

## LAW AND PUBLIC SAFETY

(a)

### DIVISION OF CONSUMER AFFAIRS

#### Notice of Readoption

#### Rules on Personnel Services

#### Readoption: N.J.A.C. 13:45B

Authority: N.J.S.A. 56:8-1.1, 34:8-43 et seq., and 52:17B-122 and 124.

Authorized By: Sean P. Neafsey, Acting Director, Division of Consumer Affairs.

Effective Date: March 14, 2022.

New Expiration Date: March 14, 2029.

**Take notice** that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 13:45B were scheduled to expire on June 16, 2022. The rules at N.J.A.C. 13:45B establish standards for the regulation of personnel services. The chapter includes rules on employment agencies; business locations; examinations and various classifications of employment and personnel services; consulting firms; entertainment agencies; fees and expiration dates; out-of-State businesses; registration for career consulting or outplacement organizations; prepaid computer job matching or job listing services; temporary help service firms; health care service firms; placement of health care practitioners; advertising and solicitations; and violations.

The Division of Consumer Affairs has reviewed the rules and has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated, as required by Executive Order No. 66 (1978). Therefore, pursuant to N.J.S.A. 56:8-1.1, 34:8-43 et seq., and 52:17B-122 and 124, and in accordance with N.J.S.A. 52:14B-5.1.c(1), these rules are readopted without amendment and shall continue in effect for a seven-year period.

## OTHER AGENCIES

(b)

### NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

#### Authority Assistance Programs

#### Technology Business Tax Certificate Transfer Program

#### Adopted Amendments: N.J.A.C. 19:31-12.1, 12.2, 12.4, 12.5, and 12.7

Proposed: January 18, 2022, at 54 N.J.R. 122(a).

Adopted: March 24, 2022, by the New Jersey Economic Development Authority, Tim Sullivan, Chief Executive Officer.

Filed: March 24, 2022, as R.2022 d.052, **without change**.

Authority: P.L. 2019, c. 145.

Effective Date: April 18, 2022.

Expiration Date: May 8, 2025.

#### Summary of Public Comment and Agency Response:

**No public comments were received.**

#### Federal Standards Statement

A Federal standards analysis is not required because the adopted amendments are not subject to any Federal requirements or standards.

**Full text** of the adoption follows:

### SUBCHAPTER 12. TECHNOLOGY BUSINESS TAX CERTIFICATE TRANSFER PROGRAM

#### 19:31-12.1 Applicability and scope

The rules in this subchapter are promulgated by the New Jersey Economic Development Authority to implement P.L. 1997, c. 334, as amended by P.L. 2009, c. 90, P.L. 2010, c. 10, P.L. 2020, c. 156, and P.L. 2021, c. 160. This Act establishes a corporation business tax benefit certificate transfer program to assist new or expanding emerging technology and biotechnology companies in New Jersey.

#### 19:31-12.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

...

“Board” means the Board of the New Jersey Economic Development Authority, established at section 4 of P.L. 1974, c. 80 (N.J.S.A. 34:1B-4).

...

“Full-time employee” means a person employed by a new or expanding emerging technology or biotechnology company on a permanent or indefinite basis for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment and whose wages are subject to withholding as provided in the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., or who is a partner of a new or expanding emerging technology or biotechnology company who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., or who is employed under a formal written agreement with an institution of higher education, whereby the institution’s students are employed by the technology or biotechnology company on a permanent basis within a single position and in compliance with all other requirements of this definition. To qualify as a “full-time employee,” an employee shall also receive from the new or expanding emerging technology or biotechnology company health benefits under a health benefits plan authorized pursuant to State or Federal law. “Full-time employee” shall not include any person who works as an independent contractor or on a consulting basis for the new or expanding emerging technology or biotechnology business; or any person who works as an intern, as a temporary employee, or in a temporary position.

...

“Opportunity zone” means a Federal population census tract in this State that was eligible to be designated as a qualified opportunity zone pursuant to 26 U.S.C. § 1400Z-1.

...

#### 19:31-12.4 Application to the program

(a) Each application submitted by a selling business to the program shall be accompanied by a non-refundable \$1,000 application fee. Complete applications must be received by June 30 for each State fiscal year.

(b)-(c) (No change.)

(d) Applications are processed through several layers of staff review and may then be recommended for consideration and official action of the Board.

(e) (No change.)

#### 19:31-12.5 Evaluation process

(a)-(c) (No change.)

(d) Upon the final approval of the tax benefit by the Division of Taxation, a non-refundable fee of one percent of the amount of the final allocation of tax benefit less the application fee of \$1,000 shall be charged prior to approval by the Authority.

#### 19:31-12.7 Allocation of tax benefits

(a) The Program is authorized to provide no more than \$75,000,000 of tax benefits over each State fiscal year. Of the \$75,000,000 of transferable tax benefits authorized for each State fiscal year, \$15,000,000 shall be

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allocated exclusively among the eligible companies that operate within the boundaries of the innovation zones or opportunity zones or for new or expanding emerging technology and biotechnology companies that are certified as a woman- or minority-owned business at the time of program application, except as provided at (a)2ii below. In the event the total amount of transferable tax benefits approved exceeds these limitations or any subsequent limitations, the Authority shall allocate the transfer of tax benefits as follows:

1. Each company is limited to a maximum lifetime tax benefit of \$20,000,000.

2. The Authority shall allocate the \$15,000,000 designated for eligible companies in innovation zones or opportunity zones or for new or expanding emerging technology and biotechnology companies that are certified as a woman- or minority-owned business at the time of program application, as follows:

i. For eligible companies in innovation zones or opportunity zones or for new or expanding emerging technology and biotechnology companies that are certified as a woman- or minority-owned business at the time of program application, each company is eligible for an allocation of the lesser of \$250,000 or the value of their eligible benefits. After these allocations are made to these companies from the \$15,000,000 innovation zone/new or expanding emerging technology and biotechnology allocation, any remaining balance of the \$15,000,000 shall be apportioned among eligible companies in innovation zones with unmet eligible benefits on a pro rata basis;

ii. If, in any State fiscal year, there is an unused portion of the \$15,000,000 allocated exclusively for companies in innovation zones or opportunity zones or for new or expanding emerging technology and biotechnology companies that are certified as a woman- or minority-owned business at the time of program application, that portion shall be available for that State fiscal year for the surrender of transferable tax benefits by new and/or expanding emerging technology and

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biotechnology businesses that do not operate within the boundaries of an innovation zone or that are new or expanding emerging technology and biotechnology companies that are certified as a woman- or minority-owned business at the time of program application; and

iii. The eligible companies in innovation zones or opportunity zones or for new or expanding emerging technology and biotechnology companies that are certified as a woman- or minority-owned business at the time of program application with remaining unmet eligible benefits shall participate in the allocation of the remaining pool as set forth at (a)3 below.

3. The Authority shall allocate the remaining tax benefits as follows:

i.-ii. (No change.)

iii. If the total amount of benefits authorized at (a)2 and 3i and ii above exceeds \$75,000,000, each applicant shall receive a lesser amount on an apportioned basis, otherwise after the dollars are set aside in the amounts provided at (a)2 and 3i and ii above, the remaining funds available to the program, in that fiscal year, shall be allocated among the businesses with more than \$250,000 of tax benefits. The available tax benefits shall be determined by reducing the amount of tax benefits to be transferred for each business by the minimum amount of tax benefits authorized for that business and then multiplying that amount by the following factor:

$$\frac{\text{Numerator of Fiscal Year Dollar Authorization less Total Minimum Tax Benefits Authorized over denominator of Total Tax Benefits Requested to be Transferred less Total Minimum Tax Benefits Authorized.}}{\text{Total Tax Benefits Requested to be Transferred less Total Minimum Tax Benefits Authorized.}}$$

The total minimum tax benefits authorized is the amount authorized for businesses with less than \$250,000 of tax benefits plus the minimum tax benefits authorized for businesses with more than \$250,000 of tax benefits. The total tax benefits requested to be transferred is the total amount of tax benefits requested to be transferred by all businesses.