ASSEMBLY, No. 336

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)

Co-Sponsored by:
Assemblyman Auth

SYNOPSIS

Establishes Office of Economic Development Inspector General in EDA.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

AN ACT establishing the Office of the Economic Development Inspector General, 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):

"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.

"Office" means the Office of the Economic Development Inspector General created by section 2 P.L. , c. (C.) (pending before the Legislature as this bill).

2. a. There is established, in the authority, the Office of the Economic Development Inspector General, which shall operate independent of the oversight or management of the Chief Executive Officer of the authority. The Office of the Economic Development Inspector General shall operate under the Economic Development Inspector General, who shall be appointed by the Governor with the advice and consent of the Senate. The term of the Economic Development Inspector General shall extend from the time of confirmation by the Senate, until the conclusion of the Governor's term of office, provided that the Economic Development Inspector General may be reappointed to one or more subsequent terms. The Economic Development Inspector General shall have the following general duties, powers, and responsibilities:

(1) to administer oaths and affirmations, and request or compel the attendance of witnesses or the production of documents that the Economic Development Inspector General determines relevant or material to an investigation being conducted by the office;

(2) to examine, copy, or remove and maintain any documents or records prepared, maintained, or under the possession of the authority;

(3) to interview or request information or documents from any executive officer, board member, officer, or employee of the authority related to an individual's conduct of official duties, provided that an interview or request conducted or made pursuant to this paragraph shall be subject to the provisions of any collective negotiations agreement applicable to the individual's employment or service to the authority, or the provisions of the most recent collective negotiations agreement applicable to the individual if the collective negotiations agreement expired;

(4) to monitor the consideration and implementation of any recommendations made to the authority, the authority's executive officers, or the authority's board by the Economic Development Inspector General or the office;

(5) to appoint such deputies, assistants, and other officers and employees as may be needed for the Economic Development Auditor, employed pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as Assembly Bill No. of 2019) 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; and

(6) to perform any other functions that are necessary or appropriate in furtherance of the mission of the office.

b. The Economic Development Inspector General shall direct the work of the office and the office shall have the following general functions, duties, powers, and responsibilities:

(1) to receive reports of, and to investigate, authority activities relating to State economic development incentive fraud, waste, or abuse, including fraud, waste, or abuse by executive officers, board members, officers, and employees of the authority;

(2) to inform the executive officers and the board of allegations of fraud, waste, or abuse received by the office, and provide information on the progress of investigations by the office, unless the Economic Development Inspector General determines that special circumstances related to the allegation or investigation merit maintaining complete or partial confidentiality related to the allegation or investigation;

(3) to recommend to the authority, the authority's executive officers, or the authority's board, that the authority pursue disciplinary or civil actions related to an investigation of fraud, waste, or abuse conducted by the office;

(4) to recommend to the authority, the authority's executive officers, or the authority's board, that the authority refer information or files related to an investigation of fraud, waste, or abuse conducted by the office to any appropriate governmental agency with recommendation that the governmental agency take subsequent actions related to the information or files; and

(5) to prepare, and make available to the public, written reports of completed investigations as the Economic Development Inspector General determines to be appropriate and as permitted by law, provided that the Economic Development Inspector General shall redact information that the Economic Development Inspector General determines appropriate and prudent to maintain confidentiality of subjects and economic development incentive awards.

3. The Economic Development Inspector General 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 Attorney General, the activities of the office, as well any recommendations, if any, for legislation to provide for the management of the State's economic development incentive programs.

4. The Economic Development Inspector General, 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 authority, the Department of Labor and Workforce Development and the Department of the Treasury, concerning the administration and enforcement of the office's duties pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) in a manner that is most compatible ensuring against fraud, waste, and abuse in the State's economic development incentive programs.

5. This act shall take effect immediately.

STATEMENT

This bill establishes the Office of the Economic Development Inspector General (office) in the New Jersey Economic Development Authority (EDA), to operate independent of the oversight or management of the Chief Executive Officer of the EDA. The office is to operate under the Economic Development Inspector General (inspector general), who is to be appointed by the Governor for a term extending until the conclusion of the Governor's term of office.

The inspector general is to have the following general duties, powers, and responsibilities:

(1) to administer oaths and affirmations, and request or compel the attendance of witnesses or the production of documents;

(2) to examine, copy, or remove and maintain any documents or records prepared, maintained, or under the possession of the EDA;

(3) to interview or request information or documents from any executive officer, board member, officer, or employee of the EDA related to an individual's conduct of official duties;

(4) to monitor the consideration and implementation of any recommendations made to the EDA;

(5) to appoint deputies, assistants, and other officers and employees; and

(6) to perform any other functions that are necessary or appropriate in furtherance of the mission of the office.

The inspector general is also required to direct the work of the office. The bill provides that the office is to have the following general functions, duties, powers, and responsibilities:

(1) to receive reports of, and to investigate, authority activities relating to State economic development incentive fraud, waste, or abuse,;

(2) to inform EDA executive officers and the EDA board of allegations of fraud, waste, or abuse received by the office, and provide information on the progress of investigations by the office;

(3) to recommend to the EDA that the EDA pursue disciplinary or civil actions related to an investigation of fraud, waste, or abuse conducted by the office;

(4) to recommend to the EDA that the EDA refer information or files related to an investigation of fraud, waste, or abuse conducted by the office to any appropriate governmental agency with recommendation that the governmental agency take subsequent actions related to the information or files; and

(5) to prepare, and make available to the public, written reports of completed investigations.

Under the bill, the inspector general is to report annually to the Governor, to the Legislature, and to the Attorney General, the activities of the office, as well any recommendations, if any, for legislation to provide for the management of the State's economic development incentive programs.