

CHAPTER 19
(CORRECTED COPY)

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

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

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

C.52:27H-66 Designation of enterprise zones.

7. The authority shall designate enterprise zones from among those areas of qualifying municipalities determined to be eligible pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.). No more than 32 enterprise zones shall be in effect at any one time. No more than one enterprise zone shall be designated in any one municipality. In designating enterprise zones the authority shall seek to avoid excessive geographic concentration of zones in any particular region of the State. At least six of the 10 additional enterprise zones authorized pursuant to section 3 of P.L.1993, c.367 shall be located in counties in which enterprise zones have not previously been designated and shall be designated within 90 days of the date of the submittal of an application and zone development plan. The authority shall accept applications within 90 days of the effective date of P.L.1993, c.367. Notwithstanding the provisions of P.L.1983, c.303 (C.52:27H-60 et seq.) to the contrary, the six additional enterprise zones to be designated by the authority pursuant to the criteria for priority consideration in this section shall be entitled to 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.). The following criteria shall be utilized in according priority consideration for designation of these zones by the authority:

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

- b. Two zones shall be located in a county of the second class with a population greater than 445,000 and less than 455,000 according to the latest federal decennial census, one of which shall be located in the qualifying municipality in that county with the highest annual average number of unemployed persons and the highest average annual unemployment rate for the 1992 calendar year according to the estimate by the State Department of Labor and Workforce Development, and one of which shall be located in the qualifying municipality in that county with the second highest annual average number of unemployed persons and the second highest average annual unemployment rate for the 1992 calendar year according to the estimate by the State Department of Labor and Workforce Development;

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

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

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

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

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

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

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

C.52:27H-66.6 Extension of designation, certain circumstances.

11. a. Notwithstanding the provisions of any law, rule, regulation or order to the contrary, the designation of an enterprise zone by the authority pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.), which is located in a municipality in which the annual average of unemployed persons is equal to or greater than 2,000, or the municipal average annual unemployment rate exceeds the State average annual unemployment rate, or an enterprise zone which is located in a municipality contiguous to a municipality in which an enterprise zone is designated pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) and in which the annual average of unemployed persons is equal to or greater than 2,000 or the municipal average annual unemployment rate exceeds the State average annual unemployment rate, shall, following the expiration of the third five-year period during which the State shall have collected reduced rate revenues within the zone as provided in subsection c. of section 21 of P.L.1983, c.303 (C.52:27H-80), be extended by the authority for a period of 16 years, within 90 days after the effective date of P.L.2001, c.347 (C.52:27H-66.2 et al.), or within 90 days after the expiration of that third five-year period, whichever is later.

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

c. Notwithstanding the provisions of any law, rule or regulation to the contrary, 90 days after the expiration of the period provided for in subsection c. of section 21 of P.L.1983, c.303 (C.52:27H-80), except as provided in subsection b. of section 6 of P.L.1996, c.124 (C.13:1E-116.6), and after first depositing 10 percent of the gross amount of all revenues received from the taxation of retail sales made by certified vendors from business locations in an extended enterprise zone designated pursuant to subsection a. of this section, to which this exemption shall apply into the account created in the name of the authority in the enterprise zone assistance fund established 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:

(1) In the first five-year period during which the State shall have collected reduced rate revenues within the extended enterprise zone, those revenues shall be deposited in the enterprise zone assistance fund ;

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

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

(4) In the sixteenth year during which the State shall have collected reduced rate revenues within the extended enterprise zone, but not to exceed the life of the enterprise zone, those revenues shall be deposited in the General Fund.

The revenues required to be deposited in the enterprise zone assistance fund pursuant to this section shall be used for the purposes of the enterprise zone assistance 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.

d. The designation as an extended enterprise zone pursuant to this section shall terminate if the authority determines that the municipality in which the zone is located fails to meet the criteria of subsection a. of this section for three consecutive years. Any enterprise zone which loses its designation as an extended enterprise zone pursuant to this subsection shall be eligible to re-apply to the authority for designation as an extended enterprise zone pursuant to the provisions of P.L.1983, c.303 (C.52:27H-60 et seq.). If the authority approves its application, an urban enterprise zone designation may be extended to the applicant in accordance with the schedules set forth in P.L.1983, c.303 (C.52:27H-60 et seq.), beginning at the point where the enterprise zone was located on those schedules on the effective date of P.L.2001, c.347 (C.52:27H-66.2 et al.).

3. a. The Department of Community Affairs shall study the Urban Enterprise Zone program and submit to the Legislature a report and recommendations as to whether the program shall continue as is, be amended, or expire. The department may enter into an agreement with a third party, including but not limited to a public institution of higher education in the State or an independent consulting firm, to conduct the study and prepare the report. The Commissioner of Community Affairs, after consulting with the State Treasurer, and prior to the first day of the twelfth month next following the date of enactment of P.L.2018, c.19, shall submit to the Legislature the report on the Urban Enterprise Zone program and the department's recommendations as to whether the program shall be continued, as it exists on the effective date of P.L.2018, c.19, be continued with specific recommended changes, or be reconstituted.

b. The study, report, and recommendations required pursuant to subsection a. of this section shall include, but not be limited to, an assessment of the following aspects of the Urban Enterprise Zone program:

(1) the adequacy of past funding for urban enterprise zones in furthering the goals of the "New Jersey Urban Enterprise Zones Act";

(2) whether changes are needed to address future funding for urban enterprise zones in furthering these goals;

(3) whether the criteria established for eligibility to assist fiscally distressed municipalities is appropriate; and

(4) what parameters shall be established to keep urban enterprise zone municipalities competitive while providing a sufficient return on State investment.

c. The New Jersey Urban Enterprise Zone Authority shall fund the cost of conducting the study and preparing the report on the Urban Enterprise Zone program from the account maintained, pursuant to section 29 of P.L.1983, c.303 (C.52:27H-88), in the name of the authority in the enterprise zone assistance fund.

d. (1) Notwithstanding the provisions of any law, rule, regulation, or order to the contrary, each enterprise zone that expired prior to the effective date of P.L.2018, c.19 is hereby reinstated until December 31, 2023.

(2) Notwithstanding the provisions of any law, rule, regulation, or order to the contrary, the duration of each enterprise zone that is scheduled to expire prior to December 31, 2023 is hereby extended until December 31, 2023.

(3) Any extension or reinstatement granted pursuant to this subsection shall occur notwithstanding the extension provided for in section 11 of P.L.2001, c.347 (C.52:27H-66.6).

e. As necessary, the authority shall notify all qualified businesses in the enterprise zones reinstated or extended pursuant to subsection d. of this section that the benefits authorized by sections 16 through 20 of P.L.1983, c.303 (C.52:27H-75 through C.52:27H-79) have been reinstated or extended to qualified businesses in the enterprise zones until December 31, 2023.

f. Notwithstanding the provisions of any law, rule, regulation, or order to the contrary, all reduced-rate revenues collected within an enterprise zone which is reinstated or extended pursuant to subsection d. of this section shall be deposited into the General Fund.

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

C.52:27H-88 Enterprise zone assistance fund.

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 seq.), 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 economic development projects in designated enterprise zones.

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 an economic development project in the enterprise zone, and to fund that project 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 and shall include:

- (1) A description of the proposed project;
- (2) An estimate of the total project costs, 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;
- (4) A statement of the time necessary to complete the project;
- (5) A statement of the manner in which the proposed project furthers the municipality's policy and intentions for addressing economic development in 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 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, which will lead to the creation of new jobs and increased economic activity within the zone, such as: the establishment of revolving loan programs for qualified businesses in the zone to encourage private investment and job creation, and 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 economic analyses.

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 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.

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

approved project. The authority may at any time revoke its approval of a project 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, 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 deposited in the account created in the name of the authority in the enterprise zone assistance fund 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.

5. This act shall take effect immediately.

Approved May 30, 2018.