

CHAPTER 16

AN ACT creating the Fort Monmouth Economic Revitalization Planning Authority and supplementing Title 52 of the Revised Statutes.

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

C.52:27I-1 Short title.

1. This act shall be known and may be cited as the “Fort Monmouth Economic Revitalization Planning Authority Act.”

C.52:27I-2 Findings, declarations relative to closure and revitalization of Fort Monmouth.

2. The Legislature hereby finds and declares that the closure and revitalization of Fort Monmouth is a matter of great concern for the host communities of Eatontown, Oceanport, and Tinton Falls; for Monmouth County; and for the entire State of New Jersey.

The Legislature further finds and declares that the economies, environment, and quality of life of the affected communities and the State will depend on the efficient and proper revitalization of Fort Monmouth. Given that there is no appropriate State or local entity to prepare a comprehensive conversion and revitalization plan for this facility, that the facility is located within three municipalities, and that there are federal requirements through the Base Realignment and Closure Commission process for the establishment of such an entity, it is therefore in the public interest and the interest of the State to plan for the comprehensive conversion and revitalization of Fort Monmouth that will enhance the creation of employment and other business opportunities for the benefit of the host communities and the entire State.

The Legislature has determined that to provide for the proper planning for the revitalization of Fort Monmouth, a corporate agency of the State shall be created with the necessary powers to accomplish these purposes.

C.52:27I-3 Definitions relative to closure and revitalization of Fort Monmouth.

3. The following words or terms as used in P.L.2006, c.16 (C.52:27I-1 et seq.) shall have the following meaning unless a different meaning clearly appears from the context:

"Act" means the “Fort Monmouth Economic Revitalization Planning Authority Act.”

"Authority" means the Fort Monmouth Economic Revitalization Planning Authority created by section 4 of P.L.2006, c.16 (C.52:27I-4).

“Comprehensive conversion and revitalization plan” or “plan” means the plan prepared and adopted by the authority pursuant to section 14 of P.L.2006, c.16 (C.52:27I-14).

“Constituent municipality” means Eatontown, Oceanport or Tinton Falls.

“Federal government” means the United States of America, and any officer, department, board, commission, bureau, division, corporation, agency or instrumentality thereof.

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

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

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

C.52:27I-4 “Fort Monmouth Economic Revitalization Planning Authority.”

4. There is hereby established in the Department of the Treasury a public body corporate and politic, with corporate succession, to be known as the "Fort Monmouth Economic Revitalization Planning Authority." The authority is hereby constituted as an instrumentality of the State exercising public and essential governmental functions to provide for the public safety, convenience, benefit, and welfare. The exercise by the authority of the powers conferred by P.L.2006, c.16 (C.52:27I-1 et seq.) shall be deemed and held to be an essential governmental function of the State. For the purpose of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the authority is allocated within the Department of the Treasury, but notwithstanding that allocation, the authority shall be independent of any supervision or control by the department or any board or officer thereof, except as may be provided in P.L.2006, c.16 (C.52:27I-1 et seq.).

C.52:27I-5 Purpose of authority.

5. It shall be the purpose of the authority created under P.L.2006, c.16 (C.52:27I-1 et seq.) to develop a comprehensive conversion and revitalization plan for the territory encompassed by Fort Monmouth in a manner that will promote, develop, encourage, and maintain employment, commerce, economic development, and the public welfare; conserve the natural resources of the State; and advance the general prosperity and economic welfare of the people in the affected communities and the entire State by cooperating and acting in conjunction with other organizations, public and private, to promote and advance the economic use of the facilities located at Fort Monmouth.

C.52:27I-6 Members; appointment, qualification.

6. a. The authority shall consist of ten members to be appointed and qualified as follows:

(1) Four members appointed by the Governor with the advice and consent of the Senate, for terms of four years, two of whom shall be representatives of the private sector with relevant business experience or background; one of whom shall be an individual who is knowledgeable in environmental protection, conservation and land use issues and one of whom shall be a labor representative with appropriate experience in workforce development and job training. Preference shall be given to professionals with a background in technology, finance, or real estate. At least two of the members shall be residents of Monmouth County. Not more than two of the members appointed by the Governor shall be members of the same political party;

(2) The Chief Executive Officer and Secretary of the New Jersey Commerce, Economic Growth and Tourism Commission, ex officio and voting;

(3) One member, who shall be a resident of Monmouth County, to be appointed by the Monmouth County Board of Chosen Freeholders for a term of four years, who shall be either:

(a) a member of the board, or

(b) a qualified person, who shall be nominated by the board, with relevant business experience or background;

(4) The mayors of Eatontown, Oceanport, and Tinton Falls, ex officio and voting; and

(5) A representative of Fort Monmouth, to be appointed by the Secretary of the United States Department of Defense, who shall be a non-voting member.

Each member appointed by the Governor and the member appointed by the Board of Chosen Freeholders shall hold office for the term of that member's appointment and until a successor shall have been appointed and qualified. A member shall be eligible for

reappointment. Any vacancy in the membership occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only.

b. Except for those members designated pursuant to paragraph (4) of subsection a. of this section, each ex officio member of the authority may designate an employee of the member's department or office to represent the member at meetings of the authority. The designee of an ex officio member may act on behalf of the member. The designation shall be in writing and shall be delivered to the authority and shall be effective until revoked or amended in writing to the authority.

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

d. The members of the authority shall elect a chairperson and vice-chairperson from among their members. The chairperson shall appoint a secretary and treasurer. The powers of the authority shall be vested in the voting members thereof in office from time to time; five voting members of the authority shall constitute a quorum, and the affirmative vote of five members shall be necessary for any action taken by the authority, except as provided under sections 7 and 14 of P.L.2006, c.16 (C.52:27I-7 and 52:27I-14), or unless the bylaws of the authority shall require a larger number. No vacancy in the membership of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority.

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

f. No member, officer, employee or agent of the Fort Monmouth Economic Revitalization Planning Authority shall have an interest, either directly or indirectly, in any project, employment agreement or any contract, sale, purchase, lease, or transfer of real or personal property to which the Fort Monmouth Economic Revitalization Planning Authority is a party.

g. The authority may be dissolved by act of the Legislature on condition that the authority has no debts or obligations outstanding or provision has been made for the payment, retirement, termination, or assumption of its debts and obligations. Upon dissolution of the authority, all property, funds, and assets thereof shall be vested in the State.

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

i. Any and all proceedings, hearings or meetings of the authority or any advisory committees established by the authority shall be conducted in conformance with the "Open Public Meetings Act," P.L.1975, c.231 (C. 10:4-6 et seq.).

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

C.52:27I-7 Actions requiring affirmative vote of six members.

7. The affirmative vote of six members shall be required for the following actions taken by the authority:

- a. actions taken under subsections a., e. and j. of section 8 of P.L.2006, c.16 (C.52:27I-8);
- b. expenditures by the authority, including the annualized value of any actions taken pursuant to subsection e. of section 8 of P.L.2006, c.16 (C.52:27I-8), in excess of \$20,000;
- c. the election of a chairperson and vice-chairperson of the authority; and
- d. initiation of suit or other legal action by the authority.

C.52:27I-8 Powers of authority.

8. The authority shall have the following powers:

- a. To adopt and from time to time amend and repeal bylaws for the regulation of its affairs and the conduct of its business;
- b. To adopt and use an official seal and alter it at its pleasure;
- c. To maintain an office at a place or places within the State as it may designate;
- d. To sue and be sued in its own name;
- e. To appoint, retain, and employ, without regard to the provisions of Title 11A of the New Jersey Statutes but within the limits of funds appropriated or otherwise made available for such purposes, such officers, agents, employees, engineers, attorneys and experts as it may require, and to determine the qualifications, terms of office, duties, services, and compensation therefor;
- f. To assist in the planning of Fort Monmouth to benefit the surrounding communities and the entire State, in conjunction with federal, State, local, and other public entities, as appropriate;
- g. To appoint advisory committees to assist in its activities;
- h. To provide that any revenues collected shall be available to the authority for use in furtherance of any of the purposes of P.L.2006, c.16 (C.52:27I-1 et seq.);
- i. To lease as lessee, lease as lessor whether as a titleholder or not, own, rent, use, and take and hold title to, and collect rent from, real property and personal property or any interest therein, in the exercise of its powers and the performance of its duties under P.L.2006, c.16 (C.52:27I-1 et seq.), provided that, prior to taking and holding title to such property, the authority may enter into an interim lease with an entity that is not established by the federal government or any entity thereof, for a period of no more than five years; and
- j. To apply for, receive, and accept from any federal, State, or other public or private source, grants or loans for, or in aid of, the authority's authorized purposes.

C.52:27I-9 Prevailing wage requirements.

9. Each worker employed by the authority, or in any project to which the authority is a party, shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.).

C.52:27I-10 Purchases, contracts, agreements; advertisement, bids; exceptions.

10. a. All purchases, contracts or agreements made pursuant to P.L.2006, c.16 (C.52:27I-1 et seq.) shall be made or awarded directly by the authority, except as otherwise provided in P.L.2006, c.16 (C.52:27I-1 et seq.), only after public advertisement for bids therefor in the manner provided by the authority and notwithstanding the provisions of any other laws to the contrary.

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

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

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

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

(4) When the contract to be entered into is for the furnishing or performing of services of a professional or technical nature, including legal services, provided that the contract shall be made or awarded directly by the authority after the solicitation of requests for proposals in the manner provided by the authority and notwithstanding any other laws to the contrary;

(5) When the authority deems it appropriate to have any work performed by its own employees;

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

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

c. With regard to the appointment and employment of employees under subsection e. of section 8 of P.L.2006, c.16 (C.52:27I-8) who are to receive an annualized salary or wage in excess of \$10,000, the authority shall solicit applications for employment by public advertisement.

C.52:27I-11 Contract in excess of \$17,500, regulations regarding political contributions by business entities.

11. a. In addition to complying with the applicable provisions of P.L.2005, c.51 (C.19:44A-20.13 et seq.), the authority shall not enter into a contract having an anticipated value in excess of \$17,500, as determined in advance and certified in writing by the authority, with a business entity, if, on or after September 1, 2004, or 18 months prior to the dissemination of the request for proposals, the business entity has made a contribution that is reportable by the recipient under P.L.1973, c.83 (C.19:44A-1 et seq.) to the candidate committee of any person serving as a member of the authority when the contract is awarded or to the State, county or municipal committee of the political party to which any person serving as a member of the authority belongs when the contract is awarded.

A business entity that has entered into a contract, having a value in excess of \$17,500, with the authority, shall not make, during the duration of the contract, a contribution that is reportable by the recipient under P.L.1973, c.83 to the candidate committee of any person serving as a member of the authority or to the State, county or municipal committee of the political party to which any person serving as a member of the authority belongs.

b. As used in this section, "business entity" shall have the meaning prescribed by section 5 of P.L.2005, c.51 (C.19:44A-20.17).

C.52:27I-12 Political contributions by employees, certain, prohibited.

12. The authority shall not enter into an employment relationship with any person if, on or after September 1, 2004, that person has made a contribution that is reportable by the recipient under P.L.1973, c.83 (C.19:44A-1 et seq.) to the candidate committee of any person serving as a member of the authority or to a State, county or municipal committee of the political party to which any person serving as a member of the authority belongs when the employment relationship is entered into.

An employee of the authority shall not make a contribution that is reportable by the recipient under P.L.1973, c.83 to the candidate committee of any person serving as a member of the authority or to a State, county or municipal committee of the political party to which any person serving as a member of the authority belongs.

C.52:27I-13 Establishment of advisory committees.

13. The authority shall establish advisory committees in the following areas and in such other areas as it deems appropriate: infrastructure, housing, education, economic matters and workforce development, historical, and environmental. In addition, an advisory committee shall be established to solicit public comment by holding hearings and public meetings and taking other measures to gauge public opinion on matters under the authority's jurisdiction. The membership of the committees shall be determined by the authority. Each committee shall submit a report of its recommendations to the authority. The authority shall consider the reports of the committees in preparing the plan required by section 14 of P.L.2006, c.16 (C.52:27I-14).

C.52:27I-14 Preparation of comprehensive conversion and revitalization plan for Fort Monmouth.

14. a. The authority shall prepare a comprehensive conversion and revitalization plan for Fort Monmouth, which may be periodically revised and updated. The plan shall be approved by no fewer than six of the nine voting members of the authority.

The plan shall generally comprise a report or statement and land use and development proposals, including plans for the development, redevelopment or rehabilitation of the project area with maps, diagrams and text, presenting:

(1) A statement of objectives, principles, assumptions, policies and standards upon which the constituent proposals for the physical, economic and social development of the project area are based;

(2) The relationship of the plan to Statewide, county and municipal objectives as to appropriate land uses, density of population, and traffic and public transportation, public utilities, recreational and community facilities and other public improvements;

(3) Proposed land uses in the project area, taking into account and stating the relationship thereof to the statement provided for in paragraph (1) of this subsection, and other plan elements as the authority deems appropriate, including, but not necessarily limited to, topography, soil conditions, water supply, drainage, flood plain areas, marshes, and woodlands; showing the existing and proposed location, extent and intensity of development of land to be used in the future for varying types of residential, commercial, industrial, agricultural, recreational, educational and other public and private purposes or combination of purposes; and including a statement of the standards of population density and development intensity recommended for the project area. The plan shall not include any proposed State or federal correctional institutions to be located in whole or in part in the project area; and

(4) Any significant relationship of the plan to (a) the master plans of constituent municipalities, (b) the master plan of the county in which the municipalities are located, and (c) the State Development and Redevelopment Plan adopted pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.).

b. The plan shall supersede applicable provisions of the development regulations of the constituent municipalities or constitute an overlay district within the project area.

c. Prior to the adoption of such plan by the authority, the authority shall hold at least three public hearings, one within each of the host communities of Eatontown, Oceanport and Tinton Falls.

C.52:27I-15 Submission of proposed plan to constituent municipalities.

15. Prior to the adoption of the plan, or revision or amendment thereto, the authority shall transmit a copy of the proposed plan to the planning board of each constituent municipality. Within 45 days after referral, each planning board shall transmit to the authority a report containing its recommendation concerning the plan. This report shall include an identification of any provisions in the proposed plan that are inconsistent with the master plan and recommendations concerning these inconsistencies and any other matters as the board deems appropriate.

C.52:27I-16 Preparation of economic revitalization study.

16. The authority shall prepare an economic revitalization study for the project area which comprises a comprehensive study of all issues related to the closure, conversion, revitalization and future use of Fort Monmouth. This study shall have as a primary concern the impact of the closure and revitalization of Fort Monmouth on the economies, workforce, environment and quality of life in the affected communities. Additionally, the study shall consider all aspects of economic development, including a comparison of the types of

employment anticipated in the plan and an analysis of the stability and diversity of the economic development to be promoted.

This study shall include an analysis of potential revenue sources that may exist to promote the implementation of the comprehensive conversion and revitalization plan, including grants, loans or matching funds from federal, State or other public or private sources.

The economic revitalization study shall include a feasibility analysis of tax base sharing within the project area.

Upon completion, the economic revitalization study shall be forwarded to the governing body of each of the constituent municipalities and county.

C.52:27I-17 Submission of adopted plan to federal agencies.

17. Upon the final adoption thereof, the authority shall submit the comprehensive plan for the conversion and revitalization of Fort Monmouth and the economic revitalization plan to the appropriate agency or agencies of the federal government. The authority shall also submit the plan to the Governor, to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the clerks of the constituent municipalities, and to the clerk of Monmouth County.

18. This act shall take effect immediately.

Approved April 28, 2006.