

ASSEMBLY, No. 335

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman RYAN E. PETERS

District 8 (Atlantic, Burlington and Camden)

Assemblywoman AURA K. DUNN

District 25 (Morris and Somerset)

Co-Sponsored by:

Assemblyman Auth

SYNOPSIS

Establishes position of Economic Development Auditor in EDA.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 2/25/2020)

1 **AN ACT** establishing the position of Economic Development
2 Auditor within the New Jersey Economic Development
3 Authority, and supplementing Title 34 of the Revised Statutes.

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

7
8 1. As used in P.L. , c. (C.) (pending before the
9 Legislature as this bill):

10 "Auditor" means the Economic Development Auditor employed
11 pursuant to section 2 P.L. , c. (C.) (pending before the
12 Legislature as this bill).

13 "Authority" means the New Jersey Economic Development
14 Authority established pursuant to section 4 of P.L.1974, c.80
15 (C.34:1B-4).

16 "Board" means the board of the New Jersey Economic
17 Development Authority established pursuant to section 4 of
18 P.L.1974, c.80 (C.34:1B-4).

19 "Economic development incentive" means a financial incentive,
20 awarded by the authority to a person or entity, or agreed to between
21 the authority and a person or entity, for the purpose of stimulating
22 economic development or redevelopment in New Jersey, including,
23 but not limited to, a bond, grant, loan, loan guarantee, matching
24 fund, tax credit, tax deduction, tax abatement, or other tax
25 expenditure.

26 "Fraud" means an intentional deception or misrepresentation
27 made by any person with the knowledge that the deception could
28 result in some unauthorized benefit to that person or another person,
29 including any act that constitutes fraud under applicable federal or
30 State law.

31 "Investigation" means an investigation of fraud, abuse, or illegal
32 acts perpetrated within economic development incentive programs
33 by applicants for, or recipients of, economic development
34 incentives.

35
36 2. a. The Economic Development Inspector General,
37 appointed pursuant to section 2 of P.L. , c. (C.) (pending
38 before the Legislature as Assembly Bill No. 5876 of 2019), shall
39 employ an Economic Development Auditor to evaluate and review
40 records of entities and individuals doing business with or receiving
41 economic development incentives from the New Jersey Economic
42 Development Authority. The auditor shall further evaluate on an
43 ongoing basis each economic development incentive recipient's
44 compliance with requirements applicable pursuant to an economic
45 development incentive program and any agreement between the
46 recipient and the authority.

47 b. The Economic Development Auditor shall have the
48 following general duties, powers, and responsibilities:

1 (1) to review all applications and supporting documentation
2 submitted by applicants for economic development incentive
3 programs administered by the authority to evaluate each applicant's
4 eligibility under the respective program and to verify the validity of
5 an applicant's claims within the applicant's submitted materials;

6 (2) to prepare, and make available to the public, written reports
7 of the auditor's findings with respect to an economic development
8 incentive recipient's compliance with economic development
9 incentive program and agreement requirements;

10 (3) to inform the Economic Development Inspector General of
11 information received and findings compiled by the auditor related to
12 an economic development incentive recipient's compliance with
13 economic development incentive program and agreement
14 requirements, including, but not limited to, information received
15 and findings compiled by the auditor that evince improper
16 accounting or misrepresentations by the economic development
17 incentive recipient;

18 (4) to make recommendations to the Economic Development
19 Inspector General, appointed pursuant to section 2 of
20 P.L. , c. (C.) (pending before the Legislature as Assembly
21 Bill No. 5876 of 2019), related to appropriate actions that the Office
22 of the Economic Development Inspector General may take in
23 response to any finding by the auditor that an economic
24 development incentive recipient utilized improper accounting
25 methods or made misrepresentations related to the receipt of an
26 economic development incentive; and

27 (5) to appoint such deputies, assistants, and other officers and
28 employees as may be needed for the auditor to meet the auditor's
29 responsibilities, and to prescribe their duties and fix their
30 compensation in accordance with State law and within the amounts
31 appropriated therefor.

32 c. For any economic development program that stipulates that
33 the award of an economic development incentive is contingent upon
34 a claim by an applicant that the receipt of incentives is
35 determinative in the applicant's decision to create or retain jobs in
36 this State, the Economic Development Auditor shall prepare a
37 separate written report assessing the validity of each applicant's
38 claims and evaluating the potential outcomes for the State if the
39 applicant were not to receive an economic development incentive
40 under that program. The Economic Development Auditor shall
41 transmit each report prepared pursuant to this subsection to the
42 Economic Development Inspector General, appointed pursuant to
43 section 2 of P.L. , c. (C.) (pending before the Legislature
44 as Assembly Bill No. 5876 of 2019).

45
46 3. The Economic Development Auditor shall report annually to
47 the Governor, to the Legislature, pursuant to section 2 of P.L.1991,
48 c.164 (C.52:14-19.1), and to the Economic Development Inspector

1 General, appointed pursuant to section 2 of P.L. , c. (C.)
2 (pending before the Legislature as Assembly Bill No. 5876 of
3 2019), the activities of the Economic Development Auditor, as well
4 any recommendations, if any, for legislation to provide for the
5 oversight and evaluation of the State's economic development
6 incentive programs.

7
8 4. The authority, pursuant to the "Administrative Procedure
9 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and
10 regulations, in consultation with the Economic Development
11 Inspector General, appointed pursuant to section 2 of
12 P.L. , c. (C.) (pending before the Legislature as Assembly
13 Bill No. 5876 of 2019), the Department of Labor and Workforce
14 Development, and the Department of the Treasury, concerning the
15 administration and enforcement of the Economic Development
16 Auditor's duties pursuant to P.L. , c. (C.) (pending before
17 the Legislature as this bill).

18
19 5. This act shall take effect immediately, except that this act
20 shall not take effect until the date of enactment of
21 P.L. , c. (C.) (pending before the Legislature as Assembly
22 Bill No. 5876 of 2019).

23 24 25 STATEMENT

26
27 This bill requires that the Economic Development Inspector
28 General (inspector general), appointed pursuant to
29 P.L. , c. (C.) (pending before the Legislature as Assembly
30 Bill No. 5876 of 2019), employ an Economic Development Auditor
31 (auditor).

32 Under the bill, the auditor is required to evaluate and review
33 records of entities and individuals doing business with or receiving
34 economic development incentives from the New Jersey Economic
35 Development Authority (EDA). The auditor is required to evaluate
36 on an ongoing basis each economic development incentive
37 recipient's compliance with requirements applicable pursuant to an
38 economic development incentive program and any agreement
39 between the recipient and the authority.

40 The bill provides that the auditor is to:

41 (1) review all applications and supporting documentation
42 submitted by applicants for economic development incentive
43 programs to evaluate each applicant's eligibility under the
44 respective program and to verify the validity of an applicant's
45 claims;

46 (2) prepare, and make available to the public, written reports of
47 the auditors findings with respect to an economic development

1 incentive recipient's compliance with economic development
2 incentive program and agreement requirements;
3 (3) inform the inspector general of information received and
4 findings compiled by the auditor related to an economic
5 development incentive recipient's compliance with economic
6 development incentive program and agreement requirements; and
7 (4) make recommendations to inspector general related to
8 appropriate actions that the Office of the Economic Development
9 Inspector General may take in response to any finding by the
10 auditor that an economic development incentive recipient utilized
11 improper accounting methods or made misrepresentations related to
12 the receipt of an economic development incentive.
13 For any program that stipulates that the award of an economic
14 development incentive is contingent upon a claim by an applicant
15 that the receipt of incentives is determinative in the applicant's
16 decision to create or retain jobs in this State, the bill requires the
17 auditor to prepare a separate written report assessing the validity of
18 each applicant's claims and evaluating the potential outcomes for
19 the State if the applicant were not to receive an economic
20 development incentive under that program.
21 Under the bill, the auditor is to report annually to the Governor,
22 to the Legislature, and to the inspector general, the activities of the
23 auditor, as well any recommendations, if any, for the oversight and
24 evaluation of the State's economic development incentive
25 programs.
26 The bill will not take effect until the date of enactment of
27 P.L. , c. (C.) (pending before the Legislature as Assembly
28 Bill No. 5876 of 2019).