.) insofar as the same may pertain to the project area, except  
12 with respect to the procedures to be followed for submitting and  
13 processing applications for subdivision or site plan approvals.

14       b. Applications for subdivision approval, site plan approval,  
15 and redevelopment within the project area shall utilize the  
16 development and design guidelines and land use regulations  
17 adopted by the authority, and shall be submitted to the planning  
18 board of the host municipality in which the project parcel is located  
19 for review and approval, and where required by law to the county  
20 planning board. The procedures for the approval of subdivisions  
21 and site plans within the project area shall be the procedures  
22 adopted by such host municipality pursuant to the “Municipal Land  
23 Use Law,” P.L.1975, c.291 (C.40:55D-1 et seq.) (including, but not  
24 limited to, notice provisions and the payment of application fees  
25 and the posting of escrow deposits, if any). The authority shall by  
26 regulation provide for mandatory conceptual review by or on behalf  
27 of the authority; provided, however, that unless accompanied by a  
28 request for a variance to be granted by the authority pursuant to  
29 subsection e. of this section, any such mandatory conceptual review  
30 shall be completed within 45 days of the authority’s receipt of the  
31 application, or within such later time period if agreed to by the  
32 applicant.

33       c. Whenever an application pursuant to subsection b. of this  
34 section is filed with a planning board, a copy of the application  
35 shall be submitted simultaneously to the authority, and notice of all  
36 public hearings in connection therewith shall be provided to the  
37 authority. The authority shall be deemed an interested party  
38 entitled to notice of all applications for properties within the project  
39 area or within 200 feet of the project area’s boundaries, irrespective  
40 of whether the authority owns the portion of the project area within  
41 200 feet.

42       d. In connection with subdivision and site plan approval, the  
43 planning boards shall have the authority to grant variances from the  
44 requirements of the development and design guidelines and land use  
45 regulations adopted by the authority to the extent such variances are  
46 permitted pursuant to subsection c. of section 57 of P.L.1975, c.291  
47 (C.40:55D-70).

1 e. (1) The provisions of subsection d. of section 57 of  
2 P.L.1975, c.291 (C.40:55D-70) notwithstanding and except as  
3 provided in paragraph (2) of this subsection, the authority shall  
4 have sole and exclusive jurisdiction to grant for special reasons  
5 shown, a variance from the requirements of the master plan,  
6 development and design guidelines or land use regulations adopted  
7 by the authority to permit: (a) a use or principal structure in a  
8 district restricted against such use or principal structure, (b) a  
9 continuation or an expansion of a nonconforming use, (c) deviation  
10 from a specification or standard pursuant to land use regulations  
11 adopted by the authority pertaining solely to a conditional use, (d)  
12 an increase in the permitted floor area ratio as established by the  
13 land use regulations adopted by the authority, (e) an increase in the  
14 permitted density as established by the land use regulations adopted  
15 by the authority or (f) a height of a principal structure which  
16 exceeds by 10 feet or 10 percent the maximum height permitted in  
17 the district for a principal structure. Such variances shall not be  
18 granted unless the applicant demonstrates to the satisfaction of the  
19 authority that special reasons exist for the granting of such variance,  
20 that the granting of the requested variance will not substantially  
21 impair the intent and purpose of the plan, and that the variance can  
22 be granted without substantial detriment to the public good.  
23 Application for such a variance shall be submitted together with or  
24 prior to an application for mandatory conceptual review pursuant to  
25 subsection b. of this section, and the authority shall approve or deny  
26 the application within 120 days of a complete submission unless the  
27 applicant agrees to extend the time. In lieu of granting a variance,  
28 the authority in its discretion may require the adoption of a plan  
29 amendment.

30 (2) Variances granted pursuant to subparagraphs (a) through (f)  
31 of paragraph (1) of this subsection shall require the affirmative vote  
32 of seven members of the authority, except that variances granted  
33 pursuant to subparagraph (e) shall be heard and recommended by  
34 the zoning boards of the host municipalities to the authority for its  
35 action on the variance request.

36 f. Notwithstanding any other provision of this act or law to the  
37 contrary, the host municipalities shall not designate the project area  
38 or any portion thereof as an area in need of redevelopment or an  
39 area in need of rehabilitation, or adopt a redevelopment plan for any  
40 property within the project area pursuant to the "Local  
41 Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1  
42 et al.) without the consent of the authority.

43  
44 16. Prior to the adoption of any amendment to the plan, the  
45 authority shall transmit a copy of the proposed plan amendment to  
46 the governing body of each host municipality. Within 45 days after  
47 referral, each governing body may transmit to the authority a report  
48 containing its recommendation concerning the proposed plan



1 amendment. The authority, when considering the adoption of the  
2 plan amendment shall review all reports received from the host  
3 municipalities and may accept or not accept any recommendations  
4 of the host municipalities; provided, however, that the authority  
5 shall record in its minutes its reasons for not accepting any such  
6 recommendations.

7  
8 17. a. If the authority or the EDA, as master redeveloper, shall  
9 find it necessary in connection with the undertaking of any of its  
10 projects to change the location of any portion of any public  
11 highway, or road, it may contract with any government agency, or  
12 public or private corporation which may have jurisdiction over the  
13 public highway or road to cause the public highway or road to be  
14 constructed at such location as the authority or the EDA, as master  
15 redeveloper, shall deem most favorable. The cost of the  
16 reconstruction and any damage incurred in changing the location of  
17 the highway shall be ascertained and paid by the authority or the  
18 EDA, as applicable, as a part of the cost of the project. Any public  
19 highway affected by the construction of any project may be vacated  
20 or relocated by the authority or the EDA, as master redeveloper, in  
21 the manner now provided by law for the vacation or relocation of  
22 public roads, and any damages awarded on account thereof shall be  
23 paid by the authority or the EDA, as applicable, as a part of the cost  
24 of the project. In all undertakings authorized by this subsection, the  
25 authority or the EDA, as master redeveloper, shall consult and  
26 obtain the approval of the Commissioner of Transportation.

27 b. In addition to the foregoing powers, the authority or the  
28 EDA, as master redeveloper and their respective authorized agents  
29 and, in with respect to EDA, its employees, may enter upon any  
30 lands, waters, and premises for the purpose of making surveys,  
31 soundings, drillings and examinations as it may deem necessary or  
32 convenient for the purposes of this act, all in accordance with due  
33 process of law, and this entry shall not be deemed a trespass nor  
34 shall an entry for this purpose be deemed an entry under any  
35 condemnation proceedings which may be then pending. The  
36 authority or the EDA, as applicable, shall make reimbursement for  
37 any actual damages resulting to the lands, waters, and premises as a  
38 result of these activities.

39 c. The authority or the EDA, as master redeveloper, shall also  
40 have power to make regulations, based on the appropriate national  
41 model code, for the installation, construction, maintenance, repair,  
42 renewal, relocation, and removal of tracks, pipes, mains, conduits,  
43 cables, wires, towers, poles and other equipment and appliances,  
44 herein called "public utility facilities," of any public utility as  
45 defined in R.S.48:2-13, in, on, along, over or under any project.  
46 Whenever the authority or the EDA, as master redeveloper, shall  
47 determine that it is necessary that any public utility facilities which  
48 now are, or hereafter may be, located in, on, along, over or under

1 any project shall be relocated in the project, or should be removed  
2 from the project, the public utility owning or operating the facilities  
3 shall relocate or remove the same in accordance with the order of  
4 the authority or the EDA, as master redeveloper. The cost and  
5 expenses of the relocation or removal, including the cost of  
6 installing the facilities in a new location, or new locations, and the  
7 cost of any lands, or any rights or interests in lands, and any other  
8 rights, acquired to accomplish the relocation or removal, shall be  
9 ascertained and paid by the authority or the EDA, as applicable, as a  
10 part of the cost of the project. In case of any relocation or removal  
11 of facilities, as aforesaid, the public utility owning or operating the  
12 same, its successors or assigns, may maintain and operate the  
13 facilities, with the necessary appurtenances, in the new location or  
14 new locations, for as long a period, and upon the same terms and  
15 conditions, as it had the right to maintain and operate the facilities  
16 in their former location or locations. In all undertakings authorized  
17 by this subsection the authority or the EDA, as master redeveloper,  
18 shall consult with the affected utilities in an attempt to come to  
19 agreement on the proposed undertaking. If the authority or the  
20 EDA, as master redeveloper, are not able to come to an agreement  
21 on such undertakings, the authority or the EDA, as master  
22 redeveloper, shall petition the Board of Public Utilities to obtain  
23 approval for such undertakings. The provisions of this subsection  
24 shall not affect the Board of Public Utilities' jurisdiction over any  
25 public utility as defined in R.S.48:2-13.

26

27 18. The authority is directed to prepare and complete a business  
28 plan which comprises all issues related to the closure, conversion,  
29 revitalization, and future use of Fort Monmouth. Further, this  
30 business plan shall: include a validation review of any extant  
31 studies on the perceived economic impact of this project on the  
32 State, the county, and the boroughs of Eatontown, Oceanport and  
33 Tinton Falls; refine existing market analyses and develop an  
34 absorption schedule; develop a short and long term job creation  
35 schedule; include a detailed fiscal analysis that considers cash flow,  
36 annual revenue and costs, cumulative revenue and costs, off-site  
37 infrastructure costs, and product absorption by year; include an  
38 investment and financing strategy that includes grants, local  
39 funding options such as the tax allocation district, bonds, taxation,  
40 licensing, permitting and fees, and private investment; include a  
41 determination of fair market value of property by parcel and overall,  
42 and propose an appropriate and feasible strategy for using available  
43 BRAC transfer tools.

44

45 19. All redevelopment within the project area shall be  
46 implemented pursuant to a redevelopment agreement between the  
47 authority and the redeveloper, or the authority and the EDA as  
48 master redeveloper, or between the EDA as master redeveloper and

1 the redeveloper, as the case may be. All redevelopment agreements  
2 from or between the authority or the master redeveloper and to or  
3 with a redeveloper shall contain, without being limited to, the  
4 following provisions: a. a provision limiting the use of the property  
5 to the uses permitted pursuant to the plan; b. a provision requiring  
6 the redeveloper to commence and complete the project within a  
7 period of time that the authority or the master redeveloper fixes as  
8 reasonable; c. any lease to a redeveloper may provide that all  
9 improvements shall become the property of the authority; and d.  
10 such other covenants, provisions, and continuing controls as may be  
11 deemed necessary to effectuate the purposes of this act.

12

13 20. a. For the purposes of this section:

14 “Affected municipality” means a municipality that is located  
15 within, in whole or in part, a Fort Monmouth special improvement  
16 district established pursuant to subsection b. of this section.

17 “Fort Monmouth special improvement district” means an area  
18 within the project area designated by resolution of the authority as  
19 an area in which a special assessment on property within the project  
20 area shall be imposed for the purposes of promoting the economic  
21 and general welfare of the project area. The resolution shall  
22 exempt residential properties, residential portions of mixed use  
23 properties, or parcels with any number of residential units located  
24 within the Fort Monmouth special improvement district from  
25 special assessment. The resolution may exempt vacant properties  
26 within the Fort Monmouth special improvement district from  
27 special assessment.

28 b. A Fort Monmouth special improvement district resolution  
29 may be adopted if the authority finds: (1) that an area within the  
30 project area, as described by lot and block numbers and by street  
31 addresses in the enabling resolution, would benefit from being  
32 designated as a Fort Monmouth special improvement district; (2)  
33 that the authority would provide administrative and other services  
34 to benefit the businesses, employees, residents and consumers in the  
35 Fort Monmouth special improvement district; (3) that a special  
36 assessment shall be imposed and collected by the affected  
37 municipality or municipalities with the regular property tax  
38 payment or payment in lieu of taxes or otherwise, and that all or a  
39 portion of these payments shall be transferred to the authority to  
40 effectuate the purposes of this act and to exercise the powers given  
41 to it by resolution; and (4) that it is in the best interest of the public  
42 to create a Fort Monmouth special improvement district. If the  
43 authority determines that the imposition and collection of the  
44 special assessment will involve annual costs to an affected  
45 municipality in addition to the initial cost of the imposition and  
46 collection of the regular property tax payment or payment in lieu of  
47 taxes or otherwise, and that such annual costs relate to property tax  
48 payment imposition and collection activities peculiar to the Fort

1 Monmouth special improvement district, and distinguished from  
2 property tax payment imposition and collection activities normally  
3 provided by the municipality outside of the Fort Monmouth special  
4 improvement district, the authority shall provide that the property  
5 tax payment imposition and collection activities of the affected  
6 municipality be conducted pursuant to the provisions of this act and  
7 provide that a portion of the funds generated from the proceeds of  
8 the collection of the special assessment be retained by the affected  
9 municipality to cover the costs of the property tax payment  
10 imposition and collection activities of the affected municipality  
11 conducted pursuant to the provisions of this act.

12 c. The authority may, by resolution, authorize the  
13 commencement of studies and the development of preliminary plans  
14 and specifications relating to the creation and maintenance of a Fort  
15 Monmouth special improvement district, including, whenever  
16 possible, estimates of construction and maintenance, and costs and  
17 estimates of potential gross benefit assessment. These studies and  
18 plans may include criteria to regulate the construction and alteration  
19 of facades of buildings and structures in a manner which promotes  
20 unified or compatible design.

21 d. Upon review of the reports and recommendations submitted,  
22 a resolution may be adopted authorizing and directing the  
23 establishment and maintenance of a Fort Monmouth special  
24 improvement district. In addition to other requirements for the  
25 consideration and adoption of resolutions, at least 10 days prior to  
26 the date fixed for a public hearing thereon, a copy of the proposed  
27 resolution and notice of the date, time, and place of the hearing  
28 shall be mailed to the owners of the lots or parcels of land abutting  
29 or included in the Fort Monmouth special improvement district  
30 proposed by the resolution.

31 e. A Fort Monmouth special improvement district resolution  
32 may provide that a Fort Monmouth special improvement district  
33 shall be deemed a local improvement in accordance with this act  
34 and the provisions of chapter 56 of Title 40 of the Revised Statutes,  
35 R.S.40:56-1 et seq.; that all costs of development, construction, and  
36 acquisition relating to the provision of improvements for a Fort  
37 Monmouth special improvement district, as the case may be, shall  
38 be financed by the authority and assessed by the affected  
39 municipality or municipalities, as the case may be, to properties  
40 especially benefited thereby as provided generally by R.S.40:56-1  
41 et seq., and the resolution shall list and describe, by lot and block  
42 numbers and by street addresses, all properties to be assessed for  
43 the Fort Monmouth special improvement district improvements.  
44 The affected municipality or municipalities, as the case may be,  
45 may provide by ordinance or parallel ordinance for one or more  
46 special assessments within the Fort Monmouth special improvement  
47 district in accordance with chapter 56 of Title 40 of the Revised  
48 Statutes, R.S.40:56-1 et seq.; provided that the special assessment

1 carried out pursuant to this section shall be deemed an assessment  
2 for benefits and shall be as nearly as may be in proportion to and  
3 not in excess of the peculiar benefit, advantage, or increase in value  
4 which the respective lots and parcels of real estate shall be deemed  
5 to receive by reason of such improvement.

6 f. If the authority determines that the improvements will  
7 involve annual costs to an affected municipality, in addition to the  
8 initial cost of constructing and making the improvements, and that  
9 such annual costs relate to maintenance services peculiar to the Fort  
10 Monmouth special improvement district, and distinguished from  
11 maintenance services normally provided by the municipality outside  
12 of the Fort Monmouth special improvement district, and will  
13 provide benefits primarily to property included in the district, rather  
14 than to the municipality as a whole, the resolution shall provide that  
15 the improvements and facilities thereof shall be operated and  
16 maintained pursuant to the provisions of this act and the  
17 municipality shall be authorized to provide that the costs thereof be  
18 assessed or taxed to benefited properties or businesses pursuant to  
19 the provisions of section 16 of P.L.1972, c.134 (C.40:56-80). At  
20 any time after the Fort Monmouth special improvement district  
21 resolution has been adopted or lands have been acquired or  
22 improved for a Fort Monmouth special improvement district, the  
23 authority may upon such determination provide, by separate  
24 resolution or by amendment to the resolution, that the  
25 improvements and facilities thereof shall be so operated and  
26 maintained and the costs so assessed to benefited properties or  
27 businesses. In any such case, such resolution shall describe the  
28 properties to be assessed, or in which any businesses may be  
29 contained which may be assessed, for such annual costs, which area  
30 may be given the name “(name of Fort Monmouth Special  
31 Improvement District) Fort Monmouth Improvement District.”

32

33 21. a. There is established the Fort Monmouth Transportation  
34 Planning District which shall consist of those lands which comprise  
35 the project area. The authority shall administer and manage the  
36 transportation planning district and carry out such additional  
37 functions as provided herein.

38 b. In furtherance of the development of a coherent and  
39 sustainable transportation system for the project area, the authority  
40 shall initiate a joint planning process with participation by: State  
41 departments and agencies, corporations, commissions, boards, and  
42 authorities; metropolitan planning organizations, and counties and  
43 municipalities with jurisdiction in the district; and private  
44 representatives. The authority shall oversee the development and  
45 updating of a comprehensive, future-oriented district transportation  
46 plan.

47 c. The district transportation plan shall establish goals,  
48 policies, needs, and improvement priorities for all modes of

1 transportation, including walking and bicycling, within the district  
2 and shall be consistent with the revitalization plan. The district  
3 transportation plan shall be based on a reasonable assessment of  
4 likely future growth reflected in the revitalization plan.

5 d. The district transportation plan shall quantify transportation  
6 needs arising from anticipated future traffic passing within or  
7 through the district based upon future development anticipated to  
8 occur within or through the district, and reflected in the  
9 revitalization plan. The district transportation plan shall set forth  
10 proposed transportation projects designed to address that future  
11 development, prioritized over increments of five years, the  
12 allocation of public and private shares of project costs and  
13 allowable administrative costs, and the amount, schedule, and  
14 collection of development fees. If new developments are proposed  
15 in the district which are not considered in the district transportation  
16 plan which is currently in effect, that plan shall be reevaluated,  
17 notwithstanding the five-year increment provision.

18 e. The district transportation plan shall be in accordance with  
19 the State transportation master plan adopted under section 5 of  
20 P.L.1966, c.301 (C.27:1A-5), the applicable county master plans  
21 adopted under R.S.40:27-2, and the applicable regional  
22 transportation plan or plans adopted by a metropolitan planning  
23 organization pursuant to 23 C.F.R. s.450.322.

24 f. The district transportation plan shall include a financial  
25 element setting forth a statement of projected revenue and expenses,  
26 including all project costs. The financial element of the district  
27 transportation plan shall identify public and private financial  
28 resources which may be available to fund, in whole or in part, those  
29 transportation projects set forth in that plan. The financial element  
30 shall make recommendations for the types and rates of development  
31 fees to be assessed under subsection i. of this section, formulas to  
32 govern the assessment of those fees, and the projected annual  
33 revenue to be derived therefrom.

34 g. The authority staff shall make copies of the district  
35 transportation plan available to the public for inspection no less  
36 than 14 days prior to any formal action by the authority to adopt the  
37 plan. In addition, the authority staff shall take steps to notify  
38 members of the business community and other interested parties of  
39 the district transportation plan and shall hold a public hearing  
40 thereon after having given public notice of the hearing.

41 h. The authority may, by resolution adopt the district  
42 transportation plan as recommended by the staff or with  
43 modifications.

44 i. After the adoption of the district transportation plan by the  
45 authority pursuant to subsection h. of this section, the authority  
46 may, by resolution, provide for the assessment and collection of  
47 development fees on developments within the transportation  
48 planning district as provided hereunder.

- 1       j. Development fees assessed by the authority shall be based  
2 upon the growth and development forecasts contained in the district  
3 transportation plan and shall be levied in order to raise only those  
4 amounts needed to accomplish the transportation projects set forth  
5 in the district transportation plan and allowable administrative  
6 costs. Those fees shall be assessed based upon the formula or  
7 formulas contained in the resolution adopted pursuant to subsection  
8 i. of this section and shall be uniformly applied, with such  
9 exceptions as are authorized or required herein.
- 10       k. A formula or formulas adopted by the authority by  
11 resolution shall reflect a methodology which relates the use of land  
12 to the impact of the proposed development on the transportation  
13 system, including, but not limited to: vehicle trips generated by the  
14 development; the square footage of an occupied structure; the  
15 number of employees regularly employed at the development; or the  
16 number of parking spaces located at the development; or any  
17 combination thereof.
- 18       l. The resolution may provide for credits against assessed  
19 development fees for payments made or expenses incurred which  
20 have been determined by the authority to be in furtherance of the  
21 district transportation plan, including, but not limited to,  
22 contributions to transportation improvements other than those  
23 required for safe and efficient highway access to a development,  
24 and costs attributable to the promotion of public transit, walking,  
25 bicycling, or ridesharing.
- 26       m. The resolution may either exempt or reduce the development  
27 fee for specified land uses which have been determined by the  
28 authority to have a beneficial, neutral, or comparatively minor  
29 adverse impact on the transportation needs of the transportation  
30 planning district.
- 31       n. The resolution may provide for a reduced rate of  
32 development fees for developers submitting a peak-hour automobile  
33 trip reduction plan approved by the authority under standards  
34 adopted by the authority. Standards for the approval of peak-hour  
35 automobile trip reduction plans may include, but need not be  
36 limited to, physical design for improved transit, ridesharing, and  
37 pedestrian access; design of developments which include a mix of  
38 residential and nonresidential uses; and proximity to potential labor  
39 pools.
- 40       o. The assessment of a development fee shall be reasonably  
41 related to the impact of the proposed development on the  
42 transportation system of the transportation planning district and  
43 shall not exceed the development's fair share of the cost of the  
44 transportation improvement necessary to accommodate the  
45 additional burden on the district's transportation system that is  
46 attributable to the proposed development and related allowable  
47 administrative costs.

- 1 p. A resolution shall be sufficiently certain and definitive to  
2 enable every person who may be required to pay a fee to know or  
3 calculate the limit and extent of the fee which is to be assessed  
4 against a specific development.
- 5 q. Upon the adoption by the authority of a resolution pursuant  
6 to subsection i. of this section, no separate assessment for off-site  
7 transportation improvements within the transportation planning  
8 district shall be made by the State, a county, or municipality except  
9 as permitted pursuant to this act.
- 10 r. A resolution adopted by the authority pursuant to subsection  
11 i. of this section shall provide for the establishment of a  
12 transportation planning district fund under the control of the  
13 authority and administered by the New Jersey Economic  
14 Development Authority. All monies collected from development  
15 fees shall be deposited into the fund, which shall be invested in an  
16 interest-bearing account. Monies deposited in the fund shall be  
17 used to defray project costs and allowable administrative costs.
- 18 s. Every transportation project funded, in whole or in part, by  
19 funds from a transportation planning district fund shall be subject to  
20 a project agreement to which the relevant entities are parties. The  
21 expenditure of funds for this purpose shall not be made from a  
22 transportation planning district fund, except by approval of the  
23 project budget by the authority and upon certification of the chief  
24 fiscal officer of the New Jersey Economic Development Authority  
25 that the expenditure is in accordance with a project agreement or is  
26 otherwise a project cost and has the approval of the authority.
- 27 t. Notwithstanding any other law to the contrary, no  
28 development fees shall be assessed for any low and moderate  
29 income housing units which are constructed pursuant to the "Fair  
30 Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) or under court  
31 order or settlement.
- 32 u. (1) The payments due to the authority, whether as a lump  
33 sum or as balances due when a series of payments is to be made,  
34 shall be enforceable by the authority as a lien on the land and any  
35 improvements thereon. The lien shall be recorded by the county  
36 officer in the record book of the county office.
- 37 (2) When the fee is paid in full on the development or portion  
38 thereof, the lien on the development or portion thereof, as  
39 appropriate, shall be removed. When a series of payments is to be  
40 made, failure to make any one payment within 30 days after receipt  
41 of a notice of late payment shall constitute a default and shall  
42 obligate the person owing the unpaid balance to pay that balance in  
43 its entirety.
- 44 (3) All amounts assessed as a lien pursuant to this section shall  
45 be a lien upon the land against which they are assessed in the same  
46 manner that taxes are made a lien against land pursuant to Title 54  
47 of the Revised Statutes, and the payment thereof shall be enforced  
48 within the same time and in the same manner and by the same



1 proceedings as the payment of taxes is otherwise enforced under  
2 Title 54 of the Revised Statutes.

3 v. (1) Any fees collected, plus earned interest, not committed  
4 to a transportation project under a project agreement entered into  
5 under subsection s. of this section within 10 years of the date of  
6 collection, or not used for other allowable administrative costs  
7 within 10 years of the date of collection, shall be refunded to the  
8 fee-payer under a procedure prescribed by the authority; provided,  
9 however, that if the fee-payer transfers the development or any  
10 portion thereof, the fee-payer shall enter into an agreement with the  
11 grantee in such form as shall be provided by the authority which  
12 shall indicate who shall be entitled to receive any refund, and that  
13 agreement shall be filed with the chief fiscal officer of the EDA.

14 (2) Any person who has been assessed a development fee may  
15 request in writing a reconsideration of the assessment and a hearing  
16 by an employee so delegated by the authority within 90 days of the  
17 receipt of notification of the amount of the assessment on the  
18 grounds that the authority or its officers or employees in issuing the  
19 assessment did not abide by the provisions of this section or the  
20 provisions of the resolution adopted by the authority pursuant to  
21 this section.

22 w. A person may appeal to the authority any decision made in  
23 connection with the reconsideration of an assessment as authorized  
24 pursuant to subsection v. of this section. The authority shall review  
25 the record of the hearing and render its decision, which shall  
26 constitute an administrative action subject to review by the  
27 Appellate Division of the Superior Court. Nothing contained herein  
28 shall be construed as limiting the ability of any person so assessed  
29 from filing an appeal based upon an agreement to pay or actual  
30 payment of the fee.

31 x. For the purposes of this section:

32 "Allowable administrative costs" means expenses incurred by the  
33 authority in developing a district transportation plan, including a  
34 financial element, and in managing a transportation planning  
35 district.

36 "Developer" means the legal or beneficial owner or owners of a  
37 lot or of any land proposed to be included in a proposed  
38 development, including the holder of an option or contract to  
39 purchase, or other person having an enforceable proprietary interest  
40 in such land.

41 "Development" means "development" in the meaning of section  
42 3.1 of the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-  
43 4).

44 "Development fee" means a fee assessed on a development  
45 pursuant to a resolution of the authority adopted under subsection i.  
46 of this section.

1       “District” or “transportation planning district” means the Fort  
2 Monmouth Transportation Planning District established pursuant to  
3 subsection a. of this section.

4       “Project agreement” means an agreement between the authority  
5 and a developer providing the terms and conditions under which the  
6 developer agrees to perform any work or undertaking necessary for  
7 a transportation project.

8       “Project costs” means expenses incurred in the planning, design,  
9 engineering and construction of any transportation project, and shall  
10 include debt service.

11       “Public highways” means public roads, streets, expressways,  
12 freeways, parkways, motorways, and boulevards including bridges,  
13 tunnels, overpasses, underpasses, interchanges, rest areas, express  
14 bus roadways, bus pullouts and turnarounds, park-ride facilities,  
15 traffic circles, grade separations, traffic control devices, the  
16 elimination or improvement of crossings of railroads and highways,  
17 whether at grade or not at grade, bicycle and pedestrian pathways,  
18 pedestrian and bicycle bridges traversing public highways, and any  
19 facilities, equipment, property, rights-of-way, easements and  
20 interests therein needed for the construction, improvement, and  
21 maintenance of highways.

22       “Public transportation project” means, in connection with public  
23 transportation service or regional ridesharing programs, passenger  
24 stations, shelters and terminals, automobile parking facilities,  
25 ferries and ferry facilities including capital projects for ferry  
26 terminals, approach roadways, pedestrian accommodations, parking,  
27 docks, and other necessary land-side improvements, ramps, track  
28 connections, signal systems, power systems, information and  
29 communication systems, roadbeds, transit lands or rights-of-way  
30 equipment storage and servicing facilities, bridges, grade crossings,  
31 rail cars, locomotives, motorbus and other motor vehicles,  
32 maintenance and garage facilities, revenue handling equipment and  
33 any other equipment, facility or property useful for or related to the  
34 provision of public transportation service or regional ridesharing  
35 programs.

36       “Transportation project” or “transportation improvement” means,  
37 in addition to public highways and public transportation projects,  
38 any equipment, facility, or property useful or related to the  
39 provision of any ground, waterborne, or air transportation for the  
40 movement of people and goods within or through the district,  
41 including rail freight infrastructure.

42

43       22. a. The authority may adopt a resolution creating an  
44 infrastructure district whenever the authority determines that the  
45 improvement of the infrastructure of the property within the  
46 infrastructure district will promote the health and general welfare of  
47 the residents of the project area, the host municipalities, and the  
48 infrastructure district. An infrastructure district created pursuant to

1 this subsection may be comprised of any or all lands which  
2 comprise the project area. The authority may create, by separate  
3 resolution, more than one infrastructure district.

4 b. (1) If so determined by the authority, the receipts of retail  
5 sales, except retail sales of motor vehicles, of alcoholic beverages  
6 as defined in the "Alcoholic beverage tax law," R.S.54:41-1 et seq.,  
7 of cigarettes as defined in the "Cigarette Tax Act," P.L.1948, c.65  
8 (C.54:40A-1 et seq.), of manufacturing machinery, equipment or  
9 apparatus, and of energy, made by a certified vendor from a place  
10 of business owned or leased and regularly operated by the vendor  
11 for the purpose of making retail sales, and which place of business  
12 is located within an infrastructure district created pursuant to  
13 subsection a. of this section, will be exempt to the extent of 50  
14 percent of the tax imposed under the "Sales and Use Tax Act,"  
15 P.L.1966, c.30 (C.54:32B-1 et seq.); and the authority for the  
16 purpose of increasing public revenue may adopt a resolution to levy  
17 and collect, within an infrastructure district created pursuant to  
18 subsection a. of this section, a franchise assessment not to exceed  
19 an amount equivalent to 50 percent of the tax imposed under the  
20 "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) and  
21 to devote the proceeds from those assessments to purposes as  
22 provided in this section.

23 Any vendor having a place of business located within an  
24 infrastructure district may apply to the Director of the Division of  
25 Taxation in the Department of Treasury for certification pursuant to  
26 this paragraph. The director shall certify a vendor if he shall find  
27 that the vendor owns or leases and regularly operates a place of  
28 business located in an infrastructure district for the purposes of  
29 making retail sales, that items are regularly exhibited and offered  
30 for retail sale at that location, and that the place of business is not  
31 utilized primarily for the purpose of catalogue, Internet or mail  
32 order sales. The director may at any time revoke a certification  
33 granted pursuant to this paragraph.

34 (2) The rate of the franchise assessment shall be uniform  
35 throughout the infrastructure district. The franchise assessment  
36 shall apply only within the territorial limits of the infrastructure  
37 district and shall be in addition to any other assessments, taxes, and  
38 excises.

39 (3) The resolution adopted pursuant to subsection a. of this  
40 section shall continue in force and effect until repealed by the  
41 authority.

42 (4) No franchise assessment shall be imposed on gross receipts  
43 which a municipality or the State is prohibited from taxing under  
44 New Jersey law, or the Constitution and laws of the United States of  
45 America.

46 (5) Upon adoption, the authority shall immediately transmit a  
47 copy of the resolution to the Director of the Division of Local  
48 Government Services in the Department of Community Affairs and

1 to the Director of the Division of Taxation in the Department of the  
2 Treasury. Every resolution levying a franchise assessment pursuant  
3 to this section shall provide for reporting assessments due and for  
4 the collection thereof, and all franchise assessments pursuant to  
5 such a resolution shall be remitted to the chief financial officer of  
6 the EDA. A resolution levying a franchise assessment shall take  
7 effect only on the first day of any month in any year. The  
8 resolution shall provide for the allocation and distribution of the  
9 proceeds of the franchise assessments collected.

10 (6) The resolution shall set forth the person or persons subject to  
11 the franchise assessment payment and collection procedures, and  
12 any other matters deemed relevant by the authority with the  
13 authority having discretion as to the mechanism to be utilized. The  
14 resolution shall also contain findings that the imposition of the  
15 franchise assessment is necessary because of the substantial risks  
16 undertaken to develop an infrastructure district.

17 (7) The resolution shall provide for the collection of the  
18 franchise assessment by an officer of the authority who shall be  
19 designated in the resolution; shall provide methods for enforcement;  
20 shall provide the permitted uses of the franchise assessment; and  
21 may provide penalties for the violation of any of the provisions of  
22 the resolution. "Permitted uses" may include the provision of loans,  
23 grants, or debt service for financing or refinancing the construction,  
24 reconstruction, repair, alteration, improvement, and development of  
25 any on-site or off-site infrastructure improvements, or parking or  
26 transportation facilities, or work that reduces, abates, or prevents  
27 environmental pollution, or other improvements that provide a  
28 public benefit within or to an infrastructure district.

29 c. For the purposes of effective administration of the franchise  
30 assessment, the authority shall have the authority to:

31 (1) Collect the franchise assessment, interest, and penalties  
32 imposed by a resolution adopted pursuant to paragraph (1) of  
33 subsection b. of this section which shall from the time due be a debt  
34 of the person by whom payable to the authority, recoverable in a  
35 court of competent jurisdiction in a civil action in the name of the  
36 authority to be instituted within three years of the date due.

37 (2) Authorize, as an additional remedy, the chief financial  
38 officer of the EDA to issue a certificate to the clerk of the Superior  
39 Court that any person is indebted under the resolution in an amount  
40 stated in the certificate. Thereupon, the clerk to whom the  
41 certificate is issued shall immediately enter upon the record of  
42 documented judgments the name of the person, the address of the  
43 place of business where the franchise assessment liability was  
44 incurred, the amount of the debt so certified, and the date of making  
45 of the entry. The making of the entry shall have the same force and  
46 effect as the entry of a documented judgment in the office of the  
47 clerk, and the chief financial officer of the EDA shall have all the  
48 remedies and may take all the proceedings for the collection of the

1 debt which may be had or taken upon the recovery of a judgment in  
2 an action, but without prejudice to the person's right of appeal.

3 (3) Provide that, if for any reason the franchise assessment is  
4 not paid when due, interest at the rate of 12% per annum on the  
5 amount of the franchise assessment due, and an additional penalty  
6 of one-half of 1% of the amount of the unpaid assessment for each  
7 month or fraction thereof during which the franchise assessment  
8 remains unpaid, shall be added and collected. When action is  
9 brought for the recovery of any franchise assessment, the person  
10 liable therefor shall, in addition, be liable for the reasonable costs of  
11 collection and the interest and penalties imposed.

12 Any aggrieved person may, within 90 days of the entry of the  
13 decision, order, finding, assessment or action of the chief financial  
14 officer of the EDA under this section, file an appeal in the Superior  
15 Court, upon payment of the amount stated by the chief financial  
16 officer of the EDA to be due. The appeal provided by this section  
17 shall be the exclusive remedy available to any person for review of  
18 a determination of the chief financial officer of the EDA with  
19 respect to a liability for the franchise assessment imposed.

20 For the purposes of this section, "franchise assessment" means  
21 an assessment on the amount of the sale price of all tangible  
22 property sold by a business, valued in money, whether received in  
23 money or otherwise, excluding the cost of transportation if such  
24 cost is separately stated in the written contract and in the amount of  
25 50 percent of the tax imposed pursuant to the "Sales and Use Tax  
26 Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

27  
28 23. The following are repealed:  
29 Sections 1 through 13 of P.L.2006, c.16 (C.52:27I-1 to 27:I-13);  
30 Sections 15 and 16 of P.L.2006, c.16 (C.52:27I-15 and 27:I-16).

31  
32 24. This act shall take effect on the 45th day after the date of  
33 enactment, except that section 23 shall take effect on the date that  
34 the authority assumes all of the powers, rights, assets, and duties of  
35 the predecessor authority.

36  
37  
38 STATEMENT

39  
40 This bill establishes the "Monmouth Economic Revitalization  
41 Authority" ("the authority") as the successor to the "Fort Monmouth  
42 Economic Revitalization Planning Authority" ("the predecessor  
43 authority"), which is abolished. The predecessor authority was  
44 designated by the federal government as the entity to develop a  
45 comprehensive conversion and revitalization plan for the territory  
46 encompassed by Fort Monmouth, which facility is to be closed  
47 under the federal Base Closure and Realignment law. The  
48 predecessor authority submitted the conversion and revitalization

1 plan, entitled the "Fort Monmouth Reuse and Redevelopment Plan,"  
2 as well as a homeless assistance submission, on September 4, 2008  
3 to the federal government. The new authority has as its purpose the  
4 oversight, administration and implementation of the revitalization  
5 plan.

6 The membership of the authority, which is allocated in but not of  
7 the Department of the Treasury, is to consist of 13 members of  
8 which nine are voting members as follows: three members  
9 appointed by the Governor for staggered terms with the advice and  
10 consent of the Senate; the chief executive officer of the Economic  
11 Development Authority ("EDA"), another member of the Executive  
12 Branch, ex officio, a resident of Monmouth County ("the county")  
13 appointed by the Board of Chosen Freeholders, and the mayors of  
14 Eatontown, Oceanport, and Tinton Falls; and four ex officio non-  
15 voting members: the Commissioners of Labor and Workforce  
16 Development, Environmental Protection, Community Affairs, and  
17 Transportation. The authority is to be staffed by an office  
18 established by this bill in the EDA and consisting of EDA staff  
19 under EDA supervision.

20 The authority is given extensive power to revitalize and  
21 redevelop the Fort Monmouth area (the "project area") in  
22 implementing the revitalization plan. Among these powers are the  
23 powers to:

24 (1) enter into a master redevelopment agreement with the EDA  
25 and to delegate certain of its powers to the EDA as master  
26 redeveloper;

27 (2) undertake redevelopment projects;

28 (3) adopt development and design guidelines and land use  
29 regulations and, if so designated, to adopt the homeless assistance  
30 submission required under the federal Base Closure and  
31 Realignment law;

32 (4) acquire, including by condemnation, properties within the  
33 project area where necessary in connection with the provision of  
34 utilities, streets, roads or other infrastructure required for the  
35 implementation of the revitalization plan; and

36 (5) consent to a request by a host municipality for, or request  
37 that the host municipality consider, the designation of portions of  
38 the project area as being in need of redevelopment or rehabilitation  
39 in accordance with the "Local Redevelopment and Housing Law,"  
40 P.L.1992, c.79 (C.40A:12A-1 et al.).

41 The revitalization plan and the development and design  
42 guidelines and land use regulations adopted by the authority will  
43 supersede the master plan, zoning and land use ordinances and  
44 regulations, and zoning maps of the host municipalities (Eatontown,  
45 Oceanport and Tinton Falls) in the project area, except for  
46 applications for subdivision or site plan approval, although the  
47 applications are to utilize the authority's guidelines and regulations.

1 The authority may act by an affirmative vote of five members on  
2 most matters, but an affirmative vote of seven members is required  
3 for any action to: 1) revise the revitalization plan or to adopt or  
4 revise the development and design guidelines or land use  
5 regulations adopted by the authority; 2) enter into a master  
6 redevelopment agreement with the EDA; 3) adopt any amendment  
7 to the plan pursuant to section 16 of the bill; 4) acquire easements,  
8 rights of way, or fee title to properties pursuant to subsection g. of  
9 section 9 of the bill; 5) undertake a project by the authority or the  
10 EDA; 6) grant a variance from the requirements of the master plan,  
11 development and design guidelines or land use regulations adopted  
12 by the authority; or 7) consent to the designation of any portion of  
13 the project area as an area in need of redevelopment or in need of  
14 rehabilitation.

15 The authority is to prepare a business plan which comprises all  
16 issues related to the closure, conversion, revitalization and future  
17 use of Fort Monmouth and also including analyses and strategies  
18 dealing with such matters as the economic impact of the project, job  
19 creation, cash flow, investment and financing strategy, etc.

20 All redevelopments within the project area are to be  
21 implemented pursuant to a redevelopment agreement between the  
22 authority or the redeveloper, or the authority and the EDA as master  
23 redeveloper, or between the EDA as master redeveloper and the  
24 redeveloper.

25 The bill authorizes the creation of various special purpose  
26 districts, namely, special improvement districts, a transportation  
27 planning district and infrastructure districts. The special  
28 improvement district is an area within the Fort Monmouth area  
29 designated by the authority in which a special assessment on  
30 property within the district may be imposed for the purposes of  
31 promoting the economic and general welfare of the Fort Monmouth  
32 area. A special assessment is to be imposed and collected by the  
33 affected municipalities and all or a portion of these payments are to  
34 be transferred to the authority. The improvements for which the  
35 assessments are to be imposed are local improvements under  
36 R.S.40:56-1 et seq. Such improvements will be financed by the  
37 authority. This district is modeled on the special improvement  
38 districts which may be designated by municipalities pursuant to  
39 P.L.1972, c.134 (C.40:56-65 et seq.).

40 The bill establishes the project area as the Fort Monmouth  
41 Transportation Planning District. The district, which is modeled on  
42 the Hackensack Meadowlands Transportation Planning District  
43 established pursuant to P.L.2005, c.102 (C.13:17-95 et seq.),  
44 permits the authority to provide for the assessment and collection of  
45 development fees on developments within the district. The fees  
46 would be used to fund transportation projects and allowable  
47 administrative costs within the district.

1       The bill authorizes the authority to create an infrastructure  
2 district or districts and, if so determined by the authority, the  
3 receipts of certain sales within the district will be exempt to the  
4 extent of 50 percent of the State's sales tax and the authority may  
5 adopt a franchise assessment not to exceed an amount equivalent to  
6 50 percent of the sales tax. This concept is based on a provision of  
7 the "Large Site Landfill Reclamation and Improvement Law,"  
8 P.L.1995, c.173 (C.40A:12A-50 et seq.), which was used to finance  
9 the infrastructure related to Jersey Gardens Mall in Elizabeth. The  
10 resolution establishing the infrastructure district shall contain  
11 findings that the imposition of the franchise assessment is necessary  
12 because of the substantial risks undertaken to develop an  
13 infrastructure district. The permitted uses of the franchise  
14 assessment include the provision of loans, grants, or debt service for  
15 financing or refinancing on-site or off-site infrastructure  
16 improvements, parking or transportation facilities, or work that  
17 reduces, abates, or prevents environmental pollution, or other  
18 improvements that provide a public benefit within or to an  
19 infrastructure district.

20       The bill provides for the repeal of certain sections of P.L.2006,  
21 c.16 (C.52:27I-1 et seq.) which relate to the predecessor authority.



# SENATE ECONOMIC GROWTH COMMITTEE

## STATEMENT TO

### **SENATE, No. 917**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 3, 2010

The Senate Economic Growth Committee reports favorably Senate Bill No. 917 with committee amendments.

This bill, as amended, establishes the "Fort Monmouth Economic Revitalization Authority" ("the authority") as the successor to the "Fort Monmouth Economic Revitalization Planning Authority" ("the predecessor authority"), which is abolished. The predecessor authority was designated by the federal government as the entity to develop a comprehensive conversion and revitalization plan for the territory encompassed by Fort Monmouth, which facility is to be closed under the federal Base Closure and Realignment law. The predecessor authority submitted the conversion and revitalization plan, entitled the "Fort Monmouth Reuse and Redevelopment Plan," as well as a homeless assistance submission, on September 4, 2008 to the federal government. The new authority has as its purpose the oversight, administration and implementation of the revitalization plan.

The membership of the authority, which is allocated in but not of the Department of the Treasury, is to consist of 13 members of which nine are voting members as follows: three members appointed by the Governor for staggered terms with the advice and consent of the Senate; the chairperson of the Economic Development Authority ("EDA"), another member of the Executive Branch, ex officio, a freeholder of Monmouth County ("the county") appointed by the Board of Chosen Freeholders, and the mayors of Eatontown, Oceanport, and Tinton Falls; and four ex officio non-voting members: the Commissioners of Labor and Workforce Development, Environmental Protection, Community Affairs, and Transportation. The authority is to be staffed by an office established by this bill in the EDA and consisting of EDA staff under EDA supervision.

The authority is given extensive power to revitalize and redevelop the Fort Monmouth area (the "project area") in implementing the revitalization plan. Among these powers are the powers to:

- (1) enter into a designated redevelopment agreement with the EDA and to delegate certain of its powers to the EDA as designated redeveloper;
- (2) undertake redevelopment projects;

(3) adopt development and design guidelines and land use regulations and, if so designated, to adopt the homeless assistance submission required under the federal Base Closure and Realignment law;

(4) acquire, including by condemnation, properties within the project area where necessary in connection with the provision of utilities, streets, roads or other infrastructure required for the implementation of the revitalization plan; and

(5) consent to a request by a host municipality for, or request that the host municipality consider, the designation of portions of the project area as being in need of redevelopment or rehabilitation in accordance with the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.).

The revitalization plan and the development and design guidelines and land use regulations adopted by the authority will supersede the master plan, zoning and land use ordinances and regulations, and zoning maps of the host municipalities (Eatontown, Oceanport and Tinton Falls) in the project area, except for applications for subdivision or site plan approval, although the applications are to utilize the authority's guidelines and regulations.

The authority may act by an affirmative vote of five members on most matters, but an affirmative vote of seven members is required for any action to: 1) adopt or revise the revitalization plan or adopt or revise the development and design guidelines or land use regulations adopted by the authority; 2) enter into a designated redevelopment agreement with the EDA; 3) adopt any amendment to the plan; 4) approve any project undertaken by the EDA; 5) acquire easements, rights of way, or fee title to properties pursuant to subsection g. of section 9 of the bill; 6) approve any project undertaken by the EDA; 7) approve the budget of the office or any amendment to the budget, in any year that the authority is anticipated to receive no funding from the federal government; 8) grant a variance from the requirements of the master plan, development and design guidelines or land use regulations adopted by the authority; or 9) consent to the designation of any portion of the project area as an area in need of redevelopment or in need of rehabilitation.

The authority is to prepare a business plan which comprises all issues related to the closure, conversion, revitalization and future use of Fort Monmouth and also including analyses and strategies dealing with such matters as the economic impact of the project, job creation, cash flow, investment and financing strategy, etc.

All redevelopments within the project area are to be implemented pursuant to a redevelopment agreement between the authority and the redeveloper, or the authority and the EDA as designated redeveloper, or between the EDA as designated redeveloper and the redeveloper.

The amended bill authorizes the creation of various special purpose districts, namely, special improvement districts, a

transportation planning district and infrastructure districts. A special improvement district is an area within the Fort Monmouth area designated by the authority in which a special assessment on property within the district may be imposed for the purposes of promoting the economic and general welfare of the Fort Monmouth area. A special assessment is to be imposed and collected by the affected municipalities and all or a portion of these payments are to be transferred to the authority. The improvements for which the assessments are to be imposed are local improvements under R.S.40:56-1 et seq. Such improvements will be financed by the authority. This district is modeled on the special improvement districts which may be designated by municipalities pursuant to P.L.1972, c.134 (C.40:56-65 et seq.).

The amended bill establishes the project area as the Fort Monmouth Transportation Planning District. The provisions establishing this district, which is modeled on the Hackensack Meadowlands Transportation Planning District established pursuant to P.L.2005, c.102 (C.13:17-95 et seq.), permit the authority to provide for the assessment and collection of development fees on developments within the district. The fees would be used to fund transportation projects and allowable administrative costs within the district.

The amended bill authorizes the authority to create an infrastructure district or districts and, if so determined by the authority, the receipts of certain sales within the district will be exempt to the extent of 50 percent of the State's sales tax and the authority may adopt a franchise assessment not to exceed an amount equivalent to 50 percent of the sales tax. This concept is based on a provision of the "Large Site Landfill Reclamation and Improvement Law," P.L.1995, c.173 (C.40A:12A-50 et seq.), which was used to finance the infrastructure related to Jersey Gardens Mall in Elizabeth. The resolution establishing the infrastructure district shall contain findings that the imposition of the franchise assessment is necessary because of the substantial risks undertaken to develop an infrastructure district. The permitted uses of the franchise assessment include the provision of loans, grants, or debt service for financing or refinancing on-site or off-site infrastructure improvements, parking or transportation facilities, or work that reduces, abates, or prevents environmental pollution, or other improvements that provide a public benefit within or to an infrastructure district.

The amended bill provides for the repeal of certain sections of P.L.2006, c.16 (C.52:27I-1 et seq.) which relate to the predecessor authority.

The committee amendments: 1) remove the provision that the officers and employees of the predecessor authority through an agreement with the Department of the Treasury shall terminate; 2) provide that, in the event the authority does not have adequate monies

to fund the budget, the EDA may make a loan to the authority in the amount of the unfunded portion of budget on terms and conditions acceptable to the EDA and the authority; 3) provide that one member be selected from a list of five candidates chosen by the Monmouth County Board of Chosen Freeholders submitted to the Governor, allowing the Governor to reject all five candidates on the list and allowing a list of five different candidates to be submitted within 30 days thereafter; 4) provide that one member be a member of the Monmouth County Board of Chosen Freeholders instead of simply a resident of Monmouth County, who shall hold office for the term of that member's service on the board, and appoint a new board member if a current board member ceases to hold office on the board; 5) provide that the Governor appoint the chairperson of the authority instead of the authority members; 6) require the affirmative vote of seven members of the authority to (a) approve any project undertaken by the EDA and (b) approve the budget of the office for that year or any amendment to the budget in any year that the authority is anticipated to receive no funding from the federal government; 7) clarify that, as well as the authority, any business entity performing or seeking to perform a contract for the authority shall be subject to the provisions of P.L.2005, c.51 (C.19:44A-20.13 et seq.); 8) require the authority to appoint an historical preservation advisory committee and an environmental advisory committee to assist in its activities in such areas, and any other advisory committee as it deems appropriate; 9) provide that all State departments and agencies, to the extent not inconsistent with law and within budget constraints shall (a) cooperate with the authority and respond to requests for such information and assistance as are necessary to accomplish the purposes of the bill and (b) supersede existing priority setting or ranking systems to place applications that would benefit a project within the project area in the highest priority or ranking category for award or approval of grants, benefits, loans, projects, or other considerations that would benefit the project area; 10) provide that if the zoning board of the host municipality hearing a proposed variance request to the authority does not vote in favor of the variance request, the authority shall not be permitted to grant such variance; 11) concerning special improvement districts, provide that (a) the affected municipality must concur with the authority in establishing a special improvement district, (b) establish a ceiling of 25 percent on the portion of the funds generated from the proceeds of the collection of the special assessment that may be retained by the affected municipality to cover the costs of the property tax payment imposition and collection activities of the affected municipality, and (c) the percentage amount of funds to be retained by the affected municipality for such purpose shall be established by agreement with the authority and by concurring ordinance of the affected municipality prior to the collection of the special assessment, and such percentage amount shall not be changed

throughout the duration of the agreement; 12) provide that if the authority, in conjunction with the New Jersey Transit Corporation, shall cause a passenger rail station to be designed, constructed and operated within the project area, prior to taking any such action, the authority shall receive written approval by resolution from the governing body of the host municipality in which the passenger rail station is to be located; 13) change the bill's effective date from 45 to 30 days after the date of enactment; and 14) change the name of the authority to the "Fort Monmouth Economic Revitalization Authority" and redesignate "master redevelopment agreement" as the "designated redevelopment agreement."

**LEGISLATIVE FISCAL ESTIMATE**  
**SENATE, No. 917**  
**STATE OF NEW JERSEY**  
**214th LEGISLATURE**

DATED: JUNE 7, 2010

**SUMMARY**

**Synopsis:** "Monmouth Economic Revitalization Authority Act."

**Type of Impact:** Probable revenue loss to the State General Fund.

**Agencies Affected:** Department of the Treasury.  
New Jersey Economic Development Authority.  
Some local governments.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Fiscal Year 2011 and beyond</u></b>
<b>State Revenue Loss</b>	Probable Revenue Loss of Indeterminate Scale-See Comments Below

- The Office of Legislative Services (OLS) deems it likely that the bill would lower State General Fund collections but a lack of data precludes the quantification of that impact. All but one of the bill's fiscal provisions are cost-neutral to the State and local governments in that they raise the amounts necessary to fund redevelopment activities. The bill's only net impact on State finances would accrue on account of the reduction in the State sales tax rate from 7.0 percent to 3.5 percent in any potential infrastructure district. Information related by the New Jersey Economic Development Authority (EDA) suggests that this revenue loss would be at most \$9 million per year. Nevertheless, the OLS cannot verify the accuracy of the underlying EDA estimate that new retail and hospitality establishments in the redevelopment area would generate \$18 million in new annual sales and use tax revenue since the EDA did not provide backup material in support of its estimate.
- Whether the State would gain or forego sales tax revenue as a consequence of this bill would depend on the proportion of taxable sales in any infrastructure district that would be displaced from other New Jersey merchants relative to new sales to New Jersey. For the bill's sales tax provision to be revenue-neutral, 50 percent of the sales would have to be new to New Jersey. If new sales to New Jersey were to comprise less than 50 percent of retail sales in the district, the bill would depress State sales tax collections; conversely, if new sales to New Jersey were to comprise more than 50 percent, the bill would augment State sales tax

proceeds. Given that a contractor's analysis of the retail market around Fort Monmouth found no unmet demand for retail, that Fort Monmouth is not positioned to easily attract out-of-state shoppers, and that the redevelopment plan does not seem to call for Fort Monmouth to become a major shopping destination, the OLS surmises that it would be probable for new sales to New Jersey to make up less than 50 percent of retail sales in Fort Monmouth—and hence that the State would forgo sales tax revenue if the bill was enacted.

- The OLS does not estimate the economic and fiscal impacts of the “Fort Monmouth Reuse and Redevelopment Plan,” but limits itself to analyzing the effects of the bill’s financing tools and fiscal provisions on State and local finances.

## **BILL DESCRIPTION**

Senate Bill No. 917 of 2010 establishes the “Monmouth Economic Revitalization Authority” to implement the “Fort Monmouth Reuse and Redevelopment Plan.” Fort Monmouth is a federal military installation that is scheduled to be closed in 2011 and whose land is to be redeveloped for civilian use.

The authority’s 13 members shall serve without compensation but may be reimbursed for expenses incurred in the discharge of their duties. The authority shall have an office in the EDA staffed by EDA employees who are supervised by the EDA and who carry out the policies set forth by the authority.

The authority may create a Fort Monmouth special improvement district in which a special property assessment may be imposed on nonresidential real estate to cover the costs of the authority, including those of any development, construction, and acquisition in the district; and any related cost incurred by local governments.

The authority may also create a Fort Monmouth transportation planning district to undertake transportation projects at Fort Monmouth. The authority shall identify public and private financial resources to fund such projects. In addition, the district may levy development fees to defray the projects’ costs.

The authority may also establish an infrastructure district to improve the infrastructure at Fort Monmouth. To finance these activities, the authority may assess a franchise assessment of up to 3.5 percent against certain retail sales in its jurisdiction that are subject to the sales and use tax. Vendors in the infrastructure district may apply to the authority for certification that would reduce the State sales and use tax from 7.0 percent to 3.5 percent so that the total tax rate would not exceed 7.0 percent (3.5 percent to the State and not more than 3.5 percent to the infrastructure district). The assessment and the reduction would not apply to sales of motor vehicles, alcoholic beverages, cigarettes, energy, and manufacturing machinery and equipment.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

The OLS has not received an official fiscal estimate from the Executive, but, upon inquiry, the EDA submitted economic and fiscal information on the Fort Monmouth Reuse and Redevelopment Plan.

The EDA reports that 2 million square feet of office space would be built or renovated over the 20 years of implementing the redevelopment plan, which would provide an estimated 4,900 full-time positions and generate \$24.7 million in annual State wage taxes.

In addition, 760,000 square feet of retail and hospitality space would be built or renovated, which would create an estimated 1,900 full-time positions and generate over \$18.0 million in annual sales tax collections.

Lastly, the redevelopment plan would put 330 acres of land on the property tax rolls of Eatontown, Oceanport, and Tinton Falls. The total includes 2.4 million square feet of housing to be built or renovated.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS deems it likely that the bill would have a negative net effect on State General Fund collections but a lack of data precludes the quantification of that impact. All but one of the bill's fiscal provisions are cost-neutral to the State and local governments in that they raise the amounts necessary to fund redevelopment activities. The bill's only net fiscal impact on the State would accrue on account of the reduction in the State sales tax rate from 7.0 percent to 3.5 percent in any potential infrastructure district. Information related by the EDA suggests that this revenue loss would be at most \$9 million per year. Nevertheless, the OLS cannot verify the accuracy of the underlying EDA estimate that new retail and hospitality establishments in the redevelopment area would generate \$18 million in new annual sales and use tax revenue at the full sales tax rate of seven percent since the EDA did not provide backup material in support of its estimate.

In making its assessment, the OLS assumes that the "Fort Monmouth Reuse and Redevelopment Plan" may be implemented with or without this legislation and that the legislation merely sets the modalities and provides financing tools therefor. Consequently, the office does not estimate the economic and fiscal ramifications of the redevelopment plan proper, but limits itself to analyzing the effects of the bill's financing tools and fiscal provisions on State and local finances, as they represent a policy choice concerning the allocation of the redevelopment cost.

*Cost-Neutral Provisions:* All but one of the bill's fiscal provisions are cost-neutral to the State and local governments in that they raise the amounts necessary to fund redevelopment activities. The OLS, however, lacks pertinent information to estimate the redevelopment expenses that would be financed through special, dedicated assessments authorized by the legislation. The assessments are:

- 1) a special assessment on nonresidential property in any Fort Monmouth special improvement district to defray the expenses of redevelopment activities, including administrative costs, of the Monmouth Economic Revitalization Authority and the special improvement district;
- 2) development fees in the jurisdiction of any Fort Monmouth transportation planning district to cover the district's expenditures; and
- 3) a franchise assessment of no more than 3.5 percent on the taxable sales of retailers located in any infrastructure district to finance the district's infrastructure investments.

*Reduced State Sales and Use Tax Rate:* The bill's only fiscal net impact on the State would stem from reducing the State sales and use tax rate from 7.0 percent to 3.5 percent in any infrastructure district the Monmouth Economic Revitalization Authority may designate (the bill also authorizes the imposition of an additional sales tax, called a franchise assessment, of up to 3.5 percent on retailers in any infrastructure district to finance the district's expenses—hence, the bill does not necessarily change the tax that consumers would be charged in the district but it does alter the allocation of tax collections).



For purposes of this analysis, the OLS accepts the EDA estimate that \$18 million in sales tax revenue would be generated annually by retailers in the redevelopment area at the full tax rate of seven percent, and assumes that all retailers in the redevelopment area would be located in an infrastructure district. Since the bill would reduce the State sales tax rate by 50 percent in the district, its retailers would collect \$9 million in State sales tax revenue. The OLS cautions, however, that the \$9 million would only represent a revenue gain to the State if all underlying sales were new to New Jersey. In fact, for reasons explained below, the OLS surmises that the bill is likely to cause a *revenue loss* to the State of no more than \$9 million.

In general, whether the State would gain or forego resources depends on the proportion of taxable sales in the infrastructure district that would be displaced from other New Jersey merchants relative to new sales to New Jersey. For the bill's sales tax provision to be revenue-neutral, 50 percent of the sales, or sales representing \$4.5 million in State sales tax collections, would have to be new to New Jersey (for every new sale, the State receives an additional 3.5 percent of receipts in sales tax revenue, while it loses 3.5 percent of receipts in sales tax revenue for each purchase that is displaced into the infrastructure district from elsewhere in New Jersey where the purchase would have been taxed at 7.0 percent). If new sales to New Jersey were to comprise less than 50 percent of retail sales in the district, the bill would depress State sales tax collections; conversely, if new sales to New Jersey were to comprise more than 50 percent, the bill would augment State sales tax proceeds. Thus, if all the sales were new to New Jersey, the State would gain \$9.0 million in sales tax revenue, and if all sales were displaced from elsewhere in New Jersey, the State would forego \$9.0 million in sales tax revenue. But because the OLS lacks information on the percentage of retail sales in the district that would be new to New Jersey, it cannot determine either the direction or the scale of the change in State sales tax collections.

Nevertheless, the office suspects that new sales to New Jersey would likely make up less than 50 percent of retail sales in any infrastructure district—and that the bill would therefore cause a State revenue loss. The office bases its impression on the “Regional Economic Profile and Market Analysis” prepared by Economic Research Associates (ERA) for the Fort Monmouth Economic Revitalization Planning Authority. In its analysis, ERA concludes that “there appears to be no remaining demand for retail by 2011 [in the trade area in and around Fort Monmouth].” According to ERA, Monmouth Mall—a regional shopping center with over 1.4 million square feet of rental—is only two miles from Fort Monmouth, Route 35 is already a major retail corridor, and retail building plans in the area will absorb currently unmet demand for retail by 2011. While new retail at Fort Monmouth could benefit from shoppers being willing to travel longer distances to this major retail area, the OLS doubts that many of those sales will be new to New Jersey, as it is too far away from out-of-state shoppers and as Fort Monmouth retail plans do not seem to call for turning Fort Monmouth into a shopping destination to which out-of-staters might be willing to travel. The OLS thus expects most retail sales at Fort Monmouth to cannibalize sales that would have otherwise occurred elsewhere in New Jersey with the attendant consequence of a net sales tax revenue loss to the State.

*Section:* Revenue, Finance and Appropriations  
*Analyst:* Thomas Koenig  
Senior Fiscal Analyst  
*Approved:* David J. Rosen  
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

## **SENATE, No. 917**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 23, 2010

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 917 (1R) with committee amendments.

The bill, as amended, establishes the "Fort Monmouth Economic Revitalization Authority" ("the authority") as the successor to the "Fort Monmouth Economic Revitalization Planning Authority" ("the predecessor authority"), which the bill abolishes. The predecessor authority was designated by the federal government as the entity to develop a comprehensive conversion and revitalization plan for the territory encompassed by Fort Monmouth, which facility is to be closed under the federal Base Closure and Realignment law. The predecessor authority submitted the conversion and revitalization plan, entitled the "Fort Monmouth Reuse and Redevelopment Plan," as well as a homeless assistance submission, on September 4, 2008 to the federal government. The new authority has as its purpose the oversight, administration and implementation of the revitalization plan.

The authority, allocated in but not of the Department of the Treasury, will consist of 13 members, nine voting and four non-voting. The nine voting members are: three members appointed by the Governor for staggered terms with the advice and consent of the Senate; the chairperson of the Economic Development Authority ("EDA"), another member of the Executive Branch, ex officio, a freeholder of Monmouth County appointed by the Board of Chosen Freeholders, and the mayors of Eatontown, Oceanport, and Tinton Falls. The four non-voting members are, ex officio: the Commissioners of Labor and Workforce Development, Environmental Protection, Community Affairs, and Transportation. The bill establishes an office in the EDA, consisting of EDA staff under EDA supervision, to staff the authority.

The authority is given extensive power to revitalize and redevelop the Fort Monmouth area (the "project area") in implementing the revitalization plan. Among these powers are the powers to:

(1) enter into a designated redevelopment agreement with the EDA and to delegate certain of its powers to the EDA as designated redeveloper;

(2) undertake redevelopment projects;

(3) adopt development and design guidelines and land use regulations and, if designated to do so, adopt the homeless assistance submission required under the federal Base Closure and Realignment law;

(4) acquire, including by condemnation, properties within the project area where necessary in connection with the provision of utilities, streets, roads or other infrastructure required for the implementation of the revitalization plan; and

(5) consent to a request by a host municipality for, or request that the host municipality consider, the designation of portions of the project area as being in need of redevelopment or rehabilitation in accordance with the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.).

The revitalization plan and the development and design guidelines and land use regulations adopted by the authority will supersede the master plan, zoning and land use ordinances and regulations, and zoning maps of the host municipalities (Eatontown, Oceanport and Tinton Falls) in the project area, except for applications for subdivision or site plan approval, although the applications are to utilize the authority's guidelines and regulations.

The authority may act by an affirmative vote of five members on most matters, but an affirmative vote of seven members is required for any action to: 1) adopt or revise the revitalization plan or adopt or revise the development and design guidelines or land use regulations adopted by the authority; 2) enter into a designated redevelopment agreement with the EDA; 3) adopt any amendment to the plan; 4) approve any project undertaken by the EDA; 5) acquire easements, rights of way, or fee title to properties pursuant to subsection g. of section 9 of the bill; 6) approve any project undertaken by the EDA; 7) approve the budget of the office or any amendment to the budget, in any year that the authority is anticipated to receive no funding from the federal government; 8) grant a variance from the requirements of the master plan, development and design guidelines or land use regulations adopted by the authority; or 9) consent to the designation of any portion of the project area as an area in need of redevelopment or in need of rehabilitation.

The authority is to prepare a business plan which comprises all issues related to the closure, conversion, revitalization and future use of Fort Monmouth and also including analyses and strategies dealing with those matters as the economic impact of the project, job creation, cash flow, investment and financing strategy, etc.

All redevelopments within the project area are to be implemented pursuant to a redevelopment agreement between the authority and the

redeveloper, or the authority and the EDA as designated redeveloper, or between the EDA as designated redeveloper and the redeveloper.

The bill authorizes the creation of various special purpose districts: special improvement districts, a transportation planning district and infrastructure districts.

A special improvement district is an area within the Fort Monmouth area designated by the authority in which a special assessment on property within the district may be imposed for the purposes of promoting the economic and general welfare of the Fort Monmouth area. A special assessment is to be imposed and collected by the affected municipalities and all or a portion of these payments are to be transferred to the authority. The improvements for which the assessments are to be imposed are local improvements under R.S.40:56-1 et seq. Such improvements will be financed by the authority. This district is modeled on the special improvement districts which may be designated by municipalities pursuant to P.L.1972, c.134 (C.40:56-65 et seq.).

The bill establishes the project area as the Fort Monmouth Transportation Planning District. The provisions establishing this district, which is modeled on the Hackensack Meadowlands Transportation Planning District established pursuant to P.L.2005, c.102 (C.13:17-95 et seq.), permit the authority to provide for the assessment and collection of development fees on developments within the transportation district. The fees will be used to fund transportation projects and allowable administrative costs within the transportation district.

The amended bill authorizes the authority to create an infrastructure district or districts and, if so determined by the authority, the receipts of certain sales within the district will be exempt to the extent of 50 percent of the State's sales tax and the authority may adopt a franchise assessment not to exceed an amount equivalent to 50 percent of the sales tax. This concept is based on a provision of the "Large Site Landfill Reclamation and Improvement Law," P.L.1995, c.173 (C.40A:12A-50 et seq.), which was used to finance the infrastructure related to Jersey Gardens Mall in Elizabeth. The bill requires that the resolution establishing the infrastructure district contain findings that the imposition of the franchise assessment is necessary because of the substantial risks undertaken to develop an infrastructure district. The permitted uses of the franchise assessment include the provision of loans, grants, or debt service for financing or refinancing on-site or off-site infrastructure improvements, parking or transportation facilities, or work that reduces, abates, or prevents environmental pollution, or other improvements that provide a public benefit within or to the infrastructure district.

The bill repeals certain sections of P.L.2006, c.16 (C.52:27I-1 et seq.) which relate to the predecessor authority.

COMMITTEE AMENDMENTS:

The amendments modify the section of the bill that authorizes the creation of an infrastructure district to: 1) delete the reference to “manufacturing machinery, equipment or apparatus” as being exempt from the sales and use tax as this equipment is already exempt from that tax; 2) have the EDA Executive Director, instead of the Director of the Division of Taxation, certify or revoke the certification of a vendor selling goods at the reduced sales tax rate and notify the division director of the executive director’s decision; and 3) modify the definition of “franchise assessment” to include the sales price of personal and specified digital product by a business and remove the exclusion of the cost of transportation in the amount of the sales price.

As amended and reported by the committee, Senate Bill No. 917 (1R) is identical to Assembly Bill No. 597 (2R).

FISCAL IMPACT:

All but one of the bill’s fiscal provisions are funded through special assessments, and therefore, are cost-neutral to the State and local governments. The bill’s only net impact on State finances would accrue, due to the reduction in the State sales tax rate from 7.0 percent to 3.5 percent in any potential infrastructure district. The Office of Legislative Services (OLS) has estimated that it is likely that this provision would lower State General Fund collections, but a lack of data precludes the quantification of that impact.

Information provided by the New Jersey Economic Development Authority (EDA) suggests that this revenue loss would be *at most* \$9 million per year. Nevertheless, the OLS cannot verify the accuracy of the underlying EDA estimate that new retail and hospitality establishments in the redevelopment area would generate \$18 million in new annual sales and use tax revenue.

Whether the State would gain or lose sales tax revenue from this bill depends on the proportion of taxable sales in an infrastructure district that would be displaced from other New Jersey merchants relative to new sales to New Jersey. For the bill’s sales tax provision to be revenue-neutral, 50 percent of the sales would have to be new to New Jersey. If new sales to New Jersey were to comprise less than 50 percent of retail sales in the district, the bill would depress State sales tax collections; conversely, if new sales to New Jersey were to comprise more than 50 percent, the bill would augment State sales tax proceeds. Given the available information about the retail market around Fort Monmouth, the OLS concludes that it would be probable for new sales to New Jersey to make up less than 50 percent of retail sales in Fort Monmouth—and so the State would forgo sales tax revenue if the bill were enacted.

- The OLS did not review any data on the impact of new property tax rates on the host municipalities, or on the impact of new job creation versus job transfers.

# LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

**SENATE, No. 917**

## **STATE OF NEW JERSEY 214th LEGISLATURE**

DATED: JULY 19, 2010

### **SUMMARY**

**Synopsis:** “Fort Monmouth Economic Revitalization Authority Act.”

**Type of Impact:** Probable revenue loss to the State General Fund.

**Agencies Affected:** Department of the Treasury.  
New Jersey Economic Development Authority.  
Some local governments.

#### **Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Fiscal Year 2011 and beyond</u></b>
<b>State Revenue Loss</b>	Probable Revenue Loss of Indeterminate Scale-See comments below

- The Office of Legislative Services (OLS) deems it likely that the bill would lower State General Fund collections but a lack of data precludes the quantification of that impact. All but one of the bill’s fiscal provisions are cost-neutral to the State and local governments in that they raise the amounts necessary to fund redevelopment activities. The bill’s only net impact on State finances would accrue on account of the reduction in the State sales tax rate from 7.0 percent to 3.5 percent in any potential infrastructure district. Information related by the New Jersey Economic Development Authority (EDA) suggests that this revenue loss would be at most \$9 million per year. Nevertheless, the OLS cannot verify the accuracy of the underlying EDA estimate that new retail and hospitality establishments in the redevelopment area would generate \$18 million in new annual sales and use tax revenue since the EDA did not provide backup material in support of its estimate.
- Whether the State would gain or forego sales tax revenue as a consequence of this bill would depend on the proportion of taxable sales in any infrastructure district that would be displaced from other New Jersey merchants relative to new sales to New Jersey. For the bill’s sales tax provision to be revenue-neutral, 50 percent of the sales would have to be new to New Jersey. If new sales to New Jersey were to comprise less than 50 percent of retail sales in the district, the bill would depress State sales tax collections; conversely, if new sales to New Jersey were to comprise more than 50 percent, the bill would augment State sales tax

proceeds. Given that a contractor's analysis of the retail market around Fort Monmouth found no unmet demand for retail, that Fort Monmouth is not positioned to easily attract out-of-state shoppers, and that the redevelopment plan does not seem to call for Fort Monmouth to become a major shopping destination, the OLS surmises that it would be probable for new sales to New Jersey to make up less than 50 percent of retail sales in Fort Monmouth—and hence that the State would forgo sales tax revenue if the bill was enacted.

- The OLS does not estimate the economic and fiscal impacts of the “Fort Monmouth Reuse and Redevelopment Plan,” but limits itself to analyzing the effects of the bill’s financing tools and fiscal provisions on State and local finances.

## **BILL DESCRIPTION**

Senate Bill No. 917 (2R) of 2010 establishes the “Fort Monmouth Economic Revitalization Authority” to implement the “Fort Monmouth Reuse and Redevelopment Plan.” Fort Monmouth is a federal military installation that is scheduled to be closed in 2011 and whose land is to be redeveloped for civilian use.

The authority’s 13 members shall serve without compensation but may be reimbursed for expenses incurred in the discharge of their duties. The authority shall have an office in the EDA staffed by EDA employees who are supervised by the EDA and who carry out the policies set forth by the authority.

The authority may create a Fort Monmouth special improvement district in which a special property assessment may be imposed on nonresidential real estate to cover the costs of the authority, including those of any development, construction, and acquisition in the district; and any related cost incurred by local governments.

The authority may also create a Fort Monmouth transportation planning district to undertake transportation projects at Fort Monmouth. The authority shall identify public and private financial resources to fund such projects. In addition, the district may levy development fees to defray the projects’ costs.

The authority may also establish an infrastructure district to improve the infrastructure at Fort Monmouth. To finance these activities, the authority may assess a franchise assessment of up to 3.5 percent against certain retail sales in its jurisdiction that are subject to the sales and use tax. Vendors in the infrastructure district may apply to the EDA for certification that would reduce the State sales and use tax from 7.0 percent to 3.5 percent so that the total tax rate would not exceed 7.0 percent (3.5 percent to the State and not more than 3.5 percent to the infrastructure district). The assessment and the reduction would not apply to sales of motor vehicles, alcoholic beverages, cigarettes, and energy.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

The OLS has not received an official fiscal estimate from the Executive, but, upon inquiry, the EDA submitted economic and fiscal information on the Fort Monmouth Reuse and Redevelopment Plan.

The EDA reports that 2 million square feet of office space would be built or renovated over the 20 years of implementing the redevelopment plan, which would provide an estimated 4,900 full-time positions and generate \$24.7 million in annual State wage taxes.

In addition, 760,000 square feet of retail and hospitality space would be built or renovated, which would create an estimated 1,900 full-time positions and generate over \$18.0 million in annual sales tax collections.

Lastly, the redevelopment plan would place 330 acres of land on the property tax rolls of Eatontown, Oceanport, and Tinton Falls. The total includes 2.4 million square feet of housing to be built or renovated.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS deems it likely that the bill would have a negative net effect on State General Fund collections but a lack of data precludes the quantification of that impact. All but one of the bill's fiscal provisions are cost-neutral to the State and local governments in that they raise the amounts necessary to fund redevelopment activities. The bill's only net fiscal impact on the State would accrue on account of the reduction in the State sales tax rate from 7.0 percent to 3.5 percent in any potential infrastructure district. Information related by the EDA suggests that this revenue loss would be at most \$9 million per year. Nevertheless, the OLS cannot verify the accuracy of the underlying EDA estimate that new retail and hospitality establishments in the redevelopment area would generate \$18 million in new annual sales and use tax revenue at the full sales tax rate of seven percent since the EDA did not provide backup material in support of its estimate.

In making its assessment, the OLS assumes that the "Fort Monmouth Reuse and Redevelopment Plan" may be implemented with or without this legislation and that the legislation merely sets the modalities and provides financing tools therefor. Consequently, the office does not estimate the economic and fiscal ramifications of the redevelopment plan proper, but limits itself to analyzing the effects of the bill's financing tools and fiscal provisions on State and local finances, as they represent a policy choice concerning the allocation of the redevelopment cost.

*Cost-Neutral Provisions:* All but one of the bill's fiscal provisions are cost-neutral to the State and local governments in that they raise the amounts necessary to fund redevelopment activities. The OLS, however, lacks pertinent information to estimate the redevelopment expenses that would be financed through special, dedicated assessments authorized by the legislation. The assessments are:

- 1) a special assessment on nonresidential property in any Fort Monmouth special improvement district to defray the expenses of redevelopment activities, including administrative costs, of the Monmouth Economic Revitalization Authority and the special improvement district;
- 2) development fees in the jurisdiction of any Fort Monmouth transportation planning district to cover the district's expenditures; and
- 3) a franchise assessment of no more than 3.5 percent on the taxable sales of retailers located in any infrastructure district to finance the district's infrastructure investments.

*Reduced State Sales and Use Tax Rate:* The bill's only fiscal net impact on the State would stem from reducing the State sales and use tax rate from 7.0 percent to 3.5 percent in any infrastructure district the Monmouth Economic Revitalization Authority may designate (the bill



also authorizes the imposition of an additional sales tax, called a franchise assessment, of up to 3.5 percent on retailers in any infrastructure district to finance the district's expenses—hence, the bill does not necessarily change the tax that consumers would be charged in the district but it does alter the allocation of tax collections).

For purposes of this analysis, the OLS accepts the EDA estimate that \$18 million in sales tax revenue would be generated annually by retailers in the redevelopment area at the full tax rate of seven percent, and assumes that all retailers in the redevelopment area would be located in an infrastructure district. Since the bill would reduce the State sales tax rate by 50 percent in the district, its retailers would collect \$9 million in State sales tax revenue. The OLS cautions, however, that the \$9 million would only represent a revenue gain to the State if all underlying sales were new to New Jersey. In fact, for reasons explained below, the OLS surmises that the bill is likely to cause a *revenue loss* to the State of no more than \$9 million.

In general, whether the State would gain or forego resources depends on the proportion of taxable sales in the infrastructure district that would be displaced from other New Jersey merchants relative to new sales to New Jersey. For the bill's sales tax provision to be revenue-neutral, 50 percent of the sales, or sales representing \$4.5 million in State sales tax collections, would have to be new to New Jersey (for every new sale, the State receives an additional 3.5 percent of receipts in sales tax revenue, while it loses 3.5 percent of receipts in sales tax revenue for each purchase that is displaced into the infrastructure district from elsewhere in New Jersey where the purchase would have been taxed at 7.0 percent). If new sales to New Jersey were to comprise less than 50 percent of retail sales in the district, the bill would depress State sales tax collections; conversely, if new sales to New Jersey were to comprise more than 50 percent, the bill would augment State sales tax proceeds. Thus, if all the sales were new to New Jersey, the State would gain \$9.0 million in sales tax revenue, and if all sales were displaced from elsewhere in New Jersey, the State would forego \$9.0 million in sales tax revenue. But because the OLS lacks information on the percentage of retail sales in the district that would be new to New Jersey, it cannot determine either the direction or the scale of the change in State sales tax collections.

Nevertheless, the office suspects that new sales to New Jersey would likely make up less than 50 percent of retail sales in any infrastructure district—and that the bill would therefore cause a State revenue loss. The office bases its impression on the "Regional Economic Profile and Market Analysis" prepared by Economic Research Associates (ERA) for the Fort Monmouth Economic Revitalization Planning Authority. In its analysis, ERA concludes that "there appears to be no remaining demand for retail by 2011 [in the trade area in and around Fort Monmouth]." According to ERA, Monmouth Mall—a regional shopping center with over 1.4 million square feet of rental—is only two miles from Fort Monmouth, Route 35 is already a major retail corridor, and retail building plans in the area will absorb currently unmet demand for retail by 2011. While new retail at Fort Monmouth could benefit from shoppers being willing to travel longer distances to this major retail area, the OLS doubts that many of those sales will be new to New Jersey, as it is too far away from out-of-state shoppers and as Fort Monmouth retail plans do not seem to call for turning Fort Monmouth into a shopping destination to which out-of-staters might be willing to travel. The OLS thus expects most retail sales at Fort Monmouth to cannibalize sales that would have otherwise occurred elsewhere in New Jersey with the attendant consequence of a net sales tax revenue loss to the State.

*Section: Revenue, Finance and Appropriations*

*Analyst: Thomas Koenig  
Senior Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67 (C.52:13B-6 et seq.).

# ASSEMBLY, No. 597

## STATE OF NEW JERSEY 214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

**Sponsored by:**

**Assemblyman JOSEPH CRYAN**

**District 20 (Union)**

**Assemblyman ALBERT COUTINHO**

**District 29 (Essex and Union)**

**Assemblyman ANGEL FUENTES**

**District 5 (Camden and Gloucester)**

**Assemblywoman ANNETTE QUIJANO**

**District 20 (Union)**

**Assemblyman DECLAN J. O'SCANLON, JR.**

**District 12 (Mercer and Monmouth)**

**SYNOPSIS**

"Monmouth Economic Revitalization Authority Act."

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



**(Sponsorship Updated As Of: 6/11/2010)**

1 AN ACT establishing the Monmouth Economic Revitalization  
2 Authority, supplementing Title 52 of the Revised Statutes and  
3 repealing parts of the statutory law.  
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:  
7

8 1. This act shall be known and may be cited as the “Monmouth  
9 Economic Revitalization Authority Act.”  
10

11 2. The Legislature finds and declares that:

12 a. The closure and revitalization of Fort Monmouth is a matter  
13 of great concern for the host municipalities of Eatontown,  
14 Oceanport, and Tinton Falls; for Monmouth County; and for the  
15 State of New Jersey.

16 b. The economies, environment, and quality of life of the host  
17 municipalities, Monmouth County, and the State will benefit from  
18 the efficient, coordinated, and comprehensive redevelopment and  
19 revitalization of Fort Monmouth. The Fort Monmouth Economic  
20 Revitalization Planning Authority was established pursuant to  
21 P.L.2006, c.16 (C.52:27I-1 et seq.) to plan for the comprehensive  
22 conversion and revitalization of Fort Monmouth, so as to encourage  
23 enlightened land use and to create employment and other business  
24 opportunities for the benefit of the host municipalities, of that  
25 county and the entire State. On September 4, 2008, the Fort  
26 Monmouth Economic Revitalization Planning Authority submitted a  
27 comprehensive conversion and revitalization plan for Fort  
28 Monmouth, known as the “Fort Monmouth Reuse and  
29 Redevelopment Plan,” and a homeless assistance submission to the  
30 United States Department of Defense and the United States  
31 Department of Housing and Urban Development, as required under  
32 the applicable federal Base Closure and Realignment law and  
33 regulations. The Fort Monmouth Reuse and Redevelopment Plan is  
34 the result of an extensive, coordinated, and collaborative process  
35 conducted by the Fort Monmouth Economic Revitalization Planning  
36 Authority, and reflects input from the host municipalities,  
37 Monmouth County, State departments and agencies and the general  
38 public as to the future of Fort Monmouth.

39 c. Upon acceptance by the United States Department of  
40 Defense and the United States Department of Housing and Urban  
41 Development as required under applicable federal Base Closure and  
42 Realignment law and regulations, the Fort Monmouth Reuse and  
43 Redevelopment Plan will constitute the plan for the redevelopment  
44 and revitalization of Fort Monmouth to be implemented pursuant to  
45 and in accordance with the provisions of this act.

46 d. A coordinated and comprehensive redevelopment and  
47 revitalization of Fort Monmouth will be facilitated by establishing

1 and empowering a new authority, to be known as the “Monmouth  
2 Economic Revitalization Authority,” to implement the Fort  
3 Monmouth Reuse and Redevelopment Plan, including the adoption  
4 of any modifications or amendments to the Fort Monmouth Reuse  
5 and Redevelopment Plan and the adoption of development and  
6 design guidelines and land use regulations in furtherance thereof, as  
7 provided in this act.

8 e. The New Jersey Economic Development Authority (EDA)  
9 has substantial and significant experience with partnering with local  
10 communities and leveraging public-private partnerships. The EDA  
11 manages large scale, redevelopment projects, utilizes a system of  
12 internal controls and procedures to ensure the integrity of  
13 redevelopment activities, and maintains a staff with a wide range of  
14 experience in redevelopment projects, real estate, finance, and job  
15 creation. Therefore the EDA is the appropriate entity to serve as  
16 the staff to the authority to enable the authority to implement the  
17 Fort Monmouth Reuse and Redevelopment Plan. To this end, an  
18 office is to be created within the EDA staffed by such EDA  
19 employees on a part or full time basis as the EDA determines  
20 necessary to carry out the functions of the office.

21 f. Furthermore, because of the experience and expertise of the  
22 EDA in redevelopment projects, it is appropriate to authorize the  
23 authority established by this act to enter into a master  
24 redevelopment agreement with the EDA for the redevelopment of  
25 Fort Monmouth. The activities of the EDA as redeveloper pursuant  
26 to the master redevelopment agreement are to be accounted for,  
27 managed and supervised separate and apart from the activities of  
28 the office established by this act, notwithstanding the possible  
29 sharing of staff between the EDA’s activities as redeveloper and  
30 EDA’s activities in staffing the office.

31 g. The host municipalities have an ongoing interest in the  
32 implementation of the plan, and the planning boards of the host  
33 municipalities have knowledge, expertise, and experience as well as  
34 procedures in place for reviewing and approving proposed  
35 subdivisions and site plans as provided in this act.

36

37 3. The following words or terms as used in this act shall have  
38 the following meaning unless a different meaning clearly appears  
39 from the context:

40 “Act” means the “Monmouth Economic Revitalization Authority  
41 Act.”

42 “Authority” means the Monmouth Economic Revitalization  
43 Authority established by section 4 of this act.

44 “Conditional use” means a use permitted within the project area  
45 only upon a showing that such use in a specified location will  
46 comply with the conditions and standards for the location or  
47 operation of such use as contained in the development and design

1 guidelines or land use regulations adopted by the authority, and  
2 upon the issuance of an authorization therefor by the planning  
3 board.

4 “County” means Monmouth County.

5 “County planning board” means the Monmouth County planning  
6 board.

7 “Density” means the permitted number of dwelling units per  
8 gross area of land to be developed.

9 “Development and design guidelines” means the development  
10 and design guidelines to be adopted by the authority pursuant to this  
11 act, as revised or amended as provided in this act, which when  
12 adopted shall apply to all applications for subdivision or site plan  
13 approval within the project area and shall supersede the zoning  
14 ordinances and land use regulations of the host municipalities and  
15 the county with respect to the project area.

16 “EDA” means the New Jersey Economic Development  
17 Authority, established pursuant to section 4 of P.L.1974, c.80  
18 (C.34:1B-4).

19 “Federal government” means the United States of America, and  
20 any officer, department, board, commission, bureau, division,  
21 corporation, agency or instrumentality thereof, including, but not  
22 limited to, the United States Department of Defense and the United  
23 States Department of Housing and Urban Development.

24 “Floor area ratio” means the sum of the area of all floors of  
25 buildings or structures compared to the total area of the site.

26 “Fort Monmouth” means the federally owned or operated  
27 military installation located in the municipalities of Eatontown,  
28 Oceanport, and Tinton Falls in the county that, as of May 13, 2005,  
29 was functioning, but was scheduled for closure by recommendation  
30 of the federal Base Realignment and Closure Commission issued on  
31 that date, including any facilities, real property and improvements,  
32 infrastructure and appurtenances and personal property.

33 “Homeless assistance submission” means the homeless assistance  
34 submission submitted to the United States Department of Defense and  
35 the United States Department of Housing and Urban Development on  
36 September 4, 2008 required under the Defense Base Closure and  
37 Realignment Act of 1990, Pub. L. 101-510 (10 U.S.C. s.2687).

38 “Host municipality” means the municipalities of Eatontown,  
39 Oceanport or Tinton Falls.

40 “Land use regulations” means the regulations to be adopted by  
41 the authority pursuant to this act, revised or amended as provided in  
42 this act, which when adopted shall apply to all applications for  
43 subdivision or site plan approval within the project area and shall  
44 supersede the zoning ordinances and land use regulations of the  
45 host municipalities and the county with respect to the project area.

46 “Master plan” or “plan” or “revitalization plan” means the  
47 comprehensive conversion and revitalization plan and the homeless

1 assistance submission prepared and adopted by the predecessor  
2 authority and entitled "Fort Monmouth Reuse and Redevelopment  
3 Plan" submitted to the United States Department of Defense and the  
4 United States Department of Housing and Urban Development on  
5 September 4, 2008, pursuant to section 14 of P.L.2006, c.16  
6 (C.52:27I-14), as accepted by the federal government, and as may  
7 be amended, revised, or modified as provided in this act.

8 "Master redevelopment agreement" means the redevelopment  
9 agreement to be entered into by and between the authority and the  
10 EDA as provided in this act for properties within the project area  
11 acquired by the authority.

12 "Minor subdivision" means "minor subdivision" as defined in  
13 section 3.2 of P.L.1975, c.291 (C.40:55D-5).

14 "Nonconforming use" means a legal or pre-existing use or  
15 activity which fails to conform to the development and design  
16 guidelines or land use regulations adopted by the authority.

17 "Planning board" means the planning board of a host  
18 municipality.

19 "Predecessor authority" means the Fort Monmouth Economic  
20 Revitalization Planning Authority established pursuant to section 4  
21 of P.L.2006, c. 16 (C.52:27I-4), repealed by this act.

22 "Project area" means that area encompassed by the metes and  
23 bounds of Fort Monmouth.

24 "Project parcel" means a portion of the project area that is the  
25 subject of a development or redevelopment project.

26 "Redevelopment" means clearance, replanning, development and  
27 redevelopment; the conservation and rehabilitation of any structure  
28 or improvement; the construction and provision for construction of  
29 residential, commercial, industrial, public or other structures or  
30 infrastructure; and the grant or dedication of spaces as may be  
31 appropriate or necessary in the interest of the general welfare for  
32 streets, utilities, parks, playgrounds, or other public purposes,  
33 including recreational and other facilities incidental or appurtenant  
34 thereto, in accordance with the approved Fort Monmouth Reuse and  
35 Redevelopment Plan submitted to the federal government, with the  
36 intent of supporting the economic revitalization of the region.

37 "Revitalization" means a comprehensive program of planning,  
38 conservation, rehabilitation, clearance, development and  
39 redevelopment, preservation, and historic restoration.

40 "Site Plan" means "site plan" as defined in section 3.4 of  
41 P.L.1975, c.291 (C.40:55D-7).

42 "Subdivision" means "subdivision" as defined in section 3.4 of  
43 P.L.1975, c.291 (C.40:55D-7).

44 "Variance" means permission to depart from the literal  
45 requirements of the master plan, the development and design  
46 guidelines adopted by the authority or the land use regulations  
47 adopted by the authority.

1       4. There is hereby established in, but not of, the Department of  
2 the Treasury a public body corporate and politic, with corporate  
3 succession, to be known as the Monmouth Economic Revitalization  
4 Authority as the successor to the predecessor authority. The  
5 authority is hereby constituted as an instrumentality of the State  
6 exercising public and essential governmental functions to provide  
7 for the public safety, convenience, benefit, and welfare. The  
8 exercise by the authority of the powers conferred by this act shall be  
9 deemed and held to be an essential governmental function of the  
10 State. For the purposes of complying with the provisions of Article  
11 V, Section IV, paragraph 1 of the New Jersey Constitution, the  
12 authority is allocated within the Department of the Treasury, but  
13 notwithstanding that allocation, the authority shall be independent  
14 of any supervision or control by the Department of the Treasury or  
15 any board or officer thereof, except as may be provided in this act.

16

17       5. Effective and automatically upon the first meeting of the  
18 authority:

19       a. The authority shall assume all of the powers, rights, assets,  
20 and duties of the predecessor authority to the extent provided by  
21 this act, and such powers shall then and thereafter be vested in and  
22 shall be exercised by the authority.

23       b. The terms of office of the members of the predecessor  
24 authority shall terminate, the officers having custody of the funds of  
25 the predecessor authority shall deliver those funds into the custody  
26 of the person having charge of the financial affairs of the authority,  
27 the property and assets of the predecessor authority shall, without  
28 further act or deed, become the property and assets of the authority,  
29 and the predecessor authority shall cease to exist.

30       c. The offices and terms of the officers and employees of the  
31 predecessor authority, as provided for through an agreement with  
32 the Department of the Treasury, except as otherwise provided in  
33 this act, shall terminate. Upon such termination, any current  
34 employee may be retained by the EDA at its discretion on either a  
35 full-time or a part-time basis.

36       d. All debts, liabilities, obligations and contracts of the  
37 predecessor authority, except to the extent specifically provided or  
38 established to the contrary in this act, are imposed upon the  
39 authority, and all creditors of the predecessor authority and persons  
40 having claims against or contracts with the predecessor authority of  
41 any kind or character may enforce those debts, claims and contracts  
42 against the authority as successor to the predecessor authority in the  
43 same manner as they might have had against the predecessor  
44 authority, and the rights and remedies of those holders, creditors  
45 and persons having claims against or contracts with the predecessor  
46 authority shall not be limited or restricted in any manner by this act.



- 1 e. In continuing the functions, contracts, obligations and duties  
2 of the predecessor authority, the authority is authorized to act in its  
3 own name or in the name of the predecessor authority as may be  
4 convenient or advisable under the circumstances from time to time.
- 5 f. Any references to the predecessor authority in any other law  
6 or regulation shall be deemed to refer and apply to the authority.
- 7 g. All operations of the predecessor authority shall continue as  
8 operations of the authority until altered by the authority as may be  
9 permitted pursuant to this act.
- 10 h. The powers vested in the authority by this act shall be  
11 construed as being in addition to and not in diminution of the  
12 powers heretofore vested by law in the predecessor authority to the  
13 extent not otherwise altered or provided for in this act.  
14
- 15 6. a. There is hereby established in the EDA an office which  
16 shall be staffed by employees of the EDA which shall remain under  
17 the supervision and control of the EDA. The office shall be  
18 responsible for carrying out the policies set forth by the authority,  
19 in a collaborative manner with the host municipalities and the  
20 county. The office shall be administered by a director whose hiring  
21 shall be reviewed and approved by a subcommittee of the members  
22 of the authority to be appointed and convened at the direction of the  
23 chairperson of the authority for the purposes of this action.
- 24 b. The authority will rely solely on the office for all support  
25 services it requires to carry out its mission under this act, including,  
26 but not limited, to administrative, procurement, budgetary, clerical,  
27 and other similar types of services.
- 28 c. The authority and the EDA may enter into any agreements  
29 necessary to provide for the establishment, operation, and financial  
30 support of the office.
- 31 d. The costs of the office shall be paid for by the authority.  
32 The EDA shall on an annual basis submit to the authority a budget  
33 for review and approval by the authority for the anticipated costs of  
34 the office for the succeeding calendar year. If, during the course of  
35 the calendar year, it is necessary to amend the budget, the EDA  
36 shall submit an amendment or amendments to the authority for  
37 review and approval by the authority. All costs and expenses of the  
38 office shall be accounted for separate and apart from the costs and  
39 expenses of the EDA in its capacity as redeveloper pursuant to the  
40 master redevelopment agreement.
- 41 e. When it is necessary for the authority to engage the services  
42 of professional consultants, including registered architects, licensed  
43 professional engineers, planners, attorneys, accountants, or other  
44 professional consultants, the office shall assist the authority in the  
45 procurement process.

1       7. It shall be the purpose of the authority to oversee,  
2 administer, and implement the plan as provided in this act, in a  
3 manner that will promote, develop, encourage, and maintain  
4 employment, commerce, economic development, and the public  
5 welfare; to conserve the natural resources of the State; to provide  
6 housing, including housing to address identified needs related to  
7 homelessness; and to advance the general prosperity and economic  
8 welfare of the people in the host municipalities, the county, and the  
9 entire State by cooperating and acting in conjunction with other  
10 organizations, public and private, to promote and advance the  
11 economic use of the facilities located at Fort Monmouth.

12  
13       8. a. The authority shall consist of 13 members to be appointed  
14 and qualified as follows:

15       (1) Three voting members appointed by the Governor with the  
16 advice and consent of the Senate, for staggered terms of five years,  
17 one of whom shall be a representative of the private sector with  
18 relevant business experience or background; one of whom shall be  
19 an individual who is knowledgeable in environmental issues,  
20 conservation, or land use issues; and one of whom shall have  
21 appropriate experience in workforce development and job training.  
22 Preference shall be given to professionals with a background in  
23 technology, finance, energy industry, or real estate. At least one of  
24 the members shall be a resident of the county. Not more than two  
25 of the members appointed by the Governor pursuant to this  
26 paragraph shall be members of the same political party;

27       (2) The Chief Executive Officer of the New Jersey Economic  
28 Development Authority, ex officio and voting;

29       (3) The Governor shall also appoint another member of the  
30 Executive Branch to serve on the authority, ex officio and voting;

31       (4) One voting member, who shall be a resident of Monmouth  
32 County, to be appointed by the Monmouth County Board of Chosen  
33 Freeholders for a term of three years, who shall be either:

34       (a) a member of the board, or

35       (b) a qualified person, who shall be nominated by the board,  
36 with relevant business experience or background, or who may be an  
37 employee of the county;

38       (5) The mayors of Eatontown, Oceanport, and Tinton Falls, ex  
39 officio and voting;

40       (6) The Commissioner of Labor and Workforce Development,  
41 who shall serve as an ex officio, non-voting member;

42       (7) The Commissioner of Environmental Protection, who shall  
43 serve as an ex officio, non-voting member;

44       (8) The Commissioner of Community Affairs, who shall serve  
45 as an ex officio, non-voting member; and

46       (9) The Commissioner of Transportation, who shall serve as an  
47 ex officio, non-voting member.

1 Each member appointed by the Governor and the member  
2 appointed by the county Board of Chosen Freeholders shall hold  
3 office for the term of that member's appointment and until a  
4 successor shall have been appointed and qualified. A member shall  
5 be eligible for reappointment. Any vacancy in the membership  
6 occurring other than by expiration of term shall be filled in the same  
7 manner as the original appointment but for the unexpired term only.

8 b. Each ex officio member of the authority and the member  
9 appointed by the Monmouth County Board of Chosen Freeholders  
10 may designate an employee of the member's department or office to  
11 represent the member at meetings of the authority. The designee  
12 may act on behalf of the member. The designation shall be in  
13 writing and shall be delivered to the authority and shall be effective  
14 until revoked or amended in writing to the authority.

15 c. Each member appointed by the Governor may be removed  
16 from office by the Governor for cause, after a public hearing, and  
17 may be suspended by the Governor pending the completion of that  
18 hearing. Each such member, before entering the duties of  
19 membership, shall take and subscribe an oath to perform those  
20 duties faithfully, impartially, and justly to the best of the person's  
21 ability. A record of those oaths shall be filed in the office of the  
22 Secretary of State.

23 d. The members of the authority shall annually elect a  
24 chairperson and vice-chairperson from among their members. The  
25 chairperson shall appoint a secretary and treasurer. The powers of  
26 the authority shall be vested in the voting members thereof in office  
27 from time to time; five voting members of the authority shall  
28 constitute a quorum, and the affirmative vote of five voting  
29 members shall be necessary for any action taken by the authority,  
30 except as otherwise provided in subsection e. of this section, or  
31 unless the bylaws of the authority shall require a larger number. No  
32 vacancy in the membership of the authority shall impair the right of  
33 a quorum to exercise all the rights and perform all the duties of the  
34 authority.

35 e. The affirmative vote of seven members shall be required for  
36 the following actions taken by the authority:

37 (1) any action to adopt or revise the plan or to adopt or revise  
38 the development and design guidelines or land use regulations  
39 adopted by the authority as provided in this act; (2) any action to  
40 enter into a master redevelopment agreement with the EDA; (3) any  
41 action to adopt any amendment to the plan pursuant to section 16 of  
42 this act; (4) any action to acquire easements, rights of way, or fee  
43 title to properties pursuant to subsection g. of section 9 of this act;  
44 and (5) consent to the designation of any portion of the project area  
45 as an area in need of redevelopment or any area in need of  
46 rehabilitation pursuant to the provisions of the "Local

- 1 Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1  
2 et al.), as provided in this act.
- 3 f. The members of the authority shall serve without  
4 compensation, but the authority may, within the limits of funds  
5 appropriated or otherwise made available for such purposes,  
6 reimburse its members for necessary expenses incurred in the  
7 discharge of their official duties.
- 8 g. (1) No member, officer, employee or agent of the authority  
9 or office shall have a personal interest, either directly or indirectly,  
10 in any project, employment agreement or any contract, sale,  
11 purchase, lease, or transfer of real or personal property to which the  
12 authority or office is a party.
- 13 (2) The members, officers, and employees of the authority shall  
14 be subject to the provisions of P.L.2005, c.51 (C.19:44A-20.13 et  
15 seq.).
- 16 (3) The members, officers, and employees of the authority shall  
17 be subject to the same financial disclosure requirements as the  
18 members, officers, and employees of State authorities subject to  
19 executive orders of the Governor with respect to financial  
20 disclosure.
- 21 h. The authority may be dissolved by act of the Legislature on  
22 condition that the authority has no debts or obligations outstanding  
23 or provision has been made for the payment, retirement,  
24 termination, or assumption of its debts and obligations. Upon  
25 dissolution of the authority, all property, funds, and assets thereof  
26 shall be vested in the State, unless the Legislature directs otherwise.
- 27 i. A true copy of the minutes of every meeting of the authority  
28 shall be forthwith delivered by and under the certification of the  
29 secretary thereof to the Governor. No action taken at such meeting  
30 by the authority shall have force or effect until 10 days, Saturdays,  
31 Sundays, and public holidays excepted, after the copy of the  
32 minutes shall have been so delivered, unless during such 10-day  
33 period the Governor shall approve the same, in which case such  
34 action shall become effective upon such approval. If, in that 10-day  
35 period, the Governor returns such copy of the minutes with veto of  
36 any action taken by the authority or any member thereof at such  
37 meeting, such action shall be void.
- 38 j. Any and all proceedings, hearings or meetings of the  
39 authority shall be conducted in conformance with the "Senator  
40 Byron M. Baer Open Public Meetings Act," P.L.1975, c.231  
41 (C.10:4-6 et seq.).
- 42 k. Records of minutes, accounts, bills, vouchers, contracts or  
43 other papers connected with or used or filed with the authority or  
44 with any officer or employee acting for or in its behalf are declared  
45 to be public records, and shall be open to public inspection in  
46 accordance with P.L.1963, c.73 (C.47:1A-1 et seq.).

- 1       9. The authority shall have the following powers:
- 2       a. To enter into a master redevelopment agreement as set forth
- 3       in subsection a. of section 14 of this act;
- 4       b. As designated and empowered as the “local redevelopment
- 5       authority” for Fort Monmouth for all purposes of the Defense Base
- 6       Closure and Realignment Act of 1990, Pub. L. 101-510 (10 U.S.C.
- 7       s.2687), and, in that capacity, to enter into agreements with the
- 8       federal government, State departments, agencies or authorities, the
- 9       county, the host municipalities, or private parties;
- 10      c. To adopt development and design guidelines and land use
- 11      regulations consistent with and in furtherance of the plan; and to
- 12      adopt, revise, adjust, and implement (1) any aspect of the plan or
- 13      the development and design guidelines and land use regulations
- 14      adopted in furtherance thereof, or to grant variances therefrom; (2)
- 15      the economic revitalization study prepared pursuant to section 16 of
- 16      P.L.2006, c.16 (C.52:27I-16); and (3) if designated as the
- 17      designated agency pursuant to section 2 of P.L.2008, c.28
- 18      (C.52:27I-8.2), any aspect of the homeless assistance submission
- 19      required under the Defense Base Closure and Realignment Act of
- 20      1990, Pub. L. 101-510 (10 U.S.C. s.2687);
- 21      d. To undertake redevelopment projects pursuant to the plan;
- 22      e. To acquire or contract to acquire, and to dispose of the
- 23      project area or any portion, tract or subdivision of the project area,
- 24      or any utility system or infrastructure servicing the project area;
- 25      f. To lease as lessee, lease as lessor whether as a titleholder or
- 26      not, own, rent, use, and take and hold title to, and to convey title of,
- 27      and collect rent from, real property and personal property or any
- 28      interest therein, in the exercise of its powers and the performance of
- 29      its duties under this act;
- 30      g. To acquire, including by condemnation where necessary
- 31      pursuant to the provisions of the “Eminent Domain Act of 1971,”
- 32      P.L.1971, c.361 (C.20:3-1 et seq.), easements, rights of way, or fee
- 33      title to properties within the project area where necessary in
- 34      connection with the provision of utilities, streets, roads or other
- 35      infrastructure required for implementation of the plan;
- 36      h. To arrange for the clearance of any parcel owned or
- 37      acquired, and for the installation, construction or reconstruction of
- 38      streets, facilities, utilities, and site improvements essential to the
- 39      preparation of sites for use in accordance with the plan;
- 40      i. To contract for the provision of professional services,
- 41      including, but not limited to, the preparation of plans for the
- 42      carrying out of redevelopment projects by registered architects,
- 43      licensed professional engineers or planners, or other consultants;
- 44      j. To issue requests for proposals or requests for qualifications;
- 45      to arrange or contract with other public agencies or public or private
- 46      redevelopers, including but not limited to nonprofit entities, for the
- 47      planning, replanning, construction, or undertaking of any project or

1 redevelopment work, or any part thereof; to negotiate and collect  
2 revenue from a redeveloper to defray the costs of the authority, and  
3 to secure payment of such revenue; as part of any such arrangement  
4 or contract, to negotiate financial or in-kind contributions from a  
5 redeveloper to the authority or to the host municipalities to offset or  
6 mitigate impacts of the project; as part of any such arrangement or  
7 contract, to require the posting of performance guarantees in  
8 connection with any redevelopment project; as part of any such  
9 arrangement or contract, to facilitate the extension of credit, or  
10 making of loans, by the EDA, by other public agencies or funding  
11 sources, or by private entities to redevelopers to finance any project  
12 or redevelopment work, or upon a finding that the project or  
13 redevelopment work would not be undertaken but for the provision  
14 of financial assistance, or would not be undertaken in its intended  
15 scope without the provision of financial assistance, to facilitate as  
16 part of an arrangement or contract for capital grants to redevelopers;  
17 and to arrange or contract with public agencies or redevelopers for  
18 the opening, grading or closing of streets, roads, roadways, alleys,  
19 or other places or for the furnishing of facilities or for the  
20 acquisition by such agency of property options or property rights or  
21 for the furnishing of property or services in connection with the  
22 project area;

23 k. To participate in, conduct, or contract for the performance of  
24 environmental assessment or remediation activities or restoration  
25 arising out of or relating to environmental conditions within the  
26 project area, including but not limited to insurance or bonds related  
27 to such activities;

28 l. To enter upon any building or property in the project area in  
29 order to conduct investigations or make surveys, sounding or test  
30 borings necessary to carry out the purposes of the plan;

31 m. To arrange or contract with the EDA or other public  
32 agencies to facilitate or provide relocation assistance, of the types  
33 and in the amounts provided for businesses in the "Relocation  
34 Assistance Law of 1967," P.L.1967, c.79 (C.52:31B-1 et seq.) and  
35 the "Relocation Assistance Act," P.L.1971, c.362 (C.20:4-1 et seq.),  
36 to businesses operating within the project area who are displaced as  
37 a result of the closure and who request such assistance within a  
38 period to be determined by the authority;

39 n. To make, consistent with the plan: (1) plans for carrying out  
40 a program of voluntary repair and rehabilitation of buildings and  
41 improvements; and (2) plans for the enforcement of laws, codes,  
42 and regulations relating to the use and occupancy of buildings and  
43 improvements, and to the compulsory repair, rehabilitation,  
44 demolition, or removal of buildings and improvements;

45 o. Notwithstanding any other law to the contrary, to consent to  
46 a request by a host municipality for, or request that the host  
47 municipality consider, the designation of portions of the project

- 1 area as being in need of redevelopment or rehabilitation in  
2 accordance with the provisions of the “Local Redevelopment and  
3 Housing Law,” P.L.1992, c.79 (C. 40A:12A-1 et al.);
- 4 p. To publish and disseminate information concerning the plan  
5 or any project within the project area;
- 6 q. To adopt and from time to time amend and repeal bylaws for  
7 the regulation of its affairs and the conduct of its business;
- 8 r. To adopt and use an official seal and alter it at its pleasure;
- 9 s. To maintain an office at a place or places within the State as  
10 it may designate;
- 11 t. To sue and be sued in its own name;
- 12 u. To appoint advisory committees to assist in its activities in  
13 such areas as it deems appropriate. The membership of the  
14 committees shall be determined by the authority. If appointed, the  
15 historical preservation committee and the environmental committee  
16 shall for all intents and purposes be the exclusive “historic  
17 preservation commission,” as established pursuant to section 21 of  
18 P.L.1985, c.516 (C.40:55D-107), and the “environmental  
19 commission,” as established pursuant to P.L.1968, c.245  
20 (C.40:56A-1 et seq.), for all land use matters and approvals within  
21 the project area;
- 22 v. To provide that any revenues collected shall be available to  
23 the authority for use in furtherance of any of the purposes of this  
24 act;
- 25 w. Pursuant to an adopted cash management plan, to invest any  
26 funds held in reserve or sinking funds, or any funds not required for  
27 immediate disbursement, in property or securities in which  
28 governmental units may legally invest funds subject to their control;
- 29 x. To enter into mortgages as mortgagee;
- 30 y. To apply for, receive, and accept from any federal, State, or  
31 other public or private source, grants or loans for, or in aid of, the  
32 authority's authorized purposes;
- 33 z. To consent to the modification of any contract, mortgage, or  
34 other instrument entered into by it or on its behalf;
- 35 aa. To pay or compromise any claim arising on, or because of  
36 any agreement, mortgage, or instrument;
- 37 bb. To acquire or contract to acquire from any person, firm, or  
38 corporation, public or private, by contribution, gift, grant, bequest,  
39 devise, purchase, or otherwise, real or personal property or any  
40 interest therein, including such property as it may deem necessary  
41 or proper, although temporarily not required for such purposes, in  
42 the project area or in any area outside the project area designated by  
43 the authority as necessary for carrying out the relocation of the  
44 businesses displaced from the project area as a result of the closure  
45 of Fort Monmouth or other acquisitions needed to carry out the  
46 master plan;

- 1 cc. To subordinate, waive, sell, assign or release any right, title,  
2 claim, lien or demand however acquired, including any equity or  
3 right of redemption, foreclosure, sell or assign any mortgage held  
4 by it, or any interest in real or personal property; and to purchase at  
5 any sale, upon such terms and at such prices as it determines to be  
6 reasonable, and take title to the property, real, personal, or mixed,  
7 so acquired and similarly sell, exchange, assign, convey or  
8 otherwise dispose of any property;
- 9 dd. To complete, administer, operate, obtain, and pay for  
10 insurance on, and maintain, renovate, repair, modernize, lease or  
11 otherwise deal with any property;
- 12 ee. To retain attorneys, planners, engineers, architects,  
13 managers, financial experts, and other types of consultants as may  
14 be necessary;
- 15 ff. To arrange or contract with any public agency, to the extent  
16 that it is within the scope of that agency's functions, to cause the  
17 services customarily provided by that agency to be rendered for the  
18 benefit of the occupants of the project area, and have that agency  
19 provide and maintain parks, recreation centers, schools, sewerage,  
20 transportation, water and other municipal facilities adjacent to or in  
21 connection with the project area;
- 22 gg. To conduct examinations and investigations, hear testimony  
23 and take proof, under oath at public or private hearings of any  
24 material matter, compel witnesses and the production of books and  
25 papers and issue commissions for the examination of witnesses who  
26 are out of State, unable to attend, or excused from attendance; and  
27 to authorize a committee designated by it consisting of one or more  
28 members, or counsel, or any officer or employee to conduct the  
29 examination or investigation, in which case it may authorize in its  
30 name the committee, counsel, officer or employee to administer  
31 oaths, take affidavits and issue subpoenas or commissions;
- 32 hh. To make and enter into all contracts and agreements  
33 necessary or incidental to the performance of the duties authorized  
34 in this act;
- 35 ii. After thorough evaluation and investigation, to bring an  
36 action on behalf of a tenant within the project area to collect or  
37 enforce any violation of subsection g. or h. of section 11 of the  
38 "Law Against Discrimination," P.L.1945, c. 169 ( C.10:5-12);
- 39 jj. To designate members or employees, who shall be  
40 knowledgeable of federal and State discrimination laws, and who  
41 shall be available during all normal business hours, to evaluate a  
42 complaint made by a tenant within the project area pursuant to  
43 section 11 of the "Law Against Discrimination," P.L.1945, c. 169  
44 (C.10:5-12);
- 45 kk. To adopt, pursuant to the "Administrative Procedure Act,"  
46 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations  
47 necessary to implement this act; and



1        ll. To do all things necessary or convenient to carry out its  
2 purposes and exercise the powers given and granted in this act.

3  
4        10. All property of the authority or EDA shall be exempt from  
5 levy and sale by virtue of an execution and no execution or other  
6 judicial process shall issue against the same nor shall any judgment  
7 against the authority or EDA be a charge or lien upon its property;  
8 provided, that nothing herein contained shall apply to or limit the  
9 rights of the holder of any bonds to pursue any remedy for the  
10 enforcement of any pledge or lien given by the authority or EDA on  
11 or with respect to any project or any revenues or other moneys.

12  
13        11. a. The authority and the EDA shall not be required to pay  
14 any taxes or assessments upon or in respect of a project or any  
15 property or moneys of the authority and the EDA, and the authority  
16 and EDA, their projects, property, and moneys, their transfer and  
17 the income therefrom, including any profit made on the sale thereof,  
18 shall at all times be free from taxation of every kind by the State  
19 except for transfer, inheritance, and estate taxes and by any political  
20 subdivision of the State; provided, that any person occupying a  
21 project whether as lessee, vendee or otherwise shall, as long as title  
22 thereto shall remain in the authority or EDA, pay to the political  
23 subdivision in which such project is located a payment in lieu of  
24 taxes which shall equal the taxes on real and personal property,  
25 whether for municipal, county, fire, or school purposes, as  
26 applicable, including water and sewer service charges or  
27 assessments, which such person would have been required to pay  
28 had it been the owner of such property during the period for which  
29 such payment is made and neither the authority nor the EDA nor  
30 their projects, property, money or bonds and notes shall be  
31 obligated, liable or subject to lien of any kind for the enforcement,  
32 collection or payment thereof. If and to the extent provided by  
33 contract, the authority or EDA may agree to cooperate with such  
34 person occupying a project, in connection with any administrative  
35 or judicial proceedings for determining the validity or amount of  
36 such payments and may agree to appoint or designate and reserve  
37 the right in and for such person to take all action which the  
38 authority may lawfully take in respect of such payments and all  
39 matters relating thereto, provided such person shall bear and pay all  
40 costs and expenses of the authority thereby incurred at the request  
41 of such person or by reason of any such action taken by such person  
42 in behalf of the authority. If such person occupying a project has  
43 paid the amounts in lieu of taxes required by this section to be paid,  
44 such person shall not be required to pay any such taxes as to which  
45 a payment in lieu thereof has been made to the State or to any  
46 political subdivision, any other statute to the contrary  
47 notwithstanding.

1       b. Except as provided in subsection a. of this section, a host  
2 municipality is authorized to assess and collect taxes on real and  
3 personal property within the project area as provided by law for  
4 municipal, county, fire, or school purposes, as applicable.  
5

6       12. Each worker employed on any project to which the authority  
7 is a party, shall be paid not less than the prevailing wage rate for the  
8 worker's craft or trade, as determined by the Commissioner of  
9 Labor and Workforce Development pursuant to P.L1963, c. 150  
10 (C.34:11-56.25 et seq.).  
11

12       13. a. All purchases, contracts, or agreements made pursuant to  
13 this act shall be made or awarded directly by the authority, except  
14 as otherwise provided in this act, only after public advertisement for  
15 bids therefor in the manner provided by the authority and  
16 notwithstanding the provisions of any other laws to the contrary.

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

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

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

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

28       (4) When the contract to be entered into is for the furnishing or  
29 performing of services of a professional or technical nature,  
30 including legal services, provided that the contract shall be made or  
31 awarded directly by the authority;

32       (5) When the authority has advertised for bids and has received  
33 no bids in response to its advertisement, or received no responsive  
34 bids. Any purchase, contract, or agreement may then be negotiated  
35 and may be awarded to any contractor or supplier determined to be  
36 responsible, as "responsible" is defined in section 2 of P.L.1971,  
37 c.198 (C.40A:11-2), provided that the terms, conditions,  
38 restrictions, and specifications set forth in the negotiated contract or  
39 agreement are not substantially different from those which were the  
40 subject of competitive bidding;

41       (6) When a purchase is to be made through or by the Director of  
42 the Division of Purchase and Property pursuant to section 1 of  
43 P.L.1959, c.40 (C.52:27B-56.1), or through a contract made by any  
44 of the following: the New Jersey Sports and Exposition Authority  
45 established under section 4 of P.L.1971, c.137 (C.5:10-4); the New  
46 Jersey Meadowlands Commission established under section 5 of  
47 P.L.1968, c.404 (C.13:17-5); the New Jersey Turnpike Authority

1 established under section 3 of P.L.1948, c.454 (C.27:23-3); the New  
2 Jersey Water Supply Authority established under section 4 of  
3 P.L.1981, c.293 (C.58:1B-4); the Port Authority of New York and  
4 New Jersey established under R.S.32:1-4; the Delaware River Port  
5 Authority established under R.S.32:3-2; or the Higher Education  
6 Student Assistance Authority established under N.J.S.18A:71A-3.

7  
8 14. a. Upon the acceptance by the federal government of the  
9 revitalization plan adopted by the predecessor authority pursuant to  
10 section 14 of P.L.2006, c.16 (C.52:27I-14), the EDA is hereby  
11 designated as master redeveloper for any property acquired by or  
12 conveyed to the authority. The authority and EDA shall enter into a  
13 master redevelopment agreement detailing the terms and conditions of  
14 the master redeveloper relationship, including, but not limited to, the  
15 tasks and scope of powers and authorities delegated to the EDA as  
16 master redeveloper, which may include the power and authority to  
17 perform all acts and do all things that the authority is empowered to do  
18 pursuant to this act, except for the powers enumerated in subsections  
19 b., c., o., q., r., s., t., u., gg., ii., jj., kk. and ll. of section 9 of this act  
20 and the ability to adopt or amend the plan or the development and  
21 design guidelines and land use regulations adopted by the authority as  
22 provided in this act. In addition to such delegated power and  
23 authority, in order to carry out and effectuate the purposes of this act  
24 and the terms of the plan, the master redeveloper may do and perform  
25 any acts and things authorized by the "New Jersey Economic  
26 Development Authority Act," P.L.1974, c.80 (C.34:1B-1 et seq.)  
27 necessary or convenient to carry out the purposes of this act.

28 b. No municipality shall modify or change the drawings, plans,  
29 or specifications for the construction, reconstruction, rehabilitation,  
30 alteration, or improvement of any project of the authority, or of the  
31 EDA, or the construction, plumbing, heating, lighting, or other  
32 mechanical branch of work necessary to complete the work in  
33 question, or require that any person, firm or corporation employed  
34 on any such work shall perform the work in any other or different  
35 manner than that provided by the drawings, plans, and  
36 specifications, or require that any person, firm or corporation obtain  
37 any other or additional authority, approval, permit, or certificate  
38 from the municipality in relation to the work being done, and the  
39 doing of the work by any person, firm, or corporation in accordance  
40 with the terms of the drawings, plans, specifications, or contracts  
41 shall not subject the person, firm, or corporation to any liability or  
42 penalty, civil or criminal, other than as may be stated in the  
43 contracts or incidental to the proper enforcement thereof; nor shall  
44 any municipality require the authority, the EDA, or any person,  
45 firm, partnership or corporation which leases or purchases the  
46 project for lease or purchase to a State agency, to obtain any other  
47 or additional authority, approval, permit, certificate, or certificate of

1 occupancy from the municipality as a condition of owning, using,  
2 maintaining, operating, or occupying any project acquired,  
3 constructed, reconstructed, rehabilitated, altered, or improved by  
4 the authority or by the EDA. Notwithstanding the provisions of  
5 subsections b. and d. of section 15 of this act, municipal site plan  
6 approval and municipal subdivision approval shall not be required  
7 for any project undertaken by the authority or the EDA, but the  
8 project shall require the affirmative vote of seven members of the  
9 authority. The foregoing provisions shall not preclude any  
10 municipality from exercising the right of inspection for the purpose  
11 of requiring compliance by any project with local requirements for  
12 operation and maintenance affecting the health, safety, and welfare  
13 of the occupants thereof, provided that the compliance does not  
14 require changes, modifications or additions to the original  
15 construction of the project.

16

17 15. a. The authority shall propose and adopt development and  
18 design guidelines and land use regulations consistent with and in  
19 furtherance of the plan. Provisions may be made by the authority  
20 for the waiver, according to definite criteria, of strict compliance  
21 with the standards promulgated, where necessary to alleviate  
22 hardship. The plan and the development and design guidelines and  
23 land use regulations adopted by the authority shall supersede the  
24 master plans, the zoning and land use ordinances and regulations,  
25 and the zoning maps of the host municipalities adopted pursuant to  
26 the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et  
27 seq.) insofar as the same may pertain to the project area, except  
28 with respect to the procedures to be followed for submitting and  
29 processing applications for subdivision or site plan approvals.

30 b. Applications for subdivision approval, site plan approval,  
31 and redevelopment within the project area shall utilize the  
32 development and design guidelines and land use regulations  
33 adopted by the authority, and shall be submitted to the planning  
34 board of the host municipality in which the project parcel is located  
35 for review and approval, and where required by law to the county  
36 planning board. The procedures for the approval of subdivisions  
37 and site plans within the project area shall be the procedures  
38 adopted by such host municipality pursuant to the "Municipal Land  
39 Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) (including, but not  
40 limited to, notice provisions and the payment of application fees  
41 and the posting of escrow deposits, if any). The authority shall by  
42 regulation provide for mandatory conceptual review by or on behalf  
43 of the authority; provided, however, that unless accompanied by a  
44 request for a variance to be granted by the authority pursuant to  
45 subsection e. of this section, any such mandatory conceptual review  
46 shall be completed within 45 days of the authority's receipt of the

1 application, or within such later time period if agreed to by the  
2 applicant.

3 c. Whenever an application pursuant to subsection b. of this  
4 section is filed with a planning board, a copy of the application  
5 shall be submitted simultaneously to the authority, and notice of all  
6 public hearings in connection therewith shall be provided to the  
7 authority. The authority shall be deemed an interested party  
8 entitled to notice of all applications for properties within the project  
9 area or within 200 feet of the project area's boundaries, irrespective  
10 of whether the authority owns the portion of the project area within  
11 200 feet.

12 d. In connection with subdivision and site plan approval, the  
13 planning boards shall have the authority to grant variances from the  
14 requirements of the development and design guidelines and land use  
15 regulations adopted by the authority to the extent such variances are  
16 permitted pursuant to subsection c. of section 57 of P.L.1975, c.291  
17 (C.40:55D-70).

18 e. (1) The provisions of subsection d. of section 57 of  
19 P.L.1975, c.291 (C.40:55D-70) notwithstanding and except as  
20 provided in paragraph (2) of this subsection, the authority shall  
21 have sole and exclusive jurisdiction to grant for special reasons  
22 shown, a variance from the requirements of the master plan,  
23 development and design guidelines or land use regulations adopted  
24 by the authority to permit: (a) a use or principal structure in a  
25 district restricted against such use or principal structure, (b) a  
26 continuation or an expansion of a nonconforming use, (c) deviation  
27 from a specification or standard pursuant to land use regulations  
28 adopted by the authority pertaining solely to a conditional use, (d)  
29 an increase in the permitted floor area ratio as established by the  
30 land use regulations adopted by the authority, (e) an increase in the  
31 permitted density as established by the land use regulations adopted  
32 by the authority or (f) a height of a principal structure which  
33 exceeds by 10 feet or 10 percent the maximum height permitted in  
34 the district for a principal structure. Such variances shall not be  
35 granted unless the applicant demonstrates to the satisfaction of the  
36 authority that special reasons exist for the granting of such variance,  
37 that the granting of the requested variance will not substantially  
38 impair the intent and purpose of the plan, and that the variance can  
39 be granted without substantial detriment to the public good.  
40 Application for such a variance shall be submitted together with or  
41 prior to an application for mandatory conceptual review pursuant to  
42 subsection b. of this section, and the authority shall approve or deny  
43 the application within 120 days of a complete submission unless the  
44 applicant agrees to extend the time. In lieu of granting a variance,  
45 the authority in its discretion may require the adoption of a plan  
46 amendment.

1 (2) Variances granted pursuant to subparagraphs (a) through (f)  
2 of paragraph (1) of this subsection shall require the affirmative vote  
3 of seven members of the authority, except that variances granted  
4 pursuant to subparagraph (e) shall be heard and recommended by  
5 the zoning boards of the host municipalities to the authority for its  
6 action on the variance request.

7 f. Notwithstanding any other provision of this act or law to the  
8 contrary, the host municipalities shall not designate the project area  
9 or any portion thereof as an area in need of redevelopment or an  
10 area in need of rehabilitation, or adopt a redevelopment plan for any  
11 property within the project area pursuant to the "Local  
12 Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1  
13 et al.) without the consent of the authority.  
14

15 16. Prior to the adoption of any amendment to the plan, the  
16 authority shall transmit a copy of the proposed plan amendment to  
17 the governing body of each host municipality. Within 45 days after  
18 referral, each governing body may transmit to the authority a report  
19 containing its recommendation concerning the proposed plan  
20 amendment. The authority, when considering the adoption of the  
21 plan amendment shall review all reports received from the host  
22 municipalities and may accept or not accept any recommendations  
23 of the host municipalities; provided, however, that the authority  
24 shall record in its minutes its reasons for not accepting any such  
25 recommendations.  
26

27 17. a. If the authority or the EDA, as master redeveloper, shall  
28 find it necessary in connection with the undertaking of any of its  
29 projects to change the location of any portion of any public  
30 highway, or road, it may contract with any government agency, or  
31 public or private corporation which may have jurisdiction over the  
32 public highway or road to cause the public highway or road to be  
33 constructed at such location as the authority or the EDA, as master  
34 redeveloper, shall deem most favorable. The cost of the  
35 reconstruction and any damage incurred in changing the location of  
36 the highway shall be ascertained and paid by the authority or the  
37 EDA, as applicable, as a part of the cost of the project. Any public  
38 highway affected by the construction of any project may be vacated  
39 or relocated by the authority or the EDA, as master redeveloper, in  
40 the manner now provided by law for the vacation or relocation of  
41 public roads, and any damages awarded on account thereof shall be  
42 paid by the authority or the EDA, as applicable, as a part of the cost  
43 of the project. In all undertakings authorized by this subsection, the  
44 authority or the EDA, as master redeveloper, shall consult and  
45 obtain the approval of the Commissioner of Transportation.

46 b. In addition to the foregoing powers, the authority or the  
47 EDA, as master redeveloper and their respective authorized agents

1 and, in with respect to EDA, its employees, may enter upon any  
2 lands, waters, and premises for the purpose of making surveys,  
3 soundings, drillings and examinations as it may deem necessary or  
4 convenient for the purposes of this act, all in accordance with due  
5 process of law, and this entry shall not be deemed a trespass nor  
6 shall an entry for this purpose be deemed an entry under any  
7 condemnation proceedings which may be then pending. The  
8 authority or the EDA, as applicable, shall make reimbursement for  
9 any actual damages resulting to the lands, waters, and premises as a  
10 result of these activities.

11 c. The authority or the EDA, as master redeveloper, shall also  
12 have power to make regulations, based on the appropriate national  
13 model code, for the installation, construction, maintenance, repair,  
14 renewal, relocation, and removal of tracks, pipes, mains, conduits,  
15 cables, wires, towers, poles and other equipment and appliances,  
16 herein called "public utility facilities," of any public utility as  
17 defined in R.S.48:2-13, in, on, along, over or under any project.  
18 Whenever the authority or the EDA, as master redeveloper, shall  
19 determine that it is necessary that any public utility facilities which  
20 now are, or hereafter may be, located in, on, along, over or under  
21 any project shall be relocated in the project, or should be removed  
22 from the project, the public utility owning or operating the facilities  
23 shall relocate or remove the same in accordance with the order of  
24 the authority or the EDA, as master redeveloper. The cost and  
25 expenses of the relocation or removal, including the cost of  
26 installing the facilities in a new location, or new locations, and the  
27 cost of any lands, or any rights or interests in lands, and any other  
28 rights, acquired to accomplish the relocation or removal, shall be  
29 ascertained and paid by the authority or the EDA, as applicable, as a  
30 part of the cost of the project. In case of any relocation or removal  
31 of facilities, as aforesaid, the public utility owning or operating the  
32 same, its successors or assigns, may maintain and operate the  
33 facilities, with the necessary appurtenances, in the new location or  
34 new locations, for as long a period, and upon the same terms and  
35 conditions, as it had the right to maintain and operate the facilities  
36 in their former location or locations. In all undertakings authorized  
37 by this subsection the authority or the EDA, as master redeveloper,  
38 shall consult with the affected utilities in an attempt to come to  
39 agreement on the proposed undertaking. If the authority or the  
40 EDA, as master redeveloper, are not able to come to an agreement  
41 on such undertakings, the authority or the EDA, as master  
42 redeveloper, shall petition the Board of Public Utilities to obtain  
43 approval for such undertakings. The provisions of this subsection  
44 shall not affect the Board of Public Utilities' jurisdiction over any  
45 public utility as defined in R.S.48:2-13.

1 18. The authority is directed to prepare and complete a business  
2 plan which comprises all issues related to the closure, conversion,  
3 revitalization, and future use of Fort Monmouth. Further, this  
4 business plan shall: include a validation review of any extant  
5 studies on the perceived economic impact of this project on the  
6 State, the county, and the boroughs of Eatontown, Oceanport and  
7 Tinton Falls; refine existing market analyses and develop an  
8 absorption schedule; develop a short and long term job creation  
9 schedule; include a detailed fiscal analysis that considers cash flow,  
10 annual revenue and costs, cumulative revenue and costs, off-site  
11 infrastructure costs, and product absorption by year; include an  
12 investment and financing strategy that includes grants, local  
13 funding options such as the tax allocation district, bonds, taxation,  
14 licensing, permitting and fees, and private investment; include a  
15 determination of fair market value of property by parcel and overall,  
16 and propose an appropriate and feasible strategy for using available  
17 BRAC transfer tools.

18  
19 19. All redevelopment within the project area shall be  
20 implemented pursuant to a redevelopment agreement between the  
21 authority and the redeveloper, or the authority and the EDA as  
22 master redeveloper, or between the EDA as master redeveloper and  
23 the redeveloper, as the case may be. All redevelopment agreements  
24 from or between the authority or the master redeveloper and to or  
25 with a redeveloper shall contain, without being limited to, the  
26 following provisions: a. a provision limiting the use of the property  
27 to the uses permitted pursuant to the plan; b. a provision requiring  
28 the redeveloper to commence and complete the project within a  
29 period of time that the authority or the master redeveloper fixes as  
30 reasonable; c. any lease to a redeveloper may provide that all  
31 improvements shall become the property of the authority; and d.  
32 such other covenants, provisions, and continuing controls as may be  
33 deemed necessary to effectuate the purposes of this act.

34  
35 20. a. For the purposes of this section:  
36 “Affected municipality” means a municipality that is located  
37 within, in whole or in part, a Fort Monmouth special improvement  
38 district established pursuant to subsection b. of this section.  
39 “Fort Monmouth special improvement district” means an area  
40 within the project area designated by resolution of the authority as  
41 an area in which a special assessment on property within the project  
42 area shall be imposed for the purposes of promoting the economic  
43 and general welfare of the project area. The resolution shall  
44 exempt residential properties, residential portions of mixed use  
45 properties, or parcels with any number of residential units located  
46 within the Fort Monmouth special improvement district from  
47 special assessment. The resolution may exempt vacant properties



1 within the Fort Monmouth special improvement district from  
2 special assessment.

3 b. A Fort Monmouth special improvement district resolution  
4 may be adopted if the authority finds: (1) that an area within the  
5 project area, as described by lot and block numbers and by street  
6 addresses in the enabling resolution, would benefit from being  
7 designated as a Fort Monmouth special improvement district; (2)  
8 that the authority would provide administrative and other services  
9 to benefit the businesses, employees, residents and consumers in the  
10 Fort Monmouth special improvement district; (3) that a special  
11 assessment shall be imposed and collected by the affected  
12 municipality or municipalities with the regular property tax  
13 payment or payment in lieu of taxes or otherwise, and that all or a  
14 portion of these payments shall be transferred to the authority to  
15 effectuate the purposes of this act and to exercise the powers given  
16 to it by resolution; and (4) that it is in the best interest of the public  
17 to create a Fort Monmouth special improvement district. If the  
18 authority determines that the imposition and collection of the  
19 special assessment will involve annual costs to an affected  
20 municipality in addition to the initial cost of the imposition and  
21 collection of the regular property tax payment or payment in lieu of  
22 taxes or otherwise, and that such annual costs relate to property tax  
23 payment imposition and collection activities peculiar to the Fort  
24 Monmouth special improvement district, and distinguished from  
25 property tax payment imposition and collection activities normally  
26 provided by the municipality outside of the Fort Monmouth special  
27 improvement district, the authority shall provide that the property  
28 tax payment imposition and collection activities of the affected  
29 municipality be conducted pursuant to the provisions of this act and  
30 provide that a portion of the funds generated from the proceeds of  
31 the collection of the special assessment be retained by the affected  
32 municipality to cover the costs of the property tax payment  
33 imposition and collection activities of the affected municipality  
34 conducted pursuant to the provisions of this act.

35 c. The authority may, by resolution, authorize the  
36 commencement of studies and the development of preliminary plans  
37 and specifications relating to the creation and maintenance of a Fort  
38 Monmouth special improvement district, including, whenever  
39 possible, estimates of construction and maintenance, and costs and  
40 estimates of potential gross benefit assessment. These studies and  
41 plans may include criteria to regulate the construction and alteration  
42 of facades of buildings and structures in a manner which promotes  
43 unified or compatible design.

44 d. Upon review of the reports and recommendations submitted,  
45 a resolution may be adopted authorizing and directing the  
46 establishment and maintenance of a Fort Monmouth special  
47 improvement district. In addition to other requirements for the

1 consideration and adoption of resolutions, at least 10 days prior to  
2 the date fixed for a public hearing thereon, a copy of the proposed  
3 resolution and notice of the date, time, and place of the hearing  
4 shall be mailed to the owners of the lots or parcels of land abutting  
5 or included in the Fort Monmouth special improvement district  
6 proposed by the resolution.

7 e. A Fort Monmouth special improvement district resolution  
8 may provide that a Fort Monmouth special improvement district  
9 shall be deemed a local improvement in accordance with this act  
10 and the provisions of chapter 56 of Title 40 of the Revised Statutes,  
11 R.S.40:56-1 et seq.; that all costs of development, construction, and  
12 acquisition relating to the provision of improvements for a Fort  
13 Monmouth special improvement district, as the case may be, shall  
14 be financed by the authority and assessed by the affected  
15 municipality or municipalities, as the case may be, to properties  
16 especially benefited thereby as provided generally by R.S.40:56-1  
17 et seq., and the resolution shall list and describe, by lot and block  
18 numbers and by street addresses, all properties to be assessed for  
19 the Fort Monmouth special improvement district improvements.  
20 The affected municipality or municipalities, as the case may be,  
21 may provide by ordinance or parallel ordinance for one or more  
22 special assessments within the Fort Monmouth special improvement  
23 district in accordance with chapter 56 of Title 40 of the Revised  
24 Statutes, R.S.40:56-1 et seq.; provided that the special assessment  
25 carried out pursuant to this section shall be deemed an assessment  
26 for benefits and shall be as nearly as may be in proportion to and  
27 not in excess of the peculiar benefit, advantage, or increase in value  
28 which the respective lots and parcels of real estate shall be deemed  
29 to receive by reason of such improvement.

30 f. If the authority determines that the improvements will  
31 involve annual costs to an affected municipality, in addition to the  
32 initial cost of constructing and making the improvements, and that  
33 such annual costs relate to maintenance services peculiar to the Fort  
34 Monmouth special improvement district, and distinguished from  
35 maintenance services normally provided by the municipality outside  
36 of the Fort Monmouth special improvement district, and will  
37 provide benefits primarily to property included in the district, rather  
38 than to the municipality as a whole, the resolution shall provide that  
39 the improvements and facilities thereof shall be operated and  
40 maintained pursuant to the provisions of this act and the  
41 municipality shall be authorized to provide that the costs thereof be  
42 assessed or taxed to benefited properties or businesses pursuant to  
43 the provisions of section 16 of P.L.1972, c.134 (C.40:56-80). At  
44 any time after the Fort Monmouth special improvement district  
45 resolution has been adopted or lands have been acquired or  
46 improved for a Fort Monmouth special improvement district, the  
47 authority may upon such determination provide, by separate

1 resolution or by amendment to the resolution, that the  
2 improvements and facilities thereof shall be so operated and  
3 maintained and the costs so assessed to benefited properties or  
4 businesses. In any such case, such resolution shall describe the  
5 properties to be assessed, or in which any businesses may be  
6 contained which may be assessed, for such annual costs, which area  
7 may be given the name “(name of Fort Monmouth Special  
8 Improvement District) Fort Monmouth Improvement District.”

9  
10 21. a. There is established the Fort Monmouth Transportation  
11 Planning District which shall consist of those lands which comprise  
12 the project area. The authority shall administer and manage the  
13 transportation planning district and carry out such additional  
14 functions as provided herein.

15 b. In furtherance of the development of a coherent and  
16 sustainable transportation system for the project area, the authority  
17 shall initiate a joint planning process with participation by: State  
18 departments and agencies, corporations, commissions, boards, and  
19 authorities; metropolitan planning organizations, and counties and  
20 municipalities with jurisdiction in the district; and private  
21 representatives. The authority shall oversee the development and  
22 updating of a comprehensive, future-oriented district transportation  
23 plan.

24 c. The district transportation plan shall establish goals,  
25 policies, needs, and improvement priorities for all modes of  
26 transportation, including walking and bicycling, within the district  
27 and shall be consistent with the revitalization plan. The district  
28 transportation plan shall be based on a reasonable assessment of  
29 likely future growth reflected in the revitalization plan.

30 d. The district transportation plan shall quantify transportation  
31 needs arising from anticipated future traffic passing within or  
32 through the district based upon future development anticipated to  
33 occur within or through the district, and reflected in the  
34 revitalization plan. The district transportation plan shall set forth  
35 proposed transportation projects designed to address that future  
36 development, prioritized over increments of five years, the  
37 allocation of public and private shares of project costs and  
38 allowable administrative costs, and the amount, schedule, and  
39 collection of development fees. If new developments are proposed  
40 in the district which are not considered in the district transportation  
41 plan which is currently in effect, that plan shall be reevaluated,  
42 notwithstanding the five-year increment provision.

43 e. The district transportation plan shall be in accordance with  
44 the State transportation master plan adopted under section 5 of  
45 P.L.1966, c.301 (C.27:1A-5), the applicable county master plans  
46 adopted under R.S.40:27-2, and the applicable regional

1 transportation plan or plans adopted by a metropolitan planning  
2 organization pursuant to 23 C.F.R. s.450.322.

3 f. The district transportation plan shall include a financial  
4 element setting forth a statement of projected revenue and expenses,  
5 including all project costs. The financial element of the district  
6 transportation plan shall identify public and private financial  
7 resources which may be available to fund, in whole or in part, those  
8 transportation projects set forth in that plan. The financial element  
9 shall make recommendations for the types and rates of development  
10 fees to be assessed under subsection i. of this section, formulas to  
11 govern the assessment of those fees, and the projected annual  
12 revenue to be derived therefrom.

13 g. The authority staff shall make copies of the district  
14 transportation plan available to the public for inspection no less  
15 than 14 days prior to any formal action by the authority to adopt the  
16 plan. In addition, the authority staff shall take steps to notify  
17 members of the business community and other interested parties of  
18 the district transportation plan and shall hold a public hearing  
19 thereon after having given public notice of the hearing.

20 h. The authority may, by resolution adopt the district  
21 transportation plan as recommended by the staff or with  
22 modifications.

23 i. After the adoption of the district transportation plan by the  
24 authority pursuant to subsection h. of this section, the authority  
25 may, by resolution, provide for the assessment and collection of  
26 development fees on developments within the transportation  
27 planning district as provided hereunder.

28 j. Development fees assessed by the authority shall be based  
29 upon the growth and development forecasts contained in the district  
30 transportation plan and shall be levied in order to raise only those  
31 amounts needed to accomplish the transportation projects set forth  
32 in the district transportation plan and allowable administrative  
33 costs. Those fees shall be assessed based upon the formula or  
34 formulas contained in the resolution adopted pursuant to subsection  
35 i. of this section and shall be uniformly applied, with such  
36 exceptions as are authorized or required herein.

37 k. A formula or formulas adopted by the authority by  
38 resolution shall reflect a methodology which relates the use of land  
39 to the impact of the proposed development on the transportation  
40 system, including, but not limited to: vehicle trips generated by the  
41 development; the square footage of an occupied structure; the  
42 number of employees regularly employed at the development; or the  
43 number of parking spaces located at the development; or any  
44 combination thereof.

45 l. The resolution may provide for credits against assessed  
46 development fees for payments made or expenses incurred which  
47 have been determined by the authority to be in furtherance of the

1 district transportation plan, including, but not limited to,  
2 contributions to transportation improvements other than those  
3 required for safe and efficient highway access to a development,  
4 and costs attributable to the promotion of public transit, walking,  
5 bicycling, or ridesharing.

6 m. The resolution may either exempt or reduce the development  
7 fee for specified land uses which have been determined by the  
8 authority to have a beneficial, neutral, or comparatively minor  
9 adverse impact on the transportation needs of the transportation  
10 planning district.

11 n. The resolution may provide for a reduced rate of  
12 development fees for developers submitting a peak-hour automobile  
13 trip reduction plan approved by the authority under standards  
14 adopted by the authority. Standards for the approval of peak-hour  
15 automobile trip reduction plans may include, but need not be  
16 limited to, physical design for improved transit, ridesharing, and  
17 pedestrian access; design of developments which include a mix of  
18 residential and nonresidential uses; and proximity to potential labor  
19 pools.

20 o. The assessment of a development fee shall be reasonably  
21 related to the impact of the proposed development on the  
22 transportation system of the transportation planning district and  
23 shall not exceed the development's fair share of the cost of the  
24 transportation improvement necessary to accommodate the  
25 additional burden on the district's transportation system that is  
26 attributable to the proposed development and related allowable  
27 administrative costs.

28 p. A resolution shall be sufficiently certain and definitive to  
29 enable every person who may be required to pay a fee to know or  
30 calculate the limit and extent of the fee which is to be assessed  
31 against a specific development.

32 q. Upon the adoption by the authority of a resolution pursuant  
33 to subsection i. of this section, no separate assessment for off-site  
34 transportation improvements within the transportation planning  
35 district shall be made by the State, a county, or municipality except  
36 as permitted pursuant to this act.

37 r. A resolution adopted by the authority pursuant to subsection  
38 i. of this section shall provide for the establishment of a  
39 transportation planning district fund under the control of the  
40 authority and administered by the New Jersey Economic  
41 Development Authority. All monies collected from development  
42 fees shall be deposited into the fund, which shall be invested in an  
43 interest-bearing account. Monies deposited in the fund shall be  
44 used to defray project costs and allowable administrative costs.

45 s. Every transportation project funded, in whole or in part, by  
46 funds from a transportation planning district fund shall be subject to  
47 a project agreement to which the relevant entities are parties. The

1 expenditure of funds for this purpose shall not be made from a  
2 transportation planning district fund, except by approval of the  
3 project budget by the authority and upon certification of the chief  
4 fiscal officer of the New Jersey Economic Development Authority  
5 that the expenditure is in accordance with a project agreement or is  
6 otherwise a project cost and has the approval of the authority.

7 t. Notwithstanding any other law to the contrary, no  
8 development fees shall be assessed for any low and moderate  
9 income housing units which are constructed pursuant to the "Fair  
10 Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) or under court  
11 order or settlement.

12 u. (1) The payments due to the authority, whether as a lump  
13 sum or as balances due when a series of payments is to be made,  
14 shall be enforceable by the authority as a lien on the land and any  
15 improvements thereon. The lien shall be recorded by the county  
16 officer in the record book of the county office.

17 (2) When the fee is paid in full on the development or portion  
18 thereof, the lien on the development or portion thereof, as  
19 appropriate, shall be removed. When a series of payments is to be  
20 made, failure to make any one payment within 30 days after receipt  
21 of a notice of late payment shall constitute a default and shall  
22 obligate the person owing the unpaid balance to pay that balance in  
23 its entirety.

24 (3) All amounts assessed as a lien pursuant to this section shall  
25 be a lien upon the land against which they are assessed in the same  
26 manner that taxes are made a lien against land pursuant to Title 54  
27 of the Revised Statutes, and the payment thereof shall be enforced  
28 within the same time and in the same manner and by the same  
29 proceedings as the payment of taxes is otherwise enforced under  
30 Title 54 of the Revised Statutes.

31 v. (1) Any fees collected, plus earned interest, not committed  
32 to a transportation project under a project agreement entered into  
33 under subsection s. of this section within 10 years of the date of  
34 collection, or not used for other allowable administrative costs  
35 within 10 years of the date of collection, shall be refunded to the  
36 fee-payer under a procedure prescribed by the authority; provided,  
37 however, that if the fee-payer transfers the development or any  
38 portion thereof, the fee-payer shall enter into an agreement with the  
39 grantee in such form as shall be provided by the authority which  
40 shall indicate who shall be entitled to receive any refund, and that  
41 agreement shall be filed with the chief fiscal officer of the EDA.

42 (2) Any person who has been assessed a development fee may  
43 request in writing a reconsideration of the assessment and a hearing  
44 by an employee so delegated by the authority within 90 days of the  
45 receipt of notification of the amount of the assessment on the  
46 grounds that the authority or its officers or employees in issuing the  
47 assessment did not abide by the provisions of this section or the

1 provisions of the resolution adopted by the authority pursuant to  
2 this section.

3 w. A person may appeal to the authority any decision made in  
4 connection with the reconsideration of an assessment as authorized  
5 pursuant to subsection v. of this section. The authority shall review  
6 the record of the hearing and render its decision, which shall  
7 constitute an administrative action subject to review by the  
8 Appellate Division of the Superior Court. Nothing contained herein  
9 shall be construed as limiting the ability of any person so assessed  
10 from filing an appeal based upon an agreement to pay or actual  
11 payment of the fee.

12 x. For the purposes of this section:

13 "Allowable administrative costs" means expenses incurred by the  
14 authority in developing a district transportation plan, including a  
15 financial element, and in managing a transportation planning  
16 district.

17 "Developer" means the legal or beneficial owner or owners of a  
18 lot or of any land proposed to be included in a proposed  
19 development, including the holder of an option or contract to  
20 purchase, or other person having an enforceable proprietary interest  
21 in such land.

22 "Development" means "development" in the meaning of section  
23 3.1 of the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-  
24 4).

25 "Development fee" means a fee assessed on a development  
26 pursuant to a resolution of the authority adopted under subsection i.  
27 of this section.

28 "District" or "transportation planning district" means the Fort  
29 Monmouth Transportation Planning District established pursuant to  
30 subsection a. of this section.

31 "Project agreement" means an agreement between the authority  
32 and a developer providing the terms and conditions under which the  
33 developer agrees to perform any work or undertaking necessary for  
34 a transportation project.

35 "Project costs" means expenses incurred in the planning, design,  
36 engineering and construction of any transportation project, and shall  
37 include debt service.

38 "Public highways" means public roads, streets, expressways,  
39 freeways, parkways, motorways, and boulevards including bridges,  
40 tunnels, overpasses, underpasses, interchanges, rest areas, express  
41 bus roadways, bus pullouts and turnarounds, park-ride facilities,  
42 traffic circles, grade separations, traffic control devices, the  
43 elimination or improvement of crossings of railroads and highways,  
44 whether at grade or not at grade, bicycle and pedestrian pathways,  
45 pedestrian and bicycle bridges traversing public highways, and any  
46 facilities, equipment, property, rights-of-way, easements and

1 interests therein needed for the construction, improvement, and  
2 maintenance of highways.

3 "Public transportation project" means, in connection with public  
4 transportation service or regional ridesharing programs, passenger  
5 stations, shelters and terminals, automobile parking facilities,  
6 ferries and ferry facilities including capital projects for ferry  
7 terminals, approach roadways, pedestrian accommodations, parking,  
8 docks, and other necessary land-side improvements, ramps, track  
9 connections, signal systems, power systems, information and  
10 communication systems, roadbeds, transit lands or rights-of-way  
11 equipment storage and servicing facilities, bridges, grade crossings,  
12 rail cars, locomotives, motorbus and other motor vehicles,  
13 maintenance and garage facilities, revenue handling equipment and  
14 any other equipment, facility or property useful for or related to the  
15 provision of public transportation service or regional ridesharing  
16 programs.

17 "Transportation project" or "transportation improvement" means,  
18 in addition to public highways and public transportation projects,  
19 any equipment, facility, or property useful or related to the  
20 provision of any ground, waterborne, or air transportation for the  
21 movement of people and goods within or through the district,  
22 including rail freight infrastructure.

23

24 22. a. The authority may adopt a resolution creating an  
25 infrastructure district whenever the authority determines that the  
26 improvement of the infrastructure of the property within the  
27 infrastructure district will promote the health and general welfare of  
28 the residents of the project area, the host municipalities, and the  
29 infrastructure district. An infrastructure district created pursuant to  
30 this subsection may be comprised of any or all lands which  
31 comprise the project area. The authority may create, by separate  
32 resolution, more than one infrastructure district.

33 b. (1) If so determined by the authority, the receipts of retail  
34 sales, except retail sales of motor vehicles, of alcoholic beverages  
35 as defined in the "Alcoholic beverage tax law," R.S.54:41-1 et seq.,  
36 of cigarettes as defined in the "Cigarette Tax Act," P.L.1948, c.65  
37 (C.54:40A-1 et seq.), of manufacturing machinery, equipment or  
38 apparatus, and of energy, made by a certified vendor from a place  
39 of business owned or leased and regularly operated by the vendor  
40 for the purpose of making retail sales, and which place of business  
41 is located within an infrastructure district created pursuant to  
42 subsection a. of this section, will be exempt to the extent of 50  
43 percent of the tax imposed under the "Sales and Use Tax Act,"  
44 P.L.1966, c.30 (C.54:32B-1 et seq.); and the authority for the  
45 purpose of increasing public revenue may adopt a resolution to levy  
46 and collect, within an infrastructure district created pursuant to  
47 subsection a. of this section, a franchise assessment not to exceed



1 an amount equivalent to 50 percent of the tax imposed under the  
2 "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) and  
3 to devote the proceeds from those assessments to purposes as  
4 provided in this section.

5 Any vendor having a place of business located within an  
6 infrastructure district may apply to the Director of the Division of  
7 Taxation in the Department of Treasury for certification pursuant to  
8 this paragraph. The director shall certify a vendor if he shall find  
9 that the vendor owns or leases and regularly operates a place of  
10 business located in an infrastructure district for the purposes of  
11 making retail sales, that items are regularly exhibited and offered  
12 for retail sale at that location, and that the place of business is not  
13 utilized primarily for the purpose of catalogue, Internet or mail  
14 order sales. The director may at any time revoke a certification  
15 granted pursuant to this paragraph.

16 (2) The rate of the franchise assessment shall be uniform  
17 throughout the infrastructure district. The franchise assessment  
18 shall apply only within the territorial limits of the infrastructure  
19 district and shall be in addition to any other assessments, taxes, and  
20 excises.

21 (3) The resolution adopted pursuant to subsection a. of this  
22 section shall continue in force and effect until repealed by the  
23 authority.

24 (4) No franchise assessment shall be imposed on gross receipts  
25 which a municipality or the State is prohibited from taxing under  
26 New Jersey law, or the Constitution and laws of the United States of  
27 America.

28 (5) Upon adoption, the authority shall immediately transmit a  
29 copy of the resolution to the Director of the Division of Local  
30 Government Services in the Department of Community Affairs and  
31 to the Director of the Division of Taxation in the Department of the  
32 Treasury. Every resolution levying a franchise assessment pursuant  
33 to this section shall provide for reporting assessments due and for  
34 the collection thereof, and all franchise assessments pursuant to  
35 such a resolution shall be remitted to the chief financial officer of  
36 the EDA. A resolution levying a franchise assessment shall take  
37 effect only on the first day of any month in any year. The  
38 resolution shall provide for the allocation and distribution of the  
39 proceeds of the franchise assessments collected.

40 (6) The resolution shall set forth the person or persons subject to  
41 the franchise assessment payment and collection procedures, and  
42 any other matters deemed relevant by the authority with the  
43 authority having discretion as to the mechanism to be utilized. The  
44 resolution shall also contain findings that the imposition of the  
45 franchise assessment is necessary because of the substantial risks  
46 undertaken to develop an infrastructure district.

1 (7) The resolution shall provide for the collection of the  
2 franchise assessment by an officer of the authority who shall be  
3 designated in the resolution; shall provide methods for enforcement;  
4 shall provide the permitted uses of the franchise assessment; and  
5 may provide penalties for the violation of any of the provisions of  
6 the resolution. "Permitted uses" may include the provision of loans,  
7 grants, or debt service for financing or refinancing the construction,  
8 reconstruction, repair, alteration, improvement, and development of  
9 any on-site or off-site infrastructure improvements, or parking or  
10 transportation facilities, or work that reduces, abates, or prevents  
11 environmental pollution, or other improvements that provide a  
12 public benefit within or to an infrastructure district.

13 c. For the purposes of effective administration of the franchise  
14 assessment, the authority shall have the authority to:

15 (1) Collect the franchise assessment, interest, and penalties  
16 imposed by a resolution adopted pursuant to paragraph (1) of  
17 subsection b. of this section which shall from the time due be a debt  
18 of the person by whom payable to the authority, recoverable in a  
19 court of competent jurisdiction in a civil action in the name of the  
20 authority to be instituted within three years of the date due.

21 (2) Authorize, as an additional remedy, the chief financial  
22 officer of the EDA to issue a certificate to the clerk of the Superior  
23 Court that any person is indebted under the resolution in an amount  
24 stated in the certificate. Thereupon, the clerk to whom the  
25 certificate is issued shall immediately enter upon the record of  
26 documented judgments the name of the person, the address of the  
27 place of business where the franchise assessment liability was  
28 incurred, the amount of the debt so certified, and the date of making  
29 of the entry. The making of the entry shall have the same force and  
30 effect as the entry of a documented judgment in the office of the  
31 clerk, and the chief financial officer of the EDA shall have all the  
32 remedies and may take all the proceedings for the collection of the  
33 debt which may be had or taken upon the recovery of a judgment in  
34 an action, but without prejudice to the person's right of appeal.

35 (3) Provide that, if for any reason the franchise assessment is  
36 not paid when due, interest at the rate of 12% per annum on the  
37 amount of the franchise assessment due, and an additional penalty  
38 of one-half of 1% of the amount of the unpaid assessment for each  
39 month or fraction thereof during which the franchise assessment  
40 remains unpaid, shall be added and collected. When action is  
41 brought for the recovery of any franchise assessment, the person  
42 liable therefor shall, in addition, be liable for the reasonable costs of  
43 collection and the interest and penalties imposed.

44 Any aggrieved person may, within 90 days of the entry of the  
45 decision, order, finding, assessment or action of the chief financial  
46 officer of the EDA under this section, file an appeal in the Superior  
47 Court, upon payment of the amount stated by the chief financial

1 officer of the EDA to be due. The appeal provided by this section  
2 shall be the exclusive remedy available to any person for review of  
3 a determination of the chief financial officer of the EDA with  
4 respect to a liability for the franchise assessment imposed.

5 For the purposes of this section, "franchise assessment" means  
6 an assessment on the amount of the sale price of all tangible  
7 property sold by a business, valued in money, whether received in  
8 money or otherwise, excluding the cost of transportation if such  
9 cost is separately stated in the written contract and in the amount of  
10 50 percent of the tax imposed pursuant to the "Sales and Use Tax  
11 Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

12  
13 23. The following are repealed:  
14 Sections 1 through 13 of P.L.2006, c.16 (C.52:27I-1 to 27:I-13);  
15 Sections 15 and 16 of P.L.2006, c.16 (C.52:27I-15 and 27:I-16).

16  
17 24. This act shall take effect on the 45th day after the date of  
18 enactment, except that section 23 shall take effect on the date that  
19 the authority assumes all of the powers, rights, assets, and duties of  
20 the predecessor authority.

21  
22  
23 STATEMENT  
24

25 This bill establishes the "Monmouth Economic Revitalization  
26 Authority" ("the authority") as the successor to the "Fort Monmouth  
27 Economic Revitalization Planning Authority" ("the predecessor  
28 authority"), which is abolished. The predecessor authority was  
29 designated by the federal government as the entity to develop a  
30 comprehensive conversion and revitalization plan for the territory  
31 encompassed by Fort Monmouth, which facility is to be closed  
32 under the federal Base Closure and Realignment law. The  
33 predecessor authority submitted the conversion and revitalization  
34 plan, entitled the "Fort Monmouth Reuse and Redevelopment Plan,"  
35 as well as a homeless assistance submission, on September 4, 2008  
36 to the federal government. The new authority has as its purpose the  
37 oversight, administration and implementation of the revitalization  
38 plan.

39 The membership of the authority, which is allocated in but not of  
40 the Department of the Treasury, is to consist of 13 members of  
41 which nine are voting members as follows: three members  
42 appointed by the Governor for staggered terms with the advice and  
43 consent of the Senate; the chief executive officer of the Economic  
44 Development Authority ("EDA"), another member of the Executive  
45 Branch, ex officio, a resident of Monmouth County ("the county")  
46 appointed by the Board of Chosen Freeholders, and the mayors of  
47 Eatontown, Oceanport, and Tinton Falls; and four ex officio non-

1 voting members: the Commissioners of Labor and Workforce  
2 Development, Environmental Protection, Community Affairs, and  
3 Transportation. The authority is to be staffed by an office  
4 established by this bill in the EDA and consisting of EDA staff  
5 under EDA supervision.

6 The authority is given extensive power to revitalize and  
7 redevelop the Fort Monmouth area (the "project area") in  
8 implementing the revitalization plan. Among these powers are the  
9 powers to:

10 (1) enter into a master redevelopment agreement with the EDA  
11 and to delegate certain of its powers to the EDA as master  
12 redeveloper;

13 (2) undertake redevelopment projects;

14 (3) adopt development and design guidelines and land use  
15 regulations and, if so designated, to adopt the homeless assistance  
16 submission required under the federal Base Closure and  
17 Realignment law;

18 (4) acquire, including by condemnation, properties within the  
19 project area where necessary in connection with the provision of  
20 utilities, streets, roads or other infrastructure required for the  
21 implementation of the revitalization plan; and

22 (5) consent to a request by a host municipality for, or request  
23 that the host municipality consider, the designation of portions of  
24 the project area as being in need of redevelopment or rehabilitation  
25 in accordance with the "Local Redevelopment and Housing Law,"  
26 P.L.1992, c.79 (C.40A:12A-1 et al.).

27 The revitalization plan and the development and design  
28 guidelines and land use regulations adopted by the authority will  
29 supersede the master plan, zoning and land use ordinances and  
30 regulations, and zoning maps of the host municipalities (Eatontown,  
31 Oceanport and Tinton Falls) in the project area, except for  
32 applications for subdivision or site plan approval, although the  
33 applications are to utilize the authority's guidelines and regulations.

34 The authority may act by an affirmative vote of five members on  
35 most matters, but an affirmative vote of seven members is required  
36 for any action to: 1) revise the revitalization plan or to adopt or  
37 revise the development and design guidelines or land use  
38 regulations adopted by the authority; 2) enter into a master  
39 redevelopment agreement with the EDA; 3) adopt any amendment  
40 to the plan pursuant to section 16 of the bill; 4) acquire easements,  
41 rights of way, or fee title to properties pursuant to subsection g. of  
42 section 9 of the bill; 5) undertake a project by the authority or the  
43 EDA; 6) grant a variance from the requirements of the master plan,  
44 development and design guidelines or land use regulations adopted  
45 by the authority; or 7) consent to the designation of any portion of  
46 the project area as an area in need of redevelopment or in need of  
47 rehabilitation.

1 The authority is to prepare a business plan which comprises all  
2 issues related to the closure, conversion, revitalization and future  
3 use of Fort Monmouth and also including analyses and strategies  
4 dealing with such matters as the economic impact of the project, job  
5 creation, cash flow, investment and financing strategy, etc.

6 All redevelopments within the project area are to be  
7 implemented pursuant to a redevelopment agreement between the  
8 authority or the redeveloper, or the authority and the EDA as master  
9 redeveloper, or between the EDA as master redeveloper and the  
10 redeveloper.

11 The bill authorizes the creation of various special purpose  
12 districts, namely, special improvement districts, a transportation  
13 planning district and infrastructure districts. The special  
14 improvement district is an area within the Fort Monmouth area  
15 designated by the authority in which a special assessment on  
16 property within the district may be imposed for the purposes of  
17 promoting the economic and general welfare of the Fort Monmouth  
18 area. A special assessment is to be imposed and collected by the  
19 affected municipalities and all or a portion of these payments are to  
20 be transferred to the authority. The improvements for which the  
21 assessments are to be imposed are local improvements under  
22 R.S.40:56-1 et seq. Such improvements will be financed by the  
23 authority. This district is modeled on the special improvement  
24 districts which may be designated by municipalities pursuant to  
25 P.L.1972, c.134 (C.40:56-65 et seq.).

26 The bill establishes the project area as the Fort Monmouth  
27 Transportation Planning District. The district, which is modeled on  
28 the Hackensack Meadowlands Transportation Planning District  
29 established pursuant to P.L.2005, c.102 (C.13:17-95 et seq.),  
30 permits the authority to provide for the assessment and collection of  
31 development fees on developments within the district. The fees  
32 would be used to fund transportation projects and allowable  
33 administrative costs within the district.

34 The bill authorizes the authority to create an infrastructure  
35 district or districts and, if so determined by the authority, the  
36 receipts of certain sales within the district will be exempt to the  
37 extent of 50 percent of the State's sales tax and the authority may  
38 adopt a franchise assessment not to exceed an amount equivalent to  
39 50 percent of the sales tax. This concept is based on a provision of  
40 the "Large Site Landfill Reclamation and Improvement Law,"  
41 P.L.1995, c.173 (C.40A:12A-50 et seq.), which was used to finance  
42 the infrastructure related to Jersey Gardens Mall in Elizabeth. The  
43 resolution establishing the infrastructure district shall contain  
44 findings that the imposition of the franchise assessment is necessary  
45 because of the substantial risks undertaken to develop an  
46 infrastructure district. The permitted uses of the franchise  
47 assessment include the provision of loans, grants, or debt service for

1 financing or refinancing on-site or off-site infrastructure  
2 improvements, parking or transportation facilities, or work that  
3 reduces, abates, or prevents environmental pollution, or other  
4 improvements that provide a public benefit within or to an  
5 infrastructure district.

6 The bill provides for the repeal of certain sections of P.L.2006,  
7 c.16 (C.52:27I-1 et seq.) which relate to the predecessor authority.

**LEGISLATIVE FISCAL ESTIMATE**  
**ASSEMBLY, No. 597**  
**STATE OF NEW JERSEY**  
**214th LEGISLATURE**

DATED: JUNE 4, 2010

**SUMMARY**

**Synopsis:** "Monmouth Economic Revitalization Authority Act."

**Type of Impact:** Probable revenue loss to the State General Fund.

**Agencies Affected:** Department of the Treasury.  
New Jersey Economic Development Authority.  
Some local governments.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Fiscal Year 2011 and beyond</u></b>
<b>State Revenue Loss</b>	Probable Revenue Loss of Indeterminate Scale-See comments below

- The Office of Legislative Services (OLS) deems it likely that the bill would lower State General Fund collections but a lack of data precludes the quantification of that impact. All but one of the bill's fiscal provisions are cost-neutral to the State and local governments in that they raise the amounts necessary to fund redevelopment activities. The bill's only net impact on State finances would accrue on account of the reduction in the State sales tax rate from 7.0 percent to 3.5 percent in any potential infrastructure district. Information related by the New Jersey Economic Development Authority (EDA) suggests that this revenue loss would be at most \$9 million per year. Nevertheless, the OLS cannot verify the accuracy of the underlying EDA estimate that new retail and hospitality establishments in the redevelopment area would generate \$18 million in new annual sales and use tax revenue since the EDA did not provide backup material in support of its estimate.
- Whether the State would gain or forego sales tax revenue as a consequence of this bill would depend on the proportion of taxable sales in any infrastructure district that would be displaced from other New Jersey merchants relative to new sales to New Jersey. For the bill's sales tax provision to be revenue-neutral, 50 percent of the sales would have to be new to New Jersey. If new sales to New Jersey were to comprise less than 50 percent of retail sales in the district, the bill would depress State sales tax collections; conversely, if new sales to New Jersey were to comprise more than 50 percent, the bill would augment State sales tax proceeds. Given that a contractor's analysis of the retail market around Fort Monmouth found no unmet demand for retail, that Fort Monmouth is not positioned to easily attract out-

of-state shoppers, and that the redevelopment plan does not seem to call for Fort Monmouth to become a major shopping destination, the OLS surmises that it would be probable for new sales to New Jersey to make up less than 50 percent of retail sales in Fort Monmouth—and hence that the State would forgo sales tax revenue if the bill was enacted.

- The OLS does not estimate the economic and fiscal impacts of the “Fort Monmouth Reuse and Redevelopment Plan,” but limits itself to analyzing the effects of the bill’s financing tools and fiscal provisions on State and local finances.

## **BILL DESCRIPTION**

Assembly Bill No. 597 of 2010 establishes the “Monmouth Economic Revitalization Authority” to implement the “Fort Monmouth Reuse and Redevelopment Plan.” Fort Monmouth is a federal military installation that is scheduled to be closed in 2011 and whose land is to be redeveloped for civilian use.

The authority’s 13 members shall serve without compensation but may be reimbursed for expenses incurred in the discharge of their duties. The authority shall have an office in the EDA staffed by EDA employees who are supervised by the EDA and who carry out the policies set forth by the authority.

The authority may create a Fort Monmouth special improvement district in which a special property assessment may be imposed on nonresidential real estate to cover the costs of the authority, including those of any development, construction, and acquisition in the district; and any related cost incurred by local governments.

The authority may also create a Fort Monmouth transportation planning district to undertake transportation projects at Fort Monmouth. The authority shall identify public and private financial resources to fund such projects. In addition, the district may levy development fees to defray the projects’ costs.

The authority may also establish an infrastructure district to improve the infrastructure at Fort Monmouth. To finance these activities, the authority may assess a franchise assessment of up to 3.5 percent against certain retail sales in its jurisdiction that are subject to the sales and use tax. Vendors in the infrastructure district may apply to the authority for certification that would reduce the State sales and use tax from 7.0 percent to 3.5 percent so that the total tax rate would not exceed 7.0 percent (3.5 percent to the State and not more than 3.5 percent to the infrastructure district). The assessment and the reduction would not apply to sales of motor vehicles, alcoholic beverages, cigarettes, energy, and manufacturing machinery and equipment.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

The OLS has not received an official fiscal estimate from the Executive, but, upon inquiry, the EDA submitted economic and fiscal information on the Fort Monmouth Reuse and Redevelopment Plan.



The EDA reports that 2 million square feet of office space would be built or renovated over the 20 years of implementing the redevelopment plan, which would provide an estimated 4,900 full-time positions and generate \$24.7 million in annual State wage taxes.

In addition, 760,000 square feet of retail and hospitality space would be built or renovated, which would create an estimated 1,900 full-time positions and generate over \$18.0 million in annual sales tax collections.

Lastly, the redevelopment plan would put 330 acres of land on the property tax rolls of Eatontown, Oceanport, and Tinton Falls. The total includes 2.4 million square feet of housing to be built or renovated.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS deems it likely that the bill would have a negative net effect on State General Fund collections but a lack of data precludes the quantification of that impact. All but one of the bill's fiscal provisions are cost-neutral to the State and local governments in that they raise the amounts necessary to fund redevelopment activities. The bill's only net fiscal impact on the State would accrue on account of the reduction in the State sales tax rate from 7.0 percent to 3.5 percent in any potential infrastructure district. Information related by the EDA suggests that this revenue loss would be at most \$9 million per year. Nevertheless, the OLS cannot verify the accuracy of the underlying EDA estimate that new retail and hospitality establishments in the redevelopment area would generate \$18 million in new annual sales and use tax revenue at the full sales tax rate of seven percent since the EDA did not provide backup material in support of its estimate.

In making its assessment, the OLS assumes that the "Fort Monmouth Reuse and Redevelopment Plan" may be implemented with or without this legislation and that the legislation merely sets the modalities and provides financing tools therefor. Consequently, the office does not estimate the economic and fiscal ramifications of the redevelopment plan proper, but limits itself to analyzing the effects of the bill's financing tools and fiscal provisions on State and local finances, as they represent a policy choice concerning the allocation of the redevelopment cost.

*Cost-Neutral Provisions:* All but one of the bill's fiscal provisions are cost-neutral to the State and local governments in that they raise the amounts necessary to fund redevelopment activities. The OLS, however, lacks pertinent information to estimate the redevelopment expenses that would be financed through special, dedicated assessments authorized by the legislation. The assessments are:

- 1) a special assessment on nonresidential property in any Fort Monmouth special improvement district to defray the expenses of redevelopment activities, including administrative costs, of the Monmouth Economic Revitalization Authority and the special improvement district;
- 2) development fees in the jurisdiction of any Fort Monmouth transportation planning district to cover the district's expenditures; and
- 3) a franchise assessment of no more than 3.5 percent on the taxable sales of retailers located in any infrastructure district to finance the district's infrastructure investments.

*Reduced State Sales and Use Tax Rate:* The bill's only fiscal net impact on the State would stem from reducing the State sales and use tax rate from 7.0 percent to 3.5 percent in any infrastructure district the Monmouth Economic Revitalization Authority may designate (the bill

also authorizes the imposition of an additional sales tax, called a franchise assessment, of up to 3.5 percent on retailers in any infrastructure district to finance the district's expenses—hence, the bill does not necessarily change the tax that consumers would be charged in the district but it does alter the allocation of tax collections).

For purposes of this analysis, the OLS accepts the EDA estimate that \$18 million in sales tax revenue would be generated annually by retailers in the redevelopment area at the full tax rate of seven percent, and assumes that all retailers in the redevelopment area would be located in an infrastructure district. Since the bill would reduce the State sales tax rate by 50 percent in the district, its retailers would collect \$9 million in State sales tax revenue. The OLS cautions, however, that the \$9 million would only represent a revenue gain to the State if all underlying sales were new to New Jersey. In fact, for reasons explained below, the OLS surmises that the bill is likely to cause a *revenue loss* to the State of no more than \$9 million.

In general, whether the State would gain or forego resources depends on the proportion of taxable sales in the infrastructure district that would be displaced from other New Jersey merchants relative to new sales to New Jersey. For the bill's sales tax provision to be revenue-neutral, 50 percent of the sales, or sales representing \$4.5 million in State sales tax collections, would have to be new to New Jersey (for every new sale, the State receives an additional 3.5 percent of receipts in sales tax revenue, while it loses 3.5 percent of receipts in sales tax revenue for each purchase that is displaced into the infrastructure district from elsewhere in New Jersey where the purchase would have been taxed at 7.0 percent). If new sales to New Jersey were to comprise less than 50 percent of retail sales in the district, the bill would depress State sales tax collections; conversely, if new sales to New Jersey were to comprise more than 50 percent, the bill would augment State sales tax proceeds. Thus, if all the sales were new to New Jersey, the State would gain \$9.0 million in sales tax revenue, and if all sales were displaced from elsewhere in New Jersey, the State would forego \$9.0 million in sales tax revenue. But because the OLS lacks information on the percentage of retail sales in the district that would be new to New Jersey, it cannot determine either the direction or the scale of the change in State sales tax collections.

Nevertheless, the office suspects that new sales to New Jersey would likely make up less than 50 percent of retail sales in any infrastructure district—and that the bill would therefore cause a State revenue loss. The office bases its impression on the "Regional Economic Profile and Market Analysis" prepared by Economic Research Associates (ERA) for the Fort Monmouth Economic Revitalization Planning Authority. In its analysis, ERA concludes that "there appears to be no remaining demand for retail by 2011 [in the trade area in and around Fort Monmouth]." According to ERA, Monmouth Mall—a regional shopping center with over 1.4 million square feet of rental—is only two miles from Fort Monmouth, Route 35 is already a major retail corridor, and retail building plans in the area will absorb currently unmet demand for retail by 2011. While new retail at Fort Monmouth could benefit from shoppers being willing to travel longer distances to this major retail area, the OLS doubts that many of those sales will be new to New Jersey, as it is too far away from out-of-state shoppers and as Fort Monmouth retail plans do not seem to call for turning Fort Monmouth into a shopping destination to which out-of-staters might be willing to travel. The OLS thus expects most retail sales at Fort Monmouth to cannibalize sales that would have otherwise occurred elsewhere in New Jersey with the attendant consequence of a net sales tax revenue loss to the State.

*Section: Revenue, Finance and Appropriations*

*Analyst: Thomas Koenig  
Senior Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY COMMERCE AND ECONOMIC DEVELOPMENT  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 597**

with committee amendments

**STATE OF NEW JERSEY**

DATED: JUNE 10, 2010

The Assembly Commerce and Economic Development Committee reports favorably and with committee amendments Assembly Bill No. 597.

This bill, as amended, establishes the "Fort Monmouth Economic Revitalization Authority" ("the authority") as the successor to the "Fort Monmouth Economic Revitalization Planning Authority" ("the predecessor authority"), which is abolished. The predecessor authority was designated by the federal government as the entity to develop a comprehensive conversion and revitalization plan for the territory encompassed by Fort Monmouth, which facility is to be closed under the federal Base Closure and Realignment law. The predecessor authority submitted the conversion and revitalization plan, entitled the "Fort Monmouth Reuse and Redevelopment Plan," as well as a homeless assistance submission, on September 4, 2008 to the federal government. The new authority has as its purpose the oversight, administration and implementation of the revitalization plan.

The membership of the authority, which is allocated in but not of the Department of the Treasury, is to consist of 13 members of which nine are voting members as follows: three members appointed by the Governor for staggered terms with the advice and consent of the Senate; the chairperson of the Economic Development Authority ("EDA"), another member of the Executive Branch, ex officio, a freeholder of Monmouth County ("the county") appointed by the Board of Chosen Freeholders, and the mayors of Eatontown, Oceanport, and Tinton Falls; and four ex officio non-voting members: the Commissioners of Labor and Workforce Development, Environmental Protection, Community Affairs, and Transportation. The authority is to be staffed by an office established by this bill in the EDA and consisting of EDA staff under EDA supervision.

The authority is given extensive power to revitalize and redevelop the Fort Monmouth area (the "project area") in implementing the revitalization plan. Among these powers are the powers to:

(1) enter into a designated redevelopment agreement with the EDA and to delegate certain of its powers to the EDA as designated redeveloper;

(2) undertake redevelopment projects;

(3) adopt development and design guidelines and land use regulations and, if so designated, to adopt the homeless assistance submission required under the federal Base Closure and Realignment law;

(4) acquire, including by condemnation, properties within the project area where necessary in connection with the provision of utilities, streets, roads or other infrastructure required for the implementation of the revitalization plan; and

(5) consent to a request by a host municipality for, or request that the host municipality consider, the designation of portions of the project area as being in need of redevelopment or rehabilitation in accordance with the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.).

The revitalization plan and the development and design guidelines and land use regulations adopted by the authority will supersede the master plan, zoning and land use ordinances and regulations, and zoning maps of the host municipalities (Eatontown, Oceanport and Tinton Falls) in the project area, except for applications for subdivision or site plan approval, although the applications are to utilize the authority's guidelines and regulations.

The authority may act by an affirmative vote of five members on most matters, but an affirmative vote of seven members is required for any action to: 1) adopt or revise the revitalization plan or adopt or revise the development and design guidelines or land use regulations adopted by the authority; 2) enter into a designated redevelopment agreement with the EDA; 3) adopt any amendment to the plan; 4) approve any project undertaken by the EDA; 5) acquire easements, rights of way, or fee title to properties pursuant to subsection g. of section 9 of the bill; 6) approve any project undertaken by the EDA; 7) approve the budget of the office or any amendment to the budget, in any year that the authority is anticipated to receive no funding from the federal government; 8) grant a variance from the requirements of the master plan, development and design guidelines or land use regulations adopted by the authority; or 9) consent to the designation of any portion of the project area as an area in need of redevelopment or in need of rehabilitation.

The authority is to prepare a business plan which comprises all issues related to the closure, conversion, revitalization and future use of Fort Monmouth and also including analyses and strategies dealing with such matters as the economic impact of the project, job creation, cash flow, investment and financing strategy, etc.

All redevelopments within the project area are to be implemented pursuant to a redevelopment agreement between the authority and the

redeveloper, or the authority and the EDA as designated redeveloper, or between the EDA as designated redeveloper and the redeveloper.

The amended bill authorizes the creation of various special purpose districts, namely, special improvement districts, a transportation planning district and infrastructure districts. A special improvement district is an area within the Fort Monmouth area designated by the authority in which a special assessment on property within the district may be imposed for the purposes of promoting the economic and general welfare of the Fort Monmouth area. A special assessment is to be imposed and collected by the affected municipalities and all or a portion of these payments are to be transferred to the authority. The improvements for which the assessments are to be imposed are local improvements under R.S.40:56-1 et seq. Such improvements will be financed by the authority. This district is modeled on the special improvement districts which may be designated by municipalities pursuant to P.L.1972, c.134 (C.40:56-65 et seq.).

The amended bill establishes the project area as the Fort Monmouth Transportation Planning District. The provisions establishing this district, which is modeled on the Hackensack Meadowlands Transportation Planning District established pursuant to P.L.2005, c.102 (C.13:17-95 et seq.), permit the authority to provide for the assessment and collection of development fees on developments within the district. The fees would be used to fund transportation projects and allowable administrative costs within the district.

The amended bill authorizes the authority to create an infrastructure district or districts and, if so determined by the authority, the receipts of certain sales within the district will be exempt to the extent of 50 percent of the State's sales tax and the authority may adopt a franchise assessment not to exceed an amount equivalent to 50 percent of the sales tax. This concept is based on a provision of the "Large Site Landfill Reclamation and Improvement Law," P.L.1995, c.173 (C.40A:12A-50 et seq.), which was used to finance the infrastructure related to Jersey Gardens Mall in Elizabeth. The resolution establishing the infrastructure district shall contain findings that the imposition of the franchise assessment is necessary because of the substantial risks undertaken to develop an infrastructure district. The permitted uses of the franchise assessment include the provision of loans, grants, or debt service for financing or refinancing on-site or off-site infrastructure improvements, parking or transportation facilities, or work that reduces, abates, or prevents environmental pollution, or other improvements that provide a public benefit within or to an infrastructure district.

The amended bill provides for the repeal of certain sections of P.L.2006, c.16 (C.52:27I-1 et seq.) which relate to the predecessor authority.

This bill was pre-filed for introduction in the 2010-2011 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

#### Committee Amendments

The committee amendments: 1) remove the provision that the officers and employees of the predecessor authority through an agreement with the Department of the Treasury shall terminate; 2) provide that, in the event the authority does not have adequate monies to fund the budget, the EDA may make a loan to the authority in the amount of the unfunded portion of budget on terms and conditions acceptable to the EDA and the authority; 3) provide that one member be selected from a list of five candidates chosen by the Monmouth County Board of Chosen Freeholders submitted to the Governor, allowing the Governor to reject all five candidates on the list and allowing a list of five different candidates to be submitted within 30 days thereafter; 4) provide that one member be a member of the Monmouth County Board of Chosen Freeholders instead of simply a resident of Monmouth County, who shall hold office for the term of that member's service on the board, and appoint a new board member if a current board member ceases to hold office on the board; 5) provide that the Governor appoint the chairperson of the authority instead of the authority members; 6) require the affirmative vote of seven members of the authority to (a) approve any project undertaken by the EDA and (b) approve the budget of the office for that year or any amendment to the budget in any year that the authority is anticipated to receive no funding from the federal government; 7) clarify that, as well as the authority, any business entity performing or seeking to perform a contract for the authority shall be subject to the provisions of P.L.2005, c.51 (C.19:44A-20.13 et seq.); 8) require the authority to appoint an historical preservation advisory committee and an environmental advisory committee to assist in its activities in such areas, and any other advisory committee as it deems appropriate; 9) provide that all State departments and agencies, to the extent not inconsistent with law and within budget constraints shall (a) cooperate with the authority and respond to requests for such information and assistance as are necessary to accomplish the purposes of the bill and (b) supersede existing priority setting or ranking systems to place applications that would benefit a project within the project area in the highest priority or ranking category for award or approval of grants, benefits, loans, projects, or other considerations that would benefit the project area; 10) provide that if the zoning board of the host municipality hearing a proposed variance request to the authority does not vote in favor of the variance request, the authority shall not be permitted to grant such variance; 11) concerning special improvement districts, provide that (a) the affected municipality must concur with

the authority in establishing a special improvement district, (b) establish a ceiling of 25 percent on the portion of the funds generated from the proceeds of the collection of the special assessment that may be retained by the affected municipality to cover the costs of the property tax payment imposition and collection activities of the affected municipality, and (c) the percentage amount of funds to be retained by the affected municipality for such purpose shall be established by agreement with the authority and by concurring ordinance of the affected municipality prior to the collection of the special assessment, and such percentage amount shall not be changed throughout the duration of the agreement; 12) provide that if the authority, in conjunction with the New Jersey Transit Corporation, shall cause a passenger rail station to be designed, constructed and operated within the project area, prior to taking any such action, the authority shall receive written approval by resolution from the governing body of the host municipality in which the passenger rail station is to be located; 13) change the bill's effective date from 45 to 30 days after the date of enactment; and 14) change the name of the authority to the "Fort Monmouth Economic Revitalization Authority" and redesignate "master redevelopment agreement" as the "designated redevelopment agreement."

As amended and reported by the committee, Assembly Bill No. 597 is identical to Senate Bill No. 917 (1R).



# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

### **ASSEMBLY, No. 597**

with Assembly committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 17, 2010

The Assembly Appropriations Committee reports favorably Assembly Bill No, 597 (1R), with committee amendments.

The bill, as amended, establishes the "Fort Monmouth Economic Revitalization Authority" ("the authority") as the successor to the "Fort Monmouth Economic Revitalization Planning Authority" ("the predecessor authority"), which the bill abolishes. The predecessor authority was designated by the federal government as the entity to develop a comprehensive conversion and revitalization plan for the territory encompassed by Fort Monmouth, which facility is to be closed under the federal Base Closure and Realignment law. The predecessor authority submitted the conversion and revitalization plan, entitled the "Fort Monmouth Reuse and Redevelopment Plan," as well as a homeless assistance submission, on September 4, 2008 to the federal government. The new authority has as its purpose the oversight, administration and implementation of the revitalization plan.

The authority, allocated in but not of the Department of the Treasury, will consist of 13 members, nine voting and four non-voting. The nine voting members are: three members appointed by the Governor for staggered terms with the advice and consent of the Senate; the chairperson of the Economic Development Authority ("EDA"), another member of the Executive Branch, ex officio, a freeholder of Monmouth County appointed by the Board of Chosen Freeholders, and the mayors of Eatontown, Oceanport, and Tinton Falls. The four non-voting members are, ex officio: the Commissioners of Labor and Workforce Development, Environmental Protection, Community Affairs, and Transportation. The bill establishes an office in the EDA, consisting of EDA staff under EDA supervision, to staff the authority.

The authority is given extensive power to revitalize and redevelop the Fort Monmouth area (the "project area") in implementing the revitalization plan. Among these powers are the powers to:

(1) enter into a designated redevelopment agreement with the EDA and to delegate certain of its powers to the EDA as designated redeveloper;

(2) undertake redevelopment projects;

(3) adopt development and design guidelines and land use regulations and, if designated to do so, adopt the homeless assistance submission required under the federal Base Closure and Realignment law;

(4) acquire, including by condemnation, properties within the project area where necessary in connection with the provision of utilities, streets, roads or other infrastructure required for the implementation of the revitalization plan; and

(5) consent to a request by a host municipality for, or request that the host municipality consider, the designation of portions of the project area as being in need of redevelopment or rehabilitation in accordance with the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.).

The revitalization plan and the development and design guidelines and land use regulations adopted by the authority will supersede the master plan, zoning and land use ordinances and regulations, and zoning maps of the host municipalities (Eatontown, Oceanport and Tinton Falls) in the project area, except for applications for subdivision or site plan approval, although the applications are to utilize the authority's guidelines and regulations.

The authority may act by an affirmative vote of five members on most matters, but an affirmative vote of seven members is required for any action to: 1) adopt or revise the revitalization plan or adopt or revise the development and design guidelines or land use regulations adopted by the authority; 2) enter into a designated redevelopment agreement with the EDA; 3) adopt any amendment to the plan; 4) approve any project undertaken by the EDA; 5) acquire easements, rights of way, or fee title to properties pursuant to subsection g. of section 9 of the bill; 6) approve any project undertaken by the EDA; 7) approve the budget of the office or any amendment to the budget, in any year that the authority is anticipated to receive no funding from the federal government; 8) grant a variance from the requirements of the master plan, development and design guidelines or land use regulations adopted by the authority; or 9) consent to the designation of any portion of the project area as an area in need of redevelopment or in need of rehabilitation.

The authority is to prepare a business plan which comprises all issues related to the closure, conversion, revitalization and future use of Fort Monmouth and also including analyses and strategies dealing with those matters as the economic impact of the project, job creation, cash flow, investment and financing strategy, etc.

All redevelopments within the project area are to be implemented pursuant to a redevelopment agreement between the authority and the

redeveloper, or the authority and the EDA as designated redeveloper, or between the EDA as designated redeveloper and the redeveloper.

The bill authorizes the creation of various special purpose districts: special improvement districts, a transportation planning district and infrastructure districts.

A special improvement district is an area within the Fort Monmouth area designated by the authority in which a special assessment on property within the district may be imposed for the purposes of promoting the economic and general welfare of the Fort Monmouth area. A special assessment is to be imposed and collected by the affected municipalities and all or a portion of these payments are to be transferred to the authority. The improvements for which the assessments are to be imposed are local improvements under R.S.40:56-1 et seq. Such improvements will be financed by the authority. This district is modeled on the special improvement districts which may be designated by municipalities pursuant to P.L.1972, c.134 (C.40:56-65 et seq.).

The bill establishes the project area as the Fort Monmouth Transportation Planning District. The provisions establishing this district, which is modeled on the Hackensack Meadowlands Transportation Planning District established pursuant to P.L.2005, c.102 (C.13:17-95 et seq.), permit the authority to provide for the assessment and collection of development fees on developments within the transportation district. The fees will be used to fund transportation projects and allowable administrative costs within the transportation district.

The amended bill authorizes the authority to create an infrastructure district or districts and, if so determined by the authority, the receipts of certain sales within the district will be exempt to the extent of 50 percent of the State's sales tax and the authority may adopt a franchise assessment not to exceed an amount equivalent to 50 percent of the sales tax. This concept is based on a provision of the "Large Site Landfill Reclamation and Improvement Law," P.L.1995, c.173 (C.40A:12A-50 et seq.), which was used to finance the infrastructure related to Jersey Gardens Mall in Elizabeth. The bill requires that the resolution establishing the infrastructure district contain findings that the imposition of the franchise assessment is necessary because of the substantial risks undertaken to develop an infrastructure district. The permitted uses of the franchise assessment include the provision of loans, grants, or debt service for financing or refinancing on-site or off-site infrastructure improvements, parking or transportation facilities, or work that reduces, abates, or prevents environmental pollution, or other improvements that provide a public benefit within or to the infrastructure district.

The bill repeals certain sections of P.L.2006, c.16 (C.52:27I-1 et seq.) which relate to the predecessor authority.

FISCAL IMPACT:

All but one of the bill's fiscal provisions are funded through special assessments, and therefore, are cost-neutral to the State and local governments. The bill's only net impact on State finances would accrue, due to the reduction in the State sales tax rate from 7.0 percent to 3.5 percent in any potential infrastructure district. The Office of Legislative Services (OLS) has estimated that it is likely that this provision would lower State General Fund collections, but a lack of data precludes the quantification of that impact.

Information provided by the New Jersey Economic Development Authority (EDA) suggests that this revenue loss would be *at most* \$9 million per year. Nevertheless, the OLS cannot verify the accuracy of the underlying EDA estimate that new retail and hospitality establishments in the redevelopment area would generate \$18 million in new annual sales and use tax revenue.

Whether the State would gain or lose sales tax revenue from this bill depends on the proportion of taxable sales in an infrastructure district that would be displaced from other New Jersey merchants relative to new sales to New Jersey. For the bill's sales tax provision to be revenue-neutral, 50 percent of the sales would have to be new to New Jersey. If new sales to New Jersey were to comprise less than 50 percent of retail sales in the district, the bill would depress State sales tax collections; conversely, if new sales to New Jersey were to comprise more than 50 percent, the bill would augment State sales tax proceeds. Given the available information about the retail market around Fort Monmouth, the OLS concludes that it would be probable for new sales to New Jersey to make up less than 50 percent of retail sales in Fort Monmouth—and so the State would forgo sales tax revenue if the bill were enacted.

•The OLS did not review any data on the impact of new property tax rates on the host municipalities, or on the impact of new job creation versus job transfers.

COMMITTEE AMENDMENTS:

The amendments modify the section of the bill that authorizes the creation of an infrastructure district to: 1) delete the reference to “manufacturing machinery, equipment or apparatus” as being exempt from the sales and use tax as this equipment is already exempt from that tax; 2) have the EDA Executive Director, instead of the Director of the Division of Taxation, certify or revoke the certification of a vendor selling goods at the reduced sales tax rate and notify the division director of the executive director's decision; and 3) modify the definition of “franchise assessment” to include the sales price of personal and specified digital product by a business and remove the exclusion of the cost of transportation in the amount of the sales price.

# LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

## ASSEMBLY, No. 597

### STATE OF NEW JERSEY 214th LEGISLATURE

DATED: JULY 19, 2010

#### SUMMARY

**Synopsis:** “Fort Monmouth Economic Revitalization Authority Act.”

**Type of Impact:** Probable revenue loss to the State General Fund.

**Agencies Affected:** Department of the Treasury.  
New Jersey Economic Development Authority.  
Some local governments.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Fiscal Year 2011 and beyond</u></b>
<b>State Revenue Loss</b>	Probable Revenue Loss of Indeterminate Scale-See comments below

- The Office of Legislative Services (OLS) deems it likely that the bill would lower State General Fund collections but a lack of data precludes the quantification of that impact. All but one of the bill’s fiscal provisions are cost-neutral to the State and local governments in that they raise the amounts necessary to fund redevelopment activities. The bill’s only net impact on State finances would accrue on account of the reduction in the State sales tax rate from 7.0 percent to 3.5 percent in any potential infrastructure district. Information related by the New Jersey Economic Development Authority (EDA) suggests that this revenue loss would be at most \$9 million per year. Nevertheless, the OLS cannot verify the accuracy of the underlying EDA estimate that new retail and hospitality establishments in the redevelopment area would generate \$18 million in new annual sales and use tax revenue since the EDA did not provide backup material in support of its estimate.
- Whether the State would gain or forego sales tax revenue as a consequence of this bill would depend on the proportion of taxable sales in any infrastructure district that would be displaced from other New Jersey merchants relative to new sales to New Jersey. For the bill’s sales tax provision to be revenue-neutral, 50 percent of the sales would have to be new to New Jersey. If new sales to New Jersey were to comprise less than 50 percent of retail sales in the district, the bill would depress State sales tax collections; conversely, if new sales to New Jersey were to comprise more than 50 percent, the bill would augment State sales tax

proceeds. Given that a contractor's analysis of the retail market around Fort Monmouth found no unmet demand for retail, that Fort Monmouth is not positioned to easily attract out-of-state shoppers, and that the redevelopment plan does not seem to call for Fort Monmouth to become a major shopping destination, the OLS surmises that it would be probable for new sales to New Jersey to make up less than 50 percent of retail sales in Fort Monmouth—and hence that the State would forgo sales tax revenue if the bill was enacted.

- The OLS does not estimate the economic and fiscal impacts of the “Fort Monmouth Reuse and Redevelopment Plan,” but limits itself to analyzing the effects of the bill’s financing tools and fiscal provisions on State and local finances.

## **BILL DESCRIPTION**

Assembly Bill No. 597 (2R) of 2010 establishes the “Fort Monmouth Economic Revitalization Authority” to implement the “Fort Monmouth Reuse and Redevelopment Plan.” Fort Monmouth is a federal military installation that is scheduled to be closed in 2011 and whose land is to be redeveloped for civilian use.

The authority’s 13 members shall serve without compensation but may be reimbursed for expenses incurred in the discharge of their duties. The authority shall have an office in the EDA staffed by EDA employees who are supervised by the EDA and who carry out the policies set forth by the authority.

The authority may create a Fort Monmouth special improvement district in which a special property assessment may be imposed on nonresidential real estate to cover the costs of the authority, including those of any development, construction, and acquisition in the district; and any related cost incurred by local governments.

The authority may also create a Fort Monmouth transportation planning district to undertake transportation projects at Fort Monmouth. The authority shall identify public and private financial resources to fund such projects. In addition, the district may levy development fees to defray the projects’ costs.

The authority may also establish an infrastructure district to improve the infrastructure at Fort Monmouth. To finance these activities, the authority may assess a franchise assessment of up to 3.5 percent against certain retail sales in its jurisdiction that are subject to the sales and use tax. Vendors in the infrastructure district may apply to the EDA for certification that would reduce the State sales and use tax from 7.0 percent to 3.5 percent so that the total tax rate would not exceed 7.0 percent (3.5 percent to the State and not more than 3.5 percent to the infrastructure district). The assessment and the reduction would not apply to sales of motor vehicles, alcoholic beverages, cigarettes, and energy.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

The OLS has not received an official fiscal estimate from the Executive, but, upon inquiry, the EDA submitted economic and fiscal information on the Fort Monmouth Reuse and Redevelopment Plan.

The EDA reports that 2 million square feet of office space would be built or renovated over the 20 years of implementing the redevelopment plan, which would provide an estimated 4,900 full-time positions and generate \$24.7 million in annual State wage taxes.

In addition, 760,000 square feet of retail and hospitality space would be built or renovated, which would create an estimated 1,900 full-time positions and generate over \$18.0 million in annual sales tax collections.

Lastly, the redevelopment plan would place 330 acres of land on the property tax rolls of Eatontown, Oceanport, and Tinton Falls. The total includes 2.4 million square feet of housing to be built or renovated.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS deems it likely that the bill would have a negative net effect on State General Fund collections but a lack of data precludes the quantification of that impact. All but one of the bill's fiscal provisions are cost-neutral to the State and local governments in that they raise the amounts necessary to fund redevelopment activities. The bill's only net fiscal impact on the State would accrue on account of the reduction in the State sales tax rate from 7.0 percent to 3.5 percent in any potential infrastructure district. Information related by the EDA suggests that this revenue loss would be at most \$9 million per year. Nevertheless, the OLS cannot verify the accuracy of the underlying EDA estimate that new retail and hospitality establishments in the redevelopment area would generate \$18 million in new annual sales and use tax revenue at the full sales tax rate of seven percent since the EDA did not provide backup material in support of its estimate.

In making its assessment, the OLS assumes that the "Fort Monmouth Reuse and Redevelopment Plan" may be implemented with or without this legislation and that the legislation merely sets the modalities and provides financing tools therefor. Consequently, the office does not estimate the economic and fiscal ramifications of the redevelopment plan proper, but limits itself to analyzing the effects of the bill's financing tools and fiscal provisions on State and local finances, as they represent a policy choice concerning the allocation of the redevelopment cost.

*Cost-Neutral Provisions:* All but one of the bill's fiscal provisions are cost-neutral to the State and local governments in that they raise the amounts necessary to fund redevelopment activities. The OLS, however, lacks pertinent information to estimate the redevelopment expenses that would be financed through special, dedicated assessments authorized by the legislation. The assessments are:

- 1) a special assessment on nonresidential property in any Fort Monmouth special improvement district to defray the expenses of redevelopment activities, including administrative costs, of the Monmouth Economic Revitalization Authority and the special improvement district;
- 2) development fees in the jurisdiction of any Fort Monmouth transportation planning district to cover the district's expenditures; and
- 3) a franchise assessment of no more than 3.5 percent on the taxable sales of retailers located in any infrastructure district to finance the district's infrastructure investments.

*Reduced State Sales and Use Tax Rate:* The bill's only fiscal net impact on the State would stem from reducing the State sales and use tax rate from 7.0 percent to 3.5 percent in any infrastructure district the Monmouth Economic Revitalization Authority may designate (the bill

also authorizes the imposition of an additional sales tax, called a franchise assessment, of up to 3.5 percent on retailers in any infrastructure district to finance the district's expenses—hence, the bill does not necessarily change the tax that consumers would be charged in the district but it does alter the allocation of tax collections).

For purposes of this analysis, the OLS accepts the EDA estimate that \$18 million in sales tax revenue would be generated annually by retailers in the redevelopment area at the full tax rate of seven percent, and assumes that all retailers in the redevelopment area would be located in an infrastructure district. Since the bill would reduce the State sales tax rate by 50 percent in the district, its retailers would collect \$9 million in State sales tax revenue. The OLS cautions, however, that the \$9 million would only represent a revenue gain to the State if all underlying sales were new to New Jersey. In fact, for reasons explained below, the OLS surmises that the bill is likely to cause a *revenue loss* to the State of no more than \$9 million.

In general, whether the State would gain or forego resources depends on the proportion of taxable sales in the infrastructure district that would be displaced from other New Jersey merchants relative to new sales to New Jersey. For the bill's sales tax provision to be revenue-neutral, 50 percent of the sales, or sales representing \$4.5 million in State sales tax collections, would have to be new to New Jersey (for every new sale, the State receives an additional 3.5 percent of receipts in sales tax revenue, while it loses 3.5 percent of receipts in sales tax revenue for each purchase that is displaced into the infrastructure district from elsewhere in New Jersey where the purchase would have been taxed at 7.0 percent). If new sales to New Jersey were to comprise less than 50 percent of retail sales in the district, the bill would depress State sales tax collections; conversely, if new sales to New Jersey were to comprise more than 50 percent, the bill would augment State sales tax proceeds. Thus, if all the sales were new to New Jersey, the State would gain \$9.0 million in sales tax revenue, and if all sales were displaced from elsewhere in New Jersey, the State would forego \$9.0 million in sales tax revenue. But because the OLS lacks information on the percentage of retail sales in the district that would be new to New Jersey, it cannot determine either the direction or the scale of the change in State sales tax collections.

Nevertheless, the office suspects that new sales to New Jersey would likely make up less than 50 percent of retail sales in any infrastructure district—and that the bill would therefore cause a State revenue loss. The office bases its impression on the "Regional Economic Profile and Market Analysis" prepared by Economic Research Associates (ERA) for the Fort Monmouth Economic Revitalization Planning Authority. In its analysis, ERA concludes that "there appears to be no remaining demand for retail by 2011 [in the trade area in and around Fort Monmouth]." According to ERA, Monmouth Mall—a regional shopping center with over 1.4 million square feet of rental—is only two miles from Fort Monmouth, Route 35 is already a major retail corridor, and retail building plans in the area will absorb currently unmet demand for retail by 2011. While new retail at Fort Monmouth could benefit from shoppers being willing to travel longer distances to this major retail area, the OLS doubts that many of those sales will be new to New Jersey, as it is too far away from out-of-state shoppers and as Fort Monmouth retail plans do not seem to call for turning Fort Monmouth into a shopping destination to which out-of-staters might be willing to travel. The OLS thus expects most retail sales at Fort Monmouth to cannibalize sales that would have otherwise occurred elsewhere in New Jersey with the attendant consequence of a net sales tax revenue loss to the State.



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This fiscal estimate has been prepared pursuant to P.L. 1980, c.67 (C.52:13B-6 et seq.).