

ASSEMBLY, No. 2687

STATE OF NEW JERSEY

INTRODUCED JANUARY 29, 1997

By Assemblymen MALONE, ASSELTA, Assemblywomen Heck, J. Smith, Assemblymen Kelly, Wolfe, Azzolina, Corodemus, Geist, Blee, Augustine, Arnone, T. Smith, Gregg, Holzapfel, Cottrell, Moran, Gibson, DeCroce, LeFevre, Assemblywoman Crecco, Assemblymen Romano, Doria and Garcia

1 AN ACT to provide for the availability of seed capital for leveraging
2 certain private monies and amending the "Export Financing
3 Opportunities Act," approved August 14, 1995 (P.L.1995, c.209,
4 C.34:1B-93 et seq.), and the "New Capital Sources Partnership
5 Act," approved December 22, 1995 (P.L.1995, c.293, C.34:1B-107
6 et seq.), and making an appropriation therefor.

7
8 **BE IT ENACTED** by the Senate and General Assembly of the State
9 of New Jersey:

10
11 1. Section 2 of P.L.1995, c.209 (C.34:1B-94) is amended to read
12 as follows:

13 2. The Legislature finds and declares that:

14 a. Currently, despite the existence of banks with active
15 international export departments, small and medium-sized businesses
16 in New Jersey find it difficult to obtain pre-export financing and other
17 export finance services needed to defray the costs of potentially
18 profitable orders.

19 b. Although there is currently a State-sponsored export working
20 capital program for small and medium-sized businesses and an export
21 loan guarantee program offered in conjunction with participating
22 banks, relatively few transactions have been approved under these
23 programs.

24 c. The public interest calls for encouraging the growth of exports
25 **[and]** of small and medium-sized businesses as well as providing
26 stimulation to the economy and to employment by the creation of an
27 export financing company supported by both public and private funds.

28 d. The public funding of an export financing company shall be
29 accomplished by the purchase of stock in the company by the New
30 Jersey Economic Development Authority and other public entities

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 involved in international export markets, such purchases to be
2 specifically limited as to the percentage of participation.

3 e. The capitalization of the export financing company would be
4 so structured that the New Jersey Economic Development Authority
5 and other public entities would incur minimal risk on their investment,
6 with private investors assuming most of the risk and earning more of
7 the profits should the new venture prove successful.

8 f. The Legislature further finds and declares that the Assembly
9 Task Force on Business Retention, Expansion and Export
10 Opportunities recommended certain initiatives in August 1994 that
11 were passed by the Legislature and signed into law by the Governor
12 in 1995.

13 g. In furtherance of the purposes of one of those initiatives, the
14 "Export Financing Opportunities Act," P.L.1995, c.209, (C.34:1B-93
15 et seq.), it is in the public interest to use public monies from the State
16 "Unclaimed Personal Property Trust Fund" to provide matching public
17 capital to further leverage private monies to provide specialized export
18 financing for small or medium-sized firms, which would not otherwise
19 be available through traditional lending institutions or public agencies.

20 (cf: P.L.1995, c.209, s.2)

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22 2. Section 4 of P.L.1995, c.209 (C.34:1B-96) is amended to read
23 as follows:

24 4. The authority is authorized, notwithstanding any law to the
25 contrary, to invest such moneys from the "Economic Recovery Fund,"
26 established pursuant to section 3 of P.L.1992, c.16 (C.34:1B-7.12),
27 [or] from other export or business assistance programs administered
28 by the authority, or any other monies as may be available and which
29 the authority deems appropriate for the purposes of this act, in an
30 export financing company, hereinafter "the company," to be
31 incorporated pursuant to the provisions of this act, which, together
32 with those investments which may be made in the stock of the
33 company by other public entities involved in international export
34 markets that may include, but not necessarily be limited to, the
35 Delaware River Port Authority and the Port Authority of New York
36 and New Jersey, shall be at a minimum amount to be determined by the
37 Export Finance Company Advisory Council established pursuant to
38 section 7 of this act. The moneys shall be used for the purchase of
39 stock in the company, provided that the class of stock purchased by
40 the authority and other public entities shall be of such type and
41 character as to require the company to repay the investment of funds
42 from the authority and other public entities prior to the repayment of
43 funds from private sources, but in no event shall the amount of such
44 stock purchased by the authority and other public entities exceed 49%
45 of the total outstanding stock of the company. The authority is
46 authorized in its discretion to sell or otherwise dispose of the stock

1 purchased by the authority as shall be in the interest of the authority
2 but the authority shall sell or otherwise dispose of the stock no later
3 than three years after the date of purchase.

4 (cf: P.L.1995, c.209, s.4)

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6 3. (New section) There is appropriated \$6,000,000 from the
7 General Fund to the New Jersey Economic Development Authority for
8 the purpose of investing such money in an export finance company,
9 pursuant to the provisions of section 4 of P.L.1995, c.209 (C.34:1B-
10 96). This amount shall be charged to amounts required to be
11 transferred to the General Fund from the Unclaimed Personal Property
12 Trust Fund pursuant to R.S.46:30B-74.

13
14 4. Section 2 of P.L.1995, c.293 (C.34:1B-108) is amended to read
15 as follows:

16 2. The Legislature finds and declares that:

17 a. Businesses with a small capital investment are an essential part
18 of the economy of the State in terms of products and services and as
19 employers;

20 b. While New Jersey is a "capital rich" State, the connection of
21 capital with those seeking equity investment has not readily taken
22 place;

23 c. At various times in the past, efforts have been made to raise
24 capital for the purpose of making equity investments in small capital
25 businesses;

26 d. In its report issued in August of 1994, the Assembly Task
27 Force on Business Retention, Expansion, and Export Opportunities
28 specifically called for greater use of Small Business Investment
29 Companies and identified the development of private sources of small
30 business equity capital as a major need for the State. Then in October
31 of 1994, the New Jersey Economic Development Authority (EDA)
32 issued a Request for Proposal seeking a Fund Manager to serve as a
33 General Partner for the development and implementation of a well
34 diversified venture capital pool for investment in small business
35 growth, encouraged use of Small Business Investment Companies and
36 pledged an initial investment to this pool from the EDA of \$2.5
37 million;

38 e. Efforts such as that currently initiated by the EDA with the
39 commitment of government funds have had difficulty in the past in
40 gaining private investor support and thus, for the most part, have not
41 provided much assistance in the way of small business development
42 and expansion.

43 f. The Legislature further finds that the Assembly Task Force on
44 Business Retention, Expansion and Export Opportunities
45 recommended certain initiatives in August 1994 that were passed by
46 the Legislature and signed into law by the Governor in 1995.

1 g. The Legislature therefore determines that the establishment of
2 a private partnership to act as a source of new private capital to be
3 used as equity capital for small capital businesses is necessary, that the
4 partnership initially should be formed with individuals who are willing
5 to commit private capital for equity investments, and that the
6 partnership should be enlarged by seeking commitments from financial
7 institutions and other entities seeking to encourage the development
8 and expansion of small capital businesses in this State, by cooperation
9 with State entities engaged in similar efforts and, where appropriate,
10 by gaining the commitment of State funds to match private investor
11 funds.

12 h. The Legislature further determines that, in furtherance of the
13 purposes of one of these 1995 initiatives, the "New Capital Sources
14 Partnership Act," P.L.1995, c.293, (C.34:1B-107 et seq.), it is in the
15 public interest to use public monies from the State "Unclaimed
16 Personal Property Trust Fund" to provide matching seed capital to
17 further leverage private monies in the financing of business growth and
18 expansion transactions, which would not otherwise be available
19 through traditional lending institutions or public agencies.

20 (cf: P.L.1995, c.293, s.2)

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22 5. Section 4 of P.L.1995, c.293 (C.34:1B-110) is amended to read
23 as follows:

24 4. a. There is established a New Capital Sources Board in, but not
25 of, the Department of Commerce and Economic Development. The
26 board shall be made up of eleven members: one shall be the
27 Commissioner of Commerce and Economic Development, or his
28 designee; one shall be the Chairman of the New Jersey Economic
29 Development Authority, or his designee; three public members shall be
30 appointed by the Governor; three public members shall be appointed
31 by the President of the Senate; and three public members shall be
32 appointed by the Speaker of the General Assembly, one of whom shall
33 be designated as chair of the board. The appointment of the members
34 shall take place within 45 days of the effective date of this act. The
35 appointee of the Speaker of the General Assembly designated as chair
36 of the board shall convene the board as soon as is practicable
37 following the appointment of at least six public members to the board.
38 The members appointed to this board shall consist of individuals with
39 extensive experience in banking and venture capital financing.

40 b. The members of the board shall serve without compensation.

41 c. The board is authorized, empowered and directed to:

42 (1) Develop a form of organization and a plan of operation for the
43 New Capital Sources Partnership consistent with the purposes of that
44 partnership as set forth pursuant to section 5 of this act. In so doing
45 the board shall consider, but not be limited to, the form of
46 organization, plan of operation and experiences of the Massachusetts

1 Business Development Corporation and the experience of the
2 Michigan Strategic Fund in the formation of private financial
3 institutions in the Commonwealth of Massachusetts and the State of
4 Michigan, respectively, for business development purposes.

5 (2) Seek out and gain commitments from persons, natural and
6 otherwise, to be initial investors in and incorporators of the New
7 Capital Sources Partnership.

8 (3) Cooperate and coordinate its efforts at gaining a private source
9 of equity capital for small business development in this State with the
10 Department of Commerce and Economic Development, and any
11 private sector nonprofit entity designated by the department, which
12 may include a nonprofit corporation organized to implement the
13 recommendations of the New Jersey Economic Master Plan
14 Commission established pursuant to Executive Order No. 1 issued by
15 the Governor on January 18, 1994.

16 d. The Department of Commerce and Economic Development, the
17 New Jersey Economic Development Authority and all other
18 departments and agencies of the State which are engaged in economic
19 development shall cooperate with the board to assist it in the
20 accomplishment of its mission including technical, financial or other
21 assistance.

22 e. Within one year of the effective date of this act, the board shall
23 provide the Governor and the Legislature with the results of its
24 accomplishments under subsection c. of this section, including
25 information on the incorporation of the New Capital Sources
26 Partnership.

27 f. Nothing in this act shall prohibit public members of the board
28 from being among those investors who form the New Capital Sources
29 Partnership.

30 g. The board shall expire at the end of 13 months from the
31 effective date of this act.

32 (cf: P.L.1995, c.293, s.4)

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34 6. a. (New section) There is appropriated \$5,000,000 from the
35 General Fund to the New Jersey Economic Development Authority for
36 the authority to apply to the pooling of funds to be created by the New
37 Capital Sources Partnership Board to be incorporated as the New
38 Capital Sources Partnership, pursuant to the provisions of section 4 of
39 P.L.1995, c.293 (C.34:1B-110). This amount shall be charged to
40 amounts required to be transferred to the General Fund from the
41 Unclaimed Personal Property Trust Fund pursuant to R.S.46:30B-74.

42 b. Within 60 days of the incorporation of the New Capital Sources
43 Partnership pursuant to section 4 of P.L.1995, c.293 (C.34:1B-110),
44 the authority shall pay over the funds to the New Capital Sources
45 Partnership pursuant to subsection a. of this section.

1 7. This act shall take effect immediately.

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STATEMENT

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6 This bill provides for the availability of seed capital which will be
7 used to leverage private monies for the purposes of the "Export
8 Financing Opportunities Act" and the "New Capital Sources
9 Partnership Act."

10 Specifically, the legislation makes an appropriation of \$11 million
11 from the State General Fund, from amounts required to be transferred
12 to that fund from the "Unclaimed Personal Property Trust Fund," to
13 be used by the New Jersey Economic Development Authority for the
14 purposes of: 1) purchasing stock in the proposed export finance
15 company, established pursuant to the "Export Financing Opportunities
16 Act," and 2) investing in the "New Capital Sources Partnership," a
17 private partnership program to finance business growth and expansion,
18 established pursuant to the "New Capital Sources Partnership Act."
19 These monies will leverage private monies.

20 The source of funds directed to these two aforementioned programs
21 represent a very small portion of the unclaimed bank accounts,
22 securities and other property held in the "Unclaimed Personal Property
23 Trust Fund" for a certain period of time and then transferred to the
24 General Fund, as specified under the "Uniform Unclaimed Property
25 Act." Approximately \$50 million is transferred to the State every year
26 from the Trust Fund.

27 The Assembly Task Force on Business Retention, Expansion and
28 Export Opportunities recommended the establishment of a private, for-
29 profit, State-sponsored export finance company to finance export
30 transactions on the basis of the merits of an export project, not the
31 collateral of small or medium-sized firms in their developing stages,
32 thereby making the process more user friendly. The Task Force also
33 recommended the creation of the New Capital Sources Partnership to
34 act as a source of equity capital for business start-ups and small
35 business growth and expansion. This partnership will supplement
36 other ongoing efforts with similar purposes.

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41 Provides for availability of seed capital to leverage private monies for
42 purposes of "Export Financing Opportunities Act" and "New Capital
43 Sources Partnership Act;" appropriates \$11 million.