ASSEMBLY COMMERCE AND ECONOMIC DEVELOPMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2041

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 8, 2018

The Assembly Commerce and Economic Development Committee reports favorably and with committee amendments Assembly Bill No. 2041.

As amended by the committee, this bill establishes the "Economic Redevelopment and Growth Grant Bond Financing (ERG-BF) Act," amends the "Redevelopment Area Bond Financing (RAB) Law," and amends the "Long Term Tax Exemption Law" (LTTL).

The ERG-BF Act, sections 1 through 11 of the bill, modeled after the RAB law (as amended by this bill), establishes a mechanism to finance the "up-front" costs of certain Economic Redevelopment and Growth Grant (ERG) Program development projects. The ERG Program provides economic incentives to the developer of a qualified development project by allowing the developer to receive certain incremental increases in tax revenues attributable to the development project. The revenue stream from this economic incentive does not reach a developer until after the developer completes a project, businesses and residents locating within the new development pay taxes, and the State pays incremental increases in tax revenues to the developer. However, developers often need capital to finance a project at an early stage of development.

The ERG-BF Act addresses this revenue shortfall by establishing a mechanism to bond based upon projected revenues from an incentive grant. The bill allows a developer to assign its right to receive revenues under an incentive grant to the municipality within which the development project is located, and allows the municipality to issue bonds secured by the incentive grant pledge, and by municipal liens and special assessments. Under the bill, a municipality may issue bonds either directly or through certain state and local authorities. To enhance the security of the bonds, the bill authorizes the municipality to directly assign the incentive grant and special assessments to the bondholders as payment or security for the bonds.

The bill amends the RAB law to:

- allow bondholders to enforce liens if payments in lieu of taxes (PILOTs) or special assessments go unpaid;
- prohibit termination of financial agreements while bonds secured by PILOTs remain outstanding;

- provide that liens authorized under the RAB law is superior to all later arising municipal or non-municipal liens, and prior liens where the lienholder consents;
- allow a 20-day period to challenge a bond ordinance or resolution authorizing bonds, after which all are barred from questioning the validity or proper authorization of the bonds;
- extend the permissible duration of agreements when bond proceeds are used to undertake environmental remediation (so they may continue for 35 years after the anticipated duration of conducting the environmental remediation, but no more than 30 years from substantial completion of the redevelopment project); and
- allow environmental remediation and professional fees relating to the projects to be funded from special assessments.

The bill amends the LTTL to extend provisions of the law that require tax exemptions to have run their course within 35 years from the date of execution of the financial agreement. The bill provides that projects undertaken pursuant to a redevelopment agreement which allows a redeveloper to undertake sequential projects may run for 50 years after execution of the first associated financial agreement. This amendment will allow a municipality and a redeveloper to agree to schedule projects in phases and protects against the shortening of the permissible 30-year duration of a tax exemption for a project undertaken at a later phase of redevelopment, as long as the later-phased project is completed within 20 years after execution of the first associated financial agreement. This change does not extend current law's maximum 30-year term of a tax exemption.

This bill was pre-filed for introduction in the 2018-2019 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS:

This amendment clarifies that a municipality and an urban renewal entity may set the duration of a tax exemption period for a project under the LTTL either in accordance with the provisions of current law, or, if the project is undertaken pursuant to a redevelopment agreement that allows two or more projects to be undertaken sequentially, not more than 50 years from the execution of the first financial agreement implementing a project under the redevelopment agreement. This amendment addresses concerns that the new durational provision could have been interpreted as being mandatory for projects undertaken pursuant to a redevelopment agreement that allows two or more projects to be undertaken sequentially. This amendment clarifies the sponsor’s intention that the longer durational limitation is permissible if the municipality and urban renewal entity agree that it is appropriate for a particular transaction.