

SENATE, No. 1873

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED FEBRUARY 24, 2020

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

SYNOPSIS

Modifies certain provisions of EDA incentive programs; requires EDA to provide report with review and analysis of those programs.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning certain economic incentive programs,
2 amending P.L.2011, c.149 and P.L.2009, c.90, and
3 supplementing P.L.1974, c.80 (C.34:1B-1 et seq.).
4

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

8 1. Section 3 of P.L.2011, c.149 (C.34:1B-244) is amended to
9 read as follows:

10 3. a. The Grow New Jersey Assistance Program is hereby
11 established as a program under the jurisdiction of the New Jersey
12 Economic Development Authority and shall be administered by the
13 authority. The purpose of the program is to encourage economic
14 development and job creation and to preserve jobs that currently
15 exist in New Jersey but which are in danger of being relocated
16 outside of the State. To implement this purpose, the program may
17 provide tax credits to eligible businesses for an eligibility period not
18 to exceed 10 years.

19 To be eligible for any tax credits pursuant to P.L.2011, c.149
20 (C.34:1B-242 et al.), a business's chief executive officer or
21 equivalent officer shall demonstrate to the authority, at the time of
22 application, that:

23 (1) the business, expressly including its landlord or seller, will
24 make, acquire, or lease a capital investment equal to, or greater
25 than, the applicable amount set forth in subsection b. of this section
26 at a qualified business facility at which it will:

27 (a) retain full-time jobs in an amount equal to or greater than the
28 applicable number set forth in subsection c. of this section;

29 (b) create new full-time jobs in an amount equal to or greater
30 than the applicable number set forth in subsection c. of this section;
31 or

32 (c) in combination, retain full-time jobs and create new full-time
33 jobs in an amount equal to or greater than the applicable number set
34 forth in subsection c. of this section;

35 (2) the qualified business facility shall be constructed in
36 accordance with the minimum environmental and sustainability
37 standards;

38 (3) the capital investment resultant from the award of tax credits
39 and the resultant retention and creation of full-time jobs will yield a
40 net positive benefit to the State equaling at least 110 percent of the
41 requested tax credit allocation amount, which determination is
42 calculated prior to taking into account the value of the requested tax
43 credit and shall be based on the benefits generated during the **first**
44 20 years following the completion of the project] commitment
45 period, except that **:**

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 (a) for a mega project or a project located in a Garden State
2 Growth Zone, the determination shall be based on the benefits
3 generated during a period of up to 30 years following the
4 completion of the project, as determined by the authority, and

5 (b) for a project located in a Garden State Growth Zone which
6 qualified for the "Municipal Rehabilitation and Economic Recovery
7 Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), the net positive benefit
8 determination shall be based on the benefits generated during a
9 period of up to 35 years following completion of the project, as
10 determined by the authority, and shall equal yield a net positive
11 benefit to the State of at least 100 percent of the requested tax credit
12 allocation amount and may utilize the value of those property taxes
13 subject to the provisions of section 24 of P.L.2013 c.161
14 (C.52:27D-489s), or the value of those property taxes that would
15 have been assessed on the new construction, improvements, or
16 substantial rehabilitation of structures on real property if the
17 structures were not exempt because they are on real property owned
18 by a public entity, and incremental sales and excise taxes that are
19 derived from activities within the area and which are rebated or
20 retained by the municipality pursuant to the "New Jersey Urban
21 Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) or
22 any other law providing for such rebate or retention; and

23 (4) except as provided in subsection f. of this section, the award
24 of tax credits will be a material factor in the business's decision to
25 create or retain the minimum number of new or retained full-time
26 jobs for eligibility under the program.

27 With respect to the provisions of paragraph (3) of this
28 subsection, in the case of a project located in a Garden State
29 Growth Zone, the authority, in its discretion, may award bonuses in
30 its net positive benefit calculation.

31 b. For all projects approved after the effective date of
32 P.L.2013, c.161, the minimum capital investment required to be
33 eligible under this program shall be as follows:

34 (1) for the rehabilitation, improvement, fit-out, or retrofit of an
35 existing industrial, warehousing, logistics, or research and
36 development premises for continued similar use by the business in
37 at least 51 percent of the gross leasable area of the premises, a
38 minimum investment of \$20 per square foot of gross leasable area;

39 (2) for the new construction of an industrial, warehousing,
40 logistics, or research and development premises for similar use by
41 the business in at least 51 percent of the gross leasable area of the
42 premises, a minimum investment of \$60 per square foot of gross
43 leasable area;

44 (3) for the rehabilitation, improvement, fit-out, or retrofit of an
45 existing premises that does not qualify pursuant to paragraph (1) or
46 (2) of this subsection, a minimum investment of \$40 per square foot
47 of gross leasable area; and

1 (4) for the new construction of a premises that does not qualify
2 pursuant to paragraph (1) or (2) of this subsection, a minimum
3 investment of \$120 per square foot of gross leasable area.

4 The minimum capital investment required by this subsection
5 shall be reduced by one-third for projects located in a Garden State
6 Growth Zone or projects located within Atlantic, Burlington,
7 Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem
8 counties.

9 c. The minimum number of new or retained full-time jobs
10 required to be eligible under this program shall be as follows:

11 (1) for a business that is a technology startup company or a
12 manufacturing company, a minimum of 10 new or 25 retained full-
13 time jobs;

14 (2) for a business engaged primarily in a targeted industry other
15 than a technology startup company or a manufacturing company, a
16 minimum of 25 new or 35 retained full-time jobs; and

17 (3) for any other business, a minimum of 35 new or 50 retained
18 full-time jobs.

19 The minimum number of new or retained full-time jobs required
20 by this subsection shall be reduced by one-quarter for projects
21 located in a Garden State Growth Zone or projects located within
22 Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,
23 Ocean, or Salem counties.

24 d. To assist the authority in determining whether a proposed
25 capital investment will yield a net positive benefit, the business's
26 chief executive officer, or equivalent officer, shall submit a
27 certification to the authority indicating: (1) that any existing full-
28 time jobs are at risk of leaving the State or being eliminated; (2)
29 that any projected creation or retention, as applicable, of new full-
30 time jobs would not occur but for the provision of tax credits under
31 the program; and (3) that the business's chief executive officer, or
32 equivalent officer, has reviewed the information submitted to the
33 authority and that the representations contained therein are accurate,
34 provided however, that in satisfaction of the provisions of
35 paragraphs (1) and (2) of this subsection, the certification with
36 respect to a project in a Garden State Growth Zone that qualifies
37 under the "Municipal Rehabilitation and Economic Recovery Act,"
38 P.L.2002, c.43 (C.52:27BBB-1 et al.), or a project located in a
39 Garden State Growth Zone which contains a Tourism District as
40 established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and
41 regulated by the Casino Reinvestment Development Authority, shall
42 indicate that the provision of tax credits under the program is a
43 material factor in the business decision to make a capital investment
44 and locate in a Garden State Growth Zone that qualifies under the
45 "Municipal Rehabilitation and Economic Recovery Act," P.L.2002,
46 c.43 (C.52:27BBB-1 et al.), or a Garden State Growth Zone which
47 contains a Tourism District as established pursuant to section 5 of
48 P.L.2011, c.18 (C.5:12-219) and regulated by the Casino

1 Reinvestment Development Authority. In the event that this
2 certification by the business's chief executive officer, or equivalent
3 officer, is found to be willfully false, the authority may revoke any
4 award of tax credits in their entirety, which revocation shall be in
5 addition to any other criminal or civil penalties that the business
6 and the officer may be subject to. When considering an application
7 involving intra-State job transfers, the authority shall require the
8 business to submit the following information as part of its
9 application: a full economic analysis of all locations under
10 consideration by the business; all lease agreements, ownership
11 documents, or substantially similar documentation for the business's
12 current in-State locations; and all lease agreements, ownership
13 documents, or substantially similar documentation for the potential
14 out-of-State location alternatives, to the extent they exist. Based on
15 this information, and any other information deemed relevant by the
16 authority, the authority shall independently verify and confirm, by
17 way of making a factual finding by separate vote of the authority's
18 board, the business's assertion that the jobs are actually at risk of
19 leaving the State, and as to the date or dates at which the authority
20 expects that those jobs would actually leave the State, or, with
21 respect to projects located in a Garden State Growth Zone that
22 qualifies under the "Municipal Rehabilitation and Economic
23 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or projects
24 located in a Garden State Growth Zone which contains a Tourism
25 District as established pursuant to section 5 of P.L.2011, c.18
26 (C.5:12-219) and regulated by the Casino Reinvestment
27 Development Authority, the business's assertion that the provision
28 of tax credits under the program is a material factor in the business's
29 decision to make a capital investment and locate in a Garden State
30 Growth Zone that qualifies under the "Municipal Rehabilitation and
31 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or
32 in a Garden State Growth Zone which contains a Tourism District
33 as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219)
34 and regulated by the Casino Reinvestment Development Authority,
35 before a business may be awarded any tax credits under this section.

36 e. A project that consists solely of point-of-final-purchase
37 retail facilities shall not be eligible for a grant of tax credits. If a
38 project consists of both point-of-final-purchase retail facilities and
39 non-retail facilities, only the portion of the project consisting of
40 non-retail facilities shall be eligible for a grant of tax credits. For a
41 qualified business facility that is a mixed-use project that includes
42 retail facilities and that is located in a Garden State Growth Zone or
43 the Atlantic City Tourism District as established pursuant to section
44 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
45 Reinvestment Development Authority, retail facilities in an amount
46 up to 7.5 percent of the mixed-use project may be included in the
47 mixed-use project application for a grant of tax credits along with
48 the non-retail facilities, and that application may include in the

1 aggregate the pro-rata number of full-time employees employed by
2 any number of tenants or other occupants of the included retail
3 facilities. If a warehouse facility is part of a point-of-final-purchase
4 retail facility and supplies only that facility, the warehouse facility
5 shall not be eligible for a grant of tax credits. For the purposes of
6 this section, a retail facility of at least 150,000 square feet, of which
7 at least 50 percent is occupied by a full-service supermarket or
8 grocery store, located in a Garden State Growth Zone which
9 qualified under the "Municipal Rehabilitation and Economic
10 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or a tourism
11 destination project in the Atlantic City Tourism District as
12 established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219), or
13 catalog distribution centers shall not be considered point-of-final-
14 purchase retail facilities.

15 f. The authority may determine as eligible for tax credits under
16 the program any business that is required to respond to a request for
17 proposals and to fulfill a contract with the federal government
18 although the business's chief executive officer or equivalent officer
19 has not demonstrated to the authority that the award of tax credits
20 will be a material factor in the business's decision to retain the
21 minimum number of retained full-time jobs, as otherwise required
22 by this section. The authority may, in its discretion, consider the
23 economic benefit of the retained jobs servicing the contract in
24 conducting a net benefit analysis required by paragraph (4) of
25 subsection a. of this section. For the purposes of this subsection,
26 "retained full-time jobs" includes jobs that are at risk of being
27 eliminated. Applications to the authority for eligibility under the
28 program pursuant to the criteria set forth in this subsection shall be
29 completed by December 31, 2013. Submission of a proposal to the
30 federal government prior to authority approval shall not disqualify a
31 business from the program.

32 g. Nothing shall preclude a business from applying for tax
33 credits under the program for more than one project pursuant to one
34 or more applications.

35 h. A business shall not be required to purchase pinelands
36 development credits under the "Pinelands Protection Act,"
37 P.L.1979, c.111 (C.13:18A-1 et seq.), the pinelands comprehensive
38 management plan, or any other rule or regulation adopted pursuant
39 to that act in connection with any approval or relief obtained related
40 to a qualified business facility located in an aviation district on or
41 after the effective date of P.L.2018, c.120, except if seeking to
42 develop in permanently protected open space pursuant to the
43 Pinelands Protection Act.
44 (cf: P.L.2018, c.120, s.2)

45
46 2. Section 4 of P.L.2011, c.149 (C.34:1B-245) is amended to
47 read as follows:

- 1 4. The authority shall require an eligible business to enter into
2 an incentive agreement prior to the issuance of tax credits. The
3 incentive agreement shall include, but shall not be limited to, the
4 following:
- 5 a. A detailed description of the proposed project which will
6 result in job creation or retention, and the number of new or
7 retained full-time jobs that are approved for tax credits.
- 8 b. The eligibility period of the tax credits, including the first
9 year for which the tax credits may be claimed.
- 10 c. Personnel information that will enable the authority to
11 administer the program.
- 12 d. A requirement that the applicant maintain the project at a
13 location in New Jersey for the commitment period, with at least the
14 minimum number of full-time employees as required by this
15 program, and a provision to permit the authority to recapture all or
16 part of any tax credits awarded, at its discretion, if the business does
17 not remain in compliance with this provision for the required term,
18 and in the instance of the business terminating an existing incentive
19 agreement in order to participate in an incentive agreement
20 authorized pursuant to the "New Jersey Economic Opportunity Act
21 of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), such permitted
22 recapture may be calculated to recognize the period of time that the
23 business was in compliance prior to termination.
- 24 e. A method for the business to certify that it has met the
25 capital investment and employment requirements of the program
26 pursuant to paragraph (1) of subsection a. of section 3 of P.L.2011,
27 c.149 (C.34:1B-244) and to report annually to the authority the
28 number of full-time employees for which the tax credits are to be
29 made.
- 30 f. A provision permitting an audit of the payroll records of the
31 business from time to time, as the authority deems necessary.
- 32 g. A provision which permits the authority to amend the
33 agreement.
- 34 h. A provision establishing the conditions under which the
35 agreement may be terminated.
- 36 i. A requirement that each worker employed to perform
37 building maintenance services, custodial services, or security
38 services at a qualified business facility by a business or a tenant or
39 subcontractor of a business or tenant shall be paid not less than the
40 prevailing wage rate for the worker's craft or trade as determined by
41 the Commissioner of Labor and Workforce Development pursuant
42 to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379
43 (C.34:11-56.58 et seq.).
44 (cf: P.L.2013, c.161, s.9)
- 45
- 46 3. Section 8 of P.L.2009, c.90 (C.52:27D-489h) is amended to
47 read as follows:

1 8. a. (1) The authority, in consultation with the State
2 Treasurer, shall promulgate an incentive grant application form and
3 procedure for the Economic Redevelopment and Growth Grant
4 program.

5 (2) (a) The Local Finance Board, in consultation with the
6 authority, shall develop a minimum standard incentive grant
7 application form for municipal Economic Redevelopment and
8 Growth Grant programs.

9 (b) Through regulation, the authority shall establish standards
10 for redevelopment projects seeking State or local incentive grants
11 based on the green building manual prepared by the Commissioner
12 of Community Affairs pursuant to section 1 of P.L.2007, c.132
13 (C.52:27D-130.6), regarding the use of renewable energy, energy-
14 efficient technology, and non-renewable resources in order to
15 reduce environmental degradation and encourage long-term cost
16 reduction.

17 (c) The authority shall require, through regulation, that each
18 worker employed in building maintenance services, custodial
19 services, or security services of a redevelopment project by a
20 developer or a tenant or subcontractor of a developer or tenant shall
21 be paid not less than the prevailing wage rate for the worker's craft
22 or trade as determined by the Commissioner of Labor and
23 Workforce Development pursuant to P.L.1963, c.150 (C.34:11-
24 56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).

25 b. Within each incentive grant application, a developer shall
26 certify information concerning:

27 (1) the status of control of the entire redevelopment project site;

28 (2) all required State and federal government permits that have
29 been issued for the redevelopment project, or will be issued pending
30 resolution of financing issues;

31 (3) local planning and zoning board approvals, as required, for
32 the redevelopment project;

33 (4) estimates of the revenue increment base, the eligible
34 revenues for the project, and the assumptions upon which those
35 estimates are made.

36 c. (1) With regard to State tax revenues proposed to be
37 pledged for an incentive grant the authority and the State Treasurer
38 shall review the project costs, evaluate and validate the project
39 financing gap estimated by the developer, and conduct a State fiscal
40 impact analysis to ensure that the overall public assistance provided
41 to the project, except with regards to a qualified residential project,
42 a mixed use parking project, or a project involving university
43 infrastructure, will result in net benefits to the State including,
44 without limitation, both direct and indirect economic benefits and
45 non-financial community revitalization objectives, including but not
46 limited to, the promotion of the use of public transportation in the
47 case of the ancillary infrastructure project portion of any transit
48 project.

1 (2) With regard to local incremental revenues proposed to be
2 pledged for an incentive grant the authority and the Local Finance
3 Board shall review the project costs, and except with respect to an
4 application by a municipal redeveloper, evaluate and validate the
5 project financing gap projected by the developer, and conduct a
6 local fiscal impact analysis to ensure that the overall public
7 assistance provided to the project, except with regards to a qualified
8 residential project, a mixed use parking project, or a project
9 involving university infrastructure, will result in net benefits to the
10 municipality wherein the redevelopment project is located
11 including, without limitation, both direct and indirect economic
12 benefits and non-financial community revitalization objectives,
13 including but not limited to, the promotion of the use of public
14 transportation in the case of the ancillary infrastructure project
15 portion of any transit project.

16 (3) The authority, State Treasurer, and Local Finance Board
17 may act cooperatively to administer and review applications, and
18 shall consult with the Office of State Planning on matters
19 concerning State, regional, and local development and planning
20 strategies.

21 (4) The costs of the aforementioned reviews shall be assessed to
22 the applicant as an application fee.

23 (5) A developer who has already applied for an incentive grant
24 award prior to the effective date of the "New Jersey Economic
25 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.),
26 but who has not yet been approved for the grant, or has not
27 executed an agreement with the authority, may proceed under that
28 application or seek to amend the application or reapply for an
29 incentive grant award for the same project or any part thereof for
30 the purpose of availing himself or herself of any more favorable
31 provisions of the Economic Redevelopment and Growth Grant
32 program established pursuant to the "New Jersey Economic
33 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.),
34 except that projects with costs exceeding \$200,000,000 shall not be
35 eligible for revised percentage caps under subsection d. of section
36 19 of P.L.2013, c.161 (C.52:27D-489i).
37 (cf: P.L.2015, c.242, s.3)

38

39 4. (New section) a. The authority shall submit a written report
40 to the Governor and, pursuant to section 2 of P.L.1991, c.164
41 (C.52:14-19.1), to the Legislature providing a comprehensive
42 review and analysis of the Grow New Jersey Assistance Program,
43 established pursuant to P.L.2011, c.149 (C.34:1B-242 et seq.), the
44 Economic Redevelopment and Growth Grant program, established
45 pursuant to section 5 of P.L.2009, c.90 (C.52:27D-489e), with
46 particular emphasis on the recalibration of those programs, the
47 creation of Garden State Growth Zones, pursuant to P.L.2013, c.161

1 (C.52:27D-489p et al.), and the effectiveness of those programs on
2 private-sector job creation and retention and capital investment.

3 b. The report required pursuant to subsection a. of this section
4 shall be submitted within three months of the effective date of
5 P.L. , c. (C.) (pending before the Legislature as this bill)
6 and every three years thereafter until the final incentive is awarded
7 under the Grow New Jersey Assistance Program and the Economic
8 Redevelopment and Growth Grant program. The report shall
9 include, but not be limited to:

10 (1) the amount of liabilities in terms of the foregone tax revenue
11 to the State and local governments of the programs cited in this
12 section;

13 (2) a cost-benefit analysis of the programs cited in this section;

14 (3) an assessment of the success of the programs in achieving
15 the goal of encouraging businesses to engage in economic
16 development, job creation, and the preservation of existing jobs
17 within New Jersey; and

18 (4) any recommendations for improving the operation and
19 effectiveness of the programs cited in this section, including
20 recommendations for legislation.

21 c. The authority may contract with a public or private not-for-
22 profit, non-partisan entity to undertake the review and analysis of
23 the programs cited in this section and to prepare the report required
24 pursuant to subsection a. of this section. The authority shall make
25 the report available on its Internet website.

26
27 5. This act shall take effect immediately.
28
29

30 STATEMENT

31
32
33 This bill amends the Grow New Jersey Assistance (GROW)
34 program and the Economic Redevelopment and Growth Grant (ERG)
35 program.

36 The bill amends the “net positive benefit” test under the GROW
37 program to ensure that the New Jersey Economic Development
38 Authority’s (EDA) determination of whether an applicant business’s
39 proposed project will benefit the State is based on the period of time
40 that the applicant business commits to maintain the project.

41 The bill provides that a business receiving incentives under the
42 GROW program or the ERG program are to agree that all workers
43 employed to perform building maintenance, custodial, or security
44 services at the business facility are to be paid not less than the
45 prevailing wage rate.

46 The bill also requires the EDA to submit a written report to the
47 Governor and the Legislature providing a comprehensive review and
48 analysis of the GROW and ERG programs and the effectiveness of

1 those programs on private sector job creation and retention and capital
2 investment. The report is to be submitted within three months of the
3 effective date of the bill and every three years thereafter until the final
4 incentive is awarded under the GROW and ERG programs. The EDA
5 may contract with a public or private not-for-profit, non-partisan entity
6 to undertake the review and analysis of these programs and to prepare
7 the report. The EDA is to make the report available on its Internet
8 website.