

SENATE, No. 920

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED JANUARY 19, 2010

Sponsored by:

Senator RAYMOND J. LESNIAK

District 20 (Union)

Senator STEPHEN M. SWEENEY

District 3 (Salem, Cumberland and Gloucester)

Co-Sponsored by:

Senator Whelan

SYNOPSIS

Revises provisions of "New Jersey Economic Stimulus Act of 2009" concerning public-private higher education construction and improvement projects and municipal ordinances to adopt stimulus measures.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning certain economic stimulus activities and
2 amending P.L.2009, c.90.

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

6
7 1. Section 43 of P.L.2009, c.90 (C.18A:64-85) is amended to
8 read as follows:

9 43. a. A State college or county college may enter into a
10 contract with a private entity, subject to subsection f. of this section,
11 to be referred to as a public-private partnership agreement, that
12 permits the private entity to assume full financial and administrative
13 responsibility for the on-campus construction, reconstruction,
14 repair, alteration, improvement or extension of a building, structure,
15 or facility of, or for the benefit or enhancement of, the institution,
16 provided that the project is financed in whole by the private entity
17 and that the State or institution of higher education, as applicable,
18 retains full ownership of the land upon which the project is
19 completed.

20 b. (1) A private entity that assumes financial and
21 administrative responsibility for a project pursuant to subsection a.
22 of this section shall not be subject to the procurement and
23 contracting requirements of all statutes applicable to the institution
24 of higher education at which the project is completed, including, but
25 not limited to, the "State College Contracts Law," P.L.1986, c.43
26 (C.18A:64-52 et seq.), and the "County College Contracts Law,"
27 P.L.1982, c.189 (C.18A:64A-25.1 et seq.). For the purposes of
28 facilitating the financing of a project pursuant to subsection a. of
29 this section, a public entity may become the owner or lessee of the
30 project or the lessee of the land, or both, may issue indebtedness in
31 accordance with the public entity's enabling legislation and,
32 notwithstanding any provision of law to the contrary, shall be
33 empowered to enter into contracts with a private entity and its
34 affiliates without being subject to the procurement and contracting
35 requirements of the public entity provided that the private entity has
36 been selected by the institution of higher education pursuant to a
37 solicitation of proposals or qualifications. For the purposes of this
38 section, a public entity shall include the New Jersey Economic
39 Development Authority and any project undertaken pursuant to
40 subsection a. of this section shall be deemed a "project" under the
41 "New Jersey Economic Development Authority Act," P.L.1974,
42 c.80 (C.34:1B-1 et seq.).

43 (2) As the carrying out of any project described pursuant to this
44 section constitutes the performance of an essential public function,
45 the project, provided it is owned by or leased to a public entity,

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 non-profit business entity, foreign or domestic, or a business entity
2 wholly owned by such non-profit business entity, shall at all times
3 be exempt from property taxation and special assessments of the
4 State, or any municipality, or other political subdivision of the
5 State, and notwithstanding the provisions of section 15 of P.L.1974,
6 c.80 (C.34:1B-15) and section 2 of P.L.1977, c.272 (C.54:4-2.2b) or
7 any other section of law to the contrary shall not be required to
8 make payments in lieu of taxes. The land upon which the project is
9 located shall also at all times be exempt from property taxation.

10 c. Each worker employed in the construction, rehabilitation, or
11 building maintenance services of facilities by a private entity that
12 has entered into a public-private partnership agreement with a State
13 or county college pursuant to subsection a. of this section shall be
14 paid not less than the prevailing wage rate for the worker's craft or
15 trade as determined by the Commissioner of Labor and Workforce
16 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.)
17 and P.L.2005, c.379 (C.34:11-56.58 et seq.).

18 d. (1) All construction projects under a public-private
19 partnership agreement entered into pursuant to this section shall
20 contain a project labor agreement. The project labor agreement
21 shall be subject to the provisions of P.L.2002, c.44 (C.52:38-1 et
22 seq.), and shall be in a manner that to the greatest extent possible
23 enhances employment opportunities for individuals residing in the
24 county of the project's location. Further, the general contractor,
25 construction manager, design-build team, or subcontractor for a
26 construction project proposed in accordance with this paragraph
27 shall be registered pursuant to the provisions of P.L.1999, c.238
28 (C.34:11-56.48 et seq.), and shall be classified by the Division of
29 Property Management and Construction to perform work on a
30 public-private partnership higher education project. All
31 construction projects proposed in accordance with this paragraph
32 shall be submitted to the New Jersey Economic Development
33 Authority for its review and approval and, when practicable, are
34 encouraged to adhere to the Leadership in Energy and
35 Environmental Design Green Building Rating System as adopted by
36 the United States Green Building Council.

37 (2) Where no public fund has been established for the financing
38 of a public improvement, the chief financial officer of the public
39 owner shall require the private entity for whom the public
40 improvement is being made to post, or cause to be posted, a bond
41 guaranteeing prompt payment of moneys due to the contractor, his
42 or her subcontractors and to all persons furnishing labor or
43 materials to the contractor or his or her subcontractors in the
44 prosecution of the work on the public improvement.

45 e. A general contractor, construction manager, design-build
46 team, or subcontractor shall be registered pursuant to the provisions
47 of P.L.1999, c.238 (C.34:11-56.48 et seq.), and shall be classified
48 by the Division of Property Management and Construction to

1 perform work on a public-private partnership higher education
2 project.

3 f. (1) **【On or before the first day of the nineteenth month next**
4 **following enactment of P.L.2009, c.90, all】** All projects proposed in
5 accordance with this section shall be submitted to the New Jersey
6 Economic Development Authority for its review and approval. The
7 projects are encouraged, when practicable, to adhere to the green
8 building manual prepared by the Commissioner of Community
9 Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6).
10 **【Any application that is deemed to be incomplete on the first day of**
11 **the nineteenth month next following enactment of P.L.2009, c.90**
12 **shall not be eligible for consideration.】**

13 (2) (a) In order for an application to be complete and considered
14 by the authority it shall include, but not be limited to: (i) a public-
15 private partnership agreement between the State or county college
16 and the private developer; (ii) a full description of the project; (iii)
17 the estimated costs and financial documentation for the project; (iv)
18 a timetable for completion of the project extending no more than
19 five years after consideration and approval; and (v) any other
20 requirements that the authority deems appropriate or necessary.

21 (b) As part of the estimated costs and financial documentation
22 for the project the application shall contain a long-range
23 maintenance plan and shall specify the expenditures that qualify as
24 an appropriate investment in maintenance. This long-range
25 maintenance plan shall be approved by the authority pursuant to
26 regulations promulgated by the authority that reflect national
27 building maintenance standards and other appropriate building
28 maintenance benchmarks. All contracts to implement a long-range
29 maintenance plan pursuant to this paragraph shall contain a project
30 labor agreement. The project labor agreement shall be subject to
31 the provisions of P.L.2002, c.44 (C.52:38-1 et seq.), and shall be in
32 a manner that to the greatest extent possible enhances employment
33 opportunities for individuals residing in the county of the project's
34 location.

35 (3) The authority shall review all completed applications, and
36 request additional information as is needed to make a complete
37 assessment of the project. No project shall be undertaken until final
38 approval has been granted by the authority; provided, however, that
39 the authority shall retain the right to revoke approval if it
40 determines that the project has deviated from the plan submitted
41 pursuant to paragraph (2) of this subsection.

42 (4) The authority may promulgate any rules and regulations
43 necessary to implement this subsection, including provisions for
44 fees to cover administrative costs.

45 Where no public fund has been established for the financing of a
46 public improvement, the chief financial officer of the public owner
47 shall require the private entity for whom the public improvement is
48 being made to post, or cause to be posted, a bond guaranteeing

1 prompt payment of moneys due to the contractor, his or her
2 subcontractors and to all persons furnishing labor or materials to the
3 contractor or his or her subcontractors in the prosecution of the
4 work on the public improvement.

5 (cf: P.L.2009, c.90, s.43)

6
7 2. Section 28 of P.L.2009, c.90 (C.40:48G-2) is amended to
8 read as follows:

9 28. a. As used in this section:

10 "Admission charge" means the amount paid for admission,
11 including any service charge and any charge for entertainment at a
12 place of amusement, including but not limited to a dramatic or
13 musical arts admission charge as defined pursuant to subsection (r)
14 of section 2 of P.L.1966, c.30 (C.54:32B-2); and

15 "Major place of amusement" means a place of amusement as that
16 term is defined in subsection (t) of section 2 of P.L.1966, c.30
17 (C.54:32B-2), other than a motion picture theater, and other than an
18 amusement park as defined in section 1 of P.L.1992, c.118 (C.5:3-
19 55), at which admission charges are regularly paid, which place of
20 amusement is not owned by the State or an independent State
21 authority, or is not located on property that is owned by the State,
22 and which contains fixed seats for at least 7,000 patrons. For the
23 purposes of this definition, a county improvement authority is not
24 an independent State authority.

25 b. (1) The governing body of a municipality that is a city of the
26 second class and in which there is located a major place of
27 amusement, except for a municipality subject to the "Municipal
28 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
29 (C.52:27BBB-1 et al.), may adopt an ordinance imposing a
30 surcharge of an amount up to \$2 on each admission charge that is
31 subject to the New Jersey sales tax pursuant to paragraph (1) of
32 subsection (e) of section 3 of P.L.1966, c.30 (C.54:32B-3), and that
33 is not otherwise exempt from that tax, collected by each major place
34 of amusement in the municipality for admission thereto, which
35 surcharge shall be paid by the customer from whom the sales tax is
36 due pursuant to section 3 of P.L.1966, c.30 (C.54:32B-3). A
37 surcharge imposed under an ordinance adopted pursuant to this
38 paragraph shall be in addition to any other tax or fee imposed
39 pursuant to statute or local ordinance or resolution by any
40 governmental entity upon the admission charge. A surcharge
41 imposed under an ordinance adopted pursuant to this paragraph
42 shall be separately stated on any bill, receipt, invoice or similar
43 document provided to the patron, but shall not be considered part of
44 the sale price for the purpose of determining tax pursuant to
45 P.L.1966, c.30 (C.54:32B-1 et seq.).

46 (2) The governing body of a municipality that is a city of the
47 second class in which there is located a major place of amusement,
48 except for a municipality subject to the "Municipal Rehabilitation

1 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et
2 al.), may adopt an ordinance imposing a surcharge of an amount up
3 to \$2 on parking for the major place of amusement. A parking
4 surcharge imposed under an ordinance adopted pursuant to this
5 paragraph shall be in addition to any other tax or fee imposed
6 pursuant to statute or local ordinance or resolution by any
7 governmental entity upon the parking charge. A surcharge imposed
8 under an ordinance adopted pursuant to this paragraph shall be
9 separately stated on any bill, receipt, invoice or similar document
10 provided to the patron, if any, but shall not be considered part of the
11 sale price for the purpose of determining tax pursuant to P.L.1966,
12 c.30 (C.54:32B-1 et seq.).

13 (3) No ordinance, amendment, or revision of an ordinance
14 adopted under this subsection shall be submitted to or adopted by
15 initiative or referendum, notwithstanding any other law to the
16 contrary.

17 c. A copy of an ordinance adopted pursuant to this section shall
18 be transmitted upon adoption or amendment to the State Treasurer
19 along with a list of the names and locations of major places of
20 amusement in the municipality. An ordinance so adopted or any
21 amendment thereto shall provide that the surcharge provisions of
22 the ordinance or any amendment to the surcharge provisions shall
23 take effect on the first day of the first full month occurring 30 days
24 after the date of transmittal to the State Treasurer. Any ordinance
25 adopted pursuant to this section shall contain the following
26 provisions:

27 (1) A vendor shall not assume or absorb the surcharge imposed
28 by the ordinance;

29 (2) A vendor shall not in any manner advertise or hold out to
30 any person or to the public in general, in any manner, directly or
31 indirectly, that the surcharge will be assumed or absorbed by the
32 vendor, that the surcharge will not be separately charged and stated
33 to the customer, or that the surcharge will be refunded to the
34 customer;

35 (3) Each assumption or absorption by a vendor of the surcharge
36 shall be deemed a separate offense and each representation or
37 advertisement by a vendor for each day the representation or
38 advertisement continues shall be deemed a separate offense; and

39 (4) Penalties as fixed in the ordinance, for violation of the
40 foregoing provisions.

41 d. (1) A surcharge imposed pursuant to a municipal ordinance
42 adopted under the provisions of this section shall be collected on
43 behalf of the municipality by the person collecting the admission
44 charge or parking fee from the customer.

45 (2) Each person required to collect a surcharge imposed by the
46 ordinance shall be personally liable for the surcharge imposed,
47 collected or required to be collected hereunder. Any such person
48 shall have the same right in respect to collecting the surcharge from

1 a customer as if the surcharge were a part of the admission charge
2 and payable at the same time; provided, however, that the chief
3 fiscal officer of the municipality shall be joined as a party in any
4 action or proceeding brought to collect the surcharge.

5 e. (1) A person required to collect a surcharge imposed
6 pursuant to the provisions of this section shall, on or before the
7 dates required pursuant to section 17 of P.L.1966, c.30 (C.54:32B-
8 17), forward to the Director of the Division of Taxation in the
9 Department of the Treasury the surcharge collected in the preceding
10 month and make and file a return for the preceding month with the
11 director on any form and containing any information as the director
12 shall prescribe as necessary to determine liability for the surcharge
13 in the preceding month during which the person was required to
14 collect the surcharge.

15 (2) The director may permit or require returns to be made
16 covering other periods and upon any dates as the director may
17 specify. In addition, the director may require payments of
18 surcharge liability at any intervals and based upon any
19 classifications as the director may designate. In prescribing any
20 other periods to be covered by the return or intervals or
21 classifications for payment of surcharge liability, the director may
22 take into account the dollar volume of surcharge involved as well as
23 the need for ensuring the prompt and orderly collection of the
24 surcharge imposed.

25 (3) The director may require amended returns to be filed within
26 20 days after notice and to contain the information specified in the
27 notice.

28 f. (1) The Director of the Division of Taxation in the
29 Department of the Treasury shall collect and administer the
30 surcharges; in so doing, the director shall have all the powers
31 granted pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.).
32 Surcharges imposed pursuant to the provisions of this section shall
33 be governed by the provisions of the State Uniform Tax Procedure
34 Law, R.S.54:48-1 et seq.

35 (2) The director shall determine and certify to the State
36 Treasurer on a quarterly or more frequent basis, as prescribed by the
37 State Treasurer, the amount of revenues collected in each
38 municipality pursuant to this section.

39 (3) The State Treasurer, upon the certification of the director
40 and upon the warrant of the State Comptroller, shall pay and
41 distribute on a quarterly or more frequent basis, as prescribed by the
42 State Treasurer, to each municipality the amount of revenues
43 determined and certified under this subsection.

44 (4) The revenue received by a municipality shall be appropriated
45 as a special item of local revenue subject to the prior written
46 approval by the Director of the Division of Local Government
47 Services in the Department of Community Affairs, and shall be

1 offset with a local unit appropriation of an equal amount for
2 economic development purposes.

3 g. The director may, pursuant to the provisions of the
4 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
5 seq.), make, adopt, amend, or repeal such rules and regulations as
6 the director finds necessary to carry out the provisions of this
7 section.

8 (cf: P.L.2009, c.90, s.28)

9

10 3. Section 20 of P.L.2009, c.90 (C.40:48H-2) is amended to
11 read as follows:

12 20. a. A municipality having a population in excess of 100,000
13 and within which is located a commercial airport which provides for
14 a minimum of 10 regularly scheduled commercial airplane flights
15 per day, or a municipality in which any portion of such an airport is
16 located, by ordinance, may impose a tax on the rental of motor
17 vehicles on such rental transactions that occur within a designated
18 industrial zone of the municipality. Such tax shall be imposed on
19 the person, corporation, or other legal entity that is permitted the
20 use of a motor vehicle that it does not own for a period of time that
21 is less than one year, in exchange for the payment of a fee, and shall
22 be collected on behalf of the municipality by the person collecting
23 such rental fee, in accordance with such procedures as shall be
24 established in the ordinance imposing the tax.

25 The local motor vehicle rental tax rate imposed under an
26 ordinance adopted pursuant to this section shall not exceed five
27 percent of the total amount of the fee charged for the rental of the
28 motor vehicle, excluding any taxes and surcharges. After the
29 adoption of an ordinance, a municipality may subsequently amend
30 the ordinance from time to time to adjust the boundaries of the
31 industrial zone or, subject to the provisions of section 26 of
32 P.L.2009, c.90 (C.40:48H-8), to modify the tax rate; however, the
33 modified rate shall not exceed five percent of the total amount of
34 the fee charged for the rental of the motor vehicle, excluding any
35 taxes and surcharges.

36 An ordinance establishing a local motor vehicle rental tax, or
37 modifying the rate of that tax, shall take effect on the first day of
38 the month immediately following the date on which the ordinance
39 becomes legally in force and effect.

40 No ordinance, amendment, or revision of an ordinance adopted
41 under this subsection shall be submitted to or adopted by initiative
42 or referendum, notwithstanding any other law to the contrary.

43 b. As used in this section:

44 "Eligible purposes" means (1) the payment or reimbursement of
45 costs of any "redevelopment project" or other undertaking in
46 furtherance of a "redevelopment plan" in any "area in need of
47 redevelopment" or "area in need of rehabilitation" within the
48 municipality (including, but not limited to, redevelopment projects

1 and undertakings located within the industrial zone), as such terms
2 are defined in the "Local Redevelopment and Housing Law",
3 P.L.1992, c.79 (C.40A:12A-1 et al.), (2) the making of municipal
4 subsidies or contributions as authorized by P.L.1992, c.79, (3) the
5 payment or reimbursement, within or relating to any urban
6 enterprise zone located within the municipality, of such costs as are
7 enumerated in the definition of "project" as contained in subsection
8 c. of section 29 of P.L.1983, c.303 (C.52:27H-88), without
9 reference to the zone assistance fund or the zone development
10 corporation, (4) the payment of bonds issued for any of the
11 foregoing purposes, (5) planning, evaluation, negotiation, and other
12 preliminary expenses relating to any of the foregoing purposes, and
13 (6) costs of administration and enforcement, including costs and
14 expenses of the municipality incurred in collecting the tax.

15 "Industrial zone" means such portion or portions of the
16 municipality, which may be identified by reference to zoning
17 districts, census tracts, or both, not exceeding in the aggregate 50
18 percent of the territory of the municipality, as is determined by the
19 municipality to be an area having, or intended to have,
20 predominantly industrial, port, airport, and related uses.

21 "Motor vehicle" means any automobile, truck, van, bus, or
22 similar conveyance that is intended primarily for passenger (as
23 distinct from cargo) use, and meeting the requirements of the State
24 for operation on public roads.

25 "Rental of motor vehicle" means any contract or agreement by
26 which a person, corporation, or other legal entity is permitted the
27 use of a motor vehicle that it does not own for a period of time that
28 is less than one year in exchange for the payment of a fee. A rental
29 transaction is deemed to occur at the location at which such person,
30 corporation, or other legal entity takes possession of the motor
31 vehicle.

32 "Rental tax account" means the dedicated trust account
33 established by a municipality pursuant to subsection c. of this
34 section.

35 "Tax proceeds" means amounts collected pursuant to any tax
36 imposed pursuant to sections 19 through 27 of P.L.2009, c.90
37 (C.40:48H-1 et seq.).

38 c. The Director of the Division of Taxation in the Department
39 of the Treasury may require, by regulation, that all taxes collected
40 pursuant to sections 19 through 27 of P.L.2009, c.90 (C.40:48H-1 et
41 seq.) be collected in the same manner as surcharges are collected
42 under section 28 of P.L.2009, c.90 (C.40:48G-2). Revenues that are
43 collected and distributed back to the municipality shall be deposited
44 into a trust account established by the municipality and dedicated
45 exclusively to the purpose of funding one or more eligible purposes.
46 In the case of any assignment pursuant to section 23 of P.L.2009,
47 c.90 (C.40:48H-5), the terms of such assignment shall include the
48 agreement of the municipality to enforce collection of the taxes in

1 such manner as provided therein, and may provide for direct
2 payment of all or a portion of the tax proceeds to a bond trustee. In
3 addition to tax proceeds, there shall be deposited into the rental tax
4 account such other moneys as may, from time to time, be directed
5 by law to be deposited therein.

6 (cf: P.L.2009, c.90, s.20)

7
8 4. Section 4 of P.L.2009, c.90 (C.52:27D-489d) is amended to
9 read as follows:

10 4. a. (1) The governing body of a municipality wherein is
11 located a qualifying economic redevelopment and growth grant
12 incentive area may adopt an ordinance to establish a local Economic
13 Redevelopment and Growth Grant program for the purpose of
14 encouraging redevelopment projects in that area through the
15 provision of incentive grants to reimburse developers for all or a
16 portion of the project financing gap for such projects. No local
17 Economic Redevelopment and Growth Grant program shall take
18 effect until the Local Finance Board approves the ordinance.

19 (2) No ordinance, amendment, or revision of an ordinance
20 adopted under this subsection shall be submitted to or adopted by
21 initiative or referendum, notwithstanding any other law to the
22 contrary.

23 b. A developer that submits an application for a local incentive
24 grant shall indicate on the application whether it is also applying for
25 a State incentive grant. An application by a developer applying for
26 a local incentive grant only shall not require approval by the
27 authority. A municipality or its redevelopment agency only may
28 apply for local incentive grants for: (1) the construction of
29 infrastructure improvements in the public right-of-way, or (2)
30 publicly owned facilities.

31 c. No local incentive grant shall be finally approved by a
32 municipality until approved by the Local Finance Board.

33 d. In deciding whether or not to approve a local incentive grant
34 agreement the Local Finance Board shall consider the following
35 factors:

36 (1) the economic feasibility of the redevelopment project;

37 (2) the extent of economic and related social distress in the
38 municipality and the area to be affected by the redevelopment
39 project;

40 (3) the degree to which the redevelopment project will advance
41 State, regional, and local development and planning strategies;

42 (4) the likelihood that the redevelopment project shall, upon
43 completion, be capable of generating new tax revenue in an amount
44 in excess of the amount necessary to reimburse the developer for
45 project costs incurred as provided in the redevelopment incentive
46 grant agreement;

1 (5) the relationship of the redevelopment project to a
2 comprehensive local development strategy, including other major
3 projects undertaken within the municipality;

4 (6) the need for the redevelopment incentive grant agreement to
5 the viability of the redevelopment project;

6 (7) compliance with the provisions of P.L.2009, c.90
7 (C.52:27D-489a et al.); and

8 (8) the degree to which the redevelopment project enhances and
9 promotes job creation and economic development.

10 (cf: P.L.2009, c.90, s.4)

11
12 5. Section 11 of P.L.2009, c.90 (C.52:27D-489k) is amended to
13 read as follows:

14 11. a. The governing body of a municipality is authorized to
15 enter into a redevelopment incentive grant agreement with a
16 developer, which shall not be effective until adopted by ordinance,
17 for any redevelopment project located within a qualifying economic
18 redevelopment and growth grant incentive area. No ordinance,
19 amendment, or revision of an ordinance adopted under this
20 subsection shall be submitted to or adopted by initiative or
21 referendum, notwithstanding any other law to the contrary.

22 b. The redevelopment incentive grant agreement shall specify
23 the amount of the incentive grant to be awarded the developer, the
24 frequency of payments, and the length of time, which shall not
25 exceed 20 years, during which that reimbursement shall be granted.
26 In no event shall the combined amount of the reimbursements under
27 redevelopment incentive grant agreements with the State or
28 municipality exceed 20 percent of the total cost of the project.

29 c. The municipality may enter into a redevelopment incentive
30 grant agreement only if the chief financial officer of the
31 municipality makes a finding that the incremental revenues to be
32 realized from the redevelopment project will be in excess of the
33 amount necessary to reimburse the developer for its project
34 financing gap. Such finding shall be based upon appropriate
35 documentation and calculations supporting the decision.

36 d. Within a qualifying economic redevelopment and growth
37 grant incentive area a municipality that has entered into a local
38 redevelopment incentive grant agreement may pledge eligible
39 revenues it is authorized to collect as follows:

40 (1) incremental payments in lieu of taxes, with respect to
41 property located in the district, made pursuant to the "Five-Year
42 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
43 seq.), or the "Long Term Tax Exemption Law," P.L.1991, c.431
44 (C.40A:20-1 et al.);

45 (2) incremental revenues collected from payroll taxes, with
46 respect to business activities carried on within the area, pursuant to
47 section 15 of P.L.1970, c.326 (C.40:48C-15);

1 (3) incremental revenue from lease payments made to the
2 municipality, the developer, or the developer's successors with
3 respect to property located in the area;

4 (4) incremental revenue collected from parking taxes derived
5 from parking facilities located within the area pursuant to section 7
6 of P.L.1970, c.326 (C.40:48C-7);

7 (5) incremental admissions and sales taxes derived from the
8 operation of a public facility within the area pursuant to section 1 of
9 P.L.2007, c.302 (C.40:48G-1);

10 (6) (a) incremental sales and excise taxes which are derived
11 from activities within the area and which are rebated to or retained
12 by the municipality pursuant to the "New Jersey Urban Enterprise
13 Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) or any other law
14 providing for such rebate or retention;

15 (b) within Planning Area 1 (Metropolitan) under the State
16 Development and Redevelopment Plan adopted pursuant to the
17 "State Planning Act," sections 1 through 12 of P.L.1985, c.398
18 (C.52:18A-196 et seq.), a municipality may impose the entire State
19 sales tax on business activities within a redevelopment project
20 located in an urban enterprise zone that would ordinarily be entitled
21 to collect reduced rate revenues under section 21 of P.L.1983, c.303
22 (C.52:27H-80), and pledge the excess revenues to a local
23 redevelopment incentive grant agreement;

24 (7) incremental parking revenue collected, pursuant to section 7
25 of P.L.1970, c.326 (C.40:48C-7), from public parking facilities built
26 as part of a redevelopment project, except for public parking
27 facilities owned by parking authorities pursuant to the "Parking
28 Authority Law," P.L.1948, c.198 (C.40:11A-1 et seq.);

29 (8) incremental revenues collected, pursuant to section 3 of
30 P.L.2003, c.114 (C.40:48F-1), P.L.1981, c.77 (C.40:48E-1 et seq.),
31 or P.L.1947, c.71 (C.40:48-8.15 et seq.), from hotel and motel
32 taxes;

33 (9) upon approval by the Local Finance Board, other
34 incremental municipal revenues that may become available;

35 (10) the property tax increment.

36 The incremental revenue for the revenues listed in this
37 subsection, when applicable, shall be calculated as the difference
38 between the amount collected in any fiscal year from any eligible
39 revenue source included in the local redevelopment incentive grant
40 agreement, less the revenue increment base for that eligible
41 revenue.

42 e. (1) In calculating the general tax rate of a municipality each
43 year, the aggregate amount of the incremental ratable value over the
44 property tax increment base in the redevelopment project area that
45 is pledged as part of a redevelopment incentive grant agreement
46 shall be excluded from the ratable base of a municipality.

1 (2) The amount of property tax increment not pledged toward a
2 redevelopment incentive grant agreement shall be allocated
3 pursuant to the normal tax rate distribution.

4 The full incremental value of a project area shall be included in
5 the value used for county and regional school tax apportionment
6 until such time that the Director of the Division of Taxation in the
7 Department of the Treasury can certify that property tax
8 management systems are capable of handling the technical and legal
9 requirements of treating parcels in areas of redevelopment as
10 exempt from county and regional school apportionment.

11 f. In addition to the incremental revenues that may be pledged
12 in subsection d. of this section, any amount of tax proceeds
13 collected from the tax on the rental of motor vehicles pursuant to
14 section 20 of P.L.2009, c.90 (C.40:48H-2), may be included in a
15 redevelopment incentive grant agreement with a developer,
16 regardless of whether or not the redevelopment project area is
17 within or outside of the designated industrial zone from which the
18 tax on the rental of motor vehicles is collected.

19 g. (1) A developer that has entered into a redevelopment
20 incentive grant agreement with a municipality pursuant to this
21 section may, upon notice to and consent of the municipality, pledge
22 and assign as security for any loan, any or all of its right, title and
23 interest in and to such agreements and in the incentive grants
24 payable thereunder, and the right to receive same, along with the
25 rights and remedies provided to the developer under such
26 agreement. Any such assignment shall be an absolute assignment
27 for all purposes, including the federal bankruptcy code.

28 (2) Any pledge of incentive grants made by the developer shall
29 be valid and binding from the time when the pledge is made and
30 filed in the office of the municipal clerk. The incentive grants so
31 pledged and thereafter received by the developer shall immediately
32 be subject to the lien of the pledge without any physical delivery
33 thereof or further act, and the lien of any pledge shall be valid and
34 binding as against all parties having claims of any kind in tort,
35 contract, or otherwise against the developer irrespective of whether
36 the parties have notice thereof. Neither the redevelopment
37 incentive grant agreement nor any other instrument by which a
38 pledge under this section is created need be filed or recorded except
39 with the municipality.

40 (cf: P.L.2009, c.90, s.11)

41

42 6. Section 12 of P.L.2009, c.90 (C.52:27D-489l) is amended to
43 read as follows:

44 12. a. A municipality may adopt an ordinance creating a
45 municipal redevelopment utility under the name and style of "the
46 _____ redevelopment utility," with all or any significant part
47 of the name of the municipality inserted. The redevelopment utility
48 shall be a municipal public utility for the purposes of Title 40A of

1 the New Jersey Statutes. No ordinance, amendment, or revision of
2 an ordinance adopted under this subsection shall be submitted to or
3 adopted by initiative or referendum, notwithstanding any other law
4 to the contrary.

5 b. The purpose of every redevelopment utility shall be to
6 receive revenues collected pursuant to section 11 of P.L.2009, c.90
7 (C.52:27D-489k) and to use those revenues as payment of incentive
8 grants, and for other local purposes that may be approved by the
9 Local Finance Board, as that board deems necessary or useful.

10 c. If a municipality does not create a municipal redevelopment
11 utility, then any revenues collected pursuant to section 11 of
12 P.L.2009, c.90 (C.52:27D-489k) and any grants received to pay
13 incentive grants shall be treated as riders in the municipal budget
14 pursuant to N.J.S.40A:4-36.
15 (cf: P.L.2009, c.90, s.12)

16
17 7. This act shall take effect immediately and shall be
18 retroactive to July 28, 2009 (the date of enactment of P.L.2009,
19 c.90).

20 21 22 STATEMENT

23
24 This bill modifies provisions of the "New Jersey Economic
25 Stimulus Act of 2009," P.L.2009, c.90 to ensure that it can be
26 implemented effectively.

27 One provision of that law that allows a State college or a county
28 college to enter into a contract with a private entity, permitting the
29 private entity to assume full financial and administrative
30 responsibility for construction or improvement of a project on
31 campus, provided that the private entity finances the project and the
32 State or institution of higher education retains ownership of the
33 land. Section 1 of this bill amends that section to provide that a
34 project will be eligible as a public-private partnership if the project
35 benefits or enhances the institution although the project does not
36 specifically involve a building, structure or facility of the college.

37 The bill authorizes another public entity to become the owner or
38 lessee of the project, the lessee of the land, or both, and to issue
39 indebtedness in accordance with that public entity's enabling
40 statute. The bill provides that the public entity will not be subject
41 to the contracting or procurement requirements established under
42 law for that entity.

43 This bill clarifies that such a project and the land upon which the
44 project is located are exempt from property taxation and special
45 assessments of the State, the municipality, or other political
46 subdivision of the State provided that the project is owned by or
47 leased to a public entity, non-profit business entity, foreign or
48 domestic, or a business entity wholly owned by such non-profit

1 business entity. Also, the bill provides that no payment in lieu of
2 taxes will be required.

3 Under current law, a project must be submitted to the New
4 Jersey Economic Development Authority for its review and
5 approval within nineteen months of the law's original effective
6 date, July 28, 2009. The bill removes this time limit on the
7 submission and approval of projects.

8 Sections 2 through 6 of the bill ensure that ordinances that are
9 authorized to be adopted pursuant to the "New Jersey Economic
10 Stimulus Act of 2009" will not be subject to delays from public
11 referendum challenges in those municipalities in which general
12 initiative and referendum is authorized. The statutes contain other
13 provisions to ensure that certain types of ordinances are not subject
14 to public changes through initiative and referendum and ordinances
15 adopted for the purpose of providing economic stimulus require
16 swift implementation and should not be impeded through the
17 referendum process.