

ASSEMBLY, No. 2148

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman P. CHRISTOPHER TULLY

District 38 (Bergen and Passaic)

SYNOPSIS

Establishes award limitations for certain EDA tax incentives related to job creation and retention.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** relating to the award of certain tax incentives, and
2 supplementing P.L.1974, c.80 (C.34:1B-1 et seq.).

3

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

6

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

9 “Authority” means the New Jersey Economic Development
10 Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et
11 seq.);

12 "Division" means the Division of Taxation in the Department of
13 the Treasury.

14 "Tax incentive" means a financial incentive, awarded by the New
15 Jersey Economic Development Authority to a person or entity, or
16 agreed by the authority and a person or entity, for the purpose of
17 creating new jobs or retaining existing jobs in New Jersey,
18 including, but not limited to, a tax credit or other tax benefit.

19

20 2. a. Notwithstanding any provision of law, rule, or
21 regulation to the contrary, after the effective date of P.L. , c. (C)
22 (pending before the Legislature as this bill), the New Jersey
23 Economic Development Authority shall not grant, approve the
24 award of, or otherwise provide a tax incentive to any nonprofit
25 entity organized under Title 15 of the Revised Statutes or Title 15A
26 of the New Jersey Statutes, if the nonprofit entity does not pay State
27 or local taxes, or to any person or entity in an amount that exceeds
28 50 percent of the combined value of the taxable income reported by
29 the employer for all new and retained jobs related to the award of
30 the tax incentive.

31 b. Notwithstanding any provision of law, rule, or regulation to
32 the contrary, the authority shall not, on or after the effective date of
33 P.L. , c. (C.) (pending before the Legislature as this bill),
34 issue or approve any tax incentive to any person or entity unless the
35 person or entity has entered into a tax incentive agreement with the
36 authority that:

37 (1) specifies that the final award of a tax incentive is subject to
38 the annual allocation of tax incentives to be offered by the authority
39 in a fiscal year, enacted, and subject to the rules and regulations, as
40 described in section 3 of P.L. , c. (C.) (pending before the
41 Legislature as this bill); and

42 (2) requires the person or entity receiving the tax incentive to:

43 (a) annually certify the combined value of the taxable income
44 for all new and retained jobs related to the award of the particular
45 tax incentive;

46 (b) annually provide the authority with any information or
47 documents that the authority deems appropriate for confirming the

1 combined value of the taxable income reported for all new and
2 retained jobs related to the award of the particular tax incentive; and

3 (c) agree to allow the authority to request and receive from the
4 division, or the Department of Labor and Workforce Development,
5 any information or documents that the authority deems appropriate
6 for confirming the combined value of the taxable income reported
7 for all new and retained jobs related to the award of the particular
8 tax incentive.

9 c. The division and the Department of Labor and Workforce
10 Development shall provide the authority with the information or
11 documents that the authority requests concerning a tax incentive
12 agreement entered into pursuant to subsection b. of this section.

13 d. The authority shall annually formulate a projected total
14 value of tax incentive eligibility for the succeeding fiscal year, and
15 shall, on or before April 1 of each year, submit a report, pursuant to
16 section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature
17 detailing the projection made pursuant to this subsection d.

18 e. The authority, in consultation with the division and the
19 Department of Labor and Workforce Development, shall adopt rules
20 and regulations in accordance with the "Administrative Procedure
21 Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to
22 implement P.L. , c. (C.) (pending before the Legislature as
23 this bill).

24
25 3. a. Notwithstanding any provision of law, rule, or
26 regulation to the contrary, after the effective date of P.L. , c. (C.
27 (pending before the Legislature as this bill), the authority shall not
28 approve the final award of a tax incentive to any person or entity in
29 an amount that exceeds the amount specifically allocated to be
30 offered by the authority as tax incentives in that fiscal year, as
31 enacted by the Legislature.

32 b. The authority shall adopt rules and regulations in accordance
33 with the "Administrative Procedure Act," P.L.1968, c.410
34 (C.52:14B-1 et seq.) to provide for granting, approving, or
35 otherwise providing tax incentives on a priority or pro-rata basis for
36 any fiscal year in which the total value of tax incentive eligibility
37 exceeds the amount specifically allocated to be provided by the
38 authority as tax incentives in that fiscal year, as described in
39 subsection a. of this section.

40 c. If the Legislature fails to enact legislation specifically
41 allocating an amount that the authority may award as tax incentives
42 in a particular fiscal year, then the allocation for that fiscal year
43 shall be zero and the authority shall not approve the final award of a
44 tax incentive to any person or entity in that fiscal year.

45
46 4. This act shall take effect on the first day of the fourth month

1 next following the date of enactment and shall apply to all
2 applicable tax incentives approved or issued on or after the effective
3 date.

4
5
6 STATEMENT

7
8 This bill establishes limits for certain types of New Jersey
9 Economic Development Authority (authority) tax incentives related
10 to job creation or retention.

11 Under the bill, a “tax incentive” means a financial incentive,
12 awarded by the authority to a person or entity, or agreed to between
13 the authority and a person or entity, for the purpose of creating new
14 jobs or retaining existing jobs in New Jersey, including, but not
15 limited, to a tax credit or other tax benefit. The bill prohibits the
16 authority from granting, approving the award of, or otherwise
17 providing a tax incentive in any fiscal year to to any person or
18 entity in an amount that exceeds the amount specifically allocated
19 to be offered by the authority as tax incentives in that fiscal year, as
20 enacted by the Legislature.

21 The bill requires the authority to provide for granting, approving
22 the award of, or otherwise providing tax incentives on a priority or
23 pro-rata basis for any fiscal year in which the total value of tax
24 incentive eligibility exceeds the amount specifically allocated to be
25 offered by the authority as tax incentives in that fiscal year. The
26 bill further specifies that if the Legislature fails to enact legislation
27 specifically allocating an amount that the authority may award as
28 tax incentives in a particular fiscal year, then the authority is
29 prohibited from awarding tax incentives in that fiscal year.

30 The bill also limits tax incentive eligibility by prohibiting the
31 authority from granting, approving the award of, or otherwise
32 providing a tax incentive to: 1) any nonprofit entity that does not
33 pay State or local taxes; and 2) any person or entity in an amount
34 that exceeds 50 percent of the combined value of the taxable
35 income reported by the employer for all new or retained jobs related
36 to the award of the tax incentive. The bill also requires the
37 authority to formulate a projected total value of tax incentive
38 eligibility for the succeeding fiscal year, and submit a report to the
39 Legislature, on or before April 1 of each year, detailing the
40 projection.

41 The bill further prohibits the authority from granting, approving
42 the award of, or otherwise providing a tax incentive to any person
43 or entity unless the person or entity has entered into a tax incentive
44 agreement with the authority that:

45 (1) specifies that the final award of a tax incentive is subject to
46 the annual allocation of tax incentives to be offered by the authority
47 in a fiscal year; and

- 1 (2) requires that the person or entity receiving the tax incentive
2 to:
- 3 (a) annually certify the combined value of the taxable income
4 for each new or retained job related to the award of the tax
5 incentive;
- 6 (b) annually provide the authority with any information or
7 documents that the authority deems appropriate for confirming the
8 combined value of the taxable income reported for new and retained
9 job related to the award of the tax incentive; and
- 10 (c) agree to allow the authority to receive from the Division of
11 Taxation in the Department of the Treasury or the Department of
12 Labor and Workforce Development any information or documents
13 that the authority deems appropriate for confirming the combined
14 value of the taxable income reported for each new or retained job
15 related to the award of the tax incentive.