

ASSEMBLY, No. 2968

STATE OF NEW JERSEY

INTRODUCED MAY 12, 1997

By Assemblymen ASSELTA, GIBSON, Augustine and Bagger

1 AN ACT authorizing municipalities to establish downtown business
2 improvement zones under certain circumstances and supplementing
3 P.L.1972, c.134 (C.40:56-65 et seq.).
4

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

7
8 1. As used in this act:

9 "Administering entity" means any entity designated by a
10 municipality pursuant to P.L.1972, c.134 (C.40:56-65 et seq.) to
11 administer a special improvement district established pursuant to
12 P.L.1972, c.134 (C.40:56-65 et seq.).

13 "Downtown business improvement zone" or "zone" means a zone
14 designated by a municipality, by ordinance, pursuant to section 2 of
15 P.L. , c. (C.) (pending before the Legislature as this bill) in
16 order to promote the economic revitalization of the municipality
17 through the encouragement of business improvement within the
18 downtown area.

19 "Downtown business improvement fund" or "fund" means that fund
20 established by the State Treasurer pursuant to section 4 of P.L. ,
21 c. (C.) (pending before the Legislature as this bill) into which
22 shall be deposited those revenues received from the taxation of retail
23 sales within a zone, as specified pursuant to section 3 of P.L. , c.
24 (C.) (pending before the Legislature as this bill).

25 "Eligible services" means any service which by law may be
26 performed by a municipality or administering entity, as the case may
27 be, including but not limited to, generic marketing administration,
28 business retention and business recruitment services and the
29 acquisition by purchase or lease of any equipment reasonably
30 necessary to accomplish the foregoing; provided, however, that
31 eligible services shall not include any marketing of any individual
32 business nor shall it include any service performed by the municipality
33 for all properties within and without a downtown business
34 improvement zone.

35 "Project" means the purchasing, leasing, condemning, or otherwise
36 acquiring of land or other property, or an interest therein, in the
37 downtown business improvement zone or as necessary for a right-of-

1 way or other easement to or from the zone; the relocating and moving
2 of persons displaced by the acquisition of land or property; the
3 rehabilitation and redevelopment of land or property, including
4 demolition, clearance, removal, relocation, renovation, alteration,
5 construction, reconstruction, installation or repair of land or a
6 building, street, highway, alley, utility, service or other structure or
7 improvement; the acquisition, construction, reconstruction,
8 rehabilitation, or installation of parking and other public facilities and
9 improvements, except buildings and facilities for the general conduct
10 of government and schools; and the costs associated therewith
11 including the costs of an administrative appraisal, economic and
12 environmental analyses or engineering, planning, design, architectural,
13 surveying or other professional services necessary to effectuate the
14 project.

15

16 2. With the exception of a municipality in which an urban
17 enterprise zone has been designated, any municipality which has
18 adopted or adopts an ordinance authorizing the establishment of a
19 special improvement district pursuant to section 7 of P.L.1972, c.134
20 (C.40:56-71) may, by ordinance, designate all or any portion of that
21 district which contains primarily businesses providing retail goods and
22 services as a "downtown business improvement zone." Any
23 municipality which so establishes a downtown business improvement
24 zone may authorize an administering entity to receive funds generated
25 in the zone pursuant to section 3 of P.L. , c. (C.) (pending
26 before the Legislature as this bill) in order to manage public
27 improvement within the zone and otherwise carry out the functions
28 and responsibilities set forth herein. In addition, a municipality which
29 has not adopted or is not eligible to adopt an ordinance authorizing the
30 establishment of a special improvement district pursuant to section 7
31 of P.L.1972, c.134 (C.40:56-71) may, by ordinance, designate all or
32 any portion of the municipality which contains primarily businesses
33 providing retail goods and services as a "downtown business
34 improvement zone" if the municipality has located within its borders
35 an abandoned or closed underground or surface commercial mine or
36 quarry.

37 Within 10 business days of the adoption of an ordinance pursuant
38 to this section, the municipal clerk shall forward a copy of the
39 ordinance to the Director of the Division of Taxation in the
40 Department of the Treasury and to the Director of the Division of
41 Local Government Services in the Department of Community Affairs.

42

43 3. Notwithstanding any provisions of law to the contrary, all
44 revenues received pursuant to the "Sales and Use Tax Act," P.L.1966,
45 c.30 (C.54:32B-1 et seq.) from the taxation of retail sales of tangible
46 personal property and services originating from and delivered from

1 business locations in a downtown business improvement zone shall be
2 deposited immediately upon collection by the Department of the
3 Treasury, as follows:

4 a. In the first five-year period following adoption by the
5 municipality of an ordinance establishing the downtown business
6 improvement zone, 1/6 of all revenues received from the taxation of
7 retail sales in the zone, but not more than \$100,000 per year, shall be
8 deposited in the downtown business improvement fund created
9 pursuant to section 4 of P.L. , c. (C. (pending before the
10 Legislature as this bill), and the balance shall be deposited in the
11 General Fund;

12 b. In the second five-year period following adoption by the
13 municipality of an ordinance establishing the downtown business
14 improvement zone, 2/18 of all revenues received from the taxation of
15 retail sales in the zone, but not more than \$50,000 per year, shall be
16 deposited in the downtown business improvement fund, and the
17 balance shall be deposited in the General Fund;

18 c. In the third five-year period following adoption by the
19 municipality of an ordinance establishing the downtown business
20 improvement zone, 1/18 of all revenues from the taxation of retail
21 sales in the zone, but not more than \$25,000 per year, shall be
22 deposited in the downtown business improvement fund, and the
23 balance shall be deposited in the General Fund;

24 d. Thereafter, all revenues received from the taxation of retail sales
25 in the zone shall be deposited in the General Fund.

26 The revenues required to be deposited in the downtown business
27 improvement fund under this section shall be used for the purposes of
28 that fund and for the uses prescribed in section 6 of P.L. , c. (C.)
29 (pending before the Legislature as this bill), subject to annual
30 appropriations being made for those purposes and uses.

31

32 4. There is created a downtown business improvement fund to be
33 held by the State Treasurer, which shall be the repository for all
34 moneys required to be deposited therein under section 3 of P.L. ,
35 c. (C.) (pending before the Legislature as this bill) or moneys
36 appropriated annually to the fund. All moneys deposited in the fund
37 shall be held and disbursed in the amounts necessary to fulfill the
38 purposes of this act and subject to the requirements prescribed in this
39 act . The State Treasurer may invest and reinvest any moneys in the
40 fund, or any portion thereof, in legal obligations of the United States
41 or of the State or of any political subdivision thereof. Any income
42 from, interest on, or increment to moneys so invested or reinvested
43 shall be included in the fund.

44

45 5. The State Treasurer shall maintain separate accounts for each
46 downtown business improvement zone designated under this act, and

1 shall credit to each account an amount of the moneys deposited in the
2 fund equal to the amount of revenues collected from the taxation of
3 retail sales made in the zone, as provided in section 3 of P.L. , c.
4 (C.) (pending before the Legislature as this bill), and appropriated
5 to the downtown business improvement zone, or that amount of
6 moneys appropriated to the fund and required to be credited to the
7 downtown business improvement fund account of the municipality
8 which created the downtown business improvement zone.

9 The State Treasurer shall promulgate such rules and regulations
10 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
11 (C.52:14B-1 et seq.) as are necessary to govern the administration of
12 the fund for the purposes of P.L. , c. (C.) (pending before
13 the Legislature as this bill)

14

15 6. a. The downtown business improvement fund shall be used for
16 the purpose of assisting municipalities which establish downtown
17 business improvement zones and administering entities, if any, which
18 manage such zones in undertaking public improvements and in
19 providing eligible services to the zone.

20 b. The governing body of a municipality in which a zone is
21 designated and an administering entity, if any, which manages that
22 zone, by resolution, may propose to undertake a project for the public
23 improvement of the zone or to provide eligible services to the zone,
24 and to fund that project or those eligible services from moneys
25 deposited in the downtown business improvement fund and credited
26 to the account maintained by the State Treasurer for that zone.

27 Nothing herein or in P.L.1972, c.134 (C.40:56-65 et seq.) shall be
28 construed to prohibit a governing body of a municipality and an
29 administering entity, if any, from utilizing those moneys raised through
30 the imposition of a special assessment pursuant to P.L.1972, c.134
31 (C.40:56-65 et seq.) toward the municipality's or administering entity's
32 share of the annual payments for any project or eligible service, as
33 required pursuant to section 7 of P.L. , c. (C.)(pending
34 before the Legislature as this bill).

35 The proposal so adopted by the municipality and the administering
36 entity, if any, shall set forth a plan for the project or for eligible
37 services and shall include:

38 (1) A description of the proposed project or of the eligible services
39 to be provided;

40 (2) An estimate of the total project costs, or of the total costs of
41 eligible services, and an estimate of the amounts of funding necessary
42 annually from the account;

43 (3) A statement of any other revenue sources to be used to finance
44 the project or to fund the cost of eligible services;

45 (4) A statement of the time necessary to complete the project, or
46 of the time during which the eligible services are to be maintained; and

1 (5) A statement of the manner in which the proposed project or the
2 eligible services further the municipality's policy and intentions for
3 addressing the economic conditions existing in the zone.

4
5 7. Upon adoption by the governing body of the municipality and by
6 the administering entity, if any, the proposal shall be sent to the
7 Department of Community Affairs, Division of Housing and
8 Community Development for its evaluation and approval. The
9 Department of Community Affairs shall approve the proposal if it shall
10 find:

11 a. In the case of a project, that the proposed project furthers the
12 policy and intentions behind the establishment of the zone; that the
13 municipality and the administering entity, if any, shall annually
14 appropriate for the project an amount of not less than 50% of the
15 amount of the annual payments for the project; that the estimated
16 annual payments for the proposed project from the downtown business
17 improvement fund account are not likely to result in a deficit in that
18 account; and that the estimated annual payments for the proposed
19 project from the downtown business improvement fund account shall
20 not be used for administrative purposes; and

21 b. In the case of funding for eligible services, that the proposal
22 furthers the policy and intentions behind the establishment of the zone;
23 that the municipality has furnished satisfactory assurances that the
24 proposed services or equipment shall augment or upgrade services in
25 the zone, and shall not be used in other areas of the municipality; that
26 the municipality and the administering entity, if any, shall annually
27 appropriate for the eligible services an amount of not less than 50% of
28 the amount of the annual payments for those services and that the
29 estimated annual payments for the eligible services from the account
30 to which the proposal pertains are not likely to result in a deficit in
31 that account.

32
33 8. The Department of Community Affairs shall approve the
34 proposal if it meets the standards established in section 7 of P.L. ,
35 c. (C.) (pending before the Legislature as this bill). Upon
36 approval, the department shall annually, upon its receipt of a written
37 statement from the governing body of the municipality or the
38 administering entity, if any, certify to the State Treasurer the amount
39 to be paid in that year from the account in the downtown business
40 improvement fund with respect to each project or eligible services
41 approved. The department may, at any time, revoke its approval of a
42 project or for funding eligible services if it finds that the annual
43 payments made from the fund are not being used as required by this
44 act.

45
46 9. Upon certification by the Department of Community Affairs of

1 the amount to be paid to a municipality or the administering entity, if
2 any, with respect to any project or eligible services, the State
3 Treasurer shall pay to the municipality or the administering entity, if
4 any and if the entity is so designated to receive the funds, that amount
5 approved by the Commissioner of Community Affairs within the limits
6 of the amounts credited to the downtown business improvement
7 account of the municipality.
8

9 10. This act shall take effect on the 60th day next following
10 enactment.
11

12 STATEMENT

13
14
15 This bill authorizes any municipality that has established a special
16 improvement district (pursuant to section 7 of P.L.1972, c.134;
17 C.40:56-71) or a municipality with an abandoned or closed under
18 ground or surface mine or quarry to designate an area primarily
19 composed of retail businesses or services as a "downtown business
20 improvement zone." This bill will not apply to municipalities in which
21 an urban enterprise zone has been designated,

22 Within a downtown business improvement zone, the municipality
23 would receive a declining share of certain sales tax proceeds over a
24 15-year period. In the first five years following designation of the
25 zone, 1/6 of all sales tax revenues generated from sales and services
26 originating from and delivered from within the zone, but not more than
27 \$100,000 per year, would be set aside in a special zone fund to be
28 used for projects or increased services to further public improvement
29 within the zone. In the second five-year period, 2/18 of such sales tax
30 revenues, but not more than \$50,000 per year, would be directed into
31 the special fund, and in the third five-year period, 1/18 of such sales
32 tax revenues, but not more than \$25,000 per year, would be directed
33 into the special fund. Those funds not collected for the special fund
34 would continue to be deposited into the General Fund.

35 The State Treasurer would be the repository for all moneys
36 collected for deposit into the downtown business improvement fund.
37 In order to receive funding for projects or services out of the fund, the
38 governing body of any municipality that has created a zone, and an
39 administering entity, if any, which manages it, would be required to
40 develop a proposal outlining a plan for a project or eligible services.
41 The bill sets forth five requirements for a proposal, which include a
42 description of the proposed project or services, an estimate of the total
43 costs of the project or services, and a statement of other revenue
44 sources to be used to finance the project or services.

45 Upon adoption of the proposal by the governing body and the
46 administering entity, if any, the proposal would be sent to the Division

1 of Housing and Community Development at the Department of
2 Community Affairs for evaluation and approval. The bill sets forth the
3 criteria that the department is to use to evaluate such proposals.

4 The services and projects provided for under the bill range from
5 general marketing, business retention and recruitment services to a
6 wide variety of capital improvements to make a zone more attractive
7 and accessible.

8

9

10

11

12 Authorizes municipalities to establish downtown business
13 improvement zones and sharing of retail sales tax proceeds therein.