

**SENATE, No. 885**

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**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

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INTRODUCED JANUARY 16, 2018

**Sponsored by:**

**Senator NIA H. GILL**

**District 34 (Essex and Passaic)**

**Senator RICHARD J. CODEY**

**District 27 (Essex and Morris)**

**SYNOPSIS**

"State Bank of New Jersey Act."

**CURRENT VERSION OF TEXT**

As introduced.



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. This act shall be known and may be cited as the "State Bank  
8 of New Jersey Act."

9

10 2. The Legislature finds and declares that:

11 a. Access to capital is vitally important for the health, security,  
12 and well-being of all individuals and businesses in our State. They  
13 are the economic drivers that help New Jersey's commerce run  
14 smoothly. The lack of accessible capital, as currently experienced  
15 due to the economic downturn, is exacerbating the economic  
16 hardships being faced by working families and businesses;

17 b. By creating a State bank, the State is able to direct economic  
18 development policy initiatives in a responsive and efficient manner  
19 to benefit citizens of New Jersey;

20 c. The mission of the State Bank of New Jersey shall be to  
21 promote small businesses, fair educational lending, housing,  
22 infrastructure improvements, community development, economic  
23 development, commerce, and industry in New Jersey. In this role,  
24 the bank shall act as a funding resource in partnership with other  
25 financial institutions, economic development groups, and guaranty  
26 agencies;

27 d. Accuracy of financial reporting and compliance with all  
28 applicable laws and regulations shall be an integral part of the State  
29 Bank of New Jersey's overall risk management strategy; and

30 e. It is the intent of the Legislature that State funds and funds  
31 of State institutions may be deposited at the State Bank of New  
32 Jersey and guaranteed by the State. Other deposits may be accepted  
33 from any public source. The State Bank of New Jersey shall be  
34 operated to benefit the citizens of New Jersey.

35

36 3. As used in this act:

37 "Board" means the board of directors of the State Bank of New  
38 Jersey.

39 "Commissioner" means the Commissioner of Banking and  
40 Insurance.

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

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

43 "Public source" means the State of New Jersey, any of its  
44 political subdivisions, any authority created by the Legislature of  
45 the State of New Jersey and any instrumentality or agency of the  
46 State of New Jersey or of any of its political subdivisions.

1 "State Bank of New Jersey," "State bank" or "bank" refers to the  
2 State-owned financial institution established pursuant to section 4  
3 of this act.

4 "State moneys" or "State funds" mean all moneys or funds  
5 belonging to or in the custody of the State under the control of the  
6 State Treasurer.

7 "State Treasurer" means the Treasurer of the State of New  
8 Jersey.

9  
10 4. a. There is established the State Bank of New Jersey.

11 b. Notwithstanding any other law to the contrary, as soon as  
12 practicable, the State Treasurer may deposit State moneys in the  
13 bank. Any State funds not under the direct control of the State  
14 Treasurer may be deposited in the bank by the person in control of  
15 these funds.

16 c. All income earned by the bank for its own account on State  
17 moneys that are deposited in or invested with the bank to the credit  
18 of the State shall be credited to and become a part of the revenues  
19 and income of the bank.

20  
21 5. a. The State bank may make loans subject to the limitations  
22 in this act and any rules adopted by the State Treasurer.

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

28 c. The bank shall invest State moneys in any manner that  
29 ensures appropriate cash management and may establish a cash  
30 management fund, separate from the bank's general fund for  
31 investment purposes. The bank shall not make a loan to any board  
32 member, the president, or any officer of the bank, including any  
33 immediate family member of that person, or any entity with which  
34 that person is associated or in which he has an interest.

35 d. The bank may:

36 (1) Buy and sell federal funds;

37 (2) Lease, assign, sell, exchange, transfer, convey, grant,  
38 pledge, or mortgage all real and personal property, title to which  
39 has been acquired in any manner;

40 (3) Acquire real or personal property or property rights by  
41 purchase, lease, or the exercise of the right of eminent domain and  
42 may construct, remodel, and repair buildings;

43 (4) Receive deposits from any public source and deposit its  
44 funds in any bank or other financial institution;

45 (5) Perform all acts and do all things necessary, advisable, or  
46 desirable to carry out the powers expressly granted or necessarily  
47 implied in this section through or by means of its president,

1 officers, agents, or employees or by contracts with any person, firm,  
2 or corporation;

3 (6) Provide loans or other assistance to public or private entities  
4 or consortia thereof for the purpose of financing all or a portion of  
5 the costs incurred for the planning, acquisition, engineering,  
6 construction, reconstruction, repair and rehabilitation of a  
7 transportation project;

8 (7) Coordinate with the Higher Education Student Assistance  
9 Authority to further access to postsecondary education, whether by  
10 loans, grants, scholarships, savings programs, or other means and  
11 shall have the authority enumerated in section 1 of P.L.1999, c.46  
12 (C.18A:71A-9), as appropriate;

13 (8) Purchase mortgage loans on residential real property  
14 originated by financial institutions; and

15 (9) Provide loans or other assistance to small businesses.

16

17 6. a. The State bank shall be governed by a board of directors  
18 consisting of 13 members as follows:

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

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

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

39 (a) mortgage lending;

40 (b) the financial services industry;

41 (c) bank administration;

42 (d) public administration; and

43 (e) consumer financial advocacy.

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

46 c. The members of the board shall serve for a term of four  
47 years; except that of the members first appointed, three of the  
48 members appointed shall each serve for a period of five years, three

1 shall each serve for a period of four years, three shall each serve for  
2 a period of three years; and the remaining three members appointed  
3 shall serve for a period of two years.

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

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

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

15 (2) The president shall:

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

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

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

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

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

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

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

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

32 (d) prepare an annual budget and manage the administrative  
33 expenses of the bank; and

34 (e) undertake any other activities necessary to accomplish the  
35 purposes of the bank.

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

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

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

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

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

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

32

33 7. The board shall:

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

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

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

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

45

46 8. a. The State bank shall be exempt from the payment of all  
47 fees and all taxes levied by the State or any of its subdivisions.

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

3       c. The State bank may insure deposits held by the bank with the  
4 Federal Deposit Insurance Corporation, as appropriate, and comply  
5 with conditions necessary to obtain and maintain such insurance.

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

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

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

21  
22       10. a. The State Auditor shall contract with an independent  
23 certified public accounting firm for an annual audit of the State  
24 bank in accordance with generally accepted government auditing  
25 standards.

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

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

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

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

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

1       b. Immediately following the close of each calendar month, the  
2 State Treasurer shall prepare a report as to the state of the general  
3 fund, any cash management fund, the bank, and every other fund  
4 under control of the State Treasurer itemized as to:

5       (1) The amount in the fund at the close of business at the end of  
6 the preceding month;

7       (2) The amount of revenue deposited or transferred to the credit  
8 of each fund during the current month;

9       (3) The amount of withdrawals or transfers from each fund  
10 during the current month; and

11       (4) The amount on hand in each fund at the close of business at  
12 the end of the current month.

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

15

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

21

22       13. This act shall take effect on the 90<sup>th</sup> day following  
23 enactment.

24

25

26

#### STATEMENT

27

28       This bill, the "State Bank of New Jersey Act," creates the State  
29 Bank of New Jersey. The bill authorizes the creation of a board of  
30 directors to oversee the bank and the State Treasurer or any other  
31 person in control of State funds to deposit State moneys in the bank.  
32 The bill provides that all income earned by the bank for its own  
33 account on State moneys that are deposited in or invested with the  
34 bank to the credit of the State are to be credited to and become a  
35 part of the revenues and income of the bank.

36       The bill permits the bank to make loans subject to the limitations  
37 of the act and any rules adopted by the State Treasurer. The bill  
38 also provides that the State bank is permitted to charge the same  
39 rate of interest, provide for the same terms for a loan or extension  
40 of credit, and to exercise any other power or authority permissible  
41 to a State-chartered bank.

42       Under the bill, the bank is required to invest State moneys in any  
43 manner that ensures appropriate cash management. The bank is  
44 prohibited from making a loan to any board member, the president,  
45 or any officer of the bank, including any immediate family member  
46 of that person, or any entity with which that person is associated or  
47 in which he has an interest.

48       The bill also provides that the bank may:



- 1 (1) Buy and sell federal funds;
  - 2 (2) Lease, assign, sell, exchange, transfer, convey, grant,  
3 pledge, or mortgage all real and personal property, title to which  
4 has been acquired in any manner;
  - 5 (3) Acquire real or personal property or property rights by  
6 purchase, lease, or the exercise of the right of eminent domain and  
7 may construct, remodel, and repair buildings;
  - 8 (4) Receive deposits from any public source and deposit its  
9 funds in any bank or other financial institution;
  - 10 (5) Perform all acts and do all things necessary, advisable, or  
11 desirable to carry out the powers expressly granted or necessarily  
12 implied in the bill through or by means of its president, officers,  
13 agents, or employees or by contracts with any person, firm, or  
14 corporation;
  - 15 (6) Provide loans or other assistance for transportation projects;
  - 16 (7) Coordinate with the Higher Education Student Assistance  
17 Authority to further access to postsecondary education, whether by  
18 loans, grants, scholarships, savings programs, or other means and  
19 shall have the authority enumerated in section 1 of P.L.1999, c.46  
20 (C.18A:71A-9), as appropriate;
  - 21 (8) Purchase mortgage loans on residential real property  
22 originated by financial institutions; and
  - 23 (9) Provide loans or other assistance to small businesses.
- 24 The bill creates a 13 member board of directors to govern the  
25 bank. The board consists of:
- 26 (1) the State Treasurer, or the State Treasurer's designee, as an  
27 ex officio member; and
  - 28 (2) twelve members, who are residents of this State, to be  
29 appointed by the Governor with the advice and consent of the  
30 Senate, including: one person who shall have experience in bank  
31 administration; one person who shall have experience in credit  
32 union administration; one person who shall have experience in  
33 consumer financial advocacy; one person who shall have experience  
34 in public administration; two additional public members; and of the  
35 six other persons, two shall be appointed upon the recommendation  
36 of the President of the Senate, two shall be appointed upon the  
37 recommendation of the Speaker of the General Assembly, one shall  
38 be appointed upon the recommendation of the Minority Leader of  
39 the Senate, and one shall be appointed upon the recommendation of  
40 the Minority Leader of the General Assembly.
- 41 The board is required to appoint a president of the bank to  
42 supervise the administrative affairs and general management and  
43 operations of the bank. The bill provides that the president of the  
44 bank is to serve at the pleasure of the board and receive such  
45 compensation as the board shall determine.
- 46 With the approval of the board, the president is charged with:

- 1 (1) planning, directing, coordinating, and executing the
- 2 administrative functions of the bank in conformity with the policies
- 3 and directives of the board;
- 4 (2) employing professional and clerical staff as necessary to
- 5 implement the provisions of the bill;
- 6 (3) reporting to the board on all operations under the
- 7 president's control and supervision;
- 8 (4) preparing an annual budget and managing the administrative
- 9 expenses of the bank; and
- 10 (5) undertaking any other activities necessary to accomplish the
- 11 purposes of the bank.

12 The bill provides that all employees of the bank, except the  
13 president, are to be in the career service of the Civil Service. All  
14 meetings of the board are subject to the open public meetings act  
15 and, except as provided by the Commissioner of Banking and  
16 Insurance, records maintained by the bank shall be subject to the  
17 open public records act.

18 The bill includes post-employment restrictions on members of  
19 the board or employees of the bank. Except for a secretarial or  
20 clerical employee, while serving as a member of the board or an  
21 employee of the bank, and for a period of two years immediately  
22 following such service or employment, a person, any member of his  
23 immediate family, any entity with which that person is associated or  
24 in which he has an interest, or any partner, officer, director, or  
25 employee while he is associated with that entity, shall not be  
26 employed by, a consultant to, a member of the board of directors of,  
27 affiliated with, or otherwise a representative of, any person or entity  
28 that has obtained a loan from, or has otherwise done substantial  
29 business with, the bank.

30 The bill also provides that members of the board and the  
31 President of the State bank shall make the same financial  
32 disclosures, whether required by law, rule, regulation or Executive  
33 Order, including an annual filing of Financial Disclosure Statements,  
34 and in the same manner, as are required of the heads of each  
35 principal department in the Executive Branch.

36 The bill requires the board to meet regularly with the  
37 management of the bank to review the bank's operations and make  
38 recommendations to the president on the operations of the bank.

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

43 Under the bill, the Commissioner of Banking and Insurance is  
44 required to examine the State bank in the same manner as a State-  
45 chartered financial institution and may conduct any additional  
46 investigation of the bank which may be necessary to ensure the  
47 proper operation of the bank, at the bank's cost. The commissioner

1 shall report the examination results, and the results of any necessary  
2 investigation, to the Governor and to the Legislature.

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

19 The bill also provides that, by December 1st of each year, the  
20 State Treasurer shall make an annual report to the Governor, and to  
21 the Legislature on the affairs of the bank. The report may include  
22 any recommendations that would improve the affairs of the bank.  
23 Additionally, immediately following the close of each calendar  
24 month, the State Treasurer shall prepare a report as to the State of  
25 the general fund, the bank, and every other fund under the State  
26 Treasurer's control. The monthly report is to be made available on  
27 the Department of the Treasury website.