SENATE, No. 1657



STATE OF NEW JERSEY

217th LEGISLATURE



INTRODUCED FEBRUARY 16, 2016

Sponsored by:

Senator JEFF VAN DREW

District 1 (Atlantic, Cape May and Cumberland)

SYNOPSIS

Requires municipalities to submit economic growth plans to DCA for approval of continued participation in urban enterprise zone program; allow zone funds to pay for storm related recovery costs for five years.

CURRENT VERSION OF TEXT

As introduced.



An Act concerning urban enterprise zones, amending and supplementing P.L.1983, c.303 and repealing section 11 of P.L.1993, c.367 and section 9 of P.L.1983, c.303.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

1. Section 2 of P.L.1983, c.303 (C.52:27H-61) is amended to read as follows:

2. The Legislature finds and determines:

a. That there persist in this State, particularly in its urban centers, areas of economic distress characterized by high unemployment, low investment of new capital, blighted conditions, obsolete or abandoned industrial or commercial structures, and deteriorating tax bases.

b. That the severe and persistent deterioration of these areas demands vigorous and coordinated efforts by private and public entities to restore their prosperity and enable them to resume significant contributions to the economic and social life of the State.

c. That the economic revitalization of these areas requires application of the skills and entrepreneurial vigor of private enterprise; and it is the responsibility of government to provide a framework within which encouragement be given to private capital investment in these areas, disincentives to investment be removed or abated, and mechanisms be provided for the coordination and cooperation of private and public agencies in restoring the economic viability and prosperity of these areas.

d. That certain urban areas which continue to experience high levels of unemployment should be able to continue to receive the aforementioned assistance and incentives necessary to promote economic revitalization of those areas.

e. That a business district with urban enterprise zones adjacent to it on two or more sides can be negatively impacted because the businesses in the adjacent enterprise zones are permitted to collect 50% less sales tax and thus have a significant advantage in competition for customers. The impacted business district can become economically distressed because there is a disincentive to businesses to invest in or stay in that business district.

f. That while evidence of economic distress continues to be present in many communities, and particularly New Jersey’s urban centers, the State has new cause to promote a public policy that stimulates economic growth in those areas. Since the “New Jersey Urban Enterprise Zones Act,” P.L.1983, c.303 (C.52:27H-60 et seq.) was first enacted in 1983, this State has witnessed the near-complete development of its open space, and the perpetual congestion of its roads and highways. After a sixty-year pattern of relocation from our cities to our suburbs, the State has reached a point where a growing cross-section of New Jersey residents are seeking the benefits of an urban lifestyle. The urban enterprise zone program has been a positive force for economic growth, and offers the best opportunity to apply funding where necessary to ensure that New Jersey preserves and enhances its urban and smart growth infrastructure, to provide a safe, attractive, and economically effective place to live, work, shop, play, and be entertained.

g. The Executive Branch of State Government retained a consulting firm to perform an analysis of the urban enterprise zone program in the latter part of 2010. That analysis, completed in March 2011, recommended ways to enhance the urban enterprise zone program, and the Legislature seeks to implement those recommendations.

h. In keeping with the State’s public policies to support the principles of smart growth, to facilitate new economic growth in areas where it should be most sustainable and most likely to support the demands of New Jersey residents, and to reinforce the substantial investment that this State has made in its urban infrastructure, it is in the public interest to further revise the “New Jersey Urban Enterprise Zones Act” so that it may be more effective at achieving these goals.

(cf: P.L.2001, c.347, s.1)

2. Section 3 of P.L.1983, c.303 (C.52:27H-62) is amended to read as follows:

3. As used in this act:

a. "Enterprise zone" or "zone" means an urban enterprise zone designated by the authority pursuant to **[**this act**]** P.L.1983, c.303 (C.52:27H-60 et seq.), or a zone approved for continued participation in the enterprise zone program by the department pursuant to section 3 or section 6 of P.L. , c. (C. ) (pending before the Legislature as this bill);

b. "Authority" means the New Jersey Urban Enterprise Zone Authority created by **[**this act**]** P.L.1983, c.303 (C.52:27H-60 et seq.);

c. "Qualified business" means any entity authorized to do business in the State of New Jersey which, at the time of designation by the authority, or approval by the department, as an enterprise zone or a UEZ-impacted business district, is engaged in the active conduct of a trade or business in that zone or district; or an entity which, after that designation by the authority or approval by the department but during the designation or approval period, becomes newly engaged in the active conduct of a trade or business in that zone or district and has at least 25% of its full-time employees employed at a business location in the zone or district, meeting one or more of the following criteria:

(1) Residents within the zone, the district, within another zone or within a qualifying municipality or enterprise zone municipality; or

(2) Unemployed for at least six months prior to being hired and residing in New Jersey, and recipients of New Jersey public assistance programs for at least six months prior to being hired, or either of the aforesaid; or

(3) Determined to be low income individuals pursuant to the Workforce Investment Act of 1998, Pub.L.105-220 (29 U.S.C. s.2811);

Approval as a qualified business shall be conditional upon meeting all outstanding tax obligations, and may be withdrawn by the authority, or by the department, as appropriate, if a business is continually delinquent in meeting its tax obligations;

d. **[**"Qualifying**]** (1) Prior to July 1, 2016, “qualifying municipality" means any municipality in which there was, in the last full calendar year immediately preceding the year in which application for enterprise zone designation is submitted pursuant to section 14 of P.L.1983, c.303 (C.52:27H-73), an annual average of at least 2,000 unemployed persons, and in which the municipal average annual unemployment rate for that year exceeded the State average annual unemployment rate; except that any municipality which qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.) shall qualify if its municipal average annual unemployment rate for that year exceeded the State average annual unemployment rate. The annual average of unemployed persons and the average annual unemployment rates shall be estimated for the relevant calendar year by the Office of Labor Planning and Analysis of the State Department of Labor and Workforce Development. In addition to those municipalities that qualify pursuant to the criteria set forth above, that municipality accorded priority designation pursuant to subsection e. of section 7 of P.L.1983, c.303 (C.52:27H-66), those municipalities set forth in paragraph (7), paragraph (8) of section 3 of P.L.1995, c.382 (C.52:27H-66.1), and paragraph (9) of section 3 of P.L.1995, c.382 as amended by section 3 of P.L.2004, c.75 (C.52:27H-66.1), and the municipalities in which the three additional enterprise zones, including the joint enterprise zone, are to be designated pursuant to criteria according priority consideration for designation of the zones pursuant to section 12 of P.L.2001, c.347 (C.52:27H-66.7) shall be deemed qualifying municipalities;

(2) On and after July 1, 2016, “qualifying municipality” means any municipality, designated as of June 30, 2016 as a “qualifying municipality” under paragraph (1) of this subsection, which municipality’s application for continued participation in the enterprise zone program shall have been approved pursuant to section 3 or section 6 of P.L. , c. (C. ) (pending before the Legislature as this bill);

e. "Public assistance" means income maintenance funds administered by the Department of Human Services or by a county welfare agency;

f. "Zone development corporation" means a nonprofit corporation or association created or designated by the governing body of a qualifying municipality to formulate and propose a preliminary zone development plan pursuant to section 9 of P.L.1983, c.303 (C.52:27H-68), or designated by the governing body of a qualifying municipality to create and implement a growth plan pursuant to section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill), and to prepare, monitor, administer, and implement the zone development plan, or a growth plan;

g. "Zone development plan" means a plan adopted by the governing body of a qualifying municipality for the development of an enterprise zone therein, and for the direction and coordination of activities of the municipality, zone businesses, and community organizations within the enterprise zone toward the economic betterment of the residents of the zone and the municipality;

h. "Zone neighborhood association" means a corporation or association of persons who either are residents of, or have their principal place of employment in, a municipality in which an enterprise zone has been designated pursuant to **[**this act**]** P.L.1983, c.303 (C.52:27H-60 et al.); which is organized under the provisions of Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes; and which has for its principal purpose the encouragement and support of community activities within, or on behalf of, the zone so as to (1) stimulate economic activity, (2) increase or preserve residential amenities, or (3) otherwise encourage community cooperation in achieving the goals of the zone development plan;

i. "Enterprise zone assistance fund" or "assistance fund" means the fund created by section 29 of P.L.1983, c.303 (C.52:27H-88); **[**and**]**

j. "UEZ-impacted business district" or "district" means an economically-distressed business district classified by the authority as having been negatively impacted by two or more adjacent urban enterprise zones in which 50% less sales tax is collected pursuant to section 21 of P.L.1983, c.303 (C.52:27H-80)**[**.**]** ;

k. “Economic development corporation” means a nonprofit corporation or association established or designated by the governing body of a qualifying municipality to create and implement a five-year economic growth plan for the municipality;

l. “Department” means the Department of Community Affairs; and

m. “Five-year economic growth plan” or “growth plan” means a plan created by a zone development corporation, or an economic development corporation, to establish objectively measurable and verifiable economic goals for the municipality, in order to allow the department to assess the impact of an enterprise zone on the municipality.

(cf: P.L.2006, c.34, s.3)

3. (New section) a. Notwithstanding any law, rule, regulation, or order to the contrary, after the effective date of P.L. , c.   (C.    ) (pending before the Legislature as this bill), the Department of Community Affairs shall be responsible for reviewing growth plans submitted by municipalities in which enterprise zones are located in order to determine whether to approve the zones for continued participation in the enterprise zone program.

b. In order to evaluate enterprise zones pursuant to subsection a. of this section, the department shall require each municipality in which a zone is located to develop a five-year economic growth plan either through its zone development corporation or, at the option of the municipality, through an economic development corporation established or designated by the municipal governing body. After the growth plan has been approved by resolution of the governing body of the municipality which established the corporation, the municipality shall submit the growth plan to the department for review and approval. The participation in the program of any municipality that fails to have its growth plan approved by the department on or before June 30, 2016, will terminate on and after July 1, 2016, except that the disbursement of moneys in the enterprise zone account established for that municipality within the enterprise zone assistance fund to pay the cost of a project or increase in municipal services, which project or service increase shall have been approved by the authority on or before June 30, 2016, may continue to be made until the project is completed or the terms of the service increase have been satisfied, or until the balance in the account has been exhausted.

c. It shall be the duty of the department to: (1) promulgate criteria for the approval of enterprise zones for continued participation in the enterprise zone program pursuant to the provisions of P.L.1983, c.303 (C.52:27H-60 et seq.); (2) receive and evaluate applications of municipalities for continued participation of zones; (3) enter into discussions with municipalities regarding their growth plans; (4) determine the State-furnished components to be included in those plans; (5) approve continued participation of zones in accordance with the provisions of P.L.1983, c.303 (C.52:27H-60 et seq.); (6) promulgate rules and regulations necessary to carry out its duties under P.L.1983, c.303 (C.52:27H-60 et seq.); (7) exercise continuing review and supervision of the implementation of growth plans; (8) receive and evaluate proposals of qualifying municipalities in which enterprise zones are approved for funding of projects and increased eligible municipal services from the enterprise zone assistance fund; (9) certify annually to the State Treasurer amounts to be paid from the enterprise zone assistance fund to support approved projects and increased eligible municipal services in approved enterprise zones; (10) assist and represent qualifying municipalities with approved growth plans in any negotiations with, or proceedings before, other agencies of State Government or of the federal government; (11) secure necessary or appropriate assistance, support, and cooperation of those agencies in the implementation of growth plans in accordance with the provisions of P.L.1983, c.303 (C.52:27H-60 et seq.) and any other applicable State or federal law; (12) assist, in response to requests by agencies of municipal government, with the gathering, compiling, and organizing of data to support an application for continued participation in an enterprise zone program; (13) exercise continuing review of the implementation of P.L.1983, c.303 (C.52:27H-60 et seq.); and (14) report annually to the Governor and, in accordance with the provisions of section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature on the effectiveness of enterprise zones, which have been approved by the department for continued participation in the enterprise zone program, in addressing the conditions cited in P.L.1983, c.303 (C.52:27H-60 et seq.), including any recommendations for legislation to improve the effectiveness of operation of those zones.

d. The first of the annual reports required pursuant to subsection c. of this section, shall be submitted within two years from the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill), and subsequent reports shall be submitted annually thereafter.

4. (New section) a. The growth plans required by section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill), shall establish objectively measurable and verifiable economic goals for the municipality that include, but need not be limited to, reduction of vacant commercial space, increasing the numbers of customers visiting businesses, increasing the amount spent by customers per visit, increasing the numbers of full-time and part-time jobs created within the enterprise zone, and increasing private investment, in comparison to the baseline conditions that existed in the municipality prior to the implementation of the growth plan.

b. The municipalities submitting growth plans to the department shall utilize the expertise of persons knowledgeable in subjects such as land use planning, economics and marketing, environmental planning, business development, infrastructure design and construction, and real estate development and finance, in order to ensure that the growth plans establish goals for the municipality that are objectively measurable and verifiable by the department, and that the plans promote sustainable growth within the municipality.

c. The growth plans required by this section shall be designed to: (1) support small and medium-sized businesses; (2) encourage the formation of new businesses; (3) address the retention of existing businesses; (4) attract private investment; (5) stimulate investment in physical infrastructure, development of the educational workforce, strengthening of institutional support systems, and the resolution of relevant regulatory issues; (6) support growth of particular clusters of businesses; (7) target particular areas of the municipality for regeneration or growth; (8) support informal and newly emerging businesses; (9) target economically disadvantaged groups; (10) directly create full-time and part-time jobs with qualifying businesses; (11) indirectly create full-time and part-time jobs in enterprises that sell products or services to qualifying businesses; (12) directly create full-time and part-time jobs through projects that are funded by the enterprise zone assistance fund; and (13) indirectly create full-time and part-time jobs associated with projects that are funded by the enterprise zone assistance fund.

5. (New section) a. After approving an enterprise zone for continued participation in the enterprise zone program pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill), the department shall require project applications from the municipality in which the zone is located to be submitted to, and approved by, the department through an online application process to be developed by the department based upon an economic development project measurement and evaluation system such as the “Performance Measurement System” used by the federal Department of Housing and Urban Development, the tracking software used by the “Main Street New Jersey” program established pursuant to P.L.2001, c.238 (C.52:27D-452 et seq.), or a similarly designed project evaluation system.

b. The online project application system required by subsection a. of this section shall be designed to expedite the project approval process as fully as possible by allowing zone coordinators and municipal officials to uniformly anticipate and measure project goals through an online process that measures progress and enforces accountability. If the department fails to take any action on an administratively complete project application within 30 days following the date of receipt by the department of the project application, the application shall be deemed to be approved.

c. A project application shall contain, in addition to other information required by the department, a description of how the project fits within the definitions of eligible project categories, and how the project meets one or more of the stated goals of the municipality’s growth plan. Projects shall be prioritized for approval by the department on the basis of their ability to improve the local economy by stimulating growth of participating businesses through activities such as marketing programs or infrastructure development, and to improve the quality of life by increasing employment, diversifying consumer choices, improving merchandise quality, or increasing healthy food options, leveraging expenditure of federal, local, or private investment, creating or retaining private sector jobs, facilitating greater accessibility of commercial activity within walking distance of bus or rail stations, and supporting increased mixed-use projects.

d. The department shall approve projects which are not only consistent with the goals of the growth plan, but which facilitate the evaluation process by the department through the use of specific target numbers for establishment of new retail, restaurant or office businesses, creation of new permanent jobs, retention of existing businesses and jobs, attraction of private investment, and expansion of the volume of sales or numbers of customers.

e. Disbursement requests for approved projects shall be submitted, and disbursements pursuant to the approval of any such request shall be effected, through an online process similar to that used by the Integrated Disbursement and Information System (IDIS) utilized by the federal Department of Housing and Urban Development. The online process shall be designed to ensure that disbursements are made as timely and efficiently as possible for both the State and the municipality. Disbursements shall be accompanied by an itemized statement of the particular project budget line items against which they are being made.

6. (New section) a. No later than three years following the commencement of each five-year period covered by a growth plan, the zone development corporation or economic development corporation, as the case may be, shall evaluate the progress that has been made toward meeting the goals of each growth plan, in comparison to baseline data that existed prior to the approval by the department of the growth plan.

b. If the zone development corporation, or economic development corporation, as the case may be, demonstrates to the satisfaction of the department that substantial progress toward reaching goals of the growth plan has been achieved, through objective measurement and verification of economic data existing prior to, and after the implementation of the growth plan, the department shall grant a second five-year period of continued participation in the enterprise zone program provided that the corporation submits to the department a new five-year economic growth plan for the second five-year period, and receives approval of the growth plan prior to the start of the new five-year period.

c. A zone development corporation shall thereafter be required to submit additional growth plans to the department, and receive approval for such growth plans, for each additional five-year period of participation for which the corporation wants a zone to be considered.

7. (New section) a. The provisions of P.L.1983, c.303 (C.52:27H-60 et al.) shall be applicable in all enterprise zones approved by the department for continued participation in the enterprise zone program after the effective date of P.L. , c.   (C.       ) (pending before the Legislature as this bill), for the duration of the period for which such continued participation was approved.

b. The revenue derived from the sales tax collected from participating businesses in enterprise zones shall be divided as follows: the General Fund of the State of New Jersey shall receive 50 percent; 5 percent shall be allocated to funding the State’s cost of administering the enterprise zone program; and the remaining 45 percent shall be deposited into separate accounts maintained within the enterprise zone assistance fund for the several enterprise zones, the amount deposited in each such account to be equal to 45 percent of the sales tax revenues generated in the enterprise zone for which that account shall have been established.

c. All businesses within an enterprise zone that seek to participate in the enterprise zone program shall apply for approval by the department through a website established by the Department of Community Affairs for processing online applications from businesses seeking to participate in the program. In order to be eligible, businesses are required to show that they are located within an area in the municipality which is zoned for commercial use, and that they meet any other criteria established by the department for the approval of such businesses.

8. Section 8 of P.L.1983, c.303 (C.52:27H-67) is amended to read as follows:

8. a. The governing body of any qualifying municipality may, by ordinance, create or designate a nonprofit corporation established pursuant to the provisions of Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes to act as the zone development corporation, or may create or designate an economic development corporation, for the municipality. Any zone development corporation, or economic development corporation, as the case may be, so created or so designated shall include on its board of directors representatives of the government of the qualifying municipality, members of the business community thereof, and representatives of community organizations in the municipality, and the total membership of the board of directors shall be broadly representative of businesses and communities within the municipality.

b. Notwithstanding the provisions of any other law to the contrary, a zone development corporation, or economic development corporation, as the case may be, shall be considered to be a local development corporation for the purpose of receiving any State financial or technical assistance as may be available, and the creation of a zone development corporation, or economic development corporation, as the case may be, shall not preclude a qualifying municipality from creating another local development corporation for the municipality with responsibilities not related to the enterprise zone, nor preclude that other corporation from receiving State financial or technical assistance.

c. The zone development corporation shall develop and maintain either an Internet website or a webpage on the municipality's Internet website. The purpose of the website or webpage shall be to provide increased public access to the zone development corporation's operations and activities. The following information, if applicable, shall be posted on the zone development corporation's website or webpage:

(1) a description of the zone development corporation's mission and responsibilities;

(2) the budget once adopted for the current and immediately prior fiscal years. Commencing with the fiscal year next following the effective date of P.L.2011, c.167 (C.4:24-20.1 et al.), the budgets of at least three consecutive fiscal years shall be available on the website or webpage;

(3) The most recent Comprehensive Annual Financial Report or other similar financial information;

(4) the annual audit for the most recent and immediately prior fiscal years. Commencing with the fiscal year next following the effective date of P.L.2011, c.167 (C.4:24-20.1 et al.), the annual audits of at least three consecutive fiscal years shall be available on the website or webpage;

(5) the zone development corporation's bylaws, rules, regulations, and official policy statements deemed relevant by the corporation's board to the interests of the residents within the zone;

(6) notice, posted pursuant to the "Senator Byron M. Baer Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.), of a meeting of the zone development corporation, setting forth the time, date, location, and agenda of the meeting;

(7) the minutes of each meeting of the zone development corporation including all resolutions of the board and its committees for the current fiscal year. Commencing with the fiscal year next following the effective date of P.L.2011, c.167 (C.4:24-20.1 et al.), the approved minutes of meetings for at least three consecutive fiscal years shall be available on the website;

(8) the name, mailing address, electronic mail address, if available, and phone number of every person who exercises day-to-day supervision or management over some or all of the operations of the zone development corporation; and

(9) a list of attorneys, advisors, consultants, and any other person, firm, business, partnership, corporation, or other organization which received any remuneration of $17,500 or more during the preceding fiscal year for any service whatsoever rendered to the zone development corporation.

(cf: P.L.2011, c.167, s.8)

9. Section 10 of P.L.1983, c.303 (C.52:27H-69) is amended to read as follows:

10. **[**An**]** Except as otherwise provided by sections 3 through 7 of P.L. , c. (C. ) (pending before the Legislature as this bill), an area defined by a continuous border within one qualifying municipality or within two or more contiguous qualifying municipalities and two noncontiguous areas each having a continuous border within two noncontiguous qualifying municipalities shall be eligible for designation as a zone if:

a. It has been designated an "area in need of rehabilitation" pursuant to Article VIII, Section I, paragraph 6 of the Constitution of the State of New Jersey and **[**P.L.1977, c.12 (C.54:4-3.95 et seq.)**]** section 14 of P.L.1992, c.79 (C.40A:12A-14); or is qualified for that designation in the judgment of the authority; and

b. It meets the criteria established by the authority pursuant to this act relating to the incidence of poverty, unemployment and general economic distress.

(cf: P.L.1993, c.367, s.5)

10. Section 21 of P.L.1983, c.303 (C.52:27H-80) is amended to read as follows:

21. **[**Receipts**]** Except as otherwise provided by sections 3 through 7 of P.L. , c. (C. ) (pending before the Legislature as this bill), receipts of retail sales, except retail sales of motor vehicles, of alcoholic beverages as defined in the "Alcoholic Beverage Tax Law," R.S.54:41-1 et seq., of cigarettes as defined in the "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1 et seq.), of manufacturing machinery, equipment or apparatus, and of energy, made by a certified seller from a place of business owned or leased and regularly operated by the seller for the purpose of making retail sales, and located in a designated enterprise zone established pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et al.), or a UEZ-impacted business district established pursuant to section 3 of P.L.2001, c.347 (C.52:27H-66.2), are exempt to the extent of 50% of the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

Any seller, which is a qualified business having a place of business located in a designated enterprise zone or in a designated UEZ-impacted business district, may apply to the Director of the Division of Taxation in the Department of the Treasury for certification pursuant to this section. The director shall certify a seller if the director shall find that the seller owns or leases and regularly operates a place of business located in the designated enterprise zone or in the designated UEZ-impacted business district for the purpose of making retail sales, that items are regularly exhibited and offered for retail sale at that location, and that the place of business is not utilized primarily for the purpose of catalogue or mail order sales. The certification under this section shall remain in effect during the time the business retains its status as a qualified business meeting the eligibility criteria of section 27 of P.L.1983, c.303 (C.52:27H-86). However, the director may at any time revoke a certification granted pursuant to this section if the director shall determine that the seller no longer complies with the provisions of this section.

**[**Notwithstanding the provisions of this act to the contrary, except as may otherwise be provided by section 7 of P.L.1983, c.303 (C.52:27H-66), the authority may, in its discretion, determine if the provisions of this section shall apply to any enterprise zone designated after the effective date of P.L.1985, c.142 (C.52:27H-66 et al.); provided, however, that the authority may make such a determination only where the authority finds that the award of an exemption of 50 percent of the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) will not have any adverse economic impact upon any other urban enterprise zone.

Notwithstanding any other provisions of law to the contrary, except as provided in subsection b. of section 6 of P.L.1996, c.124 (C.13:1E-116.6), after first depositing 10 percent of the gross amount of all revenues received from the taxation of retail sales made by certified sellers from business locations in designated enterprise zones to which this exemption shall apply into the account created in the name of the authority in the enterprise zone assistance fund pursuant to section 29 of P.L.1983, c.303 (C.52:27H-88), the remaining 90 percent shall be deposited immediately upon collection by the Department of the Treasury, as follows:

a. In the first five-year period during which the State shall have collected reduced rate revenues within an enterprise zone, all such revenues shall be deposited in the enterprise zone assistance fund created pursuant to section 29 of P.L.1983, c.303 (C.52:27H-88);

b. In the second five-year period during which the State shall have collected reduced rate revenues within an enterprise zone, 66 2/3% of all those revenues shall be deposited in the enterprise zone assistance fund, and 33 1/3% shall be deposited in the General Fund;

c. In the third five-year period during which the State shall have collected reduced rate revenues within an enterprise zone, 33 1/3% of all those revenues shall be deposited in the enterprise zone assistance fund, and 66 2/3% shall be deposited in the General Fund;

d. In the final five-year period during which the State shall have collected reduced rate revenues within an enterprise zone, but not to exceed the life of the enterprise zone, all those revenues shall be deposited in the General Fund.

Commencing on the effective date of P.L.1993, c.144, all revenues in any enterprise zone to which the provisions of this section have been extended prior to the enactment of P.L.1993, c.144 shall be deposited into the enterprise zone assistance fund until there shall have been deposited all revenues into that fund for a total of five full years, as set forth in subsection a. of this section. The State Treasurer then shall proceed to deposit funds into the enterprise zone assistance fund according to the schedule set forth in subsections b. through d. of this section, beginning at the point where the enterprise zone was located on that schedule on the effective date of P.L.1993, c.144. No enterprise zone shall receive the deposit benefit granted by any one subsection of this section for more than five cumulative years.

The revenues required to be deposited in the enterprise zone assistance fund under this section shall be used for the purposes of that fund and for the uses prescribed in section 29 of P.L.1983, c.303 (C.52:27H-88), subject to annual appropriations being made for those purposes and uses.**]**

(cf: P.L.2011, c.49, s.15)

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

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

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

The State Treasurer shall promulgate the rules and regulations necessary to govern the administration of the fund for the purposes of this section, which shall include, but not be limited to, regulations requiring the establishment of separate bank accounts for funds credited to the enterprise zone account of each municipality from the enterprise zone assistance fund, commonly known as "first generation funds," and funds generated from the repayments of loans to individuals and businesses from the enterprise zone account of each municipality and the proceeds from the sale of properties and equipment acquired through the enterprise zone program, commonly known as "second generation funds," and the review, compilation, and monitoring of second generation fund quarterly reports submitted by each enterprise zone.

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

b. The enterprise zone assistance fund shall be used for the purpose of assisting qualifying municipalities in which enterprise zones are designated in undertaking public improvements, economic development projects and in upgrading eligible municipal services in designated enterprise zones. Local costs to administer the program in each enterprise zone may also be funded in an amount not to exceed 20% of funds annually disbursed from the enterprise zone account for that zone.

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

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

(1) A description of the proposed project or of the municipal services to be increased;

(2) An estimate of the total project costs, or of the total costs of increasing the municipal services, and an estimate of the amounts of funding necessary annually from the enterprise zone account;

(3) A statement of any other revenue sources to be used to finance the project or to fund the increase in eligible municipal services;

(4) A statement of the time necessary to complete the project, or of the time during which the increased municipal services are to be maintained;

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

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

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

For the first five years following the effective date of P.L. , c.   (C.  ) (pending before the Legislature as this bill), “project” shall also mean storm damage related recovery costs, including but not limited to, infrastructure improvements to public property located within the zone as well as loan or grant assistance provided to qualified businesses in the zone.

As used in this section, "eligible municipal services" means **[**the hiring of additional policemen or firemen assigned duties in the enterprise zone, or the purchasing or leasing of additional police or fire vehicles, equipment or apparatus to be used for the provision of augmented or upgraded public safety services in the enterprise zone and its immediate vicinities**]** programs, or other activities that create or retain jobs within each enterprise zone.

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

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

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

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

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

g. **[**An amount not to exceed one-third of the amount**]** The portion of the revenue derived from the sales tax collected from participating businesses in enterprise zones that, pursuant to subsection b. of section 7 of P.L. , c. (C ) (pending before the Legislature as this bill), is allocated to funding the State’s cost of administering the enterprise zone program shall be deposited in the account created in the name of the authority in the enterprise zone assistance fund and shall be used by the authority for the coordination and administration of the program throughout the State, including but not limited to, costs for personnel, operating expenses, and marketing. **[**The balance of the remaining amount shall be distributed to qualifying municipalities in proportion to each municipality's contribution to the enterprise zone assistance fund for the coordination and administration of the program within the municipality, including but not limited to costs for personnel, operating expenses and marketing.**]**

h. Notwithstanding the provisions of subsections d. through g. of this section, the total amount of money appropriated annually from the enterprise zone assistance fund for eligible municipal services and administrative costs for each enterprise zone shall not exceed 20% of the total amount of that enterprise zone’s account within the enterprise zone assistance fund.

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

12. Section 11 of P.L.1993, c.367 (C.52:27H-65.1) and section 9 of P.L.1983, c.303 (C.52:27H-68) are repealed.

13. This act shall take effect on the 90th day after the date of enactment, but the Commissioner of Community Affairs may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

STATEMENT

This bill requires municipalities in which urban enterprise zones (enterprise zones) are located to establish five-year economic growth plans (growth plans) and to submit the plans for approval by the Department of Community Affairs (department) in order to continue participating in the urban enterprise zone program (program) established pursuant to the New Jersey Urban Enterprise Zone Act.

The bill requires the department to assist municipalities with various aspects of the growth plans and to report to the Governor and to the Legislature within two years of the bill’s effective date on the progress made by enterprise zones approved by the department for continued participation in the program.

The bill requires the department to establish an online application process to expedite the approval by the department of enterprise zone projects submitted by municipalities, and to no later than three years following the commencement of each five-year period covered by a growth plan, commence an evaluation of the progress made by the municipality in meeting the goals of its growth plan.

The bill also provides that all zones approved by the department for continued participation in the program after the bill’s effective date, shall be eligible for an exemption to the extent of 50 percent of the tax imposed under the “Sales and Use Tax Act,” P.L.1966, c.30 (C.54:32B-1 et seq.). Under the bill, the revenue derived from the sales tax collected from participating businesses in enterprise zones will be divided as follows: the State’s General Fund will receive 50 percent of all sales tax revenues collected; 5 percent of those sales tax revenues will be allocated to fund the State’s cost of administering the program; and the remaining sales tax revenues will be deposited into the separate accounts maintained within the enterprise zone assistance fund for the enterprise zones. The amount deposited in each enterprise zone account would be equal to 45 percent of the sales tax revenues generated in the enterprise zone for which the account was established.

The bill amends various definitions in the New Jersey Urban Enterprise Zone Act to provide for approval by the department of enterprise zones for continued participation in the program and adds a definition of “project” to mean recovery costs related to Hurricane Sandy damage including but not limited to, infrastructure projects as well as loans and grants to businesses for a period of five years, and redefines “eligible municipal services” to mean projects, programs, or other activities that create or retain jobs within each enterprise zone, and limit annual expenditures for eligible municipal services and administrative costs of an enterprise zone to no more than 20 percent of the total amount in each enterprise zone’s assistance fund account.