

**CHAPTER 65**  
**(Corrected Copy)**

**AN ACT** concerning the investment of certain municipal funds, supplementing chapter 5 of Title 40A of the New Jersey Statutes, and amending P.L.1992, c.79.

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

C.40A:5-14.2 Findings, declarations relative to investment of certain municipal funds.

1. The Legislature finds and declares:

a. Elected municipal officials are the stewards for the property owned by the municipality.

b. It is sometimes necessary or desirable for the municipality to sell some of its assets that are no longer needed for a public purpose.

c. The use of proceeds from the sale or lease of a municipal asset that results in relatively large proceeds, to either fund a new service or to provide property tax relief for a limited period of time, are examples of actions by a local governing body that often necessitate subsequent property tax increases to either continue the new service or to fill-in the revenue gap.

d. Since the development or redevelopment of high valued municipal assets in a municipality in which casino gaming is authorized may be inextricably intertwined with the success of the casino gaming industry, an important revenue source for the State, it is in the best interests of the municipal taxpayers, as well as the citizens of the State, for the State and local elected officials to work collaboratively together to effectuate the prudent disposition of high value assets, to ensure that the interests of the State's casino gaming industry are not harmed, and to plan for the management of proceeds from the sale, assignment, lease, transfer, or redevelopment of those assets, when significant sums are involved, to ensure that any intended relief to municipal property taxpayers is maximized.

C.40A:5-14.3 Plan for conducting certain transactions involving real property in certain municipalities.

2. a. Whenever a municipality in which casino gaming is authorized intends to sell, assign, lease, or transfer ownership, or any other interest, in any real property, including real property to be sold, assigned, leased, or transferred pursuant to a redevelopment plan, or in any capital improvement or personal property, and:

(1) the asset has an assessed value of at least \$50 million, and either

(2) (a) the proceeds to be realized by the municipality as a result of the sale, assignment, lease, or transfer, regardless of the length of the term of the payment, will exceed its final appropriations for the previous year's budget, as determined pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2), or

(b) the sale, assignment, lease, or transfer is to another public entity, regardless of the amount of the proceeds to be realized by the municipality, then, the governing body of the municipality shall submit an application for approval by the Local Finance Board containing a plan for conducting the sale, assignment, lease, transfer, or redevelopment of the asset in accordance with procedures or forms promulgated by the Local Finance Board for this purpose.

(c) Notwithstanding subsection g. of section 8 of P.L.1992, c.79 (C.40A:12A-8), regarding the procedure for the sale or lease of assets by a municipality or redevelopment entity pursuant to a redevelopment plan, an asset subject to this subsection only shall be sold, assigned, leased, or transferred through a fair and open competitive process.

b. Upon submission of the proposed plan required pursuant to subsection a. of this section, the Local Finance Board shall schedule a hearing within 45 calendar days upon receipt of the proposed plan, for the purpose of approving the plan pursuant to subsection c. of this section. If the Local Finance Board does not schedule a hearing within 45 calendar days, then the plan is deemed approved.

c. At a hearing scheduled pursuant to subsection b. of this section, the Local Finance Board may approve the proposed plan for the sale, assignment, lease, transfer, or redevelopment of the asset. No actions to implement the proposed plan shall be taken until it has been approved by the Local Finance Board.

d. Subsequent to the issuance of an approval required by subsection c. of this section and prior to adopting any resolution or ordinance, or amending a resolution or ordinance introduced for the purpose of the sale, assignment, lease, transfer, or redevelopment of the asset, the municipality shall first obtain from the Local Finance Board a certification that: (1) the municipality complied with the requirements of P.L.2008, c.65 (C.40A:5-14.2 et al.); and (2) the proposed disposition of the asset, as introduced by the governing body, reflects the highest and best use of the asset, considering all relevant factors and circumstances.

e. To provide the certification required by subsection d. of this section, the Local Finance Board must find that the municipality implemented, without material deviation, the approved plan required by this section and has otherwise satisfied all other requirements of P.L.2008, c.65 (C.40A:5-14.2 et al.). The findings of the Local Finance Board shall be supported by a "fairness opinion" and appraisal, commissioned by the board from a reputable, experienced, and independent third-party entity licensed to do business in the State of New Jersey. The cost and expenses incurred by the Local Finance Board to commission the independent review may be reimbursed from the proceeds realized by the municipality as a result of the sale, assignment, lease or transfer of the asset.

f. The sale, assignment, lease, transfer, or redevelopment of a municipal asset requiring an application for approval by the Local Finance Board pursuant to this section shall be voidable if the municipal governing body fails to submit the application.

C.40A:5-14.4 Application for approval of plan relative to disposition of certain assets.

3. a. The governing body of a municipality shall apply to the Local Finance Board on or before the 30th day prior to the closing of an agreement for the disposition of an asset requiring board approval in accordance with section 2 of P.L.2008, c.65 (C.40A:5-14.3), for approval of a plan, in the form of an ordinance, to allocate the proceeds of the sale, assignment, lease, transfer, or execution of a redevelopment agreement. The application shall be made in accordance with procedures or forms promulgated by the Local Finance Board. The proposed allocation plan shall state the purposes for which the cash proceeds resulting from the sale, assignment, lease, transfer, or redevelopment of the asset shall be used.

b. Upon the filing of an application pursuant to subsection a. of this section, the Local Finance Board shall schedule a hearing within 45 calendar days upon receipt of the application, for the purpose of approving a proposed plan to allocate the proceeds of the sale, assignment, lease, transfer, or redevelopment of the asset. At the hearing the Local Finance Board may approve the proposed plan or require its modification. The plan may be amended from time-to-time, as deemed necessary by the governing body and the Local Finance Board subject to a two-thirds majority voter referendum.

c. Upon approval by the Local Finance Board in accordance with subsection b. of this section, a proposed ordinance to effectuate the allocation plan may be finally adopted by the municipality.

d. A sale, assignment, lease, transfer, or redevelopment of a municipal asset requiring approval of an allocation plan pursuant to this section shall be voidable if the municipal governing body fails to comply with the requirements of this section.

C.40A:5-14.5 Dedicated trust fund, investment oversight board.

4. a. (1) Upon final approval of an ordinance by the municipal governing body pursuant to subsection c. of section 3 of P.L.2008, c.65 (C.40A:5-14.4), the Local Finance Board may order that the proceeds from the disposition of municipal assets, described in section 3 of P.L.2008, c.65 (C.40A:5-14.4), shall be deposited in a dedicated trust fund which shall be managed in accordance with the provisions of this subsection.

(2) Funds, for purposes described in the approved allocation plan, may be disbursed from the dedicated trust fund and shall be invested and managed pursuant to the provisions of the allocation plan required pursuant to subsection b. of this section, and the investment plan approved pursuant to subsection l. of this section.

b. The management of funds in the dedicated trust fund shall be the responsibility of an investment oversight board which shall be organized immediately after each member provided for in subsection c. of this section has qualified and taken the oath of office.

c. The investment oversight board of a dedicated trust fund established pursuant to this section shall consist of three members as follows:

(1) The mayor of the municipality, ex-officio, or his designee;

(2) One member of the municipal council of the municipality, selected by a majority of its members, ex-officio, or his designee; and

(3) The chief financial officer of the municipality, ex-officio.

d. Each investment oversight board member shall, within 10 days after his appointment or selection, take an oath of office that so far as it devolves upon him, he will diligently and honestly administer the affairs of the board, and that he will not knowingly violate or willingly permit to be violated any of the provisions of law applicable to the dedicated trust fund. The oath shall be subscribed by the member making it, and certified by the officer before whom it is taken, and immediately filed in the office of the clerk of the municipality and in the office of the Secretary of State.

e. The members of the investment oversight board shall serve without compensation, but they shall be reimbursed by the municipality for all reasonable and necessary expenses that they incur through service on the board.

f. Each investment oversight board member shall be entitled to one vote on the board. A unanimous vote shall be necessary for a decision by the members at any meeting of the board; provided, however, that no vote shall be necessary for the annual distribution of earnings from the dedicated trust fund to the municipality for municipal property tax relief, if so provided in the allocation plan ordinance adopted pursuant to section 3 of P.L.2008, c.65 (C.40A:5-14.4).

g. Subject to the requirements and limitations of P.L.2008, c.65 (C.40A:5-14.2 et al.), the investment oversight board shall, from time to time, establish an investment management plan for the administration of the dedicated trust fund established pursuant to this section.

h. The investment oversight board shall elect from its membership a chairman. Any member of the board so elected shall serve as the chairman for a term of two years and until

election of his successor. When the term of office of an elected official ends prior to the completion of his two-year chairmanship term, then a new chairman shall be selected for a term of two years.

i. The Director of the Division of Investment in the Department of the Treasury, or a designee, shall be the secretary to any investment oversight board established pursuant to this section.

j. An investment oversight board solely shall use the services of the State Division of Investment to manage the business of its dedicated trust fund.

k. The Attorney General of the State of New Jersey shall be the legal advisor to any investment oversight board established pursuant to this section.

l. The assets of a dedicated trust fund established pursuant to this section shall be maintained, invested, and expended solely in accordance with an approved investment plan entered into pursuant to section 5 of P.L.2008, c.65 (C.40A:5-14.6); provided, however, that an investment plan shall not permit the assets of the dedicated trust fund to be loaned, transferred, or otherwise used by the State or any of its political subdivisions. This subsection shall not be construed to prohibit the investment oversight board from investing in, by purchase or otherwise, bonds, notes, or other obligations of the State or of an agency or instrumentality of the State.

#### C.40A:5-14.6 Duties of investment oversight board.

5. a. An investment oversight board created pursuant to section 4 of P.L.2008, c.65 (C.40A:5-14.5), acting in consultation with the Director of the Division of Investment in the Department of the Treasury, shall:

(1) establish an investment plan for the purposes of its dedicated trust fund established pursuant to subsection a. of section 4 of P.L.2008, c.65 (C.40A:5-14.5), subject to the approval of the State Treasurer; and

(2) annually review its investment plan to assure that the program remains actuarially sound.

b. An investment plan established pursuant to subsection a. of this section shall specify the investment policies, and notwithstanding the provisions of section 8 of P.L.1977, c.396 (C.40A:5-15.1), the types of financial instruments permitted for investment that shall be used by the Division of Investment in its administration of the fund.

c. (1) When required by the allocation plan adopted pursuant to section 3 of P.L.2008, c.65 (C.40A:5-14.4), at the close of each fiscal year of the municipality, the investment oversight board shall certify to the municipality the amount of earnings that are available for distribution.

(2) If those earnings are to be used for municipal property tax relief, then such amount shall be distributed from the dedicated trust fund to the municipality on the following schedule: February 1, 25% of the total amount due; May 1, 25% of the total amount due, August 1, 25% of the total amount due; and November 1, 25% of the total amount due.

(3) Distribution of funds for purposes other than municipal property tax relief shall be made pursuant to an agreement between the municipality and the investment oversight board, if permitted by municipal ordinance.

d. The investment oversight board shall be subject to the "prudent person" standard of care applicable to the Division of Investment in the Department of the Treasury pursuant to subsection b. of section 11 of P.L.1950, c.270 (C.52:18A-89).

e. (1) The day-to-day administration of the investments of any dedicated trust fund established pursuant to subsection a. of section 4 of P.L.2008, c.65 (C.40A:5-14.5) shall be vested with the Division of Investment in the New Jersey Department of the Treasury.

(2) The division shall be responsible for providing such services as may be deemed necessary for the implementation of a comprehensive investment program for the approved investment plan, including, but not limited to:

- (a) providing billing;
- (b) individual and collective record keeping and accounting;
- (c) asset purchase, control, and safe keeping;
- (d) investment management, marketing, administration, compliance, and internal control;
- (e) program operations; and
- (f) other services necessary to carry out the purposes of P.L.2008, c.65 (C.40A:5-14.2 et al.).

C.40A:5-14.7 Responsibilities of investment oversight board relative to reports.

6. a. Every investment oversight board created pursuant to section 4 of P.L.2008, c.65 (C.40A:5-14.5) shall be responsible for keeping a record of all of its proceedings, which shall be open to public inspection. It shall publish a quarterly report of the trust account's operations and an annual report showing the fiscal transactions of the dedicated trust fund for the preceding year, the amount of accumulated cash and securities of the fund, and the last balance sheet showing the financial condition of the dedicated trust fund by means of an actuarial valuation of the assets and liabilities of the dedicated trust fund.

b. All reports required pursuant to subsection a. of this section shall be submitted to the Governor, Commissioner of Community Affairs, State Comptroller, the State Treasurer, and each member of the governing body of the municipality no later than 45 days after the end of the municipality's fiscal year.

C.40A:5-14.8 Annual audit of dedicated trust funds.

7. a. The accounts of every dedicated trust fund established pursuant to subsection a. of section 4 of P.L.2008, c.65 (C.40A:5-14.5) shall be subject to annual audits by the State Auditor or a designee. In addition, the investment oversight board of a dedicated trust fund shall commission an independent audit of its program. The results of the independent audit shall be open to public inspection and shall be provided to the Governor, Commissioner of Community Affairs, State Comptroller, the State Treasurer, and each member of the governing body of the municipality. The investment oversight board may use earnings of the fund to pay for the cost of an independent audit required by this subsection.

b. Statements, reports on distributions, and information returns relating to accounts for a dedicated trust fund shall be prepared, distributed, and filed to the extent required by section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.529.

8. Section 8 of P.L.1992, c.79 (C.40A:12A-8) is amended to read as follows:

C.40A:12A-8 Effectuation of development plan.

8. Upon the adoption of a redevelopment plan pursuant to section 7 of P.L.1992, c.79 (C.40A:12A-7), the municipality or redevelopment entity designated by the governing body may proceed with the clearance, replanning, development and redevelopment of the area

designated in that plan. In order to carry out and effectuate the purposes of this act and the terms of the redevelopment plan, the municipality or designated redevelopment entity may:

a. Undertake redevelopment projects, and for this purpose issue bonds in accordance with the provisions of section 29 of P.L.1992, c.79 (C.40A:12A-29).

b. Acquire property pursuant to subsection i. of section 22 of P.L.1992, c.79 (C.40A:12A-22).

c. Acquire, by condemnation, any land or building which is necessary for the redevelopment project, pursuant to the provisions of the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.).

d. Clear any area owned or acquired and install, construct or reconstruct streets, facilities, utilities, and site improvements essential to the preparation of sites for use in accordance with the redevelopment plan.

e. Prepare or arrange by contract for the provision of professional services and the preparation of plans by registered architects, licensed professional engineers or planners, or other consultants for the carrying out of redevelopment projects.

f. Arrange or contract with public agencies or redevelopers for the planning, replanning, construction, or undertaking of any project or redevelopment work, or any part thereof; negotiate and collect revenue from a redeveloper to defray the costs of the redevelopment entity, including where applicable the costs incurred in conjunction with bonds, notes or other obligations issued by the redevelopment entity, and to secure payment of such revenue; as part of any such arrangement or contract, provide for extension of credit, or making of loans, to redevelopers to finance any project or redevelopment work, or upon a finding that the project or redevelopment work would not be undertaken but for the provision of financial assistance, or would not be undertaken in its intended scope without the provision of financial assistance, provide as part of an arrangement or contract for capital grants to redevelopers; and arrange or contract with public agencies or redevelopers for the opening, grading or closing of streets, roads, roadways, alleys, or other places or for the furnishing of facilities or for the acquisition by such agency of property options or property rights or for the furnishing of property or services in connection with a redevelopment area.

g. Except with regard to property subject to the requirements of P.L.2008, c.65 (C.40A:5-14.2 et al.), lease or convey property or improvements to any other party pursuant to this section, without public bidding and at such prices and upon such terms as it deems reasonable, provided that the lease or conveyance is made in conjunction with a redevelopment plan, notwithstanding the provisions of any law, rule, or regulation to the contrary.

h. Enter upon any building or property in any redevelopment area in order to conduct investigations or make surveys, sounding or test borings necessary to carry out the purposes of this act.

i. Arrange or contract with a public agency for the relocation, pursuant to the "Relocation Assistance Law of 1967," P.L.1967, c.79 (C.52:31B-1 et seq.) and the "Relocation Assistance Act," P.L.1971, c.362 (C.20:4-1 et seq.), of residents, industry or commerce displaced from a redevelopment area.

j. Make, consistent with the redevelopment plan: (1) plans for carrying out a program of voluntary repair and rehabilitation of buildings and improvements; and (2) plans for the enforcement of laws, codes, and regulations relating to the use and occupancy of buildings and improvements, and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements.

k. Request that the planning board recommend and governing body designate particular areas as being in need of redevelopment or rehabilitation in accordance with the provisions of this act and make recommendations for the redevelopment or rehabilitation of such areas.

l. Study the recommendations of the planning board or governing body for redevelopment of the area.

m. Publish and disseminate information concerning any redevelopment area, plan or project.

n. Do all things necessary or convenient to carry out its powers.

C.40A:5-14.9 Rules, regulations.

9. The Local Finance Board in the Department of Community Affairs may adopt rules and regulations pursuant to the provisions of the "Administrative Procedure Act," P.L. 1968, c.410 (C. 52:14B-1 et seq.) as the Board may deem necessary to implement or administer any of its responsibilities under this act, P.L.2008, c.65 (C.40A:5-14.2 et al.).

C.40A:5-14.10 Effective date.

10. This act shall take effect immediately and shall be retroactive with respect to resolutions for the sale, assignment, lease, transfer, or redevelopment of municipal property that are adopted on or after March 1, 2008.

Approved August 14, 2008.