

[First Reprint]

ASSEMBLY, No. 4339

STATE OF NEW JERSEY
214th LEGISLATURE

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Sponsored by:

Assemblywoman JOAN M. QUIGLEY

District 32 (Bergen and Hudson)

Assemblyman ALBERT COUTINHO

District 29 (Essex and Union)

SYNOPSIS

Modifies economic redevelopment and growth grant program for projects involving redevelopment of certain hospitals.

CURRENT VERSION OF TEXT

As reported by the Assembly Commerce and Economic Development Committee on December 8, 2011, with amendments.



1 AN ACT establishing incentives for redeveloping certain hospital
 2 sites under the economic redevelopment and growth grant
 3 program and amending P.L.2009, c.90.

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

7
 8 1. Section 3 of P.L.2009, c.90 (C.52:27D-489c) is amended to
 9 read as follows:

10 3. As used in sections 3 through 18 of P.L.2009, c.90
 11 (C.52:27D-489c et al.):

12 "Applicant" means a developer proposing to enter into a
 13 redevelopment incentive grant agreement.

14 "Ancillary infrastructure project" means public structures or
 15 improvements that are located in the public right-of-way outside the
 16 project area of a redevelopment project, provided a developer or
 17 municipal redeveloper has demonstrated that the redevelopment
 18 project would not be economically viable without such
 19 improvements.

20 "Authority" means the New Jersey Economic Development
 21 Authority established under section 4 of P.L.1974, c.80 (C.34:1B-
 22 4).

23 "Developer" means any person who enters or proposes to enter
 24 into a redevelopment incentive grant agreement pursuant to the
 25 provisions of section 9 of P.L.2009, c.90 (C.52:27D-489i). A
 26 developer also may be a municipal government or a redevelopment
 27 agency as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3).

28 "Director" means the Director of the Division of Taxation in the
 29 Department of the Treasury.

30 "Eligible revenue" means the property tax increment and any
 31 other incremental revenues set forth in section 11 of P.L.2009, c.90
 32 (C.52:27D-489k).

33 "Hospital" means a hospital, that is licensed, or was licensed
 34 prior to closure, pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

35 ¹"Hospital redevelopment project" means a redevelopment
 36 project undertaken by a hospital.¹

37 "Incentive grant" means reimbursement of all or a portion of the
 38 project financing gap of a redevelopment project through the State
 39 or a local Economic Redevelopment and Growth Grant program
 40 pursuant to section 4 or section 5 of P.L.2009, c.90 (C.52:27D-489d
 41 or C.52:27D-489e).

42 "Infrastructure improvements in the public right-of-way" mean
 43 public structures or improvements located in the public right of way
 44 that are located within a project area or that constitute an ancillary
 45 infrastructure project.

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ACE committee amendments adopted December 8, 2011.

1 "Municipal redeveloper" means a municipal government or a
2 redevelopment agency acting on behalf of a municipal government
3 as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3) that is an
4 applicant for a redevelopment incentive grant agreement.

5 "New full-time employee" means a person employed by a non-
6 profit hospital: (1) who shall have entered such employment after
7 the completion of the non-profit hospital redevelopment project; (2)
8 who fills a position that the authority shall have determined (a) is
9 permanent, and (b) did not exist in this State prior to the completion
10 of the non-profit hospital redevelopment project; (3) who works at
11 least 35 hours a week in exchange for consideration, or renders any
12 other standard service generally accepted by custom or practice as
13 full-time employment; and (4) whose wages are subject to
14 withholding as provided in the "New Jersey Gross Income Tax
15 Act," N.J.S.54A:1-1 et seq.

16 "Non-profit hospital" means a hospital that is exempt from
17 federal taxation pursuant to paragraph (3) of subsection c. of section
18 501 of the federal Internal Revenue Code of 1986 (26 U.S.C.
19 s.501(c)(3)).

20 ¹["Non-profit hospital redevelopment project" means a
21 redevelopment project undertaken by a non-profit hospital.]"¹

22 "Project area" means land or lands under common ownership or
23 control including through a redevelopment agreement with a
24 municipality or as otherwise established by a municipality.

25 "Project financing gap" means the part of the total
26 redevelopment project cost, including return on investment, that
27 remains to be financed after all other sources of capital have been
28 accounted for, including, but not limited to, developer contributed
29 capital, which shall not be less than 20 percent of the total project
30 cost, and investor or financial entity capital or loans for which the
31 developer, after making all good faith efforts to raise additional
32 capital, certifies that additional capital cannot be raised from other
33 sources.

34 "Project revenue" means all rents, fees, sales, and payments
35 generated by a project, less taxes or other government payments.

36 "Property tax increment" means the amount obtained by:

37 (1) multiplying the general tax rate levied each year by the
38 taxable value of all the property assessed within a project area in
39 the same year, excluding any special assessments; and

40 (2) multiplying that product by a fraction having a numerator
41 equal to the taxable value of all the property assessed within the
42 project area, minus the property tax increment base, and having a
43 denominator equal to the taxable value of all property assessed
44 within the project area.

45 For the purpose of this definition, "property tax increment base"
46 means the aggregate taxable value of all property assessed which is
47 located within the redevelopment project area as of October 1st of

1 the year preceding the year in which the redevelopment incentive
2 grant agreement is authorized.

3 "Qualifying economic redevelopment and growth grant incentive
4 area" means Planning Area 1 (Metropolitan), Planning Area 2
5 (Suburban), or a center as designated by the State Planning
6 Commission; an area zoned for development pursuant to a master
7 plan adopted by the New Jersey Meadowlands Commission
8 pursuant to subsection (i) of section 6 of P.L.1968, c.404 (C.13:17-
9 6) or subject to a redevelopment plan adopted by the New Jersey
10 Meadowlands Commission pursuant to section 20 of P.L.1968,
11 c.404 (C.13:17-21); any land owned by the New Jersey Sports and
12 Exposition Authority, established pursuant to P.L.1971, c.137
13 (C.5:10-1 et seq.), within the boundaries of the Hackensack
14 Meadowlands District as delineated in section 4 of P.L.1968, c.404
15 (C.13:17-4); a pinelands regional growth area, a pinelands town
16 management area, a pinelands village, or a military and federal
17 installation area established pursuant to the pinelands
18 comprehensive management plan adopted pursuant to P.L.1979,
19 c.111 (C.13:18A-1 et seq.); a transit village, as determined by the
20 Commissioner of Transportation; and federally owned land
21 approved for closure under a federal Base Realignment Closing
22 Commission action.

23 "Redevelopment incentive grant agreement" means an agreement
24 between, (1) the State and the New Jersey Economic Development
25 Authority and a developer, or (2) a municipality and a developer, or
26 a municipal ordinance authorizing a project to be undertaken by a
27 municipal redeveloper, under which, in exchange for the proceeds
28 of an incentive grant, the developer agrees to perform any work or
29 undertaking necessary for a redevelopment project, including the
30 clearance, development or redevelopment, construction, or
31 rehabilitation of any structure or improvement of commercial,
32 industrial, residential, or public structures or improvements within a
33 qualifying economic redevelopment and growth grant incentive area
34 or a transit village.

35 "Redevelopment project" means a specific work or improvement,
36 including lands, buildings, improvements, real and personal
37 property or any interest therein, including lands under water,
38 riparian rights, space rights and air rights, acquired, owned,
39 developed or redeveloped, constructed, reconstructed, rehabilitated
40 or improved, undertaken by a developer within a project area and
41 any ancillary infrastructure project associated therewith.

42 "Redevelopment utility" means a self-liquidating fund created by
43 a municipality pursuant to section 12 of P.L.2009, c.90 (C.52:27D-
44 489l) to account for revenues collected and incentive grants paid
45 pursuant to section 11 of P.L.2009, c.90 (C.52:27D-489k), or other
46 revenues dedicated to a redevelopment project.

47 "Revenue increment base" means the amounts of all eligible
48 revenues from sources within the redevelopment project area in the

1 calendar year preceding the year in which the redevelopment
2 incentive grant agreement is executed, as certified by the State
3 Treasurer for State revenues, and the chief financial officer of the
4 municipality for municipal revenues.

5 "Transit village" means a community with a bus, train, light rail,
6 or ferry station that has developed a plan to achieve its economic
7 development and revitalization goals and has been designated by he
8 New Jersey Department of Transportation as a transit village.

9 "Vacant hospital site" means a location in a qualifying economic
10 redevelopment and growth grant incentive area where a hospital
11 currently exists and is considered vacant. A hospital shall be
12 considered vacant if at least 70 percent of that facility has not been
13 open to the public or utilized to serve any patients within the
14 preceding calendar year.

15 (cf: P.L.2011, c.89, s.6)

16
17 2. Section 6 of P.L.2009, c.90 (C.52:27D-489f) is amended to
18 read as follows:

19 6. a. Up to the limits established in subsection b. of this
20 section and in accordance with a redevelopment incentive grant
21 agreement, the State Treasurer shall pay to the developer
22 incremental State revenues directly realized from businesses
23 operating on the redevelopment project premises from the following
24 taxes: the Corporation Business Tax Act (1945), P.L.1945, c.162
25 (C.54:10A-1 et seq.), the tax imposed on marine insurance
26 companies pursuant to R.S.54:16-1 et seq., the tax imposed on
27 insurers generally, pursuant to P.L.1945, c.132 (C.54:18A-1 et
28 seq.), the public utility franchise tax, public utilities gross receipts
29 tax and public utility excise tax imposed on sewerage and water
30 corporations pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.), the
31 tax derived from net profits from business, a distributive share of
32 partnership income, or a pro rata share of S corporation income
33 under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et
34 seq., the tax derived from a business at the site of a redevelopment
35 project that is required to collect the tax pursuant to the "Sales and
36 Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), the tax imposed
37 pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) from the purchase
38 of materials used for the remediation, the construction of new
39 structures, or the construction of new residences at the site of a
40 redevelopment project, the hotel and motel occupancy fee imposed
41 pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1), or the
42 portion of the fee imposed pursuant to section 3 of P.L.1968, c.49
43 (C.46:15-7) derived from the sale of real property at the site of the
44 redevelopment project and paid to the State Treasurer for use by the
45 State, that is not credited to the "Shore Protection Fund" or the
46 "Neighborhood Preservation Nonlapsing Revolving Fund" ("New
47 Jersey Affordable Housing Trust Fund") pursuant to section 4 of
48 P.L.1968, c.49 (C.46:15-8), and, if the developer is a non-profit

1 hospital, the State Treasurer shall also pay to the developer
2 incremental State revenues directly realized from the “New Jersey
3 Gross Income Tax Act,” N.J.S.54A:1-1 et seq., paid by new full-
4 time employees at the ‘[non-profit]’ hospital redevelopment
5 project.

6 b. Up to 75 percent of the projected annual incremental
7 revenues may be pledged towards the State portion of an incentive
8 grant.

9 c. All administrative costs associated with the incentive grant
10 shall be assessed to the applicant and be retained by the State
11 Treasurer from the annual incentive grant payments.

12 d. The incremental revenue for the revenues listed in
13 subsection a. of this section shall be calculated as the difference
14 between the amount collected in any fiscal year from any eligible
15 revenue source included in the State redevelopment incentive grant
16 agreement, less the revenue increment base for that eligible
17 revenue.

18 e. The municipality is authorized to collect any and all
19 information necessary to facilitate grants under this program and
20 remit that information, as may be required from time to time, in
21 order to assist in the calculation of incremental revenue.

22 (cf: P.L.2010, c.10, s.6)

23

24 3. Section 9 of P.L.2009, c.90 (C.52:27D-489i) is amended to
25 read as follows:

26 9. a. The authority is authorized to enter into a redevelopment
27 incentive grant agreement with a developer for any redevelopment
28 project located within a qualifying economic redevelopment and
29 growth grant incentive area that does not qualify as such area solely
30 by virtue of being a transit village.

31 b. The decision whether or not to enter into a redevelopment
32 incentive grant agreement is solely within the discretion of the
33 authority and the State Treasurer, provided that they both agree to
34 enter into an agreement.

35 c. The Chief Executive Officer of the New Jersey Economic
36 Development Authority, in consultation with the State Treasurer
37 shall negotiate the terms and conditions of any redevelopment
38 incentive grant agreement on behalf of the State.

39 d. The redevelopment incentive grant agreement shall specify
40 the amount of the incentive grant to be awarded the developer, the
41 frequency of payments, and the length of time, which shall not
42 exceed 20 years, during which that reimbursement shall be granted.
43 Except for redevelopment incentive grant agreements with a
44 municipal redeveloper, in no event shall the combined amount of
45 the reimbursements under redevelopment incentive grant
46 agreements with the State or municipality exceed 20 percent of the
47 total cost of the project or 35 percent of the total cost of the project
48 in the case of a ‘[non-profit]’ hospital redevelopment project

1 undertaken on a vacant hospital site. For the purposes of
2 calculating the total cost of all projects, the cost of infrastructure
3 improvements in the public right-of-way and publicly owned
4 facilities shall not be included. The amount of the redevelopment
5 incentive grant for a municipal redeveloper may include the total
6 cost of such infrastructure improvements and publicly owned
7 facilities.

8 e. The authority and the State Treasurer may enter into a
9 redevelopment incentive grant agreement only if they make a
10 finding that the State revenues to be realized from the
11 redevelopment project will be in excess of the amount necessary to
12 reimburse the developer for its project financing gap. This finding
13 may be made by an estimation based upon the professional
14 judgment of the Chief Executive Officer of the New Jersey
15 Economic Development Authority and the State Treasurer.

16 f. In deciding whether or not to recommend entering into a
17 redevelopment incentive grant agreement and in negotiating a
18 redevelopment agreement with a developer, the Chief Executive
19 Officer of the New Jersey Economic Development Authority shall
20 consider the following factors:

- 21 (1) the economic feasibility of the redevelopment project;
- 22 (2) the extent of economic and related social distress in the
23 municipality and the area to be affected by the redevelopment
24 project;
- 25 (3) the degree to which the redevelopment project will advance
26 State, regional and local development and planning strategies;
- 27 (4) the likelihood that the redevelopment project shall, upon
28 completion, be capable of generating new tax revenue in an amount
29 in excess of the amount necessary to reimburse the developer for
30 project costs incurred as provided in the redevelopment incentive
31 grant agreement;
- 32 (5) the relationship of the redevelopment project to a
33 comprehensive local development strategy, including other major
34 projects undertaken within the municipality;
- 35 (6) the need of the redevelopment incentive grant agreement to
36 the viability of the redevelopment project; and
- 37 (7) the degree to which the redevelopment project enhances and
38 promotes job creation and economic development.

39 g. (1) A developer that has entered into a redevelopment
40 incentive grant agreement with the authority and the State Treasurer
41 pursuant to this section may, upon notice to and consent of the
42 authority and the State Treasurer, pledge and assign as security or
43 support for any loan or bond, any or all of its right, title and interest
44 in and to such agreements and in the incentive grants payable
45 thereunder, and the right to receive same, along with the rights and
46 remedies provided to the developer under such agreement. Any
47 such assignment shall be an absolute assignment for all purposes,
48 including the federal bankruptcy code.

(2) Any pledge of incentive grants made by the developer shall be valid and binding from the time when the pledge is made and filed in the records of the authority. The incentive grants so pledged and thereafter received by the developer shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the developer irrespective of whether the parties have notice thereof. Neither the redevelopment incentive grant agreement nor any other instrument by which a pledge under this section is created need be filed or recorded except with the authority.

(cf: P.L.2010, c.10, s.9)

4. Section 11 of P.L.2009, c.90 (C.52:27D-489k) is amended to read as follows:

11. a. The governing body of a municipality is authorized to enter into a redevelopment incentive grant agreement with a developer, which shall not be effective until adopted by ordinance, for any redevelopment project located within a qualifying economic redevelopment and growth grant incentive area.

b. The redevelopment incentive grant agreement shall specify the amount of the incentive grant to be awarded the developer, the frequency of payments, and the length of time, which shall not exceed 20 years, during which that reimbursement shall be granted. Except for redevelopment incentive grants with a municipal redeveloper, in no event shall the combined amount of the reimbursements under redevelopment incentive grant agreements with the State or municipality exceed 20 percent of the total cost of the project or 35 percent of the total cost of the project in the case of a 'non-profit' hospital redevelopment project undertaken on a vacant hospital site. For the purposes of calculating the total cost of all projects, the cost of infrastructure improvements in the public right-of-way and publicly owned facilities shall not be included. The amount of the redevelopment incentive grant for a municipal redeveloper may include the total cost of such infrastructure improvements and publicly owned facilities.

c. The municipality may enter into a redevelopment incentive grant agreement only if the chief financial officer of the municipality makes a finding that the incremental revenues to be realized from the redevelopment project will be in excess of the amount necessary to reimburse the developer for its project financing gap. Such finding shall be based upon appropriate documentation and calculations supporting the decision.

d. Within a qualifying economic redevelopment and growth grant incentive area a municipality that has entered into a local redevelopment incentive grant agreement may pledge eligible revenues it is authorized to collect as follows:

1 (1) incremental payments in lieu of taxes, with respect to
2 property located in the district, made pursuant to the "Five-Year
3 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
4 seq.), or the "Long Term Tax Exemption Law," P.L.1991, c.431
5 (C.40A:20-1 et al.);

6 (2) incremental revenues collected from payroll taxes, with
7 respect to business activities carried on within the area, pursuant to
8 section 15 of P.L.1970, c.326 (C.40:48C-15);

9 (3) incremental revenue from lease payments made to the
10 municipality, the developer, or the developer's successors with
11 respect to property located in the area;

12 (4) incremental revenue collected from parking taxes derived
13 from parking facilities located within the area pursuant to section 7
14 of P.L.1970, c.326 (C.40:48C-7);

15 (5) incremental admissions and sales taxes derived from the
16 operation of a public facility within the area pursuant to section 1 of
17 P.L.2007, c.302 (C.40:48G-1);

18 (6) (a) incremental sales and excise taxes which are derived
19 from activities within the area and which are rebated to or retained
20 by the municipality pursuant to the "New Jersey Urban Enterprise
21 Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) or any other law
22 providing for such rebate or retention;

23 (b) within Planning Area 1 (Metropolitan) under the State
24 Development and Redevelopment Plan adopted pursuant to the
25 "State Planning Act," sections 1 through 12 of P.L.1985, c.398
26 (C.52:18A-196 et seq.), a municipality may impose the entire State
27 sales tax on business activities within a redevelopment project
28 located in an urban enterprise zone that would ordinarily be entitled
29 to collect reduced rate revenues under section 21 of P.L.1983, c.303
30 (C.52:27H-80), and pledge the excess revenues to a local
31 redevelopment incentive grant agreement;

32 (7) incremental parking revenue collected, pursuant to section 7
33 of P.L.1970, c.326 (C.40:48C-7), from public parking facilities built
34 as part of a redevelopment project, except for public parking
35 facilities owned by parking authorities pursuant to the "Parking
36 Authority Law," P.L.1948, c.198 (C.40:11A-1 et seq.);

37 (8) incremental revenues collected, pursuant to section 3 of
38 P.L.2003, c.114 (C.40:48F-1), P.L.1981, c.77 (C.40:48E-1 et seq.),
39 or P.L.1947, c.71 (C.40:48-8.15 et seq.), from hotel and motel
40 taxes;

41 (9) upon approval by the Local Finance Board, other
42 incremental municipal revenues that may become available;

43 (10) the property tax increment.

44 The incremental revenue for the revenues listed in this
45 subsection, when applicable, shall be calculated as the difference
46 between the amount collected in any fiscal year from any eligible
47 revenue source included in the local redevelopment incentive grant

1 agreement, less the revenue increment base for that eligible
2 revenue.

3 e. (1) In calculating the general tax rate of a municipality each
4 year, the aggregate amount of the incremental ratable value over the
5 property tax increment base in the redevelopment project area that
6 is pledged as part of a redevelopment incentive grant agreement
7 shall be excluded from the ratable base of a municipality.

8 (2) The amount of property tax increment not pledged toward a
9 redevelopment incentive grant agreement shall be allocated
10 pursuant to the normal tax rate distribution.

11 The full incremental value of a project area shall be included in
12 the value used for county and regional school tax apportionment
13 until such time that the Director of the Division of Taxation in the
14 Department of the Treasury can certify that property tax
15 management systems are capable of handling the technical and legal
16 requirements of treating parcels in areas of redevelopment as
17 exempt from county and regional school apportionment.

18 f. In addition to the incremental revenues that may be pledged
19 in subsection d. of this section, any amount of tax proceeds
20 collected from the tax on the rental of motor vehicles pursuant to
21 section 20 of P.L.2009, c.90 (C.40:48H-2), may be included in a
22 redevelopment incentive grant agreement with a developer,
23 regardless of whether or not the redevelopment project area is
24 within or outside of the designated industrial zone from which the
25 tax on the rental of motor vehicles is collected.

26 g. (1) A developer that has entered into a redevelopment
27 incentive grant agreement with a municipality pursuant to this
28 section may, upon notice to and consent of the municipality, pledge
29 and assign as security or support for any loan or bond, any or all of
30 its right, title and interest in and to such agreements and in the
31 incentive grants payable thereunder, and the right to receive same,
32 along with the rights and remedies provided to the developer under
33 such agreement. Any such assignment shall be an absolute
34 assignment for all purposes, including the federal bankruptcy code.

35 (2) Any pledge of incentive grants made by the developer shall
36 be valid and binding from the time when the pledge is made and
37 filed in the office of the municipal clerk. The incentive grants so
38 pledged and thereafter received by the developer shall immediately
39 be subject to the lien of the pledge without any physical delivery
40 thereof or further act, and the lien of any pledge shall be valid and
41 binding as against all parties having claims of any kind in tort,
42 contract, or otherwise against the developer irrespective of whether
43 the parties have notice thereof. Neither the redevelopment
44 incentive grant agreement nor any other instrument by which a
45 pledge under this section is created need be filed or recorded except
46 with the municipality.

47 (cf: P.L.2010, c.10, s.10).

- 1 5. This act shall take effect immediately.