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ASSEMBLY, No. 3289

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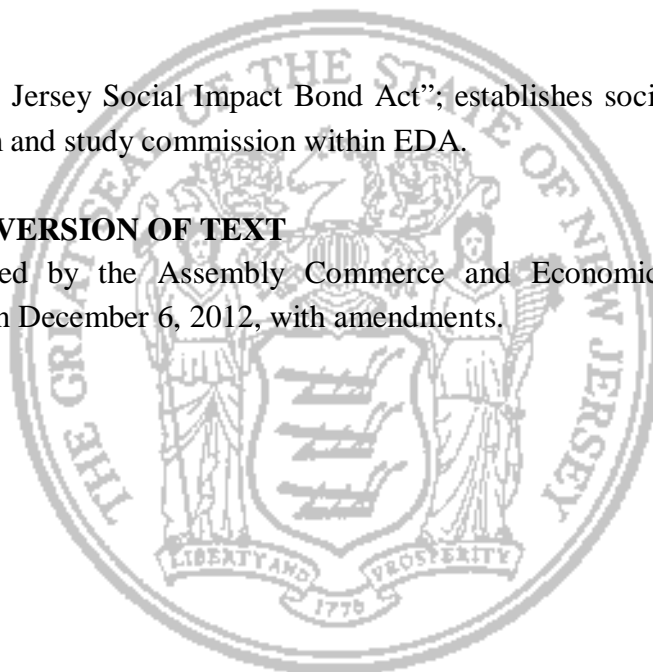
Assemblywoman Sumter

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Assembly Commerce and Economic Development Committee on December 6, 2012, with amendments.



(Sponsorship Updated As Of: 12/11/2012)

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.).

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ACE committee amendments adopted December 6, 2012.

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

4 “Philanthropic organization” means a nonprofit nongovernmental
5 entity that utilizes donated assets and income to provide social
6 services.

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

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

13 “Study commission” means the study commission established to
14 aid the authority in the administration of the social impact bond
15 pilot program established by this act.

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

30
31 5. a. The authority shall oversee a study commission, entitled
32 the “New Jersey Social Impact Bond Study Commission,”
33 established for the duration of the pilot program, whose
34 membership and size shall be determined by the authority. The
35 authority may consider a variety of professionals, including health
36 care, bond financing, and social impact bond experts, for
37 membership in the study commission. The study commission shall
38 organize as soon as practicable after the appointment of its
39 members, and shall select a chairperson from among its
40 membership. At least one member of the study commission shall be
41 a member of the Department of Human Services and one member
42 shall be the Director of the Office of Faith Based Initiatives¹. Any
43 vacancy in the membership of the study commission shall be filled
44 in the same manner in which the original appointment was made.

45 b. The study commission may request the assistance and
46 services of employees of any other State department, board, bureau,
47 commission, task force, or agency as it may require and as may be
48 available. Members of the study commission shall serve without

1 compensation, but shall be entitled to employ stenographic and
2 clerical assistance and incur traveling and other miscellaneous
3 expenses as it may deem necessary in order to perform its duties,
4 within the limits of the funds made available to it for its purposes.
5 The study commission may meet at the call of its chairperson at the
6 times and in the places it may deem appropriate and necessary to
7 fulfill its duties, and may conduct public hearings at such place or
8 places as it shall designate. The study commission shall conduct its
9 meetings in accordance with the "Senator Byron M. Baer Open
10 Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

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

33

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

1 b. The study commission shall submit its fifth and final report
2 to the Governor and, pursuant to section 2 of P.L.1991, c.164
3 (C.52:14-19.1), to the Legislature within 90 days of the expiration
4 date of the pilot program, including any recommendations for
5 legislative action it deems appropriate. The study commission's
6 final report shall include, but not be limited to, an analysis of the
7 feasibility of implementing a permanent social impact bond
8 program Statewide, the estimated costs for the creation and
9 administration of the permanent program, projected State, federal,
10 and municipal savings from administering the permanent program, a
11 calculation of the investment returns realized from the pilot
12 program and a calculation of the State, federal, and municipal
13 savings accrued through the pilot program, and an analysis of non-
14 financial outcomes, such as community impact and preventive
15 results. The study commission shall expire on the 30th day after the
16 date of the issuance of its final report.

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

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

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

45 d. The provisions of any other law, rule, regulation or order to
46 the contrary notwithstanding, the bonds, refunding bonds or other
47 obligations of the authority issued for the purposes set forth in this
48 act shall be special and limited obligations of the authority, payable

1 from and secured by such funds and moneys as determined by the
2 authority in accordance with the provisions of section 8 of this act
3 and shall not be in any way a debt or liability of the State or of any
4 political subdivision thereof, except as otherwise provided in this
5 section, and shall not create or constitute any indebtedness, liability
6 or obligation of the State or of any political subdivision thereof,
7 either legal, moral or otherwise, and nothing contained in the
8 provisions of this act shall be construed to authorize the authority to
9 incur any indebtedness on behalf of or in any way to obligate the
10 State or any political subdivision thereof, and all bonds and
11 refunding bonds issued by the authority in connection therewith
12 shall contain on the face thereof a statement to that effect.

13 e. The capital appreciation of the social impact bonds shall be
14 entirely dependent on financial and social outcomes to be
15 determined by the Department of Human Services, the study
16 commission, and the authority, which shall include, but not be
17 limited to, a pre-determined public savings threshold that shall be
18 met before repayment can begin, which shall be clearly defined in
19 the bond contract.
20

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

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

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

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

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

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

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

19

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

26 a. The economic feasibility of the project;

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

29 c. The degree to which the project maximizes the leverage of
30 other State funds;

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

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

35

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

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