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ASSEMBLY, No. 2687

STATE OF NEW JERSEY

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By Assemblymen MALONE, ASSELTA, Assemblywomen Heck,
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Geist, Blee, Augustine, Arnone, T. Smith, Gregg, Holzapfel,
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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.

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ACV committee amendments adopted February 3, 1997.

1 d. The public funding of an export financing company shall be
2 accomplished by the purchase of stock in the company by the New
3 Jersey Economic Development Authority and other public entities
4 involved in international export markets, such purchases to be
5 specifically limited as to the percentage of participation.

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

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

16 g. In furtherance of the purposes of one of those initiatives, the
17 "Export Financing Opportunities Act," P.L.1995, c.209, (C.34:1B-93
18 et seq.), it is in the public interest to use public monies from the State
19 "Unclaimed Personal Property Trust Fund" to provide matching public
20 capital to further leverage private monies to provide specialized export
21 financing for small or medium-sized firms, which would not otherwise
22 be available through traditional lending institutions or public agencies.
23 (cf: P.L.1995, c.209, s.2)

24

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

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

1 stock purchased by the authority and other public entities exceed 49%
2 of the total outstanding stock of the company. The authority is
3 authorized in its discretion to sell or otherwise dispose of the stock
4 purchased by the authority as shall be in the interest of the authority
5 but the authority shall sell or otherwise dispose of the stock no later
6 than three years after the date of purchase. ¹Within a reasonable time
7 following the sale or disposition of the authority's share of ownership
8 or interest in the company, the proceeds of the sale or disposition shall
9 be transferred to the General Fund for use for general State purposes.¹
10 (cf: P.L.1995, c.209, s.4)

11

12 3. (New section) There is appropriated ¹~~[\$6,000,000]~~ \$5,000,000¹
13 from the General Fund to the New Jersey Economic Development
14 Authority for the purpose of investing such money in an export finance
15 company, pursuant to the provisions of section 4 of P.L.1995, c.209
16 (C.34:1B-96). This amount shall be charged to amounts required to
17 be transferred to the General Fund from the Unclaimed Personal
18 Property Trust Fund pursuant to R.S.46:30B-74.

19

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

22 2. The Legislature finds and declares that:

23 a. Businesses with a small capital investment are an essential part
24 of the economy of the State in terms of products and services and as
25 employers;

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

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

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

44 e. Efforts such as that currently initiated by the EDA with the
45 commitment of government funds have had difficulty in the past in
46 gaining private investor support and thus, for the most part, have not

1 provided much assistance in the way of small business development
2 and expansion.

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

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

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

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

27

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

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

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

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

2 (1) Develop a form of organization and a plan of operation for the
3 New Capital Sources Partnership consistent with the purposes of that
4 partnership as set forth pursuant to section 5 of this act. In so doing
5 the board shall consider, but not be limited to, the form of
6 organization, plan of operation and experiences of the Massachusetts
7 Business Development Corporation and the experience of the
8 Michigan Strategic Fund in the formation of private financial
9 institutions in the Commonwealth of Massachusetts and the State of
10 Michigan, respectively, for business development purposes.

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

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

22 d. The Department of Commerce and Economic Development, the
23 New Jersey Economic Development Authority and all other
24 departments and agencies of the State which are engaged in economic
25 development shall cooperate with the board to assist it in the
26 accomplishment of its mission including technical, financial or other
27 assistance.

28 e. Within one year of the effective date of this act, the board shall
29 provide the Governor and the Legislature with the results of its
30 accomplishments under subsection c. of this section, including
31 information on the incorporation of the New Capital Sources
32 Partnership.

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

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

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

39

40 6. a. (New section) There is appropriated \$5,000,000 from the
41 General Fund to the New Jersey Economic Development Authority for
42 the authority to apply to the pooling of funds to be created by the New
43 Capital Sources Partnership Board to be incorporated as the New
44 Capital Sources Partnership, pursuant to the provisions of section 4 of
45 P.L.1995, c.293 (C.34:1B-110). This amount shall be charged to
46 amounts required to be transferred to the General Fund from the

1 Unclaimed Personal Property Trust Fund pursuant to R.S.46:30B-74.
2 b. Within 60 days of the incorporation of the New Capital Sources
3 Partnership pursuant to section 4 of P.L.1995, c.293 (C.34:1B-110),
4 the authority shall pay over the funds to the New Capital Sources
5 Partnership pursuant to subsection a. of this section.

6

7 7. This act shall take effect immediately.

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11

12 Provides for availability of seed capital to leverage private monies for
13 purposes of "Export Financing Opportunities Act" and "New Capital
14 Sources Partnership Act;" appropriates \$10 million.