ASSEMBLY, No. 3531



STATE OF NEW JERSEY

217th LEGISLATURE



INTRODUCED APRIL 4, 2016

Sponsored by:

Assemblyman PATRICK J. DIEGNAN, JR.

District 18 (Middlesex)

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District 15 (Hunterdon and Mercer)

Co-Sponsored by:

Assemblyman McKeon

SYNOPSIS

“Early Childhood Innovation Act”; establishes early childhood innovation loan pilot program and study commission within EDA.

CURRENT VERSION OF TEXT

As introduced.



An Act establishing an early childhood innovation loan pilot program and supplementing Title 34 of the Revised Statutes.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

1. This act shall be know and may be cited as the “Early Childhood Innovation Act.”

2. As used in this act:

“Authority” means the New Jersey Economic Development Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.).

“Early childhood innovation loan fund” or “fund” means the fund established pursuant to section 5 of this act.

“Eligible organization" means a nonprofit organization that is exempt from federal taxation pursuant to section 501(c)(3) of the federal Internal Revenue Code (26 U.S.C. s.501(c)(3)), that has applied for participation in the early childhood innovation loan pilot program established pursuant to section 3 of this act, and is selected by the study commission as qualified to receive a loan guarantee from the “early childhood innovation loan fund” established pursuant to section 5 of this act.

“Pilot program” means the early childhood innovation loan pilot program established pursuant to section 3 of this act.

“Study commission” means the New Jersey Early Childhood Innovation Study Commission established pursuant to section 4 of this act.

3. a. There is established a five-year early childhood innovation loan pilot program within the New Jersey Economic Development Authority to administer and determine the effectiveness of an early childhood innovation loan pilot program. The pilot program shall concern nonprofit early childhood services with the purpose of encouraging private investment in expanded early childhood programs including, but not limited to, preschool education, and child nutrition, health, early intervention, home visitation, and other services, to improve short-term and long-term outcomes for young children and reduce long-term costs. The pilot program shall assess the feasibility of expanding an early childhood innovation loan pilot program Statewide and expanding the scope of early childhood innovation loan guarantees, made pursuant to subsection b. of this section, beyond the early childhood sector.

b. Under the pilot program established pursuant to subsection a. of this section, the authority shall guarantee loans issued to eligible organizations for the provision of early childhood services which generate positive social outcomes and public sector cost savings. Each loan shall be facilitated by the study commission established pursuant to section 4 of this act and consist of:

(1) A lending agreement between an eligible organization, a lender, and a public sector entity which provides: (a) the eligible organization with direct funding from a lender in exchange for the provision of early childhood services; and (b) the public sector entity with early childhood services in exchange for defined payments to the lender in an amount proportional to the amount of public sector savings generated by the provision of those services.

(2) A loan guarantee agreement between the authority and all parties to the lending agreement from paragraph (1) of this subsection which shall require the lending agreement to conform to any loan requirements established pursuant to this act or by the authority; and

(3) An agreement between the authority, the public sector entity making performance payments, the eligible organization, and the lender which agrees to a method of measurement and verification of the early childhood services to be performed and child outcomes defined by the method of measurement, how the public sector savings are to be calculated, how the eligible organization and public sector entity will monitor and ensure compliance with federal and State laws and regulations, including laws and regulations regarding children with disabilities as defined by the Individuals with Disabilities Education Act, 20 U.S.C. s.1400 et seq., Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. s.794, or Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. ss.12131-12165, how the interest rate will be determined, and how funds will flow between the parties according to each of the agreements made pursuant to this subsection.

(4) In the event that the Department of Education is the public sector entity that is a party to an agreement under paragraph (1), (2), or (3) of this subsection for the provision of an early childhood service to a school district, the school district shall also be a party to the agreement.

c. Up to 100 percent of the value of a loan agreement entered into pursuant to subsection b. of this section may be guaranteed by the authority, provided that the total amount of all loans guaranteed under the early childhood innovation loan pilot program established pursuant to this act shall not exceed $15,000,000.

d. The authority, in cooperation with the study commission and the Department of Children and Families, the Department of Education, and the Department of Human Services, shall offer to guarantee loans made pursuant to subsection b. of this section utilizing funds from the early childhood innovation loan fund established pursuant to section 5 of this act to finance a project undertaken for the purposes of subsection b. of this section. The authority shall consider the following factors:

(1) The economic feasibility of the project;

(2) The degree to which the project will advance Statewide and regional strategies and objectives;

(3) The degree to which the project maximizes the leverage of other State funds; and

(4) The factors listed in paragraph (1) of subsection e. of section 4 of this act.

e. A lender or nonprofit organization seeking to participate in the early childhood innovation loan pilot program shall submit an application in such form as the authority shall require. The application shall include any information the authority determines is necessary in consideration of the provisions of P.L.2011, c.123 (C.52:14B-21.1 et seq.).

f. A loan guarantee agreement entered into pursuant to subsection b. of this section shall provide that any loan guaranteed by the authority shall: (1) be for a loan having a fair effective interest rate as determined by the authority; and (2) contain other terms and conditions considered appropriate by the authority that are consistent with the purposes of this act and with rules and regulations promulgated by the authority to implement this act.

g. (1) Consistent with federal law, rule, or regulation, each eligible organization that receives a loanguarantee under this act shall undergo an audit, at the organization’s own expense, at least once every two calendar years. The authority shall designate an auditor to conduct the audit.

(2) If an audit is performed under a requirement of federal law, rule, or regulation, the authority shall waive the audit required in this subsection with respect to all issues addressed by the federally-required audit report. However, the authority may require an audit of matters that are not, in the authority's judgment, addressed by the federally-required audit report including, but not limited to, measurement and verification of early childhood services, child outcomes defined by the method of measurement, and public sector savings.

h. A loan guarantee agreement made pursuant to subsection b. of this section shall provide that any loan guarantee issued by the authority shall be voided if the terms and conditions of the agreement are violated by any party to that loan securitization agreement.

i. The authority shall solicit grants from interested public or private sources for the establishment and administration of the pilot program and study commission as well as the capitalization of the early childhood innovation loan fund established pursuant to section 5 of this act.

j. The pilot program shall expire on the 30th day following the closing of all loans guaranteed pursuant to this act.

4. a. The authority shall oversee a study commission, entitled the “New Jersey Early Childhood Innovation Study Commission,” established for the duration of the pilot program.

b. The study commission shall consist of the following 15 members:

(1) one representative of each of the Department of Children and Families, the Department of Education, and the Department of Human Services;

(2) one member appointed by the President of the Senate and one member appointed by the Minority Leader of the Senate, both of whom shall be members of the public with demonstrated expertise in issues relating to the work of the commission;

(3) one member appointed by the Speaker of the General Assembly and one member appointed by the Minority Leader of the General Assembly, both of whom shall be members of the public with demonstrated expertise in issues relating to the work of the commission; and

(4) eight members appointed by the Governor: one member upon the recommendation of the New Jersey Education Association; one member upon the recommendation of the New Jersey School Boards Association; one member upon the recommendation of the New Jersey Principals and Supervisors Association; one member upon the recommendation of the New Jersey Association of School Administrators; one member upon the recommendation of the Garden State Coalition of Schools; one member upon the recommendation of the Advocates for Children of New Jersey; one member upon the recommendation of the New Jersey Child Care Association; and one member upon the recommendation of the New Jersey Chapter of the American Academy of Pediatrics. All members of the study commission shall serve for terms concurrent with the effective period of the pilot program.

The study commission shall organize as soon as practicable after the appointment of its members, shall select a chairperson from among its members, and shall appoint a secretary who need not be a member of the commission.

c. Any vacancy in the membership of the study commission shall be filled in the same manner in which the original appointment was made.

d. The study commission may request the assistance and services of employees of any other State department, board, bureau, commission, task force, or agency as it may require and as may be available. Members of the study commission shall serve without compensation, but shall be entitled to employ stenographic and clerical assistance and incur traveling and other miscellaneous expenses as the study commission may deem necessary in order to perform its duties, within the limits of the funds made available to the study commission for its purposes. The study commission may meet at the call of its chairperson at the times and in the places the study commission may deem appropriate and necessary to fulfill its duties, and may conduct public hearings at a place or places as the study commission shall designate. The study commission shall conduct its meetings in accordance with the “Senator Byron M. Baer Open Public Meetings Act,” P.L.1975, c.231 (C.10:4-6 et seq.).

e. It shall be the duty of the study commission to aid the authority in the administration of the early childhood innovation loan pilot program and to issue annual reports detailing the progress of the pilot program. Specifically, the study commission, in cooperation with the authority and the Department of Children and Families, the Department of Education, and the Department of Human Services, shall:

(1) Identify the nonprofit organizations that will be eligible to receive loan guarantees from the authority. The study commission shall make this determination taking several factors into consideration which shall include, but not be limited to, the size and identity of the target population that benefits from the nonprofit organization service provider, the projected financial value of the improvements as a result of the early childhood innovation loan investments, including projected public sector savings, ability to repay the loan in full, the ease of the measurability of the outcomes, and an analysis of impacts beyond financial savings and returns, such as social outcomes;

(2) Assist the authority in soliciting donations from philanthropic organizations and other private sources to capitalize the loan fund;

(3) Negotiate contract terms and conditions between early childhood innovation loan recipients and any public entity for whom the recipient is performing early childhood services, including the development of metrics to project and measure both financial and social outcomes, and the identification of independent third parties to measure and evaluate outcomes;

(4) Determine whether an independent intermediary with expertise in the areas of social finance and early childhood should be retained to: (a) assist the study commission in the performance of its duties under this section; or (b) perform the measurement and verification activities required in the agreements entered into pursuant to paragraph (3) of subsection b. of section 3 of this act, and to identify appropriate independent intermediaries to recommend to the authority if the study commission determines that intermediary services should be retained; and

(5) Any other purposes related to the pilot program for which the authority requests assistance.

f. Not later than one year following the effective date of this act, and annually for four years thereafter, the study commission shall submit to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1) to the Legislature, a report containing a study and evaluation of the pilot program. The report shall include, but not be limited to, a description of any eligible organizations funded by the early childhood innovation loans, State, federal, and municipal financial savings related to the issuance of early childhood innovation loans, the expected loan performance and projected payment schedule, the number of people serviced by the eligible organization, a comparison of the population serviced by the eligible organization and a similarly situated control group, and any community impact related to the pilot program.

g. The study commission shall submit its fifth and final report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1) to the Legislature, within 90 days of the expiration date of the pilot program, including any recommendations for legislative action it deems appropriate. The study commission’s final report shall include, but not be limited to, an analysis of the feasibility of implementing a permanent early childhood innovation loan program Statewide, sectors outside of non-profit early childhood in which social lending could be successfully applied, the estimated costs for the creation and administration of the permanent early childhood innovation loan program, projected State, federal, and municipal savings from administering the permanent program, a calculation of the loan performance realized from the pilot program, a calculation of the State, federal, and municipal savings accrued through the pilot program, and an analysis of non-financial outcomes, such as community impact and preventive results. The study commission shall expire on the 30th day after the date of the issuance of its final report, or upon the expiration of the pilot program, whichever occurs later.

5. a. To implement the early childhood innovation loan pilot program, the authority shall establish and maintain a special non-lapsing, revolving fund called the early childhood innovation loan fund which may be credited with:

(1) moneys appropriated by the State for the purpose of the fund;

(2) moneys received by the authority from any public or private donations to guarantee the loans issued pursuant to section 3 of this act;

(3) any moneys as may be available to the authority from grants or other forms of assistance established to support early childhood activities by the authority or by other State agencies or authorities; and

(4) moneys received from eligible organizations in the form of any applicable fees.

b. Loan funds may be used by the authority for the following purposes:

(1) guaranteeing loans issued pursuant to subsection b. of section 3 of this act;

(2) reasonable and necessary expenses incurred by the authority related to the administration of the early childhood innovation loan pilot program and the study commission; and

(3) administrative expenses for the provision of loan guarantees issued pursuant to subsection b. of section 3 of this act.

c. The amount of loans guaranteed by the authority pursuant to subsection b. of section 3 of this act shall not exceed $3,000,000 per year or $15,000,000 in the aggregate over five years, as determined by the authority.

d. The authority shall not issue a loan guarantee in an amount greater than the available and uncommitted moneys in the loan fund.

e. The authority may charge fees in connection with applications for participation in the early childhood innovation loan pilot program as it deems reasonable to cover authority expenses in administering the pilot program and issuing loan guarantees.

6. The authority shall appoint a director to manage the activities associated with the early childhood innovation loan fund established pursuant to section 5 of this act. The director shall receive compensation as determined by the authority.

7. The authority shall issue a report six months after the effective date of this act and annually thereafter not later than September 15, to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1) to the Legislature concerning the financing of the pilot program as described in section 5 of this act, undertaken with monies from the early childhood innovation loan fund. The initial report and each annual report required under this section shall include a description of the pilot program funded by loans issued to eligible organizations and a detailed analysis of the consideration given to the factors set forth in subsection d. of section 3 of this act.

8. The authority shall adopt pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules or regulations necessary to effectuate the purposes of this act.

9. This act shall take effect on the first day of the fourth month following the date of enactment, but the authority may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

STATEMENT

This bill establishes a five-year early childhood innovation loan pilot program for the purpose of encouraging private investment in expanded early childhood services, to improve short-term and long-term outcomes for young children, and reduce long-term costs. The early childhood programs and services would include, but not be limited to, preschool education, and child nutrition, health, early intervention, home visitation, and other services.

Under the bill, the New Jersey Economic Development Authority (EDA) is to establish a pilot program to guarantee loan agreements among lenders, eligible nonprofit organizations, and public sector entities. The loan agreements are to: 1) provide an eligible nonprofit organization with direct funding from a lender in exchange for the provision of services to a public sector entity; and 2) require the public sector entity receiving early childhood services to make defined payments to the lender in an amount proportional to the amount of savings generated by the provision of early childhood services. In the event that the anticipated savings are not achieved, the EDA is to provide a loan guarantee to the lender.

The EDA, lender, eligible nonprofit organization, and the public sector entity are to enter into an agreement which establishes a method of measurement and verification of the early childhood services to be performed and child outcomes defined by the method of measurement, how the public sector savings will be calculated, how the eligible organization and public sector entity will ensure compliance with State and federal laws and regulations including those in regard to children with disabilities, how the interest rate will be calculated, and how the funds will flow between the parties. In the event that the Department of Education is the public sector entity that is a party to an agreement for the provision of an early childhood service to a school district, the school district will also be a party to the agreement.

The bill provides that up to 100% of the value of a loan agreement may be guaranteed by the EDA, with loan amounts not to exceed $3,000,000 per year or $15,000,000 in the aggregate over the five-year pilot program period.

The bill establishes a non-lapsing, revolving fund called the early childhood innovation loan fund which is to be used to guarantee loans made under the pilot program and to pay for expenses related to the administration of the loan guarantees. The loan fund may be credited with monies from State appropriations, public or private donations, grant funding, and loan guarantee program fees. The EDA is not to issue a loan guarantee in an amount greater than the available and committed moneys in the loan fund.

The bill requires the EDA to solicit grants from philanthropic organizations or other private sources for the establishment and administration of the pilot program and capitalization of the loan fund.

The bill establishes the New Jersey Early Childhood Innovation Study Commission within the EDA to assist the EDA in administering the pilot program and issue annual reports detailing the progress of the pilot program. The study commission will consist of 15 members including: one representative from each of the Departments of Children and Families, Education, and Human Services; one public member appointed by the President of the Senate and one public member appointed by the Minority Leader of the Senate; one public member appointed by the Speaker of the General Assembly and one public member appointed by the Minority Leader of the General Assembly; and eight members appointed by the Governor upon the recommendation of various educational and social service organizations.

The bill directs the study commission to: 1) identify the nonprofit organizations that will be eligible to receive loan guarantees from the EDA; 2) assist the EDA in soliciting donations for the loan fund; 3) help negotiate contract terms and conditions of the loan agreements among lenders, eligible nonprofit organizations, the EDA, and public sector entities; 4) determine the necessity of retaining an independent intermediary to assist the study commission in the performance of its duties or to perform the measurement and verification functions needed to execute the loan guarantees; and 5) assist the EDA, upon request, with any other issues related to the program.