SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2041

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 18, 2018

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 2041 (1R), with committee amendments.

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

The ERGGBFA (sections 1 through 11 of the 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. Currently the revenue stream from an ERG program incentive is not available to a developer until after the developer completes a project as the incentive is based on incremental increases in tax revenues attributable to the project.

The ERGGBFA addresses this revenue shortfall by establishing a mechanism to bond based upon projected revenues from an incentive grant. The bill, as amended, 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, as amended, 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 impose special assessments on an ERG project and to directly assign the incentive grant and special assessments to the bondholders as payment or security for the bonds. The bill, as amended, provides that a State incentive grant cannot be pledged without notice to and the consent of the New Jersey Economic Development Authority and the State Treasurer.

Sections 12 through 16 of the bill amend the RAB law to:

- prohibit termination of financial agreements while bonds secured by PILOTs remain outstanding, unless other parties have violated terms of the financial agreement;
- provide that liens authorized under the RAB law are superior to all later arising municipal or non-municipal liens, and to 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.

Sections 17 and 18 of the bill amend the LTTL to extend provisions of that law, which require tax exemptions to have run their course within 35 years from the date of execution of the financial agreement. The bill, as amended, provides that projects undertaken pursuant to a redevelopment agreement which allows a redeveloper to undertake a project in phases, or undertake sequential projects, may run for 50 years after execution of the financial agreement in the case of a phased project, or from execution of the first associated financial agreement in the case of two or more projects. The bill, as amended, provides that a financial agreement which specifies a duration of more than 35 years from the execution of the first financial agreement implementing a project under a redevelopment agreement is subject to the prior review and approval of the Local Finance Board. This provision in the amended bill 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.

COMMITTEE AMENDMENTS:

Committee amendments make the following changes to the bill:

- clarifies that the participation in projects under the ERGGBFA, and the RAB law are an essential public, governmental and corporate purpose, thereby allowing the statutes to have the broadest effect;
- applicable to the ERGGBFA, omits from the definition of the term "bonds," the phrase "State entity," thereby limiting the

ability to issue bonds under the ERGGBFA to an authority, as defined in the bill, or a municipality;

- amends the definition of the term "incentive grant" under the ERGGBFA to specify that the amount of reimbursements for a State economic redevelopment and growth grant project is subject to appropriation by the Legislature and to availability of funds;
- amends the definition of the term "incentive grant pledge" under the ERGGBFA to delete language that would have required a pledge agreement to be between a developer and the issuer of the bonds and to specify that the pledge of a State incentive grant is subject to consent of the New Jersey Economic Development Authority ("EDA") and the State Treasurer;
- amends definition of the term "State entity" under the ERGGBFA and the RAB law to refer to the New Jersey Sports and Exposition Authority, successor to the New Jersey Meadowlands Commission, and streamline the reference to projects.
- deletes definitions of "State entity developer" and "State entity development agreement" under the ERGGBFA;
- specifies that the term of any bond issued under the ERGGBFA may not exceed the eligibility period of the redevelopment incentive grant agreement that provides for the incentive grant that is pledged;
- provides that ERGGBFA shall not be construed as preventing the pledge, assignment, transfer, or sale of a developer’s right to an incentive grant or to limit the use of that pledge, assignment, transfer, or sale with respect to the issuance of bonds under ERGGBFA;
- specifies that nothing in ERGGBFA shall prevent a State entity from financing an economic redevelopment and growth grant project in accordance with its enabling legislation;
- clarifies that special assessments that may be authorized under ERGGBFA are with respect to local improvements, not with respect to the incentive grant pledge itself;
- provides that the maximum term of a special assessment under ERGGBFA or RAB law matches the term of the bonds being issued;
- provides that the amount of special assessments under ERGGBFA will be based on costs and expenses paid with respect to property benefitted by the improvements;
- provides that the assignment of the pledge of a State incentive grant is subject to the approval of EDA and the State Treasurer;
- deletes language that would have tax sales relating to nonpayment under the ERGGBFA or the RAB law conducted by the bond trustee rather than the municipality;

- provides that bonds issued under ERGGBFA are non-recourse obligations;
- deletes provisions that would have allowed a municipality to extend the municipality's credit to a developer;
- adds provisions recognizing that EDA and the State Treasurer may terminate a redevelopment incentive grant agreement in accordance with provisions of the agreement, although bonds secured by incentive grant pledges have been issued, if the ERG project has not been completed within the period of time required by the agreement, or the project has materially changed without prior approval of EDA and the State Treasurer;
- adds provisions specifying that the bill does not preclude EDA or the State Treasurer from exercising its rights under the redevelopment incentive grant agreement to compel specific performance or terminating the redevelopment incentive grant agreement prior to the issuance of bonds for any reason in accordance with the terms of the agreement;
- deletes provisions that would have made liens recorded under ERGGBFA superior to all municipal liens;
- makes bond trustee, rather than the municipality, responsible for recording notice that a lien has terminated, upon full payment on bonds issued under ERGGBFA;
- corrects references to the municipal debt enactment process; and
- amends provisions extending the duration of projects under the Long Term Tax Exemption Law to include projects that are undertaken in two or more phases.

FISCAL IMPACT:

This bill has not been certified as requiring a Fiscal Note.