

ASSEMBLY, No. 3289

STATE OF NEW JERSEY

215th LEGISLATURE

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District 3 (Cumberland, Gloucester and Salem)

Assemblywoman GABRIELA M. MOSQUERA

District 4 (Camden and Gloucester)

SYNOPSIS

“The New Jersey Social Impact Bond Act”; establishes social impact bond pilot program and study commission within EDA.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/7/2012)

1 **AN ACT** establishing a social impact bond pilot program and study
2 commission, and supplementing Title 34 of the Revised Statutes.

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

6
7 1. This act shall be known and may be cited as the “New Jersey
8 Social Impact Bond Act.”

9
10 2. The Legislature finds and declares that:

11 a. Social impact bonds raise funds from non-government
12 investors to pay for the provision of a service, and if the service
13 improves financial and social outcomes, thereby alleviating
14 financial support from the State, investors receive investment
15 returns from the State. Investors contract with a government
16 agency to purchase social impact bonds, the proceeds from which
17 will be dispersed to a nonprofit organization service provider. The
18 nonprofit organization will then be required to deliver services to
19 the target population. If the results of the services provided by the
20 nonprofit organization meet pre-determined, defined financial and
21 social outcomes, the government agency will repay the bonds with
22 financial returns to the private investors.

23 b. The New Jersey Economic Development Authority is the
24 appropriate State agency to oversee a social impact bond pilot
25 program and study commission, which will use proceeds from the
26 sale of social impact bonds issued by the New Jersey Economic
27 Development Authority to private investors to fund the services of
28 one nonprofit organization in the State. If the nonprofit
29 organization saves the authority a certain pre-determined amount of
30 money, in addition to other outcomes, such as positive social
31 results, the authority will return the investment. If the outcomes are
32 not met, the authority will not return the investment. It is in the
33 investors’ and nonprofit’s best interest to see that the outcomes will
34 be met to ensure future funding. The study commission will track
35 and evaluate the progress of the five-year pilot program and present
36 its findings in yearly reports to the Governor and Legislature. The
37 final report will make a recommendation as to whether a social
38 impact bond program should be implemented Statewide.

39
40 3. As used in this act:

41 “Authority” means the New Jersey Economic Development
42 Authority, established pursuant to P.L.1974, c.80 (C.34:1B-1 et
43 seq.).

44 “Nonprofit organization” means a nonprofit organization that is
45 exempt from federal taxation pursuant to section 501 (c)(3) of the
46 federal Internal Revenue Code, 26 U.S.C. s.501 (c)(3).

1 “Philanthropic organization” means a nonprofit nongovernmental
2 entity that utilizes donated assets and income to provide social
3 services.

4 “Social impact bond” or “bond” means a contract between the
5 public and private sectors in which a commitment is made to pay
6 for improved financial and social outcomes that result in public
7 sector savings.

8 “Social impact bond fund” or “fund” means the fund established
9 pursuant to section 8 of this act.

10 “Study commission” means the study commission established to
11 aid the authority in the administration of the social impact bond
12 pilot program established by this act.

13

14 4. There is established a five-year social impact bond pilot
15 program and study commission within the New Jersey Economic
16 Development Authority. The authority, in cooperation with the
17 Department of Human Services and Department of the Treasury,
18 shall administer and determine the effectiveness of a social impact
19 bond program affecting nonprofit health care services for the
20 purpose of encouraging private investment in preventive and early
21 intervention health care to reduce federal, State, and municipal
22 expenditures related to those services, as well as to assess the
23 feasibility of expanding this program Statewide. The authority shall
24 solicit grants from philanthropic organizations or other private
25 sources for the establishment and administration of the pilot
26 program and study commission.

27

28 5. a. The authority shall oversee a study commission, entitled
29 the “New Jersey Social Impact Bond Study Commission,”
30 established for the duration of the pilot program, whose
31 membership and size shall be determined by the authority. The
32 authority may consider a variety of professionals, including health
33 care, bond financing, and social impact bond experts, for
34 membership in the study commission. The study commission shall
35 organize as soon as practicable after the appointment of its
36 members, and shall select a chairperson from among its
37 membership. At least one member of the study commission shall be
38 a member of the Department of Human Services. Any vacancy in
39 the membership of the study commission shall be filled in the same
40 manner in which the original appointment was made.

41 b. The study commission may request the assistance and
42 services of employees of any other State department, board, bureau,
43 commission, task force, or agency as it may require and as may be
44 available. Members of the study commission shall serve without
45 compensation, but shall be entitled to employ stenographic and
46 clerical assistance and incur traveling and other miscellaneous
47 expenses as it may deem necessary in order to perform its duties,
48 within the limits of the funds made available to it for its purposes.

1 The study commission may meet at the call of its chairperson at the
2 times and in the places it may deem appropriate and necessary to
3 fulfill its duties, and may conduct public hearings at such place or
4 places as it shall designate. The study commission shall conduct its
5 meetings in accordance with the “Senator Byron M. Baer Open
6 Public Meetings Act,” P.L.1975, c.231 (C.10:4-6 et seq.).

7 c. It shall be the duty of the study commission to aid the
8 authority in the administration of the social impact bond pilot
9 program and to issue annual reports detailing the progress of the
10 program. Specifically, the study commission, in cooperation with
11 the authority and the Department of Human Services, shall
12 determine the one nonprofit organization that will receive
13 investment funds from bonds issued to private investors. The study
14 commission shall make this determination taking several factors
15 into consideration which include, but are not limited to, the size and
16 identity of the target population that benefits from the nonprofit
17 organization service provider, the projected financial value of the
18 improvements as a result of the social impact bond investments,
19 including projected public sector savings, the projected return to
20 investors, the ease of the measurability of the outcomes, and an
21 analysis of impacts beyond financial savings and returns, such as
22 social outcomes. The study commission and authority shall work
23 together on additional aspects of the pilot program including, but
24 not limited to, soliciting donations from philanthropic organizations
25 and other private sources, determining bond contract terms and
26 conditions, including the pre-defined public sector savings
27 threshold, and developing metrics to project and measure both
28 financial and social outcomes.

29

30 6. a. Not later than one year following the effective date of this
31 act and annually every four years thereafter, the study commission
32 shall submit to the Governor and, pursuant to section 2 of P.L.1991,
33 c.164 (C.52:14-19.1), to the Legislature a report containing a study
34 and evaluation of the pilot program. The report shall include, but
35 not be limited to, a description of the project, as described in
36 section 4 of this act, funded by the social impact bonds, State,
37 federal, and municipal financial savings related to the issuance of
38 social impact bonds, including Medicaid savings, the expected
39 return on investment and projected payment schedule, the number
40 of people serviced by the nonprofit organization, a comparison of
41 the population serviced by the nonprofit organization and a
42 similarly situated control group, and any community impact of the
43 pilot program.

44 b. The study commission shall submit its fifth and final report
45 to the Governor and, pursuant to section 2 of P.L.1991, c.164
46 (C.52:14-19.1), to the Legislature within 90 days of the expiration
47 date of the pilot program, including any recommendations for
48 legislative action it deems appropriate. The study commission’s

1 final report shall include, but not be limited to, an analysis of the
2 feasibility of implementing a permanent social impact bond
3 program Statewide, the estimated costs for the creation and
4 administration of the permanent program, projected State, federal,
5 and municipal savings from administering the permanent program, a
6 calculation of the investment returns realized from the pilot
7 program and a calculation of the State, federal, and municipal
8 savings accrued through the pilot program, and an analysis of non-
9 financial outcomes, such as community impact and preventive
10 results. The study commission shall expire on the 30th day after the
11 date of the issuance of its final report.

12

13 7. a. The authority and the State Treasurer, pursuant to section
14 6 of P.L.2001, c.401 (C.34:1B-4.1), are authorized to enter into one
15 or more contracts to secure, in whole or in part, bonds that shall be
16 issued by the authority for the purposes set forth in this act. The
17 contract or contracts shall commence with the State fiscal year
18 beginning the July 1 following the date of the enactment of this act.
19 The terms and conditions of the contract shall be determined by the
20 parties and the study commission, however, the return on
21 investment shall be subject to and dependent upon surpassing a pre-
22 defined public sector savings threshold resulting from the issuance
23 of the bonds; provided, however, that any obligation of the State
24 incurred under the contract or contracts, including any payments to
25 be made from the General Fund, shall be subject to and dependent
26 upon appropriations being made from time to time by the
27 Legislature.

28 b. The State Treasurer shall pay from the General Fund to the
29 authority in each State fiscal year, in accordance with a contract or
30 contracts between the State Treasurer and the authority, an amount
31 equivalent to public sector savings as agreed to in the bond
32 agreement. Any additional costs incurred in connection with any
33 agreements entered into by the authority relating to bonds or
34 refunding bonds shall be paid by the authority.

35 c. The debt obligation of the State shall be limited to the amount
36 of public sector savings realized from the social impact bond
37 program. If additional funds are required to secure the bonds, the
38 authority shall identify additional funding sources, such as those
39 that can be provided by philanthropic organizations.

40 d. The provisions of any other law, rule, regulation or order to
41 the contrary notwithstanding, the bonds, refunding bonds or other
42 obligations of the authority issued for the purposes set forth in this
43 act shall be special and limited obligations of the authority, payable
44 from and secured by such funds and moneys as determined by the
45 authority in accordance with the provisions of section 8 of this act
46 and shall not be in any way a debt or liability of the State or of any
47 political subdivision thereof, except as otherwise provided in this
48 section, and shall not create or constitute any indebtedness, liability

1 or obligation of the State or of any political subdivision thereof,
2 either legal, moral or otherwise, and nothing contained in the
3 provisions of this act shall be construed to authorize the authority to
4 incur any indebtedness on behalf of or in any way to obligate the
5 State or any political subdivision thereof, and all bonds and
6 refunding bonds issued by the authority in connection therewith
7 shall contain on the face thereof a statement to that effect.

8 e. The capital appreciation of the social impact bonds shall be
9 entirely dependent on financial and social outcomes to be
10 determined by the Department of Human Services, the study
11 commission, and the authority, which shall include, but not be
12 limited to, a pre-determined public savings threshold that shall be
13 met before repayment can begin, which shall be clearly defined in
14 the bond contract.

15
16 8. a. The authority shall establish and maintain a special non-
17 lapsing, revolving fund called the “social impact bond fund” into
18 which shall be deposited funds: (1) as shall be paid to the fund by
19 the State Treasurer pursuant to a contract between the State
20 Treasurer and the authority authorized pursuant to this act; (2) as
21 shall be otherwise appropriated by the State for the purpose of such
22 fund; (3) that shall be received by the authority from the sale of
23 social impact bonds as provided by this act; (4) as shall be received
24 by the authority from any private donations, philanthropic or
25 otherwise, to secure the bonds issued pursuant to section 7 of this
26 act; and (5) any other moneys or funds of the authority which it
27 determines to deposit therein. Monies in the fund may be invested
28 in obligations as the authority and study commission may approve
29 and interest or other earnings on such investments shall be credited
30 to the fund.

31 b. The amount of bonds issued by the authority pursuant to
32 subsection a. of section 7 of this act shall not exceed \$3 million per
33 year or \$15 million in the aggregate over 5 years, as determined by
34 the authority.

35 c. The authority shall create within the social impact bond fund
36 a subaccount consisting of Department of Human Services savings
37 realized from the social impact bond-funded intervention, in
38 addition to any other savings incurred, and shall repay investors
39 using these savings, provided that the pre-defined public sector
40 savings threshold has been met pursuant to the bond contract.

41 d. The authority shall create within the social impact bond fund
42 a subaccount for the purpose of collecting private donations for the
43 administration of the pilot program, but not for loan repayments.

44 e. The authority may use the monies in the social impact bond
45 fund to pay the principal of, premium, if any, and interest on social
46 impact bonds as appropriate and for costs related to the
47 administration of the pilot program.

1 f. The proceeds, or net proceeds, of the sale of bonds, shall, in
2 a manner determined by the authority, and pursuant to this section,
3 be used for the financing of the nonprofit organization's services,
4 pursuant to this act.

5 g. Savings realized by the Department of Human Services
6 deposited into the social impact bond subaccount pursuant to
7 subsection c. shall be used for the purpose of reinvestment in
8 additional loans or bond payments, however these funds are not to
9 be used to guarantee debt. Notwithstanding the provisions of this
10 subsection, at the conclusion of the pilot program, if the pilot
11 program is not continued on a permanent basis, all funds in the
12 social impact bond fund and any subaccounts shall be transferred to
13 the Property Tax Relief Fund, and the social impact bond fund shall
14 be closed.

15

16 9. With respect to the nonprofit organization to be financed by
17 the authority pursuant to this act and with monies from the social
18 impact bond fund, the authority, in cooperation with the study
19 commission and the Department of Human Services, shall
20 determine, pursuant to subsection c. of section 5 of this act, the one
21 nonprofit organization by considering the following factors:

22 a. The economic feasibility of the project;

23 b. The degree to which the project will advance Statewide and
24 regional strategies and objectives;

25 c. The degree to which the project maximizes the leverage of
26 other State funds;

27 d. The degree to which the project promotes preventative and
28 early intervention services, the improvement of social outcomes,
29 and the stimulation of private sector investment and expansion; and

30 e. The factors listed in subsection c. of section 5 of this act.

31

32 10. The authority shall report six months after the effective date
33 of this act, and annually thereafter not later than September 15, to
34 the Governor and, pursuant to section 2 of P.L.1991, c.164
35 (C.52:14-19.1), the Legislature concerning the financing of the pilot
36 program, as described in section 4 of this act, undertaken with
37 monies in the social impact bond fund. The initial report and each
38 annual report required under this section shall include a description
39 of the pilot program funded by such loans, guarantees, grants or
40 other forms of financing as may be made available under section 8
41 of this act and a detailed analysis of the consideration given to the
42 factors set forth in section 8 of this act.

43

44 11. This act shall take effect on the first day of the fourth month
45 following the date of enactment.

STATEMENT

This bill, known as the “New Jersey Social Impact Bond Act,” directs the New Jersey Economic Development Authority (“EDA”), in cooperation with the Department of Human Services (“DHS”) and the State Treasurer, to administer a five-year social impact bond pilot program and study commission. Social impact bonds raise funds from non-government investors to pay for the provision of a service, and if the service improves financial and social outcomes, thereby alleviating financial support from the State, investors receive success payments from the State. Investors will contract with the EDA to purchase social impact bonds, the proceeds from which will be dispersed to a nonprofit organization service provider. The nonprofit organization will deliver services to the target population. If the results of the services provided by the nonprofit organization meet pre-determined, defined financial and social outcomes, the EDA will repay the bonds with financial returns to the private investors.

The pilot program and study commission will determine the effectiveness of a social impact bond program on nonprofit health care organizations for the purpose of encouraging private investment in preventative and early intervention health care to reduce federal, State, and municipal expenditures related to those services, as well as to assess the feasibility of expanding this program Statewide. The EDA will solicit grants from philanthropic organizations or other private sources for the establishment and administration of the pilot program and study commission.

This bill establishes a study commission under the EDA for the duration of the pilot program. The authority may consider a variety of professionals, including health care, bond financing, and social impact bond experts, for membership in the study commission. At least one member of the study commission shall be a member of the Department of Human Services. The study commission may request the assistance and services of employees of any other State department, board, bureau, commission, task force, or agency as it may require. The commission may meet at the call of its chairperson at the times and in the places it may deem appropriate and necessary to fulfill its duties, and may conduct public hearings at such place or places as it shall designate.

It shall be the duty of the study commission to aid the EDA in the administration of the social impact bond pilot program and to issue annual reports detailing the progress of the program. Specifically, the study commission, in cooperation with the EDA and the DHS, shall determine the one non-profit organization that will receive investment funds from bonds issued to private investors. The study commission shall make this determination taking several factors into consideration which include, but are not limited to, the size and identity of the target population that benefits

1 from the service provider, the projected financial value of the
2 improvements as a result of the social impact bond investments,
3 including projected public sector savings, the projected return to
4 investors, the ease of the measurability of the outcomes, and an
5 analysis of impacts beyond financial savings and returns, such as
6 social outcomes. The study commission and EDA will work
7 together in additional areas of pilot program including, but not
8 limited to, determining bond contract terms and conditions,
9 including the pre-defined public sector savings threshold, and
10 developing metrics to measure both financial and social outcomes.

11 This bill requires the study commission to issue a report
12 containing an evaluation of the pilot program. The report shall
13 include, but not be limited to, a description of the project funded by
14 the social impact bonds, State, federal, and municipal financial
15 savings related to the issuance of social impact bonds, including
16 Medicaid savings, the expected return on investment and projected
17 payment schedule, the number of people serviced by the nonprofit
18 organization, a comparison of the population serviced by the
19 nonprofit organization and a similarly situated control group, and
20 any community impact. The study commission shall submit its
21 final report to the Governor and to the Legislature within 90 days of
22 the expiration date of the pilot program, including any
23 recommendations for legislative action it deems appropriate. The
24 study commission's final report shall include, but not be limited to,
25 an analysis of the feasibility of implementing a permanent social
26 impact bond program Statewide, the estimated costs for the creation
27 and administration of the permanent program, projected State,
28 federal, and municipal savings from administering a permanent
29 social impact bond program, a calculation of the investment returns
30 realized from the pilot program and a calculation of the State,
31 federal, and municipal savings accrued through the pilot program,
32 and an analysis of non-financial outcomes, such as community
33 impact and preventive results. The study commission shall expire
34 on the 30th day after the date of the issuance of its final report.

35 This bill authorizes the EDA and the State Treasurer to enter into
36 one or more contracts to secure, in whole or in part, bonds that will
37 be issued by the authority for the purposes set forth in the bill. The
38 contract or contracts shall commence with the State fiscal year
39 beginning the July 1 following the date of the enactment of the bill.
40 The terms and conditions of the contract shall be determined by the
41 parties and the study commission, however the return on investment
42 shall be subject to and dependent upon surpassing a pre-defined
43 public sector savings threshold resulting from the issuance of the
44 bonds. The capital appreciation of the social impact bonds will be
45 entirely dependent on the financial and social outcomes to be
46 determined by DHS, the study commission, and the authority.

47 The bill requires the EDA to establish and maintain a special
48 non-lapsing, revolving fund called the "social impact bond fund"

1 into which shall be deposited funds: (1) as shall be paid to the fund
2 by the State Treasurer pursuant to a contract between the State
3 Treasurer and the authority authorized by this act; (2) as shall be
4 otherwise appropriated by the State for the purpose of such fund;
5 (3) that shall be received by the authority from the sale of social
6 impact bonds as provided by the bill; (4) as shall be received by the
7 authority from any private donations, philanthropic or otherwise, to
8 secure the bonds; and (5) any other moneys or funds of the
9 authority which it determines to deposit therein. Monies in the fund
10 may be invested in such obligations as the EDA and study
11 commission may approve and interest or other earnings on such
12 investments shall be credited to the fund.

13 The amount of bonds issued by the authority will not exceed \$3
14 million per year or \$15 million in the aggregate over five years.

15 The EDA is required under the bill to create within the social
16 impact bond fund a subaccount made up of DHS savings realized
17 from the social impact bond-funded intervention, in addition to any
18 other savings incurred, and shall repay investors using these
19 savings, provided the pre-defined public sector savings threshold
20 has been met pursuant to the bond contract. The EDA is required to
21 create within the social impact bond fund another subaccount for
22 the collection of private donations for the administration of the pilot
23 program, but not for loan repayments.

24 The bill provides that savings realized by the DHS deposited into
25 the social impact bond subaccount will be used for the purpose of
26 reinvestment in additional loans, however these funds are not to be
27 used to guarantee debt. Notwithstanding, at the conclusion of the
28 pilot program, if the pilot program is not continued on a permanent
29 basis, all funds in the social impact bond fund and any subaccounts
30 will be transferred to the Property Tax Relief Fund, and the social
31 impact bond fund will be closed.

32 With respect to the nonprofit organization to be financed by the
33 EDA pursuant to the bill and with monies from the social impact
34 bond fund, the EDA, in cooperation with the study commission and
35 the DHS, shall determine the nonprofit organization by considering
36 the following factors:

- 37 a. The economic feasibility of the project;
- 38 b. The degree to which the project will advance Statewide and
39 regional strategies and objectives;
- 40 c. The degree to which the project maximizes the leverage of
41 other State funds;
- 42 d. The degree to which the project promotes preventative and
43 early intervention services, the improvement of social outcomes,
44 and the stimulation of private sector investment and expansion.
- 45 e. Various other factors.

46 This bill requires the EDA to report six months after the
47 effective date of the bill, and annually thereafter not later than
48 September 15, to the Governor and the Legislature concerning the

1 financing of the pilot program undertaken with monies in the social
2 impact bond fund during the preceding fiscal year. The initial
3 report and each annual report required shall include a description of
4 the pilot program funded by such loans, guarantees, grants or other
5 forms of financing as may be made available and a detailed analysis
6 of the consideration given to the various factors used for approval.