

ASSEMBLY, No. 4510

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED OCTOBER 15, 2018

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

Assemblywoman PAMELA R. LAMPITT

District 6 (Burlington and Camden)

Assemblyman ROY FREIMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

SYNOPSIS

Establishes State bank for handling of marijuana-related funds.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/19/2019)

1 AN ACT creating a State bank and supplementing Title 17 of the
2 Revised Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. The Legislature finds and declares that:

8 a. New Jersey, like many other states, allows for the production
9 and sale of marijuana for medicinal purposes, and may soon allow
10 for the production and sale of marijuana for non-medicinal
11 purposes;

12 b. In spite of widespread legalization on the state level,
13 marijuana remains illegal under federal law, which limits access to
14 financial institutions by marijuana-related businesses;

15 c. Many financial institutions choose not to accept deposits by,
16 or lend funds to, marijuana-related businesses, because accepting
17 money from a marijuana-related business presents an extreme risk
18 due to federal law;

19 d. Without free access to financial institutions, marijuana-
20 related businesses often accumulate large amounts of cash, which
21 can endanger public safety by encouraging criminal activity, such
22 as armed robbery, money laundering, and tax evasion;

23 e. This accumulation of cash is also inefficient, because it
24 needs to be transported and counted, and cannot be used for other
25 purposes; and

26 f. The establishment of a State Bank will help alleviate these
27 problems by providing marijuana-related businesses with a place to
28 deposit cash, as well as by providing those businesses with access
29 to capital.

30
31 2. As used in this act:

32 "Board" means the board of directors of the State Bank of New
33 Jersey.

34 "Commissioner" means the Commissioner of Banking and
35 Insurance.

36 "Department" means the Department of Banking and Insurance.

37 "Marijuana-related business" means a manufacturer, producer, or
38 any person that: (1) participates in any business or organized
39 activity that involves handling marijuana or marijuana products,
40 including cultivating, producing, manufacturing, selling,
41 transporting, displaying, dispensing, distributing, or purchasing
42 marijuana or marijuana products; and (2) engages in that activity
43 pursuant to a law established by the State of New Jersey.

44 "President" means the President of the State Bank of New Jersey.

45 "State Bank of New Jersey," "State bank" or "bank" refers to the
46 State-owned financial institution established pursuant to section 3
47 of this act.

1 "State Treasurer" means the Treasurer of the State of New
2 Jersey.

3

4 3. There is established the State Bank of New Jersey for the
5 purpose of providing financial services to marijuana-related
6 businesses in the State of New Jersey that engage in marijuana-
7 related activities in accordance with State law. Notwithstanding
8 any other law to the contrary, as soon as practicable, the State Bank
9 shall provide financial services to marijuana-related businesses.

10

11 4. a. The State bank may make loans to, and accept deposits
12 from, any marijuana-related business subject to the limitations in
13 this act and any rules adopted by the State Treasurer.

14 b. The bank shall be permitted to charge the same rate of
15 interest and provide for the same terms for a loan or extension of
16 credit as a State-chartered bank, consistent with "The State Bank
17 Parity Act," P.L.1981, c.4 (C.17:13B-1 et seq.), and to exercise any
18 other power or authority permissible to a State-chartered bank.

19

20 5. a. The State bank shall be governed by a board of directors
21 consisting of 13 members as follows:

22 (1) the State Treasurer, or the State Treasurer's designee, as an
23 ex officio member; and

24 (2) twelve public members, who are residents of this State, six
25 of whom are to be appointed by the Governor with the advice and
26 consent of the Senate, including: one person who shall have
27 experience in bank administration; one person who shall have
28 experience in credit union administration; one person who shall
29 have experience in consumer financial advocacy; one person who
30 shall have experience in public administration; and two additional
31 public members. Of the six other persons, two shall be appointed
32 upon the recommendation of the President of the Senate, two shall
33 be appointed upon the recommendation of the Speaker of the
34 General Assembly, one shall be appointed upon the
35 recommendation of the Minority Leader of the Senate, and one shall
36 be appointed upon the recommendation of the Minority Leader of
37 the General Assembly.

38 Each public member of the board shall have demonstrated
39 expertise in at least one of the following areas and be appointed in
40 such a manner as to ensure that the public membership of the board
41 includes individuals who have demonstrated expertise in the
42 following areas:

43 (a) the financial services industry;

44 (b) bank administration;

45 (c) public administration; and

46 (d) consumer financial advocacy.

47 b. The members of the board shall be reimbursed for any
48 expenses incurred by them in the performance of their duties.

1 c. The members of the board shall serve for a term of four
2 years; except that of the members first appointed, three of the
3 members appointed shall each serve for a period of five years, three
4 shall each serve for a period of four years, three shall each serve for
5 a period of three years; and the remaining three members appointed
6 shall serve for a period of two years.

7 d. Each member of the board shall hold office for the term of
8 appointment and until a successor has been appointed. Vacancies
9 shall be filled in the same manner as the original appointments were
10 made. A member shall be eligible for reappointment.

11 e. The board shall organize as soon as practicable after the
12 appointment of its members and shall select a chairperson from
13 among its members.

14 f. (1) The board shall appoint a president of the bank to
15 supervise the administrative affairs and general management and
16 operations of the bank.

17 (2) The president shall:

18 (a) be qualified by training and experience to perform the duties
19 of that position;

20 (b) serve as a member of the senior executive or unclassified
21 service and be appointed without regard to the provisions of Title
22 11A of the New Jersey Statutes;

23 (c) attend all meetings of the board; and

24 (d) serve at the pleasure of the board, and receive compensation
25 as determined by the board.

26 (3) With the approval of the board, the president shall:

27 (a) plan, direct, coordinate, and execute the administrative
28 functions of the bank in conformity with the policies and directives
29 of the board;

30 (b) employ professional and clerical staff as necessary to
31 implement the provisions of this act;

32 (c) report to the board on all operations under the president's
33 control and supervision;

34 (d) prepare an annual budget and manage the administrative
35 expenses of the bank; and

36 (e) undertake any other activities necessary to accomplish the
37 purposes of the bank.

38 (4) All employees of the bank, except the president, shall be in
39 the career service of the Civil Service.

40 g. Except for a secretarial or clerical employee, while serving
41 as a member of the board or an employee of the bank, and for a
42 period of two years immediately following that service or
43 employment, a person, any member of the person's immediate
44 family, any entity with which that person is associated or in which
45 the person has an interest, or any partner, officer, director, or
46 employee while the person is associated with that entity, shall not
47 be employed by, a consultant to, a member of the board of directors
48 of, affiliated with, or otherwise a representative of, any person or

1 entity that has obtained a loan from, or otherwise has done
2 substantial business with, the bank.

3 h. All meetings of the board shall be subject to the
4 requirements of the "Senator Byron M. Baer Open Public Meetings
5 Act," P.L.1975, c.231 (C.10:4-6 et seq.). In addition to complying
6 with the notice requirements of P.L.1975, c.231, the board shall
7 provide electronic notice of its meetings as defined in section 1 of
8 P.L.2002, c.91 (C.10:4-9.1).

9 i. A member of the board or an employee of the bank shall not
10 be liable in an action for damages to any person for any action
11 taken or recommendation made by the member or employee, if the
12 action or recommendation was taken or made without malice. The
13 members of the board shall be indemnified and their defense of any
14 action provided for in the same manner and to the same extent as
15 employees of the State under the "New Jersey Tort Claims Act,"
16 P.L.1972, c.45 (C.59:1-1 et seq.) on account of acts or omissions in
17 the scope of their employment.

18 j. Records maintained by the bank shall be subject to P.L.1963,
19 c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404 (C.47:1A-5 et al.),
20 commonly referred to as the open public records act, except the
21 commissioner shall promulgate, by regulation, those financial,
22 business, or proprietary records the commissioner deems
23 inappropriate for public disclosure and, therefore, not subject to the
24 open public records act, including financial and commercial
25 information and records supplied by businesses or individuals
26 during application for loans or other State bank services.

27 k. Members of the board and the President of the State bank
28 shall make the same financial disclosures, whether required by law,
29 rule, regulation or Executive Order, including an annual filing of
30 Financial Disclosure Statements, and in the same manner, as are
31 required of the heads of each principal department in the Executive
32 Branch.

33

34 6. The board shall:

35 a. Meet regularly with the management of the State bank to
36 review the bank's operations;

37 b. Make recommendations and directives to the president
38 relating to improved management performance, better customer
39 service, and overall improvement in internal methods, procedures,
40 and operating policies of the bank;

41 c. Make recommendations and directives relating to the
42 establishment of additional objectives for the operation of the bank;
43 and

44 d. Make recommendations and directives to the president
45 concerning the appointment of officers of the bank.

46

47 7. The State bank shall be exempt from the payment of all fees
48 and all taxes levied by the State or any of its subdivisions. All

1 deposits in the bank shall be guaranteed by the State and shall be
2 exempt from State, county, and municipal taxes.

3
4 8. a. The commissioner shall examine the State bank in the
5 same manner as a State-chartered financial institution pursuant to
6 section 260 of P.L.1948, c.67 (C.17:9A-260). The bank shall
7 reimburse the department for the costs of an examination. The
8 commissioner may conduct any additional investigation of the bank
9 which may be necessary to ensure the proper operation of the bank.

10 b. The commissioner shall report the examination results, and
11 the results of any necessary investigation pursuant to this section, to
12 the Governor, and to the Legislature pursuant to section 2 of
13 P.L.1991, c.164 (C.52:14-19.1).

14 c. The department shall charge a fee for any examination or
15 investigation sufficient to cover all reasonable expenses of the
16 department associated with the examinations and investigations
17 provided for by this section.

18
19 9. a. The State Auditor shall contract with an independent
20 certified public accounting firm for an annual audit of the State
21 bank in accordance with generally accepted government auditing
22 standards.

23 b. The State Auditor shall contract for an annual audit of the
24 separate programs and funds administered by the bank. The auditor
25 selected shall prepare: (1) an audit report that includes financial
26 statements presented in accordance with the audit and accounting
27 guide for banks and savings institutions issued by the American
28 Institute of Certified Public Accountants; and (2) audited financial
29 statements for inclusion in the comprehensive annual financial
30 report for the State.

31 c. In addition to the audits conducted pursuant to subsections a.
32 and b. of this section, the State Auditor may conduct performance
33 audits of the bank, including the separate programs and funds
34 administered by the bank.

35 d. The State Auditor shall report the results of the audits to the
36 Governor, and to the Legislature pursuant to section 2 of P.L.1991,
37 c.164 (C.52:14-19.1).

38 e. The bank or its separate programs and funds shall pay the
39 costs of the audits conducted pursuant to this section.

40
41 10. a. By December 1st of each year, the State Treasurer shall
42 make an annual report to the Governor, and to the Legislature
43 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), on the
44 affairs of the bank. The report may include any recommendations
45 that would improve the affairs of the bank.

46 b. Immediately following the close of each calendar month, the
47 State Treasurer shall prepare a report as to the state of the bank
48 itemized as to:

1 (1) The amount in the bank at the close of business at the end of
2 the preceding month;

3 (2) The amount of revenue deposited or transferred to the credit
4 of the bank during the current month;

5 (3) The amount of withdrawals or transfers from the bank
6 during the current month; and

7 (4) The amount on hand at the close of business at the end of the
8 current month.

9 The report required pursuant to this subsection shall be made
10 available on the Department of the Treasury website.

11

12 11. The State Treasurer and the commissioner, pursuant to the
13 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
14 seq.), and in consultation with each other, shall each adopt such
15 rules and regulations as may be necessary to effectuate the purposes
16 of this act.

17

18 12. This act shall take effect on the 90th day following
19 enactment.

20

21

22 STATEMENT

23

24 This bill creates the State Bank of New Jersey to provide
25 financial services to marijuana-related businesses. The bill
26 authorizes the creation of a board of directors to oversee the bank.

27 The bill permits the bank to make loans to marijuana-related
28 businesses subject to the limitations of the bill and any rules
29 adopted by the State Treasurer. The bill permits the State bank to
30 charge the same rate of interest, provide for the same terms for a
31 loan or extension of credit, and to exercise any other power or
32 authority permissible to a State-chartered bank. The bill permits the
33 bank to accept deposits from any marijuana-related business.

34 The bill creates a 13 member board of directors to govern the
35 bank. The board consists of:

36 (1) the State Treasurer, or the State Treasurer’s designee, as an
37 ex officio member; and

38 (2) twelve public members, who are residents of this State, six
39 of whom are to be appointed by the Governor with the advice and
40 consent of the Senate, including: one person who shall have
41 experience in bank administration; one person who shall have
42 experience in credit union administration; one person who shall
43 have experience in consumer financial advocacy; one person who
44 shall have experience in public administration; and two additional
45 public members. Of the six other persons, two shall be appointed
46 upon the recommendation of the President of the Senate, two shall
47 be appointed upon the recommendation of the Speaker of the
48 General Assembly, one shall be appointed upon the

1 recommendation of the Minority Leader of the Senate, and one shall
2 be appointed upon the recommendation of the Minority Leader of
3 the General Assembly.

4 The board is required to appoint a president of the bank to
5 supervise the administrative affairs and general management and
6 operations of the bank. The bill provides that the president of the
7 bank is to serve at the pleasure of the board and receive such
8 compensation as the board shall determine.

9 With the approval of the board, the president is charged with:

10 (1) planning, directing, coordinating, and executing the
11 administrative functions of the bank in conformity with the policies
12 and directives of the board;

13 (2) employing professional and clerical staff as necessary to
14 implement the provisions of the bill;

15 (3) reporting to the board on all operations under the president's
16 control and supervision;

17 (4) preparing an annual budget and managing the administrative
18 expenses of the bank; and

19 (5) undertaking any other activities necessary to accomplish the
20 purposes of the bank.

21 The bill provides that all employees of the bank, except the
22 president, are to be in the career service of the Civil Service. All
23 meetings of the board are subject to the open public meetings act
24 and, except as provided by the Commissioner of Banking and
25 Insurance, records maintained by the bank shall be subject to the
26 open public records act.

27 The bill includes post-employment restrictions on members of
28 the board or employees of the bank. Except for a secretarial or
29 clerical employee, while serving as a member of the board or an
30 employee of the bank, and for a period of two years immediately
31 following such service or employment, a person, any member of the
32 person's immediate family, any entity with which that person is
33 associated or in which the person has an interest, or any partner,
34 officer, director, or employee while the person is associated with
35 that entity, shall not be employed by, a consultant to, a member of
36 the board of directors of, affiliated with, or otherwise a
37 representative of, any person or entity that has obtained a loan from,
38 or has otherwise done substantial business with, the bank.

39 The bill also provides that members of the board and the
40 President of the State bank shall make the same financial
41 disclosures, whether required by law, rule, regulation or Executive
42 Order, including an annual filing of Financial Disclosure
43 Statements, and in the same manner, as are required of the heads of
44 each principal department in the Executive Branch.

45 The bill requires the board to meet regularly with the
46 management of the bank to review the bank's operations and make
47 recommendations to the president on the operations of the bank.

1 The bill also provides that the State bank is exempt from the
2 payment of all fees and all taxes levied by the State or any of its
3 subdivisions. In addition, all deposits in the bank are guaranteed by
4 the State and are exempt from State, county, and municipal taxes.

5 Under the bill, the Commissioner of Banking and Insurance is
6 required to examine the State bank in the same manner as a State-
7 chartered financial institution and may conduct any additional
8 investigation of the bank which may be necessary to ensure the
9 proper operation of the bank, at the bank's cost. The commissioner
10 shall report the examination results, and the results of any necessary
11 investigation, to the Governor and to the Legislature.

12 In addition, the State Auditor shall contract with an independent
13 certified public accounting firm for an annual audit of the bank in
14 accordance with generally accepted government auditing standards.
15 The State Auditor is required to contract for an annual audit of the
16 separate programs and funds administered by the bank. The auditor
17 selected shall prepare an audit report that includes financial
18 statements presented in accordance with the audit and accounting
19 guide for banks and savings institutions issued by the American
20 Institute of Certified Public Accountants. The auditor also shall
21 prepare audited financial statements for inclusion in the
22 comprehensive annual financial report for the State. The State
23 Auditor may conduct performance audits of the bank, including the
24 separate programs and funds administered by the bank. The auditor
25 shall report the results of the audits to the Governor and to the
26 Legislature. The bank or its separate programs and funds shall pay
27 the costs of the audits.

28 The bill also provides that, by December 1st of each year, the
29 State Treasurer shall make an annual report to the Governor, and to
30 the Legislature on the affairs of the bank. The report may include
31 any recommendations that would improve the affairs of the bank.
32 Additionally, immediately following the close of each calendar
33 month, the State Treasurer shall prepare a report as to the state of
34 the bank. The monthly report is to be made available on the
35 Department of the Treasury website.