

ASSEMBLY, No. 3845

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MARCH 16, 2020

Sponsored by:

Assemblyman ROY FREIMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

Senator NILSA I. CRUZ-PEREZ

District 5 (Camden and Gloucester)

Senator BRIAN P. STACK

District 33 (Hudson)

Co-Sponsored by:

Assemblywoman DiMaso, Assemblymen Spearman, Conaway, Assemblywomen Reynolds-Jackson, McKnight, Lopez, Assemblyman Mazzeo, Assemblywomen Chaparro, Dunn, Assemblyman Zwicker, Assemblywoman Downey, Assemblyman Houghtaling, Assemblywoman Timberlake, Assemblyman Giblin, Assemblywoman Jasey, Assemblyman Mejia, Assemblywoman Jimenez, Assemblyman Johnson, Senators Singleton, Ruiz, Addiego, Greenstein, Madden, Bateman, Brown, Holzapfel, Singer and Oroho

SYNOPSIS

Authorizes EDA to make grants during periods of emergency declared by Governor and for duration of economic disruptions due to emergency; allows EDA to grant certain business documentation submission deadline extensions.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 3/19/2020)

1 AN ACT authorizing the New Jersey Economic Development
2 Authority to make grants during periods of emergency declared
3 by the Governor and for the duration of economic disruptions
4 due to the emergency, and amending various parts of the
5 statutory law.

6
7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:

9
10 1. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read
11 as follows:

12 5. The authority shall have the following powers:

13 a. To adopt bylaws for the regulation of its affairs and the
14 conduct of its business;

15 b. To adopt and have a seal and to alter the same at pleasure;

16 c. To sue and be sued;

17 d. To acquire in the name of the authority by purchase or
18 otherwise, on such terms and conditions and such manner as it may
19 deem proper, or by the exercise of the power of eminent domain in
20 the manner provided by the "Eminent Domain Act of 1971,"
21 P.L.1971, c.361 (C.20:3-1 et seq.), any lands or interests therein or
22 other property which it may determine is reasonably necessary for
23 any project; provided, however, that the authority in connection
24 with any project shall not take by exercise of the power of eminent
25 domain any real property except upon consent thereto given by
26 resolution of the governing body of the municipality in which such
27 real property is located; and provided further that the authority shall
28 be limited in its exercise of the power of eminent domain in
29 connection with any project in qualifying municipalities as defined
30 under the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.), or to
31 municipalities which had a population, according to the latest
32 federal decennial census, in excess of 10,000;

33 e. To enter into contracts with a person upon such terms and
34 conditions as the authority shall determine to be reasonable,
35 including, but not limited to, reimbursement for the planning,
36 designing, financing, construction, reconstruction, improvement,
37 equipping, furnishing, operation and maintenance of the project and
38 to pay or compromise any claims arising therefrom;

39 f. To establish and maintain reserve and insurance funds with
40 respect to the financing of the project or the school facilities project
41 and any project financed pursuant to the "Municipal Rehabilitation
42 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-
43 1 et al.);

44 g. To sell, convey or lease to any person all or any portion of a
45 project for such consideration and upon such terms as the authority
46 may determine to be reasonable;

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

- 1 h. To mortgage, pledge or assign or otherwise encumber all or
2 any portion of a project, or revenues, whenever it shall find such
3 action to be in furtherance of the purposes of this act, P.L.2000,
4 c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and
5 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.),
6 P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of
7 P.L.2009, c.90 (C.52:27D-489c et al.);
- 8 i. To grant options to purchase or renew a lease for any of its
9 projects on such terms as the authority may determine to be
10 reasonable;
- 11 j. To contract for and to accept any gifts or grants or loans of
12 funds or property or financial or other aid in any form from the
13 United States of America or any agency or instrumentality thereof,
14 or from the State or any agency, instrumentality or political
15 subdivision thereof, or from any other source and to comply,
16 subject to the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.),
17 section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72
18 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic
19 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), and
20 P.L.2007, c.137 (C.52:18A-235 et al.), with the terms and
21 conditions thereof;
- 22 k. In connection with any action undertaken by the authority in
23 the performance of its duties and any application for assistance or
24 commitments therefor and modifications thereof, to require and
25 collect such fees and charges as the authority shall determine to be
26 reasonable, including but not limited to fees and charges for the
27 authority's administrative, organizational, insurance, operating,
28 legal, and other expenses;
- 29 l. To adopt, amend and repeal regulations to carry out the
30 provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of
31 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),
32 the "Municipal Rehabilitation and Economic Recovery Act,"
33 P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L.2007, c.137
34 (C.52:18A-235 et al.);
- 35 m. To acquire, purchase, manage and operate, hold and dispose
36 of real and personal property or interests therein, take assignments
37 of rentals and leases and make and enter into all contracts, leases,
38 agreements and arrangements necessary or incidental to the
39 performance of its duties;
- 40 n. To purchase, acquire and take assignments of notes,
41 mortgages and other forms of security and evidences of
42 indebtedness;
- 43 o. To purchase, acquire, attach, seize, accept or take title to any
44 project or school facilities project by conveyance or by foreclosure,
45 and sell, lease, manage or operate any project or school facilities
46 project for a use specified in this act, P.L.2000, c.72 (C.18A:7G-
47 1 et al.), the "Municipal Rehabilitation and Economic Recovery

1 Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137
2 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009, c.90
3 (C.52:27D-489c et al.);

4 p. To borrow money and to issue bonds of the authority and to
5 provide for the rights of the holders thereof, as provided in
6 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401
7 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal
8 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
9 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and
10 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);

11 q. To extend credit or make loans to any person for the
12 planning, designing, acquiring, constructing, reconstructing,
13 improving, equipping and furnishing of a project or school facilities
14 project, which credits or loans may be secured by loan and security
15 agreements, mortgages, leases and any other instruments, upon such
16 terms and conditions as the authority shall deem reasonable,
17 including provision for the establishment and maintenance of
18 reserve and insurance funds, and to require the inclusion in any
19 mortgage, lease, contract, loan and security agreement or other
20 instrument, of such provisions for the construction, use, operation
21 and maintenance and financing of a project or school facilities
22 project as the authority may deem necessary or desirable;

23 r. To guarantee up to 90% of the amount of a loan to a person,
24 if the proceeds of the loan are to be applied to the purchase and
25 installation, in a building devoted to industrial or commercial
26 purposes, or in an office building, of an energy improvement
27 system;

28 s. To employ consulting engineers, architects, attorneys, real
29 estate counselors, appraisers, and such other consultants and
30 employees as may be required in the judgment of the redevelopment
31 utility to carry out the purposes of P.L.1974, c.80 (C.34:1B-
32 1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000,
33 c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and
34 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.),
35 P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of
36 P.L.2009, c.90 (C.52:27D-489c et al.), and to fix and pay their
37 compensation from funds available to the redevelopment utility
38 therefor, all without regard to the provisions of Title 11A of the
39 New Jersey Statutes;

40 t. To do and perform any acts and things authorized by
41 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401
42 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal
43 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
44 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and
45 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.),
46 under, through or by means of its own officers, agents and
47 employees, or by contract with any person;

- 1 u. To procure insurance against any losses in connection with
2 its property, operations or assets in such amounts and from such
3 insurers as it deems desirable;
- 4 v. To do any and all things necessary or convenient to carry out
5 its purposes and exercise the powers given and granted in P.L.1974,
6 c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-
7 4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal
8 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
9 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and
10 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);
- 11 w. To construct, reconstruct, rehabilitate, improve, alter, equip,
12 maintain or repair or provide for the construction, reconstruction,
13 improvement, alteration, equipping or maintenance or repair of any
14 development property and lot, award and enter into construction
15 contracts, purchase orders and other contracts with respect thereto,
16 upon such terms and conditions as the authority shall determine to
17 be reasonable, including, but not limited to, reimbursement for the
18 planning, designing, financing, construction, reconstruction,
19 improvement, equipping, furnishing, operation and maintenance of
20 any such development property and the settlement of any claims
21 arising therefrom and the establishment and maintenance of reserve
22 funds with respect to the financing of such development property;
- 23 x. When authorized by the governing body of a municipality
24 exercising jurisdiction over an urban growth zone, to construct,
25 cause to be constructed or to provide financial assistance to projects
26 in an urban growth zone which shall be exempt from the terms and
27 requirements of the land use ordinances and regulations, including,
28 but not limited to, the master plan and zoning ordinances, of such
29 municipality;
- 30 y. To enter into business employment incentive agreements as
31 provided in the "Business Employment Incentive Program Act,"
32 P.L.1996, c.26 (C.34:1B-124 et al.);
- 33 z. To enter into agreements or contracts, execute instruments,
34 and do and perform all acts or things necessary, convenient or
35 desirable for the purposes of the redevelopment utility to carry out
36 any power expressly provided pursuant to P.L.1974, c.80 (C.34:1B-
37 1 et seq.), P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007, c.137
38 (C.52:18A-235 et al.), including, but not limited to, entering into
39 contracts with the State Treasurer, the Commissioner of Education,
40 districts, the New Jersey Schools Development Authority, and any
41 other entity which may be required in order to carry out the
42 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.2007, c.137
43 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009, c.90
44 (C.52:27D-489c et al.);
- 45 aa. (Deleted by amendment, P.L.2007, c.137);
- 46 bb. To make and contract to make loans to local units to finance
47 the cost of school facilities projects and to acquire and contract to

1 acquire bonds, notes or other obligations issued or to be issued by
2 local units to evidence the loans, all in accordance with the
3 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007,
4 c.137 (C.52:18A-235 et al.);

5 cc. Subject to any agreement with holders of its bonds issued to
6 finance a project or school facilities project, obtain as security or to
7 provide liquidity for payment of all or any part of the principal of
8 and interest and premium on the bonds of the authority or for the
9 purchase upon tender or otherwise of the bonds, lines of credit,
10 letters of credit, reimbursement agreements, interest rate exchange
11 agreements, currency exchange agreements, interest rate floors or
12 caps, options, puts or calls to hedge payment, currency, rate, spread
13 or similar exposure or similar agreements, float agreements,
14 forward agreements, insurance contract, surety bond, commitment
15 to purchase or sell bonds, purchase or sale agreement, or
16 commitments or other contracts or agreements, and other security
17 agreements or instruments in any amounts and upon any terms as
18 the authority may determine and pay any fees and expenses required
19 in connection therewith;

20 dd. To charge to and collect from local units, the State and any
21 other person, any fees and charges in connection with the
22 authority's actions undertaken with respect to school facilities
23 projects, including, but not limited to, fees and charges for the
24 authority's administrative, organization, insurance, operating and
25 other expenses incident to the financing of school facilities projects;

26 ee. To make loans to refinance solid waste facility bonds
27 through the issuance of bonds or other obligations and the execution
28 of any agreements with counties or public authorities to effect the
29 refunding or rescheduling of solid waste facility bonds, or otherwise
30 provide for the payment of all or a portion of any series of solid
31 waste facility bonds. Any county or public authority refunding or
32 rescheduling its solid waste facility bonds pursuant to this
33 subsection shall provide for the payment of not less than fifty
34 percent of the aggregate debt service for the refunded or
35 rescheduled debt of the particular county or public authority for the
36 duration of the loan; except that, whenever the solid waste facility
37 bonds to be refinanced were issued by a public authority and the
38 county solid waste facility was utilized as a regional county solid
39 waste facility, as designated in the respective adopted district solid
40 waste management plans of the participating counties as approved
41 by the department prior to November 10, 1997, and the utilization
42 of the facility was established pursuant to tonnage obligations set
43 forth in their respective interdistrict agreements, the public
44 authority refunding or rescheduling its solid waste facility bonds
45 pursuant to this subsection shall provide for the payment of a
46 percentage of the aggregate debt service for the refunded or
47 rescheduled debt of the public authority not to exceed the

1 percentage of the specified tonnage obligation of the host county for
2 the duration of the loan. Whenever the solid waste facility bonds
3 are the obligation of a public authority, the relevant county shall
4 execute a deficiency agreement with the authority, which shall
5 provide that the county pledges to cover any shortfall and to pay
6 deficiencies in scheduled repayment obligations of the public
7 authority. All costs associated with the issuance of bonds pursuant
8 to this subsection may be paid by the authority from the proceeds of
9 these bonds. Any county or public authority is hereby authorized to
10 enter into any agreement with the authority necessary, desirable or
11 convenient to effectuate the provisions of this subsection.

12 The authority shall not issue bonds or other obligations to effect
13 the refunding or rescheduling of solid waste facility bonds after
14 December 31, 2002. The authority may refund its own bonds issued
15 for the purposes herein at any time;

16 ff. To pool loans for any local government units that are
17 refunding bonds and do and perform any and all acts or things
18 necessary, convenient or desirable for the purpose of the authority
19 to achieve more favorable interest rates and terms for those local
20 governmental units;

21 gg. To finance projects approved by the board, provide staff
22 support to the board, oversee and monitor progress on the part of
23 the board in carrying out the revitalization, economic development
24 and restoration projects authorized pursuant to the "Municipal
25 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
26 (C.52:27BBB-1 et al.) and otherwise fulfilling its responsibilities
27 pursuant thereto;

28 hh. To offer financial assistance to qualified film production
29 companies as provided in the "New Jersey Film Production
30 Assistance Act," P.L.2003, c.182 (C.34:1B-178 et al.); **[and]**

31 ii. To finance or develop private or public parking facilities or
32 structures, which may include the use of solar photovoltaic
33 equipment, in municipalities qualified to receive State aid pursuant
34 to the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.) and
35 municipalities that contain areas designated pursuant to P.L.1985,
36 c.398 (C.52:18A-196 et al.) as Planning Area 1 (Metropolitan),
37 Planning Area 2 (Suburban), or a town center, and to provide
38 appropriate assistance, including but not limited to, extensions of
39 credit, loans, and guarantees, to municipalities qualified to receive
40 State aid pursuant to the provisions of P.L.1978, c.14 (C.52:27D-
41 178 et seq.) and municipalities that contain areas designated
42 pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning
43 Area 1 (Metropolitan), Planning Area 2 (Suburban), or a town
44 center, and their agencies and instrumentalities or to private entities
45 whose projects are located in those municipalities, in order to
46 facilitate the financing and development of parking facilities or
47 structures in such municipalities. The authority may serve as the

1 issuing agent of bonds to finance the undertaking of a project for
2 the purposes of this subsection; and

3 jj. To make grants for the planning, designing, acquiring,
4 constructing, reconstructing, improving, equipping, and furnishing
5 of a project, including, but not limited to, grants for working capital
6 and meeting payroll requirements, upon such terms and conditions
7 as the authority shall deem reasonable, during periods of emergency
8 declared by the Governor and for the duration of economic
9 disruptions due to the emergency.

10 (cf: P.L.2010, c.28, s.3)

11

12 2. Section 4 of P.L.1992, c.16 (C.34:1B-7.13) is amended to
13 read as follows:

14 4. The authority may use the moneys in the fund to pay
15 principal of, premium, if any, and interest on bonds or notes, which
16 shall be entitled "Economic Recovery Fund Bonds or Notes," as
17 appropriate, the proceeds, or net proceeds, of which shall be
18 deposited into the fund, or used for purposes of the fund, and
19 moneys in the fund, including money received from the sale of
20 bonds shall, in such manner as is determined by the authority, and
21 pursuant to subsections d., e., and f. of this section, be used for the
22 financing of projects as set forth in section 3 of P.L.1974, c.80
23 (C.34:1B-3) and to establish:

24 a. an economic growth account for business programs, which
25 will invest in small and medium-size businesses that have the
26 greatest potential for creating jobs and stimulating economic growth
27 through such elements as a Statewide lending pool for small
28 business, a business composite bond guarantee, a fund to further
29 supplement the export finance program of the authority to provide
30 direct loans and working capital necessary for New Jersey
31 businesses to compete in the global market, real estate partnerships,
32 a Statewide composite bond pool to assist municipalities in
33 acquiring needed financing for capital expenditures, community-
34 based assistance to assist municipalities in establishing local
35 development corporations to stimulate economic development, a
36 venture capital fund for start-up costs for businesses developing
37 new concepts and inventions, a fund to assist businesses with
38 expansion in such areas as manufacturing retooling to improve
39 quality, to reduce production costs and to train employees to apply
40 the latest technology, and a "Main Street Business Assistance
41 Program" to provide guarantees and loans to small and mid-size
42 businesses and not-for-profit corporations to stimulate the economy.
43 The authority may promulgate rules and regulations for the
44 effective implementation of the "Main Street Business Assistance
45 Program." Notwithstanding any provision of the "Administrative
46 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
47 contrary, the authority may adopt, immediately upon filing with the

1 Office of Administrative Law, such regulations as are necessary to
2 implement the provisions of this act, which shall be effective for a
3 period not to exceed 12 months following enactment, and may
4 thereafter be amended, adopted, or readopted by the authority in
5 accordance with the requirements of the "Administrative Procedure
6 Act," P.L.1968, c.410 (C.52:14B-1 et seq.). During periods of
7 emergency declared by the Governor and for the duration of
8 economic disruptions due to the emergency, the authority may use
9 the economic growth account for the planning, designing, acquiring,
10 constructing, reconstructing, improving, equipping, and furnishing
11 by small and medium-size businesses and not-for-profit
12 corporations of a project as defined in section 3 of P.L.1974, c. 80
13 (C.34:1B-3), including, but not limited to, grants for working
14 capital and meeting payroll requirements, upon such terms and
15 conditions as the authority shall deem reasonable;

16 b. an economic development infrastructure program account,
17 which shall provide for the financing and development of
18 infrastructure and transportation projects, including but not limited
19 to ports, terminal and transit facilities, roads and airports, parking
20 facilities used in connection with transit facilities, and related
21 facilities, including public-private partnerships, that are integral to
22 economic growth;

23 c. an account for a cultural, recreational, fine and performing
24 arts, military and veterans memorial, historic preservation project
25 and tourism facilities and improvements program, which shall
26 provide for the financing and development of cultural, recreational,
27 fine and performing arts, military and veterans memorial, historic
28 preservation and tourism projects, including partnerships with
29 public, private and nonprofit entities;

30 d. an account, into which shall be deposited an amount not less
31 than \$45,000,000, out of the total amounts deposited or credited to
32 the fund from the proceeds of the sale of Economic Recovery Fund
33 Bonds or Notes, for the financing of capital facilities for primary
34 and secondary schools in the State for the purpose of the
35 renovation, repair or alteration of existing school buildings, the
36 construction of new school buildings or the conversion of existing
37 school buildings to other instructional purposes.

38 (1) Of the amount deposited in the account, not less than
39 \$25,000,000 shall be deposited in the "Public School Facilities
40 Code Compliance Loan Fund" established pursuant to section 4 of
41 P.L.1993, c.102 (C.34:1B-7.23).

42 (2) Of the amount deposited in the account, not less than
43 \$20,000,000 shall be deposited in the "Public School Facilities
44 Loan Assistance Fund" established pursuant to section 5 of
45 P.L.1993, c.102 (C.34:1B-7.24);

46 e. an environmental cleanup assistance account, into which
47 shall be deposited an amount not less than \$10,000,000, out of the

1 total amounts deposited or credited to the fund from the proceeds of
2 the sale of Economic Recovery Fund Bonds or Notes, to provide
3 financial assistance to the persons and other entities entitled to
4 apply for financial assistance pursuant to P.L.1993, c.139; and

5 f. an account, into which shall be deposited an amount not less
6 than \$15,000,000, out of the total amounts deposited or credited to
7 the fund from the proceeds of the sale of Economic Recovery Fund
8 Bonds or Notes, for the financing of shore restoration, maintenance,
9 monitoring, protection and preservation projects pursuant to the
10 shore protection master plan prepared by the Department of
11 Environmental Protection pursuant to P.L.1978, c.157.

12 (cf: P.L.2010, c.28, s.2)

13

14 3. Section 6 of P.L.2011, c.149 (C.34:1B-247) is amended to
15 read as follows:

16 6. a. (1) The combined value of all credits approved by the
17 authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) and
18 P.L.2011, c.149 (C.34:1B-242 et al.) prior to December 31, 2013
19 shall not exceed \$1,750,000,000, except as may be increased by the
20 authority as set forth in paragraph (5) of subsection a. of section 35
21 of P.L.2009, c.90 (C.34:1B-209.3). Following the enactment of the
22 "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161
23 (C.52:27D-489p et al.), there shall be no monetary cap on the value
24 of credits approved by the authority attributable to the program
25 pursuant to the "New Jersey Economic Opportunity Act of 2013,"
26 P.L.2013, c.161 (C.52:27D-489p et al.).

27 (2) (Deleted by amendment, P.L.2013, c.161)

28 (3) (Deleted by amendment, P.L.2013, c.161)

29 (4) (Deleted by amendment, P.L.2013, c.161)

30 (5) (Deleted by amendment, P.L.2013, c.161)

31 b. (1) A business shall submit an application for tax credits
32 prior to July 1, 2019. The authority shall not approve an application
33 for tax credits unless the application was submitted prior to July 1,
34 2019.

35 (2) (a) A business shall submit its documentation indicating
36 that it has met the capital investment and employment requirements
37 specified in the incentive agreement for certification of its tax credit
38 amount within three years following the date of approval of its
39 application by the authority. The authority shall have the discretion
40 to grant two six-month extensions of this deadline. Except as
41 provided in **【subparagraph】** subparagraphs (b) and (c) of this
42 paragraph, in no event shall the incentive effective date occur later
43 than four years following the date of approval of an application by
44 the authority.

45 (b) As of the effective date of P.L.2017, c.314, a business which
46 applied for the tax credit prior to July 1, 2014 under P.L.2011,
47 c.149 (C.34:1B-242 et al.), shall submit its documentation to the

1 authority no later than July 28, 2019, indicating that it has met the
2 capital investment and employment requirements specified in the
3 incentive agreement for certification of its tax credit amount.

4 (c) If the Governor declares an emergency, then the chief
5 executive officer of the authority shall have the discretion to grant
6 an extension for the duration of the emergency and the board of the
7 authority, upon recommendation of the chief executive officer, may
8 grant two additional six-month extensions; provided that (i) the
9 extensions are due to the economic disruption cause by the
10 emergency; (ii) the project is delayed due to unforeseeable acts
11 related to the project beyond the eligible business's control and
12 without its fault or negligence; (iii) the eligible business is using
13 best efforts, with all due diligence, to proceed with the completion
14 of the project and the submission of the certification; and (iv) the
15 eligible business has made, and continues to make, all reasonable
16 efforts to prevent, avoid, mitigate, and overcome the delay.

17 (3) Full-time employment for an accounting or privilege period
18 shall be determined as the average of the monthly full-time
19 employment for the period.

20 (4) A business seeking a credit for a mega project shall apply for
21 the credit within four years after the effective date of the "New
22 Jersey Economic Opportunity Act of 2013," P.L.2013, c.161
23 (C.52:27D-489p et al.).

24 c. (1) In conducting its annual review, the authority may
25 require a business to submit any information determined by the
26 authority to be necessary and relevant to its review.

27 The credit amount for any tax period for which the
28 documentation of a business's credit amount remains uncertified as
29 of a date three years after the closing date of that period shall be
30 forfeited, although credit amounts for the remainder of the years of
31 the eligibility period shall remain available to it.

32 The credit amount may be taken by the tax certificate holder for
33 the tax period for which it was issued or may be carried forward for
34 use by the tax certificate holder in any of the next 20 successive tax
35 periods, and shall expire thereafter. The tax certificate holder may
36 transfer the tax credit amount on or after the date of issuance or at
37 any time within three years of the date of issuance for use by the
38 transferee in the tax period for which it was issued or in any of the
39 next 20 successive tax periods. Notwithstanding the foregoing, no
40 more than the amount of tax credits equal to the total credit amount
41 divided by the duration of the eligibility period in years may be
42 taken in any tax period.

43 (2) Credits granted to a partnership shall be passed through to
44 the partners, members, or owners, respectively, pro-rata or pursuant
45 to an executed agreement among the partners, members, or owners
46 documenting an alternate distribution method provided to the
47 Director of the Division of Taxation in the Department of the

1 Treasury accompanied by any additional information as the director
2 may require.

3 (3) The amount of credit allowed may be applied against the tax
4 liability otherwise due pursuant to section 5 of P.L.1945, c.162
5 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132
6 (C.54:18A-2 and C.54:18A-3), pursuant to section 1 of P.L.1950,
7 c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5.

8 d. (1) If, in any tax period, the business reduces the total
9 number of full-time employees in its Statewide workforce by more
10 than 20 percent from the number of full-time employees in its
11 Statewide workforce in the last tax period prior to the credit amount
12 approval under section 3 of P.L.2011, c.149 (C.34:1B-244), then the
13 business shall forfeit its credit amount for that tax period and each
14 subsequent tax period, until the first tax period for which
15 documentation demonstrating the restoration of the business's
16 Statewide workforce to the threshold levels required by the
17 incentive agreement has been reviewed and approved by the
18 authority, for which tax period and each subsequent tax period the
19 full amount of the credit shall be allowed.

20 (2) If, in any tax period, the number of full-time employees
21 employed by the business at the qualified business facility located
22 within a qualified incentive area drops below 80 percent of the
23 number of new and retained full-time jobs specified in the incentive
24 agreement, then the business shall forfeit its credit amount for that
25 tax period and each subsequent tax period, until the first tax period
26 for which documentation demonstrating the restoration of the
27 number of full-time employees employed by the business at the
28 qualified business facility to 80 percent of the number of jobs
29 specified in the incentive agreement.

30 (3) (a) If the qualified business facility is sold by the owner in
31 whole or in part during the eligibility period, the new owner shall
32 not acquire the capital investment of the seller and the seller shall
33 forfeit all credits for the tax period in which the sale occurs and all
34 subsequent tax periods, provided however that any credits of the
35 business shall remain unaffected.

36 (b) In connection with a regional distribution facility of
37 foodstuffs, the business entity or entities which own or lease the
38 facility shall qualify as a business regardless of: (i) the type of the
39 business entity or entities which own or lease the facility; (ii) the
40 ownership or leasing of the facility by more than one business
41 entity; or (iii) the ownership of the business entity or entities which
42 own or lease the facility. The ownership or leasing, whether by
43 members, shareholders, partners, or other owners of the business
44 entity or entities, shall be treated as ownership or leasing by
45 affiliates. The members, shareholders, partners, or other ownership
46 or leasing participants and others that are tenants in the facility shall
47 be treated as affiliates for the purpose of counting the full-time

1 employees and capital investments in the facility. The business
2 entity or entities may distribute credits to members, shareholders,
3 partners, or other ownership or leasing participants in accordance
4 with their respective interests. If the business entity or entities or
5 their members, shareholders, partners, or other ownership or leasing
6 participants lease space in the facility to members, shareholders,
7 partners, or other ownership or leasing participants or others as
8 tenants in the facility, the leases shall be treated as a lease to an
9 affiliate, and the business entity or entities shall not be subject to
10 forfeiture of the credits. For the purposes of this section, leasing
11 shall include subleasing and tenants shall include subtenants.

12 (4) (a) For a project located within a Garden State Growth
13 Zone, if, in any tax period, the number of full-time employees
14 employed by the business at the qualified business facility located
15 within a qualified incentive area increases above the number of full-
16 time employees specified in the incentive agreement, then the
17 business shall be entitled to an increased base credit amount for that
18 tax period and each subsequent tax period, for each additional full-
19 time employee added above the number of full-time employees
20 specified in the incentive agreement, until the first tax period for
21 which documentation demonstrating a reduction of the number of
22 full-time employees employed by the business at the qualified
23 business facility, at which time the tax credit amount will be
24 adjusted accordingly pursuant to this section.

25 (b) For a project located within a Garden State Growth Zone
26 which qualifies under the "Municipal Rehabilitation and Economic
27 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or which
28 contains a Tourism District as established pursuant to section 5 of
29 P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
30 Reinvestment Development Authority, and which qualifies for a tax
31 credit pursuant to subsubparagraph (ii) of subparagraphs (a) through
32 (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149
33 (C.34:1B-246), if, in any tax period the number of full-time
34 employees employed by the business at the qualified business
35 facility located within a qualified incentive area increases above the
36 number of full-time employees specified in the incentive agreement
37 such that the business shall then meet the minimum number of
38 employees required in subparagraph (b), (c), (d), or (e) of paragraph
39 (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246),
40 then the authority shall recalculate the total tax credit amount per
41 full-time job by using the certified capital investment of the project
42 allowable under the applicable subsubparagraph and the number of
43 full-time jobs certified on the date of the recalculation and applying
44 those numbers to subparagraph (b), (c), (d), or (e) of paragraph (6)
45 of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246),
46 until the first tax period for which documentation demonstrating a
47 reduction of the number of full-time employees employed by the

1 business at the qualified business facility, at which time the tax
2 credit amount shall be adjusted accordingly pursuant to this section.

3 e. The authority shall not enter into an incentive agreement
4 with a business that has previously received incentives pursuant to
5 the "Business Retention and Relocation Assistance Act," P.L.1996,
6 c.25 (C.34:1B-112 et seq.), the "Business Employment Incentive
7 Program Act," P.L.1996, c.26 (C.34:1B-124 et al.), or any other
8 program administered by the authority unless:

9 (1) the business has satisfied all of its obligations underlying the
10 previous award of incentives or is compliant with section 4 of
11 P.L.2011, c.149 (C.34:1B-245); or

12 (2) the capital investment incurred and new or retained full-time
13 jobs pledged by the business in the new incentive agreement are
14 separate and apart from any capital investment or jobs underlying
15 the previous award of incentives.

16 f. A business which has already applied for a tax credit
17 incentive award prior to the effective date of the "New Jersey
18 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-
19 489p et al.), but who has not yet been approved for the tax credits,
20 or has not executed an agreement with the authority, may proceed
21 under that application or seek to amend the application or reapply
22 for a tax credit incentive award for the same project or any part
23 thereof for the purpose of availing itself of any more favorable
24 provisions of the program.

25 (cf: P.L.2018, c.120, s.3)

26

27 4. This act shall take effect immediately.

28

29

30

STATEMENT

31

32 This bill authorizes the New Jersey Economic Development
33 Authority (authority) to provide grants during periods of emergency
34 declared by the Governor, such as the declaration regarding the
35 Coronavirus disease 2019, and for the duration of economic
36 disruptions due to the emergency. The bill gives the authority the
37 power to offer grants for the planning, designing, acquiring,
38 constructing, reconstructing, improving, equipping, and furnishing
39 of a project, including, but not limited to, grants for working capital
40 and meeting payroll requirements, upon such terms and conditions
41 as the authority deems reasonable, during such period of time. The
42 bill also extends the uses of the economic growth account in the
43 Economic Recovery Fund to the planning, designing, acquiring,
44 constructing, reconstructing, improving, equipping, and furnishing
45 by small and medium-size businesses and not-for-profit
46 corporations of certain projects, including, but not limited to, grants
47 for working capital and meeting payroll requirements, upon such

1 terms and conditions as the authority deems reasonable, during such
2 periods of time.

3 Further, the bill provides that, for projects that were approved by
4 the authority under the Grow New Jersey Assistance Program, if the
5 Governor declares an emergency, then the chief executive officer of
6 the authority has the discretion to grant a business documentation
7 submission extension for the duration of the emergency and the
8 board of the authority, upon recommendation of the chief executive
9 officer, may grant two additional six-month extensions; provided
10 that (i) the extensions are due to the economic disruption cause by
11 the emergency; (ii) the project is delayed due to unforeseeable acts
12 related to the project beyond the eligible business's control and
13 without its fault or negligence; (iii) the eligible business is using
14 best efforts, with all due diligence, to proceed with the completion
15 of the project and the submission of the certification; and (iv) the
16 eligible business has made, and continues to make, all reasonable
17 efforts to prevent, avoid, mitigate, and overcome the delay.