

**SENATE, No. 2687**

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**STATE OF NEW JERSEY**  
**217th LEGISLATURE**

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INTRODUCED OCTOBER 13, 2016

**Sponsored by:**

**Senator LINDA R. GREENSTEIN**

**District 14 (Mercer and Middlesex)**

**SYNOPSIS**

Permits small businesses to qualify for loans from NJEDA for costs of energy audit and making energy efficiency or conservation improvements.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning energy audits for certain buildings and  
2 amending and supplementing P.L.1974, c.80.

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. (New section) a. In consultation with the board and the  
8 Department of Community Affairs, the New Jersey Economic  
9 Development Authority shall establish and administer a program  
10 that makes one or more low-interest loans available to an eligible  
11 small business for 100 percent of any otherwise unreimbursed costs  
12 to the small business of (1) an energy audit of any of the small  
13 business's buildings conducted by a contractor licensed by the  
14 board, and (2) the purchase and installation of all energy efficiency  
15 or conservation equipment at any of those buildings as a result of  
16 the energy audit.

17 b. As used in this section:

18 "Board" means the New Jersey Board of Public Utilities or any  
19 successor agency;

20 "Eligible small business" means a business entity that, at the  
21 time of application for participation in the loan program established  
22 pursuant to subsection a. of this section, is independently owned  
23 and operated, operates primarily within this State, and which  
24 satisfies other criteria that may be established by the authority;

25 "Energy audit" means an on-site analysis or assessment of all the  
26 energy-using systems within a building to determine the energy  
27 consumption characteristics of that building for the purpose of  
28 identifying appropriate energy efficiency or conservation  
29 maintenance procedures, and indicating the need, if any, for the  
30 acquisition and installation of energy efficiency or conservation  
31 measures; and

32 "Low-interest loan" means a loan for a term not exceeding ten  
33 years at a rate of interest not exceeding the greater of three percent  
34 or one-half of the prime interest rate as reported in a financial  
35 newspaper published and circulating in New York City.

36  
37 2. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read  
38 as follows:

39 5. The authority shall have the following powers:

40 a. To adopt bylaws for the regulation of its affairs and the  
41 conduct of its business;

42 b. To adopt and have a seal and to alter the same at pleasure;

43 c. To sue and be sued;

44 d. To acquire in the name of the authority by purchase or  
45 otherwise, on **[such]** terms and conditions and **[such]** manner as

**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 **[it]** the authority may deem proper, or by the exercise of the power  
2 of eminent domain in the manner provided by the "Eminent Domain  
3 Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), any lands or  
4 interests therein or other property which **[it]** the authority may  
5 determine is reasonably necessary for any project; provided,  
6 however, that the authority, in connection with any project, shall  
7 not take by exercise of the power of eminent domain any real  
8 property except upon consent thereto given by resolution of the  
9 governing body of the municipality in which **[such]** the real  
10 property is located; and provided further that the authority shall be  
11 limited in its exercise of the power of eminent domain in connection  
12 with any project in qualifying municipalities, as defined under the  
13 provisions of P.L.1978, c.14 (C.52:27D-178 et seq.), or to  
14 municipalities which had a population, according to the latest  
15 federal decennial census, in excess of 10,000;

16 e. To enter into contracts with a person upon **[such]** terms and  
17 conditions as the authority shall determine to be reasonable,  
18 including, but not limited to, reimbursement for the planning,  
19 designing, financing, construction, reconstruction, improvement,  
20 equipping, furnishing, operation, and maintenance of the project  
21 and to pay or compromise any claims arising therefrom;

22 f. To establish and maintain reserve and insurance funds with  
23 respect to the financing of the project or the school facilities project  
24 and any project financed pursuant to the "Municipal Rehabilitation  
25 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et  
26 al.);

27 g. To sell, convey, or lease to any person all or any portion of a  
28 project for **[such]** consideration and upon **[such]** terms as the  
29 authority may determine to be reasonable;

30 h. To mortgage, pledge, or assign or otherwise encumber all or  
31 any portion of a project, or revenues, whenever **[it]** the authority  
32 shall find **[such]** that action to be in furtherance of the purposes of  
33 **[this act]** P.L.1974, c.80 (C.34:1B-1 et seq.), P.L.2000, c.72  
34 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic  
35 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007,  
36 c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009,  
37 c.90 (C.52:27D-489c et al.);

38 i. To grant options to purchase or renew a lease for any of  
39 **[its]** the authority's projects on such terms as the authority may  
40 determine to be reasonable;

41 j. To contract for and to accept any gifts or grants or loans of  
42 funds or property or financial or other aid in any form from the  
43 United States of America or any agency or instrumentality thereof,  
44 or from the State or any agency, instrumentality, or political  
45 subdivision thereof, or from any other source and to comply,  
46 subject to the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.),  
47 section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72

1 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic  
2 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), and  
3 P.L.2007, c.137 (C.52:18A-235 et al.), with the terms and  
4 conditions thereof;

5 k. In connection with any action undertaken by the authority in  
6 the performance of its duties and any application for assistance or  
7 commitments therefor and modifications thereof, to require and  
8 collect **[such]** fees and charges as the authority shall determine to  
9 be reasonable, including, but not limited to, fees and charges for the  
10 authority's administrative, organizational, insurance, operating,  
11 legal, and other expenses;

12 l. To adopt, amend, and repeal regulations to carry out the  
13 provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of  
14 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),  
15 the "Municipal Rehabilitation and Economic Recovery Act,"  
16 P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L.2007, c.137  
17 (C.52:18A-235 et al.);

18 m. To acquire, purchase, manage and operate, hold, and dispose  
19 of real and personal property or interests therein, take assignments  
20 of rentals and leases, and make and enter into all contracts, leases,  
21 agreements, and arrangements necessary or incidental to the  
22 performance of **[its]** the authority's duties;

23 n. To purchase, acquire, and take assignments of notes,  
24 mortgages, and other forms of security and evidences of  
25 indebtedness;

26 o. To purchase, acquire, attach, seize, accept, or take title to  
27 any project or school facilities project by conveyance or by  
28 foreclosure, and sell, lease, manage, or operate any project or  
29 school facilities project for a use specified in **[this act]** P.L.1974,  
30 c.80 (C.34:1B-1 et seq.), P.L.2000, c.72 (C.18A:7G-1 et al.), the  
31 "Municipal Rehabilitation and Economic Recovery Act," P.L.2002,  
32 c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.),  
33 and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);

34 p. To borrow money and to issue bonds of the authority and to  
35 provide for the rights of the holders thereof, as provided in  
36 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401  
37 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal  
38 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
39 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and  
40 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);

41 q. To extend credit or make loans to any person for the  
42 planning, designing, acquiring, constructing, reconstructing,  
43 improving, equipping, and furnishing of a project or school  
44 facilities project, which credits or loans may be secured by loan and  
45 security agreements, mortgages, leases, and any other instruments,  
46 upon **[such]** terms and conditions as the authority shall deem  
47 reasonable, including provision for the establishment and  
48 maintenance of reserve and insurance funds, and to require the

1 inclusion in any mortgage, lease, contract, loan and security  
2 agreement, or other instrument, of **[such]** provisions for the  
3 construction, use, operation and maintenance, and financing of a  
4 project or school facilities project as the authority may deem  
5 necessary or desirable;

6 r. To guarantee up to **[90%]** 90 percent of the amount of a  
7 loan to a person, if the proceeds of the loan are to be applied to the  
8 purchase and installation, in a building devoted to industrial or  
9 commercial purposes, or in an office building, of an energy  
10 improvement system;

11 s. To employ consulting engineers, architects, attorneys, real  
12 estate counselors, appraisers, and **[such]** other consultants and  
13 employees as may be required in the judgment of the redevelopment  
14 utility to carry out the purposes of P.L.1974, c.80 (C.34:1B-1 et  
15 seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72  
16 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic  
17 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007,  
18 c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009,  
19 c.90 (C.52:27D-489c et al.), and to fix and pay their compensation  
20 from funds available to the redevelopment utility therefor, all  
21 without regard to the provisions of Title 11A of the New Jersey  
22 Statutes;

23 t. To do and perform any acts and things authorized by  
24 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401  
25 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal  
26 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
27 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and  
28 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.),  
29 under, through or by means of its own officers, agents, and  
30 employees, or by contract with any person;

31 u. To procure insurance against any losses in connection with  
32 **[its]** authority property, operations, or assets in **[such]** amounts  
33 and from **[such]** insurers as **[it]** the authority deems desirable;

34 v. To do any and all things necessary or convenient to carry out  
35 **[its]** the authority's purposes and exercise the powers given and  
36 granted in P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of  
37 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),  
38 the "Municipal Rehabilitation and Economic Recovery Act,"  
39 P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-  
40 235 et al.), and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-  
41 489c et al.);

42 w. To construct, reconstruct, rehabilitate, improve, alter, equip,  
43 maintain or repair, or provide for the construction, reconstruction,  
44 improvement, alteration, equipping or maintenance, or repair of any  
45 development property and lot, award and enter into construction  
46 contracts, purchase orders, and other contracts with respect thereto,  
47 upon **[such]** terms and conditions as the authority shall determine

1 to be reasonable, including, but not limited to, reimbursement for  
2 the planning, designing, financing, construction, reconstruction,  
3 improvement, equipping, furnishing, operation, and maintenance of  
4 **any such** the development property and the settlement of any  
5 claims arising therefrom, and the establishment and maintenance of  
6 reserve funds with respect to the financing of **such** the  
7 development property;

8 x. When authorized by the governing body of a municipality  
9 exercising jurisdiction over an urban growth zone, to construct,  
10 cause to be constructed, or to provide financial assistance to  
11 projects in an urban growth zone which shall be exempt from the  
12 terms and requirements of the land use ordinances and regulations,  
13 including, but not limited to, the master plan and zoning ordinances,  
14 of **such** the municipality;

15 y. To enter into business employment incentive agreements as  
16 provided in the "Business Employment Incentive Program Act,"  
17 P.L.1996, c.26 (C.34:1B-124 et al.);

18 z. To enter into agreements or contracts, execute instruments,  
19 and do and perform all acts or things necessary, convenient, or  
20 desirable for the purposes of the redevelopment utility to carry out  
21 any power expressly provided pursuant to P.L.1974, c.80 (C.34:1B-  
22 1 et seq.), P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007, c.137  
23 (C.52:18A-235 et al.), including, but not limited to, entering into  
24 contracts with the State Treasurer, the Commissioner of Education,  
25 districts, the New Jersey Schools Development Authority, and any  
26 other entity which may be required in order to carry out the  
27 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.2007, c.137  
28 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009, c.90  
29 (C.52:27D-489c et al.);

30 aa. (Deleted by amendment, P.L.2007, c.137);

31 bb. To make and contract to make loans to local units to finance  
32 the cost of school facilities projects and to acquire and contract to  
33 acquire bonds, notes, or other obligations issued or to be issued by  
34 local units to evidence the loans, all in accordance with the  
35 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007,  
36 c.137 (C.52:18A-235 et al.);

37 cc. Subject to any agreement with holders of **its** authority  
38 bonds issued to finance a project or school facilities project, to  
39 obtain as security, or to provide liquidity for payment of all or any  
40 part of the principal of and interest and premium on the bonds of  
41 the authority or for the purchase upon tender or otherwise of the  
42 bonds, lines of credit, letters of credit, reimbursement agreements,  
43 interest rate exchange agreements, currency exchange agreements,  
44 interest rate floors or caps, options, puts, or calls to hedge payment,  
45 currency, rate, spread, or similar exposure or similar agreements,  
46 float agreements, forward agreements, insurance contract, surety  
47 bond, commitment to purchase or sell bonds, purchase, or sale  
48 agreement, or commitments or other contracts or agreements, and

1 other security agreements or instruments in any amounts and upon  
2 any terms as the authority may determine and pay any fees and  
3 expenses required in connection therewith;

4 dd. To charge to and collect from local units, the State, and any  
5 other person, any fees and charges in connection with the  
6 authority's actions undertaken with respect to school facilities  
7 projects, including, but not limited to, fees and charges for the  
8 authority's administrative, organization, insurance, operating, and  
9 other expenses incident to the financing of school facilities projects;

10 ee. To make loans to refinance solid waste facility bonds  
11 through the issuance of bonds or other obligations and the execution  
12 of any agreements with counties or public authorities to effect the  
13 refunding or rescheduling of solid waste facility bonds, or otherwise  
14 provide for the payment of all or a portion of any series of solid  
15 waste facility bonds. Any county or public authority refunding or  
16 rescheduling its solid waste facility bonds pursuant to this  
17 subsection shall provide for the payment of not less than fifty  
18 percent of the aggregate debt service for the refunded or  
19 rescheduled debt of the particular county or public authority for the  
20 duration of the loan; except that, whenever the solid waste facility  
21 bonds to be refinanced were issued by a public authority and the  
22 county solid waste facility was utilized as a regional county solid  
23 waste facility, as designated in the respective adopted district solid  
24 waste management plans of the participating counties as approved  
25 by the department prior to November 10, 1997, and the utilization  
26 of the facility was established pursuant to tonnage obligations set  
27 forth in their respective interdistrict agreements, the public  
28 authority refunding or rescheduling its solid waste facility bonds,  
29 pursuant to this subsection, shall provide for the payment of a  
30 percentage of the aggregate debt service for the refunded or  
31 rescheduled debt of the public authority not to exceed the  
32 percentage of the specified tonnage obligation of the host county for  
33 the duration of the loan. Whenever the solid waste facility bonds  
34 are the obligation of a public authority, the relevant county shall  
35 execute a deficiency agreement with the authority, which shall  
36 provide that the county pledges to cover any shortfall and to pay  
37 deficiencies in scheduled repayment obligations of the public  
38 authority. All costs associated with the issuance of bonds pursuant  
39 to this subsection may be paid by the authority from the proceeds of  
40 these bonds. Any county or public authority is hereby authorized to  
41 enter into any agreement with the authority necessary, desirable, or  
42 convenient to effectuate the provisions of this subsection.

43 The authority shall not issue bonds or other obligations to effect  
44 the refunding or rescheduling of solid waste facility bonds after  
45 December 31, 2002. The authority may refund its own bonds issued  
46 for the purposes herein at any time;

47 ff. To pool loans for any local government units that are  
48 refunding bonds and do and perform any and all acts or things

1 necessary, convenient, or desirable for the purpose of the authority  
2 to achieve more favorable interest rates and terms for those local  
3 governmental units;

4 gg. To finance projects approved by the board, provide staff  
5 support to the board, oversee and monitor progress on the part of  
6 the board in carrying out the revitalization, economic development,  
7 and restoration projects authorized pursuant to the "Municipal  
8 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
9 (C.52:27BBB-1 et al.) and otherwise fulfilling its responsibilities  
10 pursuant thereto;

11 hh. To offer financial assistance to qualified film production  
12 companies as provided in the "New Jersey Film Production  
13 Assistance Act," P.L.2003, c.182 (C.34:1B-178 et al.); **[and]**

14 ii. To finance or develop private or public parking facilities or  
15 structures, which may include the use of solar photovoltaic  
16 equipment, in municipalities qualified to receive State aid pursuant  
17 to the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.) and  
18 municipalities that contain areas designated pursuant to P.L.1985,  
19 c.398 (C.52:18A-196 et al.) as Planning Area 1 (Metropolitan),  
20 Planning Area 2 (Suburban), or a town center, and to provide  
21 appropriate assistance, including but not limited to, extensions of  
22 credit, loans, and guarantees, to municipalities qualified to receive  
23 State aid pursuant to the provisions of P.L.1978, c.14 (C.52:27D-  
24 178 et seq.) and municipalities that contain areas designated  
25 pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning  
26 Area 1 (Metropolitan), Planning Area 2 (Suburban), or a town  
27 center, and their agencies and instrumentalities or to private entities  
28 whose projects are located in those municipalities, in order to  
29 facilitate the financing and development of parking facilities or  
30 structures in such municipalities. The authority may serve as the  
31 issuing agent of bonds to finance the undertaking of a project for  
32 the purposes of this subsection; and

33 jj. To offer financial assistance to eligible small businesses for  
34 the reimbursement of 100 percent of any otherwise unreimbursed  
35 costs to an eligible small business of (1) an energy audit of any of  
36 the small business's buildings, and (2) the purchase and installation  
37 of all energy efficiency or conservation equipment at any of those  
38 buildings as a result of the energy audit, pursuant to section 1 of  
39 P.L. , c. (C. ) (pending before the Legislature as this bill).  
40 (cf: P.L.2010, c.28, s.3)

41

42 3. This act shall take effect immediately, but shall remain  
43 inoperative for 60 days following the date of enactment.



STATEMENT

This bill requires the New Jersey Economic Development Authority (authority), in consultation with the Board of Public Utilities and the Department of Community Affairs, to establish and administer a program that makes loans available to eligible small businesses for certain costs of energy audits and energy efficiency or conservation improvements.

The bill permits the authority to make one or more low-interest loans available to an eligible small business for 100 percent of any unreimbursed costs to the small business of an energy audit of any of the small business's buildings that is conducted by a contractor licensed by the board. Additionally, the bill permits the authority to make low-interest loans available to an eligible small business for 100 percent of any unreimbursed costs for the purchase and installation of all energy efficiency or conservation equipment at any of the small business's buildings as a result of the energy audit.

The bill defines a "low-interest loan" as a loan for a term not exceeding 10 years at a rate of interest not exceeding the greater of three percent or one-half of the prime interest rate as reported in a financial newspaper published and circulating in New York City. The bill defines an "eligible small business" as a business entity that, at the time of application for participation, is independently owned and operated, operates primarily within this State, and satisfies other criteria that may be established by the authority.

The bill takes effect immediately, but remains inoperative for 60 days following the date of enactment.