

**ASSEMBLY, No. 2007**

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**STATE OF NEW JERSEY**

**215th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

**Sponsored by:**

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**District 38 (Bergen and Passaic)**

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**District 4 (Camden and Gloucester)**

**SYNOPSIS**

Enhances the reporting and disclosure requirements concerning State tax expenditures and limits the duration of new State tax expenditure enactments.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 5/25/2012)

1 AN ACT enhancing the reporting and disclosure requirements  
2 concerning State tax expenditures and limiting the duration of  
3 State tax expenditure enactments, amending P.L.2009, c.189 and  
4 P.L.2007, c.200 and supplementing Title 1 of the Revised  
5 Statutes.

6

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

9

10 1. Section 1 of P.L.2009, c.189 (C.52:27B-20a) is amended to  
11 read as follows:

12 1. a. In addition to the requirements of section 11 of article 3  
13 of P.L.1944, c.112 (C.52:27B-20), and any other provisions of law,  
14 the Governor's budget message transmitted annually to the  
15 Legislature shall include a State tax expenditure report setting forth  
16 estimates of the tax expenditures under existing State law for the  
17 last completed fiscal year, the current fiscal year and the fiscal year  
18 to which the budget message applies. The tax expenditures report  
19 shall take into account projected economic factors, and any changes  
20 in State tax expenditures as may be enacted or reasonably expected  
21 to be enacted for any fiscal year.

22 b. The State tax expenditures report shall:

23 (1) list each State tax expenditure,

24 (2) identify the statutory authority for each State tax  
25 expenditure, and the year in which it was enacted or the tax year or  
26 tax period in which it became effective,

27 (3) describe the **【objective of】** specific goals, purposes, and  
28 objectives that each State tax expenditure will achieve,

29 (4) detail in columnar enumeration for each State tax  
30 expenditure an estimate of the amount of State revenue loss for the  
31 last completed fiscal year, the current fiscal year and the fiscal year  
32 to which the budget message applies,

33 (5) determine through detailed performance indicators whether  
34 each State tax expenditure has been effective in achieving the  
35 **【purpose】** specific goals, purposes and objectives for which the tax  
36 expenditure was enacted and currently serves, including an analysis  
37 of the persons, including corporations, individuals or other entities,  
38 benefited by the expenditure,

39 (6) evaluate the effect of each State tax expenditure on the  
40 fairness and equity of the distribution of the tax burden,

41 (7) describe the data collection and reporting requirements  
42 imposed upon the persons, including corporations, individuals or  
43 other entities benefited by the expenditure to assist in making the  
44 determination required by paragraph (5) of this subsection, which

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.

1 shall include the specific data and baseline measurements to be  
 2 collected and remitted in each year the State tax expenditure is in  
 3 effect, necessary to measure any change in performance indicators,  
 4 and the specific taxpayers, State departments, agencies, independent  
 5 authorities, or other entities required to collect and remit data, and

6 (7) the public and private costs of administering the State tax  
 7 expenditures.

8 c. As used in this section:

9 "State tax expenditure" means those revenue losses attributable  
 10 to provisions of State tax law which establish special tax treatment,  
 11 including but not limited to tax law definition, deduction, exclusion,  
 12 exemption, deferral, credit or transfer certificate, preferential tax  
 13 rate or other special tax provision resulting in a reduced tax liability  
 14 for certain persons, individuals, types of income, transactions or  
 15 property from the liability which would be presumed to exist  
 16 without the State tax expenditure.

17 d. The Division of Taxation in the Department of the Treasury  
 18 shall advise and assist the Governor in the preparation of the State  
 19 tax expenditure report.

20 (cf: P.L.2009, c.189, s.1)

21  
 22 2. Section 3 of P.L.2007, c.200 (C.52:39-3) is amended to read  
 23 as follows:

24 3. For the purposes of this act:

25 "Corporate parent" means either: a person, association,  
 26 corporation, joint venture, partnership, or other business entity, that  
 27 owns or controls 50% or more of a recipient corporation; or the  
 28 recipient corporation itself, if no other person, association,  
 29 corporation, joint venture, partnership, or other entity, owns or  
 30 controls 50% or more of the recipient corporation.

31 "Date of development subsidy" means the initial date that a  
 32 granting body provides the monetary value of a development  
 33 subsidy to a recipient corporation provided, however, that if the  
 34 development subsidy is for the installation of new equipment, the  
 35 date shall be the date the recipient corporation puts the equipment  
 36 into service and provided, further, that if the development subsidy is  
 37 for improvements to property, the date shall be the date the  
 38 improvements are finished or the date the recipient corporation  
 39 occupies the property, whichever is earlier.

40 "Development subsidy" means the authorizing of the provision  
 41 or providing to a recipient corporation of an amount of funds by or  
 42 from a public body with a value of not less than \$25,000 for the  
 43 purpose of stimulating economic development in New Jersey,  
 44 including, but not limited to, any bond, grant, loan, loan guarantee,  
 45 matching fund or any tax expenditure. "Development subsidy" does  
 46 not refer to any contract under which a public body purchases or  
 47 otherwise procures goods, services or construction on an

1 unsubsidized basis, including any contract solely for the  
2 construction or renovation of a facility owned by a public body.  
3 "Development subsidy" does not mean any authorizing or providing  
4 of funds by or from a public body to a recipient corporation,  
5 including by means of a tax expenditure, for the exclusive purpose  
6 of the development or production of affordable housing, for the  
7 exclusive purpose of subsidizing site remediation, recycling,  
8 commuter transportation assistance, pollution reduction, energy  
9 conservation or other programs to improve the environment, or for  
10 the exclusive purpose of providing benefits to employees of the  
11 recipient corporation. "Development subsidy" does not mean any  
12 authorizing or providing of funds by or from a public body to a non-  
13 profit organization, including by means of a tax expenditure, for the  
14 exclusive purpose of subsidizing the development of facilities used  
15 to provide recreational, educational, arts or cultural programs or  
16 childcare or healthcare services.

17 "Employee benefits" means the average rate of benefit costs paid  
18 by a recipient corporation to or for its employees, including, but not  
19 limited to, the cost to the recipient corporation of health care  
20 benefits, pension benefits and apprenticeship or other training and  
21 education benefits, but excluding any costs to the recipient  
22 corporation of unemployment compensation, workers'  
23 compensation or temporary disability benefits, Social Security  
24 benefits, or any other employee benefits which the recipient  
25 corporation is required by State or federal law to pay. "Employee  
26 benefits" do not include any payroll deductions or other costs paid  
27 by employees for the benefits.

28 "Full-time job" means a job in which an individual is employed  
29 by a recipient corporation for at least 35 hours per week.

30 "Granting body" means a public body that provides or authorizes  
31 a development subsidy and, in the case of a tax expenditure related  
32 to any tax paid to the State, means the State Treasurer.

33 "Health benefits" means health benefits provided under a group  
34 health plan as defined in section 14 of P.L.1997, c.146 (C.17B:27-  
35 54), a health benefits plan as defined in section 1 of P.L.1992, c.162  
36 (C.17B:27A-17), or a policy or contract of health insurance  
37 covering more than one person issued pursuant to Title 17B of the  
38 New Jersey Statutes.

39 "Part-time job" means a job in which an individual is employed  
40 by a recipient corporation for less than 35 hours per week.

41 "Project site" means the site of a project inside New Jersey for  
42 which any development subsidy is provided.

43 "Public body" or "State" means the State of New Jersey or any  
44 agency, instrumentality or authority of the State, but not a political  
45 subdivision of the State.

1 "Recipient corporation" means any non-governmental person,  
2 association, corporation, joint venture, partnership or other entity  
3 that receives a development subsidy.

4 "Tax expenditure" means the amount of foregone tax collections  
5 due to any abatement, reduction, exemption or credit or transfer  
6 certificate against any State tax, including, but not limited to, taxes  
7 on raw materials, inventories or other assets, taxes on gross  
8 receipts, income or sales, and any use, excise or utility tax. "Tax  
9 expenditure" does not refer to any credit against any tax liability of  
10 an employee or any personal exemption, homestead rebate, credit or  
11 deduction for the expenses of a household or individual, or other  
12 reduction of the tax liability of an individual or household.

13 "Temporary job" means a job for which an individual is hired for  
14 a limited period of time, which shall include all jobs for  
15 construction at the project site.

16 "Value of a development subsidy" means the dollar value of the  
17 development subsidy provided to the recipient corporation. In the  
18 case of a loan or loan guarantee provided by a public body to a  
19 recipient corporation or tax-exempt financing authorized by a  
20 public body, the "value of a development subsidy" means the  
21 amount loaned.

22 (cf: P.L.2007, c.200, s.3)

23

24 3. Section 4 of P.L.2007, c.200 (C.52:39-4) is amended to read  
25 as follows;

26 4. a. Each applicant for a development subsidy shall submit to  
27 the granting body an application for the development subsidy on a  
28 form prepared by the State Treasurer. The information required on  
29 the application, or in supplements accompanying the application,  
30 shall include the following:

31 (1) An application tracking number provided by the granting  
32 body;

33 (2) The names, street and mailing addresses and phone numbers  
34 of the chief officer of the granting body, the chief officer of the  
35 applicant's corporate parent and the applicant and the street address  
36 and three-digit North American Industry Classification System  
37 number of the project site;

38 (3) The start date and the end date, if any, of the development  
39 subsidy;

40 (4) A list of all development subsidies that the applicant is  
41 requesting or receiving, the name of any other granting body from  
42 which development subsidies are sought or obtained, the value of  
43 each development subsidy and the aggregate value of all  
44 development subsidies requested or received from all sources;

45 (5) A signed certification by the chief officer of the recipient  
46 corporation that the application is accurate and meets the  
47 requirements of this act;

- 1       (6) The total number of individuals employed by the applicant at  
2       the project site on the date of the application, the anticipated  
3       number of jobs that will be retained as a result of the development  
4       subsidy and the number of new jobs to be created by the applicant  
5       at the project site if the development subsidy is granted, broken  
6       down by full-time, part-time and temporary jobs;
- 7       (7) The average annual wage and benefit rates of current  
8       employees and the anticipated average annual wage and benefit  
9       rates of new employees;
- 10      (8) The number of current employees provided health benefits,  
11      and the number of new employees anticipated to be provided health  
12      benefits;
- 13      (9) How many of the current employees and how many of the  
14      anticipated new employees are represented by a collective  
15      bargaining unit;
- 16      (10) The average total number of individuals employed in New  
17      Jersey during the calendar year preceding the submission of the  
18      application by the applicant's corporate parent and all subsidiaries  
19      thereof, broken down by full-time, part-time and temporary jobs;
- 20      (11) A statement as to whether the development subsidy may  
21      reduce employment at any other site controlled by the applicant or  
22      its corporate parent, inside the State, resulting from automation,  
23      merger, acquisition, corporate restructuring or other business  
24      activity;
- 25      (12) A statement as to whether or not the project involves the  
26      relocation of work from another address and if so, the number of  
27      jobs to be relocated and the address from which they are to be  
28      relocated; and
- 29      (13) Any other information deemed useful or necessary by the  
30      State Treasurer for the implementation of this act, including for tax  
31      expenditures, specific data collection and reporting requirements  
32      imposed upon the recipient corporation that shall assist the State  
33      Treasurer in providing, as part of the annual budget request of the  
34      Governor, the comprehensive presentation of the State costs of tax  
35      expenditure development subsidies required pursuant to section 5 of  
36      P.L.2007, c.200 (C.52:39-5) and producing the annual Unified  
37      Economic Development Budget Report pursuant to section 6 of  
38      P.L.2007, c.200 (C.52:39-6, which information shall include the  
39      specific data and baseline measurements to be collected and  
40      remitted in each year the tax expenditure is in effect, necessary to  
41      measure any change in performance indicators, and the specific  
42      taxpayers, State departments, agencies, independent authorities, or  
43      other entities required to collect and remit data.
- 44      b. Any granting body, other than the State Treasurer approving  
45      the application, shall send a copy to the State Treasurer not more

1 than 15 business days after approval. If the application is not  
2 approved, the granting body shall retain the application.  
3 (cf: P.L.2007, c.200, s.4)

4  
5 4. Section 6 of P.L.2007, c.200 (C.52:39-6) is amended to read  
6 as follows:

7 6. a. The State Treasurer shall, not more than four months after  
8 the end of each State fiscal year, compile and publish, in printed  
9 and electronic form, including on the Internet, an annual Unified  
10 Economic Development Budget Report with regard to the fiscal  
11 year just concluded. The report shall provide the following  
12 comprehensive information regarding the costs and benefits of all  
13 development subsidies of the State:

14 (1) Information regarding tax expenditures resulting from any  
15 development subsidy, including the name of each recipient  
16 corporation receiving one or more tax expenditures with a  
17 combined total value equal to or greater than \$100,000, the value of  
18 all tax expenditures received by each recipient corporation and  
19 summaries of the number of full-time and part-time jobs created or  
20 retained, employee benefits provided and the degree to which job  
21 creation and retention, wage and benefit goals and requirements of  
22 recipient corporations and parent corporations have been met,. Any  
23 tax expenditure received by a corporation receiving tax  
24 expenditures with a total value of less than \$100,000 shall not be  
25 itemized. The report shall include aggregate dollar amounts for  
26 each category of tax expenditure, each geographical area, the  
27 number of companies for each category of tax expenditure, the  
28 number of full-time and part-time jobs created or retained, the  
29 employee benefits provided, and the degree to which job creation  
30 and retention, wage and benefit rate goals and requirements have  
31 been met for each category of tax expenditure, and a determination  
32 made through detailed performance indicators whether each tax  
33 expenditure has been effective in achieving the specific goals,  
34 purposes and objectives for which the tax expenditure was enacted  
35 and currently serves; and

36 (2) The costs of all expenditures of development subsidies  
37 appropriated by any granting body, including, but not limited to, the  
38 Department of Labor and Workforce Development, the Department  
39 of Education, the New Jersey Economic Development Authority,  
40 the New Jersey Commerce, Economic Growth and Tourism  
41 Commission, the New Jersey Commission on Higher Education, the  
42 New Jersey Commission on Science and Technology, and research  
43 and business assistance programs of public institutions of higher  
44 education, together with the cost to the granting bodies and the  
45 value of the development subsidies received by each recipient  
46 corporation, and summaries of the number of full-time and part-  
47 time jobs created or retained, employee benefits provided, and the

1 degree to which job creation and retention, wage and benefit rate  
2 goals and requirements of recipient corporations and parent  
3 corporations have been met.

4 b. The State Treasurer shall provide to the Legislature, as part  
5 of the annual budget request of the Governor, a comprehensive  
6 presentation of the costs of all development subsidies to the State  
7 during the prior fiscal year, an estimate of the anticipated costs of  
8 development subsidies for the then current fiscal year and an  
9 estimate of the costs of all development subsidies for the fiscal year  
10 of the requested budget, including, but not limited to:

11 (1) The total cost to the State of tax expenditures resulting from  
12 the development subsidies, the costs for each category of tax  
13 expenditure, and the amounts of tax expenditures by geographical  
14 area; and

15 (2) The cost to the State of all appropriated expenditures for  
16 development subsidies, including line-item budgets for every State-  
17 funded entity concerned with economic development, including, but  
18 not limited to, the Department of Labor and Workforce  
19 Development, the Department of Education, the New Jersey  
20 Economic Development Authority, the New Jersey Commerce,  
21 Economic Growth and Tourism Commission, the New Jersey  
22 Commission on Higher Education, the New Jersey Commission on  
23 Science and Technology, and research and business assistance  
24 programs of public institutions of higher education.

25 (cf: P.L.2007, c.200, s.6)

26  
27 5. (New section) Notwithstanding any other law to the  
28 contrary, any bill introduced on or after January 10, 2012 and  
29 enacted thereafter, that authorizes a State tax expenditure as defined  
30 in section 1 of P.L.2009, c.189 (C.52:27B-20a) or a tax expenditure  
31 as defined in section 3 of P.L.2007, c.200 (C.52:39-3), shall expire  
32 on the first day of January next following the seventh anniversary  
33 of its effective date.

34  
35 6. This act shall take effect immediately.

#### 36 37 38 STATEMENT

39  
40 This bill enhances the current statutory requirements of the  
41 review and evaluation of State tax expenditures or State tax  
42 preferences that are meant to accomplish public goals by forgoing  
43 State tax dollars to the direct benefit of certain taxpayers. These tax  
44 expenditures often are intended to encourage investment that will  
45 create jobs and economic development. Other tax expenditures are  
46 intended to relieve tax on publically favored or important products,  
47 services or financial decisions. Certain recently enacted



1 requirements for the regular Executive branch review of whether  
2 these various tax breaks have met expectations are in need of  
3 improvement. State public finance experts recommend that tax  
4 preferences be evaluated on par with direct spending programs.

5 This bill will enhance the annual review required by the State  
6 Treasurer of the specific goals, purposes, and objectives that each  
7 State tax expenditure is intended to achieve. The bill also requires  
8 an enhanced annual evaluation of specific data collection and  
9 improved reporting requirements imposed upon the recipient of tax  
10 expenditures, the comprehensive presentation of the State costs of  
11 tax expenditures including development subsidies, and review of  
12 the specific data and baseline measurements to be collected and  
13 remitted in each year that a tax expenditure is in effect, that are  
14 necessary to measure any change in performance indicators for  
15 evaluation of the overall benefit of tax expenditures.

16 The bill also requires that any bill authorizing a tax preference  
17 that is introduced after January 10, 2012, shall be evaluated based  
18 on specific goals and objectives, provide for detailed performance  
19 indicators, and expire after seven years.