

ASSEMBLY, No. 1320

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

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SYNOPSIS

Extends duration of urban enterprise zones for 10 additional years; specifies permissible use of funds.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

(Sponsorship Updated As Of: 2/16/2018)

A1320 GUSCIORA, MUOIO

2

1 AN ACT concerning urban enterprise zones, amending P.L.2001,
2 c.347 and P.L.1983, c.303, and supplementing Title 52 of the
3 Revised Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 7 of P.L.1983, c.303 (C.52:27H-66) is amended to
9 read as follows:

10 7. The authority shall designate enterprise zones from among
11 those areas of qualifying municipalities determined to be eligible
12 pursuant to P.L.1983, s.303 (C.52:27H-60 et al.). No more than 32
13 enterprise zones shall be in effect at any one time. No more than
14 one enterprise zone shall be designated in any one municipality.
15 **【**Except as otherwise provided by section 11 of P.L.2001, c.347
16 (C.52:27H-66.6), any designation granted shall be for a period of 20
17 years, beginning with the year in which a zone is eligible for an
18 exemption to the extent of 50% of the tax imposed under the "Sales
19 and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), and shall
20 not be renewed at the end of that period.**】** In designating enterprise
21 zones the authority shall seek to avoid excessive geographic
22 concentration of zones in any particular region of the State. At least
23 six of the 10 additional enterprise zones authorized pursuant to
24 section 3 of P.L.1993, c.367 shall be located in counties in which
25 enterprise zones have not previously been designated and shall be
26 designated within 90 days of the date of the submittal of an
27 application and zone development plan. The authority shall accept
28 applications within 90 days of the effective date of P.L.1993, c.367.
29 Notwithstanding the provisions of P.L.1983, c.303 (C.52:27H-60 et
30 **【**seq.**】** al.) to the contrary, the six additional enterprise zones to be
31 designated by the authority pursuant to the criteria for priority
32 consideration in this section shall be entitled to an exemption to the
33 extent of **【**50%**】** 50 percent of the tax imposed under the "Sales and
34 Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.). The following
35 criteria shall be utilized in according priority consideration for
36 designation of these zones by the authority:

37 a. One zone shall be located in a county of the second class
38 with a population greater than 595,000 and less than 675,000
39 according to the latest federal decennial census and shall be located
40 in the qualifying municipality in that county with the highest annual
41 average number of unemployed persons and the highest average
42 annual unemployment rate for the 1992 calendar year according to
43 the estimate by the State Department of Labor and Workforce
44 Development;

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. Two zones shall be located in a county of the second class
2 with a population greater than 445,000 and less than 455,000
3 according to the latest federal decennial census, one of which shall
4 be located in the qualifying municipality in that county with the
5 highest annual average number of unemployed persons and the
6 highest average annual unemployment rate for the 1992 calendar
7 year according to the estimate by the State Department of Labor and
8 Workforce Development, and one of which shall be located in the
9 qualifying municipality in that county with the second highest
10 annual average number of unemployed persons and the second
11 highest average annual unemployment rate for the 1992 calendar
12 year according to the estimate by the State Department of Labor and
13 Workforce Development;

14 c. One zone shall be located in a county of the third class with
15 a population greater than 84,000 and less than 92,000 according to
16 the latest federal decennial census and shall be located in the
17 qualifying municipality in that county with the highest annual
18 average number of unemployed persons and the highest average
19 annual unemployment rate for the 1992 calendar year according to
20 the estimate by the State Department of Labor and Workforce
21 Development;

22 d. One zone shall be located within two noncontiguous
23 qualifying municipalities but comprised of not more than two
24 noncontiguous areas each having a continuous border, if:

25 (1) both municipalities are located in the same county which
26 shall be a county of the fifth class with a population greater than
27 500,000 and less than 555,000 according to the latest federal
28 decennial census;

29 (2) the two municipalities submit a joint application and zone
30 development plan; and

31 (3) each of the municipalities has a population greater than
32 16,000 and less than 30,000 and a population density of more than
33 5,000 persons per square mile, according to the latest federal
34 decennial census; and

35 e. One zone shall be located within a municipality having a
36 population greater than 38,000 and less than 46,000 according to
37 the latest federal decennial census if the municipality is located
38 within a county of the fifth class with a population greater than
39 340,000 and less than 440,000 according to the latest federal
40 decennial census.

41 (cf: P.L.2004, c.75, s.2)

42

43 2. Section 11 of P.L.2001, c.347 (C.52:27H-66.6) is amended
44 to read as follows:

45 11. a. Notwithstanding the provisions of any law, rule,
46 regulation, or order to the contrary, the designation of an enterprise
47 zone by the authority pursuant to P.L.1983, c.303 [(C.52:27H-60 et
48 seq.)] (C.52:27H-60 et al.), which is located in a municipality in

1 which the annual average of unemployed persons is equal to or
2 greater than 2,000, or the municipal average annual unemployment
3 rate exceeds the State average annual unemployment rate, or an
4 enterprise zone which is located in a municipality contiguous to a
5 municipality in which an enterprise zone is designated pursuant to
6 P.L.1983, c.303 [(C.52:27H-60 et seq.)] (C.52:27H-60 et al.) and
7 in which the annual average of unemployed persons is equal to or
8 greater than 2,000 or the municipal average annual unemployment
9 rate exceeds the State average annual unemployment rate, shall,
10 following the expiration of the third five-year period during which
11 the State shall have collected reduced rate revenues within the zone
12 as provided in subsection c. of section 21 of P.L.1983, c.303
13 (C.52:27H-80), be extended by the authority[, on a one-time basis,]
14 for a period of 16 years, within 90 days after the effective date of
15 P.L.2001, c.347 (C.52:27H-66.2 et al.), or within 90 days after the
16 expiration of that third five-year period, whichever is later.

17 b. During the 90-day period provided for in subsection a. of
18 this section, the authority shall notify all qualified businesses in the
19 enterprise zone that the benefits authorized by sections 16 through
20 20 of P.L.1983, c.303 (C.52:27H-75 through C.52:27H-79) shall be
21 extended to qualified businesses in the enterprise zone commencing
22 with the designation of the extended enterprise zone and continuing
23 as long as a zone retains its designation as an extended enterprise
24 zone.

25 c. Notwithstanding [any other] the provisions of any law, rule,
26 or regulation to the contrary, 90 days after the expiration of the
27 period provided for in subsection c. of section 21 of P.L.1983, c.303
28 (C.52:27H-80), except as provided in subsection b. of section 6 of
29 P.L.1996, c.124 (C.13:1E-116.6) and, and after first depositing 10
30 percent of the gross amount of all revenues received from the
31 taxation of retail sales made by certified vendors from business
32 locations in an extended enterprise zone designated pursuant to
33 subsection a. of this section, to which this exemption shall apply,
34 into the account created in the name of the authority in the
35 enterprise zone assistance fund established pursuant to section 29 of
36 P.L.1983, c.303 (C.52:27H-88), the remaining 90 percent shall be
37 deposited immediately upon collection by the Department of the
38 Treasury, as follows:

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

44 (2) In the second five-year period during which the State shall
45 have collected reduced rate revenues within the extended enterprise
46 zone, 66 [2/3%] and 2/3 percent of [all] those revenues shall be

1 deposited in the enterprise zone assistance fund, and 33 **【1/3%】** and
2 1/3 percent shall be deposited in the General Fund;

3 (3) In the third five-year period during which the State shall
4 have collected reduced rate revenues within the extended enterprise
5 zone, 33 **【1/3%】** and 1/3 percent of **【all】** those revenues shall be
6 deposited in the enterprise zone assistance fund, and 66 **【2/3%】** and
7 2/3 percent shall be deposited in the General Fund;

8 (4) In the **【final】** sixteenth year during which the State shall
9 have collected reduced rate revenues within the extended enterprise
10 zone, but not to exceed the life of the enterprise zone, **【all】** those
11 revenues shall be deposited in the General Fund.

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

18 d. The designation as an extended enterprise zone pursuant to
19 this section shall terminate if the authority determines that the
20 municipality in which the zone is located fails to meet the criteria of
21 subsection a. of this section for three consecutive years. Any
22 enterprise zone which loses its designation as an extended
23 enterprise zone pursuant to this subsection shall be eligible to re-
24 apply to the authority for designation as an extended enterprise zone
25 pursuant to the provisions of P.L.1983, c.303 **【(C.52:27H-60 et**
26 **seq.)】** (C.52:27H-60 et al.). If the authority approves its
27 application, an urban enterprise zone designation may be extended
28 to the applicant in accordance with the schedules set forth in
29 P.L.1983, c.303 **【(C.52:27H-60 et seq.)】** (C.52:27H-60 et al.),
30 beginning at the point where the enterprise zone was located on
31 **【such】** those schedules on the effective date of P.L.2001, c.347
32 (C.52:27H-66.2 et al.).
33 (cf: P.L.2001, c.347, s.11)
34

35 3. (New section) a. Notwithstanding the provisions of any
36 law, rule, or regulation to the contrary, the duration of each
37 enterprise zone that was designated prior to the effective date of
38 P.L. , c. (pending before the Legislature as this bill), is
39 hereby extended, for a period of 10 additional years beyond the date
40 the zone was scheduled to expire prior to the effective date of
41 P.L. , c. (pending before the Legislature as this bill). This
42 extension shall be in addition to the extension provided for in
43 section 11 of P.L.2001, c.347 (C.52:27H-66.6).

44 b. The authority shall notify all qualified businesses in the
45 enterprise zones extended pursuant to subsection a. of this section
46 that the benefits authorized by sections 16 through 20 of P.L.1983,
47 c.303 (C.52:27H-75 through C.52:27H-79) have been extended to

1 qualified businesses in the enterprise zones for a period of 10
2 additional years.

3 c. Notwithstanding the provisions of any law, rule, or
4 regulation to the contrary, within 90 days after the date each
5 enterprise zone was scheduled to expire prior to the effective date
6 of P.L. , c. (pending before the Legislature as this bill), and
7 after first depositing 10 percent of the gross amount of all revenues
8 received from the taxation of retail sales made by qualified
9 businesses from business locations in each enterprise zone, to which
10 this exemption shall apply, into the account created in the name of
11 the authority in the enterprise zone assistance fund established
12 pursuant to section 29 of P.L.1983, c.303 (C.52:27H-88), the
13 remaining 90 percent shall be deposited immediately upon
14 collection by the Department of the Treasury, as follows:

15 (1) In the first three-year period during which the State shall
16 have collected reduced rate revenues within the enterprise zones
17 extended pursuant to subsection a. of this section, those revenues
18 shall be deposited in the enterprise zone assistance fund;

19 (2) In the second three-year period during which the State shall
20 have collected reduced rate revenues within the enterprise zones
21 extended pursuant to subsection a. of this section, 66 and 2/3
22 percent of those revenues shall be deposited in the enterprise zone
23 assistance fund, and 33 and 1/3 percent shall be deposited in the
24 General Fund;

25 (3) In the third three-year period during which the State shall
26 have collected reduced rate revenues within the enterprise zones
27 extended pursuant to subsection a. of this section, 33 and 1/3
28 percent of those revenues shall be deposited in the enterprise zone
29 assistance fund, and 66 and 2/3 percent shall be deposited in the
30 General Fund; and

31 (4) In the final year during which the State shall have collected
32 reduced rate revenues within the enterprise zones extended pursuant
33 to subsection a. of this section, but not to exceed the life of the
34 enterprise zones, those revenues shall be deposited in the General
35 Fund.

36 d. The revenues required to be deposited in the enterprise zone
37 assistance fund pursuant to subsection c. of this section shall be
38 used for the purposes of the assistance fund and for the uses
39 prescribed in section 29 of P.L.1983, c.303 (C.52:27H-88), subject
40 to annual appropriations being made for those purposes and uses.

41

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

44 29. a. There is created an enterprise zone assistance fund to be
45 held by the State Treasurer, which shall be the repository for all
46 moneys required to be deposited therein under section 21 of
47 P.L.1983, c.303 (C.52:27H-80) or moneys appropriated annually to
48 the fund. All moneys deposited in the fund shall be held and

1 disbursed in the amounts necessary to fulfill the purposes of this
2 section and subject to the requirements hereinafter prescribed. The
3 State Treasurer may invest and reinvest any moneys in the fund, or
4 any portion thereof, in legal obligations of the United States or of
5 the State or of any political subdivision thereof. Any income from,
6 interest on, or increment to moneys so invested or reinvested shall
7 be included in the fund.

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

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

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

38 b. The enterprise zone assistance fund shall be used for the
39 purpose of assisting qualifying municipalities in which enterprise
40 zones are designated in undertaking **【public improvements,】**
41 economic development projects **【and in upgrading eligible**
42 **municipal services】** in designated enterprise zones.

43 c. The governing body of a qualifying municipality in which an
44 enterprise zone is designated and the zone development corporation
45 created or designated by the municipality for that enterprise zone
46 may, by resolution jointly adopted after public hearing, propose to
47 undertake **【a】** an economic development project **【for the public**
48 **improvement of the enterprise zone or to increase eligible municipal**

1 services] in the enterprise zone, and to fund that project [or
2 increase in eligible municipal services] from moneys deposited in
3 the enterprise zone assistance fund and credited to the account
4 maintained by the State Treasurer for the enterprise zone.

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

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

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

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

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

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

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

28 As used in this section, "project" means an activity funded by the
29 zone assistance fund through the qualified municipality and
30 implemented by the zone development corporation [, including the
31 purchasing, leasing, condemning, or otherwise acquiring of land or
32 other property, or an interest therein, in the enterprise zone or as
33 necessary for a right-of-way or other easement to or from the
34 enterprise zone; the relocating and moving of persons or businesses
35 displaced by the acquisition of land or property; the rehabilitation
36 and redevelopment of land or property, including demolition,
37 clearance, removal, relocation, renovation, alteration, construction,
38 reconstruction, installation or repair of land or a building, street,
39 highway, alley, utility, service or other structure or improvement]
40 which will lead to the creation of new jobs and increased economic
41 activity within the zone [; the purchase and installation of closed
42 circuit television surveillance systems or other related equipment
43 and those expenses associated with homeland security and domestic
44 preparedness; the acquisition, construction, reconstruction,
45 rehabilitation, or installation of public facilities and improvements,
46 except buildings and facilities for the general conduct of

1 government and schools;] such as: the establishment of revolving
2 loan [or grant] programs for qualified businesses in the zone to
3 encourage private investment and job creation, [matching grant
4 programs for the establishment or operation of pedestrian malls,
5 special improvement districts and tax increment districts, or other
6 appropriate entity;] and marketing, advertising and special event
7 activities that will lead to increased economic activity or encourage
8 private investment and job creation in the zone, but not including
9 the expenditures therefor which are required to be reported pursuant
10 to "The New Jersey Campaign Contributions and Expenditures
11 Reporting Act," P.L.1973, c.83 (C.19:44A-1 et al.) and the costs
12 associated therewith including the costs of [an administrative
13 appraisal,] economic [and environmental] analyses [,
14 environmental remediation, engineering, planning, design,
15 architectural, surveying or other professional or managerial
16 services].

17 [As used in this section, "eligible municipal services" means the
18 hiring of additional policemen or firemen assigned duties in the
19 enterprise zone, or the purchasing or leasing of additional police or
20 fire vehicles, equipment or apparatus to be used for the provision of
21 augmented or upgraded public safety services in the enterprise zone
22 and its immediate vicinities.]

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

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

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

1 that the estimated annual payments for the eligible municipal
2 services from the enterprise zone account to which the proposal
3 pertains are not likely to result in a deficit in that account **】**.

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

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

22 g. An amount not to exceed one-third of the amount deposited
23 in the account created in the name of the authority in the enterprise
24 zone assistance fund shall be used by the authority for the
25 coordination and administration of the program throughout the
26 State, including but not limited to costs for personnel, operating
27 expenses and marketing. The balance of the remaining amount
28 shall be distributed to qualifying municipalities in proportion to
29 each municipality's contribution to the enterprise zone assistance
30 fund for the coordination and administration of the program within
31 the municipality, including but not limited to costs for personnel,
32 operating expenses and marketing.

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

34
35 5. This act shall take effect immediately.
36
37

38 STATEMENT
39

40 This bill extends the duration of each previously designated
41 urban enterprise zone (UEZ) for 10 years beyond the date each zone
42 is scheduled to expire, thus continuing the participation of each
43 zone in the Urban Enterprise Zone Program. The bill specifies that
44 the 10-year extension of each UEZ will occur automatically by
45 operation of law. The bill authorizes qualifying retail businesses in
46 the UEZs to continue to charge and collect the State's sales and use
47 tax (SUT) at one-half of the normal rate.

1 The bill provides that, after dedicating 10 percent of the reduced-
2 rate SUT revenues to the New Jersey Urban Enterprise Zone
3 Authority:

4 1) during the first three-year extension period, the remaining
5 revenues collected will be appropriated for use by the UEZs;

6 2) during the second three-year extension period, 66 and 2/3
7 percent of the remaining revenues collected will be appropriated for
8 use by the UEZs and the remaining 33 and 1/3 percent will be
9 deposited in the General Fund;

10 3) during the third three-year extension period, 33 and 1/3
11 percent of the remaining revenues collected will be appropriated for
12 use by the UEZs and the remaining 66 and 2/3 percent will be
13 deposited in the General Fund; and

14 4) in the final year, all remaining revenues will be deposited in
15 the General Fund.

16 The bill amends current law to restrict the use of funds to
17 economic development and job creation purposes.