

[First Reprint]

**SENATE, No. 123**

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**STATE OF NEW JERSEY**  
**217th LEGISLATURE**

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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)**

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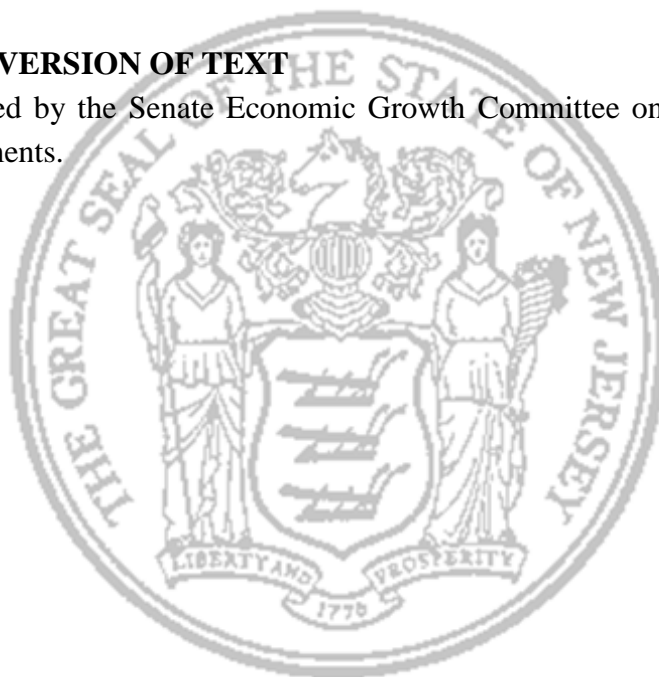
**Senator Lesniak**

**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**

As reported by the Senate Economic Growth Committee on May 5, 2016, with amendments.



**(Sponsorship Updated As Of: 5/10/2016)**

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. ,  
9 c. (C. ) (pending before the Legislature as this bill):

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

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

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

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

21 “Small business” means a business engaged in the conduct of a  
22 trade or business in this State that qualifies as a “small business  
23 concern” within the meaning of the federal "Small Business Act,"  
24 Pub.L.85-536 (15 U.S.C. s.631 et seq.) for the purpose of the small  
25 business’s eligibility for performing a contract offered by the  
26 federal government or for assistance from the United States Small  
27 Business Administration. “Small business” shall also include a  
28 small business established in this State that is certified, pursuant to  
29 federal law, under the United States Small Business  
30 Administration’s 8(a) Business Development Program or the  
31 HUBZone Program, or as a Small Disadvantaged Business, or as a  
32 Section 3 business concern by the United States Department of  
33 Housing and Urban Development.  
34

35 2. (New section) a. <sup>1</sup>(1)<sup>1</sup> The New Jersey Economic  
36 Development Authority shall establish and maintain a program to  
37 be known as the “Small Business Bonding Readiness Assistance  
38 Program” to provide support services to small businesses and to  
39 <sup>1</sup>**[help] assist**<sup>1</sup> small businesses <sup>1</sup>**[qualify for] in securing**<sup>1</sup> surety  
40 bonding <sup>1</sup>**[in order for] so that**<sup>1</sup> small businesses <sup>1</sup>**[to] may**<sup>1</sup> bid on  
41 public works projects or perform contracts offered by the State or  
42 by the federal government.

43 <sup>1</sup>(2)<sup>1</sup> The authority shall <sup>1</sup>**[provide small businesses participating**

**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:

<sup>1</sup>Senate SEG committee amendments adopted May 5, 2016.

1 in the program] enter into an agreement<sup>1</sup> with a non-profit  
2 business advocacy association concerning the association's  
3 provision of<sup>1</sup> support services and assistance to small businesses  
4 seeking surety bonding. The support services and assistance  
5 provided shall be<sup>1</sup> designed to increase small businesses' bonding  
6 knowledge and capacity in order for small businesses<sup>1</sup> to qualify  
7 for surety bonding. The support services and assistance to small  
8 businesses shall focus on improving [their] small businesses'<sup>1</sup>  
9 financial presentation, operational efficiency, profitability, and  
10 surety bonding capacity and knowledge through a series of  
11 workshops and strategic consulting sessions.

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

14 c. The authority shall establish and maintain within the  
15 program a special [nonlapsing] non-lapsing<sup>1</sup> revolving fund to be  
16 known as the "Small Business Bonding Readiness Assistance Fund"  
17 to provide grant funding to small businesses that participate in the  
18 program , grant funding to an association that provides small  
19 businesses participating in the program with support services and  
20 assistance,<sup>1</sup> and to administer the program.

21 d. In administering the program and the fund, the authority  
22 shall establish:

- 23 (1) procedures and timelines for applications for the program;
- 24 (2) criteria for determining grant amounts to be disbursed from  
25 the fund to small businesses to meet their surety bond requirement;
- 26 (3) reporting requirements for small businesses accepted into the  
27 program and who receive a grant from the fund; and
- 28 (4) any other policies deemed necessary by the authority for the  
29 administration of the program and the fund. The authority, in its  
30 sole discretion, may amend these policies at any time if the policies  
31 are established or amended in a manner consistent with the  
32 provisions of P.L. , c. (C. ) (pending before the Legislature  
33 as this bill).

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

- 38 (1) moneys made available by the authority for the purpose of  
39 the fund; and
- 40 (2) moneys received by the authority from any public or private  
41 donations. The authority is authorized to seek and accept gifts,  
42 grants, or donations from private or public sources for deposit in the  
43 fund, except that the authority may not accept a gift, grant, or  
44 donation that is subject to conditions that are inconsistent with any  
45 other law of this State.

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

3       29. a. (1) There is created an enterprise zone assistance fund to  
4 be held by the State Treasurer, which shall be the repository for all  
5 moneys required to be deposited therein **[under]** pursuant to section  
6 21 of P.L.1983, c.303 (C.52:27H-80) or moneys appropriated  
7 annually to the assistance fund. All moneys deposited in the  
8 assistance fund shall be held and disbursed in the amounts  
9 necessary to fulfill the purposes of this section and subject to the  
10 requirements hereinafter prescribed. The State Treasurer may  
11 invest and reinvest any moneys in the assistance fund, or any  
12 portion thereof, in legal obligations of the United States **[or of]**, the  
13 State, or **[of]** any political subdivision thereof. Any income from,  
14 interest on, or increment to moneys **[so]** invested or reinvested  
15 shall be included in the assistance fund.

16       (2) The State Treasurer shall maintain separate accounts for  
17 each enterprise zone designated under P.L.1983, c.303 (C.52:27H-  
18 60 et al.), and one in the authority's name for the administration of  
19 the Urban Enterprise Zone program. The State Treasurer shall  
20 credit to each account an amount of **[the]** moneys deposited in the  
21 assistance fund equal to the amount of revenues collected from the  
22 taxation of retail sales made in the zone and appropriated to the  
23 enterprise zone assistance fund, or that amount of moneys  
24 appropriated to the assistance fund and required to be credited to  
25 the enterprise zone account of the qualifying municipality pursuant  
26 to section 21 of P.L.1983, c.303 (C.52:27H-80).

27       (3) The State Treasurer shall promulgate **[the]** rules and  
28 regulations necessary to govern the administration of the assistance  
29 fund for the purposes of this section, which shall include, but not be  
30 limited to, regulations requiring the establishment of separate bank  
31 accounts for funds credited to the enterprise zone account of each  
32 qualifying municipality from the enterprise zone assistance fund,  
33 commonly known as "first generation funds," **[and]** funds  
34 generated from **[the]** repayments of loans to individuals and  
35 businesses from the enterprise zone account of each qualifying  
36 municipality and the proceeds from the sale of properties and  
37 equipment acquired through the enterprise zone program,  
38 commonly known as "second generation funds," and the review,  
39 compilation, and monitoring of second generation fund quarterly  
40 reports submitted by each enterprise zone.

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

1       b. The enterprise zone assistance fund shall be used for the  
2 purpose of assisting qualifying municipalities in which enterprise  
3 zones are designated in undertaking public improvements,  
4 economic development projects, and in upgrading eligible  
5 municipal services in designated enterprise zones.

6       c. The governing body of a qualifying municipality in which an  
7 enterprise zone is designated and the zone development corporation  
8 created or designated by the qualifying municipality for that  
9 enterprise zone may, by resolution jointly adopted after public  
10 hearing, propose to undertake a project for the public improvement  
11 of the enterprise zone or to increase eligible municipal services in  
12 the enterprise zone, and to fund that project or increase in eligible  
13 municipal services from moneys deposited in the enterprise zone  
14 assistance fund and credited to the account maintained by the State  
15 Treasurer for the enterprise zone.

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

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

20       (2) **【An】** an estimate of the total project costs, or of the total  
21 costs of increasing the municipal services, and an estimate of the  
22 amounts of funding necessary annually from the enterprise zone  
23 account;

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

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

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

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

39       As used in this section, "project" means an activity funded by the  
40 zone assistance fund through the qualified municipality and  
41 implemented by the zone development corporation, including the  
42 purchasing, leasing, condemning, or otherwise acquiring of land or  
43 other property, or an interest therein, in the enterprise zone or as  
44 necessary for a right-of-way or other easement to or from the  
45 enterprise zone; the relocating and moving of persons or businesses  
46 displaced by the acquisition of land or property; the rehabilitation  
47 and redevelopment of land or property, including demolition,

1 clearance, removal, relocation, renovation, alteration, construction,  
2 reconstruction, installation, or repair of land or a building, street,  
3 highway, alley, utility, service, or other structure or improvement  
4 which will lead to increased economic activity within the zone; the  
5 purchase and installation of closed circuit television surveillance  
6 systems or other related equipment and those expenses associated  
7 with homeland security and domestic preparedness; the acquisition,  
8 construction, reconstruction, rehabilitation, or installation of public  
9 facilities and improvements, except buildings and facilities for the  
10 general conduct of government and schools; the establishment of  
11 revolving loan or grant programs for qualified businesses in the  
12 zone to encourage private investment and job creation, matching  
13 grant programs for the establishment or operation of pedestrian  
14 malls, special improvement districts and tax increment districts, or  
15 other appropriate entity; marketing, advertising, and special event  
16 activities that will lead to increased economic activity or encourage  
17 private investment and job creation in the zone, but not including  
18 the expenditures therefor which are required to be reported pursuant  
19 to "The New Jersey Campaign Contributions and Expenditures  
20 Reporting Act," P.L.1973, c.83 (C.19:44A-1 et al.) and the costs  
21 associated therewith including the costs of an administrative  
22 appraisal, economic and environmental analyses, environmental  
23 remediation, engineering, planning, design, architectural, surveying,  
24 or other professional or managerial services.

25 As used in this section, "eligible municipal services" means the  
26 hiring of additional policemen or firemen assigned duties in the  
27 enterprise zone, or the purchasing or leasing of additional police or  
28 fire vehicles, equipment, or apparatus to be used for the provision  
29 of augmented or upgraded public safety services in the enterprise  
30 zone and its immediate vicinities.

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

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

41 (2) **[In]** in the case of an increase in eligible municipal services,  
42 that the proposal furthers the policy and intentions of the zone  
43 development plan approved by the authority; that the qualifying  
44 municipality has furnished satisfactory assurances that the  
45 additional policemen or firemen to be hired, or the additional  
46 vehicles, equipment, or apparatus to be purchased or leased, shall  
47 be used to augment or upgrade public safety in the enterprise zone,  
48 and shall not be used in other areas of the municipality; that the

1 qualifying municipality shall annually appropriate for the increased  
2 eligible municipal services an amount equal to ~~【20%】~~ 20 percent of  
3 the amount of annual payments for the eligible municipal services  
4 from the enterprise zone account and shall not request for the  
5 increased eligible municipal services an amount equal to more than  
6 ~~【35%】~~ 35 percent of the amount of annual payments into the  
7 enterprise zone account, unless the municipality and the authority  
8 have entered into an agreement ~~【or agreements】~~ to the contrary  
9 prior to July 1, 1992; and that the estimated annual payments for the  
10 eligible municipal services from the enterprise zone account to  
11 which the proposal pertains are not likely to result in a deficit in  
12 that account.

13 e. If the authority ~~【shall approve】~~ approves the proposal, it  
14 shall annually, upon its receipt of a written statement from the  
15 governing body of the qualifying municipality and the zone  
16 development corporation, certify to the State Treasurer the amount  
17 to be paid in that year from the enterprise zone account in the  
18 enterprise zone assistance fund with respect to each project or  
19 increase in eligible municipal services approved. The authority  
20 may at any time revoke its approval of a project or an increase in  
21 eligible municipal services if it finds that the annual payments made  
22 from the enterprise zone assistance fund are not being used as  
23 required by this section.

24 f. Upon certification by the authority of the annual amount to  
25 be paid to a qualifying enterprise zone with respect to any project or  
26 increase in eligible municipal services, the State Treasurer shall pay  
27 in each year to the qualifying municipality from the amounts  
28 deposited in the enterprise zone assistance fund the amount ~~【so】~~  
29 certified, within the limits of the amounts credited to the enterprise  
30 zone account of the qualifying municipality.

31 g. (1) An amount not to exceed one-third of the amount  
32 deposited in the account created in the name of the authority in the  
33 enterprise zone assistance fund shall be used by the authority for the  
34 coordination and administration of the program throughout the  
35 State, including, but not limited to, costs for personnel, operating  
36 expenses, and marketing.

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

44 (3) The balance of the remaining amount shall be distributed to  
45 qualifying municipalities in proportion to each municipality's  
46 contribution to the enterprise zone assistance fund for the  
47 coordination and administration of the program within the

1 municipality, including but not limited to costs for personnel,  
2 operating expenses, and marketing.

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

4

5 4. (New section) Notwithstanding the provisions of section 11  
6 of P.L.2001, c.347 (C.52:27H-66.6), section 21 of P.L.1983, c.303  
7 (C.52:27H-80), and any other provision of law concerning the  
8 apportionment and distribution by the State of reduced rate  
9 revenues collected by qualified businesses in urban enterprise  
10 zones, there shall be credited \$250,000 annually from the enterprise  
11 zone assistance fund, established pursuant to section 29 of  
12 P.L.1983, c.303 (C.52:27H-88), during State Fiscal Year 2017 and  
13 during each fiscal year thereafter, to the New Jersey Economic  
14 Development Authority for the purposes of the “Small Business  
15 Bonding Readiness Assistance Fund” established pursuant to  
16 section 2 of P.L. , c. (C. ) (pending before the Legislature  
17 as this bill).

18

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