

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE No. 3600

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 10, 2021

The Senate Community and Urban Affairs Committee reports favorably and with committee amendments Senate Bill No. 3600.

As amended, this bill would restore and reform the State Urban Enterprise Zone (UEZ) Program. The bill proposes to recast the manner in which the State allocates the amounts it spends in support of the UEZ program in a manner to best reflect the legislative intent behind the UEZ program.

The bill would enable currently designated UEZs and UEZ-businesses to continue in the UEZ program for a limited period of time.

The bill would change composition of the UEZ Authority (UEZA) by making the chair of the UEZA the Commissioner of Community Affairs, instead of the leader of the New Jersey Economic Development Authority, and by adding the Chief Executive Officer of the New Jersey Redevelopment Authority as a member of the UEZA instead of one of the public members, thereby reducing the number of public members from five to four. The bill would require the appointment of the new public members, to staggered terms of office, following the reconstitution of the UEZA.

The bill would phase out the "UEZ-impacted business district" component of the UEZ program, and would prohibit new applications for the UEZ employee tax credit and for the UEZ corporation business tax exemption.

The bill would modify the process for qualifying municipalities to adopt zone development plans and to achieve UEZ designation. Under the bill, the UEZA's certification of a zone development plan would constitute the UEZA's designation or re-designation of the municipality as an enterprise zone. A zone development plan would have a five-year life, and a municipality would be required to follow the process set forth in the bill to renew plan approval (and UEZ designation) to protect against lapse of enterprise zone designation. A zone development plan would be the plan according to which the UEZ program is administered in that zone. Under the bill, each municipality that had a zone development plan approved more than five years prior to the effective date of the bill must submit an updated preliminary zone development plan. The bill

would create a funding stream to assist municipalities in formulating preliminary zone development plans. The bill includes a provision protecting existing qualified businesses from losing eligibility for certain UEZ-related tax exemptions, even if the municipality in which the business is located loses its UEZ designation.

The bill modifies the process and criteria for designation of UEZs but allows currently designated zones to retain UEZ designation for 10 years.

The bill would change the boundaries of each zone, on the bill's effective date, to make zone boundaries coterminous with the borders of the municipality in which the zone is located. The bill specifies that an area located within a UEZ after the bill's effective date will not be considered sufficient for the determination that the area is in need of redevelopment under the Local Redevelopment and Housing Law, P.L.1992, c.79 (C.40A:12A-1 et seq.), for the purpose of granting tax exemptions or tax abatements, unless the area is located within a UEZA-certified "eligible block group."

The bill defines the term "eligible block group" as a block group (a statistical division of federally-designated census tracts) that meets or exceeds the 50th percentile of the Economic Distress Index. The bill defines "Economic Distress Index" as a standardized score developed and maintained by the Department of Community Affairs (DCA) that equally incorporates the block group unemployment rate and median household income according to the most recent five-year estimate by the United States Census Bureau.

The bill uses the term "eligible block group" as a way to limit eligibility of a business to qualify under the UEZ program. Under the bill, as of January 1, 2022, certification of a qualified business that is not located in an eligible block group would lapse unless the business is located in a "major job center" or is an industrial business located in an industrial hub. The bill defines "major job center" as a block group with an Economic Distress Index score greater than or equal to the 50th percentile and in which the jobs per square mile meets or exceeds the State average according to the most recent estimate by the United States Census Bureau.

The bill would alter the current method for distributing sales tax revenues generated within UEZs by replacing the current system (which allows each zone access to a percentage of the sales tax revenue generated within that zone) with a new system (which would distribute a percentage of the total monies appropriated annually to the UEZ Fund, based upon a statutory formula). The new formula would apply weight to: each UEZ municipality's Municipal Revitalization Index Distress Score; the average number of unemployed persons in each UEZ municipality; and the number

of commercial and industrial parcels located in each UEZ municipality.

The bill would also alter the permissible uses of these funds by replacing the current statutory criteria with a new term: “qualified assistance fund expenses,” and defining that term as any reasonable expense, which will lead to the creation of new jobs and increased economic activity within the zone, related to:

- (1) a construction project improving, altering, or repairing the real property of a qualified business located in an enterprise zone;
- (2) full or part time economic and community development positions in the municipality, other governmental, or not-for-profit organization, or marketing;
- (3) loans, grants, and guarantees to businesses;
- (4) payroll expenses and equipment purchases primarily for the provision of law enforcement, fire protection, or emergency medical services within commercial and transportation corridors located exclusively in an enterprise zone;
- (5) planning and other professional services related to economic and community development;
- (6) cleaning and maintenance of commercial and transportation corridors;
- (7) the improvement of public infrastructure in a commercial or transportation corridor;
- (8) the improvement of public infrastructure related to a commercial, industrial, mixed use, or multi-family residential property;
- (9) employment and training programs; or
- (10) non-construction related purchases in an amount not to exceed \$50,000 for a qualified business that employs 25 or fewer employees.

Under the bill, a municipality cannot appropriate or expend more than 25 percent of the amount annually credited to its enterprise zone assistance fund for public safety purposes, as described pursuant to paragraph (4) above.

The bill makes several changes to the incentives and exemptions available under the UEZ program. In so doing, the bill defines three new terms: UZ-2 certification, UZ-4 certification, and UZ-5 certification, which refer to types of certification to be issued under the bill by the UEZA.

Under the bill:

“UZ-2 certification” means a certification provided to a qualified business that allows the qualified business a 50 percent sales tax exemption for sales made by the business within the UEZ;

“UZ-4 certification” means a certification provided to a qualified business that allows a contractor to make tax-free purchases of materials, supplies, and services for the exclusive use of improving,

altering or repairing the real property of a qualified business located in an enterprise zone; and

“UZ-5 certification” means a certification provided to a qualified business allowing the business to make tax-free purchases of personal property (other than motor vehicles and motor vehicle parts and supplies) for the business’s exclusive use or consumption on its premises within a UEZ. This exemption also applies to delivery charges and charges for services performed for a qualified business on its premises within a UEZ.

With regard to the 50 percent sales tax exemption for sales made by the holder of a UZ-2 certificate, the bill would allow a business to deliver merchandise (which receives this exemption) to a location outside a UEZ provided the sale is physically transacted within the zone. The bill would restrict eligibility for this exemption to sales made by a qualified business from an “eligible block group” or a parcel of property adjacent to an eligible block group and located within the same municipality.

The bill would retain provisions of current law that require a UEZ municipality and its zone development corporation to jointly adopt proposed uses of UEZ funds, by joint resolution, but would delete provisions of law that currently require the UEZA to review and approve each proposed use of funds. The bill would add provisions that address the escheat of a UEZs unencumbered or unexpended funds, after allowing carry-forwards for a number of years. The bill would also require DCA to review each UEZ’s expenditures of UEZ funds, and require DCA, upon finding that a zone improperly expended UEZ funds, to withhold future funding from the enterprise zone until the enterprise zone enters into and complies with a corrective action plan developed by DCA.

The bill would establish a new methodology and process for appropriating and allocating funds under the UEZ program. Under the bill, the State Treasurer, in consultation with the UEZA, would determine the gross amount of revenues generated from the reduced sales tax collected within zones deposited in the assistance fund along with the aggregate amount, expressed in dollars, of the incentives provided under the UEZ program between January 1, 2019 and December 31, 2019. The bill characterizes this amount as the “UEZ base fund amount.” Beginning in State Fiscal Year 2022, and in each year thereafter, the bill calls for the appropriation of the UEZ base fund amount to the Urban Enterprise Zone Fund, to be allocated as follows:

- (1) 20 percent to the enterprise zone assistance fund;
- (2) Five percent to the enterprise zone assistance fund for use by the UEZA to provide loans, grants and other assistance to qualified businesses, diverse organizations, and qualified municipalities, and an amount (not to exceed \$2,500,000) to the UEZA for administration of the UEZ program;

(3) At least 30 percent to the General Fund; and

(4) No more than 45 percent to the combined cost qualified businesses with UZ-2, UZ-4, UZ-5 certification, and the energy sales tax exemption. The bill sets forth alternative allocations to apply if either more or less than 45 percent of the UEZ base fund amount is needed to meet these combined costs.

The bill provides that the amount to be deposited into the zone assistance fund under the bill's new funding mechanism will be slowly phased out over a 10-year period.

The bill also provides that a qualified business' certification will lapse at the end of the 10th State fiscal year following the State fiscal year in which the business had first been certified, unless that business is located in a major job center or is an industrial business located in an industrial hub. The certification for a business that has been certified for more than 10 State fiscal years prior to the effective date of this bill would lapse on January 1, 2022 unless that business is located in a major job center or is an industrial business located in an industrial hub. A business whose certification has lapsed would not be eligible to seek a new certification.

However, the bill provides some ways for a business to continue to qualify for certain UEZ program benefits even if the business is not located in an eligible block group. First, if a qualified business that would lose certification had satisfied the criteria for designation immediately preceding the effective date of this bill, and the business is carrying out a qualified construction project, or can demonstrate an actionable and feasible plan to carry out a qualified construction project within one year of the bill's effective date, and the business can demonstrate reliance on certain UEZ program benefits, the business may apply to the UEZA to maintain those benefits for the duration of the construction period for the qualified construction project.

Second, the bill allows the UEZA, upon application by the local UEZ Coordinator or municipal governing body, to grant UZ-4 benefits to a qualified business undertaking a construction project in a UEZ, although the project is not within an eligible block group. This would be limited to no more than eight construction projects, Statewide, that do not otherwise qualify under the bill.

Third, the bill allows the UEZA, upon application by the local UEZ Coordinator or municipal governing body, to grant UZ-4 benefits, UZ-5 benefits, or both, to a qualified business in an enterprise zone, regardless of whether project is in an eligible block group. This would be limited to no more than 24 businesses, Statewide, that do not otherwise qualify under the bill.

The bill would modify a provision of law that governs the computation of "payments in lieu of taxes" during the period of a short-term property tax abatement, which may be awarded to incentivize residential development within a UEZ, in order to afford

UEZ municipalities greater discretion over the amount of taxes abated during each year of a five-year abatement period. Current law requires 20 percent of the amount of property tax attributable to the new development to be staggered in each year so that the full amount of taxes owed is paid in the sixth year. The bill would remove the provision that requires 20 percent to be staggered in each year but retain the provision requiring the full amount of taxes owed to be paid in the sixth and each subsequent year.

The bill would require the State Treasurer to provide the UEZA an annual report of the aggregate amount, expressed in dollars, of the incentives provided under the UEZ program to qualified businesses and municipalities. The bill would require the UEZA to conduct an annual review to assess the UEZ program's progress. The bill would also require the UEZA and the Department of Labor and Workforce Development to enter into a Memorandum of Understanding to assist in data gathering and information sharing between the two agencies to further the UEZA's ability to evaluate enterprise zone performance, compliance, and initiate enforcement actions as applicable.

COMMITTEE AMENDMENTS:

The committee amendments:

- Specify that qualified public safety expenses are to be located exclusively in an enterprise zone.
- Add non-construction related purchases in an amount not to exceed \$50,000 for a qualified business that employs 25 or fewer employees to the list of qualified assistance fund expenses.
- Provide that on or after January 1, 2022, a seller, which is a qualified business, would not be eligible to receive the exemption of 50 percent of the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) if the seller's place of business is located in a designated enterprise zone or in a designated UEZ-impacted business district within a block group, with relatively low indicators of economic distress exhibited by a ranking at or below the 10th percentile of the most recent Economic Distress Index.
- Provide that if a project is to extend across either multiple years or multiple phases, the governing body of a qualifying municipality may, by resolution approved by a majority of the governing body, issue revenue anticipation notes backed by the pledge of an enterprise zone assistance fund, receiving the borrowed funds from the State Treasurer according to the provisions of the bill.
- Provide that the State would, not later than 24 months after any such occurrence, repay to the enterprise zone assistance fund, or to any account within the fund, any moneys that are

appropriated from the enterprise zone assistance fund unless the moneys are appropriated for a purpose as provided for in the bill.

- Provide that the State would, not later than 24 months after any such occurrence, repay to the Urban Enterprise Zone Fund, any moneys that are appropriated from the Urban Enterprise Zone Fund, unless the moneys are appropriated for a purpose as provided for in the bill.
- Remove language throughout the bill regarding the designation and creation of new UEZs.
- Remove language that provided for the designation of a UEZ in a county that does not have a UEZ.
- Provide that the amount to be deposited into the zone assistance fund under the bill's new funding mechanism will be partially phased out over a 10-year period instead of a 20-year period.
- Make technical corrections to the bill.