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.

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

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 P.L.1974, c.80 (C.34:1B-1 et seq.);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

STATEMENT

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

Under the bill, a "tax 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 creating new jobs or retaining existing jobs in New Jersey, including, but not limited, to a tax credit or other tax benefit. The bill prohibits the authority from granting, approving the award of, or otherwise providing a tax incentive in any fiscal year to to any person or entity in an amount that exceeds the amount specifically allocated to be offered by the authority as tax incentives in that fiscal year, as enacted by the Legislature.

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

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

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

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

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

(a) annually certify the combined value of the taxable income for each new or retained job related to the award of the tax incentive;

(b) annually provide the authority with any information or documents that the authority deems appropriate for confirming the combined value of the taxable income reported for new and retained job related to the award of the tax incentive; and

(c) agree to allow the authority to receive from the Division of Taxation in the Department of the Treasury or the Department of Labor and Workforce Development any information or documents that the authority deems appropriate for confirming the combined value of the taxable income reported for each new or retained job related to the award of the tax incentive.