

ASSEMBLY, No. 3118

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 24, 2020

Sponsored by:
Assemblyman WAYNE P. DEANGELO
District 14 (Mercer and Middlesex)

SYNOPSIS

Establishes Economic Development Incentive Review Commission.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** establishing an Economic Development Incentive Review
2 Commission and supplementing Title 34 of the Revised Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. a. As used in sections 1 and 2 of P.L. , c. (pending
8 before the Legislature as this bill):

9 “Authority” means the Economic Development Authority.

10 “Commission” means the Economic Development Incentive
11 Review Commission established pursuant to section 1 of P.L. ,
12 c. (pending before the Legislature as this bill).

13 “Department” means the Department of Treasury.

14 “Executive Director” means the Executive Director of the
15 Economic Development Authority.

16 “Report” means the annual incentive review report required
17 pursuant to subsection a. of section 2 of P.L. , c. (pending
18 before the Legislature as this bill).

19 “Statement” means the policy recommendation statement that
20 accompanies the report and is required pursuant to subsection c. of
21 section 2 of P.L. , c. (pending before the Legislature as this
22 bill).

23 b. There is established in the Department of Treasury an
24 Economic Development Incentive Review Commission.

25 c. The purpose of the commission is to ensure regular
26 independent outside reviews of State business incentive programs,
27 to determine whether the incentive programs are being administered
28 in accordance with underlying statutory authorization, to quantify
29 the benefits derived by the State from the incentive programs, and
30 to advance statutory and administrative recommendations on best
31 practices for administering the incentive programs.

32 d. The commission shall consist of nine members. The State
33 Treasurer and the Executive Director of the New Jersey Economic
34 Development Authority shall serve as ex-officio members. Seven
35 public members of the commission shall be appointed by the
36 Governor in the following manner: one individual that is a certified
37 public accountant or an auditor, employed as an internal auditor by
38 a private audit firm; one individual that is a professional economist
39 from a New Jersey public or private institution of higher education;
40 one individual that leads a Statewide entity that represents the
41 interests of the business community of the State; one individual that
42 leads a Statewide entity that represents the interests of the real
43 estate community of the State; and one individual that is a member
44 of the general public with no specific expertise. The Governor shall
45 appoint one member upon the recommendation of the Senate
46 President who shall have experience in county or municipal
47 government. The Governor shall appoint one member upon the

1 recommendation of the Speaker of the General Assembly who shall
2 have experience in county or municipal government.

3 All public members shall serve for four year staggered terms and
4 until their successors are appointed. Each public member may be
5 removed from office by the Governor for cause. A vacancy in the
6 membership of the board occurring other than by expiration of the
7 term shall be filled in the same manner as the original appointment,
8 but for the unexpired term only. The first appointments not upon
9 the recommendation of the Senate President or Speaker of the
10 General Assembly shall be for one, two, or three years, with the
11 Governor determining the respective terms; and the members
12 appointed upon the recommendation of the Senate President or
13 Speaker of the General Assembly shall be for full four year terms.
14 All subsequent appointments shall be for terms of four years as
15 stated. The Governor shall appoint commission members within 90
16 days of the enactment of P.L. , c. (pending before the
17 Legislature as this bill). The commission shall organize as soon as
18 practicable after the appointment of at least five members.

19 e. Commission members shall serve without compensation, but
20 shall be reimbursed for necessary expenses incurred in the
21 performance of their duties and within the limits of available funds.
22 The commission may call to its assistance and avail itself of the
23 services of the employees of any State, county, or municipal
24 department, board, bureau, task force, or agency as it may require
25 and as may be available to it for its purposes, and to employ
26 stenographic and clerical assistance and incur traveling and other
27 miscellaneous expenses necessary to perform its duties, within the
28 limits of funds appropriated or otherwise made available to it for its
29 purposes. The commission may utilize department and authority
30 staff and expertise to contract for the report, to staff the
31 commission, and to assist in the preparation of the statement.

32 f. The commission shall annually receive an appropriation
33 through the department in an amount necessary to contract for the
34 report required pursuant to subsection a. of section 2 of P.L. , c.
35 (pending before the Legislature as this bill), to generate the
36 statement required pursuant to subsection c. of section 2 of P.L. ,
37 c. (pending before the Legislature as this bill), and any other work
38 of the commission.

39 g. The authority shall share all available information from its
40 incentive agreements with the commission. The authority shall also
41 work to revise its existing agreements as applicable, and structure
42 future incentive agreements, to ensure that the commission has
43 access to all relevant financial and employment information from
44 incentive award recipients as the commission deems necessary for
45 the execution of its duties.

46 h. The commission shall maintain the confidentiality of
47 sensitive individual business data, and structure its reports in a
48 manner that avoids public release of competitive business

1 information unless necessary in the execution of the commission's
2 duties.

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4 2. a. The commission shall be responsible for contracting an
5 annual report to the Governor and, pursuant to section 2 of
6 P.L.1991, c.164 (C.52:14-19.1), to the Legislature which provides a
7 comprehensive review and analysis of incentives awarded under the
8 Grow New Jersey Assistance Program, established pursuant to
9 P.L.2011, c.149 (C.34:1B-242 et seq.), the Economic
10 Redevelopment and Growth Grant program, established pursuant to
11 section 5 of P.L.2009, c.90 (C.52:27D-489e), Garden State Growth
12 Zones, established pursuant to P.L.2013, c.161 (C.52:27D-489p et
13 al.), as well as any subsequent legislative incentive program
14 providing tax credits or tax increment financing. The reports shall
15 focus on: the effectiveness of those incentives on private-sector job
16 creation and retention and capital investment; the impact on State
17 and local tax revenues; and the broader impacts on the Statewide
18 competitive business climate. The report shall also provide an
19 analysis of the net benefits test used prior to the awarding of each
20 incentive award. The analysis of the net benefits test shall
21 document the degree to which the assumptions in the test proved to
22 be accurate, evaluate the methodology utilized by the authority,
23 causes for any discrepancy between the test and actual results, and a
24 year by year accounting of the tax credits claimed under each
25 individual incentive award, and the amount tax revenues
26 attributable to the incentive award recipient. Finally, the report is
27 to provide a cost benefit analysis of each statutory program,
28 covering the history of the program.

29 b. The reports required pursuant to subsection a. of this section
30 shall utilize a diverse set of contractors and pursue a diverse set of
31 analytic viewpoints. On a three-year cycle, the authors of the report
32 shall alternate between professional academic researchers,
33 independent private sector economics firms, and non-profit research
34 entities, to ensure a broad range of economic perspectives.

35 c. Following the receipt of the report required pursuant to
36 subsection a. of this section, the commission shall work with the
37 authors of the report to generate a separate policy recommendation
38 statement to the Governor and, pursuant to section 2 of P.L.1991,
39 c.164 (C.52:14-19.1), to the Legislature. The policy
40 recommendation statement shall combine the expertise of the
41 commission members and the information provided in the report to
42 provide an executive summary of the report and then also to
43 generate policy recommendations, at the commission's discretion,
44 in the following areas:

45 (1) recommendations for legislation to make improvements to
46 the programs, that will increase overall net State revenues, increase
47 State employment, ensure effective administration of the programs,

1 and prevent abuses relative to the original statutory intentions of the
2 incentive programs;

3 (2) guidance to the department on how to estimate revenue
4 impacts from tax credit programs and tax transfer certificates in the
5 current and future fiscal years;

6 (3) analysis of the administration of incentive programs, which
7 identifies any inconsistencies between the administration of the
8 incentive programs and the statutory intent of the programs;

9 (4) guidance to the authority on how to more effectively
10 administer incentive programs, including improved business
11 outreach, project evaluation, contracting practices, net benefits test
12 administration, and post-award evaluation; and

13 (5) documentation of any observed best practices in other states
14 concerning incentive programs that the commission finds would
15 benefit the State.

16 d. The report required pursuant to subsection a. of this section
17 and the statement required pursuant to subsection c. of this section
18 shall be submitted annually by 180 days following the end of the
19 State fiscal year to be covered by the respective report and
20 statement and shall be required in every year in which a tax credit
21 or tax increment financing incentive program is in effect in the
22 State. The report shall also be publicly posted on the websites of
23 the authority and the department.

24 e. The commission shall also appear annually before the Senate
25 Economic Growth Committee and the Assembly Commerce and
26 Economic Development Committee to present the findings of the
27 report required pursuant to subsection a. of this section and the
28 statement required pursuant to subsection c. of this section and to
29 answer questions from the Legislature concerning the findings of
30 the report and the policy recommendation statement.

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32 3. This act shall take effect immediately. The first report of the
33 commission shall be due within 180 days of the effective date of
34 this bill and shall cover the most recently completed fiscal year
35 before the effective date of this bill.

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STATEMENT

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40 This bill establishes the Economic Development Incentive
41 Review Commission (commission). The commission is established
42 within the Department of Treasury (department) and is to consist of
43 nine members. The nine members include the State Treasurer,
44 Executive Director of the New Jersey Economic Development
45 Authority (authority) ex-officio. The Governor is to choose five
46 public members, including an accountant or an auditor, a
47 professional economist, a representative of the business community,
48 a representative of the real estate community, and a member of the

1 general public with no specific expertise. The Governor is to then
2 appoint one member each upon the recommendation of the Senate
3 President and the Speaker of the General Assembly who shall have
4 experience in county or municipal government. Members aside
5 from the first appointments not made upon the recommendation of
6 the Senate President or Speaker of the General Assembly are to
7 serve for four year terms.

8 The commission is required to annually contract for a report that
9 comprehensively reviews State tax credit and tax increment
10 financing programs, including, but not limited to, the Grow New
11 Jersey Assistance program, the Economic Redevelopment and
12 Growth Grant program, and the Garden State Growth Zone
13 program. The program is to be both a review of the individual
14 awards issued under those programs, as well as an overall
15 evaluation of the programs themselves. The commission is to
16 alternate between professional academic researchers, independent
17 private sector economics firms, and non-profit research entities, to
18 ensure a broad range of economic perspectives, when identifying
19 firms to generate the report.

20 Upon receipt of the report, the commission is also to utilize its
21 own expertise to generate an annual statement that accompanies the
22 report. This statement is to provide additional analysis of the tax
23 incentive programs, recommendations for legislative changes to the
24 programs, documentation of best practices in other states, guidance
25 to the department and authority concerning revenue impacts from
26 tax incentive programs, and how to more efficiently manage the
27 programs. Once the report and statement have been completed, the
28 commission is to appear before the Senate Economic Growth
29 Committee and the Assembly Commerce and Economic
30 Development Committee, to present the report and statement and
31 answer questions from Legislators.