

ASSEMBLY, No. 2349

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

Sponsored by:

Assemblyman WILLIAM F. MOEN, JR.

District 5 (Camden and Gloucester)

SYNOPSIS

The “New Jersey Social Innovation Act”; establishes social innovation loan pilot program and study commission within EDA.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** establishing a social innovation loan pilot program and
2 supplementing Title 34 of the Revised Statutes.

3

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

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7 1. This act shall be known and may be cited as the “New Jersey
8 Social Innovation Act.”

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10 2. As used in P.L. , c. (C.) (pending before the
11 Legislature as this bill):

12 “Authority” means the New Jersey Economic Development
13 Authority, established pursuant to P.L.1974, c.80 (C.34:1B-1 et
14 seq.).

15 “Eligible organization” means a nonprofit organization that is
16 exempt from federal taxation pursuant to section 501(c)(3) of the
17 federal Internal Revenue Code of 1986, 26 U.S.C. s.501 or a for-
18 profit organization, that has applied for participation in the social
19 innovation loan pilot program established pursuant to section 3 of
20 P.L. , c. (C.) (pending before the Legislature as this bill),
21 and is selected by the study commission as qualified to receive a
22 loan guarantee from the “social innovation loan fund” established
23 pursuant to section 5 of P.L. , c. (C.) (pending before the
24 Legislature as this bill).

25 “Pilot program” means the social innovation loan pilot program
26 established pursuant to section 3 of P.L. , c. (C.) (pending
27 before the Legislature as this bill).

28 “Social innovation loan fund” or “fund” means the fund
29 established pursuant to section 5 of P.L. , c. (C.) (pending
30 before the Legislature as this bill).

31 “Study commission” means the “New Jersey Social Innovation
32 Study Commission” established pursuant to section 4 of P.L. , c.
33 (C.) (pending before the Legislature as this bill).

34

35 3. a. There is established a five-year social innovation loan
36 pilot program within the New Jersey Economic Development
37 Authority to administer and determine the effectiveness of a social
38 innovation loan pilot program. The pilot program shall concern
39 nonprofit health care services with the purpose of encouraging
40 private investment in preventive and early intervention health care
41 to reduce federal, State, and municipal expenditures related to those
42 services. The pilot program shall assess the feasibility of expanding
43 a social innovation loan pilot program Statewide and expanding the
44 scope of social impact loan guarantees, made pursuant to subsection
45 b. of this section, beyond the health care sector.

46 b. Under the pilot program established pursuant to subsection
47 a. of this section, the authority shall guarantee loans issued to
48 eligible organizations for the provision of public health care

1 services which generate positive social outcomes and public sector
2 cost savings. Each loan shall be facilitated by the study commission
3 established pursuant to section 4 of P.L. , c. (C.) (pending
4 before the Legislature as this bill) and shall consist of:

5 (1) a lending agreement between an eligible organization, a
6 lender, and a public sector entity which shall include terms that
7 provide:

8 (a) the eligible organization with direct funding from a lender in
9 exchange for the provision of public health care services;

10 (b) the public sector entity with public health care services in
11 exchange for defined payments to the lender in an amount
12 proportional to the amount of public sector savings generated by the
13 provision of those services; and

14 (c) the lender with loan repayments in exchange for the
15 provision of funding to an eligible organization.

16 (2) a loan guarantee agreement between the authority and all
17 parties to the lending agreement authorized pursuant to paragraph
18 (1) of this subsection which shall require the terms of the lending
19 agreement to conform to any loan requirements established pursuant
20 to P.L. , c. (C.) (pending before the Legislature as this bill)
21 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 includes terms that require a method of measurement
25 and verification of the public health care services to be performed,
26 how the public sector savings are to be calculated, how the interest
27 rate will be determined, and how funds shall flow between the
28 parties according to each of the agreements made pursuant to this
29 subsection.

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

36 d. The authority, in cooperation with the study commission and
37 the Department of Human Services, shall offer to guarantee loans
38 made pursuant to subsection b. of this section utilizing funds from
39 the social innovation loan fund established pursuant to section 5 of
40 P.L. , c. (C.) (pending before the Legislature as this bill) to
41 finance a project undertaken for the purposes of subsection b. of
42 this section. The authority shall consider the following factors:

43 (1) The economic feasibility of the project;

44 (2) The degree to which the project will advance Statewide and
45 regional strategies and objectives;

46 (3) The degree to which the project maximizes the leverage of
47 other State funds; and

1 (4) The factors listed in paragraph (1) of subsection e. of section
2 4 of P.L. , c. (C.) (pending before the Legislature as this
3 bill).

4 e. A lender or nonprofit or for-profit organization seeking to
5 participate in the social innovation loan pilot program shall submit
6 an application in a form as the authority shall require. The
7 application shall include any information the authority shall
8 determine is necessary in consideration of the provisions of
9 P.L.2011, c.123 (52:14B-21.1 et seq.).

10 f. A loan guarantee agreement entered into pursuant to
11 subsection b. of this section shall provide that any loan guaranteed
12 by the authority shall: (1) be for a loan having a fair effective
13 interest rate as determined by the authority; and (2) contain other
14 terms and conditions considered appropriate by the authority that
15 are consistent with the purposes of P.L. , c. (C.) (pending
16 before the Legislature as this bill) and with rules and regulations
17 promulgated by the authority, pursuant to section 8 of P.L. , c.
18 (C.) (pending before the Legislature as this bill), to implement
19 P.L. , c. (C.) (pending before the Legislature as this bill).

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

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

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

39 i. The authority shall solicit grants from interested public or
40 private sources for the establishment and administration of the pilot
41 program and study commission as well as the capitalization of the
42 "social innovation loan fund" established pursuant to section 5 of
43 P.L. , c. (C.) (pending before the Legislature as this bill).

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

- 1 4. a. The authority shall oversee and staff a study commission,
2 entitled the “New Jersey Social Innovation Study Commission,”
3 established 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 commission. At least
12 one member of the study commission shall be a representative of
13 the Department of Human Services, one member shall be a
14 representative of the Department of Health, and one member shall
15 be the Executive Director of the Office of Faith-based Initiatives in
16 the Department of State. All members of the study commission
17 shall serve for 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 stenographic and
27 clerical assistance and incur traveling and other miscellaneous
28 expenses as the study commission may deem necessary in order to
29 perform its duties, within the limits of the funds made available to
30 the study commission for its purposes. The study commission may
31 meet at the call of its chairperson at the times and in the places the
32 study 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 pilot
40 program and to issue annual reports detailing the progress of the
41 pilot program. Specifically, the study commission, in cooperation
42 with the authority and the Department of Human Services shall:
- 43 (1) identify the nonprofit and for-profit organizations that will
44 be eligible to receive loan guarantees from the authority. The study
45 commission shall make this determination taking several factors
46 into consideration which shall include, but not be limited to, the
47 size and identity of the target population that benefits from the
48 nonprofit or for-profit organization service provider, the projected

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

6 (2) assist the authority in soliciting donations from philanthropic
7 organizations and other private sources to capitalize the loan fund;

8 (3) negotiate contract terms and conditions between social
9 innovation loan recipients and any public entity for whom the
10 recipient is performing health care intervention services, including
11 the development of metrics to project and measure both financial
12 and social outcomes, and the identification of independent third
13 parties to measure and evaluate outcomes;

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

24 (5) any other purposes related to the pilot program for which the
25 authority requests assistance.

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

40 g. The study commission shall submit its fifth and final report
41 to the Governor and, pursuant to section 2 of P.L.1991, c.164
42 (C.52:14-19.1), to the Legislature, within 90 days of the expiration
43 date of the pilot program, including any recommendations for
44 legislation it deems appropriate. The study commission's final
45 report shall include, but not be limited to, an analysis of the
46 feasibility of implementing a permanent social innovation loan
47 program Statewide, the sectors outside of non-profit health care in
48 which social lending could be successfully applied, the estimated

1 costs for the creation and administration of the permanent social
2 innovation loan program, the projected State, federal, and municipal
3 savings from administering the permanent program, a calculation of
4 the loan performance realized from the pilot program, a calculation
5 of the State, federal, and municipal savings accrued through the
6 pilot program, and an analysis of non-financial outcomes, such as
7 community impact and preventive results. The study commission
8 shall expire on the 30th day after the date of the issuance of its final
9 report, or upon the expiration of the pilot program, whichever
10 occurs later.

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12 5. a. To implement the social innovation loan pilot program,
13 the authority shall establish and maintain a special non-lapsing,
14 revolving fund called the “social innovation loan fund” which may
15 be credited with:

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

17 (2) monies received by the authority from any public or private
18 donations to be used to guarantee a loan issued pursuant to
19 subsection f. of section 3 of P.L. , c. (C.) (pending before
20 the Legislature as this bill);

21 (3) any monies as may be available to the authority from grants
22 or other forms of assistance established to support health care
23 intervention activities by the authority or by other State or federal
24 agencies or authorities; and

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

27 b. Loan funds may be used by the authority for the following
28 purposes:

29 (1) guaranteeing loans issued pursuant to subsection b. of
30 section 3 of P.L. , c. (C.) (pending before the Legislature
31 as this bill);

32 (2) reasonable and necessary expenses incurred by the authority
33 related to the administration of the pilot program and the study
34 commission; and

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

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

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

45 e. The authority may charge fees in connection with
46 applications for participation in the social innovation loan pilot
47 program as it deems reasonable to cover authority expenses in
48 administering the pilot program and issuing loan guarantees.

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1 (2) require the public sector entity receiving public health care
2 services to make defined payments to the lender in an amount
3 proportional to the amount of savings generated by the provision of
4 public health care services; and

5 (3) authorize the lender to receive loan repayments from the
6 public sector entity in exchange for the provision of funding to an
7 eligible nonprofit or for-profit organization.

8 The EDA, in cooperation with the “New Jersey Social
9 Innovation Study Commission” (study commission), established
10 pursuant to the bill, and the Department of Human Services, is to
11 offer to guarantee loans utilizing funds from the social innovation
12 loan fund, also established pursuant to the bill.

13 The EDA, lender, and eligible nonprofit and for-profit
14 organizations are also required to establish a method of
15 measurement and verification that ensures health care services were
16 performed, calculating any public sector savings resulting from
17 those services, and determining any interest rates or payments
18 applicable to the agreements. The bill allows the guarantees issued
19 by the EDA to be up to 100 percent of the value of the loan
20 agreements, with loan amounts not to exceed \$3,000,000 per year or
21 \$15,000,000 in the aggregate over the five-year pilot program
22 period.

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

32 The bill requires the EDA to solicit grants from philanthropic
33 organizations or other private sources for the establishment and
34 administration of the pilot program and capitalization of the loan
35 fund.

36 The bill establishes the within the EDA a study commission to
37 assist the EDA in administering the pilot program and issue annual
38 reports concerning the pilot program. The bill requires the EDA to
39 oversee and staff the study commission, to determine the
40 membership and size of the study commission, and to appoint
41 members to the study commission. The Executive Director of the
42 Office of Faith-based Initiatives in the Department of State, a
43 representative from the Department of Health, and a representative
44 from the Department of Human Services are to be members of the
45 study commission.

46 The bill requires the study commission to annually submit to the
47 Governor and to the Legislature a report containing a study and
48 evaluation of the pilot program. The report is to include, but not be

1 limited to, a description of any eligible organizations funded by the
2 social innovation loans, State, federal, and municipal financial
3 savings related to the issuance of social innovation loans, including
4 Medicaid savings, the expected loan performance and projected
5 payment schedule, the number of people serviced by the eligible
6 organization, a comparison of the population serviced by the
7 eligible organization and a similarly situated control group, and any
8 community impact related to the pilot program. The study
9 commission is to submit its fifth and final report to the Governor
10 and to the Legislature, within 90 days of the expiration date of the
11 pilot program, including any recommendations for legislation it
12 deems appropriate.

13 The bill directs the study commission to:

14 (1) identify the nonprofit and for-profit organizations that will
15 be eligible to receive loan guarantees from the EDA;

16 (2) assist the EDA in soliciting donations for the loan fund;

17 (3) help negotiate contract terms and conditions of the loan
18 agreements among lenders, eligible nonprofit and for-profit
19 organizations, the EDA, and public sector entities;

20 (4) determine the necessity of retaining an independent
21 intermediary to assist the study commission in the performance of
22 its duties or to perform the measurement and verification functions
23 needed to execute the loan guarantees; and

24 (5) assist the EDA, upon request, with any other issues related
25 to the program.

26 The bill requires the EDA to issue a report six months after the
27 effective date of the bill, and annually thereafter not later than
28 September 15, to the Governor and to the Legislature concerning
29 the financing of the pilot program undertaken with monies from the
30 loan fund.