

Title 34.
Chapter 1B.
Part XV. (New)
Business
Assistance
§§ 1, 2 -
C.34:1B-252 &
34:1B-253
§3 - Note

P.L.2016, CHAPTER 84, *approved January 4, 2017*
Senate, No. 123 (*Second Reprint*)

1 AN ACT concerning certain small business funding ²**[,]** and²
2 supplementing P.L.1974, c.80 (C.34:1B-1 et seq.) ²**[and**
3 amending and supplementing P.L.1983, c.303 (C.52:27H-60 et
4 al.)² .

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

8
9 1. ²**[(New section)]²** As used in sections 1 and 2 of P.L. ,
10 c. (C.) (pending before the Legislature as this bill):

11 ¹“Association” means a non-profit business advocacy association
12 whose membership comprises small businesses in need of surety
13 bonding.¹

14 "Authority" shall have the same meaning as provided in section 3
15 of P.L.1974, c.80 (C.34:1B-3).

16 "Fund" means the "Small Business Bonding Readiness
17 Assistance Fund" established pursuant to section 2 of P.L. ,
18 c. (C.) (pending before the Legislature as this bill).

19 "Program" means the "Small Business Bonding Readiness
20 Assistance Program" established pursuant to section 2 of P.L. ,
21 c. (C.) (pending before the Legislature as this bill).

22 "Small business" means a business engaged in the conduct of a
23 trade or business in this State that qualifies as a "small business
24 concern" within the meaning of the federal "Small Business Act,"
25 Pub.L.85-536 (15 U.S.C. s.631 et seq.) for the purpose of the small
26 business's eligibility for performing a contract offered by the
27 federal government or for assistance from the United States Small
28 Business Administration. "Small business" shall also include a
29 small business established in this State that is certified, pursuant to
30 federal law, under the United States Small Business
31 Administration's 8(a) Business Development Program or the

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:

¹Senate SEG committee amendments adopted May 5, 2016.

²Senate floor amendments adopted June 27, 2016.

1 HUBZone Program, or as a Small Disadvantaged Business, or as a
 2 Section 3 business concern by the United States Department of
 3 Housing and Urban Development.

4
 5 2. ²[(New section)]² a. ¹(1)¹ The New Jersey Economic
 6 Development Authority shall establish and maintain a program to
 7 be known as the “Small Business Bonding Readiness Assistance
 8 Program” to provide support services to small businesses and to
 9 ¹[help] assist¹ small businesses ¹[qualify for] in securing¹ surety
 10 bonding ¹[in order for] so that¹ small businesses ¹[to] may¹ bid on
 11 public works projects or perform contracts offered by the State or
 12 by the federal government.

13 ¹(2)¹ The authority shall ¹[provide small businesses participating
 14 in the program] enter into an agreement¹ with ¹a non-profit
 15 business advocacy association concerning the association’s
 16 provision of¹ support services and assistance ¹to small businesses
 17 seeking surety bonding. The support services and assistance
 18 provided shall be¹ designed to increase small businesses’ bonding
 19 knowledge and capacity in order ¹for small businesses¹ to qualify
 20 for surety bonding. The support services and assistance to small
 21 businesses shall focus on improving ¹[their] small businesses¹
 22 financial presentation, operational efficiency, profitability, and
 23 surety bonding capacity and knowledge through a series of
 24 workshops and strategic consulting sessions.

25 b. The authority shall establish the terms and conditions by
 26 which a small business may apply for the program.

27 c. The authority shall establish and maintain within the
 28 program a special ¹[nonlapsing] non-lapsing¹ revolving fund to be
 29 known as the “Small Business Bonding Readiness Assistance Fund”
 30 to provide grant funding to small businesses that participate in the
 31 program ¹, grant funding to an association that provides small
 32 businesses participating in the program with support services and
 33 assistance,¹ and to administer the program.

34 d. In administering the program and the fund, the authority
 35 shall establish:

- 36 (1) procedures and timelines for applications for the program;
 37 (2) criteria for determining grant amounts to be disbursed from
 38 the fund to small businesses to meet their surety bond requirement;
 39 (3) reporting requirements for small businesses accepted into the
 40 program and who receive a grant from the fund; and
 41 (4) any other policies deemed necessary by the authority for the
 42 administration of the program and the fund. The authority, in its
 43 sole discretion, may amend these policies at any time if the policies
 44 are established or amended in a manner consistent with the
 45 provisions of P.L. , c. (C.) (pending before the Legislature
 46 as this bill).

1 e. ²**[**In addition to the \$250,000 annually received by the
2 authority pursuant to section 29 of P.L.1983, c.303 (C.52:27H-88)
3 and section 4 of P.L. , c. (C.) (pending before the
4 Legislature as this bill), the **]** The² fund may be credited with:

5 (1) moneys made available by the authority for the purpose of
6 the fund; and

7 (2) moneys received by the authority from any public or private
8 donations. The authority is authorized to seek and accept gifts,
9 grants, or donations from private or public sources for deposit in the
10 fund, except that the authority may not accept a gift, grant, or
11 donation that is subject to conditions that are inconsistent with any
12 other law of this State.

13
14 ²**[**3. Section 29 of P.L.1983, c.303 (C.52:27H-88) is amended to
15 read as follows:

16 29. a. (1) There is created an enterprise zone assistance fund to
17 be held by the State Treasurer, which shall be the repository for all
18 moneys required to be deposited therein **[under]** pursuant to section
19 21 of P.L.1983, c.303 (C.52:27H-80) or moneys appropriated
20 annually to the assistance fund. All moneys deposited in the
21 assistance fund shall be held and disbursed in the amounts
22 necessary to fulfill the purposes of this section and subject to the
23 requirements hereinafter prescribed. The State Treasurer may
24 invest and reinvest any moneys in the assistance fund, or any
25 portion thereof, in legal obligations of the United States **[or of]**, the
26 State, or **[of]** any political subdivision thereof. Any income from,
27 interest on, or increment to moneys **[so]** invested or reinvested
28 shall be included in the assistance fund.

29 (2) The State Treasurer shall maintain separate accounts for
30 each enterprise zone designated under P.L.1983, c.303 (C.52:27H-
31 60 et al.), and one in the authority's name for the administration of
32 the Urban Enterprise Zone program. The State Treasurer shall
33 credit to each account an amount of **[the]** moneys deposited in the
34 assistance fund equal to the amount of revenues collected from the
35 taxation of retail sales made in the zone and appropriated to the
36 enterprise zone assistance fund, or that amount of moneys
37 appropriated to the assistance fund and required to be credited to
38 the enterprise zone account of the qualifying municipality pursuant
39 to section 21 of P.L.1983, c.303 (C.52:27H-80).

40 (3) The State Treasurer shall promulgate **[the]** rules and
41 regulations necessary to govern the administration of the assistance
42 fund for the purposes of this section, which shall include, but not be
43 limited to, regulations requiring the establishment of separate bank
44 accounts for funds credited to the enterprise zone account of each
45 qualifying municipality from the enterprise zone assistance fund,
46 commonly known as "first generation funds," **[and]** funds
47 generated from **[the]** repayments of loans to individuals and

1 businesses from the enterprise zone account of each qualifying
2 municipality and the proceeds from the sale of properties and
3 equipment acquired through the enterprise zone program,
4 commonly known as "second generation funds," and the review,
5 compilation, and monitoring of second generation fund quarterly
6 reports submitted by each enterprise zone.

7 (4) Any individual, including an individual who is not directly
8 employed by a qualifying municipality, with the authority to
9 administer, allocate, or approve the use of enterprise zone
10 assistance funds is subject to the "Local Government Ethics Law,"
11 P.L.1991, c.29 (C.40A:9-22.1 et seq.), unless the individual is a
12 State employee or a special State officer.

13 b. The enterprise zone assistance fund shall be used for the
14 purpose of assisting qualifying municipalities in which enterprise
15 zones are designated in undertaking public improvements,
16 economic development projects, and in upgrading eligible
17 municipal services in designated enterprise zones.

18 c. The governing body of a qualifying municipality in which an
19 enterprise zone is designated and the zone development corporation
20 created or designated by the qualifying municipality for that
21 enterprise zone may, by resolution jointly adopted after public
22 hearing, propose to undertake a project for the public improvement
23 of the enterprise zone or to increase eligible municipal services in
24 the enterprise zone, and to fund that project or increase in eligible
25 municipal services from moneys deposited in the enterprise zone
26 assistance fund and credited to the account maintained by the State
27 Treasurer for the enterprise zone.

28 The proposal **[so]** adopted shall set forth a plan for the project or
29 for the increase in eligible municipal services and shall include:

30 (1) **[A]** a description of the proposed project or of the
31 municipal services to be increased;

32 (2) **[An]** an estimate of the total project costs, or of the total
33 costs of increasing the municipal services, and an estimate of the
34 amounts of funding necessary annually from the enterprise zone
35 account;

36 (3) **[A]** a statement of any other revenue sources to be used to
37 finance the project or to fund the increase in eligible municipal
38 services;

39 (4) **[A]** a statement of the time necessary to complete the
40 project, or of the time during which the increased municipal
41 services are to be maintained;

42 (5) **[A]** a statement of the manner in which the proposed project
43 or increase in municipal services furthers the municipality's policy
44 and intentions for addressing the economic and social conditions
45 existing in the area of the enterprise zone as set forth in the zone
46 development plan approved by the authority; and

1 (6) **[A]** a description of the financial and programmatic controls
2 and reporting mechanisms to be used to guarantee that the funds
3 will be spent in accordance with the plan and that the project or
4 increased municipal service will accomplish its purpose.

5 As used in this section, "project" means an activity funded by the
6 zone assistance fund through the qualified municipality and
7 implemented by the zone development corporation, including the
8 purchasing, leasing, condemning, or otherwise acquiring of land or
9 other property, or an interest therein, in the enterprise zone or as
10 necessary for a right-of-way or other easement to or from the
11 enterprise zone; the relocating and moving of persons or businesses
12 displaced by the acquisition of land or property; the rehabilitation
13 and redevelopment of land or property, including demolition,
14 clearance, removal, relocation, renovation, alteration, construction,
15 reconstruction, installation, or repair of land or a building, street,
16 highway, alley, utility, service, or other structure or improvement
17 which will lead to increased economic activity within the zone; the
18 purchase and installation of closed circuit television surveillance
19 systems or other related equipment and those expenses associated
20 with homeland security and domestic preparedness; the acquisition,
21 construction, reconstruction, rehabilitation, or installation of public
22 facilities and improvements, except buildings and facilities for the
23 general conduct of government and schools; the establishment of
24 revolving loan or grant programs for qualified businesses in the
25 zone to encourage private investment and job creation, matching
26 grant programs for the establishment or operation of pedestrian
27 malls, special improvement districts and tax increment districts, or
28 other appropriate entity; marketing, advertising, and special event
29 activities that will lead to increased economic activity or encourage
30 private investment and job creation in the zone, but not including
31 the expenditures therefor which are required to be reported pursuant
32 to "The New Jersey Campaign Contributions and Expenditures
33 Reporting Act," P.L.1973, c.83 (C.19:44A-1 et al.) and the costs
34 associated therewith including the costs of an administrative
35 appraisal, economic and environmental analyses, environmental
36 remediation, engineering, planning, design, architectural, surveying,
37 or other professional or managerial services.

38 As used in this section, "eligible municipal services" means the
39 hiring of additional policemen or firemen assigned duties in the
40 enterprise zone, or the purchasing or leasing of additional police or
41 fire vehicles, equipment, or apparatus to be used for the provision
42 of augmented or upgraded public safety services in the enterprise
43 zone and its immediate vicinities.

44 d. Upon adoption by the governing body of the qualifying
45 municipality and by the zone development corporation, the proposal
46 shall be sent to the authority for its evaluation and approval. The
47 authority shall approve the proposal if it **[shall find]** finds:

1 (1) **[In]** in the case of a project, that the proposed project
2 furthers the policy and intentions of the zone development plan
3 approved by the authority, and that the estimated annual payments
4 for the project from the enterprise zone account to which the
5 proposal pertains are not likely to result in a deficit in that account;
6 or

7 (2) **[In]** in the case of an increase in eligible municipal services,
8 that the proposal furthers the policy and intentions of the zone
9 development plan approved by the authority; that the qualifying
10 municipality has furnished satisfactory assurances that the
11 additional policemen or firemen to be hired, or the additional
12 vehicles, equipment, or apparatus to be purchased or leased, shall
13 be used to augment or upgrade public safety in the enterprise zone,
14 and shall not be used in other areas of the municipality; that the
15 qualifying municipality shall annually appropriate for the increased
16 eligible municipal services an amount equal to **[20%]** 20 percent of
17 the amount of annual payments for the eligible municipal services
18 from the enterprise zone account and shall not request for the
19 increased eligible municipal services an amount equal to more than
20 **[35%]** 35 percent of the amount of annual payments into the
21 enterprise zone account, unless the municipality and the authority
22 have entered into an agreement **[or agreements]** to the contrary
23 prior to July 1, 1992; and that the estimated annual payments for the
24 eligible municipal services from the enterprise zone account to
25 which the proposal pertains are not likely to result in a deficit in
26 that account.

27 e. If the authority **[shall approve]** approves the proposal, it
28 shall annually, upon its receipt of a written statement from the
29 governing body of the qualifying municipality and the zone
30 development corporation, certify to the State Treasurer the amount
31 to be paid in that year from the enterprise zone account in the
32 enterprise zone assistance fund with respect to each project or
33 increase in eligible municipal services approved. The authority
34 may at any time revoke its approval of a project or an increase in
35 eligible municipal services if it finds that the annual payments made
36 from the enterprise zone assistance fund are not being used as
37 required by this section.

38 f. Upon certification by the authority of the annual amount to
39 be paid to a qualifying enterprise zone with respect to any project or
40 increase in eligible municipal services, the State Treasurer shall pay
41 in each year to the qualifying municipality from the amounts
42 deposited in the enterprise zone assistance fund the amount **[so]**
43 certified, within the limits of the amounts credited to the enterprise
44 zone account of the qualifying municipality.

45 g. (1) An amount not to exceed one-third of the amount
46 deposited in the account created in the name of the authority in the
47 enterprise zone assistance fund shall be used by the authority for the

1 coordination and administration of the program throughout the
 2 State, including, but not limited to, costs for personnel, operating
 3 expenses, and marketing.

4 (2) An amount equal to \$250,000 deposited in the account
 5 created in the name of the authority in the enterprise zone assistance
 6 fund shall annually be credited to the New Jersey Economic
 7 Development Authority for the purposes of the “Small Business
 8 Bonding Readiness Assistance Fund” established pursuant to
 9 section 2 of P.L. , c. (C.) (pending before the Legislature
 10 as this bill).

11 (3) The balance of the remaining amount shall be distributed to
 12 qualifying municipalities in proportion to each municipality's
 13 contribution to the enterprise zone assistance fund for the
 14 coordination and administration of the program within the
 15 municipality, including but not limited to costs for personnel,
 16 operating expenses, and marketing.

17 (cf: P.L.2009, c.25, s.1)]²

18

19 ²[4.(New section) Notwithstanding the provisions of section 11
 20 of P.L.2001, c.347 (C.52:27H-66.6), section 21 of P.L.1983, c.303
 21 (C.52:27H-80), and any other provision of law concerning the
 22 apportionment and distribution by the State of reduced rate
 23 revenues collected by qualified businesses in urban enterprise
 24 zones, there shall be credited \$250,000 annually from the enterprise
 25 zone assistance fund, established pursuant to section 29 of
 26 P.L.1983, c.303 (C.52:27H-88), during State Fiscal Year 2017 and
 27 during each fiscal year thereafter, to the New Jersey Economic
 28 Development Authority for the purposes of the “Small Business
 29 Bonding Readiness Assistance Fund” established pursuant to
 30 section 2 of P.L. , c. (C.) (pending before the Legislature
 31 as this bill).]²

32

33 ²[5.] 3.² This act shall take effect immediately but shall
 34 remain inoperative for 30 days following the date of enactment.

35

36

37

38

39 Establishes “Small Business Bonding Readiness Assistance
 40 Program” in EDA to assist certain small businesses meet State or
 41 federal contract surety bond requirements.