

[Third Reprint]
SENATE, No. 1928

STATE OF NEW JERSEY

INTRODUCED MARCH 20, 1997

By Senators SINGER, SACCO and Kyrillos

1 AN ACT concerning the financing of the development of economic
2 growth areas and 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:

6

7 1. This act shall be known and may be cited as the "Economic
8 Growth Act."

9

10 2. The Legislature finds and declares that:

11 a. The development and expansion of retail, commercial and
12 entertainment establishments can generate tangible long-term benefits
13 for the State, its local political subdivisions and its citizens.

14 b. These benefits include increases in State sales tax and local
15 property tax revenues and new employment opportunities, as well as
16 the overall enhancement of life in New Jersey.

17 c. In order to develop these areas in a beneficial manner, it is in the
18 public interest to provide the means to finance certain infrastructure
19 costs of development and redevelopment and other costs, in order to
20 open new avenues for private investment, create jobs, stimulate
21 commercial, recreational, cultural, entertainment, civic and educational
22 enterprises, and create favorable conditions for increases in economic
23 activity, property values and employment opportunities.

24 d. The potential for substantial gains in new tax revenues, jobs and
25 economic activity, and the potential enhancement to the quality of life
26 in the State and for its citizens, justifies the use of State assistance to
27 encourage private investment and to promote development and
28 redevelopment projects that would not otherwise occur without such
29 State assistance.

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 Senate SEG committee amendments adopted May 8, 1997.

² Senate SBA committee amendments adopted November 17, 1997.

³ Senate floor amendments adopted December 1, 1997.

1 3. As used in this act:

2 "Authority" means the New Jersey Economic Development
3 Authority created pursuant to section 4 of P.L.1974, c.80 (C.34:1B-
4 4).

5 "Bonds" means the bonds, notes, or other obligations issued by the
6 authority, a developer or any other entity pursuant to this act to
7 finance a development, project or project costs authorized by this act.

8 "Commissioner" means the Commissioner of Commerce and
9 Economic Development.

10 "Department" means the Department of Commerce and Economic
11 Development.

12 "Developer" or "redeveloper" means any person or entity
13 establishing or creating a development pursuant to this act.

14 "Development" or "redevelopment" means a new retail, commercial
15 or entertainment business, or similar enterprise, or complex, or the
16 improvements or expansion of an existing development, or portion
17 thereof, the activities of which generate or are anticipated to generate
18 sales tax revenues or other revenues, within an economic growth area.

19 "Economic development plan" or "development plan" means a
20 proposal or plan, submitted by a developer to the State Treasurer
21 pursuant to section 5 of this act, which describes the potential benefits
22 including, but not limited to, new economic activity, tax revenues and
23 job creation, that are expected to flow from a proposed development.

24 "Economic growth area" or "growth area" means a designated
25 geographic area ²or a Regional Growth Area, Pinelands Town or
26 Pinelands Village, designated pursuant to the Pinelands
27 Comprehensive Management Plan adopted pursuant to P.L.1979,
28 c.111 (C.13:18A-1 et seq.).² or a new commercial, retail or
29 entertainment business, or similar enterprise, or complex, or expansion
30 thereof, in this State, generating or anticipated to generate sales tax
31 revenues, pursuant to the "Sales and Use Tax Act," P.L.1966, c.30
32 (C.54:32B-1 et seq.), or other revenues, that would not have been
33 realized without State assistance to a development or project, as
34 determined by the State Treasurer pursuant to this act.

35 "Economic Growth Fund" or "growth fund" means a special fund
36 established in the State's General Fund pursuant to section 4 of this
37 act.

38 ²"New Jersey Redevelopment Authority" or "redevelopment
39 authority" means the authority established pursuant to P.L.1996, c.62
40 (C.55:19-20 et seq.).²

41 "Project" means the purchasing, leasing, condemning or otherwise
42 acquiring of land or other property, or an interest therein, in a growth
43 area or, as necessary or convenient for the acquisition of any right-of-
44 way or other easement to or from a growth area; the moving and
45 relocation of persons or businesses displaced by the acquisition of land
46 or property; the acquisition, construction, reconstruction or

1 rehabilitation of land or property and improvements thereon, or the
2 financing thereof, including demolition, clearance, removal, relocation,
3 renovation, alteration, construction, reconstruction, fill or
4 environmental enhancement, alteration or repair of any land, building,
5 street, highway, utility, mass transit facility, service or other structure,
6 infrastructure or improvement in a growth area or as necessary to
7 effectuate a development plan for a development within a growth area,
8 including infrastructure improvements outside a growth area which the
9 State Treasurer determines are integral to the effectuation of a
10 development, the acquisition, construction, reconstruction,
11 rehabilitation or installation of public facilities and improvements of
12 nonprofit corporations or other suitable public or private persons,
13 firms, corporations or associations, including educational, cultural,
14 civic and recreational facilities including, but not limited to,
15 convention centers, arenas and public meeting facilities, or the
16 financing thereof; and all costs associated with any of the foregoing,
17 including the payment of principal of and interest on bonds issued by
18 a developer or any other entity, and the costs of administrative
19 appraisals, legal, financial, economic and environmental analysis,
20 engineering or cleanup, planning, design, architectural, surveying or
21 other professional and technical services necessary to effectuate the
22 purposes of this act.

23 "Project cost" means the cost of a project, within a growth area or
24 located in adjacent locations, as determined by the State Treasurer, or
25 the cost of a development, and of any and all property, rights,
26 assessments, privileges, agreements and franchises deemed by the
27 State Treasurer to be necessary or useful or convenient therefor or in
28 connection therewith, the cost of issuance of bonds, including interest,
29 engineering and inspection costs, legal expenses, costs of financial and
30 other professional estimates and advice, organization, administrative,
31 operating and other expenses of the State Treasurer or developer prior
32 to and during the planning and implementation of a development, or
33 project, including such provisions as the State Treasurer may
34 determine for the payment, or security for payment, of principal of
35 bonds during or after the implementation of any development, or
36 project or project costs.

37

38 4. a. The State Treasurer shall establish and maintain a special
39 fund in the State's General Fund to be known as the "Economic
40 Growth Fund" into which shall be deposited: (1) such moneys as shall
41 be paid to the growth fund from sales tax revenues pursuant to section
42 8 of this act; (2) such other tax revenues and other sums as shall be
43 appropriated by the State for the purposes of the growth fund; (3)
44 such moneys as shall be paid to the growth fund from a developer,
45 redeveloper or other similar party; and (4) such moneys as shall be
46 paid to the growth fund from any other governmental entity or from

1 any other source.

2 b. If the State Treasurer determines that the criteria of sections 6
3 and 7 of this act have been met, the Treasurer shall use the fund for
4 the purposes set forth in this act including, but not limited to: (1)
5 paying for projects and project costs; (2) paying grants, ²provided the
6 total amount of grants paid pursuant to this section for a project or
7 project costs, when combined with any other grant received for a
8 project or project costs by operation of State law, does not exceed
9 50% of the new sales tax revenue, other revenues or economic benefits
10 generated or anticipated to be generated annually as a consequence of
11 a development or redevelopment,² and paying the principal of and
12 interest on bonds or other obligations issued ²[or guaranteed] ²
13 pursuant to this act; and (3) prepaying the principal of and interest on
14 bonds issued ² [or guaranteed]² pursuant to this act.

15 c. Any revenues deposited in the growth fund shall not be
16 considered part of the General Fund and shall not be commingled with
17 General Fund moneys, and once deposited in the growth fund, such
18 revenues may be paid as authorized by section 8 of this act.

19

20 5. A developer may submit a development plan to the State
21 Treasurer who shall review the plan in consultation with the
22 commissioner ²[and],² the authority ²and the redevelopment
23 authority². The development plan shall include:

24 a. a description of the proposed development or redevelopment,
25 and growth area, an estimate of the project cost, and a proposed
26 construction schedule;

27 b. an estimate of the amount of new sales tax or other revenues
28 that will be generated or anticipated to be generated as a consequence
29 of the development or redevelopment for a period of thirty years;

30 c. an assessment of the economic and social benefits of the
31 development;

32 d. a list and description of projects and projects costs for which
33 assistance is sought;

34 e. an estimate of the taxable value of the assessed project upon
35 completion of the development; ¹[and]¹

36 f. ¹a provision that not less than the prevailing wage rate, as
37 determined by the Commissioner of Labor, pursuant to the provisions
38 of P.L.1963, c.150 (C.34:11-56.25 et seq.), be paid to workers
39 employed in the performance of contracts for construction,
40 reconstruction or rehabilitation of property and improvements thereon;
41 ²[and]²

42 g.¹ ²documentation that all necessary approvals have been obtained
43 or a statement of consistency with local zoning ordinances; ³[and]³

44 h.² such other information as the State Treasurer may require.

45 ²The State Treasurer shall submit a copy of any development plan
46 received from a developer pursuant to this section, including any

1 subsequent modifications or changes to the plan, to the Joint Budget
2 Oversight Committee for its review^{2 3}[.]; and

3 i. Notwithstanding the provisions of the "Hackensack Meadowlands
4 Reclamation and Development Act," P.L.1968, c.404 (C.13:17-1 et
5 seq.), the documentation submitted pursuant to subsection g. of this
6 section for developments within the Hackensack Meadowlands District
7 shall include all required approvals from local zoning boards for a
8 development or evidence of consistency with local zoning ordinances.³

9
10 6. To qualify a development as eligible for State financing, the
11 State Treasurer ¹[must] shall¹ determine that a development is located
12 within a growth area, as described in the development plan, and will
13 generate significant new sales tax or other revenues or economic
14 benefits and ¹[and]¹ will create new jobs.

15
16 7. If the State Treasurer determines that a development is eligible
17 for State financing pursuant to section 6 of this act, he shall thereafter
18 determine, after consultation with the commissioner and the authority,
19 that:

20 a. the proposed development or redevelopment is likely to be
21 realized, and would not be likely to be accomplished by a developer
22 without the creation of a growth area and the allocation of State
23 financing or other assistance to projects or project costs;

24 b. the amount of sales tax or other revenues pledged from the
25 growth fund is reasonably related to the amount needed by the
26 developer or redeveloper to obtain the financing needed to effectuate
27 the projects;

28 c. the credit of the State of New Jersey will not be pledged;

29 d. the creation of a growth area will contribute to the economic
30 development of the State, and enhance the retail, commercial or
31 entertainment activities available in the State and the quality of life
32 therein;

33 e. the size of the proposed growth area does not exceed the
34 capacity of the area and the amount of sales tax or other revenues
35 pledged from the growth fund does not exceed the amount necessary
36 to accomplish the goals of achieving economic growth, creating new
37 tax revenues and creating new jobs;

38 f. providing financial assistance for projects and project costs will
39 benefit the State, its political subdivisions or its citizens; ³[and]³

40 g. the amount of sales tax revenue or other revenues pledged from
41 the growth fund will not pose an inappropriate risk to or undue
42 financial hardship on the State ³[.] ; and

43 h. the proposed growth area is consistent with the State
44 Development and Redevelopment Plan adopted pursuant to P.L. 1985,
45 c.398 (C.52:18A-196 et seq.).³

1 8. If the State Treasurer determines that the proposed development
2 or redevelopment meets the criteria set forth in sections 6 and 7 of this
3 act, he is authorized to:

4 a. (1) allocate up to one-half of the sales tax revenues received
5 pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1
6 et seq.) from the taxation of retail sales within a growth area, into the
7 growth fund for such period of time, not exceeding 30 years, as he
8 determines is necessary and desirable to effectuate the purposes of this
9 act; (2) with respect to the allocation of sales tax revenues authorized
10 by this subsection, the State Treasurer, notwithstanding any other law,
11 rule, regulation or order to the contrary, is further authorized to
12 collect the revenues and deposit them in the growth fund and make the
13 allocations authorized by this subsection from the growth fund without
14 having to deposit the revenues into the State's General Fund and the
15 revenues shall not be commingled with or considered to be part of the
16 State's General Fund; (3) maintain separate accounts in the growth
17 fund and allocate such moneys for a project or project costs in an
18 amount sufficient to ensure their payment and the payment of principal
19 of and interest on bonds issued pursuant to this act; and (4) apply
20 moneys in the growth fund, which in his judgment, after consideration
21 of the anticipated debt service obligations of a project and evaluation
22 of the need to establish any reserve funds, exceed the amount needed
23 to meet the requirements of paragraph (3) of this subsection, to other
24 purposes of this act or for such other lawful purposes as are deemed
25 appropriate by the State Treasurer;

26 b. make and enter into contracts or agreements with the authority
27 to provide for conduit financing for projects or project costs through
28 the issuance by the authority of bonds to be secured by moneys in the
29 growth fund to pay for projects or project costs, provided that such
30 bonds shall not constitute obligations of the growth fund, nor of the
31 State of New Jersey or its General Fund but shall be obligations of the
32 developer; and provided further that the payment of principal of and
33 interest on any of the bonds shall not exceed the amounts in the
34 growth fund;

35 c. make direct grants to developers, government agencies or others
36 to fund a project or project costs ²provided the total amount of grants
37 paid pursuant to this section for a project or project costs, when
38 combined with any other grant received for a project or project costs
39 by operation of State law, does not exceed 50% of the new sales tax
40 revenue, other revenues or economic benefits generated or anticipated
41 to be generated annually as a consequence of a development or
42 redevelopment²;

43 d. make and enter into contracts or agreements with public
44 agencies, nonprofit corporations or other suitable public or private
45 persons, firms, corporations or associations, and make loans or grants
46 to ²[, or guarantee the obligations of,]² any other public agency or

1 corporation, or other suitable public or private person as may be
2 necessary, convenient or incidental to the execution of projects or
3 projects costs on such terms as he deems appropriate;

4 e. enter into agreements or engage in other transactions with, and
5 accept grants, loans, appropriations or other assistance or cooperation
6 from, the United States or any agency thereof, or from the State or a
7 county or municipal governing body or any agency thereof, or any
8 nonprofit corporation or other suitable public or private person, firm,
9 corporation or association in furtherance of the purposes of this act on
10 such terms as he deems appropriate;

11 f. hire or consult with consultants, or to enter into agreements with
12 public or private agencies; ¹[and]¹

13 g. pay for projects and project costs, specifically including
14 payments to a developer, as reimbursement for projects or project
15 costs incurred by a developer, in accordance with a redevelopment
16 agreement entered into by the developer for or with respect to a
17 project ¹; and

18 h. require developers and their project contractors to provide
19 guarantee payment bonds for construction work pertaining to
20 developments receiving State financing¹.

21

22 9. Before allocating or pledging any sales tax or other revenues,
23 and prior to the issuing of any bonds, incurring any obligations ²[or
24 guaranteeing]² or entering into contracts or agreements concerning the
25 obligations of any other entity with respect to the project costs of any
26 project, the State Treasurer shall adopt a final revenue allocation plan
27 for the project. That plan shall include:

28 a. a description of the growth area, a description of the project or
29 project costs to be financed, including the projected cost and
30 construction schedule of the development;

31 b. a description of the development to be undertaken, including an
32 estimate of the sales tax or other revenues anticipated to be generated
33 from the development; and

34 c. a description of the sales tax or other revenues to be pledged to
35 the support of the project.

36

37 10. Moneys in the growth fund may be invested in the State of
38 New Jersey Cash Management Fund established pursuant to section 1
39 of P.L.1977, c.281 (C.52:18A-90.4). The State Treasurer may also
40 invest and reinvest moneys in the growth fund, or any portion thereof,
41 in such financial instruments as he deems appropriate. Any income
42 from, interest on, or increment to moneys so invested or reinvested
43 shall be included in the growth fund.

44

45 ²11. a. The State Treasurer shall report within six months of the
46 effective date of this act, and at least every six months thereafter, to

1 the Governor and the Legislature on the status of each element of a
2 final revenue allocation plan adopted pursuant to section 9 of this act,
3 and the number of developers applying for assistance during the
4 previous reporting period.

5 b. Within 24 months of the effective date of this act, the Treasurer
6 shall, after consultation with the authority, the commissioner and the
7 redevelopment authority, submit a report to the Governor and the
8 Legislature concerning the success of the Economic Growth Fund and
9 including any legislative or administrative recommendations regarding
10 the improvement and expansion of the fund.²

11 ²12. The State Treasurer shall coordinate efforts, to the maximum
12 extent feasible, in connection with the review and approval of
13 economic development plans submitted pursuant to section 5 of this
14 act, with the New Jersey Redevelopment Authority in order to avoid
15 duplication of effort and to promote the most efficient use of State
16 resources.²

17
18 ²13. Notwithstanding any other provision of this act, or of any
19 contract or agreement entered into by any State officer, or
20 independent State authority or agency or officer thereof, pursuant to
21 this act, no obligation of the State of New Jersey or any independent
22 authority is created for the payment of bonds secured by moneys in the
23 growth fund, except as solely may derive from the deposit of sales tax
24 revenues in the growth fund pursuant to paragraph (1) of subsection
25 a. of section 4 of this act.²

26
27 ²[11.] 14.² The Department of the Treasury shall adopt, pursuant
28 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
29 et seq.), rules and regulations as may be necessary to effectuate the
30 purposes of this act.

31
32 ²[12.] 15.² This act shall take effect immediately

33
34
35 _____
36
37 Authorizes the issuance of bonds to finance development of projects
38 in economic growth areas.