ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5939

STATE OF NEW JERSEY

DATED: JUNE 22, 2021

The Assembly Budget Committee reports favorably Assembly Bill No. 5939.

This bill revises various provisions of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.) and establishes the "New Jersey Innovation Fellows Program" within the New Jersey Economic Development Authority (EDA).

The New Jersey Innovation Fellows Program. Under the program, the EDA would provide fellowship grants, through a competitive process, for teams of entrepreneurs who operate businesses in targeted industries within certain eligible municipalities. The bill provides that the fellowship grants, which may not exceed $350,000 per team, would be used as income replacement for entrepreneurs who leave the workforce to open and operate the business. The bill appropriates $10 million from the General Fund to support the program.

The New Jersey Aspire Program. The bill revises various provisions of the New Jersey Aspire Program, including:

(1) expanding the definition of "incentive area" to include aviation and port districts;

(2) removing the requirement for commercial projects to demonstrate that increases in incremental State revenues would exceed the amounts needed to support the developer's project financing gap;

(3) increasing the tax credit allowance for certain residential projects, which also receive an allocation of federal four-percent low income housing tax credits, to 60 percent of total project costs;

(4) increasing the total value of tax credits that may be awarded per redevelopment project to: (i) $60 million for residential projects that receive federal four-percent low income housing tax credits, or redevelopment projects located in certain designated areas; and (ii) $42 million for all other redevelopment projects;

(5) reducing the amount for which the developers of residential projects may assign tax credit certificates;

(6) revising the requirements for new residential projects to dedicate certain units for affordable housing purposes;

(7) providing that the EDA may allow up to six years to elapse from the date on which an incentive award agreement is executed to the date in which a certificate of occupancy is issued for certain higher-cost projects;

(8) defining the term “technology startup company”;

(9) revising the procedures and calculations for recapturing tax credit financing when the developer’s actual project financing gap is less than initially approved and when the developer’s actual return on investment is more than initially approved;

(10) reducing the requirements for mixed-use projects to qualify as transformative projects;

(11) establishing additional requirements for certain residential projects to qualify as transformative projects;

(12) removing the limitation on the number of incentive awards that may be awarded to transformative projects;

(13) increasing the tax credit award for transformative projects from 30 percent to 40 percent of total project costs, or $350 million, whichever is less;

(14) establishing standards for the execution of transformative phase agreements and the completion of transformative projects in phases;

(15) requiring transformative projects, other than those that include certain film production infrastructure, to be located within an incentive area, distressed municipality, or enhanced area;

(16) allowing the acquisition of land to count towards the calculation of project costs;

(17) revising the definition of “enhanced area” to include any municipality that contains an urban transit hub;

(18) revising the definitions of “food desert community” to include areas designated under the Food Desert Relief Program and “food delivery service” to reduce the square footage requirement;

(19) modifying the definition of “qualified childcare facility” to include registered family child care homes, and providing that the term includes facilities that maintain a licensed capacity for children aged 13 or younger who attend for less than 24 hours per day; and

(20) revising the definition of “cash flow” to include government payments.

The New Jersey Emerge Program. The bill also revises various provisions of the New Jersey Emerge Program, including:

(1) amending the definition of “full-time employee” to remove certain language concerning the minimum wage requirements;

(2) replacing references to “incentive agreement” and “incentive phase agreement” with “project agreement” and “project phase agreement,” respectively;

(3) defining the term “technology startup company”;

(4) modifying the job retention and creation requirements for eligible projects and providing preferential treatment for projects located in certain areas, including government-restricted municipalities, enhanced areas, and qualified census tracts;

(5) allowing the EDA to designate the time period in which a business should demonstrate that it has obtained project approval;

(6) expanding the tax credit bonus for solar energy projects to include projects that generate geo-thermal, wind, or any other renewable or distributive energy;

(7) eliminating the tax credit bonus for projects located in qualified incentive tracts;

(8) providing that when one-third or more of the members of an eligible business's governing body self-identify as members of an underrepresented community, then the $2,000 per year tax credit bonus would be calculated based on each new or retained full-time job;

(9) reducing the amount of bonus credits awarded for excess capital investment and higher-paid employees;

(10) requiring the EDA to reduce the tax credits awarded to a project located in a government-restricted municipality if the median salary of new and retained positions is less than the existing median salary in the municipality;

(11) adjusting the starting point, to the EDA's first issuance of a certificate of compliance, for the two-year period in which the payment of prevailing wages is required for construction work;

(12) revising the definition of "incentive area" to include enhanced areas and remove the requirement for certain suburban planning areas and rural centers to be located nearby certain transportation facilities;

(13) modifying the definition of "qualified childcare facility" to include registered family child care homes, and providing that the term includes facilities that maintain a licensed capacity for children aged 13 or younger who attend for less than 24 hours per day;

(14) revising the definition of "enhanced area" to include any municipality that contains an urban transit hub; and

(15) expands the definition of "capital investment to include costs incurred on behalf of a business by its landlord.

The Historic Property Reinvestment Program. The bill revises the amount of credits that may be awarded to eligible business entities under the program. Specifically, the credits would be limited to $8 million for the rehabilitation of qualified properties located in a qualified incentive tract or government-restricted municipality, $50 million for the rehabilitation of a transformative project, and $4 million for any other project. The bill also expands the definition of "transformative project" to include certain projects that are located within government-restricted municipalities. Lastly, the bill provides that prevailing wage requirements would also apply to building services work.

The Brownfields Redevelopment Incentive Program. The bill revises the manner in which tax credit awards are calculated under the program. Specifically, projects located in a qualified incentive tract or government-restricted municipality would receive credits equal to 60 percent of actual remediation costs, 60 percent of projected remediation costs, or $8 million, whichever is least. All other projects would receive credits equal to 50 percent of actual remediation costs, 50 percent of projected remediation costs, or $4 million, whichever is least. The bill also allows the credit to be claimed against the tax imposed under sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The bill also requires developers to provide the EDA with additional forms of evidence concerning actual remediation costs and completion of remediation. Lastly, the bill provides that prevailing wage requirements would also apply to building services work.

The New Jersey Innovation Evergreen Program. The bill reduces the minimum amount of tax credits, from $1 million to $500,000, that a potential purchaser may bid for through the competitive auction. The bill also requires a potential purchaser of tax credits to pay not less than 90 percent of the dollar value of the credits.

The Food Desert Relief Program. The bill revises various requirements governing the program. Notably, the bill requires the authority to designate the State's "food desert communities" based on the geographical areas having limited access to nutritious foods. The bill also allows the authority to consider various additional factors when making this determination. Additionally, the bill expands the definition of "small-food retailer" to include non-traditional retailers such as mobile vendors and farmers' markets. The bill also allows the authority to award grants to other eligible entities to support initiatives to strengthen the food security of residents in food desert communities.

The Main Street Recovery Finance Program. The bill amends various provisions of the program, including:

(1) revises the definition of "microbusiness" to include businesses with less than $1.5 million in annual gross revenue, as opposed to $1 million;

(2) requires the authority to undertake a disparity study of the relative availability of capital and related banking resources for small businesses and microbusinesses that are women- and minority-owned business enterprises in this State. As recommended by the study, the authority would also establish policies for the set-aside of funds for

eligible small businesses and microbusinesses that are minority-owned business enterprises or women-owned business enterprises;

(3) allows the authority to provide grants to for-profit and non-profit entities that provide technical assistance to microbusinesses;

(4) exempts capital improvements in excess of $50,000 from certain requirements regarding the use of renewable energy, energy-efficient technology, and non-renewable resources; and

(5) provides that minority deposit institutions are eligible to receive grants and loans under the program.

Other Changes to Specific Programs in the "New Jersey Economic Recovery Act of 2020." The bill makes changes to other constituent programs of the "New Jersey Economic Recovery Act of 2020." The bill amends the definition of "experienced non-profit or governmental or community development entity" under the Community-Anchored Development Program to remove the requirement for these entities to own or control significant real estate assets.

Additionally, the bill expands program eligibility under the New Jersey Ignite Program to include companies founded within the last seven years, as opposed to three years. Under the bill, the maximum aggregate amount of start-up rent grants that may be provided to an approved collaborative workspace could not exceed $100,000 per calendar year. The bill also provides additional guidance concerning the application of bonus months under the New Jersey Ignite Program.

The bill revises parts of the "Economic Development Authority Integrity and Protection Act" to clarify the responsibilities of the Chief Compliance Officer and authorize the authority to recapture any economic development incentive in the case of substantial noncompliance, fraud, or abuse by the recipient. The bill also provides that the Office of the Economic Development Inspector General would be situated in, but not of, the Department of the Treasury.

The bill also increases the number of members who will serve on the Working Group on Entrepreneur Zones in the authority from seven to 14 members.

General Changes to the "New Jersey Economic Recovery Act of 2020." The bill also makes certain changes that apply to multiple components of the "New Jersey Economic Recovery Act of 2020."

Notably, the bill provides that up to $350 million in tax credits, which credits were originally allocated for the New Jersey Aspire Program and the Emerge Program, would instead be made available for qualified offshore wind projects pursuant to section 6 of P.L.2010, c.57 (C.34:1B-209.4). As part of this change, the bill also revises certain elements of that law.

Additionally, the bill provides that if the EDA awards less than the annual limitation of tax credits under the New Jersey Aspire Program and the Emerge Program, then the uncommitted credits would be made available to qualified offshore wind projects and New Jersey studio partners, pursuant to P.L.2018, c.56. The bill also provides that beginning in fiscal year 2025, additional tax credits would be made available to New Jersey studio partners.

The bill also revises the manner in which the EDA would review the compliance of tax credit recipients. Specifically, the bill requires the EDA to confirm whether the business entity is in substantial good standing with respective State departments, or has entered into an agreement with a department that includes a practical corrective action plan. Additionally, the business entity would be required to confirm whether any contractors or subcontractors that perform work at a project site: (1) are registered under "The Public Works Contractor Registration Act," N.J.S.A. 34:11-56.48 et seq.; (2) have not been debarred by Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in New Jersey; and (3) possess a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury.

Additionally, the bill exempts eligible businesses from the requirement to enter a community benefits agreement under the New Jersey Aspire Program and the Emerge Program when the business submits a copy of the business's approval letter from the EDA or a redevelopment agreement, provided that such documentation is certified by the host municipality and includes provisions that meet or exceed the standards for community benefit agreements.

The bill makes changes to the Historic Property Reinvestment Program and the Brownfields Redevelopment Incentive Program to provide that prevailing wage requirements also apply to building services work.

The bill also amends the definition of "project financing gap" under the "Historic Property Reinvestment Act," the "Brownfields Redevelopment Incentive Act," and the "New Jersey Aspire Program Act." Specifically, the bill modifies the capital contribution requirements for projects located in a government-restricted municipality, clarifies the meaning of contributed capital, and clarifies the determination of project value.

The bill also amends various sections of law to correct typographical errors.

Other Economic Development Programs. The bill revises certain other economic development programs that predated the "New Jersey Economic Recovery Act of 2020."

Notably, the bill amends the laws governing the film and digital media tax credit program. Specifically, the bill increases the amount of the film production tax credit to 35 percent of the qualified film production expenses incurred by the taxpayer. The bill also extends the period in which film production credits may be claimed to those expenses incurred before July 1, 2034. Additionally, the bill provides additional requirements concerning the review of tax credit recipients. for The bill also replaces references to "New Jersey film partners" with "New Jersey studio partners," and reduces the number of New Jersey studio partners that may be designated throughout the State.

Additionally, the bill amends the various economic development programs, including the Grow New Jersey Assistance Program, the Business Employment Incentive Program, and the Business Retention and Relocation Assistance Grant Program, by adding a new definition for "full-time employee at a qualified business facility." This provision would supersede any existing requirements for employees to be present at the qualified business facility for at least 60 percent of their time.

Under the "New Jersey Economic Recovery Act of 2020," the Economic Redevelopment and Growth Grant (ERGG) Program was extended to provide $200 million in new tax credits, including $150 for certain commercial projects and $50 million for residential projects. The bill revises this allocation, providing instead that $125 million in tax credits would be made available for residential projects and $75 million in State incentive grants would be made available for commercial properties. The bill also requires the authority to apply certain standards set forth in the New Jersey Aspire Program when determining the repayment amount for recipients under the ERGG program.

In addition, the bill revises the New Jersey Emerging Technology and Biotechnology Financial Assistance Program by increasing, from $10 million to $15 million, the amount allocated for the surrender of transferable tax benefits for new and expanding emerging technology and biotechnology companies operating in certain areas. The bill also expands eligibility for these funds to include new and expanding emerging technology and biotechnology companies that operate in opportunity zones, or that are certified as a woman- or minority-owned business.

Lastly, the bill amends current law to allow the New Jersey Infrastructure Bank to guarantee debt instruments issued by local government units to support redevelopment projects that include wastewater treatment system projects, water supply projects, or transportation projects.

FISCAL IMPACT:

Fiscal information for this bill is currently unavailable.