

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.L.1963, 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

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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.