

[Second Reprint]

SENATE, No. 123

STATE OF NEW JERSEY
217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

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SYNOPSIS

Establishes "Small Business Bonding Readiness Assistance Program" in EDA to assist certain small businesses meet State or federal contract surety bond requirements.

CURRENT VERSION OF TEXT

As amended by the Senate on June 27, 2016.

(Sponsorship Updated As Of: 11/22/2016)

1 AN ACT concerning certain small business funding ²**[,]** ²and²
 2 supplementing P.L.1974, c.80 (C.34:1B-1 et seq.) ²**[and**
 3 amending and supplementing P.L.1983, c.303 (C.52:27H-60 et
 4 al.)² .

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

8
 9 1. ²**[(New section)]²** As used in sections 1 and 2 of P.L. ,
 10 c. (C.) (pending before the Legislature as this bill):

11 ¹“Association” means a non-profit business advocacy association
 12 whose membership comprises small businesses in need of surety
 13 bonding.¹

14 “Authority” shall have the same meaning as provided in section 3
 15 of P.L.1974, c.80 (C.34:1B-3).

16 “Fund” means the “Small Business Bonding Readiness
 17 Assistance Fund” established pursuant to section 2 of P.L. ,
 18 c. (C.) (pending before the Legislature as this bill).

19 “Program” means the “Small Business Bonding Readiness
 20 Assistance Program” established pursuant to section 2 of P.L. ,
 21 c. (C.) (pending before the Legislature as this bill).

22 “Small business” means a business engaged in the conduct of a
 23 trade or business in this State that qualifies as a “small business
 24 concern” within the meaning of the federal “Small Business Act,”
 25 Pub.L.85-536 (15 U.S.C. s.631 et seq.) for the purpose of the small
 26 business’s eligibility for performing a contract offered by the
 27 federal government or for assistance from the United States Small
 28 Business Administration. “Small business” shall also include a
 29 small business established in this State that is certified, pursuant to
 30 federal law, under the United States Small Business
 31 Administration’s 8(a) Business Development Program or the
 32 HUBZone Program, or as a Small Disadvantaged Business, or as a
 33 Section 3 business concern by the United States Department of
 34 Housing and Urban Development.

35
 36 2. ²**[(New section)]²** a. ¹(1)¹ The New Jersey Economic
 37 Development Authority shall establish and maintain a program to
 38 be known as the “Small Business Bonding Readiness Assistance
 39 Program” to provide support services to small businesses and to
 40 ¹**[help]** ¹assist¹ small businesses ¹**[qualify for]** ¹in securing¹ surety
 41 bonding ¹**[in order for]** ¹so that¹ small businesses ¹**[to]** ¹may¹ bid on
 42 public works projects or perform contracts offered by the State or
 43 by the federal government.

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:

¹Senate SEG committee amendments adopted May 5, 2016.

²Senate floor amendments adopted June 27, 2016.

1 ¹(2)¹ The authority shall ¹provide small businesses participating
2 in the program] enter into an agreement¹ with ¹a non-profit
3 business advocacy association concerning the association's
4 provision of¹ support services and assistance ¹to small businesses
5 seeking surety bonding. The support services and assistance
6 provided shall be¹ designed to increase small businesses' bonding
7 knowledge and capacity in order ¹for small businesses¹ to qualify
8 for surety bonding. The support services and assistance to small
9 businesses shall focus on improving ¹[their] small businesses'¹
10 financial presentation, operational efficiency, profitability, and
11 surety bonding capacity and knowledge through a series of
12 workshops and strategic consulting sessions.

13 b. The authority shall establish the terms and conditions by
14 which a small business may apply for the program.

15 c. The authority shall establish and maintain within the
16 program a special ¹[nonlapsing] non-lapsing¹ revolving fund to be
17 known as the "Small Business Bonding Readiness Assistance Fund"
18 to provide grant funding to small businesses that participate in the
19 program ¹, grant funding to an association that provides small
20 businesses participating in the program with support services and
21 assistance,¹ and to administer the program.

22 d. In administering the program and the fund, the authority
23 shall establish:

- 24 (1) procedures and timelines for applications for the program;
25 (2) criteria for determining grant amounts to be disbursed from
26 the fund to small businesses to meet their surety bond requirement;
27 (3) reporting requirements for small businesses accepted into the
28 program and who receive a grant from the fund; and
29 (4) any other policies deemed necessary by the authority for the
30 administration of the program and the fund. The authority, in its
31 sole discretion, may amend these policies at any time if the policies
32 are established or amended in a manner consistent with the
33 provisions of P.L. , c. (C.) (pending before the Legislature
34 as this bill).

35 e. ²[In addition to the \$250,000 annually received by the
36 authority pursuant to section 29 of P.L.1983, c.303 (C.52:27H-88)
37 and section 4 of P.L. , c. (C.) (pending before the
38 Legislature as this bill), the] The² fund may be credited with:

39 (1) moneys made available by the authority for the purpose of
40 the fund; and

41 (2) moneys received by the authority from any public or private
42 donations. The authority is authorized to seek and accept gifts,
43 grants, or donations from private or public sources for deposit in the
44 fund, except that the authority may not accept a gift, grant, or
45 donation that is subject to conditions that are inconsistent with any
46 other law of this State.

1 ²[3. Section 29 of P.L.1983, c.303 (C.52:27H-88) is amended to
2 read as follows:

3 29. a. (1) There is created an enterprise zone assistance fund to
4 be held by the State Treasurer, which shall be the repository for all
5 moneys required to be deposited therein **[under]** pursuant to section
6 21 of P.L.1983, c.303 (C.52:27H-80) or moneys appropriated
7 annually to the assistance fund. All moneys deposited in the
8 assistance fund shall be held and disbursed in the amounts
9 necessary to fulfill the purposes of this section and subject to the
10 requirements hereinafter prescribed. The State Treasurer may
11 invest and reinvest any moneys in the assistance fund, or any
12 portion thereof, in legal obligations of the United States **[or of]**, the
13 State, or **[of]** any political subdivision thereof. Any income from,
14 interest on, or increment to moneys **[so]** invested or reinvested
15 shall be included in the assistance fund.

16 (2) The State Treasurer shall maintain separate accounts for
17 each enterprise zone designated under P.L.1983, c.303 (C.52:27H-
18 60 et al.), and one in the authority's name for the administration of
19 the Urban Enterprise Zone program. The State Treasurer shall
20 credit to each account an amount of **[the]** moneys deposited in the
21 assistance fund equal to the amount of revenues collected from the
22 taxation of retail sales made in the zone and appropriated to the
23 enterprise zone assistance fund, or that amount of moneys
24 appropriated to the assistance fund and required to be credited to
25 the enterprise zone account of the qualifying municipality pursuant
26 to section 21 of P.L.1983, c.303 (C.52:27H-80).

27 (3) The State Treasurer shall promulgate **[the]** rules and
28 regulations necessary to govern the administration of the assistance
29 fund for the purposes of this section, which shall include, but not be
30 limited to, regulations requiring the establishment of separate bank
31 accounts for funds credited to the enterprise zone account of each
32 qualifying municipality from the enterprise zone assistance fund,
33 commonly known as "first generation funds," **[and]** funds
34 generated from **[the]** repayments of loans to individuals and
35 businesses from the enterprise zone account of each qualifying
36 municipality and the proceeds from the sale of properties and
37 equipment acquired through the enterprise zone program,
38 commonly known as "second generation funds," and the review,
39 compilation, and monitoring of second generation fund quarterly
40 reports submitted by each enterprise zone.

41 (4) Any individual, including an individual who is not directly
42 employed by a qualifying municipality, with the authority to
43 administer, allocate, or approve the use of enterprise zone
44 assistance funds is subject to the "Local Government Ethics Law,"
45 P.L.1991, c.29 (C.40A:9-22.1 et seq.), unless the individual is a
46 State employee or a special State officer.

1 b. The enterprise zone assistance fund shall be used for the
2 purpose of assisting qualifying municipalities in which enterprise
3 zones are designated in undertaking public improvements,
4 economic development projects, and in upgrading eligible
5 municipal services in designated enterprise zones.

6 c. The governing body of a qualifying municipality in which an
7 enterprise zone is designated and the zone development corporation
8 created or designated by the qualifying municipality for that
9 enterprise zone may, by resolution jointly adopted after public
10 hearing, propose to undertake a project for the public improvement
11 of the enterprise zone or to increase eligible municipal services in
12 the enterprise zone, and to fund that project or increase in eligible
13 municipal services from moneys deposited in the enterprise zone
14 assistance fund and credited to the account maintained by the State
15 Treasurer for the enterprise zone.

16 The proposal **【so】** adopted shall set forth a plan for the project or
17 for the increase in eligible municipal services and shall include:

18 (1) **【A】** a description of the proposed project or of the
19 municipal services to be increased;

20 (2) **【An】** an estimate of the total project costs, or of the total
21 costs of increasing the municipal services, and an estimate of the
22 amounts of funding necessary annually from the enterprise zone
23 account;

24 (3) **【A】** a statement of any other revenue sources to be used to
25 finance the project or to fund the increase in eligible municipal
26 services;

27 (4) **【A】** a statement of the time necessary to complete the
28 project, or of the time during which the increased municipal
29 services are to be maintained;

30 (5) **【A】** a statement of the manner in which the proposed project
31 or increase in municipal services furthers the municipality's policy
32 and intentions for addressing the economic and social conditions
33 existing in the area of the enterprise zone as set forth in the zone
34 development plan approved by the authority; and

35 (6) **【A】** a description of the financial and programmatic controls
36 and reporting mechanisms to be used to guarantee that the funds
37 will be spent in accordance with the plan and that the project or
38 increased municipal service will accomplish its purpose.

39 As used in this section, "project" means an activity funded by the
40 zone assistance fund through the qualified municipality and
41 implemented by the zone development corporation, including the
42 purchasing, leasing, condemning, or otherwise acquiring of land or
43 other property, or an interest therein, in the enterprise zone or as
44 necessary for a right-of-way or other easement to or from the
45 enterprise zone; the relocating and moving of persons or businesses
46 displaced by the acquisition of land or property; the rehabilitation
47 and redevelopment of land or property, including demolition,

1 clearance, removal, relocation, renovation, alteration, construction,
2 reconstruction, installation, or repair of land or a building, street,
3 highway, alley, utility, service, or other structure or improvement
4 which will lead to increased economic activity within the zone; the
5 purchase and installation of closed circuit television surveillance
6 systems or other related equipment and those expenses associated
7 with homeland security and domestic preparedness; the acquisition,
8 construction, reconstruction, rehabilitation, or installation of public
9 facilities and improvements, except buildings and facilities for the
10 general conduct of government and schools; the establishment of
11 revolving loan or grant programs for qualified businesses in the
12 zone to encourage private investment and job creation, matching
13 grant programs for the establishment or operation of pedestrian
14 malls, special improvement districts and tax increment districts, or
15 other appropriate entity; marketing, advertising, and special event
16 activities that will lead to increased economic activity or encourage
17 private investment and job creation in the zone, but not including
18 the expenditures therefor which are required to be reported pursuant
19 to "The New Jersey Campaign Contributions and Expenditures
20 Reporting Act," P.L.1973, c.83 (C.19:44A-1 et al.) and the costs
21 associated therewith including the costs of an administrative
22 appraisal, economic and environmental analyses, environmental
23 remediation, engineering, planning, design, architectural, surveying,
24 or other professional or managerial services.

25 As used in this section, "eligible municipal services" means the
26 hiring of additional policemen or firemen assigned duties in the
27 enterprise zone, or the purchasing or leasing of additional police or
28 fire vehicles, equipment, or apparatus to be used for the provision
29 of augmented or upgraded public safety services in the enterprise
30 zone and its immediate vicinities.

31 d. Upon adoption by the governing body of the qualifying
32 municipality and by the zone development corporation, the proposal
33 shall be sent to the authority for its evaluation and approval. The
34 authority shall approve the proposal if it **[shall find]** finds:

35 (1) **[In]** in the case of a project, that the proposed project
36 furthers the policy and intentions of the zone development plan
37 approved by the authority, and that the estimated annual payments
38 for the project from the enterprise zone account to which the
39 proposal pertains are not likely to result in a deficit in that account;
40 or

41 (2) **[In]** in the case of an increase in eligible municipal services,
42 that the proposal furthers the policy and intentions of the zone
43 development plan approved by the authority; that the qualifying
44 municipality has furnished satisfactory assurances that the
45 additional policemen or firemen to be hired, or the additional
46 vehicles, equipment, or apparatus to be purchased or leased, shall
47 be used to augment or upgrade public safety in the enterprise zone,
48 and shall not be used in other areas of the municipality; that the

1 qualifying municipality shall annually appropriate for the increased
2 eligible municipal services an amount equal to ~~【20%】~~ 20 percent of
3 the amount of annual payments for the eligible municipal services
4 from the enterprise zone account and shall not request for the
5 increased eligible municipal services an amount equal to more than
6 ~~【35%】~~ 35 percent of the amount of annual payments into the
7 enterprise zone account, unless the municipality and the authority
8 have entered into an agreement ~~【or agreements】~~ to the contrary
9 prior to July 1, 1992; and that the estimated annual payments for the
10 eligible municipal services from the enterprise zone account to
11 which the proposal pertains are not likely to result in a deficit in
12 that account.

13 e. If the authority ~~【shall approve】~~ approves the proposal, it
14 shall annually, upon its receipt of a written statement from the
15 governing body of the qualifying municipality and the zone
16 development corporation, certify to the State Treasurer the amount
17 to be paid in that year from the enterprise zone account in the
18 enterprise zone assistance fund with respect to each project or
19 increase in eligible municipal services approved. The authority
20 may at any time revoke its approval of a project or an increase in
21 eligible municipal services if it finds that the annual payments made
22 from the enterprise zone assistance fund are not being used as
23 required by this section.

24 f. Upon certification by the authority of the annual amount to
25 be paid to a qualifying enterprise zone with respect to any project or
26 increase in eligible municipal services, the State Treasurer shall pay
27 in each year to the qualifying municipality from the amounts
28 deposited in the enterprise zone assistance fund the amount ~~【so】~~
29 certified, within the limits of the amounts credited to the enterprise
30 zone account of the qualifying municipality.

31 g. (1) An amount not to exceed one-third of the amount
32 deposited in the account created in the name of the authority in the
33 enterprise zone assistance fund shall be used by the authority for the
34 coordination and administration of the program throughout the
35 State, including, but not limited to, costs for personnel, operating
36 expenses, and marketing.

37 (2) An amount equal to \$250,000 deposited in the account
38 created in the name of the authority in the enterprise zone assistance
39 fund shall annually be credited to the New Jersey Economic
40 Development Authority for the purposes of the “Small Business
41 Bonding Readiness Assistance Fund” established pursuant to
42 section 2 of P.L. , c. (C.) (pending before the Legislature
43 as this bill).

44 (3) The balance of the remaining amount shall be distributed to
45 qualifying municipalities in proportion to each municipality's
46 contribution to the enterprise zone assistance fund for the
47 coordination and administration of the program within the

1 municipality, including but not limited to costs for personnel,
2 operating expenses, and marketing.

3 (cf: P.L.2009, c.25, s.1)]²

4

5 ²[4.(New section) Notwithstanding the provisions of section 11
6 of P.L.2001, c.347 (C.52:27H-66.6), section 21 of P.L.1983, c.303
7 (C.52:27H-80), and any other provision of law concerning the
8 apportionment and distribution by the State of reduced rate
9 revenues collected by qualified businesses in urban enterprise
10 zones, there shall be credited \$250,000 annually from the enterprise
11 zone assistance fund, established pursuant to section 29 of
12 P.L.1983, c.303 (C.52:27H-88), during State Fiscal Year 2017 and
13 during each fiscal year thereafter, to the New Jersey Economic
14 Development Authority for the purposes of the “Small Business
15 Bonding Readiness Assistance Fund” established pursuant to
16 section 2 of P.L. , c. (C.) (pending before the Legislature
17 as this bill).]²

18

19 ²[5.]3.² This act shall take effect immediately but shall
20 remain inoperative for 30 days following the date of enactment.