

SENATE, No. 123

STATE OF NEW JERSEY

217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:

Senator JOSEPH PENNACCHIO

District 26 (Essex, Morris and Passaic)

Senator RONALD L. RICE

District 28 (Essex)

SYNOPSIS

Establishes “Small Business Bonding Readiness Assistance Program” in EDA to assist certain small businesses meet State or federal contract surety bond requirements; transfers \$250,000 annually from enterprise zone assistance fund to program.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



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

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

7
8 1. (New section) As used in sections 1 and 2 of P.L. , c. (C.)
9 (pending before the Legislature as this bill):

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

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

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

18 "Small business" means a business engaged in the conduct of a
19 trade or business in this State that qualifies as a "small business
20 concern" within the meaning of the federal "Small Business Act,"
21 Pub.L.85-536 (15 U.S.C. s.631 et seq.) for the purpose of the small
22 business's eligibility for performing a contract offered by the
23 federal government or for assistance from the United States Small
24 Business Administration. "Small business" shall also include a
25 small business established in this State that is certified, pursuant to
26 federal law, under the United States Small Business
27 Administration's 8(a) Business Development Program or the
28 HUBZone Program, or as a Small Disadvantaged Business, or as a
29 Section 3 business concern by the United States Department of
30 Housing and Urban Development.
31

32 2. (New section) a. The New Jersey Economic Development
33 Authority shall establish and maintain a program to be known as the
34 "Small Business Bonding Readiness Assistance Program" to
35 provide support services to small businesses and to help small
36 businesses qualify for surety bonding in order for small businesses
37 to bid on public works projects or perform contracts offered by the
38 State or by the federal government. The authority shall provide
39 small businesses participating in the program with support services
40 and assistance designed to increase small businesses' bonding
41 knowledge and capacity in order to qualify for surety bonding. The
42 support services and assistance to small businesses shall focus on
43 improving their financial presentation, operational efficiency,
44 profitability, and surety bonding capacity and knowledge through a
45 series of workshops and strategic consulting sessions.

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 b. The authority shall establish the terms and conditions by
2 which a small business may apply for the program.
- 3 c. The authority shall establish and maintain within the
4 program a special nonlapsing revolving fund to be known as the
5 “Small Business Bonding Readiness Assistance Fund” to provide
6 grant funding to small businesses that participate in the program
7 and to administer the program.
- 8 d. In administering the program and the fund, the authority
9 shall establish:
- 10 (1) procedures and timelines for applications for the program;
11 (2) criteria for determining grant amounts to be disbursed from
12 the fund to small businesses to meet their surety bond requirement;
13 (3) reporting requirements for small businesses accepted into the
14 program and who receive a grant from the fund; and
15 (4) any other policies deemed necessary by the authority for the
16 administration of the program and the fund. The authority, in its
17 sole discretion, may amend these policies at any time if the policies
18 are established or amended in a manner consistent with the
19 provisions of P.L. , c. (C.) (pending before the Legislature
20 as this bill).
- 21 e. In addition to the \$250,000 annually received by the
22 authority pursuant to section 29 of P.L.1983, c.303 (C.52:27H-88)
23 and section 4 of P.L. , c. (C.) (pending before the
24 Legislature as this bill), the fund may be credited with:
- 25 (1) moneys made available by the authority for the purpose of
26 the fund; and
27 (2) moneys received by the authority from any public or private
28 donations. The authority is authorized to seek and accept gifts,
29 grants, or donations from private or public sources for deposit in the
30 fund, except that the authority may not accept a gift, grant, or
31 donation that is subject to conditions that are inconsistent with any
32 other law of this State.
- 33
- 34 3. Section 29 of P.L.1983, c.303 (C.52:27H-88) is amended to
35 read as follows:
- 36 29. a. (1) There is created an enterprise zone assistance fund to
37 be held by the State Treasurer, which shall be the repository for all
38 moneys required to be deposited therein **[under]** pursuant to section
39 21 of P.L.1983, c.303 (C.52:27H-80) or moneys appropriated
40 annually to the assistance fund. All moneys deposited in the
41 assistance fund shall be held and disbursed in the amounts
42 necessary to fulfill the purposes of this section and subject to the
43 requirements hereinafter prescribed. The State Treasurer may
44 invest and reinvest any moneys in the assistance fund, or any
45 portion thereof, in legal obligations of the United States **[or of]**, the
46 State, or **[of]** any political subdivision thereof. Any income from,
47 interest on, or increment to moneys **[so]** invested or reinvested
48 shall be included in the assistance fund.

1 (2) The State Treasurer shall maintain separate accounts for
2 each enterprise zone designated under P.L.1983, c.303 (C.52:27H-
3 60 et al.), and one in the authority's name for the administration of
4 the Urban Enterprise Zone program. The State Treasurer shall
5 credit to each account an amount of **【the】** moneys deposited in the
6 assistance fund equal to the amount of revenues collected from the
7 taxation of retail sales made in the zone and appropriated to the
8 enterprise zone assistance fund, or that amount of moneys
9 appropriated to the assistance fund and required to be credited to
10 the enterprise zone account of the qualifying municipality pursuant
11 to section 21 of P.L.1983, c.303 (C.52:27H-80).

12 (3) The State Treasurer shall promulgate **【the】** rules and
13 regulations necessary to govern the administration of the assistance
14 fund for the purposes of this section, which shall include, but not be
15 limited to, regulations requiring the establishment of separate bank
16 accounts for funds credited to the enterprise zone account of each
17 qualifying municipality from the enterprise zone assistance fund,
18 commonly known as "first generation funds," **【and】** funds
19 generated from **【the】** repayments of loans to individuals and
20 businesses from the enterprise zone account of each qualifying
21 municipality and the proceeds from the sale of properties and
22 equipment acquired through the enterprise zone program,
23 commonly known as "second generation funds," and the review,
24 compilation, and monitoring of second generation fund quarterly
25 reports submitted by each enterprise zone.

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

32 b. The enterprise zone assistance fund shall be used for the
33 purpose of assisting qualifying municipalities in which enterprise
34 zones are designated in undertaking public improvements,
35 economic development projects, and in upgrading eligible
36 municipal services in designated enterprise zones.

37 c. The governing body of a qualifying municipality in which an
38 enterprise zone is designated and the zone development corporation
39 created or designated by the qualifying municipality for that
40 enterprise zone may, by resolution jointly adopted after public
41 hearing, propose to undertake a project for the public improvement
42 of the enterprise zone or to increase eligible municipal services in
43 the enterprise zone, and to fund that project or increase in eligible
44 municipal services from moneys deposited in the enterprise zone
45 assistance fund and credited to the account maintained by the State
46 Treasurer for the enterprise zone.

1 The proposal **【so】** adopted shall set forth a plan for the project or
2 for the increase in eligible municipal services and shall include:

3 (1) **【A】** a description of the proposed project or of the
4 municipal services to be increased;

5 (2) **【An】** an estimate of the total project costs, or of the total
6 costs of increasing the municipal services, and an estimate of the
7 amounts of funding necessary annually from the enterprise zone
8 account;

9 (3) **【A】** a statement of any other revenue sources to be used to
10 finance the project or to fund the increase in eligible municipal
11 services;

12 (4) **【A】** a statement of the time necessary to complete the
13 project, or of the time during which the increased municipal
14 services are to be maintained;

15 (5) **【A】** a statement of the manner in which the proposed project
16 or increase in municipal services furthers the municipality's policy
17 and intentions for addressing the economic and social conditions
18 existing in the area of the enterprise zone as set forth in the zone
19 development plan approved by the authority; and

20 (6) **【A】** a description of the financial and programmatic controls
21 and reporting mechanisms to be used to guarantee that the funds
22 will be spent in accordance with the plan and that the project or
23 increased municipal service will accomplish its purpose.

24 As used in this section, "project" means an activity funded by the
25 zone assistance fund through the qualified municipality and
26 implemented by the zone development corporation, including the
27 purchasing, leasing, condemning, or otherwise acquiring of land or
28 other property, or an interest therein, in the enterprise zone or as
29 necessary for a right-of-way or other easement to or from the
30 enterprise zone; the relocating and moving of persons or businesses
31 displaced by the acquisition of land or property; the rehabilitation
32 and redevelopment of land or property, including demolition,
33 clearance, removal, relocation, renovation, alteration, construction,
34 reconstruction, installation, or repair of land or a building, street,
35 highway, alley, utility, service, or other structure or improvement
36 which will lead to increased economic activity within the zone; the
37 purchase and installation of closed circuit television surveillance
38 systems or other related equipment and those expenses associated
39 with homeland security and domestic preparedness; the acquisition,
40 construction, reconstruction, rehabilitation, or installation of public
41 facilities and improvements, except buildings and facilities for the
42 general conduct of government and schools; the establishment of
43 revolving loan or grant programs for qualified businesses in the
44 zone to encourage private investment and job creation, matching
45 grant programs for the establishment or operation of pedestrian
46 malls, special improvement districts and tax increment districts, or
47 other appropriate entity; marketing, advertising, and special event

1 activities that will lead to increased economic activity or encourage
2 private investment and job creation in the zone, but not including
3 the expenditures therefor which are required to be reported pursuant
4 to "The New Jersey Campaign Contributions and Expenditures
5 Reporting Act," P.L.1973, c.83 (C.19:44A-1 et al.) and the costs
6 associated therewith including the costs of an administrative
7 appraisal, economic and environmental analyses, environmental
8 remediation, engineering, planning, design, architectural, surveying,
9 or other professional or managerial services.

10 As used in this section, "eligible municipal services" means the
11 hiring of additional policemen or firemen assigned duties in the
12 enterprise zone, or the purchasing or leasing of additional police or
13 fire vehicles, equipment, or apparatus to be used for the provision
14 of augmented or upgraded public safety services in the enterprise
15 zone and its immediate vicinities.

16 d. Upon adoption by the governing body of the qualifying
17 municipality and by the zone development corporation, the proposal
18 shall be sent to the authority for its evaluation and approval. The
19 authority shall approve the proposal if it **【shall find】** finds:

20 (1) **【In】** in the case of a project, that the proposed project
21 furthers the policy and intentions of the zone development plan
22 approved by the authority, and that the estimated annual payments
23 for the project from the enterprise zone account to which the
24 proposal pertains are not likely to result in a deficit in that account;
25 or

26 (2) **【In】** in the case of an increase in eligible municipal services,
27 that the proposal furthers the policy and intentions of the zone
28 development plan approved by the authority; that the qualifying
29 municipality has furnished satisfactory assurances that the
30 additional policemen or firemen to be hired, or the additional
31 vehicles, equipment, or apparatus to be purchased or leased, shall
32 be used to augment or upgrade public safety in the enterprise zone,
33 and shall not be used in other areas of the municipality; that the
34 qualifying municipality shall annually appropriate for the increased
35 eligible municipal services an amount equal to **【20%】** 20 percent
36 of the amount of annual payments for the eligible municipal services
37 from the enterprise zone account and shall not request for the
38 increased eligible municipal services an amount equal to more than
39 **【35%】** 35 percent of the amount of annual payments into the
40 enterprise zone account, unless the municipality and the authority
41 have entered into an agreement **【or agreements】** to the contrary
42 prior to July 1, 1992; and that the estimated annual payments for the
43 eligible municipal services from the enterprise zone account to
44 which the proposal pertains are not likely to result in a deficit in
45 that account.

46 e. If the authority **【shall approve】** approves the proposal, it
47 shall annually, upon its receipt of a written statement from the

1 governing body of the qualifying municipality and the zone
2 development corporation, certify to the State Treasurer the amount
3 to be paid in that year from the enterprise zone account in the
4 enterprise zone assistance fund with respect to each project or
5 increase in eligible municipal services approved. The authority
6 may at any time revoke its approval of a project or an increase in
7 eligible municipal services if it finds that the annual payments made
8 from the enterprise zone assistance fund are not being used as
9 required by this section.

10 f. Upon certification by the authority of the annual amount to
11 be paid to a qualifying enterprise zone with respect to any project or
12 increase in eligible municipal services, the State Treasurer shall pay
13 in each year to the qualifying municipality from the amounts
14 deposited in the enterprise zone assistance fund the amount **[so]**
15 certified, within the limits of the amounts credited to the enterprise
16 zone account of the qualifying municipality.

17 g. (1) An amount not to exceed one-third of the amount
18 deposited in the account created in the name of the authority in the
19 enterprise zone assistance fund shall be used by the authority for the
20 coordination and administration of the program throughout the
21 State, including, but not limited to, costs for personnel, operating
22 expenses, and marketing.

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

30 (3) The balance of the remaining amount shall be distributed to
31 qualifying municipalities in proportion to each municipality's
32 contribution to the enterprise zone assistance fund for the
33 coordination and administration of the program within the
34 municipality, including but not limited to costs for personnel,
35 operating expenses, and marketing.

36 (cf: P.L.2009, c.25, s.1)

37

38 4. (New section) Notwithstanding the provisions of section 11
39 of P.L.2001, c.347 (C.52:27H-66.6), section 21 of P.L.1983, c.303
40 (C.52:27H-80), and any other provision of law concerning the
41 apportionment and distribution by the State of reduced rate
42 revenues collected by qualified businesses in urban enterprise
43 zones, there shall be credited \$250,000 annually from the enterprise
44 zone assistance fund, established pursuant to section 29 of
45 P.L.1983, c.303 (C.52:27H-88), during State Fiscal Year 2016 and
46 during each fiscal year thereafter, to the New Jersey Economic
47 Development Authority for the purposes of the “Small Business
48 Bonding Readiness Assistance Fund” established pursuant to

1 section 2 of P.L. , c. (C.) (pending before the Legislature
2 as this bill).

3

4 5. This act shall take effect immediately but shall remain
5 inoperative for 30 days following the date of enactment.

6

7

8

STATEMENT

9

10 This bill requires the New Jersey Economic Development
11 Authority (authority) to establish and maintain the “Small Business
12 Bonding Readiness Assistance Program” (program). Under the
13 program, the authority is to provide support services to small
14 businesses and to help small businesses meet surety bonding
15 requirements in order for them to bid on public works projects or
16 perform contracts offered by the State or by the federal government.
17 The authority is to provide small businesses participating in the
18 program with support services and assistance designed to increase
19 their bonding knowledge and capacity in order for them to qualify
20 for surety bonding. The support services and assistance to small
21 businesses are to focus on improving their financial presentation,
22 operational efficiency, profitability, and surety bonding capacity
23 and knowledge through a series of workshops and strategic
24 consulting sessions. The bill defines “small business” as a business
25 in this State that qualifies as a “small business concern” under the
26 federal "Small Business Act" for the purpose of the small business’s
27 eligibility for a contract offered by the federal government or for
28 assistance from the United States Small Business Administration.

29 In order to provide funding for the program, the bill requires the
30 State Treasurer to annually transfer \$250,000 from the urban
31 enterprise zone assistance fund (UEZ fund) to the “Small Business
32 Bonding Readiness Assistance Fund” (assistance fund), a special
33 nonlapsing revolving fund created by the authority as part of the
34 program. The assistance fund is to be used by the authority to
35 provide grant funding to small businesses that participate in the
36 program and to administer the program. In addition to the moneys
37 received by the authority from the UEZ fund, the assistance fund
38 may be credited with moneys made available by the authority for
39 the assistance fund and moneys received by the authority from any
40 public or private donations.