

## ALERTS AND UPDATES

### New Jersey's Bill S-11 Establishes the Atlantic City Tourism District

February 11, 2011

*In a boost to New Jersey's casino and tourism industries, the state has enacted three new laws, and a fourth bill is pending before New Jersey Gov. Chris Christie. Links to additional Alerts summarizing the other pieces of legislation follow this piece.*

As part of the legislative package signed into law on February 1, 2011, revamping the regulatory landscape for gaming in Atlantic City, the New Jersey Legislature has created the Atlantic City Tourism District ("Tourism District") to allow the state greater authority to promote tourism in Atlantic City. This new district is to be administered and managed by the Casino Reinvestment Development Authority (the "CRDA"), whose powers are expanded to encompass its new responsibility for the Tourism District.

Under this new legislation, the CRDA is authorized to promote private investment in the development of the boardwalk area, the Marina District and the development within the Tourism District of nongaming family-oriented entertainment, such as amusement parks. To accomplish these objectives, the CRDA has been given authority to set design guidelines and land-use regulations, and to create a master plan for the Tourism District, all of which supersede any existing zoning, land-use ordinances or the master plan of Atlantic City. The CRDA is then authorized to act in a manner similar to a zoning or planning board, approving and denying applications for projects. The CRDA is also granted exclusive jurisdiction over the rules and regulations establishing the direction and control of traffic on roads within the Tourism District and also has jurisdiction, along with the appropriate road and highway authorities, to approve development projects along the roads and highways within the Tourism District.

The bill, S-11, vests the CRDA with the authority to determine, by resolution, the precise boundaries of the Tourism District. However, the Tourism District is to include, at a minimum, the Atlantic City casinos and casino hotels, any property under the ownership or control of the CRDA, the Atlantic City Special Improvement District, any property under the ownership or control of the convention center authority, any property within Atlantic City under the ownership or control of the New Jersey Sports and Exposition Authority, the Atlantic City Convention Center and Boardwalk Hall. If the CRDA does not pass a resolution defining the precise boundaries of the Tourism District within 90 days of the effective date of the legislation, S-11 sets the precise boundaries, including the above-mentioned areas, but also including Bader Field and the Marina District.

The CRDA is required to enter into a public-private partnership with a nonprofit corporation comprising a majority of the casino licensees whose investors have invested a minimum of \$1 billion in Atlantic City. The partnership is to undertake a five-year marketing program, although the corporation is primarily responsible for the development and implementation of the marketing campaign. Initial funding for the corporation is to come from the casino licensees in the amount of \$5 million, with each casino licensee's contribution in proportion to its gross revenue in the preceding fiscal year. The CRDA is to assess a fee upon each casino that does not make a contribution, calculated in the same manner as the voluntary contribution, which fee shall be remitted to the corporation in trust for expenditure in accordance with the partnership agreement. Starting January 1, 2012, the assessment and collection of fees shall be increased to \$30 million annually, in the same proportion described above. The corporation and CRDA may agree to increase the annual contribution. Any monies collected that are not used for marketing are to be expended for the support of the Tourism District. Eventually, all of the duties of the CRDA under this aspect of the legislation will be transferred to the Convention Center Division, a new division to be created within the CRDA that is to continue the functions, organizational structure and operations of the convention center authority.

If, within one year of the effective date of S-11, the nonprofit corporation does not come into existence, is unable to perform its agreement, or the agreement is terminated and not renewed, the CRDA shall assess a fee against each casino licensee in proportion to its gross revenue in the preceding fiscal year. The fee shall be assessed each state fiscal year for five years. The total fees assessed shall not be less than \$30 million for each fiscal year and would be used for the development of and the marketing of the Tourism District.

In addition, S-11 establishes a structure for law enforcement in the Tourism District. The bill authorizes the superintendent of the state police, in conjunction with the Atlantic City chief of police, to establish a Tourism District Division within the Atlantic City Police Department, which division

shall have primary responsibility for establishing law enforcement policy and conducting law-enforcement activities and operations in the Tourism District. To oversee this division, the superintendent shall appoint a division commander, who would be an employee of the Department of Law and Public Safety. The new division is to be staffed by Atlantic City police officers. This new division is to be headquartered in the Boardwalk area, and the CRDA is authorized to use its power of condemnation to acquire property for the headquarters, if necessary. The attorney general and the superintendent, in consultation with Atlantic City's mayor, prosecutor and police chief, will establish a specific public safety plan for the Tourism District.

The bill also establishes a complicated mechanism for the augmentation of horse-racing purses, to be funded for three years by the reduction in fees paid by the casinos, pursuant to revisions to the law concerning regulation of the casino industry. The New Jersey Division of Gaming Enforcement ("DGE") is required to determine and collect the amount of cost savings effected by the reduction in fees paid by casino licensees, pursuant to revisions to law concerning regulation of the casino industry. Of the calculated savings, the New Jersey Racing Commission ("Racing Commission") then would determine an amount to be paid annually by casino licensees to the Racing Commission to augment horse-racing purses. The amount should not exceed \$15 million in the first state fiscal year, \$10 million in the second state fiscal year and \$5 million in the third state fiscal year. The precise amount to be allocated will be established by the Racing Commission at a regular meeting, with the amount reflected in the meeting minutes delivered to the governor (and ultimately subject to his veto). If the amounts collected by the DGE pursuant to this process are insufficient to fund the required amount to allocate purses, the CRDA is authorized to make up the shortfall from any appropriate revenue source or account and will be reimbursed from the amounts collected by the DGE under this process in the subsequent state fiscal year.

A similar process is prescribed if Internet wagering is authorized in New Jersey, allocating the first \$30 million per year in tax revenue from Internet wagering for the augmentation of horse-racing purses, over a period of five years. If the amount of the Internet wagering tax revenues is insufficient to augment purses in the amount of \$15 million in the first year, \$10 million in the second year and \$5 million in the third year, the CRDA is again authorized to make up the shortfall from any appropriate revenue source or account and will be reimbursed from the amounts collected by the DGE under the cost-savings process described above.<sup>1</sup>

### **Related Duane Morris Alerts**

Besides Bill S-11, New Jersey has enacted two more laws concerning gaming and tourism, and an additional bill is pending before New Jersey Gov. Chris Christie. Duane Morris Alerts summarizing the other pieces of legislation are:

- [New Jersey's Bill S-12 Redesigns the Regulatory System for the Gaming Industry](#)
- [New Jersey's Bill S-490 Permits Casinos to Offer Internet Wagering](#)
- [New Jersey's Bill S-1866 Permits the Construction of "Boutique" Casinos](#)

### **For Further Information**

If you have any questions about the information addressed in this *Alert*, please contact [Gilbert L. Brooks](#), who is a partner in Duane Morris' [Gaming Practice Group](#), or the attorney in the firm with whom you are regularly in contact.

### **Note**

1. The legislature appears to have provided two separate, concurrent mechanisms funding the augmentation of horse-racing purses: one mechanism from cost savings and the other from Internet wagering tax revenues. It is unknown that this was intended, as an earlier version of the bill supplanted the cost-saving revenues for purposes of augmenting purses if the Internet wagering tax revenues were realized.

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