

**SENATE, No. 2086**

**STATE OF NEW JERSEY**  
**212th LEGISLATURE**

INTRODUCED JUNE 26, 2006

**Sponsored by:**

**Senator SHIRLEY K. TURNER**

**District 15 (Mercer)**

**SYNOPSIS**

Concerns development subsidies and employment of undocumented aliens.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning development subsidies and certain employment  
2 practices.

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

6  
7 1. For the purposes of this act:

8 "Development subsidy" means the providing to a recipient  
9 enterprise of an amount of funds from a public body for the purpose  
10 of stimulating economic development in New Jersey, including, but  
11 not limited to, any bond, grant, loan, loan guarantee, tax increment  
12 financing, fee waiver, land price subsidy, matching fund or any tax  
13 expenditure. "Development subsidy" does not refer to any contract  
14 under which a public body purchases or otherwise procures goods,  
15 services or construction on an unsubsidized basis, including any  
16 contract solely for the construction or renovation of a facility owned  
17 by a public body.

18 "Granting body" means a public body that provides a  
19 development subsidy and, in the case of a tax expenditure related to  
20 any tax paid to the State, means the State Treasurer.

21 "Public body" means the State or any political subdivision of the  
22 State and any agency, instrumentality or authority of the political  
23 subdivision.

24 "Recipient enterprise" means any non-governmental person,  
25 association, corporation, joint venture, partnership or other entity  
26 that receives a development subsidy.

27 "State" means the State of New Jersey and any agency,  
28 instrumentality or authority of the State, but not any political  
29 subdivision of the State.

30 "Tax expenditure" means the amount of uncollected tax revenues  
31 from any abatement, reduction, exemption or credit against any  
32 State or local tax, including, but not limited to, taxes on real  
33 property, raw materials, inventories or other assets, taxes on gross  
34 receipts, income or sales, and any use, excise or utility tax. "Tax  
35 expenditure" does not refer to any credit against any tax liability of  
36 an employee or any personal exemption, homestead rebate, credit or  
37 deduction for the expenses of a household or individual, or other  
38 reduction of the tax liability of an individual or household.

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40 2. a. A Recipient enterprise shall not employ any employees  
41 who are aliens unless they were lawfully admitted for permanent  
42 residence at the time the employment was performed, were lawfully  
43 present for the purpose of performing the employment, or otherwise  
44 were permanently residing in the United States under color of law at  
45 the time the employment was performed (including aliens who were  
46 lawfully present in the United States as a result of the application of  
47 the provisions of the Immigration and Nationality Act (8  
48 U.S.C.1101 et seq.).

1       b. If the requirements of subsection a. of this section are not  
2 fulfilled, any granting body which provided a development subsidy  
3 shall require the recipient enterprise to repay the value of any  
4 development subsidy awarded during the five year period prior to  
5 the violation of the provisions of subsection a. of this section. The  
6 granting body shall provide notice to the recipient enterprise of the  
7 amount to be repaid, and the recipient enterprise shall remit to the  
8 governing body that amount not more than 60 calendar days after  
9 the date of the notice.

10       c. Any development subsidy which a recipient enterprise is  
11 required to repay pursuant to this section shall be regarded as a tax  
12 liability of the recipient enterprise to the granting body. If the  
13 recipient enterprise fails to pay that tax liability when it becomes  
14 due, the recipient enterprise shall be subject to the penalties and  
15 interest provisions of the State Uniform Tax Procedure Law,  
16 R.S.54:48-1 et seq. Any recipient enterprise which considers any  
17 decision or declaration of a granting body to recapture any part of a  
18 development subsidy to be inconsistent with the provisions of this  
19 act, excessive or otherwise unjust, may appeal to the tax court in  
20 accordance with the provisions of the State Uniform Tax Procedure  
21 Law, R.S.54:48-1 et seq.

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23       3. If a granting body or the State Treasurer fails to enforce any  
24 provision of this act, any individual who paid taxes to the State  
25 during the State fiscal year in dispute or the preceding year, or any  
26 organization representing any of those taxpayers, shall be entitled to  
27 bring a civil action in a court of competent jurisdiction to compel  
28 enforcement of this act. The court shall award reasonable attorneys'  
29 fees and costs to the prevailing taxpayer or organization.

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31       4. A recipient enterprise that knowingly makes a false material  
32 misrepresentation in any disclosure that the recipient enterprise is  
33 required to make pursuant to this act shall be deemed to have  
34 knowingly made a false material representation in connection with  
35 the negotiation, award or performance of a government contract for  
36 the purposes of subsection b. of section 97 of P.L.1999, c.440  
37 (C.2C:21-34) and shall be guilty of a crime as specified in that  
38 section.

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40       5. The State Treasurer shall, pursuant to the "Administrative  
41 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), promulgate  
42 any rules and regulations necessary to implement the provisions of  
43 this act.

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45       6. This act shall take effect immediately.

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3. Were otherwise permanently residing in the United States under color of law at the time the employment was performed.