ASSEMBLY, No. 335

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
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District 8 (Atlantic, Burlington and Camden)
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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)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

STATEMENT

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

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

The bill provides that the auditor is to:

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

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

incentive recipient's compliance with economic development incentive program and agreement requirements;

(3) inform the inspector general of information received and findings compiled by the auditor related to an economic development incentive recipient's compliance with economic development incentive program and agreement requirements; and

(4) make recommendations to inspector general related to appropriate actions that the Office of the Economic Development Inspector General may take in response to any finding by the auditor that an economic development incentive recipient utilized improper accounting methods or made misrepresentations related to the receipt of an economic development incentive.

For any program that stipulates that the award of an economic development incentive is contingent upon a claim by an applicant that the receipt of incentives is determinative in the applicant's decision to create or retain jobs in this State, the bill requires the auditor to prepare a separate written report assessing the validity of each applicant's claims and evaluating the potential outcomes for the State if the applicant were not to receive an economic development incentive under that program.

Under the bill, the auditor is to report annually to the Governor, to the Legislature, and to the inspector general, the activities of the auditor, as well any recommendations, if any, for the oversight and evaluation of the State's economic development incentive programs.

The bill will not take effect until the date of enactment of P.L. , c. (C.) (pending before the Legislature as Assembly Bill No. 5876 of 2019).