

SENATE, No. 2136

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MARCH 5, 2018

Sponsored by:

Senator JAMES BEACH

District 6 (Burlington and Camden)

SYNOPSIS

Establishes social innovation loan guarantee pilot program and study commission within New Jersey Health Care Facilities Financing Authority concerning opioid and other substance use disorders.

CURRENT VERSION OF TEXT

As introduced.



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2

1 **AN ACT** establishing a social innovation loan guarantee pilot
2 program concerning opioid and other substance use disorders and
3 supplementing Title 26 of the Revised Statutes.

4

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

7

8 1. As used in P.L. , c. (C.) (pending before the
9 Legislature as this bill):

10 “Authority” means the New Jersey Health Care Facilities
11 Financing Authority established pursuant to section 4 of P.L.1972,
12 c.29 (C.26:2I-4).

13 “Eligible organization” means a nonprofit organization that is
14 exempt from federal taxation pursuant to section 501(c)(3) of the
15 federal Internal Revenue Code (26 U.S.C. s.501(c)(3)) that has
16 applied for participation in the social innovation loan guarantee
17 pilot program established pursuant to section 2 of P.L. , c. (C.)
18 (pending before the Legislature as this bill), and is selected by the
19 study commission as qualified to receive a loan guarantee from the
20 “social innovation loan guarantee fund” established pursuant to
21 section 4 of P.L. , c. (C.) (pending before the Legislature
22 as this bill).

23 “Pilot program” means the social innovation loan guarantee pilot
24 program established pursuant to section 2 of P.L. , c. (C.)
25 (pending before the Legislature as this bill).

26 “Social innovation loan guarantee fund” or “fund” means the
27 fund established pursuant to section 4 of P.L. , c. (C.)
28 (pending before the Legislature as this bill).

29 “Study commission” means the New Jersey Social Innovation
30 Study Commission established pursuant to section 3 of
31 P.L. , c. (C.) (pending before the Legislature as this bill).

32 “Treatment and prevention services” means the treatment and
33 prevention of opioid and other substance use disorders.

34

35 2. a. (1) There is established a five-year social innovation
36 loan guarantee pilot program within the New Jersey Health Care
37 Facilities Financing Authority to administer and determine the
38 effectiveness of a social innovation loan guarantee pilot program.
39 The pilot program shall concern nonprofit health care services that
40 provide for the treatment and prevention of opioid and other
41 substance use disorders with the purpose of encouraging private
42 investment in those treatment and prevention services to lower
43 federal, State, and municipal expenditures related to those services.
44 The pilot program shall assess the feasibility of expanding a social
45 innovation loan guarantee pilot program Statewide and expanding
46 the scope of social impact loan guarantees, made pursuant to
47 subsection b. of this section, beyond the health care sector.

1 b. Under the pilot program established pursuant to subsection
2 a. of this section, the authority shall guarantee loans issued to
3 eligible organizations for the provision of treatment and prevention
4 services that generate positive social outcomes and public sector
5 cost savings. Each loan guarantee shall be facilitated by the study
6 commission established pursuant to section 3 of P.L. , c. (C.)
7 (pending before the Legislature as this bill) and consist of:

8 (1) A lending agreement between an eligible organization, a
9 lender, and a public sector entity which provides: (a) the eligible
10 organization with direct funding from a lender in exchange for the
11 provision of treatment and prevention services; (b) the public sector
12 entity with treatment and prevention services in exchange for
13 defined payments to the lender in an amount proportional to the
14 amount of public sector savings generated by the provision of those
15 services; and (c) the lender with loan repayments in exchange for
16 the provision of funding to an eligible organization.

17 (2) A loan guarantee agreement between the authority and all
18 parties to the lending agreement from paragraph (1) of this
19 subsection which shall require the lending agreement to conform to
20 the requirements established pursuant to P.L. , c. (C.)
21 (pending before the Legislature as this bill) or by the authority; and

22 (3) An agreement between the authority, the public sector entity
23 making performance payments, the eligible organization, and the
24 lender which agrees to a method of measurement and verification of
25 the public health care services to be performed, how the public
26 sector savings are to be calculated, how the interest rate will be
27 determined, and how funds shall flow between the parties according
28 to each of the agreements made pursuant to this subsection.

29 c. Up to 100 percent of the value of a loan agreement entered
30 into pursuant to subsection b. of this section may be guaranteed by
31 the authority, provided that the total amount in the aggregate of all
32 loans guaranteed under the social innovation loan guarantee pilot
33 program established pursuant to P.L. , c. (C.) (pending
34 before the Legislature as this bill) shall not exceed \$15,000,000.

35 d. The authority, in cooperation with the study commission and
36 the Department of Human Services, shall offer to guarantee loans
37 made pursuant to subsection b. of this section utilizing funds from
38 the social innovation loan guarantee fund established pursuant to
39 section 4 of P.L. , c. (C.) (pending before the Legislature
40 as this bill) to provide a loan guarantee for the purposes of
41 subsection b. of this section. The authority shall consider the
42 following factors:

43 (1) The economic feasibility of the treatment and prevention
44 services;

45 (2) The degree to which the treatment and prevention services
46 will advance Statewide and regional treatment and prevention
47 services strategies and objectives;

1 (3) The degree to which the treatment and prevention services
2 maximizes the leverage of other State funds; and

3 (4) The factors listed in paragraph (1) of subsection e. of section
4 3 of P.L. , c. (C.) (pending before the Legislature as this
5 bill).

6 e. A lender or nonprofit organization seeking to participate in
7 the social innovation loan guarantee pilot program shall submit an
8 application in a form as the authority shall require. The application
9 shall include any information the authority shall determine is
10 necessary.

11 f. A loan guarantee agreement entered into pursuant to
12 subsection b. of this section shall provide that any loan guaranteed
13 by the authority shall: (1) be for a loan having a fair effective
14 interest rate as determined by the authority; and (2) contain other
15 terms and conditions considered appropriate by the authority that
16 are consistent with the purposes of P.L. , c. (C.) (pending
17 before the Legislature as this bill) and with rules and regulations
18 promulgated by the authority pursuant to section 7 of
19 P.L. , c. (C.) (pending before the Legislature as this
20 bill).

21 g. (1) Consistent with federal law, rule, or regulation, each
22 eligible organization that receives a loan guarantee pursuant to
23 P.L. , c. (C.) (pending before the Legislature as this bill)
24 shall undergo an audit, at the organization's own expense, at least
25 once every two calendar years. The authority shall designate an
26 auditor to conduct the audit.

27 (2) If an audit of an eligible organization is performed pursuant
28 to a requirement of federal law, rule, or regulation, the authority
29 shall waive the audit required pursuant to this subsection with
30 respect to all issues addressed by the federally required audit report.
31 However, the authority may require an audit of matters that are not,
32 in the authority's judgment, addressed by the federally required
33 report including, but not limited to, measurement and verification of
34 treatment and prevention service intervention activities, and public
35 sector savings.

36 h. A loan guarantee agreement made pursuant to subsection b.
37 of this section shall provide that any loan guarantee shall be voided
38 if the terms and conditions of the agreement are violated by any
39 party to that agreement.

40 i. The authority shall solicit grants from interested public or
41 private sources for the establishment and administration of the pilot
42 program and study commission as well as the capitalization of the
43 "social innovation loan guarantee fund" established pursuant to
44 section 4 of P.L. , c. (C.) (pending before the Legislature
45 as this bill).

46 j. The pilot program shall expire on the 30th day following the
47 closing of all loans guaranteed pursuant to P.L. , c. (C.)
48 (pending before the Legislature as this bill).

- 1 3. a. The authority shall oversee a study commission, entitled
2 the “New Jersey Social Innovation Study Commission,” established
3 for the duration of the pilot program.
- 4 b. The membership and size of the study commission shall be
5 determined by the authority. The authority may consider a variety
6 of professionals, including health care, lending, and social finance
7 experts, for membership on the study commission. The study
8 commission shall organize as soon as practicable after the
9 appointment of the study commission members, shall select a
10 chairperson from among its membership, and shall appoint a
11 secretary who need not be a member of the study commission. At
12 least one member of the study commission shall be a representative
13 of the Department of Human Services, one member shall be a
14 representative of the Department of Health, and one member shall
15 be the Director of the Office of Faith Based Initiatives in the
16 Department of State. All members of the study commission shall
17 serve for a term concurrent with the effective period of the pilot
18 program.
- 19 c. Any vacancy in the membership of the study commission
20 shall be filled in the same manner in which the original appointment
21 was made.
- 22 d. The study commission may request the assistance and
23 services of employees of any other State department, board, bureau,
24 commission, task force, or agency as it may require and as may be
25 available. Members of the study commission shall serve without
26 compensation, but shall be entitled to employ clerical assistance and
27 incur traveling and other miscellaneous expenses as the study
28 commission may deem necessary in order to perform its duties,
29 within the limits of the funds made available to the study
30 commission for its purposes. The study commission may meet at
31 the call of its chairperson at the times and in the places the study
32 commission may deem appropriate and necessary to fulfill its
33 duties, and may conduct public hearings at a place or places as the
34 study commission shall designate. The study commission shall
35 conduct its meetings in accordance with the “Senator Byron M.
36 Baer Open Public Meetings Act,” P.L.1975, c.231 (C.10:4-6 et
37 seq.).
- 38 e. It shall be the duty of the study commission to aid the
39 authority in the administration of the social innovation loan
40 guarantee pilot program and to issue annual reports detailing the
41 progress of the pilot program. Specifically, the study commission,
42 in cooperation with the authority and the Department of Human
43 Services shall:
- 44 (1) Identify the nonprofit organizations that are eligible to
45 receive loan guarantees from the authority. The study commission
46 shall make this determination taking several factors into
47 consideration which shall include, but not be limited to, the size and
48 identity of the target population that benefits from the organization,

1 the projected financial value of the improvements to treatment and
2 prevention services as a result of the pilot program, including
3 projected public sector savings, the ability to repay the loan in full,
4 the ease of the measurability of the outcomes, and an analysis of
5 impacts beyond financial savings and returns, such as social
6 outcomes;

7 (2) Assist the authority in soliciting donations from
8 philanthropic organizations and other private sources to capitalize
9 the social innovation loan guarantee fund;

10 (3) Negotiate contract terms and conditions between social
11 innovation loan guarantee recipients and any public entity for whom
12 the recipient is performing treatment and prevention services,
13 including the development of metrics to project and measure both
14 financial and social outcomes, and the identification of independent
15 third parties to measure and evaluate social outcomes;

16 (4) Determine whether an independent intermediary with
17 expertise in the areas of social finance and health care should be
18 retained to: (a) assist the study commission in the performance of
19 its duties under this section; (b) perform the measurement and
20 verification activities required in the agreements entered into
21 pursuant to paragraph (3) of subsection b. of section 2 of
22 P.L. , c. (C.) (pending before the Legislature as this
23 bill); and (c) to identify appropriate independent intermediaries to
24 recommend to the authority if the study commission determines that
25 intermediary services should be retained; and

26 (5) Any other purposes related to the pilot program for which
27 the authority requests assistance.

28 f. (1) Not later than one year following the effective date of
29 P.L. , c. (C.) (pending before the Legislature as this bill),
30 and annually for four years thereafter, the study commission shall
31 submit to the Governor and, pursuant to section 2 of P.L.1991,
32 c.164 (C.52:14-19.1), to the Legislature, a report containing a study
33 and evaluation of the pilot program. The report shall include, but
34 not be limited to, a description of any eligible organizations funded
35 by the social innovation loans, State, federal, and municipal
36 financial savings related to the issuance of social innovation loans,
37 including Medicaid savings, the expected loan performance and
38 projected payment schedule, the number of people serviced by the
39 eligible organization, a comparison of the population serviced by
40 the eligible organization and a similarly situated control group, and
41 any community impact related to the pilot program.

42 (2) The study commission shall submit its fifth and final report
43 to the Governor and, pursuant to section 2 of P.L.1991, c.164
44 (C.52:14-19.1), to the Legislature, within 90 days of the expiration
45 date of the pilot program, including any recommendations for
46 legislative action it deems appropriate. The study commission's
47 final report shall include, but not be limited to, an analysis of the
48 feasibility of implementing a permanent social innovation loan

1 guarantee program Statewide, the sectors outside of nonprofit
2 treatment and prevention services in which social lending could be
3 successfully applied, the estimated costs for the creation and
4 administration of a permanent social innovation loan guarantee
5 program, the projected State, federal, and municipal savings from
6 administering a permanent program, a calculation of the loan
7 performance realized from the pilot program, a calculation of the
8 State, federal, and municipal savings accrued through the pilot
9 program, and an analysis of non-financial outcomes, such as
10 community impact and preventive results.

11 g. The study commission shall expire on the 30th day after the
12 date of the issuance of its final report, pursuant to paragraph (2) of
13 subsection f. of this section, or upon the expiration of the pilot
14 program, whichever occurs later.

15

16 4. a. To implement the social innovation loan guarantee pilot
17 program, the authority shall establish and maintain a special non-
18 lapsing, revolving fund called the “social innovation loan guarantee
19 fund” which may be credited with:

20 (1) monies appropriated by the State for the purpose of the fund;

21 (2) monies received by the authority from any public or private
22 donations to guarantee the loans issued pursuant to section 2 of
23 P.L. , c. (C.) (pending before the Legislature as this bill);

24 (3) any monies as may be available to the authority from grants
25 or other forms of assistance established to support treatment and
26 prevention service intervention activities by the authority or by
27 other State agencies or authorities; and

28 (4) monies received from eligible organizations in the form of
29 any applicable fees.

30 b. Monies deposited in the fund may be used by the authority
31 for the following purposes:

32 (1) guaranteeing loans issued pursuant to subsection b. of
33 section 2 of P.L. , c. (C.) (pending before the Legislature
34 as this bill);

35 (2) reasonable and necessary expenses incurred by the authority
36 related to the administration of the pilot program and the study
37 commission; and

38 (3) administrative expenses for the provision of loan guarantees
39 issued pursuant to subsection b. of section 2 of P.L. , c. (C.)
40 (pending before the Legislature as this bill).

41 c. The amount of loans guaranteed by the authority pursuant to
42 subsection b. of section 2 of P.L. , c. (C.) (pending before
43 the Legislature as this bill) shall not exceed \$3,000,000 per year or
44 \$15,000,000 in the aggregate over five years, as determined by the
45 authority.

46 d. The authority shall not issue a loan guarantee in an amount
47 greater than the available and uncommitted monies in the fund.

1 e. The authority may charge fees in connection with
2 applications for participation in the social innovation loan guarantee
3 pilot program as it deems reasonable to cover authority expenses in
4 administering the pilot program and issuing loan guarantees.

5 f. The authority shall appoint a director, who is also an
6 employee of the Health Care Facilities Financing Authority, to
7 manage the activities associated with the "social innovation loan
8 guarantee fund" established pursuant to this section. The director
9 shall receive compensation as determined by the authority.

10 g. The authority shall issue a report six months after the
11 effective date of P.L. , c. (C.) (pending before the Legislature
12 as this bill), and annually thereafter not later than September 15, to
13 the Governor and, pursuant to section 2 of P.L.1991, c.164
14 (C.52:14-19.1), to the Legislature concerning the financing of the
15 pilot program as described in section 2 of P.L. , c. (C.)
16 (pending before the Legislature as this bill), undertaken with
17 monies from the "social innovation loan guarantee fund." The
18 initial report and each annual report required pursuant to this
19 section shall include a description of the pilot program funded by
20 loans guaranteed to eligible organizations and a detailed analysis of
21 the consideration given to the factors set forth in subsection d. of
22 section 2 of P.L. , c. (C.) (pending before the Legislature as this
23 bill).

24
25 5. The authority shall adopt, pursuant to the "Administrative
26 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules or
27 regulations necessary to effectuate the purposes of P.L. , c. (C.)
28 (pending before the Legislature as this bill).

29
30 6. This act shall take effect on the first day of the fourth month
31 following the date of enactment, but the authority may take
32 anticipatory administrative action in advance thereof as shall be
33 necessary for the implementation of this act.

34 35 36 STATEMENT

37
38 This bill establishes a five-year social innovation loan guarantee
39 pilot program (pilot program) for the purpose of encouraging
40 private investment in health care services for the treatment and
41 prevention of opioid and other substance use disorders (treatment
42 and prevention services) to lower public expenditures related to
43 those services.

44 Under the bill, the New Jersey Health Care Facilities Financing
45 Authority (HCFFA) is to establish a pilot program to guarantee loan
46 agreements among lenders, eligible nonprofit organizations, and
47 public sector entities. The loan agreements are to: 1) provide an
48 eligible nonprofit organization with direct funding from a lender in

1 exchange for the provision of treatment and prevention services; 2)
2 require the public sector entity receiving funds for treatment and
3 prevention services to make defined payments to the lender in an
4 amount proportional to the amount of savings generated by the
5 provision of treatment and prevention services; and 3) authorize the
6 lender to receive loan repayments from the public sector entity in
7 exchange for the provision of funding to an eligible nonprofit
8 organization. In the event that the anticipated savings are not
9 achieved, the HCFFA is to provide a loan guarantee for the lender.

10 The HCFFA, lender, and eligible nonprofit organizations are also
11 required to establish a method of measurement and verification that
12 ensures treatment and prevention services were performed,
13 calculating any public sector savings resulting from those services,
14 and determining any interest rates or payments applicable to the
15 agreements. The bill allows the guarantees issued by the HCFFA to
16 be up to 100 percent of the value of the loan agreements, with loan
17 amounts not to exceed \$3,000,000 per year or \$15,000,000 in the
18 aggregate over the five-year pilot program period.

19 The bill establishes a non-lapsing, revolving fund called the
20 “social innovation loan guarantee fund” (loan fund) which is to be
21 used to guarantee pilot program loans to fund the loan program and
22 to pay for expenses related to the administration of the loan
23 guarantees. The loan guarantee fund may be credited with monies
24 from State appropriations, public or private donations, grant
25 funding, and loan guarantee program fees. The HCFFA is not to
26 issue a loan guarantee in an amount greater than the available and
27 committed monies in the loan guarantee fund.

28 The bill requires the HCFFA to solicit grants from philanthropic
29 organizations or other private sources for the establishment and
30 administration of the pilot program and capitalization of the loan
31 guarantee fund.

32 The bill establishes the “New Jersey Social Innovation Study
33 Commission” (study commission) within the HCFFA to assist the
34 HCFFA in administering the pilot program and issue annual reports
35 concerning the pilot program. The bill requires the HCFFA to
36 oversee the study commission, to determine the membership and
37 size of the study commission, and to appoint members to the study
38 commission. The Director of the Office of Faith-Based Initiatives in
39 the Department of State, a representative from the Department of
40 Health, and a representative from the Department of Human
41 Services are to be members of the study commission.

42 The bill directs the study commission to: 1) identify the
43 nonprofit organizations that will be eligible to receive loan
44 guarantees from the HCFFA; 2) assist the HCFFA in soliciting
45 donations for the loan guarantee fund; 3) help negotiate contract
46 terms and conditions of the loan agreements among lenders, eligible
47 nonprofit organizations, the HCFFA, and public sector entities; 4)
48 determine the necessity of retaining an independent intermediary to

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- 1 assist the study commission in the performance of its duties or to
- 2 perform the measurement and verification functions needed to
- 3 execute the loan guarantees; and 5) assist the HCFFA, upon request,
- 4 with any other issues related to the program.